



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

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First Quarter “Transition Progress Reports” for Post-Auction Transitioning Stations Due **April 10, 2018**

This is a reminder for all full power and Class A transitioning stations that are changing channels in the post-Auction transition that the next quarterly Transition Progress Report—FCC Form 387—is due **April 10, 2018**. Transition Progress Reports must provide information regarding steps stations have taken toward construction of their post-Auction facilities, and transitioning stations have to file the Form 387 each quarter until the station ceases operation on its pre-Auction channel. The Form 387 will also have to be filed at other specific times prior to and following the completion of construction. (Please contact your communications counsel for information about the non-quarterly deadlines for filing Transition Progress Reports.)

As we’ve explained previously, two questions on Form 387 require each filer to indicate whether, as of the date the report is filed, the station expects to procure, install, and schedule all equipment and services necessary in a timely fashion to meet its transition deadline. Stations are encouraged—even if they are still on schedule to meet all applicable FCC transition deadlines—to include narrative descriptions of any potential issues that could possibly arise as their transition unfolds and progresses.

Special Displacement Window for Certain Low Power Television Stations and TV Translators Opens April 10, 2018

This is a reminder that the Special Displacement Window for certain low power television and TV translator stations (collectively, “LPTV stations”) will open on **Tuesday, April 10, 2018**, and close on **Tuesday, May 15, 2018**, at 11:59 pm Eastern Time. In February, the FCC released a [Public Notice](#) announcing the opening of the Special Displacement Window, during which LPTV stations and analog-to-digital replacement translators that (1) were displaced due to the Incentive Auction or subsequent repacking and (2) were “operating” as of April 13, 2017, will be able to file for a new channel in the post-Auction, repacked TV spectrum. (Note: in order for a station to be deemed “operating,” the station’s construction permit facilities had to be licensed or the station must have had a license-to-cover application on file with the FCC by April 13, 2017.)

Stations will recall that the FCC also released data that identifies locations and channels where LPTV stations likely cannot propose displacement facilities because of the presence of full power and Class A television stations, land mobile operations, and other (non-displaced) LPTV stations. The channel data is intended to help displaced LPTV stations identify potential channels to specify in their Special Displacement Window applications, and the data are available on the FCC’s website at <http://data.fcc.gov/download/incentive-auctions/LPTV-Data/>. In addition, the FCC conducted an informational webcast relating to the Special Displacement Window, and both the archived video and copies of the slide presentation are available [on the FCC’s website](#). If you have a displaced LPTV station, you should already be in the thick of planning for the opening of the Special Displacement Window next week. If you have not yet begun planning, we recommend that you reach out to your consulting engineer immediately to start the process.

FCC Might Delay May 26, 2018, Deadline for TV Stations to Video Describe Emergency Graphics on Secondary Audio Program Stream

A couple of months ago, we reminded you of the May 26, 2018, deadline for complying with the FCC’s rule that requires non-textual emergency information that airs during non-news programming—e.g., maps, radar images, and the like—to be “translated” into spoken text for transmission on a secondary audio stream. (This is like the FCC’s Audible Crawl Rule, pursuant to which stations have been required since November 2015 to video describe emergency information on a secondary audio stream when such emergency information is provided textually on-screen—e.g., in a crawl or ticker—during non-news programming.) More recently, the FCC announced in a [Public Notice](#) that it is seeking comment on a [petition filed jointly](#) by the NAB and certain disability advocacy groups to extend the May 26, 2018, compliance deadline for five more years. According to the petition, the marketplace has still not developed a turnkey technical solution for television stations to use to comply with the rule, and a five-year delay would “allow time for industry to transition from the current broadcasting system to technologies with greater potential for integrating a technical solution that will enable broadcasters to aurally describe visual emergency information.”

Comments on the petition are due April 13, 2018, and reply comments are due April 20. Given the history of the rule’s compliance deadline—which has already been delayed multiple times—and the FCC’s willingness to understand the real-world technical challenges presented by

the mandate, it is likely that the FCC will view favorably the request to extend the compliance deadline again.

Rule Requiring Stations to Keep Paper Copies of FCC Regulations Officially “Off the Books”

Stations can recycle their paper copies of the FCC’s rules. The requirement that certain television and radio broadcast entities (as well as certain cable operators) maintain paper copies of the FCC’s rules was officially eliminated as of March 30, 2018. As you may recall, the FCC in February adopted a [Report and Order](#) eliminating the requirement, and the Order became effective when it was published in the Federal Register last week.

Given stations’ ability to immediately access the FCC rules online, coupled with the fact that the electronic version of the Code of Federal Regulations (i.e., where one finds the FCC’s rules) is updated more frequently than the print edition, the FCC eliminated the “paper copy” rule as part of its effort to reduce outdated and unnecessarily burdensome regulations.

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

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