

## Federal Communications Commission

## § 27.1231

HAAT is greater than its height benchmark.

[69 FR 72034, Dec. 10, 2004, as amended at 70 FR 1190, Jan. 6, 2005]

### § 27.1222 Operations in the 2568–2572 and 2614–2618 bands.

All operations in the 2568–2572 and 2614–2618 MHz bands shall be secondary to adjacent-channel operations. Stations operating in the 2568–2572 and 2614–2618 MHz must not cause interference to licensees in operation in the LBS, MBS, and UBS and must accept any interference from any station operating in the LBS, MBS, and UBS in compliance with the rules established in this subpart. Stations operating in the 2568–2572 and 2614–2618 bands may cause interference to stations in operation in the LBS, MBS, and UBS if the affected licensees consent to such interference.

### POLICIES GOVERNING THE TRANSITION OF THE 2500–2690 MHz BAND FOR BRS AND EBS

#### § 27.1230 Conversion of the 2500–2690 MHz band.

BRS and EBS licensees in the 2500–2690 MHz band on the pre-transition A–I Channels will be transitioned from the frequencies assigned to them under § 27.5(i)(1) to the frequencies assigned to them under § 27.5(i)(2). The transition, which will be undertaken by one or more proponent(s), will occur in the following five phases: initiating the transition process (see § 27.1231), planning the transition (see § 27.1232), reimbursing transition costs (see 27.1233), terminating existing operations in transitioned markets that do not comport with § 27.5(i)(2) (see § 27.1234), and filing the post-transition notification (see § 27.1235).

#### § 27.1231 Initiating the transition.

(a) The transition will occur by MEA. MEAs are based on the U.S. Department of Commerce's 172 Economic Area (EAs). There are 52 MEAs composed of one or more EAs. Additionally, there are three EA-like areas: Guam and Northern Mariana Islands; Puerto Rico and the U.S. Virgin Islands; and American Samoa, which will also be transitioned to the band plan in

§ 27.5(i)(2). The MEA associated with the Gulf of Mexico will not be transitioned. MEAs are identified in the Table to § 27.6(a).

(b) Sections 27.1231 through 27.1235 apply only to transitions initiated by a proponent(s) within 3 years of January 10, 2005.

(c) When a proponent(s) is a Basic Trading Area (BTA) BRS licensee that is located in more than one MEA, the proponent(s) may elect to transition only one MEA or may elect to transition two or more MEAs that overlap the proponent(s)'s BTA.

(d) A proponent(s) may be an EBS or BRS licensee or an EBS lessee. To initiate a transition, a proponent(s) must submit the following information to the Commission at the Office of the Secretary in Washington, DC:

(1) A list of the MEA(s) that the proponent(s) is transitioning;

(2) A list by call sign of all of the BRS and EBS licensees in the MEA(s) that are being transitioned;

(3) A statement indicating that the engineering analysis to transition all of the BRS and EBS licensees in the MEA(s) has been completed;

(4) A statement indicating when the transition will be completed;

(5) A statement indicating that an agreement has been concluded with the proponent(s) of the adjoining or adjacent MEA(s) when the engineering analysis indicates that a licensee or licensees in an adjacent or adjoining MEA must be transitioned to avoid interference to licensees in the MEA being transitioned, or in lieu of an agreement, the proponent(s) may provide an alternative means of transitioning the licensees in an adjacent or adjoining MEA;

(6) A statement indicating that an agreement has been concluded with another proponent(s) on how a MEA will be transitioned when there are two or more proponents seeking to transition the same MEA and a statement that identifies the specific portion of the MEA each proponent will be responsible for transitioning; and

(7) A certification that it has the funds available to pay the reasonable expected costs of the transition based on the information contained in the

Pre-Transition Data Request (see paragraph (f) of this section).

(e) A proponent(s) may, at its own discretion, withdraw from transitioning a MEA(s) by amending the information submitted to the Commission under paragraph (d) of this section and notifying all affected BRS and EBS licensees in the MEA(s).

(f) *Pre-transition data request.* To assist a potential proponent(s) in assessing whether to transition a MEA(s), a proponent(s) must send a Pre-transition data request to each EBS and BRS licensee in the MEA the proponent(s) seeks to transition. The proponent(s) shall include its full name, postal mailing address, contact person, e-mail address, and phone and fax numbers. The proponent(s) must request EBS and BRS licensees within a MEA to provide the following information to the potential proponent(s):

(1) The location (by street address and by geographic coordinates) of every constructed EBS receive site that, as of the date of receipt of the Pre-Transition Data Request, is entitled to a replacement downconverter (see § 27.1233(a)). The response must:

(i) Specify whether the downconverting antenna is mounted on a structure attached to the building or on a free-standing structure;

(ii) Specify the approximate height above ground level of the downconverting antenna;

(iii) Specify, if known, the adjacent channel D/U ratio that can be tolerated by any receiver(s) at the receive site; and

(2) The number and identification of EBS video programming or data transmission tracks the EBS licensee is entitled to receive in the MBS and whether the EBS licensee will accept fewer tracks in the MBS (see § 27.1233(b)).

(g) *The Transition notice.* The proponent(s) must send a Transition Notice to all BRS and EBS licensees in the MEA(s) being transitioned. The proponent(s) must include the following information in the Transition Notice:

(1) The proponent(s)'s full name; postal mailing address, contact person, e-mail address, and phone and fax numbers;

(2) The identification of the BRS and EBS licensees that will be transitioned;

(3) Copies of the most recent response to the Pre-Transition Data Request for each participant in the process; and

(4) A certification that the proponent(s) has the funds available to pay the reasonably expected costs of the transition based on the information in the Pre-Transition Data Request.

EFFECTIVE DATE NOTE: At 69 FR 72034, Dec. 10, 2004, § 27.1231 was added. Paragraphs (d) and (f) contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### § 27.1232 Planning the transition.

(a) *The Transition planning period.* The Transition Planning Period is a 90-day period that commences on the day after the proponent(s) file the Initiation Plan with the Commission.

(b) *The Transition plan.* The proponent(s) must provide to each BRS and EBS licensee within an MEA, a Transition Plan no later than 30 days prior to the conclusion of the Transition Planning Period.

(1) The Transition Plan must:

(i) Identify the call signs of the stations that are transitioning;

(ii) Identify the specific channels that each licensee will receive following the transition;

(iii) Identify the receive sites at which replacement downconverters will be installed (see § 27.1233(a));

(iv) Identify the video programming and data transmission tracks that will be migrated to the MBS and provide for the MBS channels to be authorized to operate with transmission parameters that are substantially similar to those of the licensee's operation prior to transition (see § 27.1233(b));

(v) Identify the technical configuration of the MBS facilities;

(vi) Identify the approximate time line for effectuating the transition, which, unless dispute resolution procedures are used, may not exceed 18 months from the conclusion of the Transition Planning Period;

(vii) Provide for the establishment of an escrow or other appropriate mechanism for ensuring completion of the