



Broadcast Newsletter

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HCCB NOT AFFECTED BY LOUISIANA FLOODING

Many of our readers have heard about the recent flooding in central Louisiana. This was an unusual rainfall event (about 27 inches in only 72 hours) and occurred in areas that are not flood prone. The flooding is about 30 miles to our west, and the firm and all of our employees are thankfully high and dry. We have much experience with storms and flooding (thank you, Katrina ☺) and are aiding in efforts to “gut” houses – better known as hauling wet items to the curb and cutting out sheetrock. Thanks to all of you who have reached out to check on us!

We'll take this opportunity to remind everyone that we have a robust natural disaster plan, and regardless of what occurs, we are able to fully serve our clients remotely – both during and after a disaster.

NATIONAL EAS TEST DEADLINES NEAR

In connection with the FCC's planned National EAS test on September 28, 2016 all broadcasters (except for TV and FM translators) must register in the [EAS Test Reporting System \(ETRS\)](#) and file EAS Form One. **The deadline to take these actions is Friday, August 26, 2016.** We have assisted some clients with those filings, and remain available to do so if you have not been able to complete your station's registration and filing requirements.

Licensees need an FRN and password to register in ETRS. Then, to file EAS Form One, certain technical information is required, such as type of equipment and software. In addition, stations must list the stations/sources that your station monitors in EAS tests.

Very important -- if you have not programmed your EAS equipment to receive the national test, do so now. Each station's EAS equipment must be programmed with the new national location code of six zeros (000000). This should be programmed with National Periodic Test (NPT) event code. Without this new location and event code, the national test won't be received.

The national EAS test is scheduled for September 28, 2016 at 1:20 p.m. central time. All stations will be required to file EAS Form Two to report the test results within 12 hours of the test (i.e., later on 9/28). To file EAS Form Two, stations will need yes/no answers to the following questions (a) did the facility receive the EAS message?, and (b) did the facility retransmit the EAS message?

There is now a new FCC-published EAS Handbook that can be found [here](#). It should be printed and kept near each station's EAS equipment.

If you're confused, consult this [public notice](#) about the national test process, or give us a call. Most important – don't miss the initial August 26, 2016 deadline.

SECOND FM TRANSLATOR WINDOW FOR AM STATIONS REMAINS OPEN

The second FM translator filing window for AM stations originally opened on July 29th, but applications may continue to be filed in the window until it closes on October 31, 2016. All classes of AM stations are eligible to file applications in the window seeking to relocate non-reserved band translators up to 250 miles for use with an AM station.

The FCC has already begun processing and granting singleton applications (i.e., those that are not mutually exclusive with others filed on the same day). If an application is mutually exclusive with another same-day filed translator application, the FCC looks to the filing parties to both determine and resolve the mutual exclusivity. Agreements to dismiss and modify are permitted, as are payments to incentivize a party to dismiss or modify, provided that appropriate disclosures are made to the FCC.

A NEW FAA INTERFERENCE CONDITION ON PERMITS?

We recently saw a written condition on an FM translator permit that caught our attention. Here is the language:

FAA INTERFERENCE CONDITION:

Upon receipt of notification from the Commission that harmful interference is being caused by the operation of the permittee's/licensee's transmitter, the permittee's/licensee's shall either immediately reduce the power to the point of no interference, cease operation, or take such immediate corrective action as is necessary to eliminate the harmful interference. This condition expires after one year of interference-free operation.

We cannot recall seeing such a general condition in the past, and do not believe that the circumstances of the particular permit warranted a special FAA interference condition. We also find it odd that the condition would expire after one year, since spurious emissions are always possible. But that being said, we surmise that the FCC and FAA have agreed (probably formally, somewhere) to include this condition on permits. Whether it will appear on any permit or only on select ones remains to be seen.

FORWARD AUCTION CREEPING ALONG

The forward auction part of the FCC's Incentive Auction Stage One began on August 16, 2016 and has crept along for several days now. Based upon bidding activity, most prognosticators are predicting that the forward auction will not reach the required \$88 billion to clear the 126 Mhz the FCC set as the clearing target. That means we are likely headed for stage two, which will begin with a reverse auction (only for those broadcasters that had provisionally winning bids at the end of the stage one reverse auction) to clear 114 Mhz of spectrum, and end with another forward auction to see if enough funds can be raised to hit the new total dollar figure provisionally promised in the stage two reverse auction.

This could go on for a while, folks. The FCC's explanation – the auction is designed to let the market decide how much spectrum is cleared and how much is paid for that spectrum. We get it, but someone had to decide the first clearing target, and that someone was the FCC. We think the FCC may have been a bit too aggressive in setting that target. Ok, we admit that's an understatement. We

do observe that a requirement for stage two would likely take the auction into 2017.

DATES TO REMEMBER

August 26, 2016

All broadcast stations (except TV and FM Translators) must register in the EAS Test Reporting System (ETRS) and file EAS Form One.

September 28, 2016

National EAS Test.

October 1, 2016:

AM & FM Stations in Florida, Puerto Rico, Virgin Islands, Alaska, American Samoa, Guam, Hawaii, Oregon and Washington: if full-time employee threshold is met, complete EEO public file report and post same in public file as well as post on station website.

AM & FM Stations in Iowa and Missouri: if full-time employee threshold is met, complete EEO public file report and place same in public file as well as post on station website. **If station has 11 or more full-time employees,** prepare and electronically file mid-term EEO Form 397 and place copy of filed report in your public inspection file. **NCE Stations Only:** also file biennial ownership report via Form 323-E and place copy in public file.

TV & Class A Stations in Florida, Puerto Rico and the Virgin Islands: if full-time employee threshold is met, complete EEO public file report and post same in public file as well as on station website and prepare and electronically file mid-term EEO Form 397 and place copy of filed report in your public inspection file. **NCE Stations Only:** also file biennial ownership report via Form 323-E and place copy in public file.

TV & Class A Stations in Iowa, Missouri, Alaska, American Samoa, Guam, Hawaii, Oregon and Washington: if full-time employee threshold is met, complete EEO public file report and post same in online public file and station website. **NCE Stations in Alaska, American Samoa, Guam, Hawaii, Oregon and Washington:** also file biennial ownership report via Form 323-E and place copy in public file.

October 31, 2016

Second AM Station FM Translator window closes at 5:59 p.m. eastern time.

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Actual resolution of legal issues depends upon many factors, including variations of facts and applicable Federal laws. This publication is not intended to provide legal advice on specific subjects, rather, it seeks to provide insight into legal developments and issues that we feel could be useful to our clients and friends.

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