



# Broadcast Newsletter

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## **FCC EEO AUDIT SEASON BEGINS**

The FCC's Enforcement Bureau [announced](#) its first 2023 EEO audit for broadcast stations on April 24, 2023, identifying 254 randomly selected radio and television stations whose EEO programs will be scrutinized. Stations must respond to the audit by uploading their audit response to the station online public inspection file no later than June 8, 2023.

Stations on the audit list may be exempt if their license renewal was granted after February 1, 2021 or if they have been audited or included in an audit response in 2021 or 2022. The exemption is not automatic, however. Stations in these circumstances must email the FCC at [EB-EEO@fcc.gov](mailto:EB-EEO@fcc.gov) for additional guidance on whether a response is required. A response usually follows in a day or two.

The first action item for stations on the list (unless exempt) is to upload a copy of the audit notice to the station online public file, in the EEO Audits/Investigations/Complaints subfolder of the EEO section.

As with the Enforcement Bureau's most recent broadcast station audits, there will be no letter issued afterward to confirm whether a station "passed" the audit. If the staff believes something is missing or incorrect, they do reach out and request additional information. Of course, audits can always give rise to a violation finding, and potential further enforcement action.

Before uploading an audit response, be sure that it is certified by an officer, member, partner, or other principal of the licensee. If, for some reason, an audit response cannot be completed by the deadline, email [EB-EEO@fcc.gov](mailto:EB-EEO@fcc.gov) with an explanation, requesting additional time. Generally speaking, short extensions of about two weeks are granted upon request.

## COMMENT DATES SET FOR RULEMAKING TO IMPLEMENT LOW POWER PROTECTION ACT

On March 30<sup>th</sup>, the FCC launched a proposed [rulemaking](#) to implement the Low Power Protection Act (LPPA) which became effective on January 5, 2023. The Act provides a means by which existing low power television stations can qualify for and apply for Class-A station status. Congress required the FCC to initiate a rulemaking to implement the LPPA within 90 days of its adoption. The FCC has now set May 15 as the comment deadline, and June 13 as the reply comment deadline.

The LPPA limits qualified stations that can apply to those located in television markets of fewer than 95,000 television households. Further, a station can only qualify if it was operating for at least 18 hours per day and originating at least three hours of locally produced programming per week for each of the 90 days preceding the LPPA effective date. The 90-day period is October 7, 2022 - January 5, 2023. Once a station applies for Class A status, the LPPA requires that stations begin airing qualified children's television core programming and maintaining an online public file.

## NEW DTS LPTV RULES BECOMING EFFECTIVE

The FCC's Media Bureau has [announced](#) that its new distributed transmission system (DTS) rules for Class A and LPTV stations, originally adopted in early 2021, are finally becoming effective May 18, 2023. The necessary forms for seeking DTS status will become active and usable in LMS on that date. DTS stations use a single frequency with multiple transmitter locations to transmit broadcast signals. A slight expansion of protected coverage areas may be possible in some instances.

## FUTURE OF TV INITIATIVE LAUNCHED

At the recent NAB conference in Las Vegas, FCC Chairwoman Jessica Rosenworcel [announced](#) a new public-private initiative to guide the next steps for NextGen, or ATSC 3.0 television. The initiative will be led by the NAB, who will gather stakeholders and create a roadmap to transition the television industry from ATSC 1.0 to ATSC 3.0.

The ATSC 3.0 standard can bring Ultra-High Definition (4K)-quality images, two-way interactivity, greater accessibility options, and multi-screen applications to televisions via over-the-air broadcast signals working in tandem with broadband. Transitioning all stations to ATSC 3.0 is a tricky process, as the move is currently voluntary and not all consumer televisions can receive NextGen television signals.

## DATES TO REMEMBER

### May 15, 2023

**Deadline** to file comments in the FCC's Low Power Protection Act rulemaking.

### June 1, 2023

**Radio and TV stations located in Washington DC, Maryland, Virginia, West Virginia, Michigan, Ohio, Arizona, Idaho, Nevada, New Mexico, Utah, and Wyoming:** if five (5) full time employee threshold is met, prepare EEO public file report covering the period from June 1, 2022 – May 31, 2023, upload it to the station online public inspection file and post it on the station website.

**Radio stations located in Washington DC, Maryland, Virginia and West Virginia:** if station employment unit has eleven (11) or more full-time employees, an independent mid-term EEO review by the FCC is anticipated later this year as radio stations in these states approach the mid-point of their current license term. Review OPIF EEO uploads and compliance in advance.

### June 8, 2023

**Deadline** for radio and television stations identified in the FCC Enforcement Bureau April 24, 2023 announced [audit](#) to upload audit responses to the public file.

### June 13, 2023

**Deadline** to file reply comments in the FCC's Low Power Protection act rulemaking.

## July 10, 2023

**TV, Class A, AM & FM Stations (commercial & noncommercial):** deadline to complete and upload to online public file the 2<sup>nd</sup> Quarter 2023 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 2<sup>nd</sup> Quarter 2023 certification of ongoing Class A eligibility.

**Noncommercial Broadcast Stations:** deadline to complete and post to your online public file the wnd Quarter 2023 report for any 3<sup>rd</sup> Party Fundraising conducted during the quarter.

## August 1, 2023

**Radio and TV stations located in North Carolina, South Carolina, Illinois, Wisconsin, and California:** if five (5) full time employee threshold is met, prepare EEO public file report covering the period from August 1, 2022 – July 31, 2023, upload it to the station online public inspection file and post it on the station website.

## October 1, 2023

**All Commercial and Noncommercial Broadcast Stations, except for LPFM, TV Translator, or Radio Translator Stations:** First date to file biennial ownership report in LMS. Information must be current as of October 1, 2021. The deadline for submitting the report is December 1, 2021. For commercial station licensee entities, the new filing fee of \$85 per station will apply.

Deadline for all **Full Power Commercial and Noncommercial Television** stations to place/confirm their 2024-26 carriage election statement in the public file (and if applicable, email the election to any MVPD providers for which carriage is initially being sought) **and** deadline for all **Class-A and Low Power Television** stations eligible for mandatory carriage to send notice of their 2024-26 carriage election via email to MPVD providers.

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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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