

## Commercial Radio and Television Station Public Inspection File Advisory

### Introduction

This **Advisory** reflects the FCC's first major overhaul of its public inspection file rule in over 20 years, which the Commission completed in 1999. See 47 C.F.R. § 73.3526, a copy of which is included in this **Advisory**. As a result, this **Advisory** tracks the public access, content and organization requirements of the rule, which became effective on October 30, 1998 as well as changes made by the FCC on reconsideration of the rules in late May 1999. ***Previous editions of this Advisory are obsolete, and should be discarded.***

### Public Access to the Public Inspection File

The FCC requires every AM, FM or TV broadcast applicant, permittee and licensee to maintain a local public inspection file. The purpose of this file, according to the Commission, is "to make information to which the public already has a right more readily available, so that the public will be encouraged to play a more active part in a dialogue with broadcast licensees." Since the creation of the public inspection file rule is part of the Commission's firm commitment to responsive broadcasting, its importance cannot be overemphasized. Stations must exercise great care in maintaining the public inspection file and in facilitating public access to the file. Indeed, the Commission has imposed substantial fines where it has found, upon inspection, that the file lacks required information.

The public inspection file rule specifies that the public inspection file must be kept at a station's main studio. (The main studio rule, Section 73.1125 of the FCC rules, provides that stations may locate their main studio at one of the following locations: "(1) within the station's community of license; (2) at any location within the principal community contour of any AM, FM, or TV broadcast station licensed to

the station's community of license; or (3) within twenty-five miles from the reference coordinates of the center of its community of license as described in §73.208(a)(1).") Those applying to the FCC for a new station or a change in their community of license must keep their file at an accessible place in the proposed community of license or at their proposed main studio. No matter where the file is located, however, it must be complete at that one location.

The rule requires that the file be available for inspection during "regular business hours" *including lunch-time hours*. Stations also are prohibited from requiring persons seeking access to make an appointment or return at a later time. The Commission has ruled that stations may refuse inspection of their public inspection file *only* "for a limited time during a period of violence or threat of violence."

The FCC permits an employee to remain in the room where the file is being inspected to make certain that the file and its contents are "inspected" and not tampered with. The Commission, however, does not allow a station "to harass, intimidate, or otherwise discourage members of the public from inspecting its public files." Therefore, persons seeking access should be served promptly, treated courteously, and provided with a comfortable environment (table and chair) for their inspection.

FCC rules allow stations to obtain the name and address of any person wishing to inspect the file, but little else. For example, stations may not ask persons inspecting the file to identify the organization they represent or their reasons for inspecting the file. If a person refuses to give their identity, stations should probably still afford them access to the file.

If a person wants copies of material in the file, stations must provide the copies requested either by using their own photocopying equipment, or by arranging to have copies made by an outside copy service, provided that this service does not charge more than the "going rate" in the area. In either case, requests for copies must be fulfilled within a "reasonable time," meaning no longer than seven days after the original request. Stations may require the requesting party to pay the reasonable cost of copying such materials except for "The Public and Broadcasting-A Procedure Manual," which must be provided free of charge, and may require guarantee of payment in advance (e.g., by requiring a deposit, obtaining credit card information, or any other reasonable method). Though materials will necessarily be missing from the file while they are being copied, the Commission has ruled that this is not a violation of its public inspection file rule as long as the materials are returned to the file promptly after the copies are made.

Under the rule, applicants, permittees and licensees that maintain their public inspection file outside the station's community of license pursuant to the main studio rule must now accept telephone requests for photocopies of documents in the file, and the station must pay the postage to mail the documents to addresses within the geographic service area of the station. However, the political files of all stations have been excluded from the requirement that stations mail copies of public inspection file documents to members of the public requesting them by telephone.

The rule also requires that licensees "be prepared to assist members of the public in identifying the documents they may ask to be sent to them by mail, for example, by describing to the caller, if asked, the period covered by a particular report and the number of pages included in the report." To assist these stations in responding to such requests, we have prepared a "Sample Document List" as part of this **Advisory** which can be used as a guide for station staff in answering telephone inquiries. The list must be tailored to each individual station. Of course, it will need to be updated regularly, as many items in the public inspection file change over time. The Document List can be used as an "order form" to assist station personnel in recording each request. It can also be mailed out to anyone who makes a telephone inquiry, so that they can mark which documents they desire and return the marked-up Document List to the station with their order.

We have also drafted two sample notices for those visitors seeking access to the public inspection file, and they are

included as part of this **Advisory**. The first notice, entitled "Public Inspection File - Visitors," should be handed to visitors when they arrive at the station seeking to inspect the file. The receptionist should then contact the appropriate person to handle the visit. The second notice, entitled "Public Inspection File - Inspection," is to be given to the visitor at the file location as a guide to the organization of the file and the procedures for reviewing it. These notices are designed to educate both the visitor and station staff as to the appropriate conduct of a public inspection file review. Please note that the notices must be customized for each station.

### Contents of the Public Inspection File

We recommend that stations organize the physical file in an orderly, logical fashion that parallels the public inspection file rule itself. We have had significant experience with this approach, and clients who have used it have found that FCC inspectors are generally very impressed by it. Also, because the Commission's revisions to the children's programming rules require that certain quarterly children's programming reports be separated from other material in the file, utilizing this organizational approach ensures that the file meets these separation requirements. If the public inspection files for several stations are maintained at the same location, each station must have a separate file; for example, the ownership information for commonly-owned stations cannot be combined into one file.

Under the rule, stations have the option of maintaining all or part of the public inspection file in electronic form, such as in a computer database. Stations choosing this option should be careful to clearly state whether all or part of the public inspection file is maintained electronically, and if only portions are so maintained, to identify which are maintained in hard copy documents and which are maintained electronically. If all or part of the public inspection file is maintained electronically, a computer terminal must be available to any member of the public who wishes to examine the electronic records. The FCC has also encouraged stations to post their public inspection files on their websites.

The listings below outline the materials that the FCC requires stations to keep in their public inspection file. The length of time that the materials must be kept is given under each listing and, when necessary, explanatory notes are given. ***It should be noted that in no event are stations required to keep drafts, notes, workpapers or similar material used in preparing final documents in the public inspection file. Also, documents and memoranda of an internal nature and communications to and from attorneys or other consultants should not be kept in the file.*** Remember that the public inspection file is not intended to be a general file for every piece of paper that remotely involves the station. The public

inspection file should contain exactly what the FCC rule requires it to contain, and nothing more. This will likely mean that the station will keep a number of "non-public" files related to station operation, including correspondence with attorneys and consultants. It is important not to confuse those files, which are not intended for public examination, with the public inspection file.

The public inspection file rule requires that a number of documents be retained in the public inspection file until the Commission takes "final action" in the relevant proceeding. "Final action" is defined as taking place when "that action is no longer subject to reconsideration, review, or appeal either at the FCC or in the courts." Also, where the public inspection file rule requires retention of "all related material," this includes "all exhibits, letters, and other documents tendered for filing with the FCC as part of an application, report, or other document, all amendments to the application, report, or other document, copies of all documents incorporated therein by reference and not already maintained in the public inspection file, and all correspondence between the FCC and the applicant pertaining to the application, report, or other document."

Set forth below are the individual parts of the public inspection file rule. By creating a folder in the public inspection file for each part of the rule, stations can neatly organize and maintain the file with the minimum amount of effort. The file should contain the following:

**Section 73.3526(e)(1) (Authorization Folder).** A copy of all current FCC authorizations to construct or operate the station, along with any other documents necessary to reflect changes to the authorization or any conditions that the FCC has placed on the authorization. Note that this requirement is separate from the requirement that the station post its licenses at the transmitter control point. While the rule does not explicitly require the inclusion of authorizations for auxiliary facilities in this portion of the file, our informal discussion of this issue with FCC staff leads us to recommend such inclusion as a prudent course of action.

**Retention Period:** The current authorizations must be retained until they are replaced by new authorizations, at which time copies of the new authorizations must be placed in the file.

**Section 73.3526(e)(2) (Applications and Related Materials Folder).** A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in cases involving an administrative hearing, as well as a notation regarding any petitions to deny filed against the application, with the name and address of the party that filed the petition.

**Note:** Any documents or items filed with the FCC which are related to the above applications must be placed in the public inspection file along with the applications themselves. Such related documents include, but are not limited to, exhibits filed as part of the application, amendments to the application, and subsequent correspondence between the FCC and the applicant concerning the application.

**Retention Period:** Applications must be retained until final action has been taken, except that applications for a new construction permit or assignment or transfer granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. License renewal applications which are granted for a shortened term must be retained until final action has been taken on the license renewal application filed immediately following the short-term renewal.

**Section 73.3526(e)(3) (Citizen Agreements Folder).** A copy of every written citizen agreement.

**Note:** A citizen agreement is defined as a written agreement between a broadcast applicant, permittee, or licensee and one or more citizens or citizen groups that is entered for primarily non-commercial purposes. Such agreements are currently very rare.

**Retention Period:** For the term of the agreement, including any renewal or extension of the agreement.

**Section 73.3526(e)(4) (Contour Maps Folder).** A copy of current service contour maps submitted as part of any application tendered to the FCC, along with any information from such applications showing main studio and transmitter location.

**Retention Period:** For as long as the documents reflect current, accurate information regarding the station.

**Section 73.3526(e)(5) (Ownership Report Folder).** A copy of the most recent, complete ownership report (Form 323) filed with the FCC for the station, together with any statements filed since then with the FCC certifying that the current report is accurate ("Certification of No Change in Ownership"), together with all related documentary material required to be filed with the FCC pursuant to Sections 73.3613 and 73.3615 of the FCC rules (the texts of which are included as part of this **Advisory**), or an up-to-date list of such contracts. Licensees or permittees who choose to retain a list of contracts must provide a copy of such contracts to requesting parties within seven days. In the case of television only, such documents include copies of all network affiliation agreements or understandings. For purposes of this rule, "network" is defined as "any person, entity or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10

or more states; and/or any person, entity or corporation controlling, controlled by or under common control with such person, entity or corporation."

**Retention Period:** Until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials must be placed in the public inspection file.

**Section 73.3526(e)(6)(Political File Folder).** Records concerning requests for time and dispositions thereof by candidates for public office, in accordance with Section 73.1943 of the FCC's rules. Section 73.1943 is reproduced for reference in this **Advisory**.

**Note:** Such records include (a) a listing of all requests for broadcast time made by or on behalf of candidates for public office, (b) the disposition of each request, (c) if the request was granted, the charges imposed for the broadcast time, and (d) if free broadcast time was provided, a record of such time. For further information and details, please refer to the latest edition of the communications practice group's **Political Broadcasting Advisory**.

**Retention Period:** Two years.

**Section 73.3526(e)(7) (Equal Employment Opportunity File).** This section discusses the requirements of the FCC's EEO rules which became effective on April 18, 2000. However, it should be noted that in early 2001 the United States Court of Appeals for the District of Columbia Circuit vacated the Commission's EEO rules in their entirety. Shortly thereafter the FCC officially suspended those regulations, with the exception of the nondiscrimination component, while it sought rehearing before the Court. The Court denied petitions for rehearing filed by the FCC and various civil rights organizations on June 19, 2001. The Commission's action suspending its EEO regulations raises the question whether a station may and should now remove from their public inspection files and from their websites EEO-related reports and other information. There is no definitive answer to the question. The FCC's suspension action is arguably prospective only and it is not clear that the Commission intended to relieve stations from any past EEO reporting/filing requirements. Furthermore, there is the risk that removing information would give the appearance that the station is attempting to hide information that was previously public information. Accordingly, information regarding the public inspection file aspects of the EEO rule is given here. Stations should contact one of the lawyers in the communications practice group to discuss individual situations. Under the suspended rule, licensees had to keep the information required by Section 73.2080 of the Commission's rules. Specifically, licensees had to place copies of their Initial

Election Statement, Annual EEO Public File Reports, Statements of Compliance (FCC Form 397), Broadcast EEO Program Report (FCC Form 396), and Model EEO Program Report (FCC Form 396-A) in the public inspection file.

**Retention Period:** Until final action is taken on the station's next license renewal application (normally eight years, the length of a license term).

**Section 73.3526(e)(8) ("The Public and Broadcasting: Revised Edition--A Procedural Manual").**

**Note:** The new edition of the Manual, dated June 1999, is available from the communications practice group. Stations are required to provide a free copy of the Manual to members of the public requesting it.

**Retention Period:** Perpetual.

**Section 73.3526(e)(9) (Letters and email from the Public Folder).** Letters and email messages received from members of the public, in accordance with Section 73.1202 of the FCC's rules.

**Note:** The public inspection file must contain all written comments and suggestions received from the public concerning operation of the station. However, obscene and defamatory letters and letters by people who have requested that their comments be kept confidential need *not* be placed in the public file. Nonetheless, based on informal conversations we have had with the Commission's staff, it may be wise to retain such letters in a "non-public" file rather than discard them. If an FCC inspector visits the station, the "non-public" file should be available to the inspector for review. The FCC has deleted its requirement that television stations keep letters received from the public sorted into "programming" and "nonprogramming" categories, so all communications received now can be kept together in a single file. The requirement to retain email messages has been revised to exclude the personal email messages of station staff members, so that the retention requirement applies only to email messages "sent to a publicly advertised" email address, "or to station management." The station may keep the material stored in a computer or on disk, but must be prepared to make the email immediately available for inspection upon request by providing either a copy of the disk or access to a computer terminal where the email may be read. There should be a prominent notice in the folder indicating where the email is stored and how it can be accessed.

**Retention Period:** Three years.

**Section 73.3526(e)(10) (Material Related to FCC Investigation or Complaint Folder).** Licensees are required to retain material relating to a matter which is the

subject of an FCC complaint or investigation until the licensee is notified by the Commission that the material may be discarded.

**Retention Period:** Indefinite period.

**Section 73.3526(e)(11)(i) (Television Issues/Programs List Folder) (TV Stations Only).**

*Note:* A list which, in the exercise of the licensee's good faith judgment, represents approximately five to ten of the *most significant* issues facing the station's service area, and the programs which the station broadcast during the preceding three-month period to address those issues. Quarterly Issues/Programs Lists must be placed in the file on January 10 (for the period October through December), April 10 (for the period January through March), July 10 (for the period April through June) and October 10 (for the period July through September) of each year. Each list should have a short narrative statement describing the issues identified by the station and the programming that responded to each issue. Descriptions of programs should include the date, time, duration and title of each program, as well as a brief description. Detailed information regarding the Quarterly Issues/Programs List is available in the communications practice group's **Issues/Programs List Advisory for Broadcast Stations**, which is published quarterly.

**Retention Period:** Until final action is taken on the station's next license renewal application (normally eight years, the length of a license term).

**Section 73.3526(e)(11)(ii) (Children's Television: Commercial Limits Folder) (TV Stations Only).** Material demonstrating compliance with children's television commercial limits.

*Note:* Commercial TV stations must include records that are adequate to substantiate that the station complied with the limits on commercial advertisements in children's programming established in 47 U.S.C. Section 303a and implemented by 47 C.F.R. Section 73.670 (*i.e.*, 12 minutes per hour on weekdays and 10.5 minutes per hour on weekends). As with the Quarterly Issues/Programs Lists, this material must be placed in the file on January 10, April 10, July 10 and October 10 of each year. Detailed information regarding the commercial limits and the material needed to substantiate compliance is available in the communications practice group's **Children's Programming Documentation Advisory for Television Station Clients**, which is published quarterly.

**Retention Period:** Until final action is taken on the station's next license renewal application (normally eight years, the length of the license term).

**Section 73.3526(e)(11)(iii) (Children's Television: Programming Reports Folder) (TV Stations Only).**

Lists of children's programming responsive to educational and informational needs.

*Note:* For the period from October 1, 1991 to December 31, 1996, the records to be maintained in this file are records that demonstrate the station's response to the educational and informational needs of children in its overall programming, including programs created specifically to serve such needs. These records may also reflect any special nonbroadcast efforts by the licensee which enhance the educational and informational value of programs, as well as any special efforts by the licensee to produce or support programming broadcast by other stations in the market designed to meet children's educational and informational needs. The records must include the time, date and duration of the programming, as well as a brief description of the program or nonbroadcast efforts. These lists had to be developed and placed in the public inspection file either quarterly or annually. Commencing January 2, 1997, this recordkeeping requirement was changed to require the filing of FCC Form 398 in the public inspection file on a quarterly basis. FCC Form 398 requests information identifying children's educational and informational programs aired to meet the station's obligations under the Children's Television Act of 1990. FCC Form 398 also requests information on children's educational and informational programs that the station plans to air in the next calendar quarter. According to the FCC, this standardized form facilitates consistency of reporting among licensees, assists in efforts by the public and the FCC to monitor compliance with the Children's Television Act of 1990, and lessens the burden on the public and FCC staff. Detailed information regarding the material needed to substantiate compliance is available in the communications practice group's **Children's Programming Documentation Advisory for Television Station Clients**, which is published quarterly.

**Retention Period:** Until final action is taken on the station's next license renewal application (normally eight years, the length of the license term).

**Section 73.3526(e)(12) (Radio Issues/Programs List Folder) (Radio Stations Only).**

*Note:* A list which, in the exercise of the licensee's good faith judgment, represents approximately five to ten of the *most significant* issues facing the station's service area, and the programs which the station broadcast during the preceding three-month period to address those issues. Quarterly Issues/Programs Lists must be placed in the file on January 10 (for the period October through December), April 10 (for the period January through March), July 10 (for the period April through June) and October 10 (for the period July through September) of each year. Each list should have a short narrative statement describing the issues identified by the station and the programming that responded to each issue.

Descriptions of programs should include the date, time, duration and title of each program, as well as a brief description. Detailed information regarding the Quarterly Issues/Programs List is available in the communications practice group's **Issues/Programs List Advisory for Broadcast Stations**, which is published quarterly.

**Retention Period:** Until final action is taken on the station's next license renewal application (normally eight years, the length of the license term).

**Section 73.3526(e)(13) (Local Public Notice Announcements Folder).** A statement certifying compliance with the requirement of local public notice of the filing of a license renewal application.

**Note:** The dates and times that the pre-filing and post-filing license renewal application notices were broadcast and the text of those notices must be made part of the certifying statement.

**Retention Period:** As long as the application to which it refers must be retained.

**Section 73.3526(e)(14) (Radio Time Brokerage Agreements Folder) (Radio Stations Only).**

**Note:** For commercial radio stations, time brokerage agreements or "LMAs" must be maintained in the licensee's public inspection file. A licensee brokering time on another station must also place a copy of the time brokerage agreement in its own public file, as well as in the file of the brokered station. In such agreements, confidential or proprietary information (such as the price paid by the broker) may be deleted from the agreements in the public file. Brokerage agreements for television stations need not be in the public file, but must be available for inspection by the FCC if requested.

**Retention Period:** For as long as the agreement is in effect.

**Section 73.3526(e)(15) (Television Station Must Carry/Retransmission Consent Election Statement Folder) (TV Stations Only).**

**Note:** Under the Cable Act, television stations must elect either must-carry status or seek retransmission consent with cable systems every three years. This rule requires that television broadcast stations place copies of all must-carry/retransmission consent election letters in the public inspection file by the election deadline.

**Retention Period:** For the duration of the must-carry/retransmission consent period.

**Section 73.3526(e)(16) (Radio and Television Joint Sales Agreements Folder).** Copies of any agreements for the joint sale of advertising time involving the station, whether such agreements involve stations in

the same or different markets. Confidential or proprietary information may be redacted from the copies placed in the folder.

**Note:** Any joint sale of advertising time between stations, even if they are in different markets, must be included in this folder.

**Retention Period:** Although the rule does not specifically provide for a retention period, the agreement should probably be retained in the folder for as long as it is in force.

**Section 73.3526(e)(17) (Class A TV Continuing Eligibility Folder) (Class A TV Stations Only)** Documentation sufficient to show compliance by the station with the Class A eligibility requirements set forth in Section 73.6001 of the FCC rules.

**Note:** The requirements of Section 73.6001 are that Class A stations broadcast a minimum of 18 hours per day, and an average of at least three hours per week of locally produced programming each quarter.

**Retention Period:** Although the rule does not specifically provide for a retention period, a reasonable reading would indicate that the documentation should be updated every calendar quarter to show continuing eligibility.

**Section 73.1212(e) (Sponsorship Identification Folder).**

**Note:** Whenever a station broadcasts material that is political in nature or that involves a controversial issue of public importance, and a corporation, committee, association, unincorporated group, or other entity is paying for or furnishing the broadcast material, the station must place a list in its public inspection file of the chief executive officers, executive committee members, or members of the board of directors of the entity paying for or furnishing the broadcast material.

**Retention Period:** Two years.

#### **Organization of the Public Inspection File**

Good organization of the file will serve several purposes: (a) it will aid in continuous maintenance of the file, both in terms of completeness by subject area and by duration of retention; (b) it will facilitate ease of access for those seeking to view the file; and (c) it will, as a result of both (a) and (b), not only ensure compliance with Commission rules, but make it much easier to demonstrate to FCC inspectors the completeness of the station's file.

Specifically, we recommend the following organizational approach:

1. Separate file folders for each category of document listed in the section of this memorandum entitled *Contents of the Public Inspection File*.
2. Reverse chronological order of documents in each file should be used (*i.e.*, the "oldest" documents in the back of the folder, the "newest" on top). In some instances, particularly in the case of "Letters received from members of the public," the volume of material may indicate a need to use several folders with documents filed in reverse chronological order (*i.e.*, monthly, quarterly, yearly, etc.).
3. While the ordinary practice is to simply place documents into a file folder without fastening them to the folder itself, you may wish to fasten the documents in some manner in order to prevent them from being intentionally or accidentally removed. Be cautious, however, not to fasten documents in such a way as to make them inconvenient or impossible to actually examine. Remember, stations may be asked for copies of documents; be certain that station personnel can access them easily enough to provide photocopies.
4. Label the cabinet(s), drawer(s) or other container(s) utilized as "Station [XXXX] Public Inspection File," so that the label can be easily seen from a distance. If a particular cabinet, drawer, etc. contains only certain information, label its contents accordingly (*i.e.*, "1995 Quarterly Issues/Programs Lists," or "1997 Letters Received from Members of the Public").
5. If the station chooses to keep some of the materials required in the file in electronic format, there should be prominent notice of that fact in the file, with clear directions as to what types of information are stored electronically, where the information may be accessed (regardless of whether the computer is located near the file), and how to obtain such access. One consideration involved in deciding to keep materials electronically is adequately providing for the safety and security of those materials (for example, making documents "read only" so that they cannot be deleted or altered).

Since many stations suffer from high employee turnover in those job positions that require knowledge of the public inspection file (such as receptionists), it is important to immediately train new employees in such positions about the public inspection file and how to handle inquiries from the public regarding the file.

### **Risks of Maintaining an Inaccessible or Incomplete Public Inspection File**

**Forfeitures.** The Commission is empowered to fine stations for violations of its rules and usually follows a summary procedure in imposing forfeitures for violations of the public inspection file rule. As licensees no doubt know, the FCC has raised the amount of fines for violations of its rules. The standardized forfeiture for failure to maintain a complete public inspection file is \$10,000. Thus, it "pays" to maintain well-organized and complete public inspection and political files that are also readily accessible by the public.

**License Renewal Difficulties.** An incomplete public inspection file or evidence that a station harassed, intimidated, or otherwise discouraged members of the public from inspecting the public inspection file may be considered by the Commission at license renewal time, if not before. Since the licensee must certify in its license renewal application that its station's public inspection file is complete, an FCC determination that the file is incomplete constitutes not only a rule violation, but raises serious issues of misrepresentation before the FCC. Findings of misrepresentation have often resulted in loss of license, and are to be avoided at all costs. Moreover, under the Communications Act of 1934, as amended, the FCC has the authority to take away any license for serious violations of its rules as well as for other violations which constitute a pattern of abuse.

### **"Mock Inspection" of the Public Inspection File**

In order to assist stations in verifying the adequacy of the content and condition of their public inspection file, we will be happy to conduct a "mock inspection" of a station's file, and provide the licensee with a detailed analysis of our inspection. Since the rules have been changed so substantially, we urge our clients to consider having a "mock inspection" as soon as possible. This can be handled in one of two ways: (1) we will, upon request, conduct the "mock inspection" on-site at the station's location; or (2) the station can send us a detailed index of its file, along with appropriate photocopies of documents and related information.

As violations of the public inspection file rule can have serious consequences, and since the rule has changed so considerably, stations should contact the any of the lawyers in the communications practice group if they have any questions regarding the information in this **Advisory**.

## **Shaw Pittman LLP**

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## PUBLIC INSPECTION FILE - VISITORS

*(This memo is to be provided to all members of the public requesting access to the station's Public Inspection File.)*

Welcome to Station [XXXX]. We understand that you are interested in reviewing our Public Inspection File. This is, of course, a right provided to you by the Rules of the Federal Communications Commission. In addition, we want to assure you that our station is pleased that you have come to visit us, and that we will cooperate in every way in affording you access to our Public Inspection File.

Our employees have been instructed to be helpful, courteous, and cooperative in affording you access to the Public Inspection File. If you find that any employee acts otherwise, we ask that you notify the Station Manager, [Station Manager's Name], immediately. If [Station Manager's Name] is at the station today, please ask for a personal meeting. If [Station Manager's Name] is not at the station, please call [(999) 999-9999], where [Station Manager's Name] can always be reached.

You will be escorted to the employee who has custody of the Public Inspection File, [Employee's Name]. [Employee's Name] will take you to the Public Inspection File and assist you in any way possible.

We are very proud of our station operations and make every effort to comply with not only the Public Inspection File Rule, but also all other rules, policies and requirements of the Federal Communications Commission and other federal, state and local governmental authorities. We believe you will find everything in order. To assist you in your examination of our Public Inspection File, we have prepared a "Station XXXX Public Inspection File Document List," a copy of which is attached to this notice, that describes the various documents that are part of our Public Inspection and Political Files. However, if you have any complaints, questions or concerns, please discuss the matter with [Employee's Name] or [Station Manager's Name].

## PUBLIC INSPECTION FILE - INSPECTION

*(To be kept at the location of the Public Inspection File and provided to persons who are inspecting the File.)*

This is the Station [XXXX] Public Inspection File. We make every effort to keep the file complete, accurate, and in compliance with the Rules of the Federal Communications Commission. It is organized, subsection for subsection, in the same manner as the Federal Communications Commission's Public Inspection File Rule, which is found at Title 47, Code of Federal Regulations, Section 73.3526. If you want to see something from a particular subsection of the Public Inspection File Rule, go to that subsection in the Public Inspection File to find it.

We will provide you with a seat and desk or table to review the Public Inspection File. We hope to make you as comfortable as possible under the circumstances, and if you desire anything in this regard please ask [Employee's Name], who is the employee who has custody of the Public Inspection File. We request that you remove the materials from the Public Inspection File only one subsection at a time, and that they be replaced immediately upon completion of your review of the subsection. Please feel free to ask for the assistance of [Employee's Name] in replacing any materials in the Public Inspection File, since it is important that the material be kept well organized. To assist you in your examination of our Public Inspection File, we have prepared a "Station XXXX Public Inspection File Document List," a copy of which is attached to this notice, that describes the various documents that are part of our Public Inspection and Political Files.

If you desire to have photocopies of anything in the Public Inspection File, we will provide you with paper clips or other means of marking the pages so that you can identify the pages or subsections that you wish to have photocopied. Please do not disassemble the file; rather, identify the portions you want photocopied with the clips and markers provided. Upon completion of your review, we will provide an order form so that you can order photocopies of the desired material from a commercial photocopier located in our area. This will assure that you get your photocopies back in the quickest possible time, that the work is done accurately, and that your charges are standard market charges for the work done. *We will not be able to make copies of materials found in the Public Inspection File for you at the station.*

If you have any questions about the file, please address them to [Employee's Name]. If [Employee's Name] cannot obtain the answer during your visit to the Station, [Employee's Name] will ensure that you receive an answer, either orally or in writing, just as quickly as possible. If you have any complaints about the cooperation you have received, please contact [Station Manager's Name], either personally or by calling [(999) 999-9999], or by writing to the Station.

Thank you again for visiting our station. We hope you enjoyed your visit and found everything to your satisfaction.

**SAMPLE DOCUMENT LIST TO BE CUSTOMIZED BY A STATION**  
**“Station XXXX Public Inspection File Document List”**

| FCC Rule Section<br>73.3526                                  | Examples of Types of Documents  | Period Covered   | # of Pages            |
|--|---|--|-----------------------|
| (e)(1) Authorization   | 1. Assignment of License from XXXX Television, Inc. to XXXX License Partnership.<br>2. Letter Authorization for call sign change from YYYY-TV to XXXX(TV)<br>3. License Renewal Authorization<br>4. Television Broadcast Station License  | Current  | 1<br>1<br>1<br>1      |
| (e)(2) Applications<br>(e)(2) Waiver Request                 | 1. License Renewal Application filed August 1, 1998<br>2. Waiver Request found in January 3, 1998 Assignment of License Application<br>3. Amendment to Waiver Request filed July 30, 1997   | Current  | 36<br>83<br>24        |
| (e)(3) Citizens Agreements                                   | None  | Current  | N/A                   |
| (e)(4) Contour Maps  | 1. Construction Permit Application filed January 1, 1985<br>2. License Application filed January 1, 1988  | Current  |                       |
| (e)(5) Ownership Reports                                     | 1. August 3, 1998 Annual Ownership Report and Post Consummation Ownership Report for XXXX(TV)   | 1998   | 24                    |
| (e)(6) Political File  |   | 1996-1998  |                       |
| (e)(7) Equal Employment Opportunity File                     | 1. Initial Election Statement<br>2. Annual EEO Public File Report for 2000<br>3. Statement of Compliance (FCC Form 397) for 2000<br>4. Broadcast EEO Program Report (FCC Form 396)<br>5. Broadcast EEO Model Program Report (FCC Form 396-A)  | 2000-2003<br>2000<br>2000<br>2000<br>2000  | 2<br>5<br>5<br>5<br>5 |
| (e)(8) The Public and Broadcasting                           |   | Current  |                       |
| (e)(9) Letters and emails from the Public                    |   | 1995-1998  |                       |
| (e)(10) FCC Investigations/Complaints                        | None  | Current  |                       |
| (e)(11)(i) <i>TV Only</i> -- Quarterly Issues/Programs Lists | 1. Third Quarter 1998<br>2. Second Quarter 1998<br>3. First Quarter 1998<br>4. Fourth Quarter 1997<br>5. Third Quarter 1997<br>6. Second Quarter 1997<br>7. First Quarter 1997<br>8. Fourth Quarter 1996<br>9. Third Quarter 1996<br>10. Second Quarter 1996<br>11. First Quarter 1996<br>12. Fourth Quarter 1995<br>13. Third Quarter 1995<br>14. Second Quarter 1995<br>15. First Quarter 1995<br>16. Fourth Quarter 1994 | July-Sept. 98<br>April-June 98<br>Jan.-March 98<br>Oct.-Dec. 97<br>July-Sept. 97<br>April-June 97<br>Jan.-March 97<br>Oct.-Dec. 96<br>July-Sept. 96<br>April-June 96<br>Jan.-March 96<br>Oct.-Dec. 95<br>July-Sept. 95<br>April-June 95<br>Jan.-March 95<br>Oct.-Dec. 94 |                       |
| (e)(11)(ii) <i>TV Only</i> -- Commercial Limits              | 1. Third Quarter 1998<br>2. Second Quarter 1998<br>3. First Quarter 1998<br>4. Fourth Quarter 1997<br>5. Third Quarter 1997<br>6. Second Quarter 1997<br>7. First Quarter 1997  | July-Sept. 98<br>April-June 98<br>Jan.-March 98<br>Oct.-Dec. 97<br>July-Sept. 97<br>April-June 97<br>Jan.-March 97   |                       |

|  |   |   |  |
|--|---|---|--|
|  | <ul style="list-style-type: none"> <li>8. Fourth Quarter 1996</li> <li>9. Third Quarter 1996</li> <li>10. Second Quarter 1996</li> <li>11. First Quarter 1996</li> <li>12. Fourth Quarter 1995</li> <li>13. Third Quarter 1995</li> <li>14. Second Quarter 1995</li> <li>15. First Quarter 1995</li> <li>16. Fourth Quarter 1994</li> </ul>   | <ul style="list-style-type: none"> <li>Oct.-Dec. 96</li> <li>July-Sept. 96</li> <li>April-June 96</li> <li>Jan.-March 96</li> <li>Oct.-Dec. 95</li> <li>July-Sept. 95</li> <li>April-June 95</li> <li>Jan.-March 95</li> <li>Oct.-Dec. 94</li> </ul>  |  |
| (e)(11)(iii) <i>TV Only</i> -- Children's Television Programming Reports   | <ul style="list-style-type: none"> <li>1. Third Quarter 1998</li> <li>2. Second Quarter 1998</li> <li>3. First Quarter 1998</li> <li>4. Fourth Quarter 1997</li> <li>5. Third Quarter 1997</li> <li>6. Second Quarter 1997</li> <li>7. First Quarter 1997</li> <li>8. Fourth Quarter 1996</li> <li>9. Third Quarter 1996</li> <li>10. Second Quarter 1996</li> <li>11. First Quarter 1996</li> <li>12. Fourth Quarter 1995</li> <li>13. Third Quarter 1995</li> <li>14. Second Quarter 1995</li> <li>15. First Quarter 1995</li> <li>16. Fourth Quarter 1994</li> </ul> | <ul style="list-style-type: none"> <li>July-Sept. 98 April-June 98</li> <li>Jan.-March 98</li> <li>Oct.-Dec. 97</li> <li>July-Sept. 97 April-June 97</li> <li>Jan.-March 97</li> <li>Oct.-Dec. 96</li> <li>July-Sept. 96 April-June 96</li> <li>Jan.-March 96</li> <li>Oct.-Dec. 95</li> <li>July-Sept. 95</li> <li>April-June 95</li> <li>Jan.-March 95</li> <li>Oct.-Dec. 94</li> </ul> |  |
| (e)(12) <i>Radio Only</i> -- Quarterly Issues/Programs Lists               | <ul style="list-style-type: none"> <li>1. Third Quarter 1998</li> <li>2. Second Quarter 1998</li> <li>3. First Quarter 1998</li> <li>4. Fourth Quarter 1997</li> <li>5. Third Quarter 1997</li> <li>6. Second Quarter 1997</li> <li>7. First Quarter 1997</li> <li>8. Fourth Quarter 1996</li> <li>9. Third Quarter 1996</li> <li>10. Second Quarter 1996</li> <li>11. First Quarter 1996</li> <li>12. Fourth Quarter 1995</li> <li>13. Third Quarter 1995</li> <li>14. Second Quarter 1995</li> <li>15. First Quarter 1995</li> <li>16. Fourth Quarter 1994</li> </ul> | <ul style="list-style-type: none"> <li>July-Sept. 98 April-June 98</li> <li>Jan.-March 98</li> <li>Oct.-Dec. 97</li> <li>July-Sept. 97 April-June 97</li> <li>Jan.-March 97</li> <li>Oct.-Dec. 96</li> <li>July-Sept. 96 April-June 96</li> <li>Jan.-March 96</li> <li>Oct.-Dec. 95</li> <li>July-Sept. 95 April-June 95</li> <li>Jan.-March 95</li> <li>Oct.-Dec. 94</li> </ul>          |  |
| (e)(13) Local Public Notice Announcements                                  |   | N/A   |  |
| (e)(14) <i>Radio Only</i> -- Time Brokerage Agreements                     |   |   |  |
| (e)(15) <i>TV Only</i> -- Must-carry/transmission consent election letters |   | 1997-2000   |  |
| (e)(16) Joint Sales Agreements   |   |   |  |
| (e)(17) Class A TV Only -- Class A Continuing Eligibility                  |   |   |  |
| Section 73.1212 Sponsorship  |   | N/A   |  |

|                |  |  |  |
|----------------|--|--|--|
| Identification |  |  |  |
|----------------|--|--|--|

*Note:* Sections (e)(11)(i), (e)(11)(ii) and (e)(11)(iii) apply only to television stations; sections (e)(12) and (e)(14) apply only to radio stations.

## FCC Rules

### § 73.1943 Political file.

(a) Every licensee shall keep and permit public inspection of a complete and orderly record (political file) of all requests for broadcast time made by or on behalf of a candidate for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if the request is granted. The "disposition" includes the schedule of time purchased, when spots actually aired, the rates charged, and the classes of time purchased.

(b) When free time is provided for use by or on behalf of candidates, a record of the free time provided shall be placed in the political file.

(c) All records required by this paragraph shall be placed in the political file as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

### § 73.3526 Local public inspection file of commercial stations.

(a) Responsibility to maintain a file. The following shall maintain for public inspection a file containing the material set forth in this section.

(1) Applicants for a construction permit for a new station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraph (e)(2) and (10) of this section. A separate file shall be maintained for each station for which an application is pending. If the application is granted, paragraph (a)(2) of this section shall apply.

(2) Every permittee or licensee of an AM, FM, or TV station in the commercial broadcast services shall maintain a public inspection file containing the material, relating to that station, described in paragraphs (e)(1) through (10) and (13) of this section. In addition, every permittee or licensee of a commercial TV station shall maintain for public inspection a file containing material, relating to that station, described in paragraphs (e)(11) and (15) of this section, and every permittee or licensee of a commercial AM or FM station shall maintain for public inspection a file containing the material, relating to that station, described in paragraph (e)(12) and (14) of this section. A separate file shall be maintained for each station for which an authorization is outstanding, and the file shall be maintained so long as an authorization to operate the station is outstanding.

(b) Location of the file. The public inspection file shall be maintained at the main studio of the station. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio.

(c) Access to material in the file. (1) The file shall be available for public inspection at any time during regular business hours. All or part of the file may be maintained in a computer database, as long as a computer terminal is made available, at the location of the file, to members of the public who wish to review the file. Material in the public inspection file shall be made available for printing or machine reproduction upon request made in person. The applicant, permittee, or licensee may specify the location for printing or reproduction, require the requesting party to pay the reasonable cost thereof, and may require guarantee of payment in advance (e.g., by requiring a deposit, obtaining credit card information, or any other reasonable method). Requests for copies shall be fulfilled within a reasonable period of time, which generally should not exceed 7 days.

(2) The applicant, permittee, or licensee who maintains its main studio and public file outside its community of license shall, (i) make available to persons within its geographic service area, by mail upon telephone request, photocopies of documents in the file (*see* '73.3526(c)(1)), excluding the political file (*see* '73.3526(e)(6)), and the station shall pay postage; (ii) mail the most recent version of "The Public and Broadcasting" to any member of the public that requests a copy; and (iii) be prepared to assist members of the public in identifying documents they may ask to be sent to them by mail, for example, by describing to the caller, if asked, the period covered by a particular report and the number of pages included in the report.

NOTE: For purposes of this section, geographic service area includes the area within the Grade B contour for TV, 1 mV/m contour for all FM station classes except .7 mV/m for Class B1 stations and .5 mV/m for Class B stations, and .5 mV/m contour for AM stations.

(d) Responsibility in case of assignment or transfer. (1) In cases involving applications for consent to assignment of broadcast station construction permits or licenses, with respect to which public notice is required to be given under the provisions of 73.3580 or 73.3594, the file mentioned in paragraph (a) of this section shall be maintained by the assignor. If the assignment is consented to by the FCC and consummated, the assignee shall maintain the file commencing with the date on which notice of the consummation of the assignment is filed with the FCC. The assignee shall retain public file documents obtained from the assignor for the period required under these rules.

(2) In cases involving applications for consent to transfer of control of a permittee or licensee of a broadcast station, the file mentioned in paragraph (a) of this section shall be maintained by the permittee or licensee.

(e) Contents of the file. The material to be retained in the public inspection file is as follows:

(1) Authorization. A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization. These materials shall be retained until replaced by a new authorization, at which time a copy of the new authorization and any related materials shall be placed in the file.

(2) Applications and related materials. A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto. If petitions to deny are filed against the application and have been served on the applicant, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition. Applications shall be retained in the public inspection file until final action has been taken on the application, except that applications for a new construction permit granted pursuant to a waiver showing and applications for assignment or transfer of license granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. In addition, license renewal applications granted on a short-term basis shall be retained until final action has been taken on the license renewal application filed immediately following the shortened license term.

(3) Citizen Agreements. A copy of every written citizen agreement. These agreements shall be retained for the term of the agreement, including any renewal or extension thereof.

NOTE: For purposes of this section, a citizen agreement is a written agreement between a broadcast applicant, permittee, or licensee, and one or more citizens or citizen groups, entered for primarily noncommercial purposes. This definition includes those agreements that deal with goals or proposed practices directly or indirectly affecting station operations in the public interest, in areas such as - but not limited to - programming and employment. It excludes common commercial agreements such as advertising contracts; union, employment, and personal services contracts; network affiliation, syndication, program supply contracts, etc. However, the mere inclusion of commercial terms in a primarily noncommercial agreement - such as a provision for payment of fees for future services of the citizen-parties (see "Report and Order," Docket 19518, 57 FCC 2d 494 (1976)) - would not cause the agreement to be considered commercial for purposes of this section.

(4) Contour maps. A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.

(5) Ownership Reports and related materials. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the contracts listed in such reports in accordance with 73.3615(a)(4)(i), or an up-to-date list of such contracts. Licensees or permittees who choose to retain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.

(6) Political file. Such records as are required by 73.1943 to be kept concerning broadcasts by candidates for public office. These records shall be retained for the period specified in 73.1943 (2 years).

(7) Equal Employment Opportunity file. Such information as is required by § 73.2080 to be kept in the public inspection file. These materials shall be retained until final action has been taken on the station's next license renewal application.

(8) The Public and Broadcasting. At all times, a copy of the most recent version of the manual entitled "The Public and Broadcasting."

(9) Letters and e-mail from public. (i) All written comments and suggestions received from the public regarding operation of the station, unless the letter writer has requested that the letter not be made public or when the licensee feels that it should be excluded from public inspection because of the nature of its content, such as a defamatory or obscene letter. Letters and electronic mail messages shall be retained for a period of three years from the date on which they are received by the licensee.

(ii) For purposes of this section, written comments and suggestions received from the public include electronic mail messages transmitted via the Internet to station management or an e-mail address publicized by the station. Personal e-mail messages sent to station employees need not be retained. Licensees may retain e-mails either on paper or in a computer file. Licensees who choose to maintain a computer file of e-mails may make the file available to the public either by providing the public with access to a computer terminal at the location of the public file, or providing the public with a copy of such e-mails on computer diskette, upon request. In the case of identical communications, licensees and permittees may retain one sample copy of the letter or electronic mail message together with a list identifying other parties who sent identical communications.

(10) Material relating to FCC investigation or complaint. Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant, permittee, or licensee has been advised. This material shall be retained until the applicant, permittee, or licensee is notified in writing that the material may be discarded.

(11)(i) TV issues/programs lists. For commercial TV broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three-month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(11)(ii) Records concerning commercial limits. For commercial TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's programming established in 47 U.S.C. 303a and 47 CFR 73.670. The records for each calendar quarter must be filed in the public inspection file by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). These records shall be retained until final action has been taken on the station's next license renewal application.

(11)(iii) Children's Television Programming Reports. For commercial TV broadcast stations, on a quarterly basis, a completed Children's Television Programming Report ("Report"), on FCC Form 398, reflecting efforts made by the licensee during the preceding quarter, and efforts planned for the next quarter, to serve the educational and informational needs of children. The Report for each quarter is to be placed in the public inspection file by the tenth day of the succeeding calendar quarter. By this date, a copy of the Report for each quarter is also to be filed electronically with the FCC. The Report shall identify the licensee's educational and informational programming efforts, including programs aired by the station that are specifically designed to serve the educational and informational needs of children, and it shall explain how programs identified as Core Programming meet the definition set forth in § 73.671(c). The Report shall include the name of the individual at the station responsible for collecting comments on the station's compliance with the Children's Television Act, and it shall be separated from other materials in the public inspection file. The Report shall also identify the program guide publishers to which information regarding the licensee's educational and informational programming was provided as required in § 73.673(b), as well as the station's license renewal date. These Reports shall be retained in the public inspection file until final action has been taken on the station's next license renewal application. Licensees shall publicize in an appropriate manner the existence and location of these Reports.

(12) Radio issues/programs lists. For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October - December, April 10 for the quarter January - March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.

(13) Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to 73.3580(h), place in the station's local public inspection file a statement certifying compliance with this requirement. The dates and times that the pre-filing and post-filing notices were broadcast and the text thereof shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in 73.3580 (for as long as the application to which it refers).

(14) Radio time brokerage agreements. For commercial radio stations, a copy of every agreement or contract involving time brokerage of the licensee's station or of another station by the licensee, with confidential or proprietary information redacted where appropriate. These records shall be retained as long as the contract or agreement is in force.

(15) Must-carry or retransmission consent election. Statements of a commercial television station's election with respect to either must-carry or retransmission consent as defined in §§ 76.64 and 76.1608 of this chapter. These records shall be retained for the duration of the three year election period to which the statement applies.

(16) Radio and television joint sales agreements. For commercial radio and commercial television stations, a copy of agreement for the joint sale of advertising time involving the station, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate.

(17) Class A TV continuing eligibility. Documentation sufficient to demonstrate that the Class A television station is continuing to meet the eligibility requirements set forth at § 73.6001.

NOTE: For purposes of this section, action taken on an application tendered with the FCC becomes final when that action is no longer subject to reconsideration, review, or appeal either at the FCC or in the courts.

NOTE: For purposes of this section, the term "all related material" includes all exhibits, letters, and other documents tendered for filing with the FCC as part of an application, report, or other document, all amendments to the application, report, or other document, copies of all documents incorporated therein by reference and not already maintained in the public inspection file, and all correspondence between the FCC and the applicant pertaining to the application, report, or other document, which according to the provisions of 0.451 through 0.461 of the rules are open for public inspection at the offices of the FCC.

**§ 73.3613 Filing of contracts.** - Each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity or corporation controlling, controlled by, or under common control with such person, entity or corporation.

(2) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms and conditions of such contract, agreement or understanding without reference to any other paper or document

by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(3) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust agreements, options to purchase stock and other executory agreements are required to be filed. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by §73.3615.

(c) Personnel:

(1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d) Time brokerage agreements: Time brokerage agreements involving radio stations, where the licensee (including all parties under common control) is the brokering entity, there is a principal community contour (predicted or measured 5 mV/m groundwave for AM stations and predicted 3.16 mV/m for FM stations) overlap with the brokered station, and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee. Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC: contracts relating to the sale of television broadcast time to "time brokers" for resale; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the TV vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

**§ 73.3615 Ownership reports.**

(a) With the exception of sole proprietorships and partnerships composed entirely of natural persons, each licensee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 when filing the station's license renewal application and every two years thereafter on the anniversary of the date that its renewal application is required to be filed. Licensees owning multiple stations with different anniversary dates need file only one report every two years on the anniversary of their choice, provided that their reports are not more than two years apart. A licensee with a current and unamended report on file at the Commission may certify that it has reviewed its current report and that it is accurate, in lieu of filing a new report. Ownership Reports shall provide the following information as of a date not more than 60 days prior to the filing of the report:

(1) In the case of an individual, the name of such individual:

(2) In the case of a partnership, the name of each partner and the interest of each partner. Except as specifically noted below, the names of limited partners shall be reported. A limited partner need not be reported, regardless of the extent of its ownership, if the limited partner is not materially involved, directly or indirectly, in the management or operation of the licensee and the licensee so certifies.

(i) Any change in partners or in their rights will require prior consent of the FCC upon an application for consent to assignment of license or permit. If such change involves less than a controlling interest, the application for FCC consent to such changes may be made upon FCC Form 316.

(3) In the case of a corporation, association, trust, estate or receivership, the data applicable to each:

(i)(A) The name, residence, citizenship, and stockholding of every officer, director, trustee, executor, administrator, receiver and member of an association, and any stockholder which holds stock accounting for 5 percent or more of the votes of the corporation, except that an investment company, insurance company, or bank trust department need be reported only if it holds stock amounting to 10 percent or more of the votes, provided that the licensee certifies that such entity has made no attempt to influence, directly or indirectly, the management or operation of the licensee, and that there is no representation on the licensee's board or among its officers by any person professionally or otherwise associated with the entity.

(B) A licensee shall report any separate interests known to the licensee to be held ultimately by the same individual or entity, whether those interests are held in custodial accounts, by individual holding corporations or otherwise, if, when aggregated:

(1) the sum of all interests except those held by or through "passive investors" is equal to or exceeds 5 percent; or

(2) the sum of all interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(3) the sum of the interests computed under (1) plus the sum of the interests computed under (2) is equal to or exceeds 10 percent.

(C) If the majority of the voting stock of a corporate licensee is held by a single individual or entity, no other stockholding need be reported for that licensee;

(ii) Full information as to family relationship or business association between two or more officials and/or stockholders, trustees, executors, administrators, receivers, and members of any association;

(iii) Capitalization with a description of the classes and voting power of stock authorized by the corporate charter or other appropriate legal instrument and the number of shares of each class issued and outstanding; and

(iv) Full information with respect to the interest and identity of any person having any direct, indirect, fiduciary, or beneficial interest in the licensee or in its stock accounting for 5% or more of its votes. For example:

(A) Where A is the trustee of stock held for beneficiary B, A shall be reported if A votes the stock or has the sole or shared power to dispose of the stock; B or any other party shall be reported if B or such party votes the stock or has sole power to dispose of the stock or has the power to revoke the trust or replace the trustee at will;

(B) Where X is not a natural person and has attributable ownership interest in the licensee under § 73.3555 of the rules, regardless of its position in the vertical ownership chain, an Ownership Report shall be filed for X which, except as specifically noted below, must contain the same information as required of a licensee. If X has a voting stockholder interest in the licensee, only those voting interests of X that are cognizable after application of the "multiplier" described in NOTE 2(d) of § 73.3555 of the rules, if applicable, shall be reported. If X is a corporation, whether or not its interest in the licensee is by virtue of its ownership of voting stock, the officers and directors shall be reported. With respect to those officers and directors whose duties and responsibilities are wholly unrelated to the licensee, and who wish to be relieved of attribution in the licensee, the name, title and duties of these officers and directors, with statements properly documenting that their duties do not involve the licensee, shall be reported.

(4) In the case of all licensees:

(i) A list of all contracts still in effect required to be filed with the FCC by § 73.3613 showing the date of execution and expiration of each contract; and

(ii) Any interest which the licensee may have in any other broadcast station.

(b) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 (1) within 30 days of the date of grant by the FCC of an application for original

construction permit and (2) on the date that it applies for a station license. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section. A permittee with a current and unamended report on file at the Commission may certify that it has reviewed its current report and it is accurate, in lieu of filing a new report.

(c) Before any change is made in the organization, capitalization, officers, directors, or stockholders of a corporation other than licensee or permittee, which results in a change in the control of the licensee or permittee, prior FCC consent must be received under § 73.3540. A transfer of control takes place when an individual or group in privity gains or loses affirmative or negative (50%) control. See instructions on FCC Form 323 (Ownership Report). Each permittee or licensee of a commercial AM, FM or TV Broadcast station shall file an Ownership Report on FCC Form 323 within 30 days of consummating authorized assignments or transfers of permits and licenses. The Ownership Report of the permittee or licensee shall give the information required by the applicable portions of paragraph (a) of this section.

(d) Each licensee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E when filing the station's license renewal application and every two years thereafter on the anniversary of the date that its renewal application is required to be filed. Licensees owning more than one noncommercial educational AM, FM or TV broadcast station with different anniversary dates need file only one Report every two years on the anniversary of their choice, provided that their Reports are not more than two years apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate, in lieu of filing a new Report. Ownership reports shall give the following information as of a date not more than 60 days prior to the filing of the Ownership Report:

(1) The following information as to all officers, members of governing board, and holders of 1% or more ownership interest (if any): Name, residence, office held, citizenship, principal profession or occupation, and by whom appointed or elected.

(2) Full information with respect to the interest and identity of any individual, organization, corporation, association, or any other entity which has direct or indirect control over the licensee or permittee.

(3) A list of all contracts still in effect required by § 73.3613 to be filed with the FCC, showing the date of execution and expiration of each contract.

(4) Any interest which the licensee or permittee or any of its officers, members of the governing board, and holders of 1% or more ownership interest (if any) held in any other broadcast station.

(e) Each permittee of a noncommercial educational AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323-E:

- (1) within 30 days of the date of grant by the FCC of an application for original construction permit and;
- (2) on the date that it applies for a station license. The Ownership Report of the permittee shall give the information required by the applicable form. A permittee with a current and unamended report on file at the Commission may certify that it has reviewed its current report and it is accurate, in lieu of filing a new report.

(f) Each permittee or licensee of a noncommercial educational AM, FM or TV Broadcast station shall file an Ownership Report on FCC Form 323-E within 30 days of consummating authorized assignments or transfers of permits and licenses. The Ownership Report of the noncommercial educational permittee or licensee shall give the information required by the applicable form.

(g) A copy of all Ownership and supplemental Ownership Reports and related material filed pursuant to this section shall be maintained and made available for public inspection locally as required by §§ 73.3526 and 73.3527.