



Broadcast Newsletter

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AM REVITALIZATION: FIRST TRANSLATOR MODIFICATION WINDOW UP NEXT

The FCC's announcement last month of two 2016 opportunities for AM stations to acquire FM translators has set off an engineering and acquisition bonanza. Stations are carefully analyzing what vacant FM channels are available in their market, and then surveying the translator opportunities for 250 miles around their station to see if any translators are for sale

In the first window, which is set to open sometime in the first quarter of 2016 (rumor says February 1st), Class C and D AM stations will have six months to take advantage of the FCC's temporary relaxation of its FM translator minor modification rules, allowing relocations up to 250 miles. AM stations can either be in the process of acquiring (or have already acquired) the translator they want to modify, or have an agreement to retransmit the translator licensee's signal.

In case you were thinking that the window would simply open one day in the first quarter of 2016, without a prior announcement, you can put that thought aside. The FCC staff has indicated (informally) that a public notice will be issued well in advance of the filing window opening so that all are aware and can be prepared. Something tells us (or maybe a FCC staffer whispered it) that the public notice will come in December 2015, so keep your eyes peeled.

While these windows will present opportunities, there are a slew of "buyer beware" items for the prudent AM station owner. First, stations get only one shot at one of these 250 mile translator modification applications, whether they are successful or not. So before hitting the "file" button, stations should have a good understanding of their chances for success.

Those chances will turn on the number of eligible stations and vacant FM channels in a station's market. In addition, your chances at a FM translator could turn on the FCC's

"first-come, first-served" treatment of translator modification applications filing in the window. Yes, that's right. For ease of administration, a properly filed mod application will "cut off" all other applications filed later. But here's the catch. This is not an hour-by-hour first-filed determination. Applications filed throughout the 24-hour period of a day will all be considered to have been filed on the same day.

What does that mean? Well, in congested markets where few vacant FM channels are available, applicants specifying the same channel that file on the same day will end up being mutually exclusive, requiring the applicants to file technical amendments (if possible) so their application can be granted. The amendment process will be up to the applicants, as the FCC will not be announcing who is mutually exclusive or setting up deadlines for amendments to be filed. And the dynamic could change daily as applicants will be able to file multiple minor modification amendments to secure a grantable application, with a rolling "first-come, first-served" dynamic controlling.

Obviously, in markets with ample vacant FM channels or very few Class C or D AM stations, the first-come, first-served methodology will be much easier to apply. So get thee to a qualified consulting engineer if you've not gotten one yet, and study your particular station's situation.

There are more chances at translators besides the first 6 month window. A second, 3-month long filing period will immediately follow the first one with all classes of AM stations (except for those who filed in the first window) eligible to participate. And if you haven't filed in either of those 2016 filing windows, you'll be eligible to file in an auction window for new FM translators (assuming vacant FM channels are still available) to be opened sometime in 2017.

Yes, our heads hurt too. But remember, if you prefer the old fashioned way, and there is a translator near enough for sale, you can still acquire and file minor modifications under the 3 channels up, 3 channels down minor mod rules.

TV AUCTION FILING WINDOW MOVED AND EXTENDED

In an unusual move that followed a correction to the list of opening bids for TV station spectrum in the upcoming Incentive Auction, the FCC pushed back and extended the window for full power and Class A television stations to file applications to become qualified to bid in the auction. Previously, the window was 19 days long, from December 1st through 18th, 2015. Now, the window will open at 12 noon ET on December 8, 2015 and close at 6 pm ET on January 12, 2016. That's 35 days -- almost double the length of the previously announced window.

The Form 177 application to be filed in the window has only just been approved by the Office of Management & Budget. So we now have [instructions](#) for the form (that's helpful). Plus, the FCC has now made available an [online tutorial](#) for the reverse auction portion of the incentive auction (where broadcasters will participate). If you just want to stare at the form questions and answer choices in PDF format, you can click [here](#). And finally, just to be sure, you can participate in (or watch afterward) an [upcoming webinar](#) that will demonstrate in even more detail how to complete and file the Form 177 online. Oddly enough, that webinar will be in progress when the window opens at 12 noon ET on December 8, 2015, the first day of the filing window.

Why such careful prep and detail? Well, if a station does not file an application during this window to become a qualified bidder in the auction, or incorrectly files it, that station will have made a final decision not to participate in the auction. Those that do file the Form 177 can still decide not to participate by simply not submitting a preferred initial bidding option by the March 29, 2016 deadline. That date is the official "start" of the auction.

We are certain that more updates, notices, corrections, clarifications and various and assorted other releases will find their way onto the FCC's website or into their daily releases. Keep vigilant.

NEW FCC WEBSITE COMING SOON

We're only passing on this information, so don't wish harm on the messengers. Deep breath. Here we go. Yes, the FCC is going to launch a new "responsively designed" website on December 10, 2015. Still with us? Good.

A large-scale redesign of the www.fcc.gov website to improve usability by all, and interoperability with tablets and mobile devices is what's on tap. In the FCC's words, "while our expectation is to switch to the new website on December 10th, there may be some specific pages that will need format, content or functional content that will need format, content or functional content after the change-over date." Shorthand translation – we'll get it right eventually.

As opposed to the last website design effort that allowed temporary access to the previous site after launch of the new one, this time around the current website will no longer be available to users after 12:00 a.m. December 10th. But don't worry. Most of the webpages and files will have been migrated to the new site.

This brings to mind a potential frequently asked question: Will all of our bookmarks still work? Answer: "The FCC has worked to ensure that all web addresses that users might have bookmarked or otherwise utilize on an ongoing basis will remain connected to the relevant content." Hmmmm.

If you just can't wait and want a sneak peek of the new site, we have that for you [here](#). It's been available since April 2015. If you don't like it, use [this link](#) to tell the FCC. But only if you are a human. Yes, those submitting a comment using that link have to first prove that they are "human" by answering a simple math problem. Like 3+5. No kidding.

If you would like to skip the humanity check, and want a specific question answered, email deanna.stephens@fcc.gov or

sarah.millican.ctr@fcc.gov. Or call them at 202.418.0421 or 202.418.4017. They'll be happy to help you.

Yes, we have surfed a little on the new prototype website. What are our thoughts? We will have no comment at this time. But we'll vent on any legitimate issues in this space.

Filed Your Biennial Ownership Report Yet?

If you are a commercial broadcast station and have not yet filed a biennial ownership report, you still have time (though not much) to do so. December 2, 2015 is the deadline for filing your form and paying the required filing fee (\$65 per station; licensee reports only). have been able to file their biennial ownership reports since October 1, 2015, and have until December 2, 2015 to complete all report filings. Information in the reports must be current as of October 1, 2015.

DATES TO REMEMBER

October 1 – December 2, 2015: BIENNIAL OWNERSHIP REPORT WINDOW OPEN. Filing required for all commercial stations including LPTV and TV translators. Information must be accurate as of October 1, 2015.

November 30, 2015: rule requiring stations to convert text based emergency information aired on their station outside of news and EAS alerts (i.e. crawls dealing with issues like severe weather) into speech for airing on their SAP channels

December 1, 2015:

Form 317 due for all digital full-power TV, Class A TV, LPTV and TV translators.

AM & FM Stations in Alabama & Georgia: 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.

AM & FM Stations in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island & Vermont: if full-time employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

AM & FM Colorado, Minnesota, Montana, North Dakota & South Dakota: if full-time employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website.

TV & Class A Stations in Alabama, Connecticut, Georgia, Maine, Massachusetts, New Hampshire, Rhode Island & Vermont: if full-time employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website.

TV & Class A Stations in Colorado, Minnesota, Montana, North Dakota & South Dakota: if full-time employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website. **NCE Stations Only:** also file biennial ownership report via Form 323-E.

December 8, 2015 12pm ET: FCC Form 177 filing window OPENS for full power and Class A stations to participate in 2016 TV Reverse Incentive Auction.

December 8, 2015 1pm ET: FCC webinar on reverse auction process.

December 16, 2015: unresolved NCE FM translator applicants from 2003 window must submit information about number of points to which they are entitled for final determination of applications.

December 21, 2015: comments due on FCC proposal to revise rules regarding foreign ownership of broadcast stations.

January 1, 2016: stations must begin captioning "straight lift" clips – a single excerpt of a program that was captioned when first shown on TV, with the same video and audio as broadcast – that are then uploaded to the internet for further viewing.

January 10, 2016: TV, Class A, AM & FM Stations (commercial and noncommercial): complete 4th quarter 2015 issues/program reports. TV & Class A Stations post same to your online public file. AM & FM stations place in your public file.

TV & Class A stations (commercial only): complete and electronically file FCC Form 398 Children's TV Programming Report for 4th Quarter 2015. Link to your report should be made automatically by FCC to your online public file. Also compile and post to online public file records relating to station's compliance with children's programming commercial limits.

Class A Stations Only: complete and post to your online public file certification of ongoing Class A eligibility.

January 12, 2016 6pm ET: FCC Form 177 filing window CLOSES for full power and Class A stations to participate in 2016 TV Reverse Incentive Auction.

January 20, 2016: reply comments due on FCC proposal to revise rules regarding foreign ownership of broadcast stations.

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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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