



Federal Communications Commission  
Washington, D.C. 20554

May 27, 2009

DA 09-1150

## **Small Entity Compliance Guide**

### **Broadband Radio Service (BRS) and Educational Broadband Service (EBS) in the 2496-2690 MHz Band**

FCC 08-83

WT Docket Nos. 03-66, 03-67, and 02-68

IB Docket No. 02-364

ET Docket No. 00-258

Released March 20, 2008

**This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking dockets. This Guide is not intended to replace the rules, which provide the final authority in this context. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This guide might not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide. Any decisions regarding a particular small entity will be based on the statute and regulations. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may revise this Guide without public notice to clarify or update the contents. Direct your comments and recommendations, or calls for further assistance, to the FCC’s Consumer Center:**

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## I. OBJECTIVES OF THE PROCEEDING

In this *Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking (BRS/EBS 4th MO&O)*, the Commission continued its efforts to transform the rules and policies governing the licensing of the Educational Broadband Service (EBS) and the Broadband Radio Service (BRS) in the 2495-2690 MHz (2.5 GHz band). The Commission refined its technical rules to enable licensees to deploy new and innovative wireless services in the 2.5 GHz band.

## II. REGULATIONS AND POLICIES THAT THE COMMISSION ADOPTED OR MODIFIED, INCLUDING COMPLIANCE REQUIREMENTS

In the *BRS/EBS 4<sup>th</sup> MO&O*, the Commission took the following actions:

- Adopted the Part 1, Subpart Q competitive bidding rules for future BRS auctions and directed WTB to review inventory and schedule auction(s) of unassigned BRS spectrum as soon as practicable.
- Adopted the small business size standards and bidding credits proposed in the *BRS/EBS FNPRM* (“small business” -- an entity with attributed average annual gross revenues not exceeding \$40 million for the preceding three years; “very small business” -- an entity with attributed average annual gross revenues not exceeding \$15 million for the same period; and an “entrepreneur” -- an entity with attributed annual average gross revenues not exceeding \$3 million for the same period).
- Corrected the inconsistency between the *BRS/EBS 3rd MO&O* and the text of Section 27.1236(b)(6) and changed references in Sections 27.1231(f), 27.1236(a), 27.1236(b)(1) and 27.1236(b)(6) to dates certain.
- Modified the height benchmarking rule to establish deadlines for compliance.
- Modified the out-of-band emissions rule to establish deadlines for compliance.
- Modified the out-of-band emissions rule to provide that out-of-band emissions are to be measured from the outermost edge of the channels when two or more channels are combined.
- Allowed licensees to maintain existing operations post-transition in the mid-band segment (MBS) at 2572-2614 MHz, even if such operations exceed the current -73.0 dBW/m<sup>2</sup> contour limit.
- Permitted BRS Channels No. 1 and 2/2A licensees to operate simultaneously in the 2150-2160/62 MHz and 2496-2690 MHz bands until every subscriber is relocated to the 2496-2690 MHz band.
- Reinstated a Gulf of Mexico Service Area.
- Established the Gulf of Mexico boundary 12 nautical miles from the shore.
- Applied the existing technical rules to the Gulf of Mexico Service Area.
- Affirmed that EBS excess capacity leases executed before January 10, 2005, are limited to 15 years.

- Amended rules to permit lessees to offer EBS licensees/lessors the actual equipment used or comparable equipment on lease termination.
- Established a new safe harbor for heavily encumbered or highly truncated Basic Trading Areas (BTAs) and GSAs.
- Adopted a rule that clarifies that commercial EBS licensees are not subject to educational programming requirements or the special EBS leasing restrictions.
- Clarified how the splitting the football process for determining GSAs works with respect to licenses that were expired on January 10, 2005.

### III. RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS

Most of the rules adopted in the *BRS/EBS 4<sup>th</sup> MO&O* do not impose any new requirements or compliance burdens, including any reporting or recordkeeping burdens, on small entities, but rather benefit such entities by providing them with additional operational flexibility; thus, they will not have any adverse economic impact on small entities. To the contrary, most of these rules remove existing regulatory restrictions on the affected entities or provide additional flexibility to those entities.

The *BRS/EBS 4<sup>th</sup> MO&O* imposes the following new compliance and recordkeeping requirements:

With respect to base stations, the *BRS/EBS 4<sup>th</sup> MO&O* establishes deadlines for actions required to eliminate interference to base stations of nearby licensees. In order to determine compliance with the rule, a licensee must calculate its “height benchmark” with respect to the other base station. The height benchmark is the distance squared, in kilometers, from the base station along a radial to the nearest point of the geographic service area boundary of the other base station, divided by 17. Expressed as a formula, the height benchmark is  $(hb_{(m)})=D_{km}^2/17$ . If a base station antenna height in meters of its centerline of radiation above average elevation calculated along the straight line between the two base stations does not exceed the height benchmark, that base station is not required to reduce its power or antenna height to protect the other base station. If the base station does not meet the height benchmark, the non-compliant base station must either reduce its undesired signal at the receiver of the base station to -107dBm/5.5 megahertz or reduce the height of its transmitting antenna to the height benchmark. If the noncompliant base station was placed in operation after the station that is entitled to protection, the noncompliant licensee has 24 hours to take the corrective action noted above. If the noncompliant base station was placed in operation before the station that is entitled to protection, the noncompliant licensee has 90 days to take the corrective action noted above. If the interfering base station modifies its operations to increase power in the direction of the other base station, it shall be deemed to have commenced operations on the date the modification was made.

Within 30 days after receiving a request from a co-channel BRS/EBS licensee with an operational base station located in a nearby geographic service area, a BRS/EBS licensee must

provide the following information: (1) the geographic coordinates and height above ground level of the center of radiation for each transmit and receive antenna, and (2) the date transmissions commenced for each base station within its geographic service area.

With respect to adjacent channel interference, the Commission established deadlines for compliance with established out-of-band emission limits. If a licensee receives a documented interference complaint from an adjacent channel licensee, it has 24 hours to limit its out-of-band emissions if the base station is new or modified. If the base station causing the interference was operating before the base station that is receiving interference, the licensee has 60 days to limit its out-of-band emissions.

#### **IV. INTERNET LINK AND CITATIONS**

“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; Part 1 of the Commission's Rules -- Further Competitive Bidding Procedures; Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands; Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, Including Third Generation Wireless Systems.”

*Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking and Declaratory Ruling:*

[http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-08-83A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-08-83A1.doc)

23 FCC Rcd 5992 (2008); 73 Fed. Reg. 26032 (May 8, 2008).