



Broadcast Newsletter

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REVISION OF THE FM TRANSLATOR INTERFERENCE RULES UNDERWAY

It's been a few decades since the FCC last considered and adopted rules governing FM translator interference, partly because full power and FM translator stations were largely content to leave well enough alone. But the proliferation of cross-service FM translators has created a little congestion on the FM dial (you think?), and numerous complaints of interference have clogged the FCC's inboxes. Some of those complaints – still unresolved – have been pending for months (and some for more than a year). So, what's an agency to do? Perhaps a rule change?

That's right. Months after the NAB and others filed to suggest that it was time to review the FM translator interference rules, the FCC recently took its first concrete action toward reviewing those rules, publishing and circulating a draft notice of proposed rulemaking that invites comments from all parties. This [fact sheet](#) and draft NPRM gives a precise summary of some of the proposals being considered. Channel changes, a minimum number of listener complaints, and other ideas are on the table. Keep in mind that FM translators are a secondary broadcast service and are therefore subject to interference from and cannot cause interference to full power stations. That means they can be shut down and displaced. Make your voice heard on this one by carefully reviewing the draft NPRM and filing comments when it is adopted.

2017 NATIONWIDE EAS TEST REPORT

The FCC's Public Safety and Homeland Security Bureau has issued its [report](#) of the Nationwide EAS Test that was conducted in the fall of 2017. According to the report, nearly 96% of test participants received the test alert, up slightly from 2016, and almost 92% of test participants successfully retransmitted the test alert, up from only 86% in 2016. Some technical issues still need to be worked out for how test alerts are being received. The report does not announce a new test this fall, but we would not be surprised at all if one is scheduled. Last year, the fall test was announced in June, so keep your eyes out in coming weeks.

A NOTE ABOUT EEO BROADCAST STATION AUDITS

One final note about the FCC's most recent round of broadcast station EEO audits which featured novel email notices and responses simply uploaded to your station's online public file. Just as they began with email notices (for most stations), "all clear" letters sent after a station's response have been arriving by email as well. So watch your email inbox (or check your junk or spam filters) if you have not yet received a response from the FCC. For stations not included in this round of audits, be aware that an email is probably going to be how you hear from the FCC about an audit in the future.

Once your station's audit is done, you might certainly be tempted to leave the original letter and your "all clear" letter in your email inbox or elsewhere. But it belongs in your station's online public file. The original notice letter, your response, and the all-clear letter must be uploaded to the online public file and remain there until final action has been taken on your next license renewal application. Oh, and if only one of your stations was audited, but it was part of a station employment unit cluster of stations, then the EEO audit counts for all stations in the employment unit and belongs in those other stations' online public files as well.

ONLINE PUBLIC FILE MONTHLY TIP

We know. You're tired of hearing about the online public file. But here's another tip. After going "live" with your public file, there is a separate "certification" that is technically supposed to be completed as well. That certification confirms that all documents have been uploaded and none are still being maintained on paper (i.e., the FCC allowed stations to retain political public file materials existing as of March 1, 2018 in a paper file because they were voluminous, so not everything is in the file).

If your station has uploaded everything, the certification can be found by logging in to your file, clicking on the Settings Tab, and then clicking on the Certification tab. There, you will see this language: *This is to certify that you have uploaded*

all existing public file material required to be included in the online public inspection file. Once this certification is completed, a notification will be added to all pages on your online public file that you have fully transitioned to online public file. From there, you click on " Yes, I certify that I have uploaded all existing public file material required to be included in the online public inspection file" and it's all done. From then on, language will appear at the top of your publicly accessible file heralding the news that all material is uploaded. It says - This entity has confirmed that it has completed uploading all existing public file material required to be included in the online public file.

DON'T MISS REMAINING AUCTION 83 AND 99 DEADLINES

Like yours, our eyes are getting blurry keeping track of FM translator auctions. To be sure, it is almost a dizzying array of auctions and deadlines, so making sure you have the right auction is only the first step.

Auction 99, which will decide the winners out of these [26 applications](#), had an upfront payment deadline of April 19, 2018 at 6 p.m. ET. An auction tutorial will be available May 4, a mock auction on May 11, and the auction will begin May 15, 2018. To review, the Auction 99 [public notice](#) covers all the details. Tokens for bidders should be sent out very soon. Remember that auction bidders and contact persons can be changed at any time on the Form 175.

Auction 83, which will decide the winners of translator permits in the groups those on [this list](#) that originally participated in a 2003 FM translator auction, just concluded a short window for applicants to update and verify information on FCC Form 175. Upfront payments are due no later than May 31, 2018 at 6 p.m. ET. A mock auction will be held June 19, 2018 before the actual auction gets underway on June 21st. The full Auction 83 [public notice](#) includes these and other important details.

LPTV DISPLACEMENT WINDOW EXTENDED

On April 10, 2018, the FCC opened a [Special Displacement Window](#) for LPTV and TV translator stations that are being displaced by the post-

auction repack of television stations into channels 2-36. Applications for stations meeting the displacement criteria could originally be filed through May 15, 2018, but the FCC has now [extended](#) the window to June 1, 2018.

We've seen some anecdotal information that nearly 1200 applications have been filed already. If stations have not done so already, now is the time to call your consulting engineer for assistance in making a displacement determination or preparing the engineering for a displacement application. The FCC's webinar on the filing window is available at this [link](#).

CROSS-SERVICE FM TRANSLATOR AUCTION 100 LONG FORM FILING WINDOW ENDING SOON; SETTLEMENT WINDOW ALSO SCHEDULED

Ten more days. Applicants that participated in Auction 100 to seek an FM translator for their AM station, and are [not mutually exclusive](#) with other applications, have until May 9, 2018 to file their complete Form 349 application and pay the filing fee. Applications must be filed in CDBS. There are 669 "singleton" applications for which a complete Form 349 must be filed. If a long form application is not submitted by that deadline, the application will be dismissed. The FCC has been quickly accepting these applications for filing and issuing a public notice that petitions to deny these applications can be filed for 15 days after the public notice.

For those Auction 100 applicants that are mutually exclusive with others filed in the window, the FCC [announced](#) a settlement window on April 3, 2018, allowing these applicants to begin discussing settlement solutions. Sometimes, a technical solution is possible by one applicant amending their application to specify different parameters. Applicants can also settle by reaching a mutual written agreement to allow one applicant to proceed, while others are dismissed. This agreement is submitted to the FCC for approval. Beginning on May 24th, technical amendments and settlement agreements can be filed with the FCC. The last day to do so will be June 14th.

DATES TO REMEMBER

May 4, 2018

FM Translator **Auction 99** auction tutorial available (may the 4th be with you)

May 9, 2018

FM Translator **Auction 100** Long Form 349 Filing Window closes

May 11, 2018

FM Translator **Auction 99** Mock Auction

May 15, 2018

FM Translator **Auction 99** begins

May 24, 2018

FM Translator **Auction 100** Settlement Filing Window Opens

May 31, 2018

Upfront payments due for FM Translator **Auction 83** applicants

June 1, 2018

LPTV and TV Translator Special Displacement Filing Window closes

AM & FM Stations in the District of Columbia, Maryland, Michigan, Ohio, Virginia & West Virginia, Arizona, Idaho, Nevada, New Mexico, Utah & Wyoming: if (5) full-time station employment unit employee threshold is met, complete EEO public file report and place it in the station online public inspection file as well as post on station website.

TV & Class A Stations in 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 as well as post on station website and prepare **and** electronically file mid-term EEO Form 397 via the License Management System (LMS).

TV & Class A Stations in the District of Columbia, Maryland, Virginia, West Virginia, 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.

June 14, 2018

FM Translator **Auction 100** Settlement Filing Window Closes

June 19, 2018

FM Translator **Auction 83** Mock Auction

June 21, 2018

FM Translator **Auction 83** Begins

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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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