



Broadcast Newsletter

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THE SECOND FM TRANSLATOR WINDOW FOR AM STATIONS: FILING DEADLINE EXPLAINED

For those AM stations that have just encountered an opportunity to acquire and relocate an FM translator up to 250 miles for use with the station, there is still a little time remaining to file a modification application in the current filing window. But time is running very short. The window closes on October 31, 2016, but be careful – it closes at 5:59 p.m. EDT on that day, not at midnight. So plan accordingly.

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.

For AM stations that have not participated in either of the two 2016 filing windows, a filing window for new FM translators has been projected for 2017, but has not yet been scheduled. That window will be an auction window, meaning that applications that are mutually exclusive will either have to file technical amendments to become grantable, or head to an auction where the highest bidder wins and pays for a permit. Applications filed in that window that are not mutually exclusive with another application will be grantable without any payment, presuming that the application is in accordance with the FCC’s rules. When the FCC gets set for that process, it will issue an announcement and we’ll cover it in this newsletter.

NATIONAL EAS TEST – ARE WE DONE YET?

Another article about the National EAS test? Yes, we’re sorry but bear with us please.

We want to talk briefly about the third filing that is necessary in connection with the test. It’s true. EAS Form 1 and EAS Form 2 were not enough. The FCC wants EAS Form 3 also for each broadcast station (other than FM or TV translators), of course). If you haven’t filed yours yet, don’t panic. You have until November 14th to do so. But here’s a heads up --

the information previously announced as required for the EAS Form 3 has morphed into a much more detailed reporting requirement -- one that appears to us to have changed mid-stream, without any announcement. Shame, shame.

For example, the FCC no longer wants a general explanation of any test details. It now has a menu of choices for both the test receipt and transmission, such as “no complications” or “audio quality issues” or “user error.” Seems that the FCC figured out pretty quickly that free-form descriptions required a staffer to read and categorize issues, something that takes time. So it simplified things. Also new is a list of your EAS test sources and a requirement for identifying each one from which a station received the test message. Then, the FCC wants stations to identify the source from which it *first* received the EAS message. But wait, there’s more. A menu listing of the language of the EAS message received and transmitted is provided, and a station has to choose from English, Spanish, Chinese, Korean, Russian or Other. The time of message receipt and transmission in hours, minutes and seconds is also necessary.

So if you filed EAS Form 2 on the day of the September 28th test, and then set aside the filing of EAS Form 3 for later like most stations, you’ll probably need to go back and check your EAS log for specifics.

To file EAS Form 3, you must log in to the [EAS Test Reporting System \(ETRS\)](#) using the same access codes that were required for Forms One and Two. Again, the deadline to file EAS Form 3 is November 14, 2016.

THE SHOCK OF A ONE-ROUND STAGE TWO FORWARD AUCTION

It was the shock heard around the country. With a new 114 Mhz clearing target (19 TV channels), and a \$58 billion price tag, the FCC announced and then started the first round of the Stage Two Forward Auction. And a few hours later, the Stage Two Forward Auction ended based on the activities of the bidders and the computer algorithm. The bidding system announcement to that end was

initially not believable. And then reality set in. It was true. The FCC’s activity requirement for the top 40 markets was apparently not met, and despite bidding that continued in markets above that, the stage was declared over.

The FCC’s carefully worded announcement about Stage 3 did not allude to the unusual end of the prior stage, but merely announced that a future notice would be forthcoming. That announcement has arrived, and the FCC has declared 108 Mhz as the next clearing target, with bidding in the Stage 3 Reverse Auction set to begin on Tuesday, November 1st.

The pundits and smart people believe that we’re headed to a Stage 4, but we’ve got to see the outcome of Stage 3 first. Questions abound, but answers are on the way.

IS YOUR TV STATION’S CONTACT INFORMATION ACCURATE?

Two weeks ago, the FCC’s Media Bureau issued a notice reminding all television licensees of the importance of having accurate contact information on file with the FCC. The reason is important, and as you might have guessed, is related to the incentive auction. Let us explain.

When the auction ends, the FCC will need to announce a repack plan to speedily get TV stations moved into their new band. They’ve announced a tentative plan for doing so (see related article below), which includes a confidential notice to TV stations about channel reassignments. For stations that filed a Form 177 to become eligible to participate in the auction, the confidential notice will be sent to the contact address provided in that form. Any stations that did not file a Form 177 will receive channel reassignment information at the address contained in the Licensing and Management System (LMS).

Contact information can be easily changed by either amending the Form 177 or logging in to LMS. At a minimum, check your station’s contact information to be sure it is accurate.

FGC PROPOSES TV REPACK PLAN

On September 30, 2016, the FCC published a proposed plan for the repack of TV stations into the TV spectrum that will remain after the Incentive Auction concludes. Comments are due by October 31st, and reply comments by November 15th. You can read the proposal [here](#), or instead listen to a webinar [here](#) to get some understanding of what the FCC is thinking.

It's true that not every station will have to change channels post-auction, but we won't know which ones will until the end of the auction. The FCC has proposed that each station having to channel change be assigned to one of 10 "transition phases" during a 39-month period. A computer will make the ultimate decision on which phase, weighing a number of factors, including interference and location.

Once the final stage rule of the auction has been met, but while the last forward auction bidding is finishing, the FCC will know the repack plan and will send confidential letters to every TV station stating the station's post-auction channel and technical parameters. The letter will either specify the station's pre-auction channel and technical parameters (for the lucky stations that won't have to channel change), or a channel different from its pre-auction channel (in which case, the station will have to change channels). The reason for this early confidential notice is so stations can start planning as soon as possible, and be ready to file for a new channel construction permit as soon as the 90-day window for doing so opens at the close of the auction. The FCC will issue a public notice announcing that they've sent the confidential letters.

For those stations that will channel change and are entitled to reimbursement of expenses (those that voluntarily changed to low or hi-vhf channels in the auction don't get reimbursed), the FCC has launched a beta-version of its online system for stations to file for reimbursement of expenses. You can access it by logging in to [LMS](#) using your FRN and password.

DATES TO REMEMBER

October 31, 2016

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

November 14, 2016

Deadline for all broadcasters to file EAS Form Three using the EAS Testing Registration System (ETRS). This is the last filing required by the National EAS Test conducted in September.

December 1, 2016

ALL digital Full Power TV, Class A and TV Translator Stations must electronically file FCC Form 317, Annual DTV Ancillary/Supplementary Services Report.

AM & FM Stations in Alabama, Georgia, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont: 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 Colorado, Minnesota, Montana, N. Dakota and S. Dakota: 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 Alabama and Georgia: 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 Colorado, Minnesota, Montana, N. Dakota, S. Dakota, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: 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 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont:** also file biennial ownership report via Form 323-E and place copy in public file.

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For more info, contact Joe Chautin or Mark Balkin.

Phone 985.629.0777

Fax 985.629.0778

www.hardycarey.com

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.

 Hardy, Carey, Chautin & Balkin, LLP
ATTORNEYS AT LAW
1080 West Causeway Approach
Mandeville, Louisiana 70471-3036