

Temporary Stay to allow Broadcast Auxiliary Service (BAS) licensees time to provide and to correct BAS receive site information in our licensing database, the Universal Licensing System (ULS), to ensure that the new procedures effectively avert interference to existing systems. The Commission adopted and released an Order granting the requested relief for six months, on April 16, 2003, suspending the effectiveness of the rules until October 16, 2003.

**DATES:** Effective April 16, 2003, §§ 74.502(d) and 74.638(b), of 47 CFR Chapter I are suspended until October 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ted Ryder, Office of Engineering and Technology, (202) 418-2803.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order, ET Docket No. 01-75, DA 03-1141, adopted April 15, 2003, and released April 15, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365.

### Summary of the Order

1. In the *Order*, we granted a Request for Temporary Stay (Request) filed by the Society of Broadcast Engineers (SBE) to stay the effective date of prior coordination procedures adopted by *Report and Order*, for most fixed point-to-point Aural and TV Broadcast Auxiliary Service (BAS) stations. *See, Revisions to Broadcast Auxiliary Service Rules in Part 74 and Conforming Technical Rules for Broadcast Auxiliary Service, Cable Television Relay Service and Fixed Services in Parts 74, 78 and 101 of the Commission's rules*, ET Docket No. 01-75, FCC 02-298, 17 FCC Rcd 22979, 2002, 68 FR 12743, March 17, 2003. SBE requests the stay to allow BAS licensees time to provide and to correct BAS receive site information in our licensing database, the Universal Licensing System (ULS), to ensure that the new procedures effectively avert interference to existing systems. We grant the requested relief for six months, staying the effectiveness of §§ 74.502(d)

and 74.638(b), of the rules until October 16, 2003.

2. In the *Report and Order*, we adopted prior coordination procedures for fixed Aural BAS stations above 944 MHz and fixed Television BAS (TV BAS) stations above 2110 MHz under part 74. We adopted these procedures to conform procedures for fixed BAS, and Cable Auxiliary Relay Service (CARS) under part 78, with those already in effect for Fixed Microwave Services (FS) under part 101, § 101.103(d). We found that the FS procedures were appropriate for fixed BAS and CARS, stating that uniform procedures for bands shared among these services are necessary to promote spectrum efficiency and to minimize the possibility of harmful interference. We note that because these procedures were already in effect for Aural and TV BAS stations in the bands 6425-6525 MHz and 17700-19700 MHz, the new rules only affect fixed BAS in the bands 944-952 MHz (950 MHz), 2450-2583.5 MHz (2.5 GHz), 6875-7125 MHz (7 GHz), and 12700-13250 MHz (13 GHz).

3. SBE requests a one-year stay to allow BAS licensees time to correct inaccurate receive site information, such as geographic coordinates, antenna height, make, and model. It notes that these errors are a legacy of licensing schemes previous to the ULS and occur in 29% of all fixed point-to-point BAS license records. SBE further notes that receive site information was not even required prior to 1974 and that it remains missing on many old licenses. SBE explains that, compared to the information coordination procedures currently in effect, prior coordination procedures require a more accurate database. SBE acknowledges previous Commission public notices asking broadcasters to examine and correct inaccuracies in the ULS, via informal correction procedures, but asserts that with the adoption of the prior coordination procedures, BAS licensees will now have a greater incentive to ensure that their license records are up to date. We also note that SBE asserts that interference standards for the mix of analog, hybrid analog-digital, and digital links encountered in BAS need to be developed and formalized before prior coordination procedures can take effect. Life Talk Radio and CPBE support SBE's Request.

4. We agree with SBE that legacy database inaccuracies in the ULS could seriously affect the efficacy of prior coordination procedures, which was not anticipated when the *Order* setting these procedures was adopted. We will therefore stay for six months the effective date of the prior coordination

procedures for fixed BAS. We find that this six month time period is the proper balance to allow sufficient time for BAS licensees to correct legacy database inaccuracies without unnecessarily delaying the efficiency and protection benefits offered by prior coordination procedures.

5. The Commission generally employs a four-part test under the standard set forth in *Virginia Petroleum Jobbers Association v. Federal Power Commission* in determining whether to grant motions for stay. Under this standard, the petitioner must demonstrate (1) That it is likely to prevail on the merits; (2) that it will suffer irreparable harm if a stay is not granted; (3) that other interested parties will not be harmed if the stay is granted; (4) that the public interest favors grant of the stay. We find that a stay is warranted.

6. First, we believe the database issues raised by SBE are valid and have merit. The period of the stay will provide time for Commission staff to address completion and correction of receive site information in the ULS database, so that prior coordination procedures can begin. Second, we find that SBE has demonstrated that, absent a stay, BAS licensees will suffer irreparable harm because there is an increased likelihood of interference to their receive facilities. Third, we find that granting a stay for six months will not harm any interested parties. As with our finding in the *Report and Order* that use of existing local coordination procedures would be sufficient to avert harmful interference until the effective date of the prior coordination procedures, we find that continuance of these procedures during a six-month period will be sufficient to avert harmful interference. Finally, we find that the public interest favors a grant of a temporary stay, given the short time before the new rules would be effective and the benefits of reducing the risk for harmful interference to existing BAS receive facilities.

7. With regard to SBE's assertion that adequate time must be provided for interference standards to be developed, we note that five months has already passed since the release of the *Report and Order* on November 13, 2002. Moreover, as we pointed out in the *Report and Order*, the existing baseline interference criteria for 13 GHz BAS in current § 74.638 are identical to those for FS in § 101.105. Also, the FS criteria in § 101.105(c) already provide the flexibility to follow generally acceptable good engineering practices, such as the existing interference criteria already in use by broadcasters and cited by SBE, and we would therefore be hesitant to