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## FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 16-306 and GN Docket No. 12-268; DA 18-884]

### **Incentive Auction Task Force and Media Bureau Remind Repacked Stations of Certain Post-Auction Transition Requirements and Deadlines**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document is intended to remind stations that were assigned to new channels as a result of the incentive auction (repacked stations) of upcoming deadlines, application filing obligations, and notice requirements. This document also provides additional guidance concerning transition matters, including permissible station operations during the phase testing periods, when a station is expected to cease pre-auction operations, and the need to coordinate with other linked-stations.

**FOR FURTHER INFORMATION CONTACT:** Evan Morris, Media Bureau, (202) 418-1656.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Public Notice, MB Docket MB Docket No. 16-306 and GN Docket No. 12-268, DA 18-884, adopted and released August 27, 2018, by the Chief of the Media Bureau pursuant to delegated authority. The full text of the Order is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW, Washington, DC 20554. The full text is also available online at <http://apps.fcc.gov/ecfs/> and <https://www.fcc.gov/edocs>.

#### **Summary of the Public Notice**

1. The Incentive Auction Task Force and the Media Bureau (Bureau) herein remind repacked stations of upcoming deadlines, application filing obligations, and notice requirements,

and provide additional guidance concerning transition matters, including permissible station operations during the phase testing periods, when a station is expected to cease pre-auction operations, and the need to coordinate with other linked-stations. For purposes of this Public Notice, a “repacked station” means a full power or Class A broadcast television station that was assigned both a new channel and to a post-auction transition phase in the *Incentive Auction Closing and Channel Reassignment Public Notice*. This includes stations that submitted a winning bid to move from the ultra-high frequency (UHF) band to the very-high frequency (VHF) band, or from the high VHF band to the low VHF band (*i.e.*, band changers). Unless otherwise specified, “repacked station” also includes channel sharee stations that are channel sharing with a repacked station. *Infra*, para. 19. This Public Notice does not address the obligations of displaced low power television and translator stations, non-repacked full power or Class A television stations with unbuilt construction permits, or the small number of Class A television stations that were not protected during the repacking process.

2. *Transition Timetable*. Each repacked station is assigned to one of 10 transition phases, each with specific dates on which the station, subject to any required coordination, can commence testing and operation on its post-auction channel (testing period start date) and must cease operating on its pre-auction channel (phase completion date). A repacked station’s phase completion date is also the date listed on its construction permit as its construction expiration date. Below is the current phase transition schedule with each phase’s applicable testing period start date and phase completion date.

Phase	Testing Period Start Date	Phase Completion Date
1	09/14/2018	11/30/2018
2	12/01/2018	04/12/2019
3	04/13/2019	06/21/2019
4	06/22/2019	08/02/2019
5	08/03/2019	09/06/2019
6	09/07/2019	10/18/2019
7	10/19/2019	01/17/2020
8	01/18/2020	03/13/2020
9	03/14/2020	05/01/2020
10	05/02/2020	07/03/2020

3. *Repacked Station Transition Data.* Information on repacked stations’ post-auction channel assignments, phase assignments, and linked-station sets, including changes made during the transition, can be found at the following website: [https://data.fcc.gov/download/incentive-auctions/Current\\_Transition\\_Files/](https://data.fcc.gov/download/incentive-auctions/Current_Transition_Files/) (Transition Data Website). The date of any update is noted next to each file. All modifications to the Transition Data Website can be viewed by clicking on the link entitled “Change Log.” Individual station’s phase assignments and deadlines, including changes, can also be found on each repacked station’s “facility page” in the Commission’s Licensing and Management System (LMS) under the “Transition Data” tab. To access a station’s “facility page,” perform a “Facility Search” by call sign in LMS and then click on the station’s Facility ID number.

4. *Testing/Commencing Post-Auction Operations.* Repacked stations may not commence testing or operation on their post-auction channel until 12:01 AM (local time) on their testing period start date. To be clear, transmitting any signal (a test signal or otherwise) on a repacked station’s post-auction channel prior to its testing period start date without express

authority from the Commission to do so would be a violation of the Commission's regulations concerning the post-auction transition and amount to unauthorized operation. Unless expressly stated in a repacked station's construction permit or necessitated by being part of a linked-station set, Commission consent is not required to commence testing or post-auction operation starting at 12:01 AM (local time) on a repacked station's testing period start date. During the testing period stations are permitted to transmit a signal using their post-auction channel in order to: (1) conduct testing of a station's equipment/signal to ensure proper functionality, see 47 CFR 73.1610; and (2) permanently commence operation on their post-auction channel upon ceasing operation on their pre-auction channel, see 47 CFR 73.1620. The purpose of the testing period is not for stations to simulcast signals to viewers on two channels. Stations must file an application for license to cover (FCC Form 2100, Schedule B (full power) or Schedule F (Class A)) within 10 days following commencement of program test authority, see 47 CFR 73.1620.

5. Some stations are required to receive authority to commence operation under program test authority, notably stations that will be operating on channel 14, see 47 CFR 73.687(e)(4)(ii). Stations should carefully check the terms of their construction permits for any special conditions and any required documentation that must accompany a request for program test authority. In order to avoid going silent, a station that requires advance permission to commence program test authority should request Commission authority to do so in advance of its phase completion date.

6. *Coordination Among Linked-Stations.* Stations that are part of a linked-station set must coordinate both testing and commencement of operation on their post-auction channel with all other stations to which they are directly linked in that linked-station set. Stations in a linked station-set are linked through direct dependencies. An "upstream" station in a linked-station set is one that must transition to its post-auction channel prior to another station(s) in the set (the "downstream" station) in order to avoid interference. If a "downstream" station was to test or

operate on its post-auction channel while the “upstream” station continued to operate on its pre-auction channel, one or both of the stations would receive interference from the other. In most cases, coordination will require more than notice of a station’s individual plans. Coordination should result in an agreed upon designated time and date on which all linked-stations will conduct testing on their post-auction channels and which all such stations will commence operation on their new channels. Failure to closely coordinate will result, in many cases, in substantial interference. An increase of pairwise interference in excess of 2%, unless expressly authorized by the Commission or agreed to among the affected stations, is a violation of Commission rules. As noted above, complete information on linked-station sets and direct dependencies can be found on the Transition Data Website, as well as on each repacked station’s “facility page” in LMS under the “Transition Data” tab.

7. *Requests for Additional Flexibility Using Special Temporary Authority.* As we have recognized, in order for some repacked stations to construct their post-auction facility they may need to operate with temporary facilities on either their pre-auction or post-auction channel for a period of time. If a station must operate on its pre-auction or post-auction channel at variance from its authorized parameters, a station must file an application for special temporary authority (STA) and receive a grant of such authority prior to commencing operations. A station could also conduct such operations without an STA if it were commencing operation using a licensed auxiliary facility. There are several additional tools at a repacked station’s disposal to remain on the air if it is unable to commence operation on its post-auction channel by its phase completion date. Repacked stations may seek an STA to individually use a temporary channel or engage in temporary joint use of a channel. Authorization of use of an individual temporary channel will be restricted to replicating a station’s pre-auction coverage area and population served. While we will consider requests to temporarily operate in the new wireless band, we will require

broadcasters to demonstrate that there is no reasonable alternative available and provide consent from potentially impacted wireless licensee(s). In the case of a request for temporary joint use of a channel, the applicant (joint user) must include with its request a written authorization from the licensee of the host station. Commercial and noncommercial educational (NCE) stations as well as full power and Class A stations may request to engage in temporary joint use of a channel. Stations also may request an STA to continue to operate on their pre-auction channel beyond their phase completion deadlines. We clarify that STA requests to continue operating on a station's pre-auction channel should not be made in lieu of filing for a phase change. *See infra*, para. 14. We envision such requests would be filed when a station discovers at the last-minute that, due to unforeseen circumstances beyond its control, it will be unable to commence operation on its post-auction channel by its phase completion date and is left with no reasonable alternative other than going silent. Authority for a station to continue to operate on its pre-auction channel after its phase completion date may only be possible at reduced power.

8. As we have previously announced, the Bureau will evaluate all STA requests to determine whether grant would delay or disrupt the post-auction transition schedule. We will not grant an STA that would authorize a station to operate on its pre-auction channel beyond the end of the 39-month transition period. While we have provided several tools to provide relief to stations that are unable to satisfy certain transition deadlines, failure to timely initiate a construction project or undertake necessary steps to meet transition deadlines, including due to a pending application, or the amount of any reimbursement allocation, will not be weighed favorably as a factor in considering such grants of relief. *See Incentive Auction Task Force and Media Bureau Announce the Initial Reimbursement Allocation for Eligible Broadcasters and MVPDs*, Public Notice, 32 FCC Rcd 7556, 7559-60 (IATF/MB 2017); *Incentive Auction Task Force and Media Bureau Announce a Further Reimbursement Allocation for Eligible*

*Broadcasters and MVPDs*, Public Notice, DA 18-372, 5 (rel. Apr. 16, 2018). All STAs for temporary facilities granted in connection with the post-auction transition will be for a maximum of 180 days. We recommend that repacked stations, if possible, file such STA requests at least 30 days prior to the date they plan to commence STA operations. In addition, the Bureau may modify or cancel an STA at any time, without prior notice or right to hearing, see 47 CFR 73.1635.

9. *Silent Authority*. Commission rules provide that a station may suspend operations for a period of not more than 30 days absent specific authority from the Commission. Stations that remain silent for more than 10 days must notify the Commission not later than the tenth day of their suspended operations by filing a Suspension of Operations Notification in LMS, 47 CFR 73.1740(a)(4). Stations that need to remain silent for more than 30 days must file for a Silent STA. *Id.* We remind stations that the license of any station that remains silent for any consecutive 12-month period expires automatically at the end of that period, by operation of law, except that the Commission can extend or reinstate such a license “to promote equity and fairness.” 47 USC 312(g). In considering requests to extend or reinstate a license, we will examine whether the station has demonstrated that its silence is the result of compelling reasons beyond the station’s control, including facts that relate to the post-auction transition process.

10. In the unlikely circumstance where a station believes it will need to temporarily go silent because it will be unable to commence operation on its post-auction channel by its phase completion date, the station should notify its regional coordinator and send an e-mail to [IATransition@fcc.gov](mailto:IATransition@fcc.gov) as soon as that fact is known. An up-to-date list is available at: <https://www.fcc.gov/about-fcc/fcc-initiatives/incentive-auctions/transition-schedule>, select the “Regions” tab.

11. *Ceasing Pre-Auction Channel Operation*. In order to accommodate a smooth

transition and prevent viewer confusion, repacked stations are expected to cease operation on their pre-auction channel upon whichever of the following occurs first: (1) the filing of a license to cover; (2) the commencement of operation on the station’s post-auction channel pursuant to a grant of STA to operate at variance from its authorized post-auction parameters; (3) the date a station has informed viewers it will be ceasing pre-auction operations or commencing post-auction operations; or (4) no later than 11:59 PM local time on the station’s assigned phase completion date. As discussed in greater detail below, a station that cannot complete construction of its post-auction facility by the construction permit expiration date (i.e. the station’s phase completion date), may seek a single extension of the construction permit expiration date of up to 180 days. However, absent express authority from the Commission to the contrary, a repacked station must cease operation on its pre-auction channel no later than the station’s phase completion date.

12. *Extension of Construction Permit Expiration Date.* A station may seek a single extension of the construction permit expiration date of up to 180 days by submitting an extension application using Schedule 2100, FCC Form 337 (Construction Permit Extension). Such application must be filed 90 days before a station’s construction permit deadline. See 47 CFR 73.3700(b)(5). The deadline for filing a Construction Permit Extension application, by phase and based on the current transition schedule, are as follows:

Phase	180-Day Construction Permit Extension Filing Deadline
1	09/04/2018
2	01/14/2019
3	03/25/2019
4	05/06/2019
5	06/10/2019
6	07/22/2019
7	10/21/2019

8	12/16/2019
9	02/03/2020
10	04/06/2020

A Construction Permit Extension application must include an exhibit demonstrating that, despite all reasonable efforts, the station is unable to complete construction of its new facility on time due to circumstances that were either unforeseeable or beyond its control. The following circumstances might justify grant of an extension of a station’s construction deadline: (1) weather related delays; (2) delays in construction due to the unavailability of equipment or a tower crew; (3) tower lease disputes; (4) unusual technical challenges; or (5) delays caused by the need to obtain government approvals, such as land use or zoning approvals, or to observe competitive bidding requirements prior to purchasing equipment or services. In limited circumstances and with appropriate supporting documentation, stations may rely on “financial hardship” as a criterion for seeking an extension of time. Such circumstances may, for example, include a situation in which a station is subject to an active bankruptcy or receivership proceeding. 47 CFR 73.3700(b)(5)(ii) and (iii).

13. Grant of a Construction Permit Extension does not modify the requirement that the station cease operation on its pre-auction channel by 11:59 PM (local time) on its phase completion date. The Bureau has also announced that, prior to grant, it will evaluate all extension applications to determine whether grant will delay or disrupt the post-auction transition schedule. Additional time beyond the initial 180-day extension will be subject to the Commission’s stricter “tolling” rule. See 47 CFR 73.3700(b)(5)(i) and 73.3598(b).

14. *Request for Waiver and Modification of Assigned Transition Phase.* The Bureau has stated that it will evaluate, on a case-by-case basis, requests for waiver and modification of a station’s transition phase under the Commission’s general waiver standard, 47 CFR 1.3, and by

assessing the impact of the request on the transition schedule, including the impact on other broadcasters and viewers. In order to facilitate a timely and orderly transition, the Bureau determined that it will view favorably requests that are compliant with the Commission's rules and have little or no impact on the transition schedule. We will evaluate factors such as the impact on viewers, the impact on other repacked stations' access to resources, how modification to the transition schedule may disrupt deployment of new 600 MHz broadband services, and if the phase change would inhibit broadcasters' ability to complete the transition within the 39-month post-auction transition period. Requests that the staff determine would be likely to delay or disrupt the transition schedule will be viewed unfavorably. *See Incentive Auction Task Force and Media Bureau Adopt Post-Incentive Auction Transition Scheduling Plan, Public Notice, 32 FCC Rcd 890, 912-14, paras. 49-52 (MB 2017)*. During the 10-phase transition period, the testing period start dates and phase completion dates occur in quick succession, especially as the transition progresses. Therefore, we must undertake a detailed review of each request based on the unique facts and circumstances presented in order to determine whether the benefits of a phase change outweigh the burdens and is in the public interest. In particular, we must do all that is possible to ensure limited resources (for instance structural engineers, tower crews, and equipment manufacturers, among others) are available to repacked stations and must be mindful of the additional burdens on viewers that some phase changes impose when the change would increase the number of rescan periods in an area. That is why we limited the number of rescan periods per DMA to a maximum of two when we established the phased transition schedule. Furthermore, when setting the testing period start date and phase completion date for each phase, we took into account time and resource estimates based on information collected through notice and comment, to estimate how long it would take all the stations in each phase to obtain access to limited resources and complete their transitions. We note that a vast majority of phase changes

to date have involved stations receiving authority to transition to their post-auction channel in the period prior to Phase 1. These “early” transition cases in particular presented facts and circumstances that may no longer be applicable or have the same benefit after the testing period start date for Phase 1 commences on September 14, 2018.

15. *Required Transition Notifications.* Repacked stations are required to provide notices to viewers and certain third-party entities prior to transitioning to their post-auction channel. Precisely when these notifications are made will be unique to each station’s individual transition plans. With regard to viewer notifications, at least 30 days prior to ceasing operation on a station’s pre-auction channel all stations must air at least 60-seconds per day of on-air consumer education public service announcements (PSAs) or crawls, see 47 CFR 73.3700(c)(3). If a station’s anticipated transition date changes, licensees are expected to promptly provide updated notifications to viewers reflecting the date change. To the extent a station is not able to comply with its consumer education requirements, it must file a request for waiver of 47 CFR 73.3700(c) as a Legal STA in LMS. All waiver requests will be evaluated on a case-by-case basis in accordance with the Commission waiver standard, 47 CFR 1.3, and must include the following information: (1) an explanation describing why the station is unable to comply with the existing consumer education requirements; (2) an alternative but comparable means the station will use to notify viewers of the station’s new channel; and (3) why grant of the waiver request complies with the Commission’s general waiver standard. A station may propose to provide alternative notification to viewers through, for example, local newspaper, radio, other in-market television stations, and/or digital and social media. Depending on the proposal, the Bureau may require a combination of alternative notification efforts. The required substance of a station’s viewer notifications are set forth in 47 CFR 73.3700(c)(4) and (5) of the Rules. Within 30 days following completion of a station’s transition to its post-auction channel, stations must place in

their online local public inspection file a certification of compliance with its viewer notification obligations. 47 CFR 73.3700(c)(6). Stations should upload a copy of this certification into the folder in their online local public inspection file entitled “Auction Transition Consumer Certification.” Instructions for accessing and uploading documents to a station’s online local public inspection file can be found at: <https://publicfiles.fcc.gov/faq/>.

16. Stations must also provide notice to Multichannel Video Programming Distributors (MVPDs) not less than 90 days prior to the date on which the station will begin operations on its post-auction channel. The requirements of the written notice and where the notice must be sent are provided in 47 CFR 73.3700(d). If a station’s anticipated transition date changes, the licensee must send a further notice to the affected MVPD informing them of the new anticipated date. 47 CFR 73.3700(d)(5)(v). We strongly encourage stations also to reach out to their regular contacts with local MVPDs in addition to the points of contact identified in the rule in order to ensure a smooth transition.

17. Notifications must also be provided based on individual conditions placed on stations construction permits. Some of these notifications include providing notice to health care facilities, 47 CFR 15.242(a)(1), such as hospitals and nursing homes, and AM radio stations. Stations should review their construction permit for such conditions and make arrangements now to ensure that they are met prior to the filing of a license to cover.

18. *Post-Auction Transition Progress Reports.* Repacked stations are required to file Post-Auction Transition Progress Reports using FCC Form 2100, Schedule 387, electronically in LMS at various times during the transition process. See 47 CFR 73.3700(e)(5). Transition Progress Report obligations were established for both reimbursable repacked stations and non-reimbursable repacked stations (*i.e.*, band changers). Reports must be filed quarterly (Quarterly Report) no later than January 10, April 10, July 10, and October 10. Each report reflects

information for the preceding quarter: January 10 for the fourth quarter of the previous year (October-December), April 10 for the first quarter (January-March), July 10 for the second quarter (April-June), and October 10 for the third quarter (July-September). Reports must also be filed (1) 10 weeks before the end of their assigned construction deadline (10-Week Report); (2) 10 days after they complete all work related to construction of their post-auction facilities (Construction Completion Report); and (3) five days after they cease broadcasting on their pre-auction channel (Pre-Auction Termination Report). *See The Incentive Auction Task Force and Media Bureau Release Transition Progress Report Form and Filing Requirements for Stations Eligible for Reimbursement from the TV Broadcast Relocation Fund and Seek Comment on the Filing of the Report by Non-Reimbursable Stations*, Public Notice, 32 FCC Rcd 256 (MB 2017); *The Incentive Auction Task Force and Media Bureau Adopt Filing Requirements For the Transition Progress Report Form By Stations that are Not Eligible for Reimbursement from the TV Broadcast Relocation Fund*, Public Notice, 32 FCC Rcd 4029 (MB 2017). The 10-Week Report filing dates based on the current transition schedule is as follows:

Phase	10-Week Report Filing Deadline
1	09/21/2018
2	02/01/2019
3	04/12/2019
4	05/24/2019
5	06/28/2019
6	08/09/2019
7	11/08/2019
8	01/03/2020
9	02/21/2020
10	04/24/2020

The timing of the Construction Completion Report and Pre-Auction Termination Report will be based on each station's unique situation and transition timing. The Construction Completion

Report should only be filed when the post-auction facility authorized in a station's construction permit has been completed and the station could file an application for license to cover if it were permitted to commence program test authority on its post-auction channel. The filing of a station's Construction Completion Report does not necessarily require the filing of a license to cover. Such filing is only required once the station commences program test authority, which the station is only able to do on or after its testing period start date, subject to any required coordination if the station is in a linked-station set. A station may file its Construction Completion Report in advance of its testing period start date assuming that construction of its post-auction facility is complete, but making such a filing does not permit a station to commence post-auction operation prior to its testing period start date. If a station will be commencing operation on its post-auction channel under an STA, it must wait to file its Construction Completion Report until after it has filed its Pre-Auction Termination Report and completed construction of the post-auction facility authorized in its construction permit. Each category of Transition Progress Report are individual reports that must be filed separately. A station must continue to file Quarterly Reports until it has filed its 10-Week Report, Pre-Auction Termination Report, and Construction Completion Report.

19. *Channel Sharing Repacked Station.* In the event that a channel sharee station (sharee station) is channel sharing with another station (host station) that is repacked, the sharee station must comply with all notification requirements, including but not limited to consumer and MVPD notice requirements as discussed above. In addition, not less than 60 days prior to the host station's phase construction deadline, the host station must file a minor change application to its current channel sharing license for a construction permit (FCC Form 2100 –Schedule A (full power) and Schedule E (Class A)) specifying the host station's post-auction channel and parameters previously authorized in its post-auction construction permit. Such applications will

be considered minor changes and will be subject to filing fees. Please note, these filing instructions differ from those previously provided. Failure to follow the instructions set forth in this Public Notice could result in application processing delays and the need to file additional applications. So long as the sharee station is licensed to operate on the same channel as the host station and a minor change application has been filed by the host station, LMS is designed so that a license application for a post-auction channel filed by the host station will be filed on behalf of all licensed sharee stations. LMS requires that the filer certify that all channel sharing stations consent to the filing of the application. Because sharee stations will be operating from the same post-auction facility as the repacked host station, sharee stations are not required to file Transition Progress Reports. Furthermore, only the host station needs to file a request for waiver and modification of assigned phase change so long as a signed letter of consent from each licensee that is a party to the channel sharing arrangement is included with the request. All other applications and filings discussed in this Public Notice, including but not limited to requests for an engineering STA, STA for silent authority, and a request for Construction Permit Extension, must be individually filed by both the host station and any sharee station.

*20. Informal Request for Transition Dates and Outreach Information.* In order to assist the Commission with answering viewer inquiries and evaluating ways to further support repacked stations' transition efforts, we informally request that a repacked station notify us via e-mail at [IAtransition@fcc.gov](mailto:IAtransition@fcc.gov) once it knows the specific date that it intends to cease operations on its pre-auction channel and commence operations on its post-auction channel. We would also welcome additional information concerning places the Commission can direct viewers to obtain information about a repacked station's transition plans, such as a viewer e-mail inquiry box, website, or hotline. While this is not an official information collection and you are not required to provide us with this information, voluntarily doing so will help the Commission support

repacked stations transition efforts and help facilitate a smooth transition process for viewers.

21. *Contacts.* Additional questions concerning the post-incentive auction transition or this Public Notice may be referred to the contact persons listed in the Public Notice.

22. *Filings.* All applications and reports referenced in this Public Notice must be filed in LMS, including but not limited to Transition Progress Reports, Applications for License to Cover, STAs (technical and legal), and Construction Permit Extensions. LMS filing instructions are provided in Appendix A of the Public Notice. Stations are also asked to send an electronic copy of certain transition-related filings, as indicated in Appendix A, via email to: IATransitionlicensing@fcc.gov.

23. *Additional Resources.* Repacked stations and other interested parties may want to visit the Commission's broadcast transition website and/or review the following additional resources listed in the Public Notice and available on the Commission's EDOCS database (<https://www.fcc.gov/edocs>) for guidance concerning the post-incentive auction broadcast television transition.

24. This action is taken by the Chief, Media Bureau, pursuant to authority delegated by 47 CFR 0.61.

FEDERAL COMMUNICATIONS COMMISSION

Barbara Kreisman,  
Chief,

Video Division,

Media Bureau.

[FR Doc. 2018-20305 Filed: 9/18/2018 8:45 am; Publication Date: 9/19/2018]