Federal Communications Commission

§ 73.3700 Channel sharing.

(a) Channel sharing generally. For purposes of this subsection, “reverse auction” shall mean the reverse auction set forth in section 6403(a) of the See Middle Class Tax Relief and Job Creation Act of 2012. Subject to the provisions of this section, qualified television stations may voluntarily seek Commission approval to share a single
§ 73.3700, N.T.

six megahertz channel in conjunction with a proposal submitted in the reverse auction. Each station sharing a single channel 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.

(b) Basic qualifications. (1) Any full power television station or Class A television station permittee or licensee, as well as any applicant for an original construction permit may execute a channel sharing agreement to be considered in conjunction with the reverse auction.

(2) The party relinquishing spectrum pursuant to a channel sharing agreement must hold a license prior to the commencement of the reverse auction wherein its channel sharing agreement shall be considered.

(3) Channel sharing agreements shall contain a provision 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.

(4) Channel sharing is permissible between commercial and noncommercial educational television stations.

(5) Channel sharing is permissible between full power television stations, between Class A television stations and between full power and Class A television stations.

(c) Preservation of carriage rights. A broadcast television station that voluntarily relinquishes spectrum usage rights under this section in order to share a television channel and that possessed carriage rights under section 330 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 such location if it were not sharing a channel.

(77 FR 60426, May 23, 2012)

Effective Date Note: At 79 FR 46539, Aug. 15, 2014, §73.3700 was revised, effective October 14, 2014, except for paragraphs (b)(1)(i) through (v), (b)(2)(i) and (ii), (b)(3), (b)(4)(i) and (ii), (b)(5), (c), (d), (e)(2) through (6), (f), (g), (h)(4) and (6) which contain information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget. For the convenience of the user, the revised text is set forth as follows:

§ 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.

(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 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.
§ 73.3700, NI.

(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.


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

(A) Does not seek to expand the coverage area, as defined by the technical parameters specified in the Channel Reassignment Public Notice, if such facilities:

(i) 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;

(ii) 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

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

(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.

(iv) The licensee of a reassigned station, a UHF-to-VHF station, or a 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.

(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.

(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 will be permitted to file a major change application for a construction permit for its post-auction channel on FCC Form 301, 301-CA, or 340 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.

(i) Expanded facilities. The licensee of a reassigned station, a UHF-to-VHF station, or a High-VHF-to-Low-VHF station will be permitted to file a minor change application for a construction permit on FCC Form 301, 301-CA, or 340 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 with respect to height above average terrain (HAAT), effective radiated power (ERP), or transmitter location that would be considered a minor change under §§73.3720(a)(1) and (2) or 74.707(b) of this chapter.

(ii) 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.

(iii) 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 302-DTV or 302-CA within three months of the date that the channel sharee station licensee receives its incentive payment pursuant to section §462(a)(1) of the Spectrum Act.

(iv) Deadlines to terminate operations on pre-auction channels. (1) The licensee of a license relinquishment station must comply with the notification and cancellation 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 §462(a)(1) of the Spectrum Act.

(ii) The licensee of a channel sharee station must comply with the notification and cancellation 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 §462(a)(1) of the Spectrum Act.
Federal Communications Commission

§ 73.3700, Nil.

(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) Transitioning 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) Transitioning stations that operate on a noncommercial educational (NCE) basis have the option to either:

(i) Comply with the requirements of paragraph (c)(1) of this section; or

(ii) Air 60 seconds per day of on-air consumer education PSAs, in variable timeslots, for 30 days prior to the station’s termination of operations on its pre-auction channel.

(3) 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.

(4) 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.

(5) 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.

(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 30 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:
§ 73.3700, NI.

(1) 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 station licensees and MVPDs, that have received money 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.

(i) Each broadcast television station licensee and MVPD that received money from the TV Broadcaster Relocation Fund must provide the Commission with information and documentation, including receipts, of all costs eligible for reimbursement as of a date to be determined by the Media Bureau.

(ii) If a broadcast television station licensee or MVPD that received payment from the TV Broadcaster Relocation Fund 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.

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 be required to file at the final accounting stage.

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.

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.

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
investigations.

of this section.

have applied for pursuant to paragraph (b)(2)
cyclities broadcast television station licensees
assignment Public Notice; or

would not cause interference to the predicted
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placement requirements set forth in the rules,
service of broadcast television stations on:
ment agreement. If no resolution of mutually exclusive displacement applications occurs, a selection priority will be granted to the licensee of a displaced digital replacement transl

of the Commission’s service rules pursuant to section 6403(b)(4) of the Spectrum Act during a 30-day window com-
encing upon the date that the Channel Reassignment Public Notice is released.

A broadcast television station licensee

may request that a waiver be granted on a temporary or permanent basis.

A broadcast television station licensees

will have 10 days following a grant of the waiver to notify the Commission whether it accepts the terms of the waiver.

A licensee is required to meet all re-

requirements for receiving payment of reloca-
tion costs under section 6403(b)(4) of the Spectrum Act established by the Commiss-

ion, including the requirements of para-

graph (e) of this section, until its waiver re-

quest is granted and the licensee accepts the terms of the waiver.

A licensee that is granted and accepts the terms of the waiver or a licensee with a pending waiver application must com-

ply with all filing and notification requirements, construction schedules, and other post-auc-
tion transition deadlines set forth in para-

graphs (b), (c), and (d) of this section.

Low Power TV and TV translator stations.

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 con-
ducted 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 Bu-

reau by public notice. Except as otherwise

indicated in this section, such applications

will be subject to the rules governing dis-
placement applications set forth in §§ 73.3722(a)(4) and 74.787(a)(4) of this chapter.

In addition to other interference protec-
tion requirements set forth in the rules,

when requesting a new channel in a displace-

ment 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:

Pre-auction channels;

Channels assigned in the Channel Reas-
signment Public Notice; or

Alternative channels or expanded fa-
cilities broadcast television station licensees

have applied for pursuant to paragraph (b)(2)

of this section.

Mutually exclusive displacement applica-
tions. Licensees of low power TV and TV

translator stations that file mutually exclu-
sive displacement applications will be per-

mitted to resolve the mutual exclusivity through an engineering solution or settle-

ment agreement. If no resolution of mutually exclusive displacement applications occurs, a selection priority will be granted to the licensee of a displaced digital replacement trans

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§ 73.3999

(2) Channel sharing between full power television and Class A television stations. (i) A CSA may be executed between licensees 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 license, 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 license, 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.

(b) Required CSA provisions. (i) CSAs must include provisions:

(A) Affirming compliance with the Channel sharing requirements in paragraph (h)(4) of this section, the Incentive Auction Report and Order, Docket No. 12–268 (FCC 14–50), and the Channel Sharing Report and Order, 27 FCC Rcd 4616 (2012); 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.

(ii) CSAs must include provisions:

(A) No licensee of a radio or television broadcast station shall broadcast any material which is obscene.

404