

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,