



# Broadcast Newsletter

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## **RADIO STATION ONLINE PUBLIC FILE REMINDER**

The FCC has determined that several radio stations have not completed their migration from a paper public file to the online public inspection file, as was required earlier this year. The FCC issued a [reminder](#) about the requirements and earlier deadlines on November 5<sup>th</sup>. In that notice, the FCC advised that by November 15<sup>th</sup>, it would automatically activate the online public files of those stations that had not done so.

Failure to place documents in and properly maintain a public inspection file is perhaps the most significant source of fines for stations at license renewal. In renewal applications, stations must certify that they have properly maintained and timely placed all required items in the public file for the entire 8-year license term. Minor infractions (i.e., being late by one or two days to upload a required document) don't usually result in a monetary fine, but longer or repeated instances of public file infractions do.

All broadcast stations should be calendaring and using two-person control to ensure that items are timely uploaded to the public file. Excuses of “my employee forgot” or “that employee quit suddenly” do not hold water at the FCC.

## **FCC REIMBURSEMENT CYBERSECURITY ALERT**

In light of a recent fraud attempt, the FCC has taken the unusual step of issuing an email to all television stations receiving television auction channel change reimbursement funds. The email notes that there has been no threat to the FCC's systems or reimbursement program, but that the FCC was recently made aware that a reimbursement recipient may have been the victim of a “spear-phishing attack.”

In the attack, a familiar vendor was impersonated and requested an email that payments be redirected to a different bank account than previously specified by the vendor. The email itself included non-public information about an invoice. The FBI is now investigating the incident.

The FCC completed a review of its systems and found no indication that they had been breached or compromised. Their email included the following helpful tips:

- Regularly change passwords, including those used for access to non-public information
- Limit the number of parties who have access to passwords and other sensitive information
- Be alert for suspicious or unusual communications and separately verify any such communications with a trusted source
- Double check for minor changes in the email address used to contact trusted parties on important communications
- Use anti-virus software and be sure it is up to date
- Hover over links before you click to ensure that the website listed is in fact the one you intend to visit

## LICENSE RENEWAL ALREADY?

Our apologies. It is not our intention to create a panic with that headline, but it should get you thinking about the inevitable necessity of renewing your broadcast station's license, which comes around every eight years.

Starting in 2019, radio stations will begin filing license renewal applications at different times staggered over the next three years. And in 2020, TV stations will start their own staggered three-year cycle of renewals. So, for the next four years, you're going to read about license renewal an awful lot in this space and others. Helpful trivia – the states are staggered in a clockwise direction beginning with the Mid-Atlantic States, and ending in the northeast.

What radio stations are going to be the guinea pigs for this license renewal cycle? If you answered by identifying those with communities of license in Maryland, Virginia, West Virginia and the District of Columbia, you get an A+. Those radio stations will go first, and must electronically file their license renewal application (Form 303-S) by June 1, 2019.

As you may recall, the required actions for license renewal begin weeks before the filing deadline. For the MD, VA, WV and DC stations that are first up, pre-filing announcements must air and be published beginning April 1, 2019. And although applications will be filed June 1, 2019, license renewal grants won't be happening for these stations until October 1, 2019.

Is your head spinning yet? Don't worry, we'll be in touch with clients as their applicable dates get closer. In the meantime, police your online public file so that it does not create a renewal "wound" for your operating budget once your station's renewal deadline arrives.

Here's another note. If you're thinking of selling or buying a station these days, check to see when the station's license renewal is scheduled. Typically, once the renewal application filing deadline for a station is 4-6 months away, the FCC will accept but make any grant of a license assignment application contingent upon the grant of the license renewal. So, buy/sell transactions get a bit more complicated and can take a bit longer once license renewal nears.

## LPTV DISPLACEMENT SETTLEMENT WINDOW CLOSES JANUARY 10<sup>TH</sup>

The FCC's [announced](#) filing window for remaining mutually exclusive LPTV displacement filing window applicants to file technical amendments or proposed settlements to resolve their application conflicts will officially close at 11:59 p.m. ET on January 10, 2019.

Unilateral engineering amendments, legal settlements and engineering settlements are permitted to assist the remaining 167 mutually exclusive applicants in resolving application conflicts. The FCC will not process such amendments piecemeal as they are filed, but will instead wait until the end of the window to process all amendments.

The FCC encourages applicants that remain to seek out solutions that involve moves or amendments that are compliant with the minor modification rules for LPTV stations. Significantly though, the FCC leaves open the possibility of an

applicant seeking a channel change to resolve a mutually exclusive situation, which is a major change under the rules. Such a change would apparently only be available to applicants that are unable to resolve their mutual exclusivity with a minor change. Applicants whose conflicts are not resolved by the deadline will proceed to a highest-bidder-wins auction sometime in 2019.

## AM REVITALIZATION COMMENT DEADLINE

Yes, AM Revitalization continues, along with the FCC continued effort to revise its rules to ensure that AM radio service survives and thrives. The latest effort is a [further rulemaking](#) to consider relaxing the interference protections for Class AM stations. You can provide your two cents to the FCC by filing comments in this [proceeding](#) by January 22, 2019. Reply comments are due February 19, 2019.

## GUILTY PLEA FOR BOMB THREAT TO FCC MEETING

Some of you may recall that an FCC Open Meeting in December 2017 had to be vacated due to a bomb threat received by the agency as it prepared to vote on net neutrality regulations. At the time, the meeting was evacuated, bomb dogs did a sweep, the meeting was restored to order, and a vote taken.

The individual responsible for the bomb threat – California resident Tyler Barriss – pled guilty on November 13, 2018 to calling in the bomb threat. Chairman Ajit Pai issued a [statement](#) thanking the Department of Justice, FBI, local law enforcement and FCC security officials for protecting the agency.

## FCC TO CONSTRUCTION PERMIT APPLICANTS: DON'T BUILD EARLY

The FCC recently issued a decision that reiterates a point they've made before – broadcast station construction permit applicants are not allowed to take certain actions toward construction until the permit they are seeking is actually issued.

This latest [FCC decision](#) actually proposed a \$5,000 fine against a LPFM station that violated the policy, even though the station “deconstructed” the facility when it became aware of the policy. The

policy applies to new stations as well as modified facilities for existing stations. We recommend that you read the decision.

To be clear, certain pre-construction activities like clearing and grading a transmitter site, pouring tower footings, installing a tower base and anchors, installing electricity, or buying equipment are allowed before the issuance of a construction permit. But, actually constructing a tower (or beginning to) or installing an antenna before a construction permit has been issued violates the policy, and can result in fines.

We know, it seems a bit nonsensical. So why does the FCC take this position? They are concerned that early construction will give a permit applicant evidence that an FCC denial of a construction permit application will create a hardship or make expenditures worthless. Proceed carefully.

## DATES TO REMEMBER

### November 30, 2018

**Transition Deadline** for Post-Auction [Phase One](#) TV and Class A stations to cease operations on pre-auction channels and commence operations on post-auction channels

### December 1, 2018

**AM, FM, TV and Class A Stations in Alabama, Georgia, Minnesota, North Dakota, South Dakota, Montana, and Colorado:** if five full-time employee threshold is met, complete EEO public file report and post same in public file as well as post on station website.

**TV & Class A Stations in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont:** if five full-time employee threshold is met, complete EEO public file report and post same in public file as well as on station website and prepare **and** electronically file mid-term EEO Form 397 and place copy of filed report in your public inspection file. Reminder – the Form 397 requires that the station's last two EEO public file reports be submitted to the FCC.

**Deadline** for all digital television licensees that are providing ancillary/supplementary services to file the ancillary/supplementary services Form 317 in LMS. No filing is due for those not providing such services.

**Testing Period Start Date** for all repacked television stations assigned to Post-Auction Repack Phase 2 (phase ends on April 12, 2019)

**January 22, 2019**

Comment deadline in AM Revitalization NPRM on Class A AM interference protection

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For more info, contact Joe Chautin or Mark Balkin.

Phone 985.629.0777

Fax 985.629.0778

[www.hardycarey.com](http://www.hardycarey.com)

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 Hardy, Carey, Chautin & Balkin, LLP  
ATTORNEYS AT LAW  
1080 West Causeway Approach  
Mandeville, Louisiana 70471-3036