



Virginia Association of Broadcasters Legal Review



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Legal Memorandum

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Deadlines: [September 20: Nationwide EAS Test and EAS Form Two Due](#)
[September 25: FCC 2018 Regulatory Fees Due](#)
[September 26: Revisions to EAS Form One Due](#)
[October 17: Deadline to Register Existing C-Band Downlink Earth Stations](#)

[One-Week Countdown to September 20: Nationwide EAS Test Date and Deadline to File Form Two; Form One Revisions Due September 26](#)

With all eyes on the real emergency that is Hurricane Florence, we write to remind you that the FCC and FEMA (the Federal Emergency Management Agency) have scheduled a live, [nationwide test of the Emergency Alert System](#) (“EAS”) to take place in one week—on Thursday, September 20, 2018. As discussed below, the **Form Two EAS Report is due the same day, on September 20**. The test is scheduled to occur at 2:20 p.m. Eastern Time. (The backup date for the nationwide test, if needed, is October 3.) Remember that **all broadcast stations are required to participate in the EAS**, the FCC no longer recognizes “non-participating” status for stations in the EAS rules.

Preparations for the September 20 Nationwide EAS Test. Stations are encouraged to take the following steps in preparation for the September 20 test:

- Ensure that the station’s EAS equipment operates in compliance with the FCC’s EAS rules, such as being capable of receiving and processing the NPT (national periodic test) code and the “six zeroes” national location code;
- Upgrade, as needed, EAS equipment software and firmware to the most recent version;
- Review the station’s state EAS plan;
- Ensure that a copy of the July 2017 version of the EAS Operating Handbook is located at normal duty positions or EAS equipment locations and is immediately available to operators;
- Review the EAS Operating Handbook to become familiar with and prepare for the actions that will need to be taken upon receipt of the test alert; and
- Manually synchronize EAS equipment clocks to the official time provided by NIST (the National Institute of Standards and Technology), if the station’s equipment does not automatically synchronize to an Internet time source.

Form Two EAS Report Due September 20. Form Two requires stations to report on “day of test” information. **Form Two must be completed by 11:59 p.m. Eastern Time on September 20.** Most of Form Two’s fields will auto-populate using the data each station provided in Form One, which was due August 27. Form Two will ask broadcasters whether they received the nationwide EAS test message and whether they retransmitted the nationwide EAS test message. Form Two is intended to provide the FCC and FEMA only with a quick snapshot of the nationwide test. Form Two (like Forms One and Three) must be filed using the FCC’s ETRS ([EAS Test Reporting System](#)).

Form Three EAS Report Due November 5. Form Three is the report on which stations will describe any issues with receipt or retransmission of the nationwide test. Form Three will be due by 45 days after the nationwide test—November 5, 2018. We will be sure to remind you later about the third report.

Revising Form One EAS Report (if Necessary). As mentioned, broadcasters were required to file the Form One EAS Report through the ETRS by August 27. **Stations have until September 26 to make any corrections to, and re-file, their Form One Reports.** (Instructions for registering with the ETRS and submitting Form One were previously distributed. Please contact your FCC counsel immediately if your station has not yet filed its Form One EAS Report or if your station needs assistance in revising its filed Form One Report.)

It is critically important that broadcasters provide truthful information in these EAS reports. Please consult with your FCC counsel if you have any concerns about your EAS compliance and/or nationwide testing issues.

FCC Reminder About EAS and WEA Tones. On September 13, the FCC emailed EAS stakeholders to informally remind them that EAS and WEA tones (and simulated and sound-alike tones) cannot be used for any purpose other than (i) an actual alert, (ii) an actual test, or (iii) an approved PSA. The FCC has issued fines up to \$1,000,000 in recent years for the inappropriate use of EAS and WEA tones. Thus, as stations gear up for the nationwide test, news departments need to be mindful

that a report about the nationwide test cannot include EAS or WEA tones (or simulated or sound-alike tones).

September 25: Deadline to Pay Regulatory Fees

And another reminder: **the deadline for paying regulatory fees is 11:59 p.m. Eastern Time on Tuesday, September 25, 2018.** Timeliness is critical; late filing of regulatory fees—even by one minute—automatically results in a 25% late payment penalty (on top of the regulatory fees owed). A [Public Notice](#) released by the FCC on August 30 details the multi-step regulatory fee payment process, and the FCC’s [regulatory fees webpage](#) provides additional resources for broadcasters.

Regulatory Fee Amounts for Broadcasters. The FCC released a [Fact Sheet for Media Services](#) licensees (including radio and television stations) discussing the regulatory fees imposed on broadcast stations. (Of course, some broadcast stations hold licenses in certain services other than those governed by the Media Bureau, *e.g.*, Part 25 earth station licenses, which are overseen by the International Bureau.) For convenience, attached to this memorandum is a series of “schedules” setting forth the FY 2018 regulatory fees of greatest interest to broadcasters:

- [Schedule A](#) contains a table of the FY 2018 regulatory fees for radio stations.
- [Schedule B](#) contains table of the FY 2018 regulatory fees for television stations.
- [Schedule C](#) contains a table of other FY 2018 regulatory fees that affect broadcasters.

Payments By Check Will Not Be Accepted. Consistent with the last several years, the Commission will not accept checks (including cashier’s checks and money orders) for the payment of regulatory fees. Instead, all payments must be made by wire transfer or online via ACH (Automated Clearing House) payment, or credit card. Other forms of payment will be rejected.

Note that for payments by wire, filers must fax to the Commission their fee filer generated Form 159-e at least one hour before initiating the wire transfer (but on the same business day) so that the Commission can associate the payment with the correct regulatory fee information.

Maximum Credit Card Transaction Level. The maximum amount that can be charged on a credit card for transactions with federal agencies—including the FCC—is \$24,999.99. Attempted transactions for greater amounts will be rejected. This limit applies to single payments, divided payments, and to combined payments of more than one bill. In other words, the FCC will aggregate multiple transactions attempted on one credit card on one day and treat them as a single transaction subject to the \$24,999.99 limit, and the FCC will not permit a broadcast licensee to divide a transaction over multiple days in order to create smaller payments that would fall below the \$24,999.99 daily limit. So, broadcasters who need to pay an amount greater than \$24,999.99 must use debit cards (Visa or MasterCard) or make payment by ACH or wire transfer.

Limited Exemption for De Minimis Regulatory Fees. The FCC exempts regulated entities from paying regulatory fees when their total fee obligation is considered “*de minimis*.” The *de minimis*

threshold is currently \$1,000. This means that broadcasters (and other regulated entities) whose total FY 2018 annual regulatory fee liability is \$1,000 or less are exempt from payment of FY 2018 regulatory fees. The *de minimis* threshold applies only to filers of annual regulatory fees, and it is not a permanent exemption. So, each licensee must reevaluate its total fee liability each fiscal year to determine whether it meets the *de minimis* exemption in any particular year

October 17: Deadline to Register Existing C-Band Downlink Earth Stations

And yet another crucial reminder: broadcasters have until **October 17, 2018**, to register their existing (constructed and operational as of April 19, 2018) C-band receive-only earth stations.

Background. As we have previously reported, many broadcast stations use C-band downlink earth stations to receive network and syndicated programming, but since the FCC’s rules do not require receive-only earth stations to be licensed or registered, many broadcasters who use such dishes have never registered them with the FCC. The C-band—the 3.7-4.2 GHz band—is used heavily for content distribution to television and radio broadcasters, including transportable antennas to cover live news and sports events. Just about every U.S. household relies on C-band satellite operations.

In July, the Commission adopted a [Notice of Proposed Rulemaking and Order](#) (“Notice”) that seeks comment on various proposals for allowing expanded use of the C-band for 5G. The Notice proposes to add a mobile allocation to the C-band and seeks comment on transitioning all or a part of the band to wireless broadband services, with the stated goals of promoting 5G wireless connectivity, expanding high-speed broadband access across the U.S., and closing the “digital divide.” The proceeding is very significant to broadcasters; NAB is advocating for existing earth stations to be protected against harmful interference that could result from additional C-band uses.

Why Register? Given the Commission’s desire to expand use of the C-band for wireless services, NAB is encouraging broadcasters to register ALL of their downlink C-band antennas at a given site. Registration of all dishes provides a greater degree of interference protection against certain terrestrial microwave operations, and it is also likely to allow for reimbursement of costs associated with service restoration for each dish at such a site if the FCC ultimately reallocates the C-band band to other users and implements a reimbursement process.

Two “Batch” Filing Options for Registration. The FCC is offering two filing options for earth station registration. First, operators with multiple receive-only antennas at a single geographic location or address may apply to register such antennas under a single earth station application and pay just one application fee of \$435. (More on the application fee—and possible reimbursement of such fee—below).

Second, the FCC will waive certain registration requirements to allow operators of multiple geographically diverse receive-only earth stations to register those stations by filing an application for a single “network.” This “network” filing option is likely to be useful only to a small number of large broadcast entities with numerous C-band downlink dishes operating in numerous

locations. The FCC filing fee for a single “network” authorization is \$10,620. Although that fee is higher than the \$435 registration fee for a single receive-only earth station, broadcasters who wish to register a large number of earth stations may benefit from filing under this “network” category, rather than applying to register each earth station individually.

SES Program to Reimburse Registration Filing Fees. C-band satellite operator SES announced that it is offering to reimburse broadcasters (and others) the \$435 FCC filing fee incurred in connection with the filing of new registration applications for C-band downlink dishes.

SES has provided information about this reimbursement opportunity [here](#). Based on the information SES has provided, here’s what we know about this reimbursement opportunity:

Reimbursement by SES may be available to U.S. C-band earth station operators in the contiguous United States (not in HI or AK), i.e., broadcasters, cable systems, DTH providers, video programmers, MVPDs, etc., subject to the following conditions:

- proof of submission of the FCC registration fee must be submitted to FCCregistration@ses.com by October 31, 2018;
- only new earth station registrations are eligible for reimbursement;
- reimbursement is limited to the registration fee of \$435 per earth station;
- registrations must be carried out between July 25 and October 17, 2018; and
- reimbursement is at all times subject to the availability of funds by SES.

In order to be considered eligible for reimbursement, broadcasters will need to email their confirmation of payment of the FCC filing fee to FCCregistration@ses.com. Once received, it will be checked by SES to determine eligibility status. If eligible, reimbursement will follow. If not eligible for any reason, SES will notify you. We understand SES is still working on the method of reimbursement—we’ll keep you updated.

Reimbursement eligibility does not depend on the size of the entity seeking reimbursement. SES invites broadcasters to email (FCCregistration@ses.com) or call (609-987-4300) them with questions about the FCC’s registration process or the filing fee reimbursement offer. SES has set up an informational web page (<https://www.ses.com/fcc-registration-or-licensing-c-band-antenna>) to help broadcasters understand the FCC’s registration process and FCC Form 312.

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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[Schedule A](#)

FY 2018 RADIO STATION REGULATORY FEES						
Population Served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B C, C0, C1 C2
<=25,000	\$880	\$635	\$550	\$605	\$965	\$1,100
25,001 – 75,000	\$1,325	\$950	\$825	\$910	\$1,450	\$1,650
75,001 – 150,000	\$1,975	\$1,425	\$1,250	\$1,350	\$2,175	\$2,475
150,001 – 500,000	\$2,975	\$2,150	\$1,850	\$2,050	\$3,250	\$3,725
500,001 – 1,200,000	\$4,450	\$3,225	\$2,775	\$3,050	\$4,875	\$5,575
1,200,001 – 3,000,000	\$6,700	\$4,825	\$4,175	\$4,600	\$7,325	\$8,350
3,000,001 – 6,000,000	\$10,025	\$7,225	\$6,275	\$6,900	\$11,000	\$12,525
> 6,000,000	\$15,050	\$10,850	\$9,400	\$10,325	\$16,500	\$18,800

[Schedule B](#)

FULL POWER TELEVISION STATION REGULATORY FEES	
Commercial Digital TV (47 CFR part 73) VHF and UHF	FY 2018 Fees
Markets 1-10	\$49,750
Markets 11-25	\$37,450
Markets 26-50	\$25,025
Markets 51-100	\$12,475
Remaining Markets	\$4,100
Construction Permits	\$4,100
Satellite Television Stations (All Markets)	\$1,500

[Schedule C](#)

OTHER REGULATORY FEES OF INTEREST TO BROADCASTERS	
Fee Category	FY 2018 Fees
PLMRS (47 CFR part 90) (per license) (exclusive use)	\$25
Microwave (47 CFR part 101) (per license)	\$25
LPTV, Class A TV, TV/FM Translators & Boosters	\$380
Earth Stations	\$325
Cable Television Systems (per subscriber)	\$0.77
Direct Broadcast Service (DBS) (per subscriber)	\$0.48