homepage of every sender of unsolicited facsimile advertisements. Rather, the intent of this requirement is to provide a reasonable means for recipients to locate the facsimile sender's opt-out mechanism and make requests to avoid future unwanted facsimiles. The Commission believes this interpretation of the ''first'' Web page requirement adequately ensures that recipients can locate the opt-out mechanism while providing flexibility to facsimile senders in designing their Web sites in the most cost-effective manner to comply with this requirement.

*Facsimile Cover Page*

11. The Commission declines to reconsider its decision that the first page of the facsimile advertisement must contain the opt-out notice. In so doing, the Commission notes that the Junk Fax Prevention Act requires that ''the notice is clear and conspicuous and *on the first page of the unsolicited advertisement.*'' Specifically, the Commission declines to find that placement of the opt-out notice on a cover sheet that accompanies the facsimile advertisement satisfies this requirement. The Commission specifically addressed this issue in the *Junk Fax Order,* and petitioners provide no new information or evidence that leads the Commission to now reconsider this conclusion.

*Duration of Opt-Out Requests*

12. The Commission declines to reconsider its decision not to limit the duration for which a request to opt-out from receiving unsolicited facsimile advertisements remains in effect. Here too the Commission directly addressed this issue in the *Junk Fax Order,* and petitioners provide no new evidence or arguments on reconsideration that lead us to reconsider this finding. The Commission has considered arguments that facsimile numbers may change hands over time and that those who make the opt-out request could, at some point, no longer be the same parties associated with those telephone numbers. The Commission has concluded, however, that these concerns are outweighed by the potential burdens imposed on those recipients that would otherwise be forced to repeat their opt-out requests to potentially hundreds of facsimile senders. The Commission disagrees with DMA's contention that opt-out requests from facsimile recipients should be limited in duration in the same manner as do-not-call requests. The Commission notes that, unlike the rules on telephone solicitations, once an EBR has been established for purposes of allowing the transmission of facsimile advertisements, it remains in effect indefinitely until the recipient affirmatively opts-out from receiving future advertisements.

13. In contrast, the Commission's rules limit the duration of an EBR exemption in the case of telephone solicitations to no longer than 18 months after a purchase or transaction or three months following an application or inquiry. Thus, the EBR will expire automatically in the case of telephone solicitations without any further action by the consumer. In addition, recipients of facsimile advertisements assume the cost of the paper used, the cost associated with the use of the facsimile machine, and the costs associated with the time spent receiving a facsimile advertisement during which the machine cannot be used by its owner to send or receive other facsimile transmissions. The Commission believes that protecting recipients from the direct costs imposed by unwanted facsimile transmissions is best achieved by declining to limit the duration of an opt-out request.

**Regulatory Flexibility Analysis**

The Commission notes that no Final Regulatory Flexibility Analysis is necessary for the document FCC 08–239, as it is not making any changes to the Commission's rules.

**Congressional Review Act**

The Commission will send a copy of document FCC 08–239 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**

Pursuant to sections 1–4, 227, and 303(r) of the Communications Act of 1934, as amended; 47 U.S.C. 151–154, 227, and 303(r); § 1.429 of the Commission's rules, 47 CFR 1.429; and § 64.1200 of the Commission's rules, 47 CFR 64.1200, the *Order on Reconsideration* in CG Docket Nos. 02–278 and 05–338 is adopted.

Petitions for reconsideration and/or clarification filed by the Direct Marketing Association and Leventhal Senter and Lerman PLLC in CG Docket Nos. 02–278 and 05–338 are denied in part and granted in part. The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order on Reconsideration, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. E8–25801 Filed 10–29–08; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MM Docket No. 93–177; FCC 08–228]**

### An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this proceeding the Commission permits the use of computer modeling techniques to verify that directional AM antennas perform as authorized. The new rules reduce the time and expense associated with the license application for a directional AM station. The changes, consistent with the Commission's streamlining initiatives, reduce the regulatory burden upon directional AM stations to the extent possible while maintaining the integrity of the service.

**DATES:** Effective December 1, 2008, except for the amendments to §§ 73.61, 73.68, 73.151, and 73.155 which contain information collection requirements that have not been approved by Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these rules.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, *http://www.fcc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Peter H. Doyle, Audio Division, Media Bureau (202) 418–2700.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Second Report and Order* in MM Docket No. 93–177, adopted September 24, 2008, and released September 26, 2008. The new rules adopted here were proposed in an earlier *Further Notice of Proposed Rule Making* in this proceeding [*See* 66 FR 20779, April 25, 2001]. The final rules incorporate comments received in response to the *Further Notice of Proposed Rule Making.* The complete text of this *Second Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC

and may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., (800) 378–3160, 445 12th Street, SW., Room CY–402, Washington, DC 20554. The complete text is also available on the Internet at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC–08–228A1.pdf*.

**Synopsis of Second Report and Order**

*1. Introduction.* This proceeding is part of a broad-based initiative to simplify the Commission's licensing procedures for radio stations. The *Report and Order* in this proceeding [*See* 66 FR 20752, April 25, 2001] simplified traditional proof of performance requirements for a directional AM station. The *Further Notice of Proposed Rulemaking* sought comment on the use of moment method computer modeling to demonstrate that certain AM directional antennas perform as authorized. This *Second Report and Order* permits AM broadcasters to use computer modeling techniques in place of a traditional proof of performance based on field strength measurements, which are time-consuming and expensive.

*2. AM proof of performance requirements.* Directional AM stations use antennas which suppress radiated field in some directions and enhance it in others. In order to control interference between stations and assure adequate community coverage, directional AM stations must undergo extensive ''proofs of performance'' to demonstrate that the antenna system operates as authorized. An antenna proof of performance establishes whether the radiation pattern of an AM station is in compliance with the station's authorization. An AM station must perform a full proof to verify the pattern shape when a new directional antenna system is authorized. Partial proofs, which require fewer measurements, are occasionally necessary to show that an array continues to operate properly. This *Second Report and Order* allows most directional AM stations to use computer modeling in place of the traditional proof of performance, which is based on field strength measurements taken many miles from the antenna. In contrast to the traditional method, a moment method proof relies upon internal measurements to verify that the antenna is operating properly.

The new rules are based on a proposal made by an *ad hoc* coalition of radio broadcasters, equipment manufacturers, and broadcast consulting engineers. Comments filed by the *ad hoc* coalition reflected a strong consensus in favor of allowing the use of moment method techniques to verify the performance of AM directional antennas. In addition, the coalition's comments pointed out some of the limitations inherent in traditional field strength proofs.

**Final Regulatory Flexibility Analysis**

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[1] an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Further Notice of Proposed Rulemaking* in this proceeding. The Commission sought written public comment on the proposals in the *Further Notice of Proposed Rulemaking,* including comment on the IRFA. None were received. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.[2]

*Need For and Objectives of the Rules:* This *Second Report and Order* adopts rules permitting the use of computer modeling techniques based on moment method analysis to verify AM directional antenna performance. Adoption of such techniques will reduce the substantial costs associated with licensing for directional AM stations. These rules also advance the Commission's regulatory requirements to the minimum necessary to achieve our policy objectives of controlling interference and assuring adequate community coverage.

*Legal Basis:* Authority for the actions proposed in this *Second Report and Order* may be found in sections 4(i), 4(j), 303, 308, 309, 316 and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303, 308, 309, 316 and 319.

*Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply:* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein.[3] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small government jurisdiction.''[4] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[5] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[6]

The rules adopted in this *Second Report and Order* will apply to those AM radio broadcasting licensees and potential licensees that operate with directional antennas. The Small Business Administration defines a radio broadcasting entity that has $6.5 million or less in annual receipts as a small business.[7] Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.'' According to Commission staff review of the BIA Financial Network, Inc. Media Access Radio Analyzer Database as of May 1, 2008, 13,457 (about 96 percent) of 13,977 radio stations in the United States have revenues of $6.5 million or less. AM stations constitute 4,776 of the radio station total, and approximately 40 percent of AM stations use directional antennas. Consequently, we estimate that 1,910 AM stations may be affected by the new rules. Using the 96 percent figure to estimate the number of small businesses among directional AM stations, we conclude that approximately 1,834 of the affected AM stations are small businesses. We note, however, that in assessing whether a business entity qualifies as small under the above definition, business control affiliations[8] must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by any changes to the ownership rules, because the revenue figures on which this estimate is based do not include or aggregate revenues from affiliated companies.

In this context, the application of the statutory definition to radio stations is of concern. An element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time and in this context to define or quantify the criteria that would establish whether a specific

[1] *See* 5 U.S.C. 603. The RFA, *see* 5 U.S.C. 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law No. 104–121, Title II, 110 Stat. 847 (1996). The SBREFA was enacted as Title II of the Contract With America Advancement Act of 1996.

[2] *See* 5 U.S.C. 604.

[3] 5 U.S.C. 603(b)(3).

[4] 5 U.S.C. 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[6] 15 U.S.C. 632.

[7] *See* NAICS Code 515112.

[8] ''[Business concerns] are affiliates of each other when onebusiness concern controls or has the power to control the other or a third party or parties controls or has the power to control both.'' 13 CFR 121.103(a)(1).

radio station is dominant in its field of operation. Accordingly, the foregoing estimate of small businesses to which the rules may apply does not exclude any radio station from the definition of a small business on this basis and is therefore over-inclusive to that extent. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities, and our estimates of small businesses to which they apply may be over-inclusive to this extent.

*Description of Projected Recording, Recordkeeping, and Other Compliance Requirements:* In order to control interference between stations and assure adequate community coverage, directional AM stations must undergo extensive ''proofs of performance'' when initially constructed, and from time to time thereafter, to verify conformance with authorized operating parameters. The new proof of performance techniques adopted here, which are optional, will substantially reduce the compliance burden for licensees of directional AM stations and for Commission staff. The new compliance requirements associated with the rule changes are less onerous than our existing proof of performance requirements. The periodic recertification required for stations opting to use the new proof of performance techniques is the only new record keeping involved. We believe this requirement does not represent a significant burden, and is more than offset by the efficiency of the new procedures.

*Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered:* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.[9]

The rules adopted in the *Second Report and Order* offer alternative procedures that will greatly reduce the compliance burden for directional AM stations. Directional AM stations are not required to use these new procedures, however. Previous rules concerning AM directional antenna performance verification remain in effect, and an AM station may continue to use the old rules if these are more advantageous. By offering a cost-effective and efficient new means of performance verification, but not requiring its use, we have increased the options available to all directional AM stations for verifying antenna performance. The additional flexibility afforded by the new rules will be particularly advantageous to small businesses.

**Paperwork Reduction Act Analysis**

The *Second Report and Order* contains new and modified information collection requirements subject to the paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it contains new and modified ''information collection burdens 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). It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and OMB in a separate **Federal Register** to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995. In regard to the proposed new information collection requirements, pursuant to the Small Business Paperwork Relief Act of 2002,[10] we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' In regard to the new and modified information collection requirements adopted herein, we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' In the *Second Report and Order*, we have assessed the effects of the new rules for directional AM performance verification adopted herein, and find that these new rules, which are optional, would greatly reduce the information collection burden for licensees.

**Report to Congress**

The Commission will send a copy of the *Second Report and Order and Second Further Notice of Proposed Rulemaking,* including the FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act.[11] In addition, the Commission will send a copy of the *Second Report and Order and Second Further Notice of Proposed Rulemaking,* including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Second Report and Order and Second Further Notice of Proposed Rulemaking,* including the FRFA (or summaries thereof), will also be published in the **Federal Register**.[12]

**List of Subjects**

Radio.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Rules Changes**

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 to read as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Amend § 73.61 by revising paragraphs (a) and (b) to read as follows:

### § 73.61 AM directional antenna field strength measurements.

(a) Each AM station using a directional antenna with monitoring point locations specified in the instrument of authorization must make field strength measurements as often as necessary to ensure that the field at each of those points does not exceed the value specified in the station authorization. Additionally, stations not having an approved sampling system must make the measurements once each calendar quarter at intervals not exceeding 120 days. The provision of this paragraph supersedes any schedule specified on a station license issued prior to January 1, 1986. The results of the measurements are to be entered into the station log pursuant to the provisions of § 73.1820.

[9] 5 U.S.C. 603(c)(1) through (c)(4).

[10] Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

[11] *See* 5 U.S.C. 801(a)(1)(A).

[12] *See* 5 U.S.C. 604(b).

(b) If the AM license was granted on the basis of field strength measurements performed pursuant to § 73.151(a), partial proof of performance measurements using the procedures described in § 73.154 must be made whenever the licensee has reason to believe that the radiated field may be exceeding the limits for which the station was most recently authorized to operate.

* * * * *

■ 3. Amend § 73.68 by revising paragraph (a), redesignating paragraphs (b) through (e) as paragraphs (c) through (f), and by adding a new paragraph (b) to read as follows:

**§ 73.68 Sampling systems for antenna monitors.**

(a) Each AM station permittee authorized to construct a new directional antenna system which will be subject to a proof of performance based on field strength measurements, as described in § 73.151(a) or (b), must install the sampling system in accordance with the following specifications:

(1) Devices used to extract or sample the current and the transmission line connecting the sampling elements to the antenna monitor must provide accurate and stable signals to the monitor (*e.g.*, rigidly mounted and non-rotatable loops and all system components protected from physical and environmental disturbances).

(2) Sampling lines for directional antennas may be of different lengths provided the phase difference of signals at the monitor are less than 0.5 degrees between the shortest and longest cable lengths due to temperature variations to which the system is exposed.

(3) Other configurations of sampling systems may be used upon demonstration of stable operation to the FCC.

(b) An AM station permittee authorized to construct a directional antenna system which will be subject to a proof of performance based on moment method modeling, as described in § 73.151(c), shall install a sampling system conforming to the requirements set forth in that section.

* * * * *

■ 4. Amend § 73.151 by adding introductory text and by adding paragraph (c) to read as follows:

**§ 73.151 Directional Antenna Performance Verification.**

The performance of a directional antenna may be verified either by field strength measurement or by computer modeling and sampling system verification.

(a) * * *

* * * * *

(c) *Computer modeling and sample system verification of modeled parameters to establish operation of a directional antenna consistent with the theoretical pattern.* Each element of the directional array shall be modeled by use of a method of moments computer program, using the physical characteristics of each element to establish a model that does not violate any of the internal constraints of the computer program. Only arrays consisting of series-fed elements may have their performance verified by computer modeling and sample system verification.

(1) A matrix of impedance measurements at the base and/or feed point of each element in the array, with all other elements shorted and/or open circuited at their respective measurement locations, shall be made. The physical model of the individual antenna elements used in the computer program may be varied to match the measured impedance matrix, but the actual spacings and orientations of the array elements must be used. Towers may be modeled using individual vertical wires to represent them, or with multiple wires representing their leg and cross-member sections. The resulting model description (consisting of the length, radius, and number of segments of each wire for arrays using vertical wire sections to represent the towers, or the length, end-point coordinates, and radius of each wire used to represent leg and cross-member sections for arrays using detailed tower structure representations) as well as the assumed input feed and base region stray reactances shall be used to generate the drive impedances and sample system parameter values for the operating directional antenna pattern parameters.

(i) For arrays using vertical wires to represent each tower, the radii of cylinders shall be no less than 80 percent and no more than 150 percent of the radius of a circle with a circumference equal to the sum of the widths of the tower sides.

(ii) For arrays using multiple wires to represent leg and cross-member sections, the individual legs of the tower may be modeled at their actual diameters with appropriate interconnecting segments representing cross-members at regular intervals.

(iii) No less than one segment for each 10 electrical degrees of the tower's physical height shall be used for each element in the array.

(iv) Base calculations shall be made for a reference point at ground level or within one electrical degree elevation of the actual feed point.

(v) For uniform cross-section towers represented by vertical wires, each wire used for a given tower shall be between 75 to 125 percent of the physical length represented.

(vi) For self-supporting towers, stepped-radius wire sections may be employed to simulate the physical tower's taper, or the tower may be modeled with individual wire sections representing the legs and cross members.

(vii) The lumped series inductance of the feed system between the output port of each antenna tuning unit and the associated tower shall be no greater than 10 μH unless a measured value from the measurement point to the tower base with its insulator short circuited is used.

(viii) The shunt capacitance used to model base region effects shall be no greater than 250 pF unless the measured or manufacturer's stated capacitance for each device other than the base insulator is used. The total capacitance of such devices shall be limited such that in no case will their total capacitive reactance be less than five times the magnitude of the tower base operating impedance without their effects being considered.

(ix) The orientation and distances among the individual antenna towers in the array shall be confirmed by a post-construction certification by a land surveyor (or, where permitted by local regulation, by an engineer) licensed or registered in the state or territory where the antenna system is located.

(2)(i) The computer model, once verified by comparison with the measured base impedance matrix data, shall be used to determine the appropriate antenna monitor parameters. The moment method modeled parameters shall be established by using the verified moment method model to produce tower current distributions that, when numerically integrated and normalized to the reference tower, are identical to the specified field parameters of the theoretical directional antenna pattern. The samples used to drive the antenna monitor may be current transformers or voltage sampling devices at the outputs of the antenna matching networks or sampling loops located on the towers. If sample loops are used, they shall be located at the elevation where the current in the tower would be at a minimum if the tower were detuned in the horizontal plane, as determined by the moment method model parameters used to determine the antenna monitor parameters. Sample loops may be employed only when the towers are

identical in cross-sectional structure, including both leg and cross member characteristics; if the towers are of unequal height, the sample loops shall be mounted identically with respect to tower cross members at the appropriate elevations above the base insulator. If the tower height used in the model is other than the physical height of the tower, the sampling loop shall be located at a height that is the same fraction of the total tower height as the minimum in tower current with the tower detuned in the model. Sample lines from the sensing element to the antenna monitor must be equal in both length (within one electrical degree) and characteristic impedance (within two ohms), as established by impedance measurements, including at the open-circuit resonant frequency closest to carrier frequency to establish length, at frequencies corresponding to odd multiples of ⅛ wavelength immediately above and below the open circuit resonant frequency closest to carrier frequency, while open circuited, to establish characteristic impedance, and at carrier frequency or, if necessary, at nearby frequencies where the magnitude of the measured impedance is no greater than 200 ohms with the sampling devices connected. Samples may be obtained from current transformers at the output of the antenna coupling and matching equipment for base-fed towers whose actual electrical height is 120 degrees or less, or greater than 190 electrical degrees. Samples may be obtained from base voltage sampling devices at the output of the antenna coupling and matching equipment for base-fed towers whose actual electrical height is greater than 105 degrees. Samples obtained from sample loops located as described above can be used for any height of tower. For towers using base current or base voltage sampling derived at the output of the antenna coupling and matching equipment, the sampling devices shall be disconnected and calibrated by measuring their outputs with a common reference signal (a current through them or a voltage across them, as appropriate) and the calibration must agree within the manufacturer's specifications. A complete description of the sampling system, including the results of the measurements described in this paragraph, shall be submitted with the application for license.

(ii) Proper adjustment of an antenna pattern shall be determined by correlation between the measured antenna monitor sample indications and the parameters calculated by the method of moments program, and by correlation between the measured matrix impedances for each tower and those calculated by the method of moments program. The antenna monitor sample indications must be initially adjusted to agree with the moment method model within +/−5 percent for the field ratio and +/−3 degrees in phase. The measured matrix impedances must agree with the moment method model within +/−2 ohms and +/−4 percent for resistance and reactance.

(3) Reference field strength measurement locations shall be established in directions of pattern minima and maxima. On each radial corresponding to a pattern minimum or maximum, there shall be at least three measurement locations. The field strength shall be measured at each reference location at the time of the proof of performance. The license application shall include the measured field strength values at each reference point, along with a description of each measurement location, including GPS coordinates and datum reference.

■ 5. Add new § 73.155 to read as follows:

**§ 73.155 Periodic Directional Antenna Performance Recertification.**

A station licensed with a directional antenna pattern pursuant to a proof of performance using moment method modeling and internal array parameters as described in § 73.151(c) shall recertify the performance of that directional antenna pattern at least once within every 24 month period.

(a) Measurements shall be made to verify the continuing integrity of the antenna monitor sampling system.

(1) For towers using base current or base voltage sampling derived at the output of the antenna coupling and matching equipment, the sampling devices shall be disconnected and calibrated by measuring their outputs with a common reference signal (a current through them or a voltage across them, as appropriate) and the calibration must agree with the manufacturer's specifications.

(2) For towers using base current or base voltage sampling derived at the output of the antenna coupling and matching equipment, sampling line measurements shall be made to verify the open-circuit resonant frequency closest to carrier frequency, to establish length, and also at frequencies corresponding to odd multiples of ⅛ wavelength immediately above and below the open-circuit resonant frequency closest to carrier frequency, while open circuited, to verify their characteristic impedance. The frequencies measured must be the same as were measured in the most recent proof of performance and must demonstrate that the sampling lines continue to meet the requirements of § 73.151(c) with regard to their length and characteristic impedance.

(3) For towers having sampling loops, measurements shall be made at carrier frequency or, if necessary, at nearby frequencies where the magnitude of the measured impedance is no greater than 200 ohms with the sampling loops connected. The frequencies measured must be the same as were measured in the most recent proof of performance and the measured impedances must agree within +/−2 ohms and +/−4 percent resistance and reactance of the proof values.

(b) Field strength measurements shall be made at the reference field strength measurement locations that were established by the most recent proof of performance. If locations have become inaccessible or their readings contaminated by localized electromagnetic environmental changes, new locations that meet the requirements of the moment method proof of performance rules in § 73.151(c)(3) shall be established to replace them.

(c) The results of the periodic directional antenna performance recertification measurements shall be retained in the station's public inspection file.

[FR Doc. E8–25802 Filed 10–29–08; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 622

**[Docket No. 0808051052–81365–02]**

**RIN 0648–AW85**

### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Referendum Procedures for a Potential Gulf of Mexico Grouper and Tilefish Individual Fishing Quota Program

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule; statement of procedure.

**SUMMARY:** NMFS issues this final rule to provide information concerning the procedures, schedule, and eligibility requirements NMFS will use in