

§ 101.79 Sunset provisions for licensees in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands.

(a) FMS licensees will maintain primary status in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands unless and until an ET licensee requires use of the spectrum. ET licensees are not required to pay relocation costs after the relocation rules sunset. Once the relocation rules sunset, an ET licensee may require the incumbent to cease operations, provided that the ET licensee intends to turn on a system within interference range of the incumbent, as determined by TIA TSB 10-F (for terrestrial-to-terrestrial situations) or TIA TSB 86 (for MSS satellite-to-terrestrial situations) or any standard successor. ET licensee notification to the affected FMS licensee must be in writing and must provide the incumbent with no less than six months to vacate the spectrum. After the six-month notice period has expired, the FMS licensee must turn its license back into the Commission, unless the parties have entered into an agreement which allows the FMS licensee to continue to operate on a mutually agreed upon basis. The date that the relocation rules sunset is determined as follows:

(1) For the 2110–2150 MHz and 2160–2175 MHz and 2175–2180 MHz bands, ten years after the first ET license is issued in the respective band; and

(2) For the 2180–2200 MHz band, for MSS/ATC December 8, 2013 (*i.e.*, ten years after the mandatory negotiation period begins for MSS/ATC operators in the service), and for ET licensees authorized under part 27 ten years after the first part 27 license is issued in the band. To the extent that an MSS operator is also an ET licensee authorized under part 27, the part 27 sunset applies to its relocation and cost sharing obligations should the two sets of obligations conflict.

(b) If the parties cannot agree on a schedule or an alternative arrangement, requests for extension will be accepted and reviewed on a case-by-case basis. The Commission will grant such extensions only if the incumbent can demonstrate that:

(1) It cannot relocate within the six-month period (*e.g.*, because no alter-

native spectrum or other reasonable option is available), and;

(2) The public interest would be harmed if the incumbent is forced to terminate operations (*e.g.*, if public safety communications services would be disrupted).

[61 FR 29695, June 12, 1996, as amended at 62 FR 12758, Mar. 18, 1997; 68 FR 68254, Dec. 8, 2003; 71 FR 29842, May 24, 2006; 78 FR 8272, Feb. 5, 2013]

§ 101.81 Future licensing in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands.

After April 25, 1996, all major modifications and extensions to existing FMS systems in the 1850–1990 MHz, 2110–2150 MHz, and 2160–2200 MHz bands will be authorized on a secondary basis to ET systems. All other modifications will render the modified FMS license secondary to ET operations, unless the incumbent affirmatively justifies primary status and the incumbent FMS licensee establishes that the modification would not add to the relocation costs of ET licensees. Incumbent FMS licensees will maintain primary status for the following technical changes:

- (a) Decreases in power;
- (b) Minor changes (increases or decreases) in antenna height;
- (c) Minor location changes (up to two seconds);
- (d) Any data correction which does not involve a change in the location of an existing facility;
- (e) Reductions in authorized bandwidth;
- (f) Minor changes (increases or decreases) in structure height;
- (g) Changes (increases or decreases) in ground elevation that do not affect centerline height;
- (h) Minor equipment changes.

[61 FR 29695, June 12, 1996, as amended at 62 FR 12759, Mar. 18, 1997; 65 FR 38327, June 20, 2000]

§ 101.82 Reimbursement and relocation expenses in the 2110–2150 MHz and 2160–2200 MHz bands.

(a) Reimbursement and relocation expenses for the 2110–2130 MHz and 2160–2200 MHz bands are addressed in §§ 27.1160–27.1174.

(b) *Cost-sharing obligations between AWS and MSS (space-to-Earth downlink).*