



# Broadcast Newsletter

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## **NATIONAL EAS TEST SCHEDULED FOR SEPTEMBER 20<sup>TH</sup>**

The FCC’s Public Safety and Homeland Security Bureau has [announced](#) a National EAS Test for September 20, 2018 at 2:20 p.m. EST. All broadcasters must file EAS Form Two by 11:59 p.m. EDT that same day, followed by EAS Form Three no later than November 5, 2018.

This announcement followed the Bureau’s [public notice](#) reminding all EAS participants of their annual obligation to renew their identifying information in ETRS Form One no later than August 27, 2018. A separate copy of Form One must be filed for each EAS decoder, EAS encoder and units combining decoder/encoder functions. The EAS Test Report System (ETRS) is already available for EAS Participants to make the EAS Form One filing – [this link](#) is the ETRS login page. Like last year, FCC Usernames will be required to access and file the ETRS forms.

## **FCC VOTES TO MOVE EEO ENFORCEMENT FROM MEDIA TO ENFORCEMENT BUREAU**

Acting on a request from civil rights organizations and staff recommendations, the FCC relocated enforcement of its equal employment opportunity rules from the Media Bureau, where it had been for 50 years, to the Enforcement Bureau. Once the effective date of the rule change is announced, EEO audits and other EEO oversight will originate from the Enforcement Bureau.

Practically speaking, this change won’t change how the FCC scrutinizes the employment practices of broadcasters. Regular audits of 5% of all broadcasters will continue. EEO plans for newly acquired stations will still have to be filed. Admonishments and notices of apparent liability will still be issued when compliance is lacking. Finally, at license renewal time, certifying EEO compliance and providing a station’s last two years of EEO public file inspection reports will still be required.

We do note that in the past, if there was an issue at license renewal time over which the Enforcement Bureau had jurisdiction, it often took some time for Enforcement Bureau personnel to respond to the Media Bureau staff as it tried to act on renewal applications. We're hoping that any EEO scrutiny by the Enforcement Bureau during license renewal won't delay license renewal processing times. The first radio stations start the license renewal process in 2019.

So, what if your station was part of the most recent Media Bureau EEO audit for which responses are due August 6<sup>th</sup>? Respond to the Media Bureau per the directions in the EEO audit letter you received.

## **LPTV/TV TRANSLATOR DISPLACEMENT REIMBURSEMENT RULEMAKING**

The FCC has finally released a [draft notice](#) of proposed rulemaking on how LPTV/TV Translator stations displaced in the post-auction television band repack should be reimbursed for expenses incurred. The draft notice is on the FCC's August Open Meeting agenda to be voted upon by the Commissioners. The legislation approving these funds actually gives the FCC until March 2019 to adopt rules for administering distribution of the funds, but hopefully they'll act before then.

There are a number of open questions about how the FCC will administer the program, several of which potentially impact how much, and for what items, displaced stations will be reimbursed. With the number of potentially qualifying stations, the total amount of funds made available by Congress may not be sufficient to ensure 100% reimbursement of every cost incurred.

The draft NPRM proposes that a displacement application filed in the now-closed special displacement window must be granted in order for a station to qualify for reimbursement. If adopted that way, stations will want to scrutinize filed but not yet granted displacement applications to learn whether they are mutually exclusive with other applications, and if so, carefully consider resolutions of conflicts to result in issuance of a construction permit.

In the draft NPRM, stations accepting monies from T-Mobile for early displacement will not be eligible to receive reimbursement from the Congressionally-approved fund.

## **LPTV/TV TRANSLATOR MINOR CHANGE FILING FREEZE LIFTED**

On July 3, 2018, the FCC's Media Bureau lifted the freeze on the filing of minor changes by LPTV and TV translator stations, which was originally enacted to preserve channels in advance of the displacement window that closed in mid-June. Minor change applications can be filed for authorized facilities or pending applications, and will be processed on a first-come, first-served basis. To qualify as a minor change, applications must propose facilities with protected contours that overlap previously authorized or proposed protected contours, and not move a transmitter site more than 30 miles.

## **CHILDREN'S TV RULES REVIEW UNDERWAY**

On July 12, 2018, the FCC adopted a [notice of proposed rulemaking](#) to consider how or whether to modify its children's television programming rules originally adopted nearly two decades ago after the 1996 Children's Television Act was adopted. This is the twelfth proceeding launched by the Pai Commission as part of its ongoing effort to modernize its rules and eliminate outdated or unduly burdensome rules. Comment deadlines will be announced soon, but stations can file comments now.

We believe the FCC has enough votes to significantly modify the children's TV programming requirements, including a reduction of the current 3-hour per week minimum average, elimination of the required program length and other criteria for programs, deletion of programming requirements on TV station digital subchannels, and frequency of reporting. TV station comments are urged.

## HELP ARRIVES FOR C-BAND EARTH STATION FILINGS

As covered in last month's newsletter, the International Bureau has [extended](#) the deadline for filing C-Band registrations to October 17, 2018. If you have not filed to register your C-band dish, we strongly recommend that you do so, as the FCC is actively considering new uses for the C-Band and registered C-Band dishes will be protected from service disruption.

In recent days, the National Association of Broadcasters announced that SES, a C-band satellite operator, has extended an offer to reimburse broadcast stations for the \$435 FCC application fee for C-band dish registration. Stations can contact SES directly for further information at [FCCregistration@ses.com](mailto:FCCregistration@ses.com) or by phone at (609) 987-4300.

## MEDIA BUREAU FEES INCREASE

The FCC recently adopted an order increasing various application filing fees for all FCC applicants, including broadcasters filing applications with the Media Bureau. The increases are consistent with the FCC's every two-year process of reviewing and increasing application filing fees. In general, application fees went up between \$10 and \$30. As one example, minor change and license assignment applications for full power radio and television stations will now be \$1,110. The new fees will go into effect in coming weeks.

## EARLY 2019 FOR NEXT GEN TV LICENSE APPLICATIONS?

The FCC issued a July 17, 2018 notice that its Next Gen TV rules adopted in November 2017 have now been approved by the Office of Management & Budget. The Media Bureau is making changes to the Licensing & Management System (LMS) to accommodate Next Gen TV license applications, with a completion target date of early 2019. As soon as the LMS modifications are complete, the Media Bureau will issue a notice that it will accept Next Gen TV applications. The Bureau is continuing to consider requests to commence ATSC 3.0 market trials and product development under its existing experimental licensing rules.

## FCC INCUBATOR PROGRAM TAKING SHAPE

At its August meeting, the FCC is expected to vote on a proposal to establish the requirements that will govern its incubator program to support the entry of new and diverse voices into the broadcast industry. The incubator program concept was originally adopted in 2017. The program is expected to pair established broadcasters with small aspiring new entrants or struggling broadcast station owners who lack access to capital, or have little operational experience. Established broadcasters would provide training, mentoring, financial and operational support to new or struggling broadcasters. As discussed, the program would first apply to radio since it is the most accessible entry point for new entrants.

## DATES TO REMEMBER

### August 1, 2018

**AM, FM, TV & Class A Stations in California, North Carolina, South Carolina, Illinois and Wisconsin:** if (5) full-time station employment unit employee threshold is met, complete EEO public file report and place it in the station online public inspection file as well as post on station website.

**TV & Class A Stations in California:** if five (5) full-time station employment unit employee threshold is met, complete EEO public file report and post same in online public file as well as post on station website and prepare **and** electronically file mid-term EEO Form 397 via the License Management System (LMS).

Deadline for filing comments in Posting of Station Licenses NPRM

### August 6, 2018

Deadline for filing comments in the FM Translator Interference Rules NPRM Proceeding

### August 13, 2018

Deadline for filing comments in the FCC's FM Class C4 Notice of Inquiry

## **August 27, 2018**

Deadline for filing EAS Form One (all broadcasters)

## **September 20, 2018**

National EAS Test

## **October 17, 2018**

Extended window-filing deadline for C-Band Earth Station Receive Only Registrations and other filings

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Actual resolution of legal issues depends upon many factors, including variations of facts and applicable Federal laws. This publication is not intended to provide legal advice on specific subjects, rather, it seeks to provide insight into legal developments and issues that we feel could be useful to our clients and friends.

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