

(b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 13, 2006.

If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit your comments by email or U.S. mail. To submit your comments by email send them to PRA@fcc.gov. To submit your comments by U.S. mail send them to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554 and Kristy L. LaLonde, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395-3087 or via the Internet at Kristy_L._LaLonde@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an email to PRA@fcc.gov or contact Cathy Williams at (202) 418-2918. If you would like to obtain a copy of this revised information collection, you may do so by visiting the FCC PRA Web page at: <http://www.fcc.gov/omd/pr>.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0647.
Title: Annual Survey of Cable Industry Prices.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, Local or Tribal Government.

Number of Respondents: 758.

Estimated Time per Response: 7 hours per response.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 5,306 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Section 623(k) of the Cable Television Consumer Protection and Competition Act of 1992 requires the Commission to publish an annual statistical report on average rates for basic cable service, cable programming service, and equipment. The report must compare the prices charged by cable operators subject to effective

competition and those not subject to effective competition. The data needed to prepare this report is collected using the Annual Survey of Cable Industry Prices.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05-24025 Filed 12-13-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[DA 05-3126]

Licensees of Broadband Radio Service Channels 1 and/or 2/2A; Must File Site and Technical Data by December 27, 2005

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: By this document, the Office of Engineering and Technology (OET) and the Wireless Telecommunications Bureau (WTB) set forth the specific data that Broadband Radio Service (BRS)¹ licensees in the 2150-2160/62 MHz band must file along with the deadline date and procedures for filing this data on the Commission's Universal Licensing System (ULS). The data will assist in determining future AWS licensees' relocation obligations.

DATES: Filing deadline is December 27, 2005.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Mary Shultz, WTB, at (717) 338-2656 (for questions about the data collection) or Priya Shrinivasan, OET, at (202) 418-7005 (for questions about the underlying Commission Order). For additional ULS 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.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice, released November 30, 2005. The full text of this Public Notice is

¹ The Multipoint Distribution Service (MDS) was renamed the Broadband Radio Service (BRS) in 2004. See 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 MHz and 2500-2690 MHz Bands, WT Docket No. 03-66, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165 (2004) ("BRS/EBS R&O and FNPRM"), recon. Therefore, all former MDS licensees are now referred to as BRS licensees.

available for inspection and copying during normal business hours in the FCC Reference Center, Room CY-A-257, 445 12th Street, SW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCP), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC. The complete item is also available on the Commission's Web site at <http://www.fcc.gov/wtb>.

Background. The 2150-2160/62 MHz band is allocated for fixed and mobile services and designated for Advanced Wireless Services (AWS).² In the *BRS/EBS R&O and FNPRM*, the Commission designated spectrum in the new 2.5 GHz BRS band plan for BRS Channels No. 1 and No. 2—2496-2502 MHz for BRS Channel No. 1 and 2618-2624 MHz for BRS Channel No. 2.³ The Commission also stated that the Transition Plan must include plans for relocating the BRS incumbents from spectrum that has been redesignated for BRS Channel No. 1 and BRS Channel No. 2.⁴ Future AWS licensees will be obligated to relocate incumbent BRS operations in the 2150-2160/62 MHz band to comparable facilities, most likely within the newly restructured 2495-2690 MHz band. (The Commission is currently seeking comment on the details of this relocation process in ET Docket No. 00-258.)⁵

Commission Order. Recently, the Commission concluded that reliable, public data on each incumbent BRS system that will be subject to relocation is essential well in advance of the planned auction of the 2150-2155 MHz band next year.⁶ The Commission also

² See 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, ET Docket No. 00-258, *Second Report and Order*, 17 FCC Rcd 23193 (2002), *Eighth Report and Order and Fifth Notice of Proposed Rulemaking and Order*, FCC 05-172 (rel. Sept. 29, 2005) (*AWS Allocation Eighth Report and Order, Fifth NPRM, and Order*). See also Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands, WT Docket No. 02-353, *Report and Order*, 18 FCC Rcd 25162 (2003) (*recon. pending*), modified by *Order on Reconsideration*, 20 FCC Rcd 14058 (2005).

³ *BRS/EBS R&O and FNPRM*, 19 FCC Rcd 14165, 14184 paragraph 38.

⁴ *Id.* at 14203 paragraph 88. Except in this background paragraph, references to Channels 1 and/or 2/2A in this Public Notice refer to channel numbers under the pre-transition frequency assignments. See 47 CFR 27.5(i)(1).

⁵ *AWS Allocation Eighth Report and Order, Fifth NPRM, and Order*, paragraph 13. Comments in response to the *Fifth NPRM* were due on or before November 25, 2005, and reply comments must be filed on or before December 12, 2005. See 70 Fed. Reg. 61752 (Oct. 26, 2005).

⁶ *AWS Allocation Eighth Report and Order, Fifth NPRM, and Order*, paragraph 53 (citing 47 U.S.C.

concluded that, because the BRS service is currently licensed on the basis of geographic licensing areas, neither the Commission nor the public has reliable, up-to-date information on the construction status and/or operational parameters of each BRS system in the 2150–2160/62 MHz band that will be subject to relocation.⁷ Accordingly, the Commission ordered BRS licensees to submit information on:

the locations and operating characteristics of BRS systems (e.g., the location of base or fixed stations by coordinates, tower heights, power levels, etc.) in the 2150–2160/62 MHz band, on other system characteristics of BRS incumbents (e.g., subscriber numbers and types of equipment used), and on categories of services provided (e.g., one-way or two-way service, point-to-point or point-to-multipoint operations, data or analog video service). We also will require BRS licensees to provide this information even if the spectrum is leased to third parties. Further, * * * we will require that BRS licensees, as part of the information on system design in the band, provide the number of links (including the connection between a base station and subscriber premises equipment) within the system for both point-to-point and point-to-multipoint systems. To the extent that a system uses both BRS channels 1 and 2 as part of the same service (e.g., as a link to a two-way data service), we will require that BRS licensees make special note of this when providing their system information.⁸

The Commission noted that the list above was not inclusive and that the information required would ultimately be necessary in the context of relocation negotiations. To assist in determining the scope of the new AWS entrants' relocation obligations, the Commission ordered BRS licensees in the 2150–2160/62 MHz band to provide the required data within 60 days and 120 days of the effective date of its *Order*.⁹ The Commission directed and authorized OET and WTB to issue public notices with the specific data that BRS licensees in the 2150–2162

MHz band must file along with the deadline dates and procedures for filing this data electronically on the Commission's Universal Licensing System (ULS), where it will be available to the public.

The Commission also noted that the 60-day and 120-day filing dates will correspond to information collection requirements for the ULS.¹⁰ Accordingly, the collection of information has two parts: (1) The collection of data on FCC Form 601 (Main Form and Schedules D & E) and (2) the collection of supplemental data not currently collected on the FCC Form 601 for this service. The first data collection, on FCC Form 601, must be filed on or before December 27, 2005. A second information collection is proposed and is pending approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (see section III below). Hence, there is currently no deadline for filing the data covered by the proposed information collection request awaiting OMB approval. If OMB approves the second information collection, the FCC will release a separate public notice that announces the deadline for filing the second data collection. The instant Public Notice nonetheless describes the second information collection so licensees are aware of it as they gather information for the first data collection.

BRS Channel 1 and/or 2/2A licensees are advised that:

- Any data or certifications previously filed regarding the construction status and/or operational parameters of a BRS system in the 2150–2160/62 MHz band is considered out-of-date and is therefore deemed unreliable.
- If a licensee has no constructed and operational facilities, then no filing is required.
- Failure to timely file data regarding the construction status and/or operational parameters of a BRS system (to assist in determining future AWS licensees' relocation obligations) risks prejudicing any right to seek relocation or reimbursement for such constructed and operational facilities.

I. First Data Collection (Mandatory on or Before December 27, 2005)

A. Report Construction and Operational Status of System(s) by Filing License-Modification Application(s) on ULS

Licensees operating on channels within the 2150–2160/62 MHz bands are required to submit their information electronically by filing an application on the Universal Licensing System

(ULS) to modify their BRS license(s). These applications will be treated as minor modifications that do not require payment of a fee if the requested information is submitted without making additional changes to the license.¹¹

Facilities that require individual licenses. Licensees are cautioned that adding a facility that requires an individual license or changing the technical parameters of a facility that is already individually licensed¹² may cause the filing to be treated as a major modification and require payment of a fee.

Licensees should take the following steps to initiate the electronic filing of a modification application on ULS:

(1) Access the ULS homepage at <http://wireless.fcc.gov/uls> and click on **Online Filing**.

(2) Enter the FRN and CORES password of the licensee and click **Submit**.

(3) If the licensee has saved applications, it will be taken to a page titled "My Applications." From this page it should click on **My Licenses**. If the licensee does not have any saved applications, it will go directly to "My Licenses," a page listing the licensee's call signs.

(4) Select the call sign of the license to be modified.

(5) Select **Update** from the right side of the "License At a Glance" screen.

(6) Select **Modify License**.

At this point, the licensee begins entering information onto the application. ULS will take the licensee through a series of screens that collect FCC Form 601 information.

On ULS, you must select the newly created Attachment Type: "*BRS Channel 1, 2, 2A Notification*" and file such an attachment.

To ensure that ULS correctly identifies and processes your application(s)—filed to provide the information detailed in the instant *Public Notice*—you must:

- On the Application Information screen, select "Yes" in response to the

¹¹ Licensees may make minor modifications to station authorizations, as defined in Section 1.929 of this part (other than pro forma transfers and assignments), as a matter of right without prior Commission approval. Where other rule parts permit licensees to make permissive changes to technical parameters without notifying the Commission (e.g., adding, modifying, or deleting internal sites), no notification is required. For all other types of minor modifications (e.g., name, address, point of contact changes), licensees must notify the Commission by filing FCC Form 601 within thirty (30) days of implementing any such changes. See 47 CFR 1.947 (Modification of licenses).

¹² See 47 CFR 27.1207(b), 47 CFR 27.1209(b).

154(i)). On December 29, 2004, the Commission formally notified the National Telecommunications and Information Administration (NTIA) of the U.S. Department of Commerce that the Commission intends to auction licenses for AWS in the 1710–1755 MHz and 2110–2155 MHz bands as early as June 2006. See FCC to Commence Spectrum Auction that will Provide American Consumers New Wireless Broadband Services, *News Release*, (rel. Dec. 29, 2004).

⁷ *AWS Allocation Eighth Report and Order, Fifth NPRM, and Order*, paragraph 53. See also 70 Fed. Reg. 61747 (Oct. 26, 2005).

⁸ *AWS Allocation Eighth Report and Order, Fifth NPRM, and Order*, paragraph 53 (notes omitted). The Commission also noted that the information submitted need not be signed under oath; however, willful false statements made therein are punishable by fine and imprisonment, and by appropriate administrative sanctions, including revocation of a station's license. See *id.* at n.139 (citing 47 CFR 1.917(c)).

⁹ *Id.*

¹⁰ *Id.*

question “Is an attachment being filed with this application?”

- Upload an attachment at any time during the filing process following these steps:

- Click on the Attachment link, which is listed at the top of every online filing page.

- Select the newly created **Attachment Type** called “*BRS Channel 1, 2, 2A Notification*”—and upload an attachment of this type.¹³

- Be sure to select **Attachment Type** “*BRS Channel 1, 2, 2A Notification*” when attaching the file. Failure to include this attachment may result in the automated rejection of the application or a charge of an application fee.

B. Form 601 Data

When entering information into the online filing system, licensees will find that certain fields and questions collected on the FCC Form 601 Main Form, Schedule D, and Schedule E must be completed or ULS edits will not allow the licensee to continue to the next screen. ULS will display a message if a required field is left blank and licensees will be given the opportunity to go back to the screen and complete the required fields. When a modification is filed, license information is carried over to the application so it does not have to be reentered, but licensees will have to enter required information that is missing from the license or specific to the application.

Main Form. Initially, the licensee will enter information that is found on the FCC Form 601 Main Form. The information consists of applicant and contact information; general information; application information; alien ownership and basic qualification questions; and questions specific to the Broadband Radio Service. Specifically, Item 55 asks whether the applicant complies with several technical rules including section 27.55, which provides that the predicted or measured median field strength at any location on the geographical border of a licensee’s service area shall not exceed the value specified in the rules unless the adjacent affected service area licensee(s) agree(s) to a different field strength.¹⁴

Schedules D & E. Once the FCC Form 601 Main Form information is

completed, the licensee will begin entering information that is requested on FCC Form 601 Schedules D and E. The first two screens request information on Major Economic Area and geographic band plan. Licensees should click **Continue** to go through these screens without making any changes. These screens will be followed by a screen titled “*Site Specific Technical Data Summary*.” From this screen the licensee has the option to either add technical information for a new station or modify the technical information for any existing stations that were already listed under your geographic license.

Licensees must provide technical data for their own stations as well as for any constructed and operational stations of their *lessees*.

1. Add Stations to Your License

To add a station(s) that is constructed and operational in the 2150–2160/62 band under authority of your geographic area-wide BRS license, follow these steps:

- a. Select **Add Location** from the “Site Specific Technical Data Summary” screen.

- b. Enter applicable information concerning the need for international coordination, National Environmental Policy Act (NEPA) and quiet zone and click **Continue**.

- c. If the above issues do not apply to the location, ULS will generate a message indicating that site data is not required. The licensee should click **OK** to continue filing site data.

- d. Select the type of location, **Fixed** or **Mobile**.

Fixed should be selected if the 2150–2160/62 MHz band channel is being transmitted from a fixed or base station (downstream).

Mobile should be selected if the 2150–2160/62 MHz band channel is being transmitted from a subscriber, mobile, or portable station (upstream).

(**Note:** You do not have to provide the transmitter coordinates for any subscriber/customer premises equipment. Report upstream subscriber/customer premises equipment under Mobile.)

- e. If Mobile is selected, the licensee should select the Area of Operation Code of **P (KMRA around a centerpoint)**.

- f. Click **Continue**.

To add a *Fixed Location*, follow these steps:

Enter information on location, structure height and Antenna Structure Registration.

- (1) Click **Add Antenna**.

- (2) Enter antenna’s make, model, center height, azimuth, beamwidth,

polarization, gain and tilt. If an omnidirectional antenna is used, the licensee should enter 360 for the azimuth and beamwidth.

- (3) Click **Add Frequency**.

- (4) Enter information on frequency and power. The frequency should fall within the 2150–2160/62 MHz band.

- (5) Click **Continue**.

- (6) Enter emission designator information.

- (7) Click **Continue** to go to the “Emission Designator Summary” screen.

- (8) Click **Continue** to go back to the “Site Specific Technical Data Summary” screen.

To add a *Mobile Station*, follow these steps:

- (1) Enter the coordinates and location information for the station *receiving* the mobile/portable transmissions, *e.g.*, a response station hub.

- (2) Enter ‘0’ as the radius.

- (3) Select **Add Frequency**.

- (4) Enter frequency and power information for the mobile/portable transmitters. The frequency should fall within the 2150–2160/62 MHz band.

- (5) Select **Continue**.

- (6) Enter emission designator information.

- (7) Click **Continue** to go to the “Emission Designator Summary” screen.

- (8) Click **Continue** to go to the “Site Specific Technical Data Summary” screen.

2. Ensure That Any Stations That Were Already Listed on Your License Are Accurate

If an operational station in the 2150–2160/62 MHz band already exists on your license, you must also verify the accuracy of this information before filing the application. Licensees will follow the steps listed above to initiate the application and enter FCC Form 601 information until they get to the “Site Specific Technical Data Summary” screen. If the information for the location is complete and accurate in ULS, there is no need to enter information on the individual stations. The licensee may click **Continue** and proceed with submittal of the application as explained in Part I, section 3, below. If the information for the station is missing or incorrect, the licensee must update the information before submitting the application.

The licensee may click on the location, antenna or frequency from the “Site Specific Technical Summary” screen to update the information. Once the information on the individual location, antenna or frequency screens is updated, the licensee may click

¹³ The attachment may consist of the supplemental data collection outlined in Section II, or if the supplemental information is not being filed, a simple statement that the application is filed in response to the instant *Public Notice*.

¹⁴ See FCC Form 601 Item 55 citing 47 CFR 27.50 (Power and antenna height limits), 47 CFR 27.55 (Signal strength limits), 47 CFR 27.1221 (Interference protection). See also 47 CFR 27.55(a)(4).

Continue to return to the summary screen. Entering the location, antenna or frequency data may trigger ULS edits that require entry of certain fields and/or Antenna Structure Registration information. In addition, changing information to a station that requires Quiet Zone, NEPA or international coordination may cause the application to be treated as a major modification and require a fee.

3. Summary Screen; Error Messages; Certify and Submit the Application

When all information for the individual locations is entered, click **Continue** to proceed to the "Summary" screen. If the system detects any errors, a message will be displayed that directs the licensee to go back to the relevant section of the application and correct the errors. When all errors are corrected, click **Continue to Certify**. The licensee must sign application and click **Submit Application** to complete filing. Upon successful submittal, the licensee will receive a confirmation screen listing the application file number.

II. Second, Supplemental Data Collection (Optional Pending OMB Approval—See Section III Below)

In order to determine the extent and scope of operations in the 2150–2160/62 MHz band, additional information beyond that collected on the FCC Form 601 for these services is required. Licensees will be required to submit this information electronically by filing an application on the Universal Licensing System (ULS) to modify their BRS license(s). Because this information is not normally collected on ULS, licensees will need to submit the information as an attachment to the application. Licensees must enter the required FCC Form 601 Main Form information even if they are submitting only the attachment with no other changes.

On ULS, you must select the newly created Attachment Type: "BRS Channel 1, 2, 2A Notification" and file the attachment described below—(see pages 3–4 for ULS-filing instructions)

The following information must be included on the attachment for each operational station in the 2150–2160/62 MHz band.

(1) The ULS location number of the station transmitting on frequencies in the 2150–2160/62 MHz band. The location number can be found on the "Site Specific Technical Summary" screen.

(2) Category of service (e.g., one-way or two-way; fixed point-to-point, fixed point-to-multipoint, base-to-mobile).

(3) For each station reported under the first data collection, the following receiver information.

(a) For a fixed point-to-point transmitter: the receiver coordinates, elevation and the receive antenna's make, model, beamwidth, gain, azimuth, and height to center above ground level.

(**Note:** You do not have to provide the receiver coordinates for any subscriber/customer premises equipment.)

(b) For a mobile or portable transmitter: the receiver elevation, covered service area, and the receive antenna's make, model, beamwidth, gain, and height to center above ground.

(c) For a fixed point-to-multipoint or base-to-mobile transmitter: the approximate coverage area and type of receiving equipment. If separate receive antennas are used, include the receive antenna's make, model, beamwidth and gain.

(4) Operational status of the station, including whether the station is providing service to customers or students.

(5) Type of equipment use by subscribers associated with this station (e.g. handheld device, fixed customer premises equipment).

(6) Number of subscribers associated with the station as of November 1, 2005.

(7) The type of application being provided (e.g., video, broadband data, backhaul).

(8) For fixed point-to-multipoint systems: the number of links associated with the station.

- Licensees should also note in their attachment if both BRS Channels 1 and 2 are used as part of the same service (e.g., as a link to a two-way data service).

III. Important Information Concerning Your Rights Under the Paperwork Reduction Act of 1995

This Public Notice discusses two data collections: the first is mandatory and you must file the required data on or before December 27, 2005. The second is optional unless and until approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995. This Public Notice describes the supplemental data collection so licensees have the option to gather the supplemental data along with the required data to minimize the need to review similar records again if filing the supplemental data becomes mandatory in the future.

- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor

this collection unless it displays a currently valid OMB control number with this notice.

- The first data collection detailed in this Public Notice has been assigned OMB control number 3060–0798, the filing deadline is December 27, 2005.

- Currently, no OMB control number is assigned to the supplemental data collection so you are not required to respond and there is no filing deadline.

- The Commission has or will soon request OMB approval for the supplemental data collection described in this Public Notice.

- If OMB approves the supplemental collection, we will issue another public notice announcing the OMB control number and the deadline for filing the supplemental data.

Federal Communications Commission.

Lauren M. Van Wazer,
Special Counsel.

Catherine W. Seidel,
Acting Chief, Wireless Telecommunications Bureau.

[FR Doc. 05–23981 Filed 12–13–05; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02–278; DA 05–2975]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Notice; comments requested.

SUMMARY: In this document, the Commission seeks comment on a petition for declaratory ruling filed by the Fax Ban Coalition (the "Coalition") concerning the scope of the Commission's jurisdiction over interstate communications under the Telephone Consumer Protection Act of 1991 ("TCPA"). In particular, the Coalition asks the Commission to: Affirm that, under its general grant of exclusive authority to regulate interstate communications, the Commission has exclusive authority to regulate interstate commercial fax messages; and find that section 17538.43 of the California Business and Professions Code, and all other State laws that purport to regulate interstate facsimile transmissions, are preempted by the federal TCPA, 47 U.S.C. 227.

DATES: Comments are due on or before January 13, 2006, and reply comments are due on or before February 2, 2006.

ADDRESSES: You may submit comments, identified by [docket number and/or