caneberry subgroup (crop subgroup 13–07A) at 0.90 ppm, the bushberry subgroup (crop subgroup 13–07B) at 1.5 ppm, the small fruit vine climbing subgroup (crop subgroup 13–07D) at 1.5 ppm, the low growing berry subgroup except cranberry (crop subgroup 13–07G) at 0.50 ppm, and cucurbit vegetables (crop group 9) at 0.30 ppm. Also, the Agency is removing two individual tolerances from the table at 40 CFR 180.660(a) that were not identified in the petition to eliminate redundancies upon the establishment of the recommended crop group and subgroup tolerances: grape at 0.3 ppm, grape, raisin at 0.5 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 20, 2017.

Richard P. Keigwin, Jr.,

Acting Director, Office of Pesticide Program.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.660, revise the table in paragraph (a) to read as follows:

§ 180.660 Pyriofenone; tolerance for residues.

(a) * * *

Commodity	Parts per million
Berry, low growing, subgroup 13–07G (except cranberry) ...	0.50
Bushberry subgroup 13–07B	1.5
Caneberry subgroup 13–07A ...	0.90
Fruit, small vine climbing subgroup 13–07D	1.5
Vegetables, cucurbit, crop group 9	0.30

* * * * *

[FR Doc. 2017–07818 Filed 4–17–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MB Docket Nos. 03–185, 15–137; GN Docket No. 12–268; FCC 17–29]

Channel Sharing Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this Report and Order, the Federal Communications Commission (Commission) adopted rules to allow full power and Class A stations with auction-related channel sharing agreements (CSAs) to become sharees outside of the incentive auction context so that they can continue to operate if their auction-related CSAs expire or otherwise terminate. The Commission also adopted rules to allow all low power television and TV translator stations (secondary stations) to share a channel with another secondary station or with a full power or Class A station. This action will assist secondary stations that are displaced by the incentive auction and the repacking process to continue to operate in the post-auction television bands. The rules adopted in this *R&O* will enhance the benefits of channel sharing for broadcasters without imposing significant burdens on multichannel video programming distributors (MVPDs).

DATES: These rules are effective May 18, 2017 except for §§ 73.3800, 73.6028, and 74.799(h), which contain new or modified information collection requirements that require approval by the OMB under the Paperwork Reduction Act and will become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

FOR FURTHER INFORMATION CONTACT: Shaun Maher, *Shaun.Maher@fcc.gov* of the Media Bureau, Video Division, (202) 418–2324. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams, Federal Communications Commission, at (202) 418–2918, or via email *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*R&O*), MB Docket Nos. 03–185, 15–137; GN Docket No. 12–268; FCC 17–29, adopted on March 23, 2017 and released March 24, 2017. The full text is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

Paperwork Reduction Act of 1995 Analysis: This document contains new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document in a separate **Federal Register** Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, *see* 44 U.S.C. 3507. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act: The Commission will send a copy of this *R&O* to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Synopsis

1. In this *R&O,* the Commission adopted rules to allow full power and Class A stations with auction-related channel sharing agreements (CSAs) to become sharees outside of the incentive auction context so that they can continue to operate if their auction-related CSAs expire or otherwise terminate. The Commission also adopted rules to allow all low power television and TV translator stations (secondary stations) to share a channel with another secondary station or with a full power or Class A station. This action will assist secondary stations that are displaced by the incentive auction and the repacking process to continue to operate in the post-auction television bands. The rules adopted in this *R&O* will enhance the benefits of channel sharing for broadcasters without imposing significant burdens on multichannel video programming distributors (MVPDs).

Extending Channel Sharing Outside the Incentive Auction

2. In the *R&O,* the Commission expand its channel sharing rules to allow full power stations with auction-related CSAs to become sharees outside of the auction context. The Commission also permitted all secondary stations to be sharee stations outside the auction context. The Commission concluded that specific provisions of Title III of the Communications Act of 1934, as amended (Act) provide ample authority to adopt rules to expand channel sharing outside the auction context. Section 303(g) authorizes the Commission to ''generally encourage the larger and more effective use of radio in the public interest.'' Consistent with that provision, channel sharing promotes efficient use of spectrum by allowing two or more television stations to share a single 6 MHz channel. Section 307(b) directs the Commission to make ''distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same.'' Pursuant to its mandate under section 307(b), the Commission disfavors loss of broadcast service. Consistent with this provision, adopting channel sharing rules will help prevent loss of service by ensuring that stations that enter into CSAs in connection with the auction may continue broadcasting if and when their auction-related CSAs terminate or otherwise expire. In addition, authorizing additional types of channel sharing for secondary stations, including with primary stations, will increase the opportunities for displaced secondary stations to continue broadcasting after the incentive auction and the repacking. Section 316 gives the Commission the authority to modify licenses, including by rulemaking, if it finds that will serve the public interest. Consistent with this provision, we find that adopting channel sharing rules will serve the public interest by promoting the efficient use of spectrum and facilitating the continued availability of broadcast television stations.

3. Full Power Stations. The Commission permitted full power stations with auction-related CSAs to become sharees outside of the auction context. This action will ensure that full power stations with auction-related CSAs are able to enter into new CSAs outside the auction context once their auction-related CSAs expire or otherwise terminate and, therefore, are able to continue to channel share and provide service to the public. Permitting channel sharing outside the auction for full power stations with auction-related CSAs is a logical extension of the Commission's prior decision to adopt more flexible auction-related channel sharing rules and to permit term-limited CSAs.

4. The Commission will not allow full power stations without auction-related CSAs to become sharees following the auction. There is little evidence of demand at this time for other full power stations to become sharees. The Commission believes it is unlikely that a full power station that chose not to bid to channel share in the auction, when it was eligible to be compensated for the spectrum it relinquished, would elect to channel share outside the auction context and to relinquish spectrum without compensation. The Commission also believes it is unlikely that a full power station that submitted an unsuccessful channel sharing bid in the auction would seek to relinquish its spectrum outside the auction context without compensation in order to channel share rather than choosing another option, such as selling its station.

5. In addition, by declining to allow full power stations without auction-related CSAs to become sharees outside the auction context, the Commission addresses concerns that full power channel sharing outside the auction context could increase the number of full power stations MVPDs are required to carry. First, absent this limitation, channel sharing could allow unbuilt full power stations to become sharee stations, thereby providing these stations with a shortcut to obtaining carriage and artificially increasing the number of stations MVPDs are required to carry. Second, absent this limitation, if a full power station vacates its channel post-auction to share another station's channel, the vacated channel could be made available for licensing to a new full power station, thereby providing both the original station (now transmitting on a shared channel) and the new station with must-carry rights. Thus, by limiting full power sharees outside of the auction context to only those with an auction-related CSA, the

Commission avoids an increase in the number of full power stations MVPDs are required to carry under the must-carry regime.

6. Secondary Stations. The Commission permitted all secondary stations to be sharee stations outside the auction context. As the Commission has previously explained, channel sharing outside of the auction context has the potential to increase the opportunities for displaced secondary stations to survive the impending spectrum repack and continue providing programming to the public. Channel sharing also has the potential to reduce construction and operating costs for resource-constrained secondary stations, including small, minority-owned, and niche stations. Primary-secondary sharing will allow secondary stations to expand their coverage areas by sharing with full power sharer stations and provide them with increased interference protection. This type of ''quasi'' interference protection may serve to promote channel sharing as an attractive option to secondary stations that are seeking a method to avoid displacement of their facilities by primary users.

7. The Commission's decision to allow all secondary stations to become sharee stations encompasses unbuilt secondary stations. This approach will assist permittees of secondary stations who prefer to commence service via channel sharing by allowing them to enter into a CSA without first constructing a stand-alone station. Because sharee stations must use the same transmission facility as the sharer, an unbuilt sharee will be able to either divide initial construction costs with the sharer or avoid such costs entirely. In addition, by sharing ongoing costs like electricity and maintenance with the sharer station, the unbuilt secondary permittee can free up resources that can be devoted to improving programming services.

8. The Commission concludes that its action will not unduly burden cable operators. As an initial matter, as discussed below, the Commission interpret the must-carry provisions of the Act to deny carriage rights to secondary sharee stations that are not exercising must carry rights on their existing channel on the date of release of the incentive auction Closing and Reassignment PN. Thus, although the Commission allowed all secondary stations to become sharee stations outside the auction context, it ensured that stations cannot use sharing as a shortcut to obtaining cable carriage rights. Moreover, unlike full power commercial stations, which are entitled to assert mandatory carriage rights on cable systems throughout their DMA, secondary stations qualify for must-carry on cable systems only under very limited circumstances set forth in section 614 of the Act. The strict requirements for carriage set forth in the Act will continue to apply to secondary stations.

9. Sharer Stations. The Commission allowed all full power and secondary stations to be sharer stations outside of the auction context, including full power stations that are not a party to an auction-related CSA. In a channel sharing relationship outside the auction context, the sharee station relinquishes its licensed frequencies without compensation and compensates the sharer station for sharing its licensed frequency with the sharee. Although the Commission concluded that full power stations that are not a party to an auction-related CSA will likely have no incentive to enter into such an arrangement, the same is not true for potential sharers, who stand to benefit financially through payments from sharee stations. In addition, the ability of such stations to become sharers also benefits other stations by increasing the number of potential sharers. Allowing all stations to be sharers outside the auction context will not increase carriage burdens for MVPDs. Because a sharer station necessarily will have already constructed and licensed its facilities, there is no concern that such stations might use sharing as a shortcut to obtaining MVPD carriage. In addition, because sharer stations do not relinquish spectrum usage rights, allowing all stations to be sharers does not present concerns with vacated channels being licensed to new stations that could increase the number of stations MVPDs are required to carry.

Carriage Rights Outside the Auction Context

10. The Commission interpreted the Act as providing full power stations with auction-related CSAs that subsequently become sharees outside of the auction context, as well as their sharer station hosts, with the same carriage rights at their shared location that they would have if they were not channel sharing. It also interpretted the Act as providing secondary sharee stations, as well as their sharer station hosts, with the same carriage rights at their shared location that they would have if they were not channel sharing, provided the sharee station is exercising must carry rights on its existing channel on the date of release of the Closing and Reassignment PN. The Commission found that its interpretation will effectuate the statutory purposes underlying the must-carry regime without burdening more speech than necessary to further those interests.

11. The Commission concluded that the language of the must-carry provisions is ambiguous with respect to the issue of carriage rights in the context of channel sharing. The language of these provisions does not expressly preclude channel sharing stations from retaining must-carry rights at their shared location, nor does it compel a particular result. For example, in the case of a full power commercial station asserting mandatory cable carriage rights, both before and after the CSA, the station will be a ''full power television broadcast station . . . licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system.'' Accordingly, the Commission chose a reasonable interpretation of the statutory text that best effectuates the statutory purpose underlying the must-carry regime.

12. The Commission disagreed with the National Cable and Telecommunications Association's (NCTA) claim that the must-carry provisions cannot be read to extend carriage rights to channel sharing stations. The Commission did not agree that the definition of ''a local commercial television station'' is inextricably tied to its assignment to a 6 MHz channel and that, therefore, mandatory carriage obligations extend to only one programming stream per 6 MHz channel. NCTA cited to Section 534 of the Act, which defines a ''local commercial television station'' as any commercial full power station ''licensed and operating on a channel regularly assigned to its community by the Commission. . . .'' NCTA noted that our rules currently define a ''channel'' as 6 MHz wide. Sections 614, 615, and 338, however, accord carriage rights to licensees without regard to whether they occupy a full 6 MHz channel or share a channel with another licensee. The Commission concluded that nothing in the Act requires a station to occupy an entire 6 MHz channel in order to be eligible for must-carry rights; rather, the station must simply be a licensee eligible for carriage under the applicable provision of the Act. In this proceeding, the Commission revised its rules to permit digital stations to share a 6 MHz channel and will require that channel sharing stations be separately licensed and authorized to operate on that channel. Under the rules adopted in this *R&O,* therefore, both the sharer and sharee will be ''licensed and operating

on a channel'' that is ''regularly assigned to its community'' by the Commission.

13. The Commission also disagreed with NCTA that the Act's ''primary video'' restriction fails to preserve the carriage rights of stations that enter into channel sharing arrangements outside the context of the auction. NCTA asserted that the must-carry provisions of the Act require cable operators to carry only one primary video signal per television ''channel.'' In this regard, NCTA cited to Section 614 of the Act, which requires cable operators to carry only the ''primary video'' of ''each of the local commercial television stations'' carried on the cable system. NCTA argued that a broadcaster that gives up its spectrum to transmit television programming using a portion of another broadcaster's 6 MHz channel has no greater carriage rights than those of the other broadcaster's multicast streams or the streams provided by a lessee of the broadcaster's multicast capacity. However, the Commission concluded that the language of the primary video provision of the Act did not support NCTA's view. Section 614(b)(3)(A) requires a cable operator to carry the primary video ''of each of the local commercial television stations carried on the cable system.'' The statute, therefore, imposed a requirement to carry one primary video stream per station, not one primary video stream per channel.

14. The Commission also disagreed with NCTA's claim that Congress specifically addressed the carriage rights of auction-related channel sharing stations in the Spectrum Act because, absent this provision, the must-carry provisions of the Act would not afford such rights. Rather, in light of the ambiguity in the statutory language of the Act with respect to the carriage rights of channel sharing stations, the Commission concluded that Congress added this provision to provide certainty to potential reverse auction bidders. Moreover, the Spectrum Act did not simply clarify carriage rights under the Act, it also limited the carriage rights of sharee stations in connection with the incentive auction to those that possessed such rights on November 30, 2010.

15. Full Power Stations. The Commission interpreted the Act as providing full power stations with auction-related CSAs that become sharees outside of the auction context, as well as their sharer station hosts, with the same carriage rights at their shared location that they would have if they were not channel sharing. The Commission will continue to apply the November 30, 2010 date for possession of carriage rights to auction-related full power sharee stations entering into a second-generation CSA. The Spectrum Act limits the carriage rights of sharee stations in connection with the incentive auction to those that possessed such rights on November 30, 2010. If the Commission did not extend this date to second-generation CSAs, auction-related full power sharees that did not possess carriage rights as of November 30, 2010 could enter into a short-term auction-related CSA, during which time they would not possess carriage rights, and subsequently enter into a second-generation CSA with carriage rights at the shared location. The Commission concluded that extending the November 30, 2010 date for possession of carriage rights to an auction-related full power sharee entering into a second-generation CSA avoids undermining the statutory objective of Section 1452(a)(4). Because Section 1452(a)(4) does not apply to auction-related sharer stations, however, the Commission declined to apply this date restriction to auction-related sharer stations that become prospective sharee stations outside of the auction context.

16. The Commission found that its interpretation will effectuate the statutory purposes underlying the must-carry regime without burdening more speech than necessary to further those interests. This interpretation ensures that full power stations with auction-related CSAs can continue to share outside the auction context once their auction-related CSAs expire or otherwise terminate while retaining their carriage rights. Full power stations with auction-related CSAs already possess carriage rights and will continue to possess such rights during the terms of their auction-related CSAs pursuant to Section 1452(a)(4). Continuing carriage rights during the terms of second-generation CSAs maintains these rights. If MVPDs stopped carrying the signals of full power stations with auction-related CSAs during second-generation CSAs, these broadcasters would stand to lose a significant audience and associated advertising revenues, thus jeopardizing their continued health and viability. In addition, absent mandatory carriage during the terms of second-generation CSAs, winning channel sharing bidders that indicated on their reverse auction application a present intent to enter into an auction-related CSA after the conclusion of the incentive auction might elect not to channel share post-auction and to instead relinquish their license. Thus, continued carriage of full power stations with auction-related CSAs serves the important governmental interests of preserving the benefits of free, over-the-air broadcast television and their contribution to source diversity.

17. The Commission found that its interpretation will not burden more speech than necessary. First, because full power stations that are parties to auction-related CSAs have already built and licensed their stations on a non-shared channel, our action does not provide unbuilt full power stations with a shortcut to obtaining carriage rights, which would increase the number of stations MVPDs are required to carry. Second, its decision declining to allow full power stations without auction-related CSAs to become sharees outside the auction context mitigates NCTA's concern regarding the potential increase in MVPD carriage obligations that could result from licensing new stations on channels vacated as a result of new post-auction sharing arrangements. Because the Commission permits only full power stations that are already parties to an auction-related CSA to become sharees outside of the auction context, there will be no full power channels vacated after the auction by full power stations electing to become channel sharees. Third, the Commission precluded full power stations with auction-related CSAs that become sharees outside of the auction context from changing their community of license absent an amendment to the DTV Table. These actions will further mitigate the impact of channel sharing on MVPD carriage burdens.

18. Secondary Stations. The Commission interpreted the Act as providing secondary sharee stations, as well as their sharer station hosts, with the same carriage rights at their shared location that they would have if they were not channel sharing, provided the sharee station is exercising must carry rights on its existing channel on the date of release of the Closing and Reassignment PN.

19. The Commission found that its interpretation will effectuate the statutory purposes underlying the must-carry regime without burdening more speech than necessary to further those interests. Sharing could prove beneficial for secondary stations by mitigating the impact of the incentive auction and repacking process on displaced stations. If cable operators did not carry the signals of secondary sharee stations and their sharer hosts that otherwise qualify for carriage under Section 614(h)(2), these broadcasters would stand to lose a significant audience and associated advertising revenues, thus jeopardizing

their continued health and viability. Carriage of secondary sharees and their sharer hosts that otherwise qualify for carriage under Section 614(h)(2) serves the important governmental interests of preserving the benefits of free, over-the-air broadcast television and their contribution to source diversity. The Commission interpreted the Act in a manner that will minimize the possibility of a net increase in carriage burdens.

20. Although the Commission allowed all secondary stations to become sharee stations outside the auction context, it did not permit secondary stations to enter into channel sharing arrangements solely as a means to newly obtain must-carry rights. The Commission found that it would not serve the purpose of mitigating the impact of the auction and repacking process on displaced LPTV stations to permit stations to qualify for carriage, when they previously were unable to do so under the Act, simply because they have decided to channel share. In order for a secondary sharee station to be eligible for carriage rights at the shared location under the Commission's interpretation, it must qualify for, and be exercising, must carry rights on its existing channel on the date of release of the Closing and Reassignment PN. The Commission chose this date to consider whether a secondary station is exercising must-carry rights because the Media Bureau has previously notified secondary stations that they must be in operation by this date in order to be eligible for the special post-auction displacement window.

21. The Commission concluded that affording secondary sharees with the same carriage rights at their shared location that they would have if they were not channel sharing, provided the sharee station is exercising must carry rights on its existing channel as of the date of release of the Closing and Reassignment PN, will not burden more speech than necessary. Even if a secondary station is exercising carriage rights on its existing channel as of this date, it must still independently satisfy the statutory requirements for carriage at the shared location in order to have carriage rights once it begins channel sharing. As noted above, secondary stations qualify for must-carry on cable systems only under very limited circumstances set forth in the Act. Even assuming that a channel vacated by a secondary sharee is made available for licensing to a new secondary station, the strict statutory requirements for carriage make the likelihood that the new secondary station would qualify for carriage very low. For the same reason, it is unlikely that a secondary sharee station would qualify for carriage at a shared location. The probability that the sharee would qualify for carriage is reduced even further by two additional factors. First, the Commission limited the distance of secondary sharee station moves resulting from channel sharing. Second, a secondary station sharing the channel of a full power station would not be eligible for mandatory carriage under Section 614(h)(2)(F) of the Act, which the Commission has previously interpreted to mean that ''if a full power station is located in the same county or political subdivision (of a State) as an otherwise 'qualified' low power station, the low power station will not be eligible for must-carry status.'' Channel sharing stations necessarily share the same transmission facility and, thus, are necessarily ''located in the same county or political subdivision (of a State).'' Thus, consistent with the Commission's previous interpretation of this statutory provision, when a secondary station shares with a full power station, the secondary station will not qualify for mandatory carriage because it will be located in the same county or political subdivision as a full power station.

22. Class A Stations. The Commission permitted all Class A stations to be sharee stations or sharer stations outside the auction context. For Class A stations that enter into CSAs for the first time outside the incentive auction context, the Commission interpreted the Act as providing such Class A sharee stations, as well as their sharer station hosts, with the same carriage rights at their shared location that they would have if they were not channel sharing provided the Class A sharee meets the same condition we impose above for secondary stations; that is, it is exercising must carry rights on the date of release of the Closing and Reassignment PN. As with secondary stations, this limitation ensures that these Class A stations do not qualify for carriage, when they previously were unable to do so under the Act, simply because they have decided to channel share. The Commission treated Class A stations participating in second-generation CSAs differently. For a Class A station that participated in an auction-related CSA, and that enters into a second-generation CSA once their auction-related CSA ends, the Commission interpreted the Act as providing the Class A sharee, and their sharer station host, with the same carriage rights at their shared location that they would have if they were not channel sharing provided the Class A sharee exercised carriage rights under its original, ''first-generation,'' auction-related CSA. The Commission treated Class A stations participating in second-generation CSAs differently to ensure that these Class A stations can continue to exercise their carriage rights in subsequent CSAs if they qualified for, and exercised, carriage rights in their first-generation CSA. This approach does not increase carriage burdens for MVPDs beyond those created by first-generation CSAs pursuant to the Spectrum Act.

23. Channel sharing outside the auction context has the potential to increase the opportunities for displaced Class A stations to survive the impending spectrum repack and continue providing programming to the public. With respect to cable carriage, however, Class A stations are treated identically to secondary stations under the Communications Act and thus qualify for must-carry on cable systems only under very limited circumstances set forth in the Act. Even assuming that a channel vacated by a Class A station is made available for licensing to a new low power station, the likelihood that the new low power station would qualify for carriage is low given the very limited circumstances under which a low power station qualifies for carriage under the Act. In addition, as with secondary stations, it is unlikely that a Class A sharee station would qualify for carriage at a shared location because of the very limited circumstances under which a Class A station qualifies for carriage under the Act, the Commission's decision to limit the distance of Class A sharee station moves resulting from channel sharing, and the fact that a Class A station sharing with a full power station would not be eligible for mandatory carriage under Section 614(h)(2)(F) of the Act.

Licensing and Operating Rules Applicable to Channel Sharing Outside the Auction Context

24. Licensing Rules for Primary-Primary and Primary-Secondary Channel Sharing—Voluntary and Flexible. Channel sharing between primary stations and between primary and secondary stations outside of the auction will be ''entirely voluntary.'' Stations can structure their CSAs in a manner that will allow a variety of different types of spectrum sharing to meet the individualized programming and economic needs of the parties involved. The Commission will, however, require each station involved in a CSA to operate in digital on the shared channel and to retain spectrum usage rights sufficient to ensure at least enough capacity to operate one standard

definition (SD) programming stream at all times. The Commission will not prescribe a fixed split of the capacity of the 6 MHz channel between the stations from a technological or licensing perspective. All channel sharing stations will be licensed for the entire capacity of the 6 MHz channel, and stations will be allowed to determine the manner in which that capacity will be divided among themselves subject only to the minimum capacity requirement.

25. The Commission will apply its existing framework for channel sharing licensing and operation to sharing between primary stations and between primary and secondary stations. Under this framework, each sharing station will continue to be licensed separately, each will have its own call sign, and each licensee will be independently subject to all of the Commission's obligations, rules, and policies. The Commission retains the right to enforce any violation of these requirements against one or both parties to the CSA. As is always the case, the Commission would take into account all relevant facts and circumstances in any enforcement action, including the relevant contractual obligations of the parties involved.

26. Similar to its approach for auction-related and secondary-secondary CSAs, the Commission will permit term-limited CSAs outside the auction context for primary-primary and primary-secondary sharing. The Commission declined to establish a minimum term for non-auction-related CSAs. While some commenters supported requiring a three-year minimum term for CSAs outside the auction context, the Commission was not persuaded at this point that this step is necessary to protect viewers and MVPDs from unnecessary disruption or costs.

27. Licensing Procedures. The Commission adopted a two-step process for reviewing and licensing channel sharing arrangements that fit within the categories authorized in this *R&O.* For the first step, if no technical changes are necessary for sharing, a channel sharee station will file the appropriate schedule to FCC Form 2100 for a digital construction permit specifying the same technical facilities as the sharer station (Schedule A, C or E), include a copy of the channel sharing agreement (CSA) as an exhibit, and cross reference the other sharing station(s). In this case, the sharer station does not need to take action at this point. If the CSA requires technical changes to the sharer station's facilities, each sharing station will file the appropriate schedule to FCC Form 2100 to apply for a digital construction permit specifying identical technical facilities for the shared channel, along with the CSA.

28. The Commission will treat modification applications filed to implement the additional channel sharing arrangements as minor change applications, subject to certain exceptions. Although a channel sharing arrangement results in a sharee station changing channels, which is a major change under our rules, the Commission concludes that treating channel changes as minor when done in connection with channel sharing is appropriate because the sharee will be assuming the authorized technical facilities of the sharer station, meaning that compliance with our interference and other technical rules would have been addressed in licensing the sharer station. In the case of a full power sharee station, the Commission will consider any loss in service resulting from the proposed sharing arrangement at the construction permit stage in determining whether to grant the permit. The Commission noted that, with channel sharing, service loss in one area (*i.e.,* a portion of the area previously served by the sharee) might result in a gain in service to a different area (*i.e.,* that served by the sharer). Moreover, absent the proposed sharing arrangement, a full power sharee station might not be able to continue to provide service, such as in the case of the expiration or termination of its current CSA. The Media Bureau will consider these and other factors in determining whether a sharing arrangement proposed by a full power sharee station is consistent with section 307(b) and serves the public interest.

29. In addition, while a full power television station seeking to change its channel normally must first submit a petition to amend the DTV Table of Allotments (Table), the Commission will not apply this process to full power sharee stations. Rather, after the full power sharee station's construction permit is granted, the Bureau will amend the Table on its own motion to reflect the change in the channel allotted to the sharee station's community.

30. The Commission will begin accepting non-auction-related channel sharing applications on a date after the completion of the incentive auction specified by the Media Bureau. With respect to a full power or Class A station sharing with a secondary station, if the sharee is a secondary station that is displaced as a result of the incentive auction or repacking process, it will not have to wait for the post-incentive auction displacement window to file its displacement application to propose sharing the sharer station's facilities. Rather, beginning on the specified date, the secondary sharee station may file an application for a construction permit for the same technical facilities of the primary station and include a copy of the CSA as an exhibit. If the secondary station is the sharer and that station is displaced as a result of the incentive auction or repacking process, then, the secondary sharer would file during the post-incentive auction displacement window if it is eligible. If none of the parties to a non-auction-related CSA is a station that was displaced as a result of the incentive auction or repacking process, then the sharee station(s) may file channel sharing application(s) beginning on the date after the completion of the incentive auction specified by the Media Bureau.

31. As a second step, after the sharing stations have obtained the necessary construction permits, implemented their shared facility, and initiated shared operations, the sharee station(s) will notify the Commission that the station has terminated operation on its former channel. At the same time, all sharing stations will file the appropriate schedule to Form 2100 for a license in order to complete the licensing process (Schedule B, D or F). Parties to channel sharing arrangements outside of the auction context will have three years to implement their arrangements.

32. Service and Technical Rules, Including Interference Protection—Primary-Primary Sharing. A Class A sharee that opts to share a full power sharer's channel outside of the auction will be permitted to operate with the technical facilities of the full power station authorized under Part 73 of the rules. Conversely, a full power sharee sharing a Class A sharer's channel will be required to operate at the Class A station's lower Part 74 power level. As with channel sharing between full power and Class A stations in the incentive auction context, the channel of a full power sharer sharing with a Class A sharee will remain in the DTV Table. In the case of a full power sharee that chooses to share the ''non-tabled'' channel of a Class A station, the Commission will amend the DTV Table to reflect the change in the channel allotted to the full power sharee station's community.

33. A full power sharee station sharing a channel with a Class A sharer station will continue to be obligated to comply with the programming and other operational obligations of a Part 73 licensee. A Class A sharee station sharing a channel with a full power

sharer station will continue to be obligated to comply with the programming and other operational obligations of a Class A licensee, including airing a minimum of 18 hours a day and an average of at least three hours per week of locally produced programming each quarter, as required by § 73.6001 of the rules.

34. Primary-Secondary Sharing. A secondary LPTV or TV translator station that shares the channel of a full power television station will be permitted to operate with the technical facilities of the full power station, including at the higher power limit specified in Part 73 of the rules. The channel of a full power sharer station sharing with a secondary LPTV or TV translator sharee station will remain in the DTV Table. LPTV and TV translators that share the channel of a Class A station will continue to be limited to operation at the lower power specified for LPTV, TV translator, and Class A stations in Part 74 of our rules. An LPTV or TV translator station that shares a full power or Class A station's channel will obtain ''quasi'' primary interference protection for the duration of the channel sharing arrangement by virtue of the fact that the full power or Class A station is a primary licensee. Although the secondary station will continue to be licensed with secondary interference protection status, the host full power or Class A television station's primary status protects it from interference or displacement, and this protection will necessarily carry over to any station that is sharing its channel.

35. A full power sharee that shares a secondary station's channel will have to operate with the lower power limits specified in Part 74 of the rules for LPTV and TV translator stations. When a full power sharee shares the ''non-tabled'' channel of a LPTV or TV translator station, we will amend the DTV Table to reflect the change in the channel allotted to the sharee station's community. A full power or Class A sharee sharing a channel with a secondary station sharer will be subject to displacement because it will be sharing a channel with secondary interference protection rights.

36. A full power sharee station sharing a channel with a secondary sharer station will continue to be obligated to comply with the programming and other operational obligations of a Part 73 licensee. Similarly, a Class A sharee station sharing a channel with a secondary sharer station will continue to be obligated to comply with the programming and other operational obligations applicable to Class A licensees. A secondary sharee station sharing a channel with a full power or Class A sharer station will continue to be subject to the programming and other operational obligations applicable to LPTV or translator stations and will not be subject to such obligations applicable to full power or Class A stations.

37. The Commission declined to adopt Roy Mayhugh's suggestions to formally relicense LPTV stations as full power stations if the LPTV station shares its channel with a full power station, or to allow a full power station sharing on a secondary station's channel to retain its primary interference protection. This would result in the formal creation of a new class of primary stations. The Commission did not believe it is appropriate to use this proceeding to make such extensive changes to our licensing or technical rules. The Commission also declined to adopt ICN's proposal that primary stations be given priority access to the best remaining repacked channels in a market if they agree to share with a secondary station and grant access to at least one-third of their bandwidth. This proposal would have required adding constraints on the reverse auction and repacking processes that have long since been established and were utilized in the incentive auction. In addition, the Commission rejected Media General's suggestion that it exempt stations that enter into CSAs outside the auction context from the Commission's multiple ownership rules to provide an incentive for stations to enter into a non-auction-related CSA. Media General presented no legal or policy basis on which we should alter our multiple ownership restrictions and thereby reduce ownership and program diversity to promote CSAs outside the auction context.

38. Reserved-Channel NCE Sharing Stations. A reserved-channel full power NCE licensee, whether it proposes to share a non-reserved channel or agrees to share its reserved channel with a commercial sharee station, will retain its NCE status and must continue to comply with the rules applicable to NCE licensees. In either case, the NCE full power station's portion of the shared channel will be reserved for NCE-only use.

39. Station Relocations to Implement Channel Sharing. The Commission will preclude full power stations seeking to channel share as sharee stations outside of the incentive auction from changing their community of license absent an amendment to the DTV Table. Absent such amendment, we will limit these stations to a CSA with a sharer from whose transmitter site the sharee will continue to meet the community of license signal requirement over its current community of license. This approach differs from the one the Commission took with respect to channel sharing in the auction context, where the Commission sought to facilitate broadcaster participation in the auction and to avoid any detrimental impact on the speed and certainty of the auction. Because those considerations do not apply outside the auction context, the Commission disagreed with EBOC that it should provide the same relocation flexibility to channel sharees outside the auction. Precluding full power sharee stations from changing their communities of license absent an amendment to the DTV Table advances the Commission's interest in the provision of service to local communities. While our goal is to accommodate channel sharing, the Commission also seeks to ensure that stations continue to provide service to their communities of license and to avoid situations in which stations abandon their communities in order to relocate to more populated markets. In addition, this approach will help to avoid viewer disruption and any potential impact on MVPDs that might result from community of license changes.

40. The Commission will apply the existing 30-mile and contour overlap restrictions that apply to Class A moves to Class A sharee stations that propose to move as a result of a sharing arrangement. Specifically, if requested in conjunction with a digital displacement application, a station relocation resulting from a proposed CSA, in order to be considered a minor change, may not be greater than 30 miles from the reference coordinates of the relocating station's community of license. In all other cases, a station relocating as a result of a proposed CSA, in order to be considered a minor change: (i) Must maintain overlap between the protected contour of its existing and proposed facilities; and (ii) may not relocate more than 30 miles from the reference coordinates of the relocating station's antenna location. The Commission concluded that continued application of these restrictions was necessary to curtail abuse of the Commission's policies by stations seeking to relocate large distances in order to move to more populated markets under the cover of needing to implement a channel sharing arrangement. At the same time, it stated that it would consider waivers for secondary stations to allow channel sharing modifications that do not comply with these limits.

41. The Commission will consider waivers of the Part 74 modification restrictions based on the same criteria it adopted for channel sharing between secondary stations. A displaced LPTV or TV translator station (or auction ineligible Class A station displaced by the incentive auction or repacking) proposing to channel share with a station located more than 30 miles from the reference coordinates of the displaced station's community of license will have to show: (i) That there are no channels available that comply with section 74.787(a)(4) of the rules; and (ii) that the proposed sharer station is the station closest to the reference coordinates of the displaced station's community of license that is available for channel sharing. The Commission will apply a stricter standard for requests for waiver of our relocation rules with respect to non-displaced Class A, LPTV, and TV translator stations because the proposed modification would be voluntary. In such cases, it will consider a waiver if the station seeking to relocate demonstrates: (i) That there is no other channel sharing partner that operates with a location that would comply with the contour overlap and 30-mile restrictions on the station seeking the waiver; and (ii) the population in the relocating station's loss area is de minimis, and/or well-served, and/or would continue to receive the programming aired by the relocating station from another station.

42. For any CSA that involves licensing both a full power sharee and Class A, LPTV, or TV translator sharer, the Commission will combine the above outlined restriction on full power sharees changing their community of license with the limits on modifications to Class A, LPTV and TV translator station facilities outlined in the rules. Thus, a full power sharee station seeking to implement a CSA with a Class A, LPTV or TV translator station will not be permitted to change its community of license. A Class A, LPTV, or TV translator sharee station seeking to implement a CSA with a full power station will be subject to the 30-mile and contour overlap restrictions described above.

Channel Sharing Operating Rules

43. Channel Sharing Agreements. The Commission will require that all CSAs entered into pursuant to the rules we adopt herein include provisions outlining each licensee's rights and responsibilities in the following areas: (i) Access to facilities, including whether each licensee will have unrestricted access to the shared transmission facilities; (ii) allocation of bandwidth within the shared channel; (iii) operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions; (iv) transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and (v) termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA. Channel sharing partners may craft provisions as they choose, based on marketplace negotiations, subject to pertinent statutory requirements and the Commission's rules and regulations. A station seeking approval to channel share must submit a copy of its CSA along with its application for a digital construction permit. The Commission will review the CSA to ensure compliance with our rules and policies. It will limit its review to confirming that the CSA contains the required provisions and that any terms beyond those related to sharing of bitstream and related technical facilities comport with our general rules and policies regarding license agreements. The Commission reserves the right to require modification of a CSA that does not comply with its rules or policies.

44. Termination, Assignment/Transfer, and Relinquishment of Channel Sharing Licenses. The Commission will allow rights under a CSA to be assigned or transferred, subject to the limits adopted in this *R&O,* the requirements of Section 310 of the Communications Act, the Commission's rules, and the requirement that the assignee or transferee comply with the applicable CSA. When a primary or secondary sharing station's license is terminated due to voluntary relinquishment, revocation, failure to renew, or any other circumstance, its spectrum usage rights (but not its license) may revert to the remaining sharing partner(s) if the partner(s) so agree and this provision is set forth in the CSA. In the event that only one station remains on the shared channel, that station may apply to change its license to non-shared status using FCC Form 2100—Schedule B (for a full power station), Schedule D (for an LPTV/translator station), or Schedule F (for a Class A station). If a full power station that is sharing with a Class A, LPTV, or TV translator station relinquishes its license, then the Class A, LPTV, or TV translator station would operate under the rules governing their particular service (Class A, LPTV, or TV translator). Similarly, if a Class A station that is sharing with a LPTV or TV translator station relinquishes its license, then the LPTV or TV translator station would operate under the rules governing their particular service. If the sharing partner is an NCE station operating on a reserved channel, its portion of the shared channel must continue to be reserved for NCE-only use. The Commission recognized the important public service mission of NCE stations, and it disfavors dereserving NCE-only channels. Thus, in the unlikely event that a reserved-channel NCE station that shares with a commercial station faces involuntary license termination, creating a risk of dereservation, the Commission will exercise its broad discretion to ensure that the public interest is served.

Reimbursement

45. The Commission will not require reimbursement of costs imposed on MVPDs as a result of CSAs entered into outside the context of the incentive auction, including costs resulting from second-generation CSAs of auction-related sharees. The current rules do not require reimbursement of MVPD costs in connection with channel changes or other changes that modify carriage obligations outside the auction context. Further, the reimbursement provisions of the Spectrum Act apply only to CSAs made in connection with winning channel sharing bids in the incentive auction. Accordingly, costs associated with channel sharing outside the auction will be borne by broadcasters and MVPDs in the same manner as they are for other channel moves. While the Commission has explained previously that channel sharing may impose some costs on MVPDs, there is no record evidence to suggest that the cost to MVPDs of accommodating channel sharing outside the auction context will impose an undue burden. The Commission retained the right to reconsider our decision in this regard should we receive future evidence to the contrary.

Notice to MVPDs

46. The Commission will require stations participating in CSAs outside the auction context to provide notice to those MVPDs that: (i) No longer will be required to carry the station because of the relocation of the station; (ii) currently carry and will continue to be obligated to carry a station that will change channels; or (iii) will become obligated to carry the station due to a channel sharing relocation. The notice must contain the following information: (i) Date and time of any channel

changes; (ii) the channel occupied by the station before and after implementation of the CSA; (iii) modification, if any, to antenna position, location, or power levels; (iv) stream identification information; and (v) engineering staff contact information. Stations may elect whether to provide notice via a letter notification or electronically, if pre-arranged with the relevant MVPD. The Commission will require that sharee stations provide notice at least 90 days prior to terminating operations on the sharee's channel and that both sharer and sharee stations provide notice at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operation change, the station(s) must send a further notice to affected MVPDs informing them of the new anticipated date(s). Finally, during the 90-day notice period, the parties to the CSA are expected to continue to coordinate the implementation of the CSA with each MVPD that they seek to carry their transmissions.

ATSC 3.0

47. The Commission stated that the conclusions it reached regarding channel sharing outside the context of the incentive auction, including our interpretation of the Communications Act's must-carry provisions with respect to channel sharing stations, apply to situations in which one station relinquishes a channel in order to channel share. They are not intended to prejudge issues regarding ''local simulcasting'' that are raised in the pending proceeding regarding the ATSC 3.0 broadcast transmission standard.

Final Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), Initial Regulatory Flexibility Analyses (''IRFAs'') were incorporated in the *First Order on Reconsideration and Notice of Proposed Rulemaking* and *Third Report and Order and Fourth Notice of Proposed Rulemaking* (''NPRMs''). The Commission sought written public comment on the proposals in the NPRMs, including comment on the IRFAs. Because the Commission amended the rules in this *R&O,* it included this Final Regulatory Flexibility Analysis (''FRFA'') which conforms to the RFA.

Need for and Objectives of the Rules

The Report and Order adopts rules permitting full power stations with auction-related channel sharing agreements (CSAs) to become ''sharee'' stations outside the auction context. Our goal in this regard is to permit full power stations with auction-related CSAs to continue to share, and to find a new host station, once their auction-related CSAs expire or otherwise terminate. We also adopt rules to allow all secondary stations, including those that have not yet constructed facilities and are not operating at the time they enter into a CSA, to share a channel with another secondary station or with a full power or Class A station. This action will reduce construction and operating costs for resource-constrained secondary stations and assist those secondary stations that are displaced by the incentive auction and the repacking process to continue to operate in the post-auction television bands. We also permit all Class A stations to become sharee stations outside the auction context. In addition, we permit all stations, both primary and secondary, to be ''sharers'' outside the auction context. The rules we adopt in this Report and Order will enhance the benefits of channel sharing for broadcasters without imposing significant burdens on multichannel video programming distributors (MVPDs).

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No formal comments were filed on the IRFAs but some commenters raised issues concerning the impact of the various proposals in this proceeding on small entities. These comments were considered in the Report and Order and in the FRFA.

Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

No comments were filed on the IRFAs by the Small Business Administration.

Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The following small entities, as well as an estimate of the number of such small entities, are discussed in the FRFA: Full power television stations; (2) Class A TV and LPTV stations; (3) Wired Telecommunications Carriers; (4) Cable Companies and Systems (Rate Regulation); (5) Cable System Operators (Telecom Act Standard); and (6) Direct Broadcast Satellite (DBS) Service.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

The *R&O* adopted the adopted the following new reporting requirements. To implement channel sharing outside of the auction context, the Commission will follow a two-step process—stations will first file an application for construction permit and then an application for license. Stations terminating operations to share a channel will be required to submit a termination notice pursuant to the existing Commission rule. These existing forms and collections will be revised to accommodate these new channel-sharing related filings and to expand the burden estimates. In addition, channel sharing stations will be required to submit their channel sharing agreements (CSAs) with the Commission and be required to include certain provisions in their CSAs. In addition, if upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application to change its license to non-shared status. The existing collection concerning the execution and filing of CSAs will be revised. In addition, stations participating in CSAs outside the auction context are required to provide notice to those MVPDs that: (i) No longer will be required to carry the station because of the relocation of the station; (ii) currently carry and will continue to be obligated to carry a station that will change channels; or (iii) will become obligated to carry the station due to a channel sharing relocation. The existing collection concerning MVPD notification will be revised.

These new reporting requirements will not differently affect small entities.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

The rules adopted in the *R&O* will allow full power stations with auction-related CSAs to continue to share, and to find a new host station, once their auction-related CSAs expire or otherwise terminate, thereby allowing them to continue to provide service to the public. In addition, channel sharing can help resource-constrained Class A and secondary stations, including existing small, minority-owned, and niche stations, to reduce operating costs and provide them with additional net income to strengthen operations and improve programming services. The rules adopted in the *R&O* could also assist stations that are displaced by the incentive auction reorganization of spectrum by allowing these stations to channel share and thereby reduce the cost of having to build a new facility to replace the one that was displaced. Stations can share in the cost of building a shared channel facility and will experience cost savings by operating a shared transmission facility. In addition, channel sharing is voluntary and only those stations that determine that channel sharing will be advantageous will enter into this arrangement. At the same time, the sharing rules will not impose significant burdens on multichannel video programming distributors (MVPDs). For example, by limiting full power sharees outside of the auction context to only those with an auction-related CSA, the Commission avoided an increase in the number of full power stations MVPDs are required to carry under the must-carry regime.

The Commission's licensing and operating and MVPD notice rules for channel sharing outside of the auction context were designed to minimize impact on small entities. The rules provide a streamlined method for reviewing and licensing channel sharing for these stations as well as a streamlined method for resolving cases where a channel sharing station loses its license on the shared channel. These rules were designed to reduce the burden and cost on small entities.

Report to Congress

The Commission will send a copy of the *R&O,* including the FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *R&O,* including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *R&O* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

List of Subjects in 47 CFR Parts 73 and 74

Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 73 and 74 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

■ 2. Section 73.3572 is amended by revising paragraph (a)(3) to read as follows:

§ 73.3572 Processing of TV broadcast, Class A TV broadcast, low power TV, TV translators, and TV booster applications.

* * * * *

(a) * * *

(3) Other changes will be considered minor including changes made to implement a channel sharing arrangement provided they comply with the other provisions of this section and provided, until October 1, 2000, proposed changes to the facilities of Class A TV, low power TV, TV translator and TV booster stations, other than a change in frequency, will be considered minor only if the change(s) will not increase the signal range of the Class A TV, low power TV or TV booster in any horizontal direction.

* * * * *

■ 3. Section 73.3800 is added to read as follows:

§ 73.3800 Full power television channel sharing outside the incentive auction.

(a) *Eligibility.* Subject to the provisions of this section, a full power television station with an auction-related Channel Sharing Agreement (CSA) may voluntarily seek Commission approval to relinquish its channel to share a single six megahertz channel with a full power, Class A, low power, or TV translator television station. An auction-related CSA is a CSA filed with and approved by the Commission pursuant to § 73.3700(b)(1)(vii).

(b) *Licensing of channel sharing stations.* (1) Each station sharing a single channel pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all applicable Commission obligations, rules, and policies.

(2) A full power television channel sharing station relinquishing its channel must file an application for a construction permit (FCC Form 2100), include a copy of the CSA as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the CSA may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to § 73.1750 and each sharing station must file an application for license (FCC Form 2100).

(c) *Channel sharing between full power television stations and Class A, Low power television, or TV translator stations.* (1) A full power television sharee station (defined as a station relinquishing a channel in order to share) that is a party to a CSA with a Class A sharer station (defined as the station hosting a sharee pursuant to a CSA) must comply with the rules governing power levels and interference applicable to Class A stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(2) A full power television sharee station that is a party to a CSA with a low power television or TV translator sharer station must comply with the rules of part 74 of this chapter governing power levels and interference applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to full power television stations set forth in this part.

(d) *Channel sharing between commercial and noncommercial educational television stations.* (1) A CSA may be executed between commercial and NCE broadcast television station licensees.

(2) The licensee of an NCE station operating on a reserved channel under § 73.621 that becomes a party to a CSA, either as a channel sharee station or as a channel sharer station, will retain its NCE status and must continue to comply with § 73.621.

(3) If the licensee of an NCE station operating on a reserved channel under § 73.621 becomes a party to a CSA, either as a channel sharee station or as a channel sharer station, the portion of the shared television channel on which the NCE station operates shall be reserved for NCE–only use.

(4) The licensee of an NCE station operating on a reserved channel under § 73.621 that becomes a party to a CSA

may assign or transfer its shared license only to an entity qualified under § 73.621 as an NCE television licensee.

(e) *Deadline for implementing CSAs.* CSAs submitted pursuant to this section must be implemented within three years of the grant of the channel sharing construction permit.

(f) *Channel sharing agreements (CSAs).* (1) CSAs submitted under this section must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(ii) Allocation of bandwidth within the shared channel;

(iii) Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions; and

(iv) Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and

(v) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(2) CSAs must include provisions:

(i) Affirming compliance with the channel sharing requirements in this section and all relevant Commission rules and policies; and

(ii) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition program stream at all times.

(g) *Termination and assignment/transfer of shared channel.* (1) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (f)(1)(v) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application for license to change its status to non-shared.

(2) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA in accordance with paragraph (f)(1)(iv) of this section. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(h) *Notice to MVPDs.* (1) Stations participating in channel sharing agreements must provide notice to MVPDs that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (h)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected MVPDs informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the system if the system has provided an email address. For all other MVPDs, the letter must be addressed to the official corporate address registered with their State of incorporation.

■ 4. Section 73.6028 is added to subpart J to read as follows:

§ 73.6028 Class A television channel sharing outside the incentive auction.

(a) *Eligibility.* Subject to the provisions of this section, Class A television stations may voluntarily seek Commission approval to share a single six megahertz channel with other Class A, full power, low power, or TV translator television stations.

(b) *Licensing of channel sharing stations.* (1) Each station sharing a single channel pursuant to this section shall continue to be licensed and operated separately, have its own call sign, and be separately subject to all of the Commission's obligations, rules, and policies.

(2) A station relinquishing its channel must file an application for a construction permit, include a copy of the Channel Sharing Agreement (CSA) as an exhibit, and cross reference the other sharing station(s). Any engineering changes necessitated by the CSA may be included in the station's application. Upon initiation of shared operations, the station relinquishing its channel must notify the Commission that it has terminated operation pursuant to § 73.1750 and each sharing station must file an application for license.

(c) *Channel sharing between Class A television stations and full power, low power television, and TV translator stations.* (1) A Class A television sharee station (defined as a station relinquishing a channel in order to share) that is a party to a CSA with a full power television sharer station (defined as the station hosting a sharee pursuant to a CSA) must comply with the rules of this part governing power levels and interference, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in §§ 73.6000 through 73.6027.

(2) A Class A television sharee station that is a party to a CSA with a low power television or TV translator sharer station must comply with the rules of part 74 of this chapter governing power levels and interference that are applicable to low power television or TV translator stations, and must comply in all other respects with the rules and policies applicable to Class A television stations, as set forth in §§ 73.6000 through 73.6027.

(d) *Deadline for implementing CSAs.* CSAs submitted pursuant to this section must be implemented within three years of the grant of the initial channel sharing construction permit.

(e) *Channel sharing agreements (CSAs).* (1) CSAs submitted under this section must contain provisions outlining each licensee's rights and responsibilities regarding:

(i) Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities;

(ii) Allocation of bandwidth within the shared channel;

(iii) Operation, maintenance, repair, and modification of facilities, including

a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions;

(iv) Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; and

(v) Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA.

(2) CSAs must include provisions:

(i) Affirming compliance with the channel sharing requirements in this section and all relevant Commission rules and policies; and

(ii) Requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition program stream at all times.

(f) *Termination and assignment/transfer of shared channel.* (1) Upon termination of the license of a party to a CSA, the spectrum usage rights covered by that license may revert to the remaining parties to the CSA. Such reversion shall be governed by the terms of the CSA in accordance with paragraph (e)(1)(v) of this section. If upon termination of the license of a party to a CSA only one party to the CSA remains, the remaining licensee may file an application for license to change its status to non-shared.

(2) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA in accordance with paragraph (e)(1)(iv) of this section. If the transferee or assignee and the licensees of the remaining channel sharing station or stations agree to amend the terms of the existing CSA, the agreement may be amended, subject to Commission approval.

(g) *Notice to cable systems.* (1) Stations participating in channel sharing agreements must provide notice to cable systems that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (g)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected cable systems informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the system if the system has provided an email address.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

■ 5. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 307, 309, 336 and 554.

■ 6. Section 74.800 is redesignated as § 74.799, and amended by revising paragraph (a)(1) and adding paragraphs (g) and (h) to read as follows:

§ 74.799 Low power television and TV translator channel sharing.

(a) * * *

(1) Subject to the provisions of this section, low power television and TV translator stations may voluntarily seek Commission approval to share a single six megahertz channel with other low power television and TV translator stations, Class A television stations, and full power television stations.

* * * * *

(g) *Channel sharing between low power television or TV translator stations and Class A television stations or full power television stations.* (1) A low power television or TV translator sharee station (defined as a station relinquishing a channel in order to share) that is a party to a CSA with a full power television sharer station (defined as the station hosting a sharee pursuant to a CSA) must comply with the rules of part 73 of this chapter governing power levels and interference, and must comply in all other respects with the rules and policies applicable to low power television or TV translator stations set forth in this part.

(2) A low power television or TV translator sharee station that is a party to a CSA with a Class A television sharer station must comply with the rules governing power levels and interference that are applicable to Class A television stations, and must comply in all other respects with the rules and policies applicable to low power television or TV translator stations set forth in this part.

(h) *Notice to cable systems.* (1) Stations participating in channel sharing agreements must provide notice to cable systems that:

(i) No longer will be required to carry the station because of the relocation of the station;

(ii) Currently carry and will continue to be obligated to carry a station that will change channels; or

(iii) Will become obligated to carry the station due to a channel sharing relocation.

(2) The notice required by this section must contain the following information:

(i) Date and time of any channel changes;

(ii) The channel occupied by the station before and after implementation of the CSA;

(iii) Modification, if any, to antenna position, location, or power levels;

(iv) Stream identification information; and

(v) Engineering staff contact information.

(3) Should any of the information in paragraph (h)(2) of this section change, an amended notification must be sent.

(4) Sharee stations must provide notice as required by this section at least 90 days prior to terminating operations on the sharee's channel. Sharer stations and sharee stations must provide notice as required by this section at least 90 days prior to initiation of operations on the sharer channel. Should the anticipated date to either cease operations or commence channel sharing operations change, the stations must send a further notice to affected cable systems informing them of the new anticipated date(s).

(5) Notifications provided to cable systems pursuant to this section must be either mailed to the system's official address of record provided in the cable system's most recent filing in the FCC's Cable Operations and Licensing System (COALS) Form 322, or emailed to the

system if the system has provided an email address.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7161–02]

RIN 0648–XF368

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hours, Alaska local time April 13, 2017, through 1200 hours, A.l.t., May 15, 2017.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 256 metric tons as established by the final 2017 and 2018 harvest specifications for groundfish of the GOA (82 FR 12032, February 27, 2017), for the period 1200 hours, A.l.t., April 1, 2017, through 1200 hours, A.l.t., July 1, 2017.

In accordance with § 679.21(d)(6)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 12, 2017.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 13, 2017.

Karen H. Abrams,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–07802 Filed 4–13–17; 4:15 pm]

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