

# SCIARRINO & ASSOCIATES, PLLC

## *BROADCAST LEGAL SERVICES*

### Public Inspection File Requirements For Commercial Broadcast Stations

The FCC's rules require that every AM, FM or TV broadcast applicant, permittee and licensee maintain a local public inspection file ("LPF") to be made available upon request by any member of the public for inspection during regular business hours.

#### I. CONTENT:

##### 1. **Current FCC Authorizations (47 C.F.R. § 73.3526(e)(1))**

Licensees are required to retain the station's most recent license, showing the station's operating parameters, along with any subsequent renewals, assignments, transfers or other modifications or conditional authorizations for the main station. These documents must be retained until a new authorization is issued. Under a separate rule, you are also required to post these authorizations at the transmitter control point. Please note that authorizations for broadcast auxiliary, earth stations and microwave authorizations are not to be placed in this folder as they do not relate to the main station's authorization. Such materials, however, must be posted.

##### 2. **Applications and Related Materials (47 C.F.R. § 73.3526(e)(2))**

All applications filed with the FCC, along with any related material (such as exhibits filed as part of an application, an amendment to an application or subsequent correspondence with the FCC concerning the application) must be kept in the file. These documents must be retained only until *Final Commission Action* has been taken on them, that is, until the period for taking appeals or reconsideration of the grant has expired. However, applications which are granted pursuant to a waiver request must be retained for the duration of that waiver. Finally, short-term license renewal applications must be retained until *Final Commission Action* on the station's next license renewal application. Applications relating to broadcast auxiliary, earth stations and microwave stations should not be placed in this folder as they do not relate to the main station's authorization.

##### 3. **Citizen Agreements (47 C.F.R. § 73.3526(e)(3))**

If a station is subject to a citizen agreement, then it must retain a copy of the agreement in the LPF. Citizen agreements are agreements between a broadcast licensee and one or more citizens or citizen groups entered into primarily for non-commercial purposes. An example would be an agreement between the station and the NAACP regarding minority hiring practices. The agreement must be retained for the term of the agreement including any renewal or extension of the agreement.

**4. Contour Map (47 C.F.R. § 73.3526(e)(4))**

The rule requires that a station retain the contour map from the station's original construction permit application (or most recent modification application) filed with the FCC showing the station's coverage area and any other information in the application showing service contours and/or main studio and transmitter location. This must be retained as long as the map reflects current and accurate information.

**5. Ownership Reports and Contracts (47 C.F.R. § 73.3526(e)(5))**

Stations are required to retain only the most recent and complete Ownership Report on FCC Form 323 and any statements filed since then certifying that the current report is accurate ("Certifications of No Change in Ownership"). These items should only be retained until a new, complete ownership report is filed with the FCC. Contracts and documents listed in Section II, Question 9 of the Ownership Report must be made available to the public within seven days of a request.

**6. Political File (47 C.F.R. §§ 73.3526(e)(6) and 73.1943)<sup>1</sup>**

The FCC requires stations to keep records showing candidate requests for time, whether the requests were granted, the amount and classes of time sold to political candidates, the rates charged to them, when the spots aired and a record of free broadcast time if provided. Retain documents in this file for two years.

**7. Annual Employment Reports (47 C.F.R. §§ 73.3526(e)(7) and 73.2080)<sup>2</sup>**

Stations must place their Annual Public File Report (if required), FCC Form 396 (filed immediately prior to your renewal application), and other EEO reports must be placed in the file. Annual Employment Reports must also be posted on the Station's website, if they have one. These records must be maintained in the file until final action on the station's next renewal application.

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<sup>1</sup> Political 101: A Broadcasters' Guide to the Basics, 2004 Edition is available at [www.sciarrinolaw.com](http://www.sciarrinolaw.com).

<sup>2</sup> A separate memorandum regarding compliance with the FCC's EEO Requirements is available from Sciarrino & Associates, PLLC.

**8. “The Public and Broadcasting Manual” (47 C.F.R. § 73.3526(e)(8))**

Stations must retain the June 1999 version of this manual in LPF at all times.

**9. Correspondence From the Public (47 C.F.R. §§ 73.3526(e)(1) & 73.1202)**

Stations are required to retain letters and e-mails from the public regarding operation of the station. Obscene and defamatory letters and letters from people who have requested that their comments be kept confidential need not be placed in the LPF, though we suggest that stations retain such letters in a non-public file rather than discard them. The FCC has just recently revised this requirement to include only emails regarding station operations which are specifically transmitted to station management or an email address publicly advertised by the station. Television and Class A stations must maintain programming and non-programming correspondence files and place the correspondence in the appropriate file. This correspondence should be kept in the LPF for three years from the date the station receives the letters or e-mails.

**10. FCC Investigation/Complaints (47 C.F.R. § 73.3526(e)(10))**

Stations must retain any material relating to an FCC investigation or complaint until notified in writing by the FCC that the material may be thrown out.

**11. Quarterly Issues/Programs Lists (47 C.F.R. § 73.3526(e)(11)(i) & (e)(12))**

Retain the station’s quarterly listing of the five to ten most significant community concerns and issues and a list of the programs which the station broadcast in the preceding three months in response to those concerns. Each of the quarterly lists should be placed in the LPF on the tenth day in the month following the end of the quarter. All lists should be kept in the file until the station’s next license renewal application has become a *Final Commission Action*.

**12. Children’s Television: Commercial Limits & Children’s Programming Reports File (47 C.F.R. § 73.3526(e)(11)(ii) and (11)(iii) and 73.670)<sup>3</sup>**

Commercial television stations are required to demonstrate that they are in compliance with rules that limit commercial advertising during children’s programming. The station also has to show that it has provided programming in response to educational and

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<sup>3</sup> A separate memorandum is available from Sciarrino & Associates, PLLC regarding compliance with the Commission’s “KidVid” requirements.

informational needs of children. These records must be updated quarterly and placed in the public file by the 10<sup>th</sup> day of the next month. The reports must be maintained in the public file until the station's next license renewal application has become a *Final Commission Action*.

**13. Local Public Notice Announcements (47 C.F.R. § 73.3526(e)(13))**

The station must certify that it has properly notified the public of its filing of a license renewal application. The station must keep records of the dates and times that pre- and post-filing broadcast announcements relating to the station's license renewal application filing were aired and the text of those notices must be made part of the certifying statement. These records should be retained as long as the license renewal application to which it refers is retained.

**14. Time Brokerage Agreements (47 C.F.R. § 73.3526(e)(14))**

A copy of any time brokerage agreement, or "LMAs", must be kept both in the licensee's LPF and the LPF of the station on which the licensee brokers time for as long as the agreement is in effect. Confidential or proprietary information may be deleted from the agreements.

**15. Must-Carry/Retransmission Consent Status (47 C.F.R. § 73.3526(e)(15))**

Television stations must elect one or the other status with cable systems every three years. Copies of the statements electing a status must be kept in the LPF by the election deadline and maintained for the consent period.

**16. Joint Sales Agreements (47 C.F.R. § 73.3526(e)(16))**

Both television and radio stations must keep copies of agreements that involve the joint sale of advertising time, whether they involve stations in the same or different markets. Any confidential or proprietary information may be deleted from the agreements. This record should be kept for as long as it is in effect.

**17. Class A Continuing Eligibility (47 C.F.R. § 73.3526(e)(17))**

Every quarter, Class A television stations must comply with FCC rules that require a minimum of 18 hours a day of broadcasting, including at least 3 hours a week of locally produced broadcasting. Class A television stations must document this compliance in the LPF and the records should be updated every quarter.

**18. Sponsorship Identification (47 C.F.R. § 73.1212)**

The station is required to retain a list of the chief executive officers, executive committee members or members of the board of directors of any corporation, association, committee, unincorporated entity or other entity paying for or furnishing material that is political in nature or involves a controversial matter of public importance that is broadcast on the station. This material must be kept for two years.

**19. Digital Television**

Until the FCC adopts wholly new requirements for DTV stations, all stations that simulcast or independently operate DTV programming must comply with the general LPF requirements as well special DTV requirements. Where there are independent LPF requirements for DTV records or where the DTV station originates its own programming, the files should be kept separate from the general file. DTV Authorizations, DTV Applications and Related Materials, DTV Contour Maps, DTV Sponsorship ID and DTV Political Files should be included in this record. These files should be kept for as long as it is in effect.

**20. Issues of National Importance (47 U.S.C. §315(e))**

The Bipartisan Campaign Reform Act of 2002 (BCRA) requires that stations maintain a record of all requests to purchase time related to any matter of national importance, including federal candidates, federal elections or national legislative issues. The record must contain 1) the request, 2) the station's disposition of the request, 3) rates charged, 4) class of time purchased, 5) the name of the federal candidate or issue discussed, 6) if purchased by a federal candidate, the name of the committee, candidate's name, and committee treasurer, and 7) if purchased by an organization or individual, other than a federal candidate, the contact name, address and phone number of the purchaser and list of the officers or board of directors of the organization.

We recommend that stations place **nothing** in the LPF that does not fall within these categories and that stations organize the files according to the FCC rules. We do not recommend keeping the LPF on the station's website, which is permitted but not required by the FCC's rules. Do not allow the LPF to become a "dump" file for all important or official-looking papers or for all matters relating to the FCC.

**II. LOCATION: (47 C.F.R. §73.3526(b))**

The LPF must be located in the station's main studio. A station may locate its main studio at any location within the principal community contour of any station licensed to the same community of license, or 25 miles from the reference coordinates of the center of its community of license, whichever it chooses.

**III. ACCESSIBILITY: (47 C.F.R. §73.3526(c)(1))**

The LPF must be made available to the members of the community of license at any time during regular business hours. Broadcasters may electronically store the information in computers or in a computer database, as long as it is made available to be viewed and printed by members of the public. A licensee may specify a location for review and may charge a reasonable cost for reproducing the information.

**IV. TELEPHONE ACCESS: (47 C.F.R. §73.3526(c)(1))**

Broadcasters whose main studio is outside of their community of license must make the information in the LPF, *excluding* the political file information, available to members of the community of license upon telephone request. Licensees must reproduce and mail copies of the contents of the LPF at their own expense. A copy of the most recent version of "The Public and Broadcasting" must be mailed to any member of the community of license who requests a copy. A licensee must be able to assist members of the community who call requesting copies of the LPF in identifying what they are looking for.

This document is provided to introduce the reader to the fundamental basics of broadcaster's obligations in maintaining their Local Public Inspection Files. It is imperative that licensees ensure that the LPF is updated regularly and available to the public. If the reader is unsure of their responsibilities, please seek advice from your communications counsel or the FCC staff.

Dawn M. Sciarrino  
Jennifer L. Smith  
Sciarrino & Associates, PLLC  
Broadcast Legal Services  
703.830.1679 (phone)  
703.991.7120 (fax)  
www.sciarrinolaw.com