



Broadcast Newsletter

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COMMENT DEADLINES SET FOR FCC FOREIGN SPONSORSHIP ID RULE SECOND RULEMAKING

The FCC has [set](#) December 19, 2022 and January 3, 2023 as the dates for comments and reply comments on its Second Notice of Proposed Rulemaking to further amend the Foreign Sponsorship Identification Rule.

In the [new rulemaking](#), the FCC wants to specify exactly how a station must perform its foreign entity diligence by mandating that the station obtain a signature from the programmer certifying to a series of precisely worded statements specified in the new rule. Under the proposed new rule, for every lease of airtime where the signed questionnaire is obtained, a station must upload it along with the airtime lease agreement into the station public file. If a programmer won't provide the signature, the FCC wants to know and has proposed that the station email the FCC to report the non-signature. As an alternative, the FCC proposes a possible checking of the federal foreign entity/agent databases by the programmer itself and a follow-on certification, a work-around to what the DC Circuit prohibited the FCC from requiring stations to do in a decision earlier this year.

MEDIA BUREAU WANTS COMMENT ON PETITIONS TO CHANGE FM BROADCAST RADIO DIGITAL RULES

On November 28, 2022, the FCC's Media Bureau issued a public notice announcing that it would seek comment on a combined NAB/Xperi, Inc. [petition](#) to modify the FCC's FM digital radio rules.

The joint petition asks for adoption of an updated formula to determine and increase FM digital sideband power levels for stations transmitting digital FM signals. It also proposes a rule that would give a blanket authorization for stations to originate digital transmissions at power levels on the upper and lower (asymmetric) sidebands without having to request experimental authorization. Overall, the changes are expected to improve digital FM signal quality and coverage

while minimizing harmful interference to adjacent-channel stations.

Comments can be filed in the FCC's electronic comment filing system through January 12, 2023, with reply comments by February 13, 2023.

WHAT'S AHEAD IN 2023 FOR BROADCASTERS?

Yes, we know that 2023 is still a month away, but for broadcasters, it is a good time to mark a few things on your 2023 calendars.

All broadcast stations will need to file biennial ownership reports in 2023 (these are due every odd year). Stations will need to report their ownership status as of October 1, 2023, and subject to the FCC making the form available in LMS, reports can be filed starting October 1, with a filing deadline of December 1. License renewal applications require a certification that all ownership reports were timely filed, and if they're not, an explanation is required and the potential for fines or other enforcement measures enters the picture. So, stations should pay close attention and timely file 2023 ownership reports (or certifications of no change since the 2021 report).

For any stations held by non-profits, now is a good time to review whether board voting control has or will soon change by greater than 50% since the last time the FCC approved the board, either in a license assignment or transfer of control application). If that 50% threshold has been eclipsed already, or might soon be, a voluntary transfer of control application should be filed well in advance of the October 1 ownership reporting date.

Also in 2023, we anticipate that all broadcast stations with EAS equipment will have to participate in a National EAS Test during 2023, probably sometime during the summer.

Finally, 2023 has another important requirement that only occurs every three years. It is applicable to full power television stations (and a select few Class A and Low Power TV stations), who must make an election for the next 3-year carriage cycle between mandatory carriage and retransmission consent for in-market cable and satellite carriage.

That election, which is now made through uploads to the station online public file (and for new systems, also by email notification), will be due in 2023. To be timely, election statements must be current and uploaded by October 1, 2023. The new 3-year carriage cycle for which elections will be made in 2023 begins on January 1, 2024 and ends on December 31, 2026.

These are just a few of the 2023 FCC regulatory requirements for broadcasters. There will be others, including EEO audits for about 400 randomly selected stations. Watch our newsletter and your inbox for other important deadlines and dates throughout the year.

NEW EAS RULE CHANGES BECOME EFFECTIVE; IMPLEMENTATION DEADLINE NOW SET

The FCC's recent [Report & Order](#) changing the EAS rules was published in the Federal Register and the new rules will become effective December 12, 2022. The modified rules direct EAS participants – within one year of the effective date, so by December 12, 2023 -- to transmit certain messages in an IP-based format rather than the versions in the legacy EAS format, which usually convey less information. In addition, the new rules require EAS participants to replace the technical jargon that now automatically appears in the text of certain messages, including EAS test announcements, with plain language that will be more easily understood by the public and provide more accurate information for individuals who cannot access the audio message.

EAS equipment manufacturers are aware of the rule change and will likely be implementing equipment or software updates to ensure that stations can comply with the new rules. Check with your EAS equipment manufacturer for any cost and timing details so your station remains compliant.

REMINDER: TV ANCILLARY/SUPPLEMENTARY USE REPORTS AND PAYMENTS DUE DECEMBER 1, 2022

Annually, every December 1st, for those commercial and noncommercial full power, Class A or low power television stations that are transmitting

ancillary/supplementary services, a report must be filed detailing those services and remitting any payments due. A few years ago, because most stations were not transmitting such services, the FCC stopped requiring all stations to file the form and changed the rule so that only those stations actually transmitting such services had to file the form.

With the further development of digital television and the introduction of the ATSC 3.0 standard and follow-on conversions, the likelihood of stations having transmitted some ancillary/supplementary services has increased. According to the FCC, ancillary and supplementary services include computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, or audio signals, and subscription video. However, that is not an exhaustive list, and other types of non-broadcast services might be included as well. What is clear is that transmitting free over-the-air video programming on multicast channels does not constitute ancillary/supplementary services.

If your station must file the report, it is submitted in LMS on FCC Form 2100, Schedule G. This year's report covers the period from October 1, 2021 to September 30, 2022. In connection with that filing, commercial stations must separately pay 5% of gross revenues from any ancillary or supplementary services provided. NCE TV stations pay 2.5% of gross revenue.

If you're not certain whether your station must file a report, or need assistance with preparing and filing the report, please contact us.

DATES TO REMEMBER

December 1, 2022

Radio and TV Stations located in Alabama, Georgia, Colorado, Minnesota, Montana, North Dakota, South Dakota, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from December 1, 2021 – November 30, 2022, upload it to the station online public inspection file and post it on the station website.

Television Stations located in Connecticut, Maine, Massachusetts, New Hampshire, Vermont and Rhode Island – 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 after filing.

Full Power TV, Class A, and LPTV Stations: Deadline to file FCC Form 2100, Schedule G, and pay 5% of gross revenues from any ancillary or supplementary services provided between October 1, 2021 and September 30, 2022. NCE TV stations pay 2.5% of gross revenue. Ancillary and supplementary services do not include free over the air video content, but do include computer software distribution, data transmissions, teletext, interactive materials, aural messages, paging services, or audio signals, and subscription video. Stations that provided no such services do not have to file a report.

December 9, 2022

All broadcast stations with political file consent decrees – deadline to submit compliance report and compliance certificate for three-month period ending November 8, 2022.

January 10, 2023

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete and upload to online public file the 4th Quarter 2022 issues/program lists and any foreign sponsorship identification reports.

Class A TV Stations Only: deadline to complete and post to your online public file the 4th Quarter 2022 certification of ongoing Class A eligibility.

Noncommercial Broadcast Stations: deadline to complete and post to your online public file the 4th Quarter 2022 report for any 3rd Party Fundraising conducted during the quarter.

January 30, 2023

All Commercial Full Power and Class A Television Stations – deadline to submit annual children's television report and upload children's television commercial limits certifications to online public file.

January 31, 2023

Web Streaming Stations: deadline to remit annual license fee and related statement of account with SoundExchange for the statutory license allowing

streaming of sound recordings on the web. Payment can be made on SoundExchange's online filing portal "Licensee Direct."

February 1, 2023

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 February 1, 2022 – January 31, 2023, upload it to the station online public inspection file and post it on the station website.

Television 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 after filing.

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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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