



# Broadcast Newsletter

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## **HAVE A WONDERFUL LABOR DAY WEEKEND!**

We readily admit that this article has nothing to do with FCC matters, which is generally the point of this newsletter. But we thought it would be a nice thing to wish our readers well in advance of the Labor Day holiday (celebrated since 1894 as a national holiday, by the way). We do hope that your weekend is relaxing (at least in part) and rejuvenating (ok, maybe that’s a stretch). Grill something tasty. Now there, that’s a better way to start your reading pleasure as you enjoy our August edition.

### **REGULATORY FEE SEASON HAS ARRIVED**

We hate to characterize the annual obligation for commercial broadcast stations to pay money to the FCC as a season, but we did anyway. So there. After its usual late start, much deliberation, and a mad crunching and re-crunching of numbers, the FCC has **decided** how much commercial stations (that are not otherwise exempt) must pay for the privilege of holding on to that license to use broadcast spectrum.

The deadline for remitting regulatory fees is September 24, 2019, so starting today, there are 25 days left to make your payment. The FCC issued a [public notice](#) about that, along with details on how to pay up. You can look up how much your station owes at this [link](#), and then go to this [page](#) to pay them. No mailing of checks – electronic payment is the only way to pay your fees. If the total amount a licensee owes is \$1,000 or less, they are exempt under the *de minimis* rule, and can simply kick back and relax. If that’s you, please know that we are genuinely happy for you. But above that level, and the credit card will get a work out. Oh, by the way, the credit card only works if the amount you’re paying is less than \$24,999. Otherwise, your options are ACH or wire transfer.

Being late by one day earns you the privilege of paying a 25% penalty on top of the fee. We’ve heard of many excuses for those “last day” payors that encountered difficulties (credit card limit blocks payment, credit card gets

locked, computer decides to download new software that day, dog ate my regulatory fee homework, employee that pays them drank too much coffee, binge watching favorite show, I forgot ...). None of these excuses work. The penalty applies, and resistance is futile. So, here's a tip. Don't wait until the last day. You're welcome.

## COME AND GET YOUR CASH

It's been a long time coming, but LPTV and TV translator stations that were displaced by the post-auction repack can now enter the FCC's "cash portal" to receive reimbursement for their reasonable costs incurred in moving to their new channel. Ok, there is no real cash portal, and the process for receiving funds is a bit complicated. But at least there's a real path to reimbursement (thank you, Congress), where before, there was none.

Stations that qualify must complete and make two filings by October 15, 2019. First, a Form 399 Eligibility Certification must be completed and filed, with documentation uploaded to prove eligibility. A separate Form 399 Estimate/Request for Reimbursement must also be filed by that deadline. The FCC will then confirm eligibility and arrive at an allocation for each station.

To receive any monies, a station has to separately complete, sign and mail in a paper Form 1876 to have the FCC recognize the licensee entitled to reimbursement, and its bank account for receiving funds. That submission is not subject to the October 15, 2019 deadline, but filing the form is a prerequisite for receiving reimbursement dollars. It takes the FCC about 6 weeks to process that form and recognize your account, so keep that in mind.

Funds received are subject to audit, so don't go buy new shoes or a car with this money. Creating a separate bank account just for reimbursement dollars is a good idea. That makes things easier to track, and greatly reduces the amount of perspiration produced while enduring the cold stare of that soulless auditor. Ok, we exaggerated just

now. A little. You can read about the process at this [link](#).

## NATIONAL EAS TEST FINAL FILING

The 2019 EAS National Test had some problems with garbled audio and stations not receiving or retransmitting messages. That's why there is an ETRS Form Three that must be filed to report any issues or problems experienced with the national test. Have you filed your station's ETRS Form Three yet? If not, it is due no later than September 23<sup>rd</sup>. Yes, reach for that phone calendar and put it in now. Nice job. Every station has to file Form Three, even if you didn't experience any problems.

## SPONSORSHIP ID RULE VIOLATIONS ARE SERIOUS MATTER

The sponsorship identification rule is pretty straightforward – stations must disclose sponsors of paid programming, lest the public be duped into believing that the paid broadcast material is a station's own independently generated content. Yes, there are some exceptions (you can read those in [73.1212](#) of the FCC's rules).

Not following the sponsorship identification rule is a recipe for losing money quickly, as Cumulus recently learned. Eight years ago, A Cumulus station failed to follow the rule and entered into a consent decree with an obligation to report any noncompliance with the sponsorship identification rules within 15 calendar days of discovering its noncompliance. In 2017 and 2018, Cumulus failed to report 26 instances of noncompliance. The FCC has [proposed](#) a fine of \$233,000 for these missteps. That's about \$9,000 for each violation and failure to report non-compliance. We'll just leave that there.

## NEW FM TRANSLATOR INTERFERENCE RULES EFFECTIVE

On August 13, 2019, a new era in the FM translator interference world began. That's the day the FCC's new rules about how full power stations must prove interference from an FM translator went into effect.

That includes the bright line rule of the full power station's 45 dBu contour as the point beyond which FM translator operation is presumptively non-interfering. Oh, and did we mention the requirement that a full power station certify in any complaint against an FM translator that it reached out to the translator licensee and tried to work out a solution? Oh, me. Oh, my.

Ok, ok, there's good and bad in the new rules, so don't let our pithy remarks sour your view. But do read and know the [new rules](#), and know also that they are now effective. No time to read a full report and order from the FCC? We understand. Hint – the Cliffs Notes version is at Appendix B of that link, where the language of the new rule comfortably awaits your perusal.

## PARTS OF CHILDREN'S TELEVISION RULE CHANGES BECOME EFFECTIVE SEPTEMBER 16

Remember those children's television rule changes that the FCC adopted back in July? If not, they can be found in this [order](#), with the new rule at 51-53. Some of the most important changes will go into effect September 16<sup>th</sup>. Other parts that involve changes in forms will take a bit longer.

But let's review what changes on September 16<sup>th</sup>, since that's the purpose of this article anyway. That's the day that the requirement for stations to air 3 hours of children's educational programming on their 24/7 multicast channels will expire. [Cue background applause] But wait, there's more. Back on your main channel, September 16 is the day you can start counting children's educational programming from as early as 6 a.m. toward your 3 hours per week obligation, or help your main channel meet its obligation by shifting up to an hour of that programming to a multicast channel.

We can see you holding your breath for word that you won't have to file a 3<sup>rd</sup> quarter Form 398 by October 10<sup>th</sup>. Go ahead and exhale – you're in no such luck. The rule change for filing that form on an annual instead of quarterly basis is a change in information submission, so that part has a few more hoops to jump through before it will become effective. So, stations should still prepare and file the 3<sup>rd</sup> quarter report by the October 10 deadline.

We know you're disappointed. That's ok. Of course, if you ceased airing children's programming on your multicast channels as of September 16, the number of hours aired will need to be recalculated and accurately reported on the 3<sup>rd</sup> quarter report (yes, you'll need a calculator).

## DATES TO REMEMBER

### **September 6, 2019**

End of Post TV Auction Transition Phase 5; all TV and Class A stations assigned to Phase 5 must cease broadcasting on pre-auction channels and begin broadcasting on post-auction channels.

### **September 7, 2019**

Beginning of Post TV Auction Transition Phase 6 and start of Phase 6 testing period.

### **September 16, 2019**

Comment Deadline for KidVid Further Rulemaking

### **September 23, 2019**

**All Broadcast Stations (except TV and FM translators):** Deadline to file ETRS Form Three reporting status of participation in EAS National Test conducted August 7.

### **October 1, 2019**

**Radio Stations in Florida, Puerto Rico & the Virgin Islands** – file license renewal application and schedule 396 Broadcast EEO Program Report, and air first post-filing license renewal announcement; additional post-filing announcements must air Oct 16, Nov 1, Nov 16, Dec 1 and Dec 16.

**Radio Stations located in Alabama and Georgia:** broadcast first pre-filing license renewal announcement; additional pre-filing announcements should air Oct 16, Nov 1, and Nov 16.

**Radio and TV Stations located in Florida, Puerto Rico, Virgin Islands, Iowa, Missouri, Alaska, American Samoa, Guam, Hawaii, Marianas Islands, Oregon & Washington:** if five (5) full time employee threshold is met, prepare EEO public file report and post

it to the station online public inspection file and on the station website.

**All Commercial and Noncommercial Radio, TV, Class A, LPTV Stations:** First day to file 2019 Biennial Ownership Report or certification of no change in LMS filing system.

## **October 10, 2019**

**TV, Class A, AM & FM Stations (commercial & noncommercial):** complete 3<sup>rd</sup> Quarter 2019 issues/program reports and place in public file.

**TV & Class A stations (commercial only) and any LPTV station with must-carry rights:** complete and electronically file via LMS the FCC Form 398 Children's TV Programming Report for 3<sup>rd</sup> Quarter 2019, and also compile and post to the public file records relating to the station's compliance with children's programming commercial limits for 3<sup>rd</sup> Quarter 2019.

**TV & Class A stations** changing channels as part of the repack or based on voluntary receipt of auction funds should file a transition progress report in LMS (unless the station has already transitioned, or is in Phase 5 and exempt from this report).

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

## **October 15, 2019**

Deadline for all eligible LPTV and TV translator stations displaced by the post-television auction repack to file eligibility certification and estimate of costs for displacement channel buildout.

## **December 1, 2019**

**All Commercial and Noncommercial Radio, TV, Class A, LPTV Stations:** Last day to file 2019 Biennial Ownership Report or certification of no change in LMS filing system.

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