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**PRIMER ON COMPLIANCE WITH
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THE LOCAL PUBLIC INSPECTION FILE**

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Primer on Compliance with FCC Requirements Governing The Local Public Inspection File

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Each full-power commercial and non-commercial radio, television and Class A television broadcast applicant, permittee and licensee is required to maintain a local public inspection file (“Public File,” “LPIF” or “the File”) containing materials which must be made available to members of the public upon request.

This requirement is continuing in nature. Each licensee is asked to certify, in its license renewal application (FCC Form 303-S), that it has complied fully with the rules relative to the regular maintenance of the File. That certification requires that the applicant certify not only that it has placed the required materials in the File, but also that it has placed those materials there **at the appropriate time.** Failure to provide such a certification may result in a hefty fine or even designation of a station’s license for hearing. Further, with the introduction of the online public file for some stations, the FCC staff can easily review those stations’ public inspection files for compliance and the correctness of a certification.

New Commission Online Public File Requirements: Broadcasters should give special attention to a major change in the Commission’s rules in recent years requiring stations to “upload” public file material (with certain exceptions) to the Commission-hosted database. This requirement was first imposed on full-power and Class A television stations in 2012. As explained below, beginning June 24, 2016, it was applied to radio stations in the top-50 Nielsen markets with 5 or more full-time employees in their employment “unit” and will be similarly expanded to all radio stations on March 1, 2018.

Here are the details in a nutshell:

Top-50 Market Radio Stations: Beginning June 24, 2016, full-power radio stations in the Nielsen Top-50 radio markets with 5 or more full-time employees in their “employment unit” (as “unit” is defined in the FCC’s EEO rules), were required to upload to the Commission-hosted database most of their public file. Exceptions are: the “political file” need be uploaded only on a going-forward basis (*i.e.* from June 24, 2016 and thereafter). Political file material prior to that date (which must be kept for 2 years) and “letters from the public” need not be uploaded. Further, the Commission will automatically upload routine modification, renewal as well as reports such as Biennial Form 323 ownership reports which the station “electronically” files with the Commission, so the foregoing need not be separately uploaded. Provided however, certain AM radio modification and license applications are filed “on paper” rather than electronically, so they should be uploaded. In addition, many other documents and material referenced below in this Primer are not electronically filed and must be uploaded.

Radio Stations Outside the top-50 Markets: Beginning March 1, 2018, the online radio requirements will apply to full-power radio stations located outside the top-50 markets. Accordingly, those stations with 5 or more full-time employees in their “employment unit” (as “unit” is defined in the FCC’s EEO rules), were required to upload to the Commission-hosted database most of their public file. Exceptions are: the “political file” need be uploaded only on a going-forward basis (*i.e.* from March 1, 2018 and thereafter). Political file material prior to that

date (which however must be kept for 2 years) and “letters from the public” need not be uploaded. Further, the Commission will automatically upload routine modification, renewal and other applications as well as reports such as Biennial Form 323 ownership reports which the station “electronically” files with the Commission, so the foregoing need not be separately uploaded. Provided however, certain AM radio modification and license applications are filed “on paper” with the FCC rather than electronically, so they should be uploaded. In addition, many other documents and material referenced below in this Primer are not electronically filed and must be uploaded.

Full-Power and Class A Television Stations: The online requirements have been applicable to full-power and Class A television stations since 2012. According as of this date, such stations were required to upload to the Commission-hosted database most of their public file including a station’s “political file.” However, “letters from the public” need not be uploaded. Further, the Commission will automatically upload routine modification, renewal and other applications as well as reports such as Biennial Form 323 ownership reports which the station “electronically” files with the FCC so the foregoing need not be separately uploaded. However, many other documents and material referenced below in this Primer are not electronically filed and must be uploaded.

All Stations: Once the public file is uploaded to the Commission-hosted website, a station must provide a link to the Commission’s site at <https://publicfiles.fcc.gov>. on the station’s website.

Non-commercial Educational Stations and Political File Material: As a reminder, we note that under Section 399B of the Communications, Act, NCE stations are prohibited from selling spots to political candidates (whether local, state or federal candidates). Also, NCE stations are not required to provide free time to any candidates, and not required to provide reasonable access for candidates for federal offices. Accordingly, NCE stations may not have a political file.

Where must the Public File be located?

The following information is designed to assist broadcasters in the establishment and on-going maintenance of a Public File.

The station’s public inspection file must be kept at its main studio. A station’s main studio may be located either (a) within its community of license; or (b) within the principal community service contour (*i.e.*, the city grade contour) of any AM, FM or television station licensed to its community of license; or (c) within 25 miles of the reference coordinates of the station’s community of license. Principal community service contours are defined as follows: for an AM station, its predicted or measured 5 mV/m contour; for an FM station, its predicted 3.16 mV/m; for a television station, its city-grade contour. A community’s reference coordinates are those coordinates listed in the United States Department of Interior publication entitled “Index to the National Atlas of the United States”. If no coordinates for the community are listed in that source, then the coordinates of the community’s main post office will constitute the community’s reference coordinates. [See FCC Rule 73.1125 for more details as to permitted studio locations & other requirements.]

When must the Public File be available for inspection?

The file at the main studio must be available for public inspection at any time during regular business hours. Of course, a station's online public inspection file will be available for review at any time.

Who is entitled to review the Public File at the station?

In response to visitors' requests, the contents of the public file must be shown to anyone who wishes to see the materials. Stations are encouraged to set aside an area at the studio with a table available for members of the public to look through the public file materials. For electronically kept and online files, a computer will need to be available to enable access by the visitor.

Who is entitled to inquire about the contents of the Public File by telephone, and what information may be requested?

In response to telephone requests, stations must answer callers' questions about the contents of the public file if the file is maintained outside the station's community of license. For example, if asked, the station's staff must provide the number of pages and time periods covered by a particular FCC report and the types and dates of applications in the file. (If the file is maintained in the community of license, the rules do not require such responses to telephoned inquiries.)

How are requests for Public File materials to be treated by the station's staff?

Anyone requesting public file materials in person or on the telephone may be required to give only his or her name and address and nothing more. The station may require the requester to sign a request form (see attached sample form). Retaining such completed forms in the station's non-public files provides the station a record of File requests for future reference.

The station's staff may **not** insist on knowing why the file is being inspected or whether the person is working on behalf of any organization or business. In addition, the staff may not require the requester to make an appointment in advance or call at another time more convenient for the staff to respond to the request. The station's staff must never harass anyone looking at the public file or calling to ask questions about the file and the staff must never try to discourage him or her from coming or calling back. Station staff members may, and as a precautionary matter should, remain in the room with the person inspecting the file, in order to assure that the file is not tampered with. However, in that case the staff member should be careful not to act in a manner which could be interpreted as threatening or unduly intrusive.

Must copies of Public File materials be made available?

Any member of the public who visits the station is entitled to a photocopy of any document in the public file. Such requests should be fulfilled within a reasonable period of time, generally not exceeding seven (7) days. With the exception of the current edition of the manual entitled "The Public and Broadcasting", which the station has to provide free of charge, the station may require the requester to pay the station's

reasonable expenses for making copies, but the charge may not exceed the charge ordinarily imposed for using a public or private copying machine. The station may also require guarantee of payment in advance by requesting a deposit, obtaining credit card information or requiring some other reasonable demonstration that payment will be made. If the station has to mail public file documents, the station has to pay the postage. *If the public file is maintained outside the station's community of license*, the station must make copies of materials in the file available, by mail, to persons *within the station's "geographic service area"* upon telephoned request. (The "geographic service area" is: for TV, the Grade B contour; for Class B1 FM stations, the 0.7 mV/m contour, for Class B FM stations, the 0.5 mV/m contour, and for all other FM stations, the 1 mV/m contour; and for AM stations, the 0.5 mV/m contour.)

May the Public File be maintained electronically?

Stations may maintain (but are not required to do so) all or part of the public file in a computer database rather than in paper files.

If the station opts to maintain an "electronic" public file, the staff also has to make a computer terminal available at the location of the file for public access to that information. In addition, the station has to provide paper copies of public file documents, if requested. If only e-mail messages are retained in a computer database (and not the complete public file), the station may provide copies of the e-mails on a computer diskette rather than through a computer terminal at the station.

Once the public file is uploaded to the Commission-hosted website under the new requirements, a station must provide a link to the Commission's site at <https://publicfiles.fcc.gov> on the station's website.

What materials are required to be kept in the Public File and for how long?

The Commission's Rules set out in detail the required contents of the Public File for commercial and noncommercial stations. The following is a summary list of the generic types of documents specified in the Rules:

- Authorizations (*see page 6*)
- Applications (*see page 6*)
- FCC's Public and Broadcasting Manual (*see page 9*)
- Contour Maps (*see page 11*)
- Contracts (*see page 7*)
- Documents Demonstrating Class A TV Continuing Eligibility (*see page 12*)
- Donor Lists (noncommercial stations only) (*see page 12*)
- EEO Public File Reports and EEO Program Reports (*see page 8*)
- Letter and Electronic Mail Messages from the Public (*see page 9*)
- Local Public Notice Certificate (*see page 11*)
- Materials Relating to FCC Investigations or Complaints (*see page 12*)
- Must-Carry/Retransmission Consent Election Statements (*see page 11*)
- Ownership Reports (*see page 7*)
- Political File (*see page 10*)
- Program Lists and Reports (*see page 10*)

A more complete description of each of these categories of materials is included on the following pages. The retention period for each category is also specified. Note that **ALL** of the retention periods are subject to the following qualifications:

- ❖ Whenever public file documents incorporate earlier public file documents by reference, the latter material must be retained as long as the material that incorporates it is retained.
- ❖ The public file materials which are in the public file at the time a station is acquired from a former owner are the only documents required to be kept by the buyer of a station. The buyer is **not** required to correct the former owner's public file omissions.

With the advent of electronic filing of applications and routine reports, obtaining a paper copy of such materials requires that the filer affirmatively print out a copy from the FCC's CDBS website. Stations which electronically file materials with the FCC should be careful to print out and retain copies of those materials for placement in their Files as necessary, and to provide evidence of filing.

We also recommend that stations develop a record-keeping system by which to keep track of when items are placed in the LPIF. Since *timely* placement of the required items is essential, a log or some other written record reflecting when each item is placed in the Public File can, if diligently maintained, serve as useful evidence of the station's compliance with the Rules.

A description of the above categories of materials to be included in the public file are set forth below.

AUTHORIZATIONS

The station's current FCC authorizations showing the technical parameters to construct or operate the station and any other documents reflecting any modifications or conditions to these authorizations. Such authorizations include the license and construction permit for the main station and its auxiliary transmitter or antenna (if applicable). However, the authorizations for such broadcast auxiliary services as remote pickups, studio-to-transmitter links, intercity relays or broadcast boosters, translators or other low power stations do not have to be placed in the public file.

RETENTION PERIOD FOR AUTHORIZATIONS

As long as the authorizations reflect current and accurate information about the station.

APPLICATIONS

The following applications must be kept in the public file:

1. Applications for new stations and for modification (whether major or minor) of existing stations (FCC Forms 301 and 302)
2. Application for renewal of license (FCC Form 303-S)
3. Application for assignment and transfer of control (FCC Forms 314 and 315)
4. Application for a *pro forma* assignment or transfer of control (FCC Form 316)

In addition to the application, copies of all exhibits, amendments and correspondence between the Commission and the applicant and copies of FCC Initial and Final Decisions in hearing cases pertaining to the application must be kept in the public file. If a petition to deny the application was served on the applicant in connection with an application, a statement that such a petition was filed along with the name and address of the party filing the petition must also be kept in the public file.

RETENTION PERIOD FOR APPLICATIONS AND RELATED MATERIALS

Until "final" action has been taken on the application (*i.e.*, until action on the application is no longer subject to reconsideration or review by the FCC or the courts), with the exception of:

- Construction permits and assignment/transfer applications granted pursuant to a waiver. Such applications must be retained for as long as the waiver is in effect; and
- Renewal applications granted for less than full renewal terms (*i.e.*, "*short term*" renewals). Such applications must be retained through the shortened renewal term and until "final" grant of the station's next renewal application.

OWNERSHIP REPORTS

The most recent complete Ownership Report (FCC Form 323) filed for the station and all subsequent Certifications reflecting the continuing accuracy of the most recent complete Ownership Report. In addition to the Ownership Reports and Certifications, any exhibits, documents, or related correspondence between the FCC and the station about these filings must be kept in the public file.

Note: Ownership Reports are to be filed with the FCC every two years on the anniversary of the filing of the licensee's renewal application. Any amendments or changes thereto need not be filed with the Commission at the time of their occurrence, but rather at the time of the filing of the next biennial Ownership Report, unless a Report must be filed within thirty days of the closing on an FCC authorized assignment of license or transfer of control of a station.

RETENTION PERIOD FOR OWNERSHIP REPORTS

Each complete ownership report and all subsequent ownership certifications must be retained until a new complete ownership report is filed with the FCC.

CONTRACTS

The following contracts (or an up-to-date list identifying the following contracts – *see below*) must be kept in the public file:

1. Contracts relating to present or future ownership and control, including:
 - a. Articles of partnership, association or incorporation and amendments thereto;
 - b. By-laws and amendments thereto;
 - c. Documents pertaining to ownership or voting of the licensee's or permittee's stock, certain proxies, pledges, options and other executory agreements, and mortgage or loan agreements which restrict the licensee's or permittee's freedom of operation; and
 - d. Agreements reflecting a change in officers, directors or stockholders of the licensee or permittee or of entities having an interest in the licensee or permittee.
2. Contracts relating to personnel as follows:
 - a. Management consultant agreements with independent contractors;
 - b. Management contracts with any persons other than officers, directors or regular employees of the station, or management contracts with any persons which provide for both a percentage of the profits and sharing of the losses; and
 - c. All other similar agreements.
3. Time brokerage agreements involving time brokerage of the licensee's station or of another station by the licensee, whether the agreement involves stations in the same market or different markets (with confidential or proprietary information redacted where appropriate).
4. Written citizens agreements between the licensee or permittee and one or more citizens or citizens groups which pertain to the operation of the station in the public interest entered into primarily for noncommercial purposes, including those agreements that deal with goals or proposed practices directly or indirectly affecting station operations in the public interest in areas such as programming and employment.

Contracts continued on next page . . .

CONTRACTS (continued)

5. Network affiliation agreements (for television stations only) pursuant to which network programming is provided on a regular basis for 15 or more hours per week to at least 25 affiliated licensees in 10 or more states.
6. Joint sales agreements involving the joint sale of a station's advertising time whether the agreement involves stations in the same market or different markets (with confidential or proprietary information redacted where appropriate).

Note that, with respect to the materials described in Paragraphs 1, 2 and 5, above, Stations may place in the File an up-to-date list of the materials (as opposed to complete copies). Stations choosing this option must provide copies of the complete contracts to requesting parties within seven (7) days of their request. Confidential or proprietary information may be redacted, but must be available to the FCC upon request. Full copies of the materials described in Paragraphs 3, 4 and 6, as well as documents relating to ownership changes in the licensee, must be maintained in the File.

RETENTION PERIOD FOR CONTRACTS

All such contracts and agreements must be retained in the File as long as the contract or agreement is in force.

EEO PUBLIC FILE REPORTS AND EEO PROGRAM REPORTS

Annual EEO Public File Reports. (Note: Only those stations or station employment units with five or more full-time employees are required to prepare such annual EEO Public File Reports.

Model EEO Program (Form 396) filed with a station's license renewal application and proposed EEO Program (Form 396-A) filed with the current licensee's assignment or transfer application or the station's initial construction permit application.

Statement of Compliance (FCC Form 397), required to be prepared and filed by broadcast (radio and TV) employment units of more than 10 full-time employees in connection with the EEO review to be conducted midway during their license renewal term.

RETENTION PERIOD FOR EEO MATERIALS

EEO public file reports and EEO program reports must be retained until grant of the next renewal application becomes "final" (*i.e.*, no longer subject to reconsideration or review by the FCC or the courts).

BROADCASTING MANUAL

The most recent edition of the FCC's publication, "*The Public and Broadcasting*", which may be downloaded from the FCC's website (<https://www.fcc.gov/media/radio/public-and-broadcasting>).

RETENTION PERIOD FOR BROADCASTING MANUAL

This publication must be retained in the LPIF indefinitely.

LETTERS AND ELECTRONIC MAIL MESSAGES FROM THE PUBLIC

With two exceptions (described below), all written comments and suggestions received from the public in paper form and electronic mail messages transmitted via the internet concerning the station, including but not limited to letters and emails relating to station operation and programming. (Note: television stations are no longer required to separate such letters from the public into programming and non-programming subject categories.)

Letters and/or email need not be placed in the File:

1. When the person who wrote the letter specifically requests that the letter not be made public; and/or
2. When the licensee feels that because of the nature of the letter (*i.e.*, it is defamatory or obscene), it should not be made public.

Additionally, the FCC's rules and precedents do not specify whether correspondence containing no substantive comments or suggestions about station operations (*e.g.*, music requests or letters about syndicated programming heard on other stations) need be placed in the file.

Also, as noted on pages 1 & 2 above, letters from the public are not uploaded to the Commission hosted database.

RETENTION PERIOD FOR LETTERS AND E-MAILS FROM THE PUBLIC

Letters and e-mails from the public must be retained in the Public File for three years from the date of receipt by the Station.

POLITICAL FILE

Records relating to the use of the station's facilities (a) by legally qualified candidates for public office, or (b) for the broadcast of any message relating to any political matter of national importance. Records to be maintained in the public file include:

1. A complete record of all requests for broadcast time made by or on behalf of candidates for public office, including: (a) the name of the candidate, the office sought, the candidate's authorized committee and that committee's treasurer; (b) how the station responded to each such request; (c) a record of the charges, if any, with respect to all uses of the station's facilities by political candidates; (d) the schedule of time purchased by each candidate; (e) whether spots were actually aired; (f) the rates charged; and (g) the class(es) of time purchased.
2. With respect to messages relating to any political matter of national importance (including a legally qualified candidate, any election to Federal office, or a national legislative issue of public importance), the information described in 1(b)-(g), above.
3. Sponsorship information -- in the event of broadcast of a program or spot pertaining to a political candidacy or a controversial issue of public importance which is sponsored, paid for, or furnished, or for which materials or services have been furnished by a corporation, committee, association or other unincorporated group or other entity, a list containing the names of the chief executive officers or members of the executive committee or board of directors of the entity which sponsored the announcement must be retained in the public file.

RETENTION PERIOD FOR POLITICAL FILE MATERIALS

These documents must be retained in the Public File for two years.

PROGRAM LISTS AND REPORTS

1. **Issues/Programs Lists** -- The issues/programs list prepared by the station identifying its most significant treatment of community issues. The list must be placed in the public file every January 10, April 10, July 10 and October 10 for the preceding calendar quarter.
2. **Children's Programming Reports (for television stations only)** -- The Children's Programming Reports (FCC Form 398) prepared by the station identifying the station's educational and informational programming efforts and programs that are specifically designed to serve the educational and informational needs of children. The Report must be placed in the public file every January 10, April 10, July 10 and October 10 for the preceding calendar quarter.
3. **Children's Commercial Limit Material (for television stations only)** -- Records sufficient to permit substantiation of the station's certification in its license renewal application that it is in compliance with the commercial limits on children's programming. The records must be placed in the public file every January 10, April 10, July 10 and October 10 for the preceding calendar quarter.

RETENTION PERIOD FOR PROGRAM LISTS AND REPORTS

The issues/programs lists, children's programming reports and children's commercial limit materials must be retained in the File until the grant of the station's next renewal application becomes "final" (*i.e.*, no longer subject to reconsideration or review by the FCC or the courts).

CONTOUR MAPS

The station's most current service contour map submitted with an FCC application, together with any other information in the application showing the station's service contours and/or the state, county, city street address or other identifying information about the station's main studio and transmitter location.

RETENTION PERIOD FOR CONTOUR MAPS

These documents must be retained as long as they reflect current and accurate information about the station.

LOCAL PUBLIC NOTICE CERTIFICATE

Within seven (7) days of broadcast of the last public notice of filing for license renewal, a station must place in the public file a statement certifying compliance with this requirement. The dates and times of the broadcast of the pre-filing and post-filing notices, as well as the texts of the notices, must be included.

RETENTION PERIOD FOR LOCAL PUBLIC NOTICE CERTIFICATE

The certificate of compliance must be retained for as long as the application to which it refers.

MUST-CARRY/RETRANSMISSION CONSENT ELECTION STATEMENTS (Television and Class A stations only)

A statement of the television station's election with respect to must-carry and/or retransmission consent.

RETENTION PERIOD FOR MUST-CARRY/RETRANSMISSION CONSENT STATEMENTS

Such statements must be retained for the duration of the three-year period to which they apply.

DOCUMENTS DEMONSTRATING CLASS A TV CONTINUING ELIGIBILITY (Class A television stations only)

Documentation sufficient to establish that the station is continuing to meet the eligibility requirements set forth in the Commission's rules for Class A television stations should be included in the public file and must be manually uploaded to the station's online public file.

RETENTION PERIOD FOR CLASS A ELIGIBILITY DOCUMENTATION

These documents must be retained as long as they reflect complete and accurate information about the station.

MATERIALS RELATING TO FCC INVESTIGATIONS OR COMPLAINTS

Materials having a substantial bearing on a matter which is the subject of an FCC investigation or a complaint to the FCC of which the licensee has been advised. These materials must be manually uploaded to the online public file, if the station is required to maintain an online file (see pages 1-2 above). Materials relating solely to private disputes do not have to be kept in the public file.

RETENTION PERIOD FOR INVESTIGATION/COMPLAINT MATERIALS

These materials must be retained until the applicant, permittee or licensee is notified by the Commission, in writing, that the materials may be discarded.

DONOR LISTS (Noncommercial Stations Only)

Where donors provide funding for *specific programs* on a noncommercial educational station, a list of those donors and funded programs must be included in the PUBLIC FILE (and if the station is required to have an online public file, uploaded to the online file); but not lists of donors providing general support for the station. Those names do not have to be placed in the public inspection file.

RETENTION PERIOD FOR DONOR LISTS

The donors/programs list must be retained in the public inspection file for two years.

[SAMPLE]

**Request to Examine Local Public Inspection File
of Station [CALL SIGN]**

I hereby request to inspect the items described below, which are contained in the local public inspection file of Station [CALL SIGN] as required by the Rules and Regulations of the Federal Communications Commission:

- _____ the entire local public inspection file; or
- _____ the following items in that file (use back of page if additional space is required):

Signature

Print Name

Address: _____

Date: _____

[SAMPLE]

**Request for Reproduction of Local Public Inspection File Materials
OF STATION [CALL SIGN]**

Date of Request: _____

I hereby request that copies of the following items from the local public inspection file of Station [CALL SIGN] ("the Station") be provided to me (*use back of page if additional space is required*):

Total Pages _____

I agree to reimburse the Station for this duplication at the rate of _____ cents per page [NOTE: THE PER PAGE COST IS TO BE ESTABLISHED BY THE STATION] at the time I place this order for duplication. I understand that the Station will make every effort to have the material ready within seven days of placing this order and that I will be called as soon as the material is ready to be picked up by me.

Signature

Print Name

Address: _____

Telephone: _____