

forth in, the version of FCC Form 323-E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed. If a Respondent has a current and unamended ownership report on file with the Commission that was filed pursuant to paragraphs (e)(1) or (f) of this section, was submitted using the version of FCC Form 323-E that is current on the date on which the ownership report due pursuant to this subsection is filed, and is still accurate, the Respondent may certify that it has reviewed such ownership report and that it is accurate, in lieu of filing a new ownership report.

(f) Each permittee or licensee of a noncommercial educational AM, FM or TV broadcast station, and any entity that holds an interest in the permittee or licensee that is attributable pursuant to § 73.3555 (each a "Respondent"), shall file an ownership report on FCC Form 323-E within 30 days of consummating authorized assignments or transfers of permits and licenses. Each ownership report shall provide all information required by, and comply with all requirements set forth in, the version of FCC Form 323-E (including all instructions for the form and schedule) that is current on the date on which the ownership report is filed.

(g) A copy of all ownership and supplemental ownership reports and related material filed pursuant to this section shall be maintained and made available for public inspection locally as required by §§ 73.3526 and 73.3527.

[44 FR 38513, July 2, 1979, as amended at 49 FR 19498, May 8, 1984; 50 FR 27450, July 3, 1985; 50 FR 40016, Oct. 1, 1985; 53 FR 2499, Jan. 28, 1988; 53 FR 5684, Feb. 25, 1988; 63 FR 70050, Dec. 18, 1998; 66 FR 9973, Feb. 13, 2001; 66 FR 12897, Mar. 1, 2001; 74 FR 25168, May 27, 2009; 74 FR 56134, Oct. 30, 2009; 81 FR 19459, Apr. 4, 2016; 82 FR 55771, Nov. 24, 2017]

§ 73.3617 Information available on the Internet.

The Media Bureau and each of its Divisions provide information on the Internet regarding rules and policies, pending and completed rulemakings, and pending applications. These sites also include copies of public notices and texts of recent decisions. The Media Bureau's address is <http://www.fcc.gov/mb/>; the Audio Division's

address is <http://www.fcc.gov/mmb/audio/>; the Video Division's address is <http://www.fcc.gov/mb/video/>; the Policy Division's address is <http://www.fcc.gov/mb/policy/>; the Engineering Division's address is <http://www.fcc.gov/mb/engineering/>; and the Industry Analysis Division's address is http://www.fcc.gov/mb/industry_analysis/.

[67 FR 13233, Mar. 21, 2002]

§ 73.3700 Post-incentive auction licensing and operation.

(a) *Definitions*—(1) *Broadcast television station*. For purposes of this section, broadcast television station means full power television stations and Class A television stations.

(2) *Channel reassignment public notice*. For purposes of this section, *Channel Reassignment Public Notice* means the public notice to be released upon the completion of the broadcast television spectrum incentive auction conducted under section 6403 of the *Spectrum Act* specifying the new channel assignments and technical parameters of any broadcast television stations that are reassigned to new channels.

(3) *Channel sharee station*. For purposes of this section, *channel sharee station* means a broadcast television station for which a winning channel sharing bid, as defined in § 1.2200(d) of this chapter, was submitted, or a broadcast television station for which a winning license relinquishment bid, as defined in § 1.2200(g) of this chapter, was submitted where the station licensee executes and implements a post-auction channel sharing agreement.

(4) *Channel sharer station*. For purposes of this section, *channel sharer station* means a broadcast television station that shares its television channel with a channel sharee.

(5) *Channel sharing agreement (CSA)*. For purposes of this section, *channel sharing agreement* or *CSA* means an executed agreement between the licensee of a channel sharee station or stations and the licensee of a channel sharer station governing the use of the shared television channel.

(6) *High-VHF-to-Low-VHF station*. For purposes of this section, *High-VHF-to-Low-VHF station* means a broadcast television station for which a winning high-VHF-to-low-VHF bid, as defined

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in §1.2200(f) of this chapter, was submitted.

(7) *License relinquishment station*. For purposes of this section, *license relinquishment station* means a broadcast television station for which a winning license relinquishment bid, as defined in §1.2200(g) of this chapter, was submitted.

(8) *MVPD*. For purposes of this section, *MVPD* means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming as set forth in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(9) *Pre-auction channel*. For purposes of this section, *pre-auction channel* means the channel that is licensed to a broadcast television station on the date that the Channel Reassignment Public Notice is released.

(10) *Predetermined cost estimate*. For purposes of this section, *predetermined cost estimate* means the estimated cost of an eligible expense as generally determined by the Media Bureau in a catalog of expenses eligible for reimbursement.

(11) *Post-auction channel*. For purposes of this section, *post-auction channel* means the channel specified in the Channel Reassignment Public Notice or a channel authorized by the Media Bureau in a construction permit issued after the date that the Channel Reassignment Public Notice is released under the procedures set forth in paragraph (b) of this section.

(12) *Reassigned station*. For purposes of this section, a *reassigned station* means a broadcast television station that is reassigned to a new channel in the Channel Reassignment Public Notice, not including channel sharing stations, UHF-to-VHF stations, or High-VHF-to-Low-VHF stations.

(13) *Reimbursement period*. For purposes of this section, *reimbursement period* means the period ending three years after the completion of the forward auction pursuant to section 6403(b)(4)(D) of the *Spectrum Act*.

(14) *Spectrum Act*. The term *Spectrum Act* means Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96).

(15) *Transitioning station*. For purposes of this section, a *transitioning station* means a:

- (i) Reassigned station,
 - (ii) UHF-to-VHF station,
 - (iii) High-VHF-to-Low-VHF station,
 - (iv) License relinquishment station,
- or
- (v) A channel sharee or sharer station.

(16) *TV broadcaster relocation fund*. For purposes of this section, the *TV Broadcaster Relocation Fund* means the fund established by section 6403(d)(1) of the *Spectrum Act*.

(17) *UHF-to-VHF station*. For purposes of this section, *UHF-to-VHF station* means a television station for which a winning UHF-to-VHF bid, as defined in §1.2200(l) of this chapter, was submitted.

(b) *Post-auction licensing*—(1) *Construction permit applications*. (i) Licensees of reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations must file a minor change application for a construction permit for the channel specified in the Channel Reassignment Public Notice using FCC Form 2100 Schedule A (for a full power station) or E (for a Class A station) within three months of the release date of the Channel Reassignment Public Notice. Licensees that are unable to meet this filing deadline may request a waiver of the deadline no later than 30 days prior to the deadline.

(ii) A licensee of a reassigned station that is reassigned from one channel to a different channel within its existing band will be permitted to propose transmission facilities in its construction permit application that will extend its coverage contour, as defined by the technical parameters specified in the Channel Reassignment Public Notice, if such facilities:

(A) Are necessary to achieve the coverage contour specified in the Channel Reassignment Public Notice or to address loss of coverage area resulting from the new channel assignment;

(B) Will not extend a full power television station's noise limited contour

or a Class A television station's protected contour by more than one percent in any direction; and

(C) Will not cause new interference, other than a rounding tolerance of 0.5 percent, to any other broadcast television station.

(iii) The licensee of a UHF-to-VHF station or High-VHF-to-Low-VHF station will be permitted to propose transmission facilities in its construction permit application that will extend its coverage contour, as defined by the technical parameters specified in the Channel Reassignment Public Notice, if the proposed facility will not cause new interference, other than a rounding tolerance of 0.5 percent, to any other broadcast television station.

(iv) *Priority filing window.* (A) The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station that, for reasons beyond its control, is unable to construct facilities that meet the technical parameters specified in the Channel Reassignment Public Notice, or the permissible contour coverage variance from those technical parameters specified in paragraph (b)(1)(ii) or (iii) of this section, may request a waiver of the construction permit application deadline specified in paragraph (b)(1)(i) no later than 30 days prior to the deadline. If its waiver request is granted, the licensee will be afforded an opportunity to submit an application for a construction permit pursuant to paragraph (b)(2)(i) or (ii) of this section in a priority filing window to be announced by the Media Bureau by public notice.

(B) The licensee of any broadcast television station that the Commission makes all reasonable efforts to preserve pursuant to section 6403(b)(2) of the Spectrum Act that is predicted to experience a loss in population served in excess of one percent as a result of the repacking process, either because of new station-to-station interference or terrain loss resulting from a new channel assignment (or a combination of both), will be afforded an opportunity to submit an application for a construction permit pursuant to paragraph (b)(2)(i) or (ii) of this section in the priority filing window required by paragraph (b)(1)(iv)(A) of this section.

(v) Construction permit applications filed pursuant to paragraph (b)(1)(i) of this section will be afforded expedited processing if the application:

(A) Does not seek to expand the coverage area, as defined by the technical parameters specified in the Channel Reassignment Public Notice, in any direction;

(B) Seeks authorization for facilities that are no more than five percent smaller than those specified in the Channel Reassignment Public Notice with respect to predicted population served; and

(C) Is filed within the three-month deadline specified in paragraph (b)(1)(i) of this section.

(vi) *Delegation of authority.* The Commission delegates authority to the Chief, Media Bureau to establish construction periods for reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations.

(vii) Channel sharee stations must file a minor change application for a construction permit for the channel on which the channel sharer operates at least sixty (60) days prior to the date by which it must terminate operations on its pre-auction channel pursuant to paragraphs (b)(4)(i) and (ii) of this section. The application must include a copy of the executed channel sharing agreement.

(2) *Applications for alternate channels and expanded facilities—*

(i) *Alternate channels.* The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station, or a broadcast television station described in paragraph (b)(1)(iv)(B) of this section will be permitted to file a major change application for a construction permit for an alternate channel on FCC Form 2100 Schedules A (for a full power station) and E (for a Class A station) during a filing window to be announced by the Media Bureau by public notice, provided that:

(A) The licensee of a UHF-to-VHF station cannot request an alternate UHF channel;

(B) The licensee of a UHF-to-VHF station that specified the high-VHF band or the low-VHF band in its UHF-to-VHF bid cannot request a VHF channel outside of the assigned band; and

(C) The licensee of a High-VHF-to-Low-VHF station cannot request an alternate high-VHF channel.

(ii) *Expanded facilities.* The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station, or a broadcast television station described in paragraph (b)(1)(iv)(B) of this section will be permitted to file a minor change application for a construction permit on FCC Form 2100 Schedules A (for a full power station) and E (for a Class A station) during a filing window to be announced by the Media Bureau by public notice, in order to request a change in the technical parameters specified in the Channel Reassignment Public Notice (or, in the case of a broadcast television station described in paragraph (b)(1)(iv)(B) of this section that is not reassigned to a new channel, a change in its authorized technical parameters) with respect to height above average terrain (HAAT), effective radiated power (ERP), or transmitter location that would be considered a minor change under § 73.3572(a)(1) and (2) or § 74.787(b) of this chapter.

(iii) *Delegation of authority.* The Commission delegates authority to the Chief, Media Bureau to:

(A) Announce filing opportunities for alternate channels and expanded facilities applications and specifying appropriate processing guidelines, including the standards to qualify for priority filing, cut-off protections, and means to avoid or resolve mutual exclusivity between applications; and

(B) Establish construction periods for permits authorizing alternate channels or expanded facilities.

(3) *License applications for channel sharing stations.* The licensee of each channel sharee station and channel sharer station must file an application for a license for the shared channel using FCC Form 2100 Schedule B (for a full power station) or F (for a Class A station) within six months of the date that the channel sharee station licensee receives its incentive payment pursuant to section 6403(a)(1) of the *Spectrum Act*.

(4) *Deadlines to terminate operations on pre-auction channels.* (i) The licensee of a license relinquishment station must comply with the notification and can-

cellation procedures in § 73.1750 and terminate operations on its pre-auction channel within three months of the date that the licensee receives its incentive payment pursuant to section 6403(a)(1) of the *Spectrum Act*.

(ii) The licensee of a channel sharee station and a licensee of a license relinquishment station that has indicated in its Form 177 an intent to enter into a post-auction channel sharing agreement must comply with the notification and cancellation procedures in § 73.1750 and terminate operations on its pre-auction channel within six months of the date that the licensee receives its incentive payment pursuant to section 6403(a)(1) of the *Spectrum Act*.

(iii) All reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations must cease operating on their pre-auction channel once station begins operating on its post-auction channel or by the deadline specified in its construction permit for its post-auction channel, whichever occurs earlier, and in no event later than the end of the post-auction transition period as defined in § 27.4 of this chapter.

(5) *Applications for additional time to complete construction—(i) Delegation of authority.* Authority is delegated to the Chief, Media Bureau to grant a single extension of time of up to six months to licensees of reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations to complete construction of their post-auction channel upon demonstration by the licensee that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control. Licensees needing additional time beyond such a single extension of time to complete construction shall be subject to the tolling provisions in § 73.3598.

(ii) Circumstances that may justify an extension of the construction deadline of a licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station include but are not limited to:

(A) Weather-related delays, including a tower location in a weather-sensitive area;

(B) Delays in construction due to the unavailability of equipment or a tower crew;

(C) Tower lease disputes;

(D) Unusual technical challenges, such as the need to construct a top-mounted or side-mounted antenna or the need to coordinate channel changes with another station; and

(E) Delays faced by licensees that must obtain government approvals, such as land use or zoning approvals, or that are subject to competitive bidding requirements prior to purchasing equipment or services.

(iii) A licensee of a reassigned station, UHF-to-VHF station, or High-VHF-to-Low-VHF station may rely on “financial hardship” as a criterion for seeking an extension of time if it is subject to an active bankruptcy or receivership proceeding, provided that the licensee makes an adequate showing that it has filed requests to proceed with construction in the relevant court proceedings. Any other licensee that seeks an extension of time based on financial hardship must demonstrate that, although it is not subject to an active bankruptcy or receivership proceeding, rare and exceptional financial circumstances warrant granting additional time to complete construction.

(iv) Applications for additional time to complete construction must be filed electronically in CDBS using FCC Form 337 no less than 90 days before the expiration of the construction permit.

(c) *Consumer education for transitioning stations.* (1) License relinquishment stations that operate on a commercial basis will be required to air at least one Public Service Announcement (PSA) and run at least one crawl in every quarter of every day for 30 days prior to the date that the station terminates operations on its pre-auction channel. One of the required PSAs and one of the required crawls must be run during prime time hours (for purposes of this section, between 8:00 p.m. and 11:00 p.m. in the Eastern and Pacific time zones, and between 7:00 p.m. and 10:00 p.m. in the Mountain and Central time zones) each day.

(2) Noncommercial educational full power television license relinquishment stations may choose to comply

with these requirements in paragraph (c)(1) of this section or may air 60 seconds per day of on-air consumer education PSAs for 30 days prior to the station’s termination of operations on its pre-auction channel.

(3) Transitioning stations, except for license relinquishment stations, must air 60 seconds per day of on-air consumer education PSAs or crawls for 30 days prior to the station’s termination of operations on its pre-auction channel.

(4) *Transition crawls.* (i) Each crawl must run during programming for no less than 60 consecutive seconds across the bottom or top of the viewing area and be provided in the same language as a majority of the programming carried by the transitioning station.

(ii) Each crawl must include the date that the station will terminate operations on its pre-auction channel; inform viewers of the need to rescan if the station has received a new post-auction channel assignment; and explain how viewers may obtain more information by telephone or online.

(5) *Transition PSAs.* (i) Each PSA must have a duration of at least 15 seconds.

(ii) Each PSA must be provided in the same language as a majority of the programming carried by the transitioning station; include the date that the station will terminate operations on its pre-auction channel; inform viewers of the need to rescan if the station has received a new post-auction channel assignment; explain how viewers may obtain more information by telephone or online; and for stations with new post-auction channel assignments, provide instructions to both over-the-air and MVPD viewers regarding how to continue watching the television station; and be closed-captioned.

(6) Licensees of transitioning stations, except for license relinquishment stations, must place a certification of compliance with the requirements in paragraph (c) of this section in their online public file within 30 days after beginning operations on their post-auction channels. Licensees of license relinquishment stations must include the certification in their

notification of discontinuation of service pursuant to § 73.1750 of this chapter.

(d) *Notice to MVPDs.* (1) Licensees of transitioning stations must provide notice to MVPDs that:

(i) No longer will be required to carry the station because it will cease operations or because of the relocation of a channel sharee station;

(ii) Currently carry and will continue to be obligated to carry a station that will have a new post-auction channel assignment; or

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

(2) The notice to MVPDs must be provided in the form of a letter notification and must contain the following information:

(i) Date and time of any channel changes;

(ii) Pre-auction and post-auction channels;

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

(iv) Stream identification information for channel sharing stations; and

(v) Engineering staff contact information.

(3) Should any of the information in (d)(2) of this section change during the time that the station is transitioning from its pre-auction to its post-auction channel, an amended notification must be sent.

(4) For cable systems, the notification letter must be addressed to the system's official address of record provided in the cable system's most recent filing in the Commission's Cable Operations and Licensing System (COALS) Form 322. For all other MVPDs, the notification letter must be addressed to the official corporate address registered with their State of incorporation.

(5) Notification letters must be sent within the following time frames:

(i) For license relinquishment stations, not less than 30 days prior to terminating operations;

(ii) For channel sharee stations, not less than 30 days prior to terminating operations of the pre-auction channel;

(iii) For channel sharee and channel sharer stations, not less than 30 days prior to initiation of operations on the shared channel; and

(iv) For reassigned stations, UHF-to-VHF stations, and High-VHF-to-Low-VHF stations, not less than 90 days prior to the date on which they will begin operations on their post-auction channel.

(v) If a station's anticipated transition date changes due to an unforeseen delay or change in transition plan, the licensee must send a further notice to affected MVPDs informing them of the new anticipated transition date.

(e) *Reimbursement rules—(1) Entities eligible for reimbursement.* The Commission will reimburse relocation costs reasonably incurred only by:

(i) The licensees of full power and Class A broadcast television stations that are reassigned under section 6403(b)(1)(B)(i) of the *Spectrum Act*, including channel sharer stations that are reassigned to a new channel in the Channel Reassignment Public Notice; and

(ii) MVPDs in order to continue to carry the signal of a full power or Class A broadcast television station that is:

(A) Described in paragraph (e)(1)(i) of this section;

(B) A UHF-to-VHF station;

(C) A High-VHF-to-Low-VHF station; or

(D) A channel sharee station.

(2) *Estimated costs.* (i) No later than three months following the release of the Channel Reassignment Public Notice, all broadcast television station licensees and MVPDs that are eligible to receive payment of relocation costs will be required to file an estimated cost form providing an estimate of their reasonably incurred relocation costs.

(ii) Each broadcast television station licensee and MVPD that submits an estimated cost form will be required to certify, *inter alia*, that:

(A) It believes in good faith that it will reasonably incur all of the estimated costs that it claims as eligible for reimbursement on the estimated cost form;

(B) It will use all money received from the TV Broadcaster Relocation Fund only for expenses it believes in good faith are eligible for reimbursement;

(C) It will comply with all policies and procedures relating to allocations,

draw downs, payments, obligations, and expenditures of money from the TV Broadcaster Relocation Fund;

(D) It will maintain detailed records, including receipts, of all costs eligible for reimbursement actually incurred; and

(E) It will file all required documentation of its relocation expenses as instructed by the Media Bureau.

(iii) If a broadcast television station licensee or MVPD seeks reimbursement for new equipment, it must provide a justification as to why it is reasonable under the circumstances to purchase new equipment rather than modify its corresponding current equipment in order to change channels or to continue to carry the signal of a broadcast television station that changes channels.

(iv) Entities that submit their own cost estimates, as opposed to the predetermined cost estimates provided in the estimated cost form, must submit supporting evidence and certify that the estimate is made in good faith.

(3) *Final Allocation Deadline.* (i) Upon completing construction or other reimbursable changes, or by a specific deadline prior to the end of the Reimbursement Period to be established by the Media Bureau, whichever is earlier, all broadcast television station licensees and MVPDs that received an initial allocation from the TV Broadcaster Relocation Fund must provide the Commission with information and documentation, including invoices and receipts, regarding their actual expenses incurred as of a date to be determined by the Media Bureau (the "Final Allocation Deadline").

(ii) If a broadcast television station licensee or MVPD has not yet completed construction or other reimbursable changes by the Final Allocation Deadline, it must provide the Commission with information and documentation regarding any remaining eligible expenses that it expects to reasonably incur.

(4) *Final accounting.* After completing all construction or reimbursable changes, broadcast television station licensees and MVPDs that have received money from the TV Broadcaster Relocation Fund will be required to submit final expense documentation

containing a list of estimated expenses and actual expenses as of a date to be determined by the Media Bureau. Entities that have finished construction and have submitted all actual expense documentation by the Final Allocation Deadline will not be required to file at the final accounting stage.

(5) *Progress reports.* Broadcast television station licensees and MVPDs that receive payment from the TV Broadcaster Relocation Fund are required to submit progress reports at a date and frequency to be determined by the Media Bureau.

(6) *Documentation requirements.* (i) Each broadcast television station licensee and MVPD that receives payment from the TV Broadcaster Relocation Fund is required to retain all relevant documents pertaining to construction or other reimbursable changes for a period ending not less than 10 years after the date on which it receives final payment from the TV Broadcaster Relocation Fund.

(ii) Each broadcast television station licensee and MVPD that receives payment from the TV Broadcaster Relocation Fund must make available all relevant documentation upon request from the Commission or its contractor.

(7) *Delegation of authority.* The Commission delegates authority to the Chief, Media Bureau, to adopt the necessary policies and procedures relating to allocations, draw downs, payments, obligations, and expenditures of money from the TV Broadcaster Relocation Fund in order to protect against waste, fraud, and abuse and in the event of bankruptcy, to establish a catalog of expenses eligible for reimbursement and predetermined cost estimates, review the estimated cost forms, issue initial allocations for costs reasonably incurred pursuant to section 6403(b)(4) of the Spectrum Act, set filing deadlines and review information and documentation regarding progress reports, final allocations, and final accountings, and issue final allocations to reimburse for costs reasonably incurred pursuant to section 6403(b)(4) of the Spectrum Act.

(f) *Service rule waiver*—(1) *Waiver requests.* (i) A broadcast television station licensee described in paragraph

(e)(1)(i) of this section may file a request with the Chief, Media Bureau for a waiver of the Commission's service rules pursuant to section 6403(b)(4)(B) of the *Spectrum Act* during a 30-day window commencing upon the date that the Channel Reassignment Public Notice is released.

(ii) A broadcast television station licensee may request that a waiver be granted on a temporary or permanent basis.

(2) A licensee will have 10 days following a grant of the waiver to notify the Commission whether it accepts the terms of the waiver.

(3) A licensee is required to meet all requirements for receiving payment of relocation costs under section 6403(b)(4) of the *Spectrum Act* established by the Commission, including the requirements of paragraph (e) of this section, until its waiver request is granted and the licensee accepts the terms of the waiver.

(4) A licensee that is granted and accepts the terms of the waiver or a licensee with a pending waiver application must comply with all filing and notification requirements, construction schedules, and other post-auction transition deadlines set forth in paragraphs (b), (c), and (d) of this section.

(g) *Low Power TV and TV translator stations.* (1) Licensees of operating low power TV and TV translator stations that are displaced by a broadcast television station or a wireless service provider or whose channel is reserved as a guard band as a result of the broadcast television spectrum incentive auction conducted under section 6403 of the *Spectrum Act* shall be permitted to submit an application for displacement relief in a restricted filing window to be announced by the Media Bureau by public notice. Except as otherwise indicated in this section, such applications will be subject to the rules governing displacement applications set forth in §§ 73.3572(a)(4) and 74.787(a)(4) of this chapter.

(2) In addition to other interference protection requirements set forth in the rules, when requesting a new channel in a displacement application, licensees of operating low power TV and TV translator stations will be required to demonstrate that the station would

not cause interference to the predicted service of broadcast television stations on:

- (i) Pre-auction channels;
- (ii) Channels assigned in the Channel Reassignment Public Notice; or
- (iii) Alternative channels or expanded facilities broadcast television station licensees have applied for pursuant to paragraph (b)(2) of this section.

(3) *Mutually exclusive displacement applications.* Licensees of low power TV and TV translator stations that file mutually exclusive displacement applications will be permitted to resolve the mutual exclusivity through an engineering solution or settlement agreement. If no resolution of mutually exclusive displacement applications occurs, a selection priority will be granted to the licensee of a displaced digital replacement translator.

(4) *Notification and termination provisions for displaced low power TV and TV translator stations.* (i) A wireless licensee assigned to frequencies in the 600 MHz band under part 27 of this chapter must notify low power TV and TV translator stations of its intent to commence operations, as defined in § 27.4 of this chapter, and the likelihood of receiving harmful interference from the low power TV or TV translator station to such operations within the wireless licensee's licensed geographic service area.

(ii) The new wireless licensees must:

- (A) Notify the low power TV or TV translator station in the form of a letter, via certified mail, return receipt requested;

- (B) Indicate the date the new wireless licensee intends to commence operations, as defined in § 27.4 of this chapter, in areas where there is a likelihood of receiving harmful interference from the low power TV or TV translator station; and

- (C) Send such notification not less than 120 days in advance of the commencement date.

- (iii) Low power TV and TV translator stations may continue operating on frequencies in the 600 MHz band assigned to wireless licensees under part

27 of this chapter until the wireless licensee commences operations, as defined in §27.4 of this chapter, as indicated in the notification sent pursuant to this paragraph.

(iv) After receiving notification, the low power TV or TV translator licensee must cease operating or reduce power in order to eliminate the potential for harmful interference before the commencement date set forth in the notification.

(v) Low power TV and TV translator stations that are operating on the UHF spectrum that is reserved for guard band channels as a result of the broadcast television incentive auction conducted under section 6403 of the *Spectrum Act* may continue operating on such channels until the end of the post-auction transition period as defined in §27.4 of this chapter, unless they receive notification from a new wireless licensee pursuant to the requirements of paragraph (g)(4) of this section that they are likely to cause harmful interference in areas where the wireless licensee intends to commence operations, as defined in §27.4 of this chapter, in which case the requirements of paragraph (g)(4) of this section will apply.

(h) *Channel sharing operating rules.* (1) Each broadcast television station licensee that is a party to a CSA 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 applicable to the television service.

(2) 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 (h)(5)(i)(E) 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 to change its license to non-shared status using FCC Form 2100, Schedule B (for a full power licensee) or F (for a Class A licensee).

(3) *Channel sharing between full power television and Class A television stations.* (i) A CSA may be executed between li-

censees of full power television stations, between licensees of Class A television stations, and between licensees of full power and Class A television stations.

(ii) A Class A channel sharee station licensee that is a party to a CSA with a full power channel sharer station licensee must comply with the rules of part 73 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 *et seq.*

(iii) A full power channel sharee station licensee that is a party to a CSA with a Class A channel sharer station licensee must comply with the rules of part 74 of this chapter governing power levels and interference.

(iv) A Class A channel sharee station may qualify only for the cable carriage rights afforded to "qualified low power television stations" in §76.56(b)(3) of this chapter.

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

(ii) 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.

(iii) 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.

(iv) 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.

(5) *Required CSA provisions.* (i) CSAs must contain provisions outlining each licensee's rights and responsibilities regarding:

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

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(B) Allocation of bandwidth within the shared channel;

(C) 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;

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

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

(ii) CSAs must include provisions:

(A) Affirming compliance with the requirements in paragraph (h)(5) of this section and all relevant Commission rules and policies; and

(B) 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 (SD) program stream at all times.

(6) If the rights under a CSA are transferred or assigned, the assignee or the transferee must comply with the terms of the CSA. 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.

(7) *Preservation of carriage rights.* A channel sharee station that possessed carriage rights under section 338, 614, or 615 of the Communications Act of 1934 (47 U.S.C. 338; 534; 535) on November 30, 2010, shall have, at its shared location, the carriage rights under such section that would apply to such station at the shared location if it were not sharing a channel.

(i) A broadcast television station licensed in the 600 MHz band, as that band is defined in section 27.5(1)—

(1) Shall not be permitted to modify its facilities, except as provided in paragraph (b)(1)(ii) of this section, if such modification will expand its noise limited service contour (in the case of a full power station) or protected contour (in the case of a Class A station) in such a way as to:

(i) Increase the potential of harmful interference to a wireless licensee which is co-channel or adjacent channel to the broadcast television station; or

(ii) Require such a wireless licensee to restrict its operations in order to avoid causing harmful interference to the broadcast television station’s expanded noise limited service or protected contour;

(2) Shall be permitted to modify its facilities, even when prohibited by paragraph (i)(1) of this section, if all the wireless licensees in paragraph (i)(1) who either will experience an increase in the potential for harmful interference or must restrict their operations in order to avoid causing interference agree to permit the modification and the modification otherwise meets all the requirements in this part;

(3) For purposes of this section, the following definitions apply:

(i) Co-channel operations in the 600 MHz band are defined as operations of broadcast television stations and wireless services where their assigned channels or frequencies spectrally overlap.

(ii) Adjacent channel operations are defined as operations of broadcast television stations and wireless services where their assigned channels or frequencies spectrally abut each other or are separated by up to 5 MHz.

[79 FR 48539, Aug. 15, 2014, as amended at 79 FR 76914, Dec. 23, 2014; 80 FR 46846, Aug. 6, 2015; 80 FR 67342, 67346, Nov. 2, 2015; 80 FR 71743, Nov. 17, 2015; 81 FR 4975, Jan. 29, 2016]

§ 73.3701 Reimbursement under the Reimbursement Expansion Act.

(a) *Definitions*—(1) *Eligibility Certification/Reimbursement Form.* For purposes of this section, the term *Eligibility Certification/Reimbursement Form* means the form(s) developed by the Media Bureau for processing reimbursement requests under the Reimbursement Expansion Act.

(2) *FM station.* For purposes of this section, the term *FM station* means an “FM broadcast station” as defined in § 73.310.

(3) *Incentive Auction.* For purposes of this section, the term *Incentive Auction* means the broadcast television spectrum incentive auction and repacking process conducted under section 6403 of