



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

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Deadlines: [May 23: Renewal Pre-Filing Announcement Certification Due in OPIF](#)
[May 28: C-Band Earth Station Certifications Due](#)
[June 3: Virginia Radio Station License Renewal Applications Due](#)
[June 3: EEO Form 396 Due for Virginia Radio Stations](#)
[June 3: EEO Public File Reports for Virginia Radio and TV Stations](#)

**** Important Radio Station License Renewal Reminders ****

We start this memo with several reminders for Virginia radio stations regarding the 2019 license renewal application process.

A. Reminder Number One: Virginia Radio Stations Must Upload Certification of Pre-Filing Announcements to OPIF by May 23, 2019

First, the date by which Virginia radio stations must place in their online public inspection file (OPIF) a statement certifying compliance with the FCC's license renewal pre-filing announcement requirement is tomorrow—**May 23, 2019**.

Timing of Pre-Filing Announcements. Stations will recall that they were required to air four pre-filing announcements designed to alert listeners to the fact that the FCC will soon be considering their application for license renewal.

Those announcements for Virginia radio stations should have aired on April 1, April 16, May 1, and May 16. At least two of the four pre-filing announcements had to air between 7:00 a.m. and 9:00 a.m. and/or 4:00 p.m. and 6:00 p.m. local time.

Certificate of Broadcast of Announcements. The FCC’s rules require that a certificate of broadcast of the pre-filing announcements must be signed and placed in the station’s OPIF no later than 7 days after the last pre-filing announcement is aired. Again, for Virginia radio stations, that certification must be placed in a station’s OPIF no later than **May 23, 2019**.

The pre-filing announcement certification must include (1) a statement indicating the dates and times that each of the pre-filing notices was broadcast, and (2) copies of the text of each announcement.

If Your Station Did Not Timely Air the Four Required Pre-Filing Announcements If you are a Virginia radio station and you did not air the four required pre-filing announcements, we strongly recommend you contact your communications counsel immediately, or call the VAB’s FCC Hotline at 434-977-3716.

B. Reminders Two & Three: Virginia Radio Stations Must File License Renewal Applications and EEO Report Schedule 396 by June 3, 2019

Rest assured that this will not be the last time we remind you (!), but please keep in mind that license renewal applications for Virginia radio stations are due no later than **June 3, 2019**.

Also due on **June 3** for Virginia radio stations, in conjunction with the license renewal application, is the Broadcast Equal Employment Opportunity Program Report on FCC Form 2100, Schedule 396 (formerly known as FCC Form 396). The requirement to file the Schedule 396 in the FCC’s LMS (Licensing and Management System) applies to all radio stations, no matter how many full-time employees they have.

NOTE: Virginia radio stations will need to file the Schedule 396 Report in LMS **before** filing their license renewal application (also in LMS). Why? Because the FCC’s LMS filing system will generate a file number upon receipt of the Schedule 396 that stations must then insert into the relevant field in the license renewal application.

EEO Public File Reports Due June 3, 2019, for Virginia Radio and Television Stations

And . . . as if June 3rd wasn’t already a deadline circled on your calendars, please remember that both Virginia radio AND television stations with five or more full-time employees must upload their annual EEO Public File Report in their online public inspection file and post it to their website (if they have one) by—you guessed it—**June 3, 2019**. (The due date would have been June 1, but since that date is a Saturday, the Reports are due on June 3, a Monday.) Recall that, for purposes of the FCC’s EEO rules, a “full-time” employee is one who works 30 or more hours per week.

As a reminder, the FCC’s EEO rules require broadcast stations to engage in specific non-vacancy outreach efforts. Every two years, stations that have more than 10 full-time employees and are not located in a “smaller market” must engage in at least four of the initiatives on the FCC’s “menu” of outreach options, and stations that are located in a “smaller market” or have five to ten full-time employees must engage in at least two of the initiatives. Stations with fewer than five full-time employees and religious broadcasters who apply religious qualifications to all employees are not required to engage in any “menu option” activities. For Virginia radio stations, the current two-year period in which to complete these EEO “menu options” ends June 1, 2019. (Virginia television stations are currently in the middle of their two-year period, which will end June 1, 2020.)

As stations prepare their 2019 EEO Public File Report, they will want to keep in mind the Commission’s EEO recordkeeping requirements. Each year the Commission conducts random audits of radio and television stations for EEO compliance. Stations that pay close attention to the EEO recordkeeping requirements will be in a better position to respond if they find themselves subject to an EEO audit. The FCC sent out its first round of 2019 EEO audit letters in February, and the FCC typically sends out a second round of EEO audit letters later in the year.

For specific details regarding the contents of the EEO Public File Report and EEO recordkeeping requirements, stations may wish to contact their communications counsel or call the VAB’s FCC Hotline at 434-977-3716.

**** May 28, 2019, C-Band Certification Deadline Nearing ****
Required Filings for Many C-Band Earth Station
Operators Due Tuesday, May 28

The FCC recently issued a [Public Notice](#) (the “Notice”) setting a **May 28, 2019**, deadline for operators of fixed-satellite service earth stations in the “C-band” (i.e., the 3.7–4.2 GHz band) to certify the accuracy of (and, in some cases, provide additional information regarding) currently authorized facilities. The Notice applies both to (1) fixed C-band downlink registrations that were not filed for or modified in last year’s April 19 – October 31, 2018, special filing window, as well as to (2) temporary-fixed or transportable earth stations that specify C-band frequencies on the face of the license.

Accordingly, the Notice’s filing requirement applies to many fixed earth station dishes and SNG vans/trucks that have C-band receive capabilities, even though they uplink in the Ku-band.

For any C-band operator subject to the Notice’s certification requirement, the operator must file, by May 28, 2019, a certification signed by an authorized representative for the licensee or registrant which includes the relevant call sign(s), file numbers, applicant or registrant name, and also the following statement:

“The undersigned, individually and for the applicant, licensee, or registrant, hereby certifies that all information reflected in his or her licenses or registrations in IBFS,

including any attached exhibits, are true, complete and correct to the best of his or her knowledge and belief, and have been made in good faith.”

Additionally, operators of temporary-fixed or transportable fixed-satellite service earth stations in the C-band must provide further information, including:

- The relevant station call sign (or IBFS file number for any pending registration filed between April 19, 2018, and October 31, 2018);
- The address where the equipment is typically stored;
- The area within which the equipment is typically used;
- Examples of typical deployments (focusing on area and duration of use);
- The number of transponders typically used in the C-band and the extent of use on both the uplink and downlink; and
- The licensee/registrant and point of contact information.

What do receive-only C-band operators need to do? Operators of receive-only C-band dishes must electronically submit the required certification by May 28, 2019. The certification must be made for *each relevant call sign* in the International Bureau Application Filing and Reporting System (also known as “IBFS” or “MyIBFS”)—located at <https://licensing.fcc.gov/myibfs>—by using the “Pleadings and Comments” link and selecting “C-band certification” as the pleading type.

What do temporary-fixed and transportable C-band operators (those with SNG vehicles) need to do? Are there two required filings? Operators of temporary-fixed and transportable C-band dishes must electronically submit the required certification **and** the further information set forth above by May 28, 2019. Thus, for such operators, the certification must be made for *each relevant call sign* in the International Bureau Application Filing and Reporting System by using the “Pleadings and Comments” link and selecting “C-band certification” as the pleading type. And, the additional information set forth above must be separately filed—in addition to the submission made via the “Pleadings and Comments” link—for each call sign in the IBFS by selecting the pleading type “Other,” which is also (unfortunately) located under the “Pleadings and Comments” link.

What if we fail to file these certifications? The FCC hasn’t yet determined how it’s going to move forward with the C-band on a long-term basis, but it’s plausible that it will repurpose all or part of the C-band on an exclusive or sharing basis. If so, it’s also possible—but nothing is certain at this juncture—that registered broadcast users in the C-band will have a reimbursement opportunity if they need to change bands and/or procure new equipment. This current certification process may prove to be a “gate keeping” function for any such reimbursement opportunities that might arise in the future. Thus, making the filing by the May 28 deadline *could* have economic ramifications for your station.

If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

Tim Nelson, Editor

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