

Flooding source(s)	Location of referenced elevation**	*Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ^ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Maps are available for inspection at City Hall, Department of Public Works, 4125 West Clarendon Drive, Cockrell Hill, TX 75211.

**City of Dallas**

Maps are available for inspection at the Department of Public Works, 320 East Jefferson Boulevard, Dallas, TX 75203.

**City of Garland**

Maps are available for inspection at City Hall, 800 Main Street, Garland, TX 75040.

**City of Grand Prairie**

Maps are available for inspection at the City Development Center, 206 West Church Street, Grand Prairie, TX 75051.

**City of Irving**

Maps are available for inspection at the Public Works Department, 825 West Irving Boulevard, Irving, TX 75015

**City of Mesquite**

Maps are available for inspection at the Engineering Division, 1515 North Galloway Avenue, Mesquite, TX 75185.

**City of Richardson**

Maps are available for inspection at the Engineering Office, 411 West Arapaho Road, Room 204, Richardson, TX 75083.

**City of Rowlett**

Maps are available for inspection at City Hall, 4000 Main Street, Rowlett, TX 75083.

**City of Sachse**

Maps are available for inspection at the Community Development Department, 5560 State Highway 78, Sachse, TX 75048.

**City of Seagoville**

Maps are available for inspection at City Hall, 702 North U.S. Route 175, Seagoville, TX 75182.

**Town of Addison**

Maps are available for inspection at the Public Works Department, 16801 Westgrove Drive, Addison, TX 75001.

**Town of Highland Park**

Maps are available for inspection at the Public Works Department, 4700 Drexel Drive, Highland Park, TX 75205.

**Town of Sunnyvale**

Maps are available for inspection at the Town Hall, 537 Long Creek Road, Sunnyvale, TX 75182.

**Unincorporated Areas of Dallas County**

Maps are available for inspection at the Dallas County Records Building, 509 Main Street, Dallas, TX 75202.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: May 11, 2011.

**Sandra K. Knight,**

*Deputy Federal Insurance and Mitigation Administrator, Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2011-14021 Filed 6-6-11; 8:45 am]

**BILLING CODE 9110-12-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 27**

[WT Docket No. 03-66; RM-11614; FCC 11-81]

**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:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on a proposal to use wider channel bandwidths for the provision of

broadband services in certain spectrum bands. Specifically, we consider changes to the out-of-band emission limits for mobile Broadband Radio Service (BRS) and Educational Broadband Service (EBS) devices operating in the 2496-2690 MHz band (2.5 GHz band). The proposed changes may permit operators to use spectrum more efficiently, and to provide higher data rates to consumers, thereby advancing key goals of the National Broadband Plan. Also, the changes would promote greater harmonization of FCC requirements with global standards for mobile devices in the 2.5 GHz band, potentially making equipment more affordable and furthering the development of mobile broadband devices. In addition, we seek comment on whether the proposed changes can be made without increasing the potential for harmful interference to existing users in the 2.5 GHz band and adjacent bands.

**DATES:** Submit comments on or before July 7, 2011. Submit reply comments on or before July 22, 2011.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit

comments, identified by WT Docket No. 03-66, by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

*People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** John Schauble, Deputy Chief, Broadband Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, at (202) 418-0797 or via the Internet to [John.Schauble@fcc.gov](mailto:John.Schauble@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Fourth*

*Further Notice of Proposed Rulemaking*, FCC 11–81, adopted on May 24, 2011, and released on May 27, 2011. The full text of this document is available for 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, facsimile (202) 488–5563, or via e-mail at [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com). The complete text is also available on the Commission's Web site at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-11-81A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-11-81A1.doc). 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

1. *General*: On July 29, 2004, the Commission released the *BRS/EBS R&O & FNPRM*, which fundamentally transformed the rules for the 2.5 GHz band. In the *BRS/EBS R&O*, the Commission adopted a band plan that restructured the 2.5 GHz band into upper and lower-band segments for low-power operations (UBS and LBS, respectively), and a mid-band segment (MBS) for high-power operations, in order to reduce the likelihood of interference caused by incompatible uses. The Commission also revised the out-of band emission limits for BRS and EBS licensees consistent with a proposal made by a coalition of organizations representing BRS and EBS licensees. With respect to mobile devices, the Commission adopted an emission mask which requires that emissions outside the licensee's frequency bands of operation be attenuated below the transmitter power (P) by a factor of  $43 + 10 \log(P)$  decibels (dB) at the channel's edge, and  $55 + 10 \log(P)$  dB at 5.5 megahertz from the channel edge, where (P) is the transmitter power measured in watts. 5.5 megahertz represents the size of individual channels in the LBS and UBS in the post-transition band plan adopted by the Commission.

2. Today, the 2.5 GHz band is used by Clearwire Corporation (Clearwire) and other operators to provide wireless broadband service using the Worldwide Interoperability for Microwave Access (WiMAX) version 802.16e standard. WiMAX is a wireless broadband access

technology based on the Institute of Electrical and Electronics Engineers (IEEE) 802.16 standard which supports delivery of non-line-of-sight connectivity between a subscriber station and base station with a typical cell radius of 3 to 10 kilometers. WiMAX can support fixed and nomadic, as well as portable and mobile, wireless broadband applications. Another standard for wireless broadband technology is Long Term Evolution (LTE), which is developed by the Third Generation Partnership Project (3GPP), a consensus-driven international partnership of telecommunications standards bodies. Both IEEE and 3GPP are working to develop standards for refinements of WiMAX and LTE, which are known as WiMAX 2 (based on the 802.16m standard and LTE-Advanced (3GPP Release 10 and beyond).

3. Current WiMAX deployments typically use maximum channel bandwidths of 10 megahertz. Clearwire reports that average usage for its mobile services is more than 7 GB/month. Wireless broadband data usage is projected to increase by a factor of at least twenty from 2009 to 2014. One way of making more efficient use of spectrum is to increase channel bandwidth. LTE-Advanced and WiMAX2 contemplate channel bandwidths up to 40–100 megahertz.

4. *WCAI Petition*: On October 22, 2010, the Wireless Communications Association International (WCAI) filed a petition for rulemaking asking the Commission to revise the out-of-band emission limits for mobile digital stations operating in the BRS and EBS band to accommodate channel bandwidths of 20 megahertz and wider. WCAI asserts that it is currently difficult for BRS/EBS devices to meet the out-of-band emission limits for 10 megahertz channels because of the limits of power amplifier efficiency inherent in current technology, and states that developing a smartphone that would fully use a 20 megahertz channel bandwidth that complies with the current out-of-band emission limits would be very difficult or impossible.

5. WCAI argues that the revised rules will not significantly increase the risk of interference, because mobile 4G devices using orthogonal frequency-division multiple access (OFDMA) technology (on which WiMAX and LTE are based) are not typically allocated all of the uplink bandwidth while operating at full transmit power, the scenario that would maximize potential interference. In addition, WCAI notes that mobile 4G devices operate under very stringent power controls in order to maximize battery life and minimize intra-system

interference and argues that these changes are necessary to permit operators to realize the full benefits of 4G technologies.

6. A number of parties support the proposed rule changes, including Clearwire, the largest BRS licensee and lessee of EBS spectrum and DigitalBridge Communications Corp., a mobile WiMAX provider; as well as equipment and component manufacturers including GCT Semiconductor, HTC America, Inc., Motorola, Inc., and Nokia Siemens Networks US LLC/Nokia Inc. These parties assert that the proposed changes would allow wireless carriers to realize the full benefits of 4G technologies, offer a greater variety of services and applications, allow more efficient use of spectrum, and better align the Commission's rules with the approach of 3GPP and other standards bodies.

7. One concern raised in the oppositions is that the rule change will result in increased interference to service providers in adjacent spectrum bands. Globalstar, Inc. (Globalstar), which is authorized to operate a mobile satellite service (MSS) system with the downlink (satellite to mobile earth stations) in the 2483.5–2500 MHz band, asserts that the proposed change could cause significant harm to its MSS users, including consumers and public safety users. Similarly, Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) are concerned that the proposed change could result in greater interference to Broadcast Auxiliary Services (BAS) operations operating on Channels A10 (2483.5–2500 MHz) and A9 (2467–2483.5 MHz). With respect to the concerns raised by Globalstar and EIBASS, WCAI responds that those parties exaggerate the risk of interference, because the chances that BRS Channel 1 would be operating at full power across the entire bandwidth of the channel in the vicinity of Globalstar's mobile receivers and BAS Channels A9 or A10 receivers are very low.

8. IP Wireless, Inc. (IP Wireless), a developer and manufacturer of 3GPP user equipment, opposes the rule changes proposed by WCAI because it does not believe changes are necessary to permit wider bandwidth operations. IP Wireless asserts that it makes available LTE devices that can "easily" meet the FCC's existing out-of-band emission limits for mobile devices operating with 20 megahertz channels. WCAI responds that IP Wireless is just one equipment supplier in a larger ecosystem and that other equipment manufacturers agree "that the mask proposed in the Petition represents an

appropriate and reasonable trade-off between form factor, battery consumption, and performance, especially for the most challenging type of device: highly integrated smartphones with multiple radios.”

## II. Discussion

9. We find that facilitating the use of wider channels in the 2.5 GHz spectrum band would greatly enhance spectrum efficiency and throughput in wireless broadband systems operating in the band. We also find that the opportunity to harmonize the Commission’s rules with international standards could benefit both operators and consumers by encouraging the development of mobile broadband equipment for the 2.5 GHz band at lower cost. For these reasons, we initiate this rulemaking on WCAI’s proposal to change the out-of-band emission limits for mobile devices for BRS and EBS.

10. Specifically, we seek comment on whether to modify the out-of-band emission limits for BRS and EBS mobile digital stations by modifying the factors by which these devices’ emissions outside the licensee’s frequency bands of operation must be attenuated below the transmitter power (P), in Watts, to the following, as requested by WCAI:

- $40 + 10 \log (P)$  dB at the channel edge, measured using a resolution bandwidth of 2 percent of the emission bandwidth of the fundamental emission in the 1 megahertz bands immediately outside and adjacent to the frequency block.
- $43 + 10 \log (P)$  dB beyond 5 megahertz from the channel edges, and
- $55 + 10 \log (P)$  dB attenuation factor at a distance of “X” megahertz from the channel edges, where “X” is the greater of 6 megahertz or the actual emission bandwidth as defined in § 27.53(m)(6) of the Commission’s rules.

WCAI asserts that these changes would allow operators to provide the full uplink capacity available in 20 megahertz or wider channels, and would harmonize the Commission’s out-of-band emission limits with 3GPP standards for out-of-band emission limits in the 2.5 GHz band.

11. WCAI has argued that it will be particularly difficult to design smartphone devices with small form factors that can use 20 megahertz channels and meet the current OOB requirements, and asserts that IP Wireless does not offer any handset devices. Does the existence of some mobile devices capable of operating on 20 megahertz channels and meeting the current FCC OOB rules affect the necessity or desirability of making the proposed rule changes?

12. We seek comment on whether the proposed rule change is necessary to permit mobile devices to operate in the 2.5 GHz band using channel bandwidths wider than 10 megahertz. IP Wireless claims to have equipment capable of operating on 20 megahertz channels that meets the FCC’s current out-of-band emission limits, but a number of other equipment manufacturers and operators support the proposed rule change. Also, IP Wireless also argues that the proposed rule changes will result in insufficient protection against interference within the 2.5 GHz band. Specifically, it claims that the more permissive 3GPP emissions standard on which the proposed rule changes are modeled has traditionally been applied to paired (Frequency Division Duplex (FDD)) spectrum allocations, and cites a European Conference of Postal and Telecommunications Administrations (CEPT) report for support that coexistence between FDD and Time Division Duplex (TDD) systems in adjacent spectrum, or between uncoordinated TDD systems, is generally achieved by a combination of the 3GPP emissions standards and guard bands. However, the CEPT report notes that the block edge mask limits it proposed were developed in order to manage the risk of harmful interference independently of any relaxation which may be achieved through mitigation techniques or coordination. We seek comment on how adoption of the proposed rule changes would affect the likelihood of interference within the 2.5 GHz band and whether additional protections against such interference would be needed. In that regard, we note that our existing rules contain a provision requiring both licensees to comply with a tighter emission mask for its base stations within 60 days of receiving a documented interference complaint from an adjacent channel licensee. Since mobile devices and base stations operate in the same frequency band in TDD systems, and base stations operate with higher power, it appears that the existing provisions in our rules may protect adjacent channel licensees with protection against adjacent channel interference. We seek further comment on this issue.

13. Globalstar and EIBASS contend that adopting WCAI’s requested OOB limits would increase the potential for harmful interference into the MSS and BAS bands and we seek comment. The Commission has previously said that the BRS/EBS out-of-band emission limits “should allow MSS providers to operate without unnecessary restrictions or significant interference in the 2483.5–

2495 MHz band.” The same considerations apply to adjacent band BAS operations. As noted above, Globalstar, EIBASS and WCAI disagree about whether the proposed rule changes could result in increased interference into services below 2495 MHz, the likelihood that such interference could result, and the harms that could result from such interference. In view of these disputes in the record, we seek comment including detailed engineering analyses on the potential for, and likelihood that, the proposed rule changes will result in harmful interference into MSS and BAS operations below 2495 MHz. In this vein, we seek comment on the assumptions used by Globalstar in its engineering study, including its definition of interference as a signal level above  $-133$  dBm/MHz. We also seek additional engineering analyses related to the potential for interference, in which the key assumptions underlying the analysis are identified, and accompanied by an explanation of why these assumptions are appropriate. We also seek comment on the significance of the fact that MSS licensees can file documented interference complaints against adjacent channel licensees and take advantage of the provisions that could require adjacent channel BRS licensees to comply with tighter base station emission masks.

14. In addition, we seek comment on whether, in connection with the proposed rule changes, we should consider adopting additional measures of protecting against interference to adjacent bands. For example, we seek comment on the desirability and feasibility of establishing a fixed limit on out-of-band emissions below 2495 MHz or above 2690 MHz in order to protect adjacent bands’ operations. While the WCAI Petition and comments discuss the use of 20 megahertz channels, the proposed rule is not limited to 20 megahertz channels, and developing standards contemplate the use of wider channels. We seek comment on whether the proposed rule would work for channels wider than 20 megahertz without causing interference to adjacent bands’ operations, or whether we should set a maximum channel size to which the proposed out-of-band emission limits would apply. In addition, while the proposed rule change relies on standards being developed by 3GPP, we seek comment on whether, to the extent such information is available, the proposed changes would be consistent with IEEE’s continuing development of

WiMAX2, as well as other evolving standards. Finally, we seek comment on whether any additional changes to the OOB limits applicable to mobile devices in the 2.5 GHz band are necessary or desirable to promote greater efficiency and flexibility in the provision of broadband services in these bands?

#### *Procedural Matters*

##### Ex Parte Rules—Permit-But-Disclose Proceeding

15. This is a permit-but-disclose notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules.

##### Comment Period and Procedures

16. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Comments shall be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington DC 20554.

- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

- *Availability of Documents:* The public may view the documents filed in this proceeding during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, and on the Commission's Internet Home Page: <http://www.fcc.gov>. Copies of comments and reply comments are also available through the Commission's duplicating contractor: Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, 1-800-378-3160.

##### *Paperwork Reduction Analysis*

17. This document does not contain proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "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) requirements.

##### *Initial Regulatory Flexibility Analysis*

18. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Fourth Further Notice of Proposed Rulemaking (4th FNPRM)*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines specified in the *4th FNPRM* for comments. The Commission will send a copy of this *4th FNPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *4th FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

##### A. Need for, and Objectives of, the Proposed Rules

In this *4th FNPRM*, we seek comment on changing the out-of-band emission limits, which limit the amount of energy that can be radiated outside a licensee's authorized bandwidth, for mobile devices operating in the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) in the 2496-2690 MHz band (2.5 GHz band). The proposed change is designed to facilitate the use of wider channel bandwidths, which could potentially allow higher data rates and more efficient use of spectrum. Such a change would increase the range of applications and devices that can benefit from mobile broadband connectivity, generating a corresponding increase in demand for mobile broadband service from consumers, businesses, public safety, health care, education, energy and other public safety uses. The proposed change is also designed to facilitate harmonization of future standards in the equipment market for mobile devices in the 2.5 GHz band, which would make equipment more affordable and further the development of advanced wireless broadband devices. We seek comment on whether the proposed changes can be made without any increase in the potential for harmful interference to existing users in the 2.5 GHz band and adjacent bands. We also consider establishing an additional requirement of fixed interference limits below 2496 MHz and above 2690 MHz in order to protect adjacent band users.

## B. Legal Basis

The proposed action is authorized pursuant to sections 1, 2, 4(i), 7, 10, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, and 333 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 157, 160, 201, 214, 301, 302, 303, 307, 308, 309, 310, 319, 324, 332, and 333.

## C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. 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 SBA.

*Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable," transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than \$40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction

licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years (small business) will receive a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed \$3 million and do not exceed \$15 million for the preceding three years (very small business) will receive a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed \$3 million for the preceding three years (entrepreneur) will receive a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

In addition, the SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,032 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, we estimate that at least 1,932 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services we must, however, use the most current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size

standard was: all such firms having \$13.5 million or less in annual receipts. According to Census Bureau data for 2002, there were a total of 1,191 firms in this previous category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under \$10 million, and 43 firms had receipts of \$10 million or more but less than \$25 million. Thus, the majority of these firms can be considered small.

## D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This 4th FNPRM imposes no new reporting or recordkeeping requirements.

## E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The only potential burden on small entities that hold BRS or EBS licenses is a potential increase in interference to existing users in the 2.5 GHz band. We believe this potential burden would be outweighed by benefits to small businesses that hold BRS and EBS licensees, who would be able to use wider channel bandwidths to provide faster service and use their spectrum more efficiently. An alternative being considered in order to minimize any potential burden is establishing fixed interference limits below 2496 MHz and above 2690 MHz in order to protect adjacent band users.

The other main alternative would be to maintain the existing rules. If we maintained the existing rules, it would be more difficult or impossible for BRS and EBS operators to offer broadband systems with higher data rates by using wider channel bandwidths. Such difficulty would make it more difficult for BRS and EBS operators, including small entities, to be competitive with other broadband providers.

## Ordering Clauses

19. Accordingly, it is ordered that notice is hereby given of the proposed regulatory changes described in this *Fourth Further Notice of Proposed Rulemaking*, and that comment is sought on these proposals.

20. 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 *Fourth Further Notice of Proposed Rulemaking*, including the Final Regulatory Certification and the Initial 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.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

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. Section 27.53 is amended by revising paragraphs (m)(4) and (m)(6) to read as follows:

**§ 27.53 Emission Limits.**

\* \* \* \* \*

(m) \* \* \*

(4) For mobile digital stations, the attenuation factor shall be not less than 40 + 10 log (P) dB at the channel edge, 43 + 10 log (P) dB beyond 5 MHz from the channel edges, and 55 + 10 log (P) dB at X MHz from the channel edges, where X is the greater of 6 MHz or the actual emission bandwidth as defined in § 27.53(m)(6). Mobile Satellite Service licensees operating on frequencies below 2495 MHz may also submit a documented interference complaint against BRS licensees operating on channel BRS Channel 1 on the same terms and conditions as adjacent channel BRS or EBS licensees.

\* \* \* \* \*

(6) Measurement procedure. Compliance with these rules is based on the use of measurement instrumentation employing a resolution bandwidth of 1 MHz or greater. However, in the 1 megahertz bands immediately outside and adjacent to the frequency block a resolution bandwidth of at least one percent (or two percent for mobile digital stations) of the emission bandwidth of the fundamental emission of the transmitter may be employed. A narrower resolution bandwidth is permitted in all cases to improve measurement accuracy provided the measured power is integrated over the full required measurement bandwidth (*i.e.*, 1 megahertz). The emission bandwidth is defined as the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, outside of which all emissions are

attenuated at least 26 dB below the transmitter power. With respect to television operations, measurements must be made of the separate visual and aural operating powers at sufficiently frequent intervals to ensure compliance with the rules.

\* \* \* \* \*

[FR Doc. 2011-14001 Filed 6-6-11; 8:45 am]

**BILLING CODE 6712-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration****49 CFR Parts 390 and 396**

[Docket No. FMCSA-2011-0046]

RIN 2126-AB34

**Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report for Intermodal Equipment**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation.

**ACTION:** Notice of proposed rulemaking (NPRM); request for comments.

**SUMMARY:** FMCSA proposes to revise a requirement of the Federal Motor Carrier Safety Regulations that applies to intermodal equipment providers and motor carriers operating intermodal equipment. The Agency proposes to delete the requirement for drivers operating intermodal equipment to submit and intermodal equipment providers to retain driver-vehicle inspection reports when the driver has neither found nor been made aware of any defects on the intermodal equipment used. This NPRM responds to a joint petition for rulemaking from the Ocean Carrier Equipment Management Association and the Institute of International Container Lessors.

**DATES:** Send your comments on or before August 8, 2011.

**ADDRESSES:** You may submit comments identified by Docket ID Number FMCSA-2011-0046 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE.,

between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations (MC-PSV), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590; telephone (202) 366-5370.

**SUPPLEMENTARY INFORMATION:****I. Public Participation and Request for Comments**

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you provide.

**A. Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (FMCSA-2011-0046), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the "Submit a Comment" box, which will then become highlighted in blue. In the "Select Document Type" drop-down menu, select "Proposed Rule," insert "FMCSA-2011-0046" in the "Keyword" box, and click "Search." When the new screen appears, click on "Submit a Comment" in the "Actions" column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the