

circumstances (described in detail) affecting the licensee subsequent to the acquisition of the license, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

(d) If a proposed transfer of radio facilities is incidental to a sale or other facilities or merger of interests, the showing specified under paragraph (c) of this section shall be submitted and include an additional exhibit that:

(1) Discloses complete details as to the sale of facilities or merger of interests;

(2) Segregates clearly by an itemized accounting, the amount of consideration involved in the sale of facilities or merger of interests; and

(3) Demonstrates that the amount of consideration assignable to the facilities or business interests involved represents their fair market value at the time of the transaction.

[61 FR 26677, May 28, 1996, as amended at 63 FR 6104, Feb. 6, 1998; 63 FR 68982, Dec. 14, 1998; 65 FR 38327, June 20, 2000; 68 FR 4955, Jan. 31, 2003]

#### § 101.56 [Reserved]

#### § 101.61 Certain modifications not requiring prior authorization in the Local Multipoint Distribution Service and 24 GHz Service

In the Local Multipoint Distribution Service (LMDS) licensees may add, remove, or relocate facilities within the area authorized by the license without prior authorization. Upon request by an incumbent licensee or the Commission, an LMDS licensee shall furnish the technical parameters, location and coordinates of the completion of the addition, removal, relocation or modification of any of its facilities within the BTA. The LMDS licensee must provide such information within ten (10) days of receiving a written request. This section also applies to 24 GHz licensees that are licensed according to Economic Areas.

[65 FR 59357, Oct. 5, 2000]

#### § 101.63 Period of construction; certification of completion of construction.

(a) Each Station, except in Multi-channel Video Distribution and Data

Service, Local Multipoint Distribution Service, and the 24 GHz Service, authorized under this part must be in operation within 18 months from the initial date of grant.

(b) For the 70 GHz, 80 GHz, and 90 GHz bands, the 12-month construction period will commence on the date of each registration of each individual link; adding links will not change the overall renewal period of the license.

(c) Failure to timely begin operation means the authorization cancels automatically.

(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.

(g) MVPD licensees which have both analog and digital emissions designators specified on the license and which already have, or may transition from analog to digital operations, or a combination of both, meet their completion of construction requirements and do not automatically surrender their license provided they are using either set of emissions. If the licensee has completed the transition to digital, the license can remove the unused analog emission designators the next time a modification or renewal application is filed.

[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; 71 FR 69048, Nov. 29, 2006; 81 FR 79944, Nov. 14, 2016]

#### § 101.64 Service areas.

Service areas for 38.6–40.0 GHz service are Economic Areas (EAs) as defined

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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 Termination of station authorizations.

In addition to the provisions of § 1.953 of this chapter, a site-based license will be automatically terminated 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. A licensee is subject to this provision commencing on the date it is required to be providing service or operating under § 101.63. This provision is inapplicable to blanket authorizations to operate fixed stations at temporary locations pursuant to the provisions of § 101.31(a)(2). See § 101.305 for additional rules regarding temporary and permanent discontinuation of service.

[82 FR 41549, Sept. 1, 2017]

EFFECTIVE DATE NOTE: At 82 FR 41549, Sept. 1, 2017, § 101.65 was revised. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### § 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.

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### 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)–(c) [Reserved]

(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 will be subject to mandatory negotiations only.

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