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required in paragraph (b) of this section.

(e) *MSS Participation in the Clearinghouse.* MSS operators are not required to submit reimbursements to the clearinghouse for links relocated due to interference from MSS space-to-Earth downlink operations, but may elect to do so, in which case the MSS operator must identify the reimbursement claim as such and follow the applicable procedures governing reimbursement in part 27. MSS reimbursement rights and cost-sharing obligations for space-to-Earth downlink operations are governed by § 101.82 of this chapter.

(f) *Reimbursement for Self-relocating FMS links in the 2130–2150 MHz and 2180–2200 MHz bands.* Where a voluntarily relocating microwave incumbent relocates a paired microwave link with paths in the 2130–2150 MHz and 2180–2200 MHz bands, it may not seek reimbursement from MSS operators (including MSS/ATC operators), but is entitled to partial reimbursement from the first AWS beneficiary, equal to fifty percent of its actual costs for relocating the paired link, or half of the reimbursement cap in § 27.1164(b), whichever is less. This amount is subject to depreciation as specified § 27.1164(b). An AWS licensee who is obligated to reimburse relocation costs under this rule is entitled to obtain reimbursement from other AWS beneficiaries in accordance with §§ 27.1164 and 27.1168. For purposes of applying the cost-sharing formula relative to other AWS licensees that benefit from the self-relocation, the fifty percent attributable to the AWS entrant shall be treated as the entire cost of the link relocation, and depreciation shall run from the date on which the clearinghouse issues the notice of an obligation to reimburse the voluntarily relocating microwave incumbent. The cost-sharing obligations for MSS operators in the 2180–2200 MHz band are governed by § 101.82 of this chapter.

§ 27.1168 Triggering a Reimbursement Obligation.

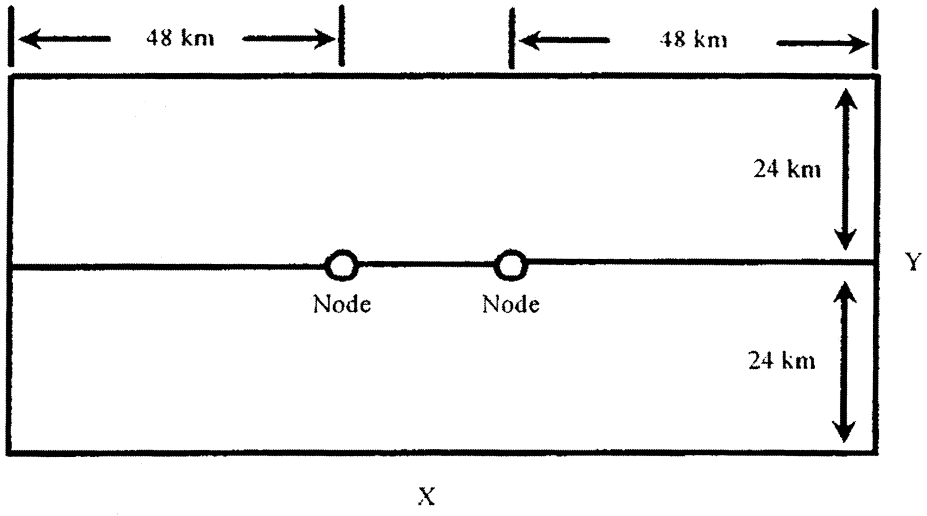
(a) The clearinghouse will apply the following test to determine when an AWS entity or MSS/ATC entity has triggered a cost-sharing obligation and therefore must pay an AWS relocator, MSS relocator (including MSS/ATC), or a voluntarily relocating microwave incumbent in accordance with the formula detailed in § 27.1164:

(1) All or part of the relocated microwave link was initially co-channel with the licensed AWS band(s) of the AWS entity or the selected assignment of the MSS operator that seeks and obtains ATC authority (see § 25.149(a)(2)(i) of this chapter);

(2) An AWS relocator, MSS relocator (including MSS/ATC) or a voluntarily relocating microwave incumbent has paid the relocation costs of the microwave incumbent; and

(3) The AWS or MSS entity is operating or preparing to turn on a fixed base station (including MSS/ATC) at commercial power and the fixed base station is located within a rectangle (Proximity Threshold) described as follows:

(i) The length of the rectangle shall be x where x is a line extending through both nodes of the microwave link to a distance of 48 kilometers (30 miles) beyond each node. The width of the rectangle shall be y where y is a line perpendicular to x and extending for a distance of 24 kilometers (15 miles) on both sides of x. Thus, the rectangle is represented as follows:



(ii) If the application of the Proximity Threshold Test indicates that a reimbursement obligation exists, the clearinghouse will calculate the reimbursement amount in accordance with the cost-sharing formula and notify the AWS or MSS/ATC entity of the total amount of its reimbursement obligation.

(b) Once a reimbursement obligation is triggered, the AWS or MSS/ATC entity may not avoid paying its cost-sharing obligation by deconstructing or modifying its facilities.

§ 27.1170 Payment Issues.

Prior to initiating operations for a newly constructed site or modified existing site, an AWS entity or MSS/ATC entity is required to file a notice containing site-specific data with the clearinghouse. The notice regarding the new or modified site must provide a detailed description of the proposed site's spectral frequency use and geographic location, including but not limited to the applicant's name and address, the name of the transmitting base station, the geographic coordinates corresponding to that base station, the frequencies and polarizations to be added, changed or deleted, and the emission designator. If a prior coordination notice (PCN) under §101.103(d) of this chapter is prepared, AWS entities can satisfy the site-data filing requirement by submitting a copy of their PCN to the clearinghouse. AWS entities or MSS/ATC entities that file either a notice or a PCN have a continuing duty to maintain the accuracy of the site-specific data on file with the clearinghouse. Utilizing the site-specific data, the clearinghouse will determine if any reimbursement obligation exists and notify the AWS entity or MSS/ATC entity in writing of its repayment obligation, if any. When the AWS entity or MSS/ATC entity receives a written copy of such obligation, it must pay directly to the relocator the amount owed within 30 calendar days.

§ 27.1172 Dispute Resolution Under the Cost-Sharing Plan.

(a) Disputes arising out of the cost-sharing plan, such as disputes over the amount of reimbursement required, must be brought, in the first instance, to the clearinghouse for resolution. To the extent that disputes cannot be resolved by the clearinghouse, parties are encouraged to use expedited Alternative Dispute Resolution (ADR) procedures, such as binding arbitration, mediation, or other ADR techniques.

(b) *Evidentiary requirement.* Parties of interest contesting the clearinghouse's determination of specific cost-sharing