



# Broadcast Newsletter

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## **MEDIA REGULATION REVIEW UNDERWAY**

At its May meeting, the FCC kept up its rapid pace of change, boldly launching a “catch all” Modernization of Media Regulation [Initiative](#) to review all media regulations for the purpose of eliminating or modifying rules that are outdated, unnecessary or unduly burdensome. Rather than suggest what rules might need to be changed, the FCC simply listed the principal rule parts covered by the proceeding, inviting comments by July 5, 2017.

Many of the FCC’s broadcast station rules need scrutiny. For example, does the requirement to publish local notices when stations file certain forms really matter? Who is reading those? It’s hard to believe, but the “local notice” rule is literally 3,893 words long. And it requires newspaper publication in many instances.

Why is it necessary to have a top of the hour station identification? Why do you have to maintain a separate “records” file for FM translators? And can’t the FCC look in the latest online filing for a translator’s contact information instead of requiring that it be posted in a weatherproof placard at the bottom of the translator tower?

If these cause you to scratch your head, we’re with you. It’s summertime, so make a top ten list of FCC rules that should head to the trash heap (or at least be updated). And then let the FCC know. The only broadcast rules exempt from this proceeding are the multiple ownership, affiliation, and video accessibility rules, which are being addressed elsewhere.

## **MAIN STUDIO RULE PROPOSED FOR ELIMINATION**

That is a correct headline. And the tone of the FCC’s [proposed rulemaking](#) released May 18<sup>th</sup> sounds like elimination is precisely where we’re going to end up.

The issue here is whether the FCC should still mandate that a station have a main studio with two full-time employees during normal business hours from which it can originate

programming for broadcast. Some form of this rule has existed since before World War II. But in the FCC's view, it no longer makes sense, especially in our online world where a station's public file is, or will soon be, available electronically via an FCC portal. It's not that main studios will be prohibited. If you still want to have a studio, great. But the agency that regulates you won't be telling you that you must have one or be fined.

Maybe you rent your studio space and it is costly, without much of an upside. Or maybe you own the studio building, but could sell it and have your administrative offices elsewhere. Perhaps having a single employee at the station works best for you at some points during the week. Or maybe Friday afternoons are slow and it is not necessary to have anyone there. Or how about having to maintain two different studios with at least two employees at each because one of your stations is just outside of a 25-mile radius from its community of license? Arrggh!

We don't mean to trivialize the issue, but mandating a brick and mortar main studio seems a bit clunky in the internet age, no? To be sure, the FCC's NPRM leaves open a tiny crack by inviting alternatives to complete elimination, such as still requiring larger stations to have a main studio. But it sure gets short shrift, suggesting that the FCC can't really see hanging on to a rule that seems like it belongs on display in a museum.

There isn't a comment deadline for this proceeding yet, but it should be announced soon. The more stations that support elimination of the rule, the more likely it is that the rule will die.

## POST-AUCTION REPACK CLOCKS ARE TICKING

We're just shy of two months into a 39-month post-television auction repack of all television stations between channels 2 and 36. Every affected station knows its assigned transition phase, and the various deadlines to get there. Next up is June 12, 2017, the deadline for stations that cannot build its post-auction facilities to ask for more time to file for a construction permit. July 12, 2017 is the deadline for all repacked and voluntarily relocating stations to file a construction permit application for their

allotted facilities. And any repacked station must also file a Form 399 reimbursement expenses estimate by July 12, 2017 so the FCC can allocate funds for station channel change build outs.

By October 10, 2017, the FCC will want television stations being reimbursed for a channel change – and now, also those stations that accepted auction funds to voluntarily relocate – to begin filing quarterly transition progress reports so the FCC can keep tabs on how everyone is doing. And for stations being reimbursed, there's always that Form 1876, the original of which has to be signed, notarized and submitted at some point so that a station bank account can ultimately be tethered to the US Treasury allocation for reimbursement proceeds. Oddly, there's no deadline for that one. Just get it done in time to pay your first vendor.

And we never thought summer could be this fun, now did we? Need help? We've got that. Let us know.

## REGULATORY FEES ALREADY?

Yes, that annual ritual of paying a fee for the privilege of holding a commercial broadcast license is indeed around the corner. It always falls sometime in September. But around now, four months out, the FCC initiates a little [proceeding](#) to discuss how much stations will pay. The proposed regulatory fee amounts are either the same or close to last year, but the FCC will first receive comments and review other information before finalizing those numbers sometime in late summer.

## INCENTIVE AUCTION BROADCASTER PAYOUT TIMING – A GUESSING GAME

It's the date the FCC has refused to announce – the date that the 175 winning broadcasters in the auction will be paid what they were promised. The day that their "provisional" status becomes reality. Without saying a date, the FCC has suggested that it may be able to pay all the winning broadcasters in one fell swoop. And from that, it is pretty easy to deduce that the "all at once" possibility would be sooner than the alternative, "pay-by-transition-phase" approach.

Reading the tea leaves is somewhat informative. Like a national writer we saw who looked at history and projected 90 days after auction closing for payments. Or large broadcast companies informing shareholders of expected auction proceeds in the third quarter of 2017.

So here's the deal. The FCC's own actions contain the strongest indicators of payment timing. The deadline for forward auction bidders to pay up for their new licenses was May 11th. Those are the funds that the FCC will tell the US Treasury to release to broadcast station winners, but not until the FCC has granted the forward auction licenses, applications for which have been on file since April 11. Now the drumroll... Most of those applications were accepted for filing (a purely administrative action) on May 18<sup>th</sup>. Petitions to deny or oppositions can be filed through June 6<sup>th</sup>, with replies by June 13<sup>th</sup>. Assuming, without knowing, that many of those applications can be granted in the last half of June, one can deduce that a grant of licenses equivalent to \$10.3 billion in bids -- just under half of the entire auction result -- might just be possible, enabling the FCC's plan to pay all winning broadcasters at one time.

July? August? Depending on FCC efficiencies, neither is outside the realm of possibility for auction payment timing. The FCC has already acknowledged receipt of winning station Form 1875s, and should begin emailing such stations in the next two weeks to access the banking module in CORES to populate their bank account info. And, so, we wait. And guess.

## FM TRANSLATOR UPDATE

We're still waiting for official documentation for the FM translator window to be held later this summer. Nothing yet. There will actually be two short windows, back-to-back. And like last year's windows, this translator opportunity is for AM stations (Class C & D first, followed by Class A & B). But not all AM stations will qualify. Only AM stations that did not file to acquire or relocate a translator in the 2016 windows are eligible to file in the 2017 windows, when announced.

## FCC ANNOUNCES PLANS FOR POST-AUCTION LPTV DISPLACEMENT WINDOW

As LPTV and TV translator stations are staring at the impacts to their operations from the post-auction repacking of full power and Class A television stations, the FCC has issued a [public notice](#) that lays out the game plan for displaced low power stations.

The FCC anticipates announcing and issuing procedures for a displacement filing window late this year, with the window itself occurring 60 days after the announcement and lasting 30 days. Ultimately then, the actual filing window will fall somewhere in the first quarter of 2018. This window filing opportunity will occur after repacked and relocating full power and Class A television stations have completed their application windows, which continue until the fall.

Notably, the FCC anticipates making a "channel finder" tool available to displaced stations, and will also allow stations already operating digitally to relocate up to 48 km as part of a channel change.

## DATES TO REMEMBER

### June 1, 2017

**AM & FM Stations in the District of Columbia, Maryland, Michigan, Ohio, Virginia & West Virginia:** 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.

**AM & FM Stations in Arizona, Idaho, Nevada, New Mexico, Utah & Wyoming:** 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. **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:** your Form 323-E ownership report that would have been due on this date has been suspended until December 1, 2017.

**TV & Class A Stations in Michigan & Ohio:** if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website and prepare **and** electronically file mid-term EEO Form 397 via the License Management System (LMS). **NCE Stations Only:** your Form 323-E ownership report that would have been due on this date has been suspended until December 1, 2017.

**TV & Class A Stations in the District of Columbia, Maryland, Virginia, West Virginia, Arizona, Idaho, Nevada, New Mexico, Utah and Wyoming:** if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post same in online public file.

### June 12, 2017

Deadline for reassigned TV stations to file for authority to delay construction permit application beyond July 12, 2017 deadline because they are unable to construct their allotted facilities.

### July 5, 2017

Deadline to file initial comments in Modernization of Media Regulations proceeding.

### July 10, 2017

**TV, Class A, AM & FM Stations (commercial & noncommercial):** complete 1st quarter 2017 issues/program reports. **TV & Class A** stations post the report to your online public file. **AM & FM Stations** place in your public file (if already moved online, place in online public file).

**TV & Class A stations (commercial only):** complete and electronically file via LMS the FCC Form 398 Children's TV Programming Report for 1<sup>st</sup> Quarter 2017. Your report should be automatically linked by the 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 TV Stations Only:** complete and post to your online public file a certification of ongoing Class A eligibility.

### July 12, 2017

Deadline for reassigned TV stations to file a construction permit application on Form 2100 for their allotted facilities.

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