



Broadcast Newsletter

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FINAL DAY FOR EAS PARTICIPANTS TO FILE ETRS FORM ONE

Stations that are EAS participants have had two months to complete and submit EAS Form One in the FCC's EAS Test Reporting System (ETRS). [Today, February 28, 2023, is the deadline for completing those submissions.](#) We have heard anecdotally of some access or ETRS stability issues for these filings, so if you have not yet submitted the form, we recommend that you begin those attempts as early as possible before the midnight deadline.

ETRS can be accessed at this [link](#). A CORES Username login is required to access and submit the form. We understand that ETRS will remain open for late EAS Form One filings through March 30, so if you miss the deadline, file as soon as possible afterward and before March 30. Late but filed is better than never filed.

In a late breaking wrinkle, we obtained information from the FCC about whether FM Translators rebroadcasting daytime-only AM Stations are required to have EAS capabilities and file ETRS Forms. The Commission's rules are silent on this question, referring only to FM translators that rebroadcast FM stations. FM translator stations generally do not need their own EAS equipment because they rebroadcast full power stations and rebroadcast those stations' EAS tests, etc. But where an FM translator rebroadcasts a daytime-only AM station (and then originates programming at night), the FCC staff has clarified that such an FM translator is required to have EAS equipment/capabilities and must submit EAS Form One. If you have a daytime AM station with an FM translator that continues to operate at night, we are available to answer any questions regarding equipment or Form One filing requirements.

The FCC has not yet announced a date for a National EAS Test, which is expected later this year. We will contact clients when that occurs.

2023 EAS OPERATING HANDBOOK AVAILABLE

The FCC has issued a new [2023 EAS Operating Handbook](#). A copy (with the blanks for your station's specific information filled in) is to be maintained at normal duty positions or EAS Equipment locations when an operator is required to be on duty, and be immediately available to staff responsible for authenticating messages and initiating actions.

The handbook summarizes actions to be taken by personnel at EAS Participant facilities when emergency alert notices, tests, or alerts are received.

FCC FINES TV STATIONS FOR LATE-FILED RENEWAL APPLICATIONS

The FCC recently [assessed](#) a \$13,500 monetary forfeiture to the owner of nine low power television stations in Utah that filed renewal applications for the stations 71 days later than the required deadline. Though the base forfeiture for late-filed renewals is \$3,000 per station, the FCC lowered the amount per station to \$1500 because the translators were providing fill-in service to areas that might not have otherwise been able to receive the television service.

We note that in the license renewal cycle that will end this summer, the FCC's typical posture on late-filed renewals was to issue fines. For stations with timely filed renewals, but compliance issues related to the online file, political file, or other required filings, the FCC's preferred solution – due to the COVID pandemic that depressed station revenues – was a consent decree and compliance plan instead of a fine. In the next license renewal cycle beginning in 2027, we anticipate a

forfeiture-heavy approach for compliance issues. Regular diligence and two-person control on required uploads and filings is the best defense against compliance issues that can result in fines.

SOHN NOMINATION HEARING HELD; NO VOTE YET

Gigi Sohn, nominated for a third time by President Biden to be the third Democratically appointed FCC Commissioner, sat for new nomination hearings on February 14 before the Senate Commerce Committee. The Committee has not yet voted on the nomination, and no vote has been scheduled.

Sohn's prior two nominations were met with opposition from various groups based on her prior positions related to television station copyright issues and anticipated views on internet regulation. The administration withdrew her nomination twice when it was clear that there were insufficient votes in the Senate for her approval. Sohn has stated that she will recuse herself on issues dealing with TV copyrights, but opposition remains, most recently from police groups and non-profit free-speech advocates. A new law requiring non-discriminatory access to broadband nationwide requires FCC action later this year, but implementation of that law and the desired definitions of discrimination to be adopted by the agency likely turn on a Democratic commissioner majority at the FCC. The agency has only had four commissioners (two Democratic and two Republican) since former Chairman Ajit Pai's resignation just prior to President Biden's inauguration in 2021. If approved, Sohn's term would be for five years.

FCC RELEASES DIVERSITY COUNCIL MEETING AGENDA

The FCC's Communications Equity and Diversity Council will meet virtually on February 23, 2023 following an [agenda](#) that includes broadcast related topics Non-Traditional

Anchor Institutions and Diverse Media, Communications and Tech Ownership and Development. The meeting will be live-streamed.

Amid a growing drumbeat for FCC action on media ownership diversity, we anticipate some FCC actions or initiatives in 2023, including action on long-pending rulemaking proceeding involving EEO obligations for part-timers and reinstatement of the old Form 395-B filing requirement for reporting the race/ethnicity of broadcast station employees. Moving that proceeding to a decision may turn on whether Gigi Sohn is approved to be the third Democratic commissioner.

DATES TO REMEMBER

January 10, 2023 (Extended to February 28, 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 (Extended to February 28, 2023)

All Commercial Full Power and Class A Television Stations – deadline to complete and submit the 2022 children’s television report in LMS *and* separately upload children’s television commercial limits certifications for all of 2022 in the station 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 (Extended to February 28, 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 after filing under the new local public notice rule.

February 28, 2023

All Broadcast Stations that are EAS Participants – last day of the extended deadline to file the required ETRS Form One in ETRS.

March 2, 2023

FCC Increased Application Filing Fees go into effect.

March 12, 2023

AM Daytime-Only Radio Stations – daylight savings time resumes; check sign-on and sign-off times on the station’s current license to ensure operating times comply with FCC rules.

April 1, 2023

Radio and TV Stations located in Delaware, Pennsylvania, Texas, Indiana, Kentucky, and Tennessee: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from April 1, 2022 – March 31, 2023, upload it to the station online public inspection file and post it on the station website.

April 3, 2023

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

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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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