

§ 101.64

(d) The frequencies associated with all point-to-multipoint authorizations which have cancelled automatically or otherwise been recovered by the Commission will again be made available for reassignment on a date and under terms set forth by Public Notice. See § 101.1331(d) for treatment of MAS incumbent site-by-site licenses recovered in EAs.

(e) Requests for extension of time may be granted upon a showing of good cause pursuant to § 1.946(e) of this chapter.

(f) Construction of any authorized facility or frequency must be completed by the date specified in the license as pursuant to § 1.946 of this chapter.

[61 FR 26677, May 28, 1996, as amended at 62 FR 23165, Apr. 29, 1997; 63 FR 6104, Feb. 6, 1998; 63 FR 68982, Dec. 14, 1998; 64 FR 45893, Aug. 23, 1999; 65 FR 17448, Apr. 3, 2000; 65 FR 38327, June 20, 2000; 65 FR 59357, Oct. 5, 2000; 69 FR 3266, Jan. 23, 2004; 69 FR 16832, Mar. 31, 2004]

§ 101.64 Service areas.

Service areas for 38.6–40.0 GHz service are Economic Areas (EAs) as defined below. EAs are delineated by the Regional Economic Analysis Division, Bureau of Economic Analysis, U.S. Department of Commerce. The Commerce Department organizes the 50 States and the District of Columbia into 172 EAs. Additionally, there are four EA-like areas: Guam and Northern Mariana Islands; Puerto Rico and the U.S. Virgin Islands; American Samoa and the Gulf of Mexico. A total of 175 authorizations (excluding the Gulf of Mexico EA-like area) will be issued for each channel block in the 39 GHz band.

[64 FR 45893, Aug. 23, 1999]

§ 101.65 Forfeiture and termination of station authorizations.

(a) In addition to the provisions of § 1.955 of this chapter, a license will be automatically forfeited in whole or in part without further notice to the licensee upon the voluntary removal or alteration of the facilities, so as to render the station not operational for a period of 30 days or more.

(b) Pursuant to § 1.955 of this chapter, if a station licensed under this part discontinues operation on a permanent basis, the licensee must cancel the li-

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cence. For purposes of this section, any station which has not operated for one year or more is considered to have been permanently discontinued. See § 101.305 for additional rules regarding temporary and permanent discontinuation of service.

[63 FR 68983, Dec. 14, 1998]

§ 101.67 License period.

Licenses for stations authorized under this part will be issued for a period not to exceed 10 years. Unless otherwise specified by the Commission, the expiration of regular licenses shall be on the date (month and day) selected by licensees in the year of expiration.

POLICIES GOVERNING MICROWAVE RELOCATION FROM THE 1850–1990 AND 2110–2200 MHz BANDS

§ 101.69 Transition of the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands from the fixed microwave services to personal communications services and emerging technologies.

Fixed Microwave Services (FMS) in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands have been allocated for use by emerging technology (ET) services, including Personal Communications Services (PCS), Advanced Wireless Services (AWS), and Mobile Satellite Services (MSS). The rules in this section provide for a transition period during which ET licensees may relocate existing FMS licensees using these frequencies to other media or other fixed channels, including those in other microwave bands.

(a) ET licensees may negotiate with FMS licensees authorized to use frequencies in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands, for the purpose of agreeing to terms under which the FMS licensees would:

(1) Relocate their operations to other fixed microwave bands or other media; or alternatively

(2) Accept a sharing arrangement with the ET licensee that may result in an otherwise impermissible level of interference to the FMS operations.

(b) Except as provided in paragraph (c) and (f) of this section, FMS operations in the 1850–1990 MHz, 2110–2150

MHz, and 2160–2200 MHz bands, with the exception of public safety facilities defined in §101.77, will continue to be co-primary with other users of this spectrum until two years after the FCC commences acceptance of applications for ET service (voluntary negotiation period), and until one year after an ET licensee initiates negotiations for relocation of the fixed microwave licensee's operations (mandatory negotiation period). In the 1920–1930 MHz band allocated for unlicensed PCS, FMS operations will continue to be co-primary until one year after UTAM, Inc. initiates negotiations for relocation of the fixed microwave licensee's operations. Except as provided in paragraph (c) of this section, public safety facilities defined in §101.77 will continue to be co-primary in these bands until three years after the Commission commences acceptance of applications for an emerging technology service (voluntary negotiation period), and until two years after an emerging technology service licensee or an emerging technology unlicensed equipment supplier or representative initiates negotiations for relocation of the fixed microwave licensee's operations (mandatory negotiation period). If no agreement is reached during either the voluntary or mandatory negotiation periods, an ET licensee may initiate involuntary relocation procedures. Under involuntary relocation, the incumbent is required to relocate, provided that the ET licensee meets the conditions of §101.75.

(c) Voluntary and mandatory negotiation periods for PCS C, D, E, and F blocks are defined as follows:

(1) Non-public safety incumbents will have a one-year voluntary negotiation period and a one-year mandatory negotiation period; and

(2) Public safety incumbents will have a three-year voluntary negotiation period and a two-year mandatory negotiation period.

(d) Relocation of FMS licensees in the 2110–2150 and 2160–2200 MHz band will be subject to mandatory negotiations only. Except as provided in paragraph (e) of this section, mandatory negotiation periods are defined as follows:

(1) Non-public safety incumbents will have a two-year mandatory negotiation period; and

(2) Public safety incumbents will have a three-year mandatory negotiation period.

(e) Relocation of FMS licensees by Mobile-Satellite Service (MSS) licensees, including MSS licensees providing Ancillary Terrestrial Component (ATC) service, will be subject to mandatory negotiations only. Mandatory negotiation periods that are triggered in the first instance by MSS/ATC licensees are defined as follows:

(1) The mandatory negotiation period for non-public safety incumbents will end December 8, 2004.

(2) The mandatory negotiation period for public safety incumbents will end December 8, 2005.

(f) AWS licensees operating in the 1910–1920 MHz and 2175–2180 MHz bands will follow the requirements and procedures set forth in ET Docket No. 00–258 and WT Docket No. 04–356.

[62 FR 12758, Mar. 18, 1997, as amended at 65 FR 48182, Aug. 7, 2000; 68 FR 3464, Jan. 24, 2003; 68 FR 68253, Dec. 8, 2003; 69 FR 62622, Oct. 27, 2004]

§ 101.71 Voluntary negotiations.

During the voluntary negotiation period, negotiations are strictly voluntary and are not defined by any parameters. However, if the parties have not reached an agreement within one year after the commencement of the voluntary period for non-public safety entities, or within three years after the commencement of the voluntary period for public safety entities, the FMS licensee must allow the ET licensee if it so chooses to gain access to the existing facilities to be relocated so that an independent third party can examine the FMS licensee's 2 GHz system and prepare an estimate of the cost and the time needed to relocate the FMS licensee to comparable facilities. The ET licensee must pay for any such estimate.

[62 FR 12758, Mar. 18, 1997]

§ 101.73 Mandatory negotiations.

(a) If a relocation agreement is not reached during the voluntary period,