

§ 710.43(b)(2)(ii) not later than November 1, 2020.

§ 710.49 Failure to report.

If neither the substantiation required under § 710.43(a) or (b)(1), nor the information specified in § 710.43(b)(2)(ii), is submitted to EPA in accordance with the provisions of this subpart, then EPA will deny the confidentiality claim in accordance with the procedures set forth in TSCA section 14(g)(2) and 40 CFR part 2, subpart B.

§ 710.51 Electronic filing.

EPA will accept information submitted under this subpart only if submitted in accordance with § 710.39.

§ 710.53 Recordkeeping requirements.

Each person who is subject to this part must retain records that document any information reported to EPA. Records must be retained for a period of 5 years beginning on the last day of the submission period.

§ 710.55 Claim review, duration of protection, TSCA inventory maintenance, posting results, and extension.

(a) *Review criteria and procedures.* Except as set forth in this subpart, confidentiality claims for specific chemical identities asserted in Notices of Activity Form A will be reviewed and approved or denied in accordance with the criteria and procedures in TSCA section 14 and 40 CFR part 2, subpart B.

(b) *Duration of protection from disclosure.* Except as provided in 40 CFR part 2, subpart B, and section 14 of TSCA, a specific chemical identity that is the subject of an approved confidentiality claim under this subpart will be protected from disclosure for a period of 10 years from the date on which the confidentiality claim was first asserted by any submitter after June 22, 2016, unless, prior to the expiration of the period, the claimant notifies EPA that the person is withdrawing the confidentiality claim, in which case EPA will not protect the information from disclosure; or EPA otherwise becomes aware that the information does not qualify for protection from disclosure, in which case EPA will take the actions described in TSCA section 14(g)(2) to notify the claimant of EPA's intent to disclose the information.

(c) *Updating the TSCA Inventory.* EPA will periodically update the TSCA Inventory based on the results of the reviews of the confidentiality claims asserted in Notices of Activity Form A.

(d) *Posting of annual goals and numbers of reviews completed.* At the beginning of each calendar year until all reviews are completed, EPA will

publish an annual goal for reviews and the number of reviews completed in the prior year on the Agency website. Determination of annual review goals will take into consideration the number of claims needing review, available resources, and a target completion date for all reviews under this subpart not later than February 19, 2024.

(e) *Extension.* If EPA determines that the target completion date in paragraph (d) of this section cannot be met based on the number of claims needing review and the available resources, then EPA will publish a document in the **Federal Register** announcing the extension of the deadline to complete its review of all confidentiality claims under this subpart for not more than two additional years, together with an explanation of the reasons for the extension.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 05-311; DA 20-148; FRS 16523]

Local Franchising Authorities' Regulation of Cable Operators and Cable Television Services

AGENCY: Federal Communications Commission.

ACTION: Interpretive rule.

SUMMARY: In this document, the Media Bureau, Federal Communications Commission (Commission), clarifies a Media Bureau order denying a motion for stay of the Commission's Third Report and Order in the above-mentioned docket.

DATES: This interpretive rule is effective on March 6, 2020 and applicable beginning February 11, 2020.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Raelynn Remy of the Media Bureau, Policy Division, at Raelynn.Remy@fcc.gov or (202) 418-2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's Order on Reconsideration, DA 20-148, adopted and released on February 11, 2020. The full text is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW, Room CY-A257, Washington, DC 20554. This document will also be available via

ECFS at <https://docs.fcc.gov/public/attachments/DA-20-148A1.docx>. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

1. By this *Order*, we grant NCTA—The internet & Television Association's (NCTA's) Petition for Clarification¹ of the Media Bureau's Order Denying Motion for Stay of the Commission's Third Report and Order² in the above-captioned proceeding.³ In its *Petition*, NCTA requests that the Bureau remove from the *Stay Denial Order* certain language in paragraph 21 that “creates the potential for confusion and the appearance of a conflict with the *Third Report and Order*.” In particular, NCTA asks that the Bureau excise two statements from paragraph 21. These statements are: “The rules in the [*Third Report and Order*] did not supersede provisions in existing franchise agreements on their effective date” and “[i]f negotiations fail, the terms in the franchise remain in effect unless and until a cable operator challenges those terms and proves that the terms violate the [*Third Report and Order*'] requirements.”

2. After reviewing the record developed in response to the *Petition*,⁴

¹ NCTA Petition for Clarification of Order Denying Motion for Stay, MB Docket No. 05-311, filed Nov. 15, 2019 (*Petition*). Although NCTA did not title its submission as a petition for reconsideration, we will treat it as a petition for reconsideration because it seeks further review of the *Stay Denial Order*.

² The *Third Report and Order* became effective on September 26, 2019 (84 FR 44725, Aug. 27, 2019).

³ An extensive discussion of the historical background of this proceeding is set forth in the *Third Report and Order* and the *Stay Denial Order* (<https://docs.fcc.gov/public/attachments/DA-19-1149A1.docx>); thus, we do not reiterate it at length here. After the *Stay Denial Order* was issued, certain municipalities sought a judicial stay of the *Third Report and Order* in the Ninth Circuit. That court subsequently transferred challenges to the *Third Report and Order* then pending before it, including the motion for judicial stay, to the Sixth Circuit.

⁴ The Media Bureau issued a Public Notice seeking comment on NCTA's petition (84 FR 66186, Dec. 3, 2019). One party filed comments opposing the *Petition*. One party filed comments in support of the *Petition*.

we agree with NCTA that these statements could be interpreted “to conflict with the *Third Report and Order’s* plain directives and require procedures not mandated by the Commission.” In particular, we note that the *Third Report and Order* states that “[i]f a franchising authority refuses to modify any provision of a franchise agreement that is inconsistent with this Order, that provision is subject to preemption under section 636(c).” We also note that the *Third Report and Order* “encourage[s] the parties to negotiate franchise modifications within a reasonable time,” and “find[s] that 120 days should be, in most cases, a reasonable time for the adoption of franchise modifications.” Contrary to these statements in the *Third Report and Order*, the statements that NCTA is seeking to excise from the *Stay Denial Order* could be construed as authorizing local franchising authorities (LFAs) to enforce unlawful franchise provisions unless and until a cable operator has proven to a court that they are unlawful.

3. We disagree with the National Association of Telecommunications Officers and Advisors (NATOA) that removing the relevant statements from paragraph 21 of the *Stay Denial Order* undermines our reasons for denying the stay petition. That argument ignores our two primary reasons for finding that LFAs will not suffer irreparable harm, absent a stay. First, we concluded in the *Stay Denial Order* that the injury claimed by LFAs (municipalities’ loss of critical facilities and services) is speculative. We determined that localities can maintain access to critical facilities and services by adjusting revenues and expenses in response to changes in franchise fee revenue streams—for example, LFAs can maintain critical facilities and services “either by prioritizing some in-kind contributions over others or by prioritizing in-kind contributions over the fees they would otherwise recover.”⁵ Second, we concluded that the harm alleged by LFAs (loss of free services) was an economic loss, which under well-established case law, does not, in and of itself, constitute irreparable harm. These grounds alone were sufficient for denying the administrative stay request.

4. NATOA claims that budget amendments and procurement processes to authorize payment for services previously furnished pursuant to a cable franchise are often lengthy,

⁵ As NCTA notes, “revenues would be recoverable in the event that the *Third Report and Order* is ultimately overturned on appeal, further undermining the notion that such losses could constitute irreparable harm.”

and that LFAs “cannot . . . start the process without knowing what value a cable operator will assert for non-monetary franchise obligations that [would be] offset against franchise fee payments.”⁶ However, NATOA provides no evidence that any cable operator would abruptly cease services or take other unilateral action during the pendency of the appeal that would adversely affect municipalities, or create immediate or irreparable harm. Instead, as we explained in the *Stay Denial Order*, “the *Order* encouraged LFAs, in response to a request from a cable operator, to negotiate franchise terms that conform to the *Order* in a reasonable amount of time . . . Thus, for example, an LFA is not required to assess the costs of in-kind contributions that it currently receives from a cable operator (e.g., free cable service) against the franchise fee until the cable operator asks the LFA to amend the terms of its franchise.” Accordingly, consistent with the terms of this order, we grant NCTA’s petition.

5. We therefore conclude that the following two sentences in paragraph 21 of the *Stay Denial Order* misinterpret the *Order*: “The rules in the [*Third Report and Order*] did not supersede provisions in existing franchise agreements on their effective date” and “[i]f negotiations fail, the terms in the franchise remain in effect unless and until a cable operator challenges those terms and proves that the terms violate the [*Third Report and Order’s*] requirements.” The same is true of the sentence in paragraph 21 of the *Stay Denial Order* that reads: “At that point, the LFA and the cable operator have 120 days to renegotiate the franchise agreement.” Instead, we find, in accordance with the *Third Report and Order*, that the LFA and the cable operator have a reasonable period of time to renegotiate the franchise agreement, which in most cases is 120 days. If negotiations fail, the cable operator and the LFA can continue to rely on the processes and remedies that may be contained in their franchise agreement or that are otherwise available.⁷

6. Accordingly, it is ordered that, pursuant to the authority contained in

⁶ NCTA asserts that this argument is baseless and states that “[a]ll NCTA seeks in its Petition is what the *Third Report and Order* already provided: Clarification that parties should negotiate timely and in good faith to reach mutually agreeable franchise terms that comply with the Cable Act and rulings set forth in the *Order*.”

⁷ For example, the cable operator and the LFA can take the dispute to court or, in the case of an interpretive dispute regarding the scope of the rules adopted in the *Third Report and Order*, request a declaratory ruling from the Commission.

sections 4(i), 4(j), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i)–(j), 303(r), and 405 and the authority delegated in §§ 0.61, 0.283, and 1.106 of the Commission’s rules, 47 CFR 0.61, 0.283, and 1.106, this *Order* in MB Docket No. 05–311 is adopted. It is further ordered that the Petition for Clarification of Order Denying Motion for Stay pending judicial review of the *Third Report and Order* in this proceeding, filed by NCTA, is granted to the extent indicated above. It is further ordered that this *Order* shall be effective upon its release.

Federal Communications Commission.

Thomas Horan,
Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363–7275–02]

RTID 0648–XS025

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2019–2020 Commercial Hook-and-Line Closure for King Mackerel in the Gulf of Mexico Southern Zone

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) to close the hook-and-line component of the commercial sector for king mackerel in the Gulf of Mexico (Gulf) southern zone. This closure is necessary to protect the Gulf king mackerel resource.

DATES: This temporary rule is effective from 12:01 a.m. local time on March 4, 2020, through June 30, 2020.

FOR FURTHER INFORMATION CONTACT: Kelli O’Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: kelli.odonnell@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish in the Gulf includes king mackerel, Spanish mackerel, and cobia, and is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery