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## **FCC Prepares to Reinstate Annual Employment Reports**

**April 16, 2008**

The Federal Communications Commission appears to be on the verge of reinstating annual Equal Employment Opportunity reports for both broadcasters and cable operators. It has issued a prototype form and has requested comments.

Prior to suspension of the requirement a decade ago, all but the smallest cable systems and broadcast stations were required to file annual EEO reports (FCC Forms 395-A and 395-B, respectively). Employees were arrayed in a data grid according to their job category, gender, race and ethnicity. The cable form further required a breakout into more detailed job types and a listing of each individual employee by title. The annual reporting requirement was suspended pending review of the Equal Employment Opportunity Commission's Form EEO-1, to which the FCC planned to conform its own reports.

The EEOC has now released its revised EEO-1 form. Although it is only to be used by companies having 100 or more employees (or 50 or more employees and a government contract), the FCC proposes to use the same form for its own reports.

The form requires classification of employees into the following job categories:

- Executive/Senior Level Officials and Managers
- First/Mid-Level Officials and Managers
- Professionals
- Technicians
- Sales Workers
- Administrative Support Workers
- Craft Workers
- Operatives
- Laborers and Helpers
- Service Workers

According to the EEOC, these categories are primarily based on the average skill level, knowledge and responsibility involved in each occupation. The only difference from the prior FCC classifications was to break the former category of "Officials and Managers" into two new levels based on responsibility and influence within an organization. "Executive/Senior Level Officials and Managers" includes those who plan, direct and formulate policy, set strategy and provide overall direction. "First/Mid-Level Officials and Managers" includes those who oversee day-to-day operations and direct implementation or operations within specific parameters set by those in the first category. The EEOC notes that business and financial occupations should no

longer be considered within either of the Officials and Managers categories, but rather should be moved to the Professionals category, so as to improve data for analyzing trends in mobility of minorities who are considered officials or managers. Unfortunately, as before, most of the EEOC (and now FCC) job category descriptions have little to do with broadcasting or cable functions, and sidestep the problem of deciding where to place an employee with multiple levels and types of responsibility.

The far more sensitive issue that broadcasters and cable operators had faced with the former reports was placing individual employees into correct racial and ethnic categories. First, employees are to be classified as Hispanic or Latino. All others then are to be categorized as either White, Black or African-American, American Indian or Alaskan Native, Asian, or Native Hawaiian or other Pacific Islander. (Formerly, the last two categories had been combined.) To complicate matters, a new category now is to be added for “two or more races.”

The former FCC instructions suggested that categories were to be determined through post-employment records, visual surveys or the minority group to which an employee “appears to belong or is regarded in the community as belonging.” Broadcasters and cable operators often were torn between a desire to respect individual privacy and avoiding potentially severe penalties for inaccurate or incomplete reporting. The new instructions encourage self-identification and suggest providing employees with a statement emphasizing the voluntary nature, confidentiality and limited use of the requested information. Since reporting will be mandatory, the former methods of assessing race and ethnicity presumably remain should an employee decline to voluntarily self-identify.

The FCC has requested comments by May 22 and reply comments by June 6. All filings must reference MM Docket No. 98-204. If you would like a copy of the Commission’s Public Notice, to which the revised EEO-1 form and instructions are attached, or if we can provide any further information concerning this matter, please be sure to let us know.

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