

FCC Begins Mid-Term Review of EEO Reports

May 22, 2023

The FCC announced that its mid-term review of EEO compliance will begin on June 1, 2023 and continue on a rolling basis through April 1, 2027. During the mid-term review, the FCC will review the Station Employment Unit's (SEU) Annual EEO Public File Reports for the prior two years. The FCC has indicated it will notify a licensee if reporting improvements are needed and it may take enforcement action as it finds appropriate.

The mid-term review beginning on June 1, 2023 will apply to Radio SEUs located in Maryland, Virginia, West Virginia, and Washington DC. Although the FCC no longer requires SEUs to file a Form 397 (Broadcast Mid-Term Report) with a copy of the last two EEO annual reports, the FCC will nevertheless review the reports that are uploaded to the online public inspection file (OPIF).

For Radio Licensees: The FCC applies the mid-term review to Radio SEUs with 11 or more full-time employees, which the FCC defines to mean individuals who work 30 hours or more per week. (To be clear, if the Radio SEU has between 5-10 employees, it must still prepare and upload a copy of the Annual EEO Public File Report to the OPIF for each station.) To provide the FCC with information about the size of the SEU, each radio licensee must complete a new section of the OPIF. Under the "Settings" section of the OPIF, there is a new tab called "Mid-Term Review." Each radio licensee will need to update this tab to answer whether it has 11 or more full-time employees. The FCC has indicated that licensees that fail to answer this new question will be contacted by Enforcement Bureau staff.

For Television Licensees: The FCC applies the mid-term review to Television SEUs with 5 or more full-time employees. As SEUs with five or more full time employees must upload a copy of the Annual EEO Public File Report to the OPIF, the FCC will assume an SEU has five or

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more full time employees if an Annual EEO Public File Report has been uploaded. The FCC has not added a new Mid-Term Review tab to the public files of television stations.

If you have questions about the mid-term review, please contact the Wiley attorneys listed on this alert.