Adoptions Act signed into law on October 7, 2008 after the publication of the final rule September 26, 2008. For example, the new law raises a set of questions about whether data maintained through the Federal Parent Locator Service and the State Parent Locator Service are available to assist State child welfare agencies in carrying out their responsibilities to locate adult relatives of children removed from parental custody in order to identify potential placements.

The other substantive comment raised similar concerns regarding PCAs. In particular, the commenter was concerned with the PCAs being an ''agent of the child'' for the purpose of locate requests under section 453 of the Social Security Act. The commenter believes that the PCA in child support matters represents the parent, not the child, thus is not ''the agent of the child'' and is not authorized to receive any Federal Parent Locator Service information from the IV–D agency. The commenter also suggested that similar to the access provided to title IV Social Security Act programs, human service programs serving the same family as the child support program should have clear and unambiguous access to Federal information. For example, the commenter encouraged the Office of Child Support Enforcement to provide the Supplemental Nutrition Assistance Program access to child support information to determine income eligibility.

Response: The Department believes that the comments received on the notice published in the **Federal Register** on April 15, 2009 [74 FR 17445] soliciting comments on the delay in the effective date of the rule support the delay in the effective date until December 30, 2010. While the substantive comments on the policies contained in the rule were not solicited, the delay will provide time for Department officials to assess those comments as well as review all issues of law and policy raised by the rule.

(Catalog of Federal Domestic Assistance Program No. 93.563, Child Support Enforcement)

Dated: May 18, 2009.

Kathleen Sebelius,

Secretary.

[FR Doc. E9–11936 Filed 5–20–09; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WP Docket No. 07–100; FCC 09–29]

Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document addresses revisions to the Commission's rules and policies regarding private land mobile radio (PLMR) services and particularly public safety operations. In the *Report and Order* portion of this document, the Commission accords primary status to 4.9 GHz band permanent fixed stations that are used to deliver broadband service; harmonizes output power measurement procedures for 4.9 GHz technology with procedures for similar devices that are regulated by part 15 of the Commission's rules; and clarifies that cross-band repeaters are permitted for all public safety systems. The Commission makes these changes to reduce uncertainty in the rules and harmonize the rules. The intended effect for public safety licensees is to allow additional flexibility, create opportunities for public safety users to benefit from speedier deployment of new technologies in the 4.9 GHz band, and lead to expanded use of 4.9 GHz broadband networks. The intended effect for manufacturers is to allow technologies similar to those covered by part 15 to be used in the 4.9 GHz band, resulting in speedier deployment of new technologies in this band. The intended effect of the cross-banding rule change is to enhance communications among public safety agencies operating in various frequency bands.

DATES: Effective June 22, 2009.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations where the public may inspect, copy, or purchase hardcopies of the *Report and Order and Further Notice of Proposed Rulemaking.*

FOR FURTHER INFORMATION CONTACT: Thomas Eng, Policy Division, Public Safety and Homeland Bureau, Federal Communications Commission, Washington, DC 20554, at (202) 418–0019, TTY (202) 418–7233, via e-mail at *Thomas.Eng@fcc.gov,* or via U.S. Mail at Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street, SW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order* portion of the Commission's *Report and Order and Further Notice of Proposed Rulemaking* in WP Docket No. 07–100, adopted on April 7, 2009 and released on April 9, 2009. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., in person at 445 12th Street, SW., Room CY–B402, Washington, DC 20554, via telephone at (202) 488–5300, via facsimile at (202) 488–5563, or via e-mail at *FCC@BCPIWEB.com.* Alternative formats (computer diskette, large print, audio cassette, and Braille) are available to persons with disabilities or by sending an e-mail to *FCC504@fcc.gov* or calling the Consumer and Governmental Affairs Bureau at (202) 418–0530, TTY (202) 418–0432. This document is also available on the Commission's Web site at *http://www.fcc.gov.*

The major decisions in the *Report and Order* are as follows:

- Amends § 90.1207 of the Commission's rules, which governs licensing of the 4.9 GHz band, to grant primary status to stand-alone permanent fixed links that are used to deliver broadband service and permanent fixed links that connect 4.9 GHz base and mobile stations that are used to deliver broadband services, as well as other public safety networks using spectrum designated for broadband use.
- Amends § 90.1215 of the Commission's rules to require the same output power measurement procedures for 4.9 GHz technology as those required for devices that use digital modulation techniques and are regulated by part 15 of the Commission's rules.
- Continues to permit paging operations on Very High Frequency (VHF) public safety frequencies.
- Modifies the existing language in § 90.243(b)(1) to clarify that cross-band repeaters are permitted for all public safety systems.
- Declines to amend § 90.20 to authorize privately-run metropolitan transit systems to use frequencies in the Public Safety Pool.

4.9 GHz Band

In the earlier *Notice of Proposed Rulemaking* (NPRM), 72 FR 35190, June 27, 2007, in this proceeding, the Commission sought comment on two proposals by M/A–COM to modify the Commission's rules regarding the 4.9 GHz band. First, M/A–COM asks the Commission for an amendment to § 90.1207(c) that would ''clarify that

point-to-point and point-to-multipoint fixed links in the 4.9 GHz public safety networks are co-primary with mobile links'' and ''grant primary status to fixed links connecting public safety networks with each other using the 4940–4990 MHz band.'' Second, M/A-COM proposes to add a new § 90.1215(d) thereby updating this section ''consistent with changes the Commission * * * made to § 15.407(a) of its rules'' (*i.e.*, reflecting the same revised measurement procedures adopted by the Commission for devices that use digital modulation techniques regulated by part 15).

Primary Status to Certain Fixed Links. § 90.1207 currently provides 4.9 GHz licensees with authority to ''operate base and mobile units (including portable and handheld units) and operate temporary (1 year or less) fixed stations,'' but not to ''operate permanent fixed point-to-point stations.'' Further, § 90.2107 provides that ''[l]icensees choosing to operate [permanent fixed point-to-point stations] must license them individually on a site-by-site basis'' and ''will be authorized only on a secondary, non-interference basis to base, mobile and temporary fixed operations.'' In its petition seeking clarifications regarding the 4.9 GHz band rules, M/A–COM states that ''the Commission did not define * * * [the] allocation status of hot spots or temporary fixed links, *i.e.*, whether such hot spots and links have primary or secondary status, and the Commission's part 90 rules do not address the allocation status of such links.'' Therefore, M/A–COM states that the ''present part 90 rules create regulatory uncertainty—as they are vague or potentially inconsistent with the *4.9 GHz Third Report and Order,* 68 FR 38635, June 30, 2003—and could discourage public safety users and first responders from deploying * * * broadband networks.'' M/A–COM states that ''public safety users and first responders will need integrated networks with scalable network architectures that allow for dynamic routing of traffic over both fixed and mobile links,'' and thus proposes that the Commission amend its part 90 rules to ''grant primary status to point-to-point and point-to-multipoint fixed links that are part of a 4.9 GHz public safety network.'' M/A–COM adds that ''the Commission should continue to grant secondary status to traditional, stand-alone point-to-point links for purposes such as backhaul.''

The Commission sought comment on ''M/A–COM's proposal to expressly afford primary status to certain permanent fixed links,'' while also asking if, ''given the limited amount of spectrum in the 4.9 GHz band, permitting fixed operations on a primary basis may result in severely limiting the spectral availability and reliability of both permanent and ad hoc mobile networks.'' The Commission asked whether ''adoption of M/A–COM's proposal would compromise the ability of public safety agencies to utilize the band for temporary 'incident scene' operations, a use that received overwhelming support in the record of WT Docket No. 00–32.'' Finally, the Commission asked if the M/A–COM proposal would ''provide more flexible use of this band,'' and whether ''such flexibility would come at the expense of maintaining adequate spectrum for mission-critical public safety mobile operations.''

Most commenters, including several public safety organizations, indicate that the Commission should clarify its rules to afford primary status to fixed point-to-point and point-to-multipoint links operating as part of an integrated 4.9 GHz public safety broadband network. The American Association of State Highway and Transportation Officials (AASHTO), the Land Mobile Communications Council (LMCC), and the National Public Safety Telecommunications Council generally support primary status for 4.9 GHz permanent fixed links that deliver broadband service.

We find that it is in the public interest to clarify whether certain fixed links in the 4.9 GHz band are primary or secondary in order to facilitate public safety broadband use of the band and to minimize confusion in the marketplace. In this regard, we modify our rules to accord primary status to fixed links that connect 4.9 GHz base and mobile stations that are used to deliver broadband service, as well as other public safety networks using spectrum designated for broadband use. We also accord primary status to stand-alone permanent fixed 4.9 GHz links that are used to deliver broadband service, such as a fixed video surveillance link used to monitor a high-risk target or environment. In contrast, fixed 4.9 GHz links that only connect narrowband base stations operating in public safety bands not designated for broadband (*i.e.*, public safety UHF, VHF, narrowband 700 MHz, and 800 MHz) to other networks, or serve to backhaul narrowband traffic originating from narrowband base stations, will remain secondary. We limit primary status to fixed links in this manner to preserve and ensure the use of the 4.9 GHz public safety band in serving broadband needs. We believe that proper frequency coordination among public safety agencies in a given location will ensure that different services and technologies can operate unimpeded without causing interference. We want to make certain that public safety can reliably establish broadband networks (*e.g.*, permanent or temporary hot-spot networks) to transmit broadband data without concern of interference. Consistent with existing rules, permanent fixed point-to-point and to point-to-multipoint links accorded primary status must use directional antennas with gains over 9 dBi up to 26 dBi. Permanent fixed links used for traditional backhaul that only carry narrowband traffic remain secondary and must be licensed separately, as specified in § 90.1207(d).

We find that this rule change is consistent with the Commission's vision for the 4.9 GHz band and is supported by public safety commenters. The Commission endeavored to provide 4.9 GHz band public safety licensees with the maximum operational flexibility practicable consistent with its vision for the 4.9 GHz band. We believe that providing primary status for fixed links as described above will provide additional flexibility for public safety and thereby lead to expanded use of 4.9 GHz broadband networks. Finally, we find that the rule change addresses concerns about the uncertainty that secondary status may introduce in 4.9 GHz broadband networks utilizing fixed point-to-point or point-to-multipoint links. In sum, we find that this rule change serves the public interest by encouraging public safety users to more fully utilize the 4.9 GHz band in support of broadband communications.

Next, we address licensing issues for primary permanent fixed stations. The record in this proceeding contains support for licensing all permanent fixed stations on an individual, site-by-site basis. This would ensure that adequate data is readily available to facilitate interference protection and resolution. Accordingly, we shall license permanent fixed stations, both designated as primary or secondary, on an individual, site-by-site basis. However, as we explain in the *Further Notice of Proposed Rulemaking* (published elsewhere in this issue) portion of this document, we have concerns about ensuring interference protection among primary permanent fixed stations, and we tentatively conclude therein that a more formal licensee-to-licensee coordination process may be necessary for such stations. Accordingly, until the Commission resolves a potential new coordination requirement, applicants seeking primary status for 4.9 GHz

permanent fixed stations must ensure that they meet the minimum requirements of § 90.1209(b).

Further, we believe it prudent to distinguish between primary permanent fixed stations and secondary stations in our licensing database. The Commission has established station class codes in the past to distinguish between licensees that are subject to different regulatory requirements on the same set of frequencies. Similarly, in this instance, establishing a new class code for primary permanent fixed stations will assist interested stakeholders as well as the Commission's licensing staff to distinguish between primary and secondary permanent fixed stations. Accordingly, we delegate to the Chief, Public Safety and Homeland Security Bureau, authority to issue a public notice announcing the establishment of a new 4.9 GHz primary permanent fixed station class code. The public notice also will provide licensees holding permanent fixed stations with instructions for modifying their authorizations to reflect the new station class code.

Measurement Procedures. In the NPRM, the Commission also proposed, as suggested by M/A–COM, to amend § 90.1215 to reflect the same measurement procedures adopted by the Commission for devices that use digital modulation techniques and are regulated by part 15 of the rules. Specifically, in 2004, the Commission modified part 15 to permit the determination of a device's output power by using average power measurements in addition to the existing peak output power measurement method. M/A–COM proposed replacing the term ''peak transmit power'' with ''maximum conducted output power,'' and adding a peak excursion ratio limit. These changes would make the measurement procedures in §§ 90.1215 and 15.407(a) virtually identical.

We agree with the majority of commenters who believe that the proposed measurement procedures should be adopted to harmonize the measurement procedures for similar unlicensed devices that use digital modulation techniques and operate in nearby frequency bands under part 15. Given that manufacturers are considering technologies similar to those covered by part 15 for use in the 4.9 GHz band, and because parallel treatment will speed deployment of new technologies in this band for the benefit of public safety users, we conclude that measurement procedures under the part 15 rules and the 4.9 GHz rules should be consistent.

Miscellaneous 4940–4990 MHz Band Technical Matter. Motorola believes that the NPRM contains a typographical error in the proposed revision to the text of § 90.1215(a). Specifically, Motorola observes that the text of the proposed change to § 90.1215(a) referred to a peak power spectral density limit of 20 dBm per megahertz, rather than 21 dBm per megahertz, which had been the existing requirement. Motorola urges the Commission to retain the existing 21 dBm per megahertz limit in order to maximize coverage and robustness of public safety transmissions. The Commission did not intend to propose a change to the 21 dBm per megahertz limit, as evidenced by a lack of related discussion in the NPRM text. Accordingly, we clarify that we are retaining the existing 21 dBm per megahertz limit.

Miscellaneous Proposals

Part 90 Paging on Public Safety VHF Frequencies. VHF public safety frequencies (150–174 MHz) are used primarily for two-way voice communications (*e.g.*, mobile dispatch). The Commission's rules, however, also allow for paging operations on these frequencies. As the Commission observed in the NPRM, experience has shown that paging and two-way voice operations can generally co-exist on the same channel in the same area without interference, provided the paging transmissions are infrequent (low traffic volume) and the paging licensee monitors the channels before transmitting. Experience also has shown that the potential for paging to interfere with voice operations tends to increase as the amount of paging traffic increases.

The Commission previously expressed concern about the potential incompatibility between high-volume paging operations and public safety two-way voice communications operating on VHF frequencies. To address the possibility of interference in these situations, the Commission sought comment on whether paging operations conducted pursuant to § 90.22 on VHF public safety frequencies should be restricted, especially on those frequencies reserved under the rules for mutual aid/interoperability communications.

The majority of commenters expressed support for continuing to permit paging operations on all VHF public safety frequencies. They assert that restrictions on paging operations on VHF public safety frequencies would result in a significant, negative impact on the ability of public safety agencies to provide mission-critical notifications. Other commenters note that search and rescue operations have experienced similar intolerable interference from hospital paging operations, or support an elimination of paging on certain shared or mutual aid frequencies that are monitored by public safety and medical personnel.

We take seriously the potential for interference that may result from paging operations to two-way public safety voice communications. However, the record demonstrates substantial reliance by fire and EMS departments on the use of paging on VHF frequencies. The Commission did not receive any specific reports in the comments that hospital paging systems' disruption of two-way voice communications is a continuing problem. Accordingly, based on the record before us, we cannot conclude that paging operations conducted on VHF frequencies pursuant to § 90.22, including on specific mutual aid channels, represent an interference risk to VHF public safety frequencies at this time.

In reaching this decision, we note that many of the concerns raised by commenters appear to concern paging operations permitted under § 90.20(d)(10), which was not the subject of the Commission's inquiry in the NPRM. In other words, the Commission did not intend to propose limiting operations conducted by public safety licensees for one-way paging to ambulance and rescue squad personnel. Regardless, we take no action to restrict paging operations in the VHF bands, whether conducted pursuant to § 90.22 or § 90.20(d)(10). The record shows paging transmissions to be a proven and cost-effective way to recall first responders when emergency incidents occur. We also find persuasive comments from the public safety community that prohibiting or otherwise restricting paging operations on VHF public safety frequencies would have a disruptive impact on a number of local communities that currently rely heavily on existing VHF paging operations as integral to their public safety operations. We are particularly concerned with the potential disruptive effects that paging restrictions would have on limiting the availability of emergency communications or hampering the ability of public safety entities to provide services in a timely manner to the public.

Rather than impose restrictions on paging at this time, we find that applications for future paging operations should continue to be licensed on a case-by-case basis in tandem with the frequency coordination process. In the absence of a more

significant likelihood of harmful interference involving paging and two-way operations, we are not inclined to amend our rules where we believe the existing mechanisms provide adequate safeguards. We also encourage users of VHF public safety frequencies, including the mutual aid/interoperability channels, to develop and rely on frequency sharing and priority access protocols to facilitate local and regional emergency coordination efforts.

While we decline to place new restrictions on paging operations on VHF public safety frequencies, including mutual aid/interoperability channels, we remain mindful of the potential for paging transmissions to cause harmful interference to voice operations. Accordingly, should specific instances of paging interference to two-way voice operations arise on the VHF public safety frequencies, including the mutual aid/interoperability channels, we retain our discretion to revisit this issue in the future and to take appropriate action as warranted.

Cross-Banding. Section 90.243(b)(1) states that ''in the Public Safety Pool, medical services systems in the 150–160 MHz band are permitted to be cross-banded for mobile and central stations operations with mobile relay stations authorized to operate in the 450–470 MHz band.'' Because one could interpret this rule to mean that only medical services systems are permitted to use cross-band repeaters, the NPRM sought comment on a proposal to modify the rule to state specifically that cross-band repeaters are permitted for all public safety systems.

All commenters who addressed this issue agree that § 90.243(b)(1) should be amended to clarify that cross-band repeaters are permitted for all public safety systems. Because the purpose of the rule is not limited to medical services systems but rather applies to all eligible users of the Public Safety Pool, we amend the rule accordingly. In this respect, we ensure that all users of public safety systems may confidently employ cross-band repeaters and thus enhance communications among public safety agencies operating in various frequency bands.

Transit Systems and Toll Roads. Under the current rules, only state and local governmental entities are eligible to hold authorizations in the Public Safety Pool. Thus, to the extent metropolitan transit systems and toll roads are publicly-operated services, they are eligible to hold authorizations in the Public Safety Pool. However, the Commission noted in the NPRM that not all metropolitan transit systems and toll roads are publicly-owned. Some are privately-owned, and operate under contracts or similar arrangements with governmental entities. Because non-governmental entities are ineligible to hold authorizations for Public Safety Pool frequencies, the NPRM sought comment on whether § 90.20 should be amended to authorize privately-run metropolitan transit systems and toll road systems to hold authorizations to use frequencies in the Public Safety Pool.

The majority of commenters on this issue state that private operators of transit systems and toll roads should not be eligible to hold licenses to operate on public safety frequencies. For example, according to AASHTO, while private operators of transit systems and toll roads should be able to use public safety frequencies licensed to governmental entities via contractual agreement, public safety frequencies must remain within the control of public entity licensees. LMCC points out that the Commission's rules already allow a licensee to designate an agent or third-party contractor of the licensee as the control operator of its station, provided that the licensee retains ultimate control over the use of the spectrum. On the other hand, the U.S. Department of Transportation observes that, given the ''role played and services offered by private sector operators of public transit systems are indistinguishable from their traditional public sector counterparts * * * the public or private sector origin of the operator of the affected infrastructure is immaterial.''

In view of the record before us, we are not persuaded to amend § 90.20 to permit privately-run metropolitan transit systems to be authorized on frequencies in the Public Safety Pool. Such an amendment to our rules would undermine the rationale of the Commission in restricting eligibility to hold a license in the Public Safety Pool in the first place. A chief reason for establishing such eligibility in the first instance was to assure that those public safety entities specifically charged with the protection of the life and property of the general public have access to spectrum.

The Commission's other reasons for establishing its eligibility requirements in the Public Safety Pool were to promote interoperability between all entities involved in ensuring the safety of life by allowing them to communicate with one another, and remain consistent with other Commission definitions of public safety radio services. The Commission indicated that restricting Public Safety Pool eligibility in this manner was not only consistent with the Commission's definition of public safety services in other contexts, but also with the Public Safety Wireless Advisory Committee's definition of public safety, reflected in its Final Report.

Because state and local public agencies share similar responsibilities when it comes to safety of life and protection of property, it is critical that, especially during times of emergencies, the deployment and use of Public Safety Pool frequencies remain within the control of these public safety agencies. Control is best assured when such licenses are held by public safety eligibles only. The current rule ensures that the continuity and expertise underlying the coordination and expansion of public safety communications systems appropriately remain with a region's state and local agencies. Consistent with the view of the majority of commenters on this issue, we find that the current rule ensures that a local or State governmental entity exercises responsibility and accountability for the use of the Public Safety Pool spectrum, even if the contract with the private entity either expires or terminates, or if the private entity itself ceases to exist by way of bankruptcy, merger, or other organizational change. We therefore decline to amend our rules with respect to Public Safety Pool eligibility. Because we decline to amend § 90.20, we need not address the outstanding issues raised in the NPRM on this issue regarding the administrative criteria to be used in the event we decided to amend the rule.

Procedural Matters

Final Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis of the possible impact of the rule changes contained in the *Report and Order* portion of this *Report and Order and Further Notice of Proposed Rulemaking* on small entities. The Final Regulatory Flexibility Act analysis is set forth in Appendix D of the *Report and Order and Further Notice of Proposed Rulemaking.* The Commission's Consumer Information Bureau, Reference Information Center, will send a copy of this *Report and Order and Further Notice of Proposed Rulemaking,* including the Final Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Final Paperwork Reduction Act of 1995 Analysis

This document does not contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, therefore, this document does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Congressional Review Act Analysis

The Commission will send a copy of this *Report and Order and Further Notice of Proposed Rulemaking* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Accordingly, *It is ordered,* pursuant to sections 4(i), 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. 154(i), 303(r), and 403, that this *Report and Order and Further Notice of Proposed Rulemaking* is *hereby adopted.*

It is further ordered that part 90 of the Commission's rules *is amended* as set forth in Appendix B of the *Report and Order,* and that these rules shall be effective June 22, 2009.

It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the U.S. Small Business Administration.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r) and 332(c)(7).

■ 2. Section 90.243 is amended by revising paragraph (b)(1) to read as follows:

§ 90.243 Mobile relay stations.

* * * * *

(b) * * *

(1) In the Public Safety Pool, systems operating on any of the public safety frequencies listed in § 90.20(c) are permitted to be cross-banded for mobile stations operations with mobile relay stations where such stations are authorized.

* * * * *

■ 3. Section 90.1207 is amended by revising paragraph (d) to read as follows:

§ 90.1207 Licensing.

* * * * *

(d) Permanent fixed point-to-point and point-to-multipoint stations in the 4940–4990 MHz band must be licensed individually on a site-by-site basis. Such fixed stations that connect 4940–4990 MHz band base and mobile stations that are used to deliver broadband service, as well as other public safety networks using spectrum designated for broadband use, are accorded primary status. Primary status is also accorded to stand-alone permanent fixed 4940–4990 MHz band links that are used to deliver broadband service. Primary permanent fixed point-to-point and point-to-multipoint stations must use directional antennas with gains greater than 9 dBi up to 26 dBi. Permanent fixed point-to-point stations that do not meet the criteria for primary status will be authorized only on a secondary, non-interference basis to base, mobile, temporary fixed, and primary permanent fixed operations.

■ 4. Section 90.1215 is amended by revising paragraphs (a), (b) and (c) and adding paragraph (e) to read as follows:

§ 90.1215 Power limits.

* * * * *

(a)(1) The maximum conducted output power should not exceed:

Channel bandwidth (MHz)	Low power maximum conducted output power (dBm)	High power maximum conducted output power (dBm)
1	7	20
5	14	27
10	17	30
15	18.8	31.8
20	20	33

(2) High power devices are also limited to a peak power spectral density of 21 dBm per one MHz. High power devices using channel bandwidths other than those listed above are permitted; however, they are limited to peak power spectral density of 21 dBm/MHz. If transmitting antennas of directional gain greater than 9 dBi are used, both the maximum conducted output power and the peak power spectral density should be reduced by the amount in decibels that the directional gain of the antenna exceeds 9 dBi. However, high power point-to-point and point-to-multipoint operations (both fixed and temporary-fixed rapid deployment) may employ transmitting antennas with directional gain up to 26 dBi without any corresponding reduction in the maximum conducted output power or spectral density. Corresponding reduction in the maximum conducted output power and peak power spectral density should be the amount in decibels that the directional gain of the antenna exceeds 26 dBi.

(b) Low power devices are also limited to a peak power spectral density of 8 dBm per one MHz. Low power devices using channel bandwidths other than those listed above are permitted; however, they are limited to a peak power spectral density of 8 dBm/MHz. If transmitting antennas of directional gain greater than 9 dBi are used, both the maximum conducted output power and the peak power spectral density should be reduced by the amount in decibels that the directional gain of the antenna exceeds 9 dBi.

(c) The maximum conducted output power is measured as a conducted emission over any interval of continuous transmission calibrated in terms of an RMS-equivalent voltage. If the device cannot be connected directly, alternative techniques acceptable to the Commission may be used. The measurement results shall be properly adjusted for any instrument limitations, such as detector response times, limited resolution bandwidth capability when compared to the emission bandwidth, sensitivity, etc., so as to obtain a true maximum conducted output power measurement conforming to the definitions in this paragraph for the emission in question.

* * * * *

(e) The ratio of the peak excursion of the modulation envelope (measured using a peak hold function) to the maximum conducted output power shall not exceed 13 dB across any 1 MHz bandwidth or the emission bandwidth whichever is less.

[FR Doc. E9–11908 Filed 5–20–09; 8:45 am]

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