



Broadcast Newsletter

IN THIS ISSUE:

PROCESSING OF NOV 2021 NCE-FM RADIO APPLICATIONS CONTINUES; SETTLEMENT WINDOW ENDS JANUARY 28	1
ANNUAL CHILDREN’S TV REPORT AND COMMERCIAL LIMITS CERTS DUE IN JANUARY	2
FCC DECOMMISSIONS FEE FILER PAYMENT MODULE AND RED LIGHT DISPLAY SYSTEM.....	2
LOW POWER PROTECTION ACT LEGISLATION INTRODUCED	2
DATES TO REMEMBER.....	3

BEST TO YOU IN 2022

Whatever 2022 may bring, we wish the best to our clients and newsletter readers in the new year. It is our distinct privilege to assist commercial and noncommercial broadcasters throughout the United States as they serve the public.

PROCESSING OF NOVEMBER 2021 NCE-FM RADIO APPLICATIONS CONTINUES; SETTLEMENT WINDOW ENDS JANUARY 28

The FCC is moving ahead quickly with processing the 1282 applications filed in its November 2021 New NCE-FM filing window.

In late November, the Commission began accepting technical amendments and settlement proposals for the [883 applications](#) that proposed technical parameters mutually exclusive with other applications filed in the window. We have seen several such amendments in the daily public notices that have created singleton applications to be granted after 30 days if there are no objections. The FCC says it will expedite the processing of all complete and rule-compliant settlement agreements and technical amendments filed by January 28, 2022. For details on how to make such filings, applicants should consult the FCC’s November 29, 2021 [public notice](#) announcing the start of the settlement window.

On December 8, 2021, the FCC dismissed [seventy-five](#) singleton applications by [public notice](#), allowing 30 days for applicants to electronically file minor change curative amendments. If an amendment creates a conflict with another window-filed application, it will be rejected.

Some applicants initially determined to be singletons have already been issued construction permits. Permits expire 3 years after they are granted. Entities with permits can now seek call letters for the station, and must file an ownership report no later than 30 days after the permit is granted. Permittees do not have an online public file in the FCC’s system, so the permit and ownership report should be

placed in the paper public file in the station's community of license. Permittees should carefully review permit parameters for any errors and also pay close attention to any permit conditions.

ANNUAL CHILDREN'S TV REPORT AND COMMERCIAL LIMITS CERTIFICATIONS DUE IN JANUARY

By January 31, 2022, commercial full power and Class-A TV stations must prepare and file children's television reports for 2021 and upload children's television commercial limits certifications to their public file for 2021. Failure to timely file the report, or the reporting of less than the required amount of core children's television programming, can result in delays and fines during license renewal.

Commercial limits compliance is an ongoing requirement, but is documented once annually by stations and uploaded to the station online public file. Stations should conduct detailed reviews of their compliance for the year before uploading documents in support. The FCC's rules require that stations limit the amount of "commercial matter" appearing in programs aimed at children 12 years old and younger to 12 minutes per clock hour on weekdays and 10.5 minutes per clock hour on the weekend. The definition of commercial matter includes not only commercial spots, but also (i) website addresses displayed during children's programming and promotional material, unless they comply with a four-part test, (ii) websites that are considered "host-selling" under the Commission's rules, and (iii) program promos, unless they promote (a) children's educational/informational programming, or (b) other age-appropriate programming appearing on the same channel.

FCC DECOMMISSIONS FEE FILER PAYMENT MODULE AND RED LIGHT DISPLAY SYSTEM

On December 15, 2021, the FCC decommissioned the Fee Filer Payment Module and Red Light Display System.

Fee Filer has been replaced with a new payment module in CORES that requires logging in with an FCC Username that is associated with the FRN of

the entity for which a fee is being paid. Regulatory and ULS fees are paid by selecting "Manage Existing FRNs" and general application fees are paid by electing "FRN Financial" where applicants can view bills, retrieve application fees or enter fees manually. Payment options continue to include ACH and credit cards.

The Red Light Display System has been permanently discontinued. Entities can now access their financial standing by logging in to CORES with an FCC Username and using links to determine whether their financial standing is a green or red light status.

Details and links on these changes can be found [here](#).

LOW POWER PROTECTION ACT LEGISLATION INTRODUCED

Senators Roy Blunt (R-MO) and Ron Wyden (D-OR) have introduced legislation called The Low Power Protection Act that is designed to protect low power television stations in smaller more rural markets from being displaced. The proposed protection mechanism is to allow those stations to convert to Class-A television stations. Class-A television stations enjoy interference protection in exchange for meeting certain operating and programming obligations.

As proposed, the legislation would direct the FCC to issue a rule that entitles low power television stations in Designated Market Areas with no more than 95,000 television households. The text of the bill can be found [here](#), and those wanting to subscribe to alerts regarding the bill's progress can do so at the "Get Alerts" link at [this](#) page.

The last time low power television stations could qualify for Class A status was over two decades ago in 1999. To do so, stations had to certify that they met certain operating and local programming criteria as of a specific date. Based upon the draft legislation, low power television stations in markets below 95,000 television households would only qualify for Class A status if they were meeting locally produced programming requirements 90 days *prior* to enactment of the legislation (i.e., when it is signed into law). The current FCC rule is

similar – conditioning Class A eligibility by a date that was 90 days prior to adoption of the 1999 legislation. While the text of this legislation will change during markup and committee, stations should be alert to the strong likelihood that qualifying for Class A status may require actions well in advance of any FCC rulemaking or rule adoption. Currently, Class A stations are required to broadcast a minimum of 18 hours per day *and* broadcast an average of at least three hours per week of locally produced programming each quarter.

DATES TO REMEMBER

January 7, 2022

2021 New NCE FM Filing Window Applications Dismissed December 8, 2021: deadline to file curative minor amendments that do not create new application conflicts.

January 10, 2022

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete 4th Quarter 2021 issues/program lists and upload to online public file.

Class A TV Stations Only: deadline to complete and post to your online public file a 4th Quarter 2021 certification of ongoing Class A eligibility.

January 28, 2022

Mutually Exclusive Groups in 2021 New NCE FM Filing Window: deadline to file settlement agreements or technical amendments to resolve conflicts.

January 30, 2022

TV & Class A stations (commercial only): compile and post to the station online public file records certifying compliance with children's programming commercial limits for all of 2021 **and** prepare and electronically file the Children's Television Report (Form 2100, Schedule H) in LMS documenting station compliance with children's educational and informational programming requirements for all of 2021. This form is loadable now in LMS so stations can begin working on it at any time. The earliest the form can be filed is January 2, 2022.

February 1, 2022

Radio Stations located in New Jersey and New York – deadline to file license renewal application and EEO program report; on-air/online announcements and public file certifications are required under the new local public notice rule.

Television Stations located in Kansas, Nebraska and Oklahoma – deadline to file license renewal application and EEO program report; on-air/online announcements and public file certifications are required under the new local public notice rule.

Radio and TV Stations located in New Jersey, New York, Kansas, Nebraska, Oklahoma, Arkansas, Louisiana and Mississippi: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from December 1, 2020 – November 30, 2021, upload it to the station online public inspection file and post it on the station website.

February 11, 2022

ATSC 3.0 Licensing Rulemaking – comment deadline.

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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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