



The

# **Broadcasters' Desktop Resource**

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... edited by Barry Mishkind – the Eclectic Engineer

## **Focus on Regulation**

### **Getting a Handle on FCC License Renewal**



**By Brendan Holland**

*[April 2011] The renewal cycle is now under way. Stations in several states have already started the Pre-filing Announcements. For the rest of you, your turn will come. As you get ready, Brendan Holland looks at a number of things you should do before putting the Renewal Application together.*

As with any bureaucratic paper chase, the broadcast license renewal process can cause a panic attack for licensees or, if the various aspects are taken into account ahead of time, it can be manageable.

We mentioned [last time](#) the key aspects of the Pre-Filing Announcements, and how they need to be put on the air. It is not all that difficult but, then again, if you just start the process at that point, you have a bit of catching up to do.

After all, as part of the renewal process, stations are providing the address of the main studio, inviting interested parties to visit the radio station to review the renewal application and the station's Public Inspection File.

#### **REVIEW STATION OPERATIONS**

Given that stations are petitioning the government for an extension of license – and that listeners, citizens, and other interested parties will be encouraged to participate in the process – it is important that applicants have both their literal and proverbial house in order before filing their renewal application with the Commission.

With that in mind, let us take a look at the forms and procedures you should have in place.

#### **WHEN THEY COME TO YOU**

Since the announcements invite people to come to your Main Studio, you should ensure that your Main Studio is open *and properly staffed* during regular business hours, consistent with the FCC's Rules.

With the potential for such visitors arriving and looking for issues to criticize, you would do well to take a moment now and ensure that each of the station's employees are familiar with the FCC's Public Inspection File Rules – and are prepared to greet visitors properly and provide immediate and unrestricted access to the file. (Note: This does not mean you must leave them alone!)

In addition, stations should make sure that their physical facilities are in compliance with the Commission's Rules. For example:

- Take the opportunity to check the fencing and signage at the tower site(s). This would include confirming whether the Antenna Structure Registration Number (ASRN) and *current* contact information for the tower are properly posted at the site, if an ASRN is required.
- Now would also be a good time to review the painting and lighting on the tower to make sure that they meet all applicable requirements.
- Check to make sure the transmitter sites are in compliance with the all applicable limitations on radio frequency (RF) radiation, especially if there have been changes at the transmitter site since the last renewal.
- While not strictly public information, use the opportunity to ensure all operating parameters and required NRSC measurements (yearly for AM) are within limits and up to date.

## **AN EYE ON AUTHORIZATIONS**

Stations should also review their licenses to make sure that all of the station's operating facilities are properly authorized *and up to date*. This includes licenses for all Studio-Transmitter Links (STLs), remote pick-ups (RPU), and any other auxiliary facilities.

Making sure that the FCC has the proper contact information for the station is also very important. The FCC will not be mailing license renewal reminders this year, but instead *will only send an email notice*. So it is critical to make sure that the licensee name and contact information listed in the FCC's database including the email address of someone who will appropriately note and react to an email from the FCC, is accurate for each facility.

Stations should also make sure that the FCC has the correct mailing address for the licensee on file.

## **THE PUBLIC INSPECTION FILE**

In the last renewal cycle, the single largest source of problems – and fines for stations – was the Public Inspection File. As part of the FCC Form 303-S License Renewal Application, stations must certify that their Public Inspection File is complete and accurate and, if it is not, they must address any deficiencies.

Therefore, perhaps the most important issue for stations to address in advance of completing the license renewal application is to review the Public Inspection File to make sure that all necessary documentation is included. The Public Inspection File Rules are extensive, but several areas in particular have been the source of repeated difficulty for stations in previous renewal cycles.

***Quarterly Issues & Programs Lists.*** In the last renewal cycle, many stations were missing Quarterly Issues & Programs lists for some portion of the eight-year period, often incurring fines of \$10,000 or more (in some of those cases where there were many such Issues & Programs Reports missing from the files).

These reports are very important, as they are the only required official records to demonstrate that the programming a station has broadcast has served the public interest needs of its service area. If that service is ever challenged – as it could very well be at renewal time – a station will need the reports to demonstrate how the station’s programming responded to the needs and interests of the station’s community of license and surrounding area.

Stations should ensure that the public file contains a list for each and every quarter of the license term. More information regarding the Quarterly Issues & Programs Lists can be found in our most recent quarterly advisory, available [here](#).

***Equal Employment Opportunity filings.*** Another area that can cause issues for stations is one pertaining to the mandatory EEO filings.

Stations should have their EEO Annual Public File Reports in their Public Inspection File for every year of the license term. *Additionally, the most recent EEO Annual Public File Report must be posted on your website (if you have a website).* Stations are required to certify on the Form 303-S that they have complied with this requirement. And you should be aware that the FCC staff routinely surfs the web and inspects station websites to see whether their Annual EEO report is posted properly and conspicuously.

In addition to the Annual EEO report, television stations with 5 or more fulltime employees, and radio employment units with more than 10 fulltime employees, were required to file a Form 397 Mid-Term EEO Report with the FCC at the mid-point of the license term. If a station was required to file the Mid-Term Report, then a copy of the Form 397 should also be available in the Public File.

Finally, stations also need to prepare and file an FCC Form 396 Broadcast EEO Program Report simultaneously with the filing of the renewal application. That Form 396 must also be placed in the Public Inspection File. Further details about EEO obligations can be found in an EEO advisory that our firm has published, and is available [here](#).

***FCC Form 323 or Form 323-E Ownership Report.*** The Commission’s Rules regarding the filing of ownership reports vary for commercial versus noncommercial stations, but every station must have a copy of the most recent FCC Form 323 (for commercial stations) or Form 323-E (for noncommercial stations) ownership report in their Public File.

In addition, stations should review the report on file at the station to ensure that the licensee has properly and timely filed its ownership report with the FCC. Please note, as a result of the FCC’s differing approach to commercial versus noncommercial stations, commercial stations are no longer required to file a biennial ownership report on the same date that they file their license renewal application. Rather, commercial stations file a biennial report according to a unified filing date, the next of which falls on November 1, 2011.

Noncommercial stations, however, continue to face the need for a Form 323-E Ownership Report at the time they submit their Form 303-S license renewal application.

***Corporate Documents.*** Related to the ownership reports, stations must also have copies of relevant corporate documents and agreements pertaining in the Public Inspection File. Alternatively, the Public File can contain a list of such documents, which the licensee must be able to produce within seven days of when someone requests to see a copy of a specific agreement.

The FCC has fined several stations recently for failing to have copies of corporate documents, including the licensee’s Articles of Incorporation or Corporate By-Laws, in their Public Inspection Files. Stations should review this requirement carefully and make sure they have any necessary documents in the file.

Further information about the contents of the Public Inspection File, including a checklist of the required items, can also be found in our Public Inspection File advisory, available [here](#).

Now that you have all the relevant documents in hand, it is time to deal with the Renewal Form itself. That will be the topic of [our next article](#).

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