



# PUBLIC NOTICE

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## THE WIRELESS TELECOMMUNICATIONS BUREAU PROVIDES GUIDANCE ON HOW TO FILE APPLICATIONS TO EXCHANGE CHANNELS BETWEEN THE BROADBAND RADIO SERVICE AND EDUCATIONAL BROADBAND SERVICE

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) provides guidance on how licensees should file applications to exchange channels between the Broadband Radio Service (BRS) and Educational Broadband Service (EBS). The Commission's Rules designate which channels in the 2495-2690 MHz band are to be licensed for use in the BRS and which channels are to be licensed for use in the EBS.<sup>1</sup> The Commission has recognized, however, that in certain circumstances, it may be appropriate to allow BRS and EBS licensees to engage in exchanges of channels between the services (*i.e.*, "channel swaps").<sup>2</sup> The Commission recently amended its rules to clarify "that the EBS eligibility restrictions do not prevent channel swapping to further the transition."<sup>3</sup> The amended rule took effect on July 19, 2006.<sup>4</sup> We hereby clarify the procedures that should be used when BRS and EBS licensees wish to swap channels between services.

### General Procedures

In order to swap channels, the BRS licensee and EBS licensee must each electronically file the FCC Form 603, FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control, on the same day.<sup>5</sup> To file electronically, licensees must log into Universal Licensing System (ULS) License Manager using an FCC Registration Number and CORES password. The ULS License Manager can be accessed through the ULS homepage at <http://wireless.fcc.gov/uls>. The system will indicate at the end of the application filing process if a fee is due (BRS applications require payment of a fee). Fees for electronically filed BRS applications may be paid online or may be sent to the Federal

<sup>1</sup> 47 C.F.R. § 27.5(i).

<sup>2</sup> See 47 C.F.R. 27.1214(b)(2) ("In addition, an EBS entity receiving interference protection will continue to receive such protection if it elects to swap channels with another EBS or BRS station.")

<sup>3</sup> Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, *et al.*, *Order on Reconsideration and Fifth Memorandum Opinion and Order and Third Memorandum Opinion and Order and Second Report and Order*, FCC 06-46 (rel. Apr. 27, 2006) at ¶ 122. See also revised 47 C.F.R. § 27.5(i)(3) ("During the transition . . . EBS and BRS licensees may exchange channels to effectuate the transition of the 2.5 GHz band in a given BTA.").

<sup>4</sup> 71 Fed. Reg. 35178 (Jun. 19, 2006).

<sup>5</sup> See 47 C.F.R. § 1.913(b).

Communications Commission, Wireless Bureau ELT, P. O. Box 358994, Pittsburgh, PA 15251-5994. An FCC Form 159 is required if payment is sent by mail. Additionally, licensees must have a current and accurate FCC Form 602, FCC Ownership Disclosure Information for the Wireless Telecommunications Services, on file with the Commission.<sup>6</sup>

BRS and EBS licensees filing Form 603s to swap channels between BRS and EBS services must seek a waiver of Section 27.5 of the Commission's Rules designating specific channels for the BRS and EBS services and indicate on the Form 603 that a waiver request is included with their filings. Applicants should note that even after the revisions to Section 27.5(i)(3) – which explicitly provide for channel swaps – take effect, applicants filing Form 603s to effectuate channel swaps must continue to seek a waiver of Section 27.5 of the Commission's Rules to ensure that the channel swap they are seeking is properly recorded in ULS and is properly reflected on their licenses, and to ensure that the EBS licensee programming requirements contained in Section 27.1203 of the Commission's Rules are associated with the correct license following the channel swap.

In a waiver attachment to the application, licensees seeking to effectuate a channel swap shall describe the proposed transaction in detail, set forth the benefits of the proposed channel swap, and specifically affirm that the EBS licensee will comply with the programming requirements contained in Section 27.1203 of the Commission's Rules on its new channels.<sup>7</sup> These applications will be offlined from automatic ULS processing and processed pursuant to the assignment and transfer General Approval Procedures as outlined in Section 1.948(j)(1) of the Commission's rules.<sup>8</sup>

Specific details regarding how to file an application for assignment (Form 603s) to implement a channel swap, how to file a notification of consummation of the assignment, and how ULS will process the licensing changes, are set forth below.

### **Assignment Application**

An application to swap channels must be filed as an Assignment of Authorization. Licensees may initiate the assignment by selecting **Assign Authorization** from the "My Licenses" screen of the ULS License Manager. BRS and EBS licensees can elect to: (1) fully assign the license; (2) partition all or part of the geographic service area; (3) disaggregate all or part of the spectrum or (4) partition and disaggregate. The system will ask the licensee if the application involves partitioning and/or disaggregation of geographic licenses and prompt the licensee to select the licenses involved in the assignment.

- If all of the channels and the entire geographic service area are being swapped or assigned, an application for full assignment of the license should be filed.
- If some, but not all, of the channels on the license are being swapped or assigned, an application to disaggregate spectrum should be filed.
- If the licensee is swapping or assigning only a portion of its service area, an application to partition the service area should be filed.

Licensees that hold a license with a BTA geographic service area can partition by county or by undefined geographic area. Licensees that hold a license with a P35 geographic service area can partition by

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<sup>6</sup> See 47 C.F.R. § 1.948(c).

<sup>7</sup> See 47 C.F.R. § 27.1203.

<sup>8</sup> See 47 C.F.R. § 1.948(j)(1).

undefined geographic area only. When partitioning an undefined geographic area, the licensee must enter the coordinates of locations that describe the periphery of the geographic area to be partitioned.<sup>9</sup> A maximum of 300 geographic points can be entered to define the area. The geographic points must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude and must be based upon the 1983 North American Datum (NAD83).<sup>10</sup> A separate file containing the geographic points may be uploaded into ULS. The file may be uploaded from the “Partitioning and Disaggregation Information - Review Coordinates” page.

### **Notification of Consummation**

After the FCC has consented to an assignment application, the assignee has 180 days to consummate the transaction and electronically file a Notification of Consummation using FCC Form 603 and Schedule D. If a Notification of Consummation is not filed in a timely manner, the assignment application will be dismissed.

The assignee may initiate the notification by selecting **Consented To** from the “My Applications” screen. To file the notification, the assignee should select **Notify the FCC** from the “Application at a Glance” screen. The assignee should then select **C - Notification of Consummation Assignment of Authorization or Transfer of Control** as the purpose of the application.

In addition to filing the Notification through ULS, the assignee also should email the contacts listed below when the Notification is being filed, so that the Bureau can make the appropriate manual intervention to ensure that the resulting authorizations are licensed in the correct radio service.

### **License Holdings after the Completion of Channel Swaps**

The information below describes how licenses or parts of licenses are transferred as a result of a channel swap between the BRS and EBS services.

- For a full assignment, the license and original call sign(s) will be held by the assignee once the application is consummated.
- For a partition or disaggregation, a new call sign will be issued to the assignee for the partitioned area and/or disaggregated spectrum. The partitioned service area and/or disaggregated spectrum will be removed from the assignor’s license, which will retain its original call sign(s).
- If the licensee disaggregates all of its spectrum over the entire geographic service area, the assignor’s license will terminate when the application is consummated, and the assignee will be issued a new call sign (or signs).
- If a license is partitioned by an undefined service area, **as described on the instructions to FCC Form 603**, the resulting license will have an undefined service area. If a licensee creates an undefined service area to coincide with the assignee’s licensed GSA, we will allow the assignee to consolidate its call signs after the transaction is consummated and the new call sign is created. This

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<sup>9</sup> See FCC Form 603, Schedule C, Instructions.

<sup>10</sup> See Amendment of Parts 0, 1, 12, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Report and Order*, WT Docket No. 98-20, 13 FCC Rcd 21027, 21084-86 ¶¶ 125-132 (1998).

can be done by filing a minor modification to the existing P35 call sign to add the disaggregated spectrum. The licensee must include an attachment to the modification application indicating that it is a consolidation of call signs and certifying that the undefined service area overlays the licensee's GSA. The partitioned license will be terminated by the Commission upon grant of the minor modification.

### **Further Information**

For additional information or assistance, go to <http://esupport.fcc.gov>. You may also call the FCC Support Center at (877) 480-3201 (TTY 202-414-1255) and select Option #2, Forms or Licensing Assistance. Hours are from 8:00 a.m. to 7:00 p.m. Eastern Time, Monday through Friday (except Federal holidays). To provide quality service and ensure security, all telephone calls are recorded. For further information concerning licensing procedures for these services, please contact Elizabeth Fishel at (717)338-2649, [Elizabeth.Fishel@fcc.gov](mailto:Elizabeth.Fishel@fcc.gov) or Mary Shultz at (717)338-2656, [Mary.Shultz@fcc.gov](mailto:Mary.Shultz@fcc.gov), Broadband Division, Wireless Telecommunications Bureau.