

**§ 27.1203**

or cable/EBS operations. The cable operator must demonstrate in its BRS application that the proposed local programming will be provided within one year from the date its application is granted. Local programming service pursuant to a lease must be provided within one year of the date of the lease or one year of grant of the licensee's application for the leased channel, whichever is later. If a BRS license for these purposes is granted and the programming is subsequently discontinued, the license will be automatically forfeited the day after local programming service is discontinued.

(g) Applications filed by cable television companies, or affiliates, for BRS channels prior to February 8, 1990, will not be subject to the prohibitions of this section. Applications filed on February 8, 1990, or thereafter will be returned. Lease arrangements between cable and BRS entities for which a lease or a firm agreement was signed prior to February 8, 1990, will also not be subject to the prohibitions of this section. Leases between cable television companies, or affiliates, and BRS station licensees, conditional licensees, or applicants executed on February 8, 1990, or thereafter, are invalid.

(1) Applications filed by cable operators, or affiliates, for BRS channels prior to February 8, 1990, will not be subject to the prohibitions of this section. Except as provided in paragraph (g)(2) of this section, applications filed on February 8, 1990, or thereafter will be returned. Lease arrangements between cable and BRS entities for which a lease or a firm agreement was signed prior to February 8, 1990, will also not be subject to the prohibitions of this section. Except as provided in paragraph (g)(2) of this section, leases between cable operators, or affiliates, and BRS/EBS station licensees, conditional licensees, or applicants executed on or before February 8, 1990, or thereafter are invalid.

(2) Applications filed by cable operators, or affiliates for BRS channels after February 8, 1990, and prior to October 5, 1992, will not be subject to the prohibition of this section, if, pursuant to the then existing overbuild or rural exceptions, the applications were allowed under the then existing cable/

**47 CFR Ch. I (10-1-20 Edition)**

BRS cross-ownership prohibitions. Lease arrangements between cable operators and BRS entities for which a lease or firm agreement was signed after February 8, 1990, and prior to October 5, 1992, will not be subject to the prohibitions of this section, if, pursuant to the then existing rural and overbuild exceptions, the lease arrangements were allowed.

(3) The limitations on cable television ownership in this section do not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(l) of the Communications Act.

[69 FR 72034, Dec. 10, 2004, as amended at 71 FR 35190, June 19, 2006]

**§ 27.1203 EBS programming requirements. [Reserved]**

**§ 27.1204 EBS Tribal priority filing window.**

(a) The Commission will specify by public notice a window filing period for applications for new EBS stations on rural Tribal Lands. EBS applications for new facilities will be accepted only during this window. Applications submitted prior to the window opening date identified in the public notice will be returned as premature. Applications submitted after the deadline will be dismissed with prejudice as untimely.

(b) Applicants in the Tribal priority filing window must demonstrate that they are eligible to file in that window. To be considered eligible for the Tribal priority window, an applicant must be:

(1) A federally recognized American Indian Tribe or Alaska Native Village; or an entity that is owned and controlled by a federally-recognized Tribe or a consortium of federally-recognized Tribes;

(2) Requesting a license on Tribal Land, which is defined to be any federally recognized Indian Tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian Allotments, see § 54.400(e) of this chapter, as well as Hawaiian Home Lands—areas held in trust for native Hawaiians by the State of Hawaii, pursuant

to the Hawaiian Homes Commission Act, 1920, July 9, 1921, 42 Stat 108, *et seq.*, as amended; and any lands designated prior to July 10, 2019, as Tribal Lands pursuant to the designation process contained in § 54.412 of this chapter;

(3) Requesting a GSA in a rural area, which is defined to be lands that are not part of an urbanized area or urban cluster area with a population equal to or greater than 50,000; and

(4) Have a local presence on the Tribal Land for which they are applying.

(c) Following the close of the Tribal priority window, the Commission will issue a public notice of acceptance for filing of applications submitted pursuant to paragraph (b) of this section that meet technical and legal requirements and that are not in conflict with any other application filed during the window. Petitions to deny such applications may be filed within 30 days of such public notice. A copy of any petition to deny must be served on the applicant.

(d) If applications are filed in the Tribal priority window that are mutually exclusive, the Commission will use competitive bidding to resolve the mutual exclusivity. Two or more pending applications are mutually exclusive if the grant of one application would effectively preclude the grant of one or more of the others under Commission rules in this chapter.

(e) For non-mutually exclusive applications, the applications will be processed in accordance with procedures to be specified by the Wireless Telecommunications Bureau.

[84 FR 57365, Oct. 25, 2019, as amended at 85 FR 1284, Jan. 10, 2020]

#### § 27.1205 EBS renewal standard.

In applying the renewal standard contained in § 1.949 of this chapter to EBS, for licenses initially issued after October 25, 2019, the applicable safe harbors are the buildout standards contained in § 27.14(u). For licenses initially issued before October 25, 2019, the applicable safe harbors are the buildout standards contained in § 27.14(o); provided, however, that the educational use safe harbor contained in § 27.14(o)(2) may only be used by a licensee that meets the eligibility requirements to

hold an EBS license pursuant to the provisions of § 27.1201(a) contained in the edition of 47 CFR parts 20 through 39, revised as of October 1, 2017.

[84 FR 57365, Oct. 25, 2019]

#### § 27.1206 Geographic service area.

(a) BRS:

(1) For BRS incumbent licenses granted before September 15, 1995, the geographic service area (GSA) is the area that is bounded by a circle having a 35 mile radius and centered at the station's reference coordinates, which was the previous PSA entitled to incumbent licensees prior to January 10, 2005, and is bounded by the chord(s) drawn between intersection points of the licensee's previous 35 mile PSA and those of respective adjacent market, co-channel licensees;

(2) For BRS BTA authorization holders, the GSA for a channel is the BTA, subject to the exclusion of overlapping, co-channel incumbent GSAs created on January 10, 2005.

(3) If an incumbent BRS license is cancelled or is forfeited, the GSA area of the incumbent station shall dissolve and the right to operate in that area automatically reverts to the GSA licensee that held the corresponding BTA.

(b) EBS:

(1) *Existing EBS licensees.* (i) The GSA of EBS licenses on the E and F channel groups is defined in § 27.1216. EBS licensees on the E and F channel groups are prohibited from expanding their GSAs.

(ii) For incumbent EBS licenses not in the E and F channel groups in effect as of October 25, 2019, the geographic service area (GSA) is the area that is bounded by a circle having a 35 mile radius and centered at the station's reference coordinates, which was the previous PSA entitled to incumbent licensees prior to January 10, 2005, and is bounded by the chord(s) drawn between intersection points of the licensee's previous 35 mile PSA and those of respective adjacent market, co-channel licensees.

(2) *New initial EBS licenses.* (i) For EBS licenses issued in the Tribal Priority Window, the GSA consists of the rural Tribal Land (as defined in