

**§ 27.1254**

(2) The public interest would be harmed if the incumbent is forced to terminate operations.

**§ 27.1254 Eligibility.**

(a) BRS licensees with primary status in the 2150–2162 MHz band as of June 23, 2006, will be eligible for relocation insofar as they have facilities that are constructed and in use as of this date.

(b) *Future Licensing and Modifications.* After June 23, 2006, all major modifications to existing BRS systems in use in the 2150–2160/62 MHz band will be authorized on a secondary basis to AWS systems, unless the incumbent affirmatively justifies primary status and the incumbent BRS licensee establishes that the modification would not add to the relocation costs of AWS licensees. Major modifications include the following:

(1) Additions of new transmit sites or base stations made after June 23, 2006;

(2) Changes to existing facilities made after June 23, 2006, that would increase the size or coverage of the service area, or interference potential, and that would also increase the throughput of an existing system (e.g., sector splits in the antenna system). Modifications to fully utilize the existing throughput of existing facilities (e.g., to add customers) will not be considered major modifications even if such changes increase the size or coverage of the service area, or interference potential.

**§ 27.1255 Relocation Criteria for Broadband Radio Service Licensees in the 2150–2160/62 MHz band.**

(a) An AWS licensee in the 2150–2160/62 MHz band, prior to initiating operations from any base or fixed station that is co-channel to the 2150–2160/62 MHz band, must relocate any incumbent BRS system that is within the line of sight of the AWS licensee's base or fixed station. For purposes of this section, a determination of whether an AWS facility is within the line of sight of a BRS system will be made as follows:

(1) For a BRS system using the 2150–2160/62 MHz band exclusively to provide one-way transmissions to subscribers, the AWS licensee will determine

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whether there is an unobstructed signal path (line of sight) to the incumbent licensee's geographic service area (GSA), based on the following criteria: use of 9.1 meters (30 feet) for the receiving antenna height, use of the actual transmitting antenna height and terrain elevation, and assumption of 4/3 Earth radius propagation conditions. Terrain elevation data must be obtained from the U.S. Geological Survey (USGS) 3-second database. All coordinates used in carrying out the required analysis shall be based upon use of NAD-83.

(2) For all other BRS systems using the 2150–2160/62 MHz band, the AWS licensee will determine whether there is an unobstructed signal path (line of sight) to the incumbent licensee's receive station hub using the method prescribed in "Methods for Predicting Interference from Response Station Transmitters and to Response Station Hubs and for Supplying Data on Response Station Systems. MM Docket 97-217," in Amendment of Parts 1, 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, MM Docket No. 97-217, *Report and Order on Further Reconsideration and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 14566 at 14610, Appendix D.

(b) Any AWS licensee in the 2110–2180 MHz band that causes actual and demonstrable interference to a BRS licensee in the 2150–2160/62 MHz band must take steps to eliminate the harmful interference, up to and including relocation of the BRS licensee, regardless of whether it would be required to do so under paragraph (a), of this section.

**Subpart N—700 MHz Public/Private Partnership**

SOURCE: 72 FR 48854, Aug. 24, 2007, unless otherwise noted.

EFFECTIVE DATE NOTE: At 72 FR 48854, 2007, Subpart N was added, effective Oct. 23, 2007.

**§ 27.1301 Purpose and scope.**

The purpose of this subpart, in conjunction with subpart AA of part 90, is