



Broadcast Newsletter

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ANNUAL REGULATORY FEES DUE SEPTEMBER 20TH

The FCC has announced that September 20, 2023 is the deadline for payment of FY 2023 Regulatory Fees. Payment must be received by the FCC no later than 11:59 pm EDT in order to avoid a 25% penalty.

Commercial broadcast stations will find the amounts due in CORES by logging in with their CORES username and accessing the Regulatory Fee payment module. Fees can be paid there by following the prompts and the instructions provided [here](#) and [here](#). Only online payments are possible, via credit card (subject to limits), ACH or wire transfer.

Stations can also learn what they owe from this [notice](#), which also provides payment codes. Regulatory fee exemptions are explained [here](#), and the procedures for waiver or payment plan requests can be found [here](#).

We urge broadcast licensees to carefully review the amounts due, as we noted and alerted the FCC staff to several population count anomalies that greatly inflated amounts due. In addition, stations that have been and remain exempt should log in to CORES to confirm that status. Otherwise, the station will be red-lighted in the FCC's systems after the payment deadline, and attempts to collect the fees (with penalties) will be made.

We are available to assist clients with regulatory fee payments as requested.

ARE YOU READY FOR THE NATIONAL EAS TEST?

After the Labor Day weekend, we will be on the downslope to the National EAS Test scheduled for October 4, 2023. By September 15, 2023, all non-exempt broadcast stations should have filed or updated their ETRS Form One with the required information about station location, monitored stations, EAS equipment and day-of-test responsible party. Double check phone numbers and email addresses in the event the FCC or FEMA should reach out as part of test preparation or operations.

The actual test is slated for **October 4, 2023 at 2:20 pm EDT**. ETRS Form 2 reporting test receipt and retransmit information must be filed on or before **October 5, 2023**. ETRS Form 3 must be filed no later than **November 20, 2023** to report any test anomalies or difficulties. Forms 1, 2 and 3 can be accessed and completed in the ETRS System at this [link](#) using a CORES Username. In the event that the scheduled Oct 4th test must be rescheduled due to conditions or events, the fall back date is October 11, 2023 at the same time.

All EAS Participants – including Low Power FM stations (LPFM), Class D non-commercial educational FM stations, and EAS Participants that are silent pursuant to a grant of Special Temporary Authority – are required to register and file the required forms in ETRS, with the following exceptions (1) analog/digital TV translator stations; (2) FM broadcast booster and FM translator stations entirely rebroadcasting other FM stations, and (3) analog/digital full power stations operating as satellites or repeaters of a hub station (or common studio or control point) and rebroadcast 100 percent of the programming of the hub station or common studio/control point).

COMMENT DATES SET FOR HD RADIO RULEMAKING

The FCC has adopted a proposed rulemaking addressing several HD radio issues, including power increases. The [rulemaking](#) has been released and published in the federal register, with [comments](#) now due September 21, 2023 and reply comments October 6, 2023.

The 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 rulemaking also considers 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.

FM TRANSLATOR AND LPFM MINOR MODIFICATION FILING FREEZE STARTS SEPTEMBER 1

In connection with the FCC's planned November 1-8 Low Power FM filing window, the FCC previously announced via [public notice](#) that a filing freeze on all LPFM and FM translator minor mod applications 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.

FCC STILL LACKS AUCTION AUTHORITY AND FIFTH COMMISSIONER

On August 10, 2023, FCC Chairwoman Rosenworcel issued a [statement](#) lamenting the continued absence of new authority from Congress to auction spectrum, noting that the date marked the 30-year point since the FCC was first given authority to run spectrum auctions. Congress allowed the FCC's auction authority to lapse nearly six months ago, and efforts to reestablish it have been thwarted among other Congressional initiatives and negotiations. With an October budget deadline looming, efforts to reestablish that auction authority, along with a vote of the full Senate on the nomination of Anna Gomez to be the

fifth FCC Commissioner, are being closely watched.

KEEP AN EYE ON THAT POLITICAL FILE

As fall election seasons heat up across the nation, stations should be hyper-vigilant about keeping their political files current. Hundreds of stations had to enter into consent decrees and adopt compliance plans for not timely uploading political candidate airtime requests (you only have 24 hours to do so). The “margin of error” allowed was very small, with the FCC taking action against stations when there were five or more late uploads. We fully expect that instead of consent decrees, stations will face heavy fines in the next renewal cycle for untimely uploads.

DATES TO REMEMBER

September 1, 2023

Filing Freeze Begins on all LPFM and FM Translator minor modification applications

September 15, 2023

Deadline for All Non-exempt Commercial and Noncommercial Broadcast Stations to file or update ETRS Form One in preparation for the Oct 4 National EAS Test

September 20, 2023

All Non-exempt Commercial Broadcast Stations: FY 2023 regulatory fees are due by no later than 11:59 EDT on this date and must be paid via the CORES system. Online payment is the only option. 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 \$95 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 4, 2023

National EAS Test @ 2 pm EDT -- All Non-exempt Commercial and Noncommercial Broadcast Stations should receive and retransmit the test as required in State EAS Plan

October 5, 2023

Deadline at midnight EDT for All Non-exempt Commercial and Noncommercial Broadcast Stations to file ETRS Form Two reporting station performance in the Oct 4 National EAS Test

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.

November 8, 2023

Filing Freeze Ends at 6 p.m. EST for LPFM and FM Translator minor modification applications

November 20, 2023

Deadline for All Non-exempt Commercial and Noncommercial Broadcast Stations to file ETRS Form Three reporting any issues/anomalies from their participation the Oct 4 National EAS Test

December 1, 2023

Deadline for all Commercial and Noncommercial Broadcast Stations, except for LPFM, TV Translator, or Radio Translator Stations to file biennial ownership report in LMS. Information must be current as of October 1, 2021. For commercial station licensee entities, the new filing fee of \$95 per station will apply.

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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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