

appropriate. The EPA, in consultation with the State of Texas (through the Texas Commission on Environmental Quality), has determined that the potentially responsible parties have completed the removal action for Operable Unit 1 according to the May 1999 "Unilateral Administrative Order," and that Clinton Gregg Investments, Ltd. has completed the soil remedial action for Operable Unit 1 according to the July 2004 "Record of Decision" and the September 2006 "Agreed Order on Consent and Covenant Not to Sue." Additionally, EPA completed the removal action at Operable Unit 1 according to the September 1998 "Action Memorandum."

**V. Partial Deletion Action**

The EPA, with concurrence of the State of Texas, through the Texas Commission on Environmental Quality, has determined that all appropriate response actions under CERCLA have been completed. Therefore, EPA is deleting the soils of Operable Unit 1 and the underlying ground water of the

approximately 8-acre western portion of Operable Unit 1 of the Many Diversified Interests, Inc. Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective August 16, 2010 unless EPA receives adverse comments by July 15, 2010. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

**List of Subjects in 40 CFR Part 300**

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties,

Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 4, 2010.

**Lawrence E. Starfield,**  
*Acting Regional Administrator, Region 6.*

■ For the reasons set out in this document, 40 CFR part 300 is amended as follows:

**PART 300—[AMENDED]**

■ 1. The authority citation for part 300 continues to read as follows:

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

**Appendix B—[Amended]**

■ 2. Table 1 of Appendix B to Part 300 is amended by revising the entry under "Many Diversified Interests, Inc., Texas" to read as follows:

**Appendix B to Part 300—National Priorities List**

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
TX	Many Diversified Interests, Inc	Houston	P

(a) \* \* \*  
\* P = Sites with partial deletion(s).

[FR Doc. 2010–14232 Filed 6–14–10; 8:45 am]  
BILLING CODE 6560–50–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 27**

[WT Docket No. 03–66; RM–10586; FCC 10–107]

**Facilitating the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission modifies the construction deadline applicable to new initial Broadband Radio Service (BRS) licenses granted on or after November 6, 2009. Specifically, the Commission permits

these BRS licensees to demonstrate substantial service four years from the date of license grant rather than on or before May 1, 2011. The Commission further modifies the construction rule by clarifying that BRS and Educational Broadband Service (EBS) licensees may demonstrate substantial service by meeting one of the safe harbors specified in the rule and that they may, under certain circumstances, demonstrate substantial service by combining licenses. Finally, on its own motion, the Commission corrects a clerical error in its rules governing the pre-transition frequency assignments for BRS Channel 1. These actions clarify the requirements necessary for BRS and EBS licensees to demonstrate substantial service and ensure that BRS licensees of new initial licenses are given a reasonable period of time to deploy service, while ensuring that spectrum is rapidly placed in use.

**DATES:** Effective July 15, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Nancy M. Zaczek, Wireless Telecommunications Bureau, Broadband Division, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, at (202) 418–0274 or via the Internet to [Nancy.Zaczek@fcc.gov](mailto:Nancy.Zaczek@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Broadband Radio Service/Educational Broadband Service Third Report and Order (BRS/EBS 3rd R&O)*, FCC 10–107, adopted on June 1, 2010, and released on June 3, 2010. The full text of this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 488–5300

or 1-800-378-3160, contact BCPI at its Web site: <http://www.bcpweb.com>. When ordering documents from BCPI, please provide the appropriate FCC document number, for example, FCC 10-107. The complete text of this document is also available on the Commission's Web site at [http://wireless.fcc.gov/edocs\\_public/attachment/FCC-10-107A1doc](http://wireless.fcc.gov/edocs_public/attachment/FCC-10-107A1doc). This full text may also be downloaded at: <http://wireless.fcc.gov/releases.html>. Alternative formats (computer diskette, large print, audio cassette, and Braille) are available by contacting Brian Millin at (202) 418-7426, TTY (202) 418-7365, or via e-mail to [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

#### SUMMARY:

### I. Background

#### A. Introduction

1. In the April 2006, *BRS/EBS Second Report and Order*, the Commission adopted May 1, 2011 as the uniform date by which all BRS Basic Trading Area (BTA) authorization holders and incumbent BRS and EBS licensees must demonstrate substantial service. The Commission adopted May 1, 2011 as the date for BRS licensees to demonstrate substantial service because it is the date that renewal applications for incumbent BRS licenses are due. Moreover, May 1, 2011 is approximately five years from the date of release of the *BRS/EBS Second Report and Order*, which gave existing BRS licensees five years to build out their systems, while they simultaneously transitioned to the new band plan and technical rules. Thus, the Commission concluded, requiring BRS licensees to demonstrate substantial service by May 1, 2011 struck the appropriate balance between ensuring that the band is promptly placed in use and giving licensees fair opportunity to transition their facilities. The Commission then required that BRS incumbent licensees file their demonstration of substantial service with their respective renewal applications.

2. On April 24, 2009, the Bureau announced Auction 86, in which it intended to auction 78 BRS BTA licenses, 75 of which were overlay licenses that were originally offered in Auction 6 and were available as a result of default, cancellation, or termination. Three additional licenses were created by the Commission in the *BRS/EBS Fourth MO&O*, when the Commission amended its rules to establish three Gulf of Mexico Service Areas for BRS. Under the rules adopted in the *BRS/EBS Second Report and Order*, auction winners would be required to

demonstrate substantial service on or before May 1, 2011.

3. On September 11, 2009, the Commission released the *BRS/EBS Third Further Notice of Proposed Rulemaking (BRS/EBS Third FNPRM)*, 74 FR 49335 (September 28, 2009), concluding that applicants that win BRS licenses in Auction 86, and any subsequent auction of BRS licenses, should demonstrate substantial service on or before four years from the date their respective licenses are granted. The Commission tentatively concluded that a four-year time period would allow new licensees sufficient time to build out their systems and put the spectrum to use. The Commission also proposed to revise the introductory text to § 27.14(o) of the Commission's rules to more clearly state the Commission's intent to allow BRS or EBS licensees to demonstrate substantial service if their respective lessees met one of the safe harbors adopted by the Commission and to allow licenses to be combined for purposes of demonstrating substantial service under certain circumstances.

4. On October 27, 2009, the Commission began Auction 86, the auction of 78 BRS BTA licenses. On November 6, 2009, the Wireless Telecommunications Bureau announced the closing of the auction.

#### B. BRS/EBS Third Report and Order

5. In this *BRS/EBS Third Report and Order*, we adopt our proposal in the *BRS/EBS Third FNPRM*, to modify the construction deadline for new initial BRS licenses to provide licensees with four years from license grant to demonstrate substantial service. As noted in the *BRS/EBS Third FNPRM*, we believe that the substantial service deadline should ensure that spectrum is promptly placed in use while allowing licensees a reasonable opportunity to construct. We agree with most commenters that, with respect to new initial BRS licenses, a four year term strikes the appropriate balance in serving these goals. We recognize that the May 1, 2011 deadline adopted in 2006 does not provide adequate time to build out new initial BRS licenses, particularly since licenses for the recently-completed Auction 86 have not yet been issued.

6. We note that we do revise our proposal in the *BRS/EBS Third FNPRM* in one respect. We had originally proposed to make the new substantial service date effective when the new version of § 27.14(o) of the Commission's rules became effective. Because Auction 86 has now closed, we amend § 27.14(o) to apply the new substantial service date to initial

licenses granted on or after the date the *Closing Public Notice* was released, November 6, 2009. This change will allow all licensees awarded licenses in Auction 86 to take advantage of the new substantial service date.

7. We also adopt our proposal to revise the introductory text to § 27.14(o) of the Commission's rules to more clearly state the Commission's intent to allow BRS or EBS licensees to demonstrate substantial service if a lessee has met one of the specified safe harbors, and to allow licenses to be combined for purposes of demonstrating substantial service under certain circumstances.

8. On our own motion, we correct a clerical error in § 27.5(i)(1) of the Commission's rules. The listing for BRS Channel 1 in the pre-transition frequency assignments currently reads as "RS Channel 1."

9. Our actions today will provide licensees who are awarded new initial BRS licenses, including through the Auction 86 process, with a reasonable period of time to deploy service, while ensuring that spectrum is rapidly placed in use.

### II. Procedural Matters

#### Paperwork Reduction Analysis

10. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "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).

### III. Final Regulatory Flexibility Act Certification

11. For the reasons described below, we now certify that the policies and rules adopted in the *BRS/EBS Third Report and Order* will not have a significant economic impact on a substantial number of small entities. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. 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

U.S. Small Business Administration (SBA).

12. In the *BRS/EBS Third Report and Order*, the Commission extends the deadline for demonstrating substantial service for those licensees that are granted an initial BRS license on or after November 6, 2009. The Commission takes this action in the context of its decision to auction 78 available BRS BTA licenses in Auction No. 86, which began on October 27, 2009. The Wireless Telecommunications Bureau announced the close of Auction No. 86 on November 6, 2009. This action will not create any additional burdens for BRS licensees because all BRS licensees must demonstrate substantial service. Moreover, this decision relieves licensees granted an initial license on or after November 6, 2009 from having to meet the May 1, 2011 deadline, but would require them to demonstrate substantial service four years from the date of license grant.

13. Therefore, we certify that the requirements of the *BRS/EBS Third Report and Order* will not have a significant economic impact on a substantial number of small entities.

#### IV. Report to Congress

14. The Commission will send a copy of this *BRS/EBS Third Report and Order*, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A).

#### V. Ordering Clauses

15. Accordingly, it is ordered, pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333 and 706 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, 333, and 706, that this *Third Report and Order* is hereby adopted.

16. It is further ordered, pursuant to section 4(i) of the Communications Act of 1934, 47 U.S.C. 154(i) that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Third Report and Order*, including the Final Regulatory Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 27

Communications common carriers, Radio.

**Marlene H. Dortch**,  
Secretary, Federal Communications  
Commission.

#### Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 27 as follows:

#### PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 1. The authority citation for part 27 continues to read as follows:

**Authority:** 47 U.S.C. 154, 301, 302, 303, 307, 309, 332, 336, and 337 unless otherwise noted.

■ 2. Amend § 27.5 by revising paragraph (i)(1) to read as follows:

#### § 27.5 Frequencies.

\* \* \* \* \*

(i) \* \* \*

(1) Pre-transition frequency assignments.

BRS Channel 1: 2150–2156 MHz or  
2496–2500 MHz

BRS Channel 2: 2156–2162 MHz or  
2686–2690 MHz

BRS Channel 2A: 2156–2160 MHz

EBS Channel A1: 2500–2506 MHz

EBS Channel B1: 2506–2512 MHz

EBS Channel A2: 2512–2518 MHz

EBS Channel B2: 2518–2524 MHz

EBS Channel A3: 2524–2530 MHz

EBS Channel B3: 2530–2536 MHz

EBS Channel A4: 2536–2542 MHz

EBS Channel B4: 2542–2548 MHz

EBS Channel C1: 2548–2554 MHz

EBS Channel D1: 2554–2560 MHz

EBS Channel C2: 2560–2566 MHz

EBS Channel D2: 2566–2572 MHz

EBS Channel C3: 2572–2578 MHz

EBS Channel D3: 2578–2584 MHz

EBS Channel C4: 2584–2590 MHz

EBS Channel D4: 2590–2596 MHz

BRS Channel E1: 2596–2602 MHz

BRS Channel F1: 2602–2608 MHz

BRS Channel E2: 2608–2614 MHz

BRS Channel F2: 2614–2620 MHz

BRS Channel E3: 2620–2626 MHz

BRS Channel F3: 2626–2632 MHz

BRS Channel E4: 2632–2638 MHz

BRS Channel F4: 2638–2644 MHz

EBS Channel G1: 2644–2650 MHz

BRS Channel H1: 2650–2656 MHz

EBS Channel G2: 2656–2662 MHz

BRS Channel H2: 2662–2668 MHz

EBS Channel G3: 2668–2674 MHz

BRS Channel H3: 2674–2680 MHz

EBS Channel G4: 2680–2686 MHz

I Channels: 2686–2690 MHz

\* \* \* \* \*

■ 3. Amend § 27.14 by revising paragraph (o) introductory text to read as follows:

#### § 27.14 Construction requirements; Criteria for renewal.

\* \* \* \* \*

(o) BRS and EBS licensees originally issued a BRS or EBS license prior to November 6, 2009 must make a showing of substantial service no later than May 1, 2011. With respect to initial BRS licenses issued on or after November 6, 2009, the licensee must make a showing of substantial service within four years from the date of issue of the license. Incumbent BRS licensees that are required to demonstrate substantial service by May 1, 2011 must file their substantial service showings with their renewal applications. "Substantial service" is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal. Substantial service for BRS and EBS licensees is satisfied if a licensee meets the requirements of paragraph (o)(1), (o)(2), or (o)(3) of this section. If a licensee has not met the requirements of paragraph (o)(1), (o)(2), or (o)(3) of this section, then demonstration of substantial service shall proceed on a case-by-case basis. Except as provided in paragraphs (o)(4) and (o)(5) of this section, all substantial service determinations will be made on a license-by-license basis. Failure by any licensee to demonstrate substantial service will result in forfeiture of the license and the licensee will be ineligible to regain it.

\* \* \* \* \*

[FR Doc. 2010-14387 Filed 6-14-10; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No. 100317152-0176-01]

RIN 0648-AY77

### Atlantic Highly Migratory Species; 2010 Atlantic Bluefin Tuna Quota Specifications

#### Correction

In rule document 2010-13207 beginning on page 30732 in the issue of Wednesday, June 2, 2010 make the following correction:

On page 30734, Table 1 is being reprinted to read as set forth below.