



PUBLIC NOTICE

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FCC Announces Revised Participant List for Statutory Analog Nightlight Program
Listed Stations Granted Blanket License Extension Through July 12, 2009
MB Docket No. 08-255

By this Public Notice, the Commission issues a revised list of stations that will participate in the statutory analog nightlight program.¹ A total of 118 stations in 85 Designated Market Areas (DMAs) will participate in the program. This Public Notice establishes the right of those licensees whose stations are listed in the attached Appendix to continue to operate their stations in analog on their analog channels for a period of up to 30 days after June 12, 2009, *i.e.*, from and including June 13 through July 12, 2009 solely for the purpose of providing analog nightlight service.²

The Short-term Analog Flash and Emergency Readiness Act (“Analog Nightlight Act”)³ required the Commission to develop and implement a program to “encourage and permit” continued analog television service during the 30-day period after the DTV transition for the purpose of providing emergency and DTV transition information to viewers who had not obtained the necessary equipment to receive digital broadcasts by the transition deadline.⁴ On January 15, 2009, the Commission adopted and released the *Analog Nightlight Order* to implement the Analog Nightlight Act.⁵ The statutory analog nightlight program permits stations

¹ See Appendix – Stations Participating in the Statutory Analog Nightlight Program.

² The Commission granted a blanket license extension and delegated authority to the Media Bureau to issue revised lists of eligible program participants in *Implementation of Short-term Analog Flash and Emergency Readiness Act; Establishment of DTV Transition “Analog Nightlight” Program*, MB Docket No. 08-255, Report and Order, FCC 09-2 at ¶¶ 26-27, 47 (rel. Jan. 15, 2009) (“*Analog Nightlight Order*”); and *Implementation of the DTV Delay Act*, MB Docket No. 09-17, Second Report and Order and Notice of Proposed Rulemaking, FCC 09-11, ¶ 45 (rel. Feb. 20, 2009) (“*Second Delay Act Order*”). The license extension is needed to cover analog broadcasting after 11:59:59 pm on June 12, 2009. Broadcasting of Nightlight programming before that time is covered by the station’s existing license.

³ Short-term Analog Flash and Emergency Readiness Act, Pub. L. No. 110-459, 122 Stat. 5121 (2008) (“*Analog Nightlight Act*”).

⁴ The Analog Nightlight Act was enacted on December 23, 2008, prior to the enactment of the DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009), which changed the nationwide transition deadline from February 17 to June 12, 2009.

⁵ See *Analog Nightlight Order*, *supra* note 2.

to provide emergency⁶ and DTV transition⁷ information on their analog channel to viewers for up to 30 days after the transition deadline.⁸ Analog nightlight information may be aired using a “slate” with text and audio of the text or by airing a video loop with audio, or broadcast live action with audio format, or any combination thereof.⁹ Generally, commercials are not permitted; however, in the case of an emergency, stations may transmit other programming containing commercials when technically unavoidable in order to transmit emergency information, but only for the period of time necessary to adequately convey the emergency information to viewers.¹⁰

On February 20, 2009, the Commission adopted and released the Second Report and Order to implement the DTV Delay Act and concluded that the 30-day period applicable to the analog nightlight program will begin following the new June 12, 2009 transition deadline and, therefore, will run from and including June 13 through July 12, 2009.¹¹ The Commission determined that it was not necessary to revise the statutory analog nightlight program as implemented in the *Analog Nightlight Order* and retained the parameters of the program without

⁶ Stations may broadcast video and audio programming with emergency information, including a crawl or other text, or live or taped action regarding the emergency. *Id.* at ¶ 31-2. Emergency information includes EAS and Amber Alerts, as well as information about a current emergency, for the protection of life, health, safety, and property, *i.e.*, critical details regarding the emergency and how to respond to the emergency. *Id.*

⁷ Stations may broadcast any information that is relevant to informing viewers about the DTV transition and how viewers can continue to obtain television service, including a telephone number and Internet address by which help with the transition may be obtained in both English and Spanish (*e.g.*, the FCC toll-free number). DTV transition information must be available in both English and Spanish (and additional languages are encouraged when appropriate). *Id.* at ¶ 35.

⁸ See Analog Nightlight Act, Sections 2(a) and 2(b). Analog Nightlight service after the transition deadline is important for those viewers who have televisions that are not ready to receive digital signals. It ensures that these viewers will still be able to receive emergency information as well as instructions regarding how to resume receiving television service. Stations operating on channels 2 through 51 are eligible to participate in the program, provided they do not cause harmful interference to digital television signals. Analog Nightlight Act, Section 3(2). Section 3 of the Act also mandates that the Commission “not require” that analog nightlight signals be subject to mandatory cable carriage and retransmission requirements. See Analog Nightlight Act, Section 3(3). In addition, Section 3 prohibits the broadcasting of analog nightlight signals on spectrum “approved or pending approval by the Commission to be used for public safety radio services” and on channels 52-69. See Analog Nightlight Act, Sections 3(5) and 3(6), respectively.

⁹ *Analog Nightlight Order*, *supra* note 2, at ¶ 37. Stations that provide nightlight service should maintain the same hours of operation that were in effect on their analog channel prior to the transition deadline. *Id.* at ¶ 29. Nightlight stations must comply with station identification requirements. *Id.*

¹⁰ *Id.* at ¶ 38-40. In addition, limited sponsorship information is permitted as part of analog nightlight programming to help stations defray the cost of providing the nightlight service, and stations must comply with the sponsorship identification requirements in connection with programming broadcast for which valuable consideration is promised or received. *Id.* at ¶ 41.

¹¹ See *Second Delay Act Order*, *supra* note 2, at ¶¶ 41-42.

change, except for the delay in timing.¹² Generally, stations that volunteer are expected to provide the Nightlight service for at least two weeks, commencing when they terminate regular analog programming on June 12, 2009.¹³

A. Revised Program Participant List

On May 13, 2009, the Media Bureau released by public notice a list of eligible stations and an initial list of program participants, and also set a deadline of May 26 for stations to notify us that they will participate in the program, demonstrate eligibility for the program, or revoke a prior notice to participate in the program.¹⁴ Based on the responses to our public notice, we revise the participant list to add 46 stations¹⁵ that filed participation notices and remove six stations¹⁶ that filed to revoke their prior participation notice.¹⁷ In addition, we revise the participant list to add two stations¹⁸ that were inadvertently omitted from the participant list and remove one station¹⁹ that was mistakenly included on the list.

Any additional stations that are eligible²⁰ and wish to participate in the nightlight program are invited and encouraged to do so by notifying the Commission through the procedures described below. We remind all stations that they must stop broadcasting in analog tomorrow, June 12, 2009, no later than 11:59:59 pm local time, except for those stations that are providing analog nightlight service.²¹ If a station is faced with an emergency situation after 11:59:59 pm local time that would prevent it from broadcasting a digital signal, it may only continue broadcasting an analog signal as a nightlight station providing analog nightlight service

¹² *Id.* at ¶ 43. The Commission delegated to the Media Bureau or Office of Engineering and Technology (OET), as appropriate, the authority to revise and adopt amended lists of pre-approved stations, as may be necessary. *Id.* at ¶ 45.

¹³ *Analog Nightlight Order*, *supra* note 2, at ¶ 8.

¹⁴ Public Notice, “FCC Announces Eligible Stations for Statutory Analog Nightlight Program and First Group of Program Participants; Participant Notices and Eligibility Showings Due Tuesday,” MB Docket No. 08-255, DA 09-1063 (MB rel. May 26, 2009) (“*May 13 Public Notice*”).

¹⁵ See stations with an asterisk (“*”) in the Appendix column titled “Added Since May 13 Participant List.”

¹⁶ WSEC (Jacksonville, IL), KBLR (Paradise, NV), KVBC (Las Vegas, NV), WBME-TV (Racine, WI), WCIU-TV (Chicago, IL) and WNYE-TV (New York, NY).

¹⁷ We note that no stations submitted showings to seek eligibility for the program.

¹⁸ KVVU-TV (Henderson, NV) and KPHO-TV (Phoenix, AZ).

¹⁹ WATE-TV (Knoxville, TN).

²⁰ The list of eligible stations was appended to the *May 13 Public Notice* and may be viewed at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-09-1063A2.pdf.

²¹ See 47 U.S.C. § 309(j)(14)(A) and Section 3002(b) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. § 309 Note), as amended by the DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009).

in compliance with the *Analog Nightlight Order*.²² In the event of such emergency, the station must notify us following the procedures set forth below.

B. Pre-Transition Nightlight Service Permitted

Stations that will participate in the nightlight program should commence nightlight service upon terminating their regular analog service. In addition, any station may devote all of the programming on its analog signal to DTV transition information, and emergency information if necessary, prior to June 13. Stations must continue to comply with the station identification and Emergency Alert System (“EAS”) requirements. Notification to the Commission is not required for this pre-transition nightlight service.

C. Filing Procedures

Pre-approved eligible stations that wish to participate in the nightlight program and are not listed on the Appendix may notify us via the Commission’s Consolidated Database System (“CDBS”) using the Informal Application filing form: “Participation Notice of Pre-Approved Eligible Station (Analog Nightlight Program),” or with an e-mail to nightlight@fcc.gov, following the procedures outlined in the *Analog Nightlight Order*.²³ To use CDBS, stations should file electronically via the Internet from the Media Bureau’s Web site at: <http://www.fcc.gov/mb/cdb.html> or http://fjallfoss.fcc.gov/prod/cdb/forms/prod/cdb_ef.htm. After logging into your CDBS Electronic Filing account, select the last option from Main Menu “Additional non-form Filings” to go to the Informal Menu. From the next menu select “Silent STA / Notification of Suspension / Resumption of Operations / Extension of STA Request / DTV Transition Notification.” On the Pre-form select “Participation Notice of Pre-Approved Eligible Station (Analog Nightlight Program).” No fee is required.

D. Additional Information

For more information, contact Hossein Hashemzadeh, Hossein.Hashemzadeh@fcc.gov, of the Media Bureau, Video Division, at (202) 418-1658; or Evan Baranoff, Evan.Baranoff@fcc.gov, of the Media Bureau, Policy Division, at (202) 418-2120.

By the Acting Chief, Media Bureau

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²² See *Analog Nightlight Order*, *supra* note 2.

²³ *Id.* at ¶¶ 23-24. As provided in the Order, the email should include the following information: (1) name, title, phone number, and, if available, email address and mobile telephone number of sender; (2) licensee name; (3) FCC Registration Number (FRN); (4) Facility Identification Number; (5) call sign; (6) city and state; (7) analog and digital channel numbers; and (8) name, title, phone number and, if available, email address and mobile telephone number of a contact person (if different from sender) who can provide more information about the station’s participation in the program. The email should also provide information about the station’s planned analog nightlight service, including whether the station plans to participate at reduced analog power, as well as the period of time analog nightlight service will be provided (if service will be discontinued before July 12, 2009). Stations that reduce power during their period of nightlight service should also notify the Commission of this change. The information provided in the emails will be entered into CDBS so that it will be available to the public. We ask that a courtesy copy of the email be sent to Hossein Hashemzadeh, Hossein.Hashemzadeh@fcc.gov, of the Media Bureau, Video Division.