



# Virginia Association of Broadcasters Legal Review



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## Legal Memorandum

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*In this issue, link to information about*

*Deadlines:*      [FX Filing Window Opens July 26](#)  
                         [Nationwide EAS Test Scheduled for September 27](#)

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### Final Countdown: FM Translator Window for AM Stations Opens July 26; Tutorial for Filing Window Now Available

As we previously reported, the FCC released a [Public Notice](#) (“Notice”) announcing the details and filing instructions for the FM translator auction filing window that will be open from July 26 to August 2, 2017. The window is for Class C and Class D AM stations to apply for cross-service FM translator station construction permits.

The FCC has also made available an [online tutorial](#) to provide an overview of the application filing requirements for AM stations seeking to file for a new FM translator in the upcoming window. The online tutorial is available on the FCC’s Auction 99 website at [http://wireless.fcc.gov/auctions/99/Tutorial99/Auction\\_Filing\\_Tutorial\\_Presenter\\_output/presentation.html](http://wireless.fcc.gov/auctions/99/Tutorial99/Auction_Filing_Tutorial_Presenter_output/presentation.html).

*Background.* Broadcasters will recall that the FCC opened two modification filing windows in 2016 for AM stations seeking to acquire and/or modify existing cross-service FM translators. Both of those windows have now closed. The filing window that will be open from July 26 to August 2 is the first of two auction filing windows the FCC will open for AM stations seeking to establish new FM translator stations in order to retransmit their signals on a full-time basis. The second cross-service FM translator auction filing window will be announced at a later date.

*When is the Filing Window Open?* The auction filing window will open on July 26, 2017, and will close at **6 p.m. Eastern Time on August 2, 2017.**

*Only Certain Stations are Eligible to File.* Not all AM stations are eligible to file in the upcoming window. Eligibility for this filing window is limited to any Class C and Class D AM station licensee or permittee wishing to file an application to establish a new cross-service FM translator to re-transmit its station signal full time, provided that it did not apply for an FM translator in either of the 2016 modification windows. So, if a Class C or Class D AM station filed during one of the 2016 windows, it cannot file during the July 26 – August 2 window.

*Mutually Exclusive Applications.* In the event that FM translator proposals filed during this window are determined to be mutually exclusive (MX), the FCC will provide MX'ed applicants with an opportunity to resolve the conflict through technical amendments or settlement. In the event the MX'ed applications are not resolved through settlement or technical amendments, the applicants will go to auction ("Auction 99") to resolve the situation through competitive bidding.

*What FCC Forms Are Required to Be Filed During the Window?* Each applicant for a new FM translator station must file electronically for each proposed FM translator three designated sections of FCC Form 349, including the Tech Box of Section III-A. In addition, each applicant for a new FM translator station also must electronically file FCC Form 175. Among other things, Form 175 requires applicants to provide certain ownership information, the precise file number assigned to the applicant's filed Form 349, and to make certifications regarding whether it is a current or former defaulter or delinquent debtor to the FCC or other federal agencies. The Notice provides detailed filing instructions for FCC Forms 349 and 175.

*Help Is Available to AM Stations Seeking to File for a New FM Translator, But Time Is Running Out!* The FCC has released an [online tutorial](#) to help educate applicants about the filing process and requirements. AM stations interested in filing would be well-advised to review the tutorial and to contact a consulting engineer and legal counsel ASAP so that you are prepared before the window opens on July 26.

We strongly recommend that stations interested in participating in this auction consult immediately with their consulting engineer and legal counsel.

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## FEMA Advises FCC of Next Nationwide EAS Test (September 27, 2017)

On July 14, FEMA sent correspondence to the FCC advising that it plans to conduct a nationwide EAS test on Wednesday, September 27, 2017. (FEMA has selected October 4, 2017, as the “backup” date.)

The FCC will be releasing a public notice any day to advise broadcasters of the deadline to update EAS “Form One” in the FCC’s ETRS (EAS Test Reporting System). When the FCC releases its public notice, we will advise stations of the deadline and next steps. And, then, stations can look forward to engaging in the same three-part EAS test report filing process—Form One, Form Two, and Form Three—as was used for the 2016 nationwide EAS test. Stay tuned, because there is more to come!

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If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

*Stephen Hartzell, Editor*

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