



Broadcast Newsletter

IN THIS ISSUE:

REMAINING BROADCAST APPLICATION/NOTIFICATION FORMS MIGRATED TO LMS.....	1
MEDIA BUREAU ISSUES BIENNIAL OWNERSHIP REPORT REMINDER.....	1
FCC MODERNIZES VPD REGISTRY.....	2
VIDEO PROGRAMMING PROPOSED RULEMAKING ANNOUNCED.....	2
HD RADIO RULEMAKING ON AUGUST FCC AGENDA	2
LPFM FILING WINDOW PROCEDURES ANNOUNCED; FM TRANSLATOR FILING FREEZE SCHEDULED.....	3
DATES TO REMEMBER.....	3-4

REMAINING BROADCAST APPLICATION/NOTIFICATION FORMS MIGRATED TO LMS

The FCC’s Media Bureau recently [announced](#) that the remaining ten different types of forms that were still having to be filed on paper and emailed to the staff for entry into the old Consolidated Database System (CDBS) were migrated to the Licensing Management System (LMS) as of July 26, 2023.

The announcement is particularly good news for AM stations, who can now file construction permit, license, direct measurement, engineering STA applications in LMS. Certain low power FM applications are now also enabled in LMS. Finally, equipment test and program test authority notifications and restoration of licensed operation notifications can be filed directly in LMS.

In connection with this announcement, the Bureau also reported that effective July 25, 2023, all “pertinent” information from CDBS was transferred to LMS and can be located using the LMS public search option. CDBS records (and presumably the system itself) will only remain available for a limited period of time. If station CDBS records are not appearing in LMS, the Bureau asks stations to email them to address the issue.

MEDIA BUREAU ISSUES BIENNIAL OWNERSHIP REPORT REMINDER

On July 17, 2023, the FCC’s Media Bureau issued a [reminder](#) that licensees of commercial and non-commercial full power television, Class A television, low power television, AM radio and FM radio stations must file biennial ownership reports later this fall. The reports have to be filed in every odd-numbered year, and are submitted in the License Management System.

The filing window for this year’s report will open October 2 and close on December 1. All information in the report must be accurate as of October 1, 2023. For commercial stations, a filing fee of \$95 per station must be remitted at the time of filing. Stations do have the opportunity to

load and submit a prior report when there have been no changes from a prior biennial report. The form is currently accessible in LMS for reviewing, but cannot yet be submitted (since it still has the prior October 1, 2021 date as the “current as of” date for reporting purposes).

The FCC places significant importance on the timely and accurate submission of biennial ownership reports.

FCC MODERNIZES VIDEO PROGRAMMING DISTRIBUTOR (VPD) REGISTRY

Early in July, several television stations received email notifications from the FCC’s IT Service Desk announcing that the FCC had modernized the Video Programming Distributor (VPD) Registry, which requires VPDs to register their contact information with the FCC through the VPD Registry and to update that information within ten days of any changes.

The requirement for this registration is in addition to a TV station’s obligation to maintain captioning contact information on its public inspection file landing page, and is set forth in Section 79.1 of the FCC’s rules.

If your station did not receive an email, the obligation to maintain the information still remains. All TV stations should visit this [link](#) and confirm that the information for its station is accurate or otherwise update it.

VIDEO PROGRAMMING PROPOSED RULEMAKING ANNOUNCED

On July 12, 2023, FCC Chairwoman Rosenworcel circulated a notice of proposed rulemaking to her fellow FCC Commissioners for their consideration in initiating a proceeding to better understand the challenges related to distribution and supply of video programming, especially as it relates to independent programming. A [news release](#) announced the action.

The NPRM has not yet been adopted or released to the public but is reflected on the FCC website’s

“Items on Circulation” page under the title “Fostering Independent and Diverse Sources of Video Programming.” The item is not included on the early version of the Commission’s August meeting agenda.

The FCC is concerned about marketplace practices that restrict distribution of independent programming across some video distribution platforms. The FCC wants information on those obstacles so that it can consider action to promote competition in the marketplace consistent with the FCC’s statutory responsibilities.

We believe this proposal is related to earlier exchanges that Chairwoman Rosenworcel had with members of Congress asking that the FCC revisit its definition of multichannel video programming distributor in the current mandatory carriage rules. She responded that she believed that issue required Congressional action and that the FCC did not have authority to expand the definition.

HD RADIO RULEMAKING ON AUGUST FCC AGENDA

At its August 3rd Open Meeting, the FCC will consider adopting a rulemaking addressing several HD radio issues. A [draft](#) has been released and is available for public review.

The draft (and very likely the ultimately adopted rulemaking) seeks comment and input on whether to (1) change the methodology used by digital FM stations to determine if they are eligible to increase digital FM power up to -10 dBc, or 10% of analog power; (2) allow such power increases without the need for additional individual special authorization, but upon basic notification to the Commission; and, (3) allow digital FM stations to notify the Commission of a power increase up to -10 dBc, using the same notification procedures as currently used for digital operation. Finally, the FCC also wants comment on whether to grant blanket authorization to digital FM stations to originate digital transmissions at different power levels on the upper and lower digital sidebands without having to request experimental authorization, but instead by filing a notification with the Commission and whether an FM station increasing digital power or implementing asymmetric sideband operation

should be required to directly notify first-adjacent channel FM stations of these actions. The NPRM is also considering interference issues, including whether the existing FCC interference mitigation and remediation procedures are sufficient to manage any reports of inter-station interference as a result of increased digital FM power or asymmetric sideband operation.

LPFM FILING WINDOW PROCEDURES ANNOUNCED; FM TRANSLATOR FILING FREEZE SCHEDULED

On July 31, 2023, the FCC issued its [public notice](#) announcing the filing procedures for the upcoming November 1-8, 2023 filing window for new low power FM construction permits.

The Form 318 application for participants is now available in LMS and can be accessed so that application completion can begin. LMS will prevent the filing of the form until November 1. The specific requirements are many and detailed, and any interested applicant should begin as early as possible with form completion. Retaining qualified counsel and engineering assistance is also important to do early.

In connection with this filing window, the FCC has also announced a filing freeze on all LPFM and FM translator minor mod applications. The filing freeze will begin at 11:59pm EDT on August 31, 2023 and end at 6:00pm EST on November 8, 2023. Broadcasters contemplating filing minor modifications to their LPFM or FM translator applications should do so before the freeze goes into effect, as applications filed during the window may restrict your ability to do so after the window.

DATES TO REMEMBER

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.

Mid-Term EEO Review for Radio stations located in North Carolina and South Carolina: if station employment unit has **eleven (11) or more full-time employees**, an independent **mid-term EEO review** of your last two EEO public file reports by the FCC will occur in connection with the 2022-23 EEO public file report due August 1, and when uploading the report, indicate that the SEU has 11 or more full-timers using the “Mid-Term Review” tab is the OPIF settings section. If the SEU has **between five and ten full-time employees**, when uploading the 2022-23 report, indicate that the SEU has fewer than 11 full-timer employees using the “Mid-Term Review” tab in the OPIF settings section (by doing so, no mid-term review of the SEU will take place).

Mid-September 2023

All non-exempt Commercial broadcast stations: Regulatory fees will be due approximately the third week of September and must be paid online. Failure to timely pay will result in a 25% penalty charge.

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 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 and making an initial carriage election or changing carriage status to send notice of their 2024-26 carriage election via email to MVPD providers. Emailed notices or elections must be sent to the MVPD’s email address listed in the “Carriage Election Contact Information” in the MVPD operator’s online public file.

Radio and TV stations located in Florida, Puerto Rico, U.S. Virgin Islands, Iowa, Missouri, Alaska, American Samoa, Guam, Hawaii, Marianas Islands, Oregon and Washington: if five (5) full time employee threshold is met, prepare EEO public file report covering the period from October 1, 2022 – September 30, 2023, upload it to the station online public inspection file and post it on the station website.

Mid-Term EEO Review for Radio stations located in Florida, Puerto Rico and the US Virgin Islands: if station employment unit has **eleven (11) or more full-time employees**, an independent **mid-term EEO review** of your last two EEO public file reports by the FCC will occur in connection with the 2022-23 EEO public file report due August 1, and when uploading the report, indicate that the SEU has 11 or more full-timers using the “Mid-Term Review” tab in the OPIF settings section. If the SEU has **between five and ten full-time employees**, when uploading the 2022-23 report, indicate that the SEU has fewer than 11 full-timer employees using the “Mid-Term Review” tab in the OPIF settings section (by doing so, no mid-term review of the SEU will take place).

October 10, 2023

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete 3rd Quarter 2023 issues/program lists and upload to online public file.

Class A TV Stations Only: deadline to complete and post to your online public file the 3rd Quarter 2023 certification of ongoing Class A eligibility.

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

© 2023 Hardy, Carey, Chautin & Balkin, LLP

For more info, contact Joe Chautin or Mark Balkin.

Phone 985.629.0777

Fax 985.629.0778

www.hardycarey.com

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.

 Hardy, Carey, Chautin & Balkin, LLP
ATTORNEYS AT LAW
1080 West Causeway Approach
Mandeville, Louisiana 70471-3036