



Broadcast Newsletter

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FCC DELAYS LPFM FILING WINDOW AND EXTENDS FM TRANSLATOR AND LPFM MINOR MODIFICATION FILING FREEZE

The FCC’s Media Bureau has [announced](#) revised dates for the LPFM filing window that was originally scheduled for November 1-8, 2023. The new window dates are December 6-13, 2023.

The almost five week delay means that the filing freeze on FM translator and LPFM minor modification applications has also been extended, and will now end when the filing window closes at 6 pm EST on December 13, 2023.

The filing window delay stems from a request by a group of low power FM advocates that the date-change would enable more participation and also accommodate other regulatory deadlines set to occur near or during the originally scheduled window dates.

FCC ANNOUNCES SECOND ROUND OF BROADCAST STATION EEO AUDITS

In a [public notice](#) issued October 30, 2023, the FCC announced its second round of broadcast station EEO audits in 2023. The notice, which includes the letter to licensees and a list of the stations audited, places the deadline for responding as December 14, 2023.

Stations on the list should upload a copy of the audit letter to their online public file, and then begin gathering the information needed to respond to the audit. As with the last several audits, stations must respond to the audit by uploading their response to the online public file by the deadline instead of mailing anything to the FCC. Extensions, or clarifications of response obligations can be obtained via EB-eeo@fcc.gov or calling 202-418-1450. The scope of audits can make responding very time consuming, so getting started early is wise.

As a recent [decision](#) makes clear, the FCC takes EEO compliance very seriously, and appears to be increasing fine amounts for discovered infractions.

ONE MONTH LEFT TO FILE BIENNIAL OWNERSHIP REPORTS

Licensees of commercial and non-commercial full power television, Class A television, low power television, AM radio and FM radio stations have about one month left to file biennial ownership reports. December 1, 2023 is the filing deadline.

All information in the biennial 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. Paying the fee is a critical step, as failure to do so will result in a “dismissal” of the report fourteen days later, and the result (if not caught and remedied within the filing window) is that the station is deemed not to have filed a timely report. Non-timely or unfiled ownership reports are a significant matter before the FCC, and often result in inquiries or fines at license renewal.

Stations do have the opportunity to load and submit a prior report when there have been no changes from a prior biennial report.

NATIONAL EAS TEST – FORM 3 DEADLINE COMING UP

The deadline to file ETRS Form 3 for the October 4, 2023 National EAS Test is **November 20, 2023**. ETRS Form 3 reports any test anomalies or difficulties and can be accessed and completed in the ETRS System at this [link](#) using a CORES Username. Even if a station did not have any issues with the test, an ETRS Form 3 filing is required.

TV STATIONS – CHECK YOUR BROADCAST AUXILIARY LICENSES

TV Station licensees should review all broadcast auxiliary licenses to determine whether they authorize operations in the 12.7-13.25 GHz band. If they do, a certification action is required by **November 29, 2023**. Earlier this year, the FCC released a Notice of Proposed Rulemaking and Order proposing to repurpose some or all of the 12.7-13.25 GHz band spectrum for mobile broadband or other expanded use. That Order directed non-exempt fixed and mobile Broadcast

Auxiliary Services licensees in the band to certify the accuracy of the information reflected on their licenses, including whether their facilities are operating as authorized. Doing so is designed to assist the FCC in identifying incumbent operations entitled to protection or relocation during an anticipated transition period.

No later than November 29, 2023, TV stations with auxiliary authorizations in the 12.7 GHz band should take the actions outlined in [this public notice](#) to ensure they are protected. Broadcast Auxiliary licenses include the following types of licenses classified by the prefixes shown: RP-Broadcast Auxiliary Remote Pickup; AI-Aural Intercity Relay; AB-Aural Microwave Booster; AS-Aural Studio Transmitter Link; TI-TV Intercity Relay; TV-TV Microwave Booster; TP-TV Pickup; TS-TV Studio Transmitter Line; TT-TV Translator Relay; LP-Broadcast Auxiliary Low Power; and LV-Low Power Wireless Assist Video Devices.

Accuracy certifications are only required for broadcast auxiliary authorizations in the 12.7-13.25 GHz band, so if yours are in another band, no action is required.

GOVERNMENT SHUTDOWN REMAINS POSSIBLE

While a government shutdown in October was avoided, and the House now has a new speaker, there is no certainty that a government shutdown has been averted altogether. Legislators face a November 15 deadline to pass legislation enabling the ongoing funding of government operations. While a brief continuing resolution has been discussed, it remains possible that agreement will not be possible, and a shutdown will result. The FCC has adopted its plan for shutting down its operations except for critical functions, and it contemplates that a halt to regular operations would begin about two weeks after a government shutdown.

While the FCC would later extend filing deadlines, the chaos and strain on filing systems that follows can be frustrating for broadcasters trying to complete required compliance actions. Broadcasters should file whatever they can before November 15. The filing window for biennial

ownership reports extends through December 1. A loss of LMS would interrupt preparations for the LPFM filing window as applicants work on applications for filing in the second week of December, and potentially result in a further delay of the filing window.

DATES TO REMEMBER

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

November 29, 2023

Deadline for television broadcasters with Broadcast Auxiliary Service (BAS) licenses (Studio Transmitter Links/ ENG) in the 12.7-13.25 GHz (12.7 GHz) band to file a certification to protect their operations or to entitle them to reimbursement should the FCC mandate technical changes in the future.

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, 2023. For commercial station licensee entities, the new filing fee of \$95 per station will apply.

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, 2022 and September 30, 2023. NCE TV stations pay on 2.5% of gross revenue. Ancillary and supplemental 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 6, 2023

LPFM filing window opens at 12:01 EST for new LPFM applications.

December 13, 2023

LPFM Window Closes at 6 p.m. EST and Filing Freeze for LPFM and FM Translator minor modification applications simultaneously ends.

December 14, 2023

Response Deadline for broadcast stations included in the Enforcement Bureau's October 30, 2023 EEO Audit.

January 10, 2024

TV, Class A, AM & FM Stations (commercial & noncommercial): deadline to complete and upload to online public file the 4th 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 4th Quarter 2023 certification of ongoing Class A eligibility.

Noncommercial Broadcast Stations: deadline to complete and post to your online public file the 4th Quarter 2023 report for any 3rd Party Fundraising conducted during the quarter.

January 30, 2024

All Commercial Full Power and Class A Television Stations – deadline to complete and submit the 2023 children's television report in LMS and separately upload children's television commercial limits certifications for all of 2023 in the station online public file.

January 31, 2024

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, 2024

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, 2023 – January 31, 2024, 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 Arkansas, Louisiana and Missouri: 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 2023-24 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 2023-24 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).

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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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