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Beyond the Public File: Station Records and Logs

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Broadcasters' recordkeeping requirements are not limited to the documents that must be placed in the station's local public inspection file. Numerous FCC rules impose additional obligations on broadcasters to maintain non-public file station records which need to be made available for FCC inspection on request.

The maintenance of complete and accurate records is an important legal requirement. Stations can be – and are – fined for incomplete records. Moreover, records provide concrete evidence of a station's operation in compliance with the rules. For example, only with adequate documentation can a station prove that it complies with the rules that require stations to inspect the transmitter, take measurements, or calibrate equipment "as often as necessary" to ensure proper station operation. *See, e.g.*, FCC Rules 73.61(a), 73.69(e), 73.664(b) & 73.1540.

The following is a summary of the FCC's recordkeeping and logging requirements that go beyond the Local Public File.

Station Licenses

The station license and other FCC authorizations are to be posted in a conspicuous place, visible at all times, at the place the licensee considers to be the principal control point of the transmitter. They can be posted on the wall or maintained in a binder at the control point. FCC Rule 73.1230.

Chief Operator Designation

The designation of the chief operator, and an acting or backup chief operator in the absence of the chief operator, must be in writing with a copy of the designation posted with the station license. Television stations and AM stations using a directional antenna or operating with greater than 10 kW authorized power are required to employ a Chief Operator as an employee of the station on duty for whatever number of hours each week the licensee determines is necessary to keep the station's technical operation in compliance with FCC rules and the terms of the station authorization. All other stations may engage a Chief Operator either as an employee of the station or on a contract basis. FCC Rule 73.1870.

Among the Chief Operator's specified tasks is the obligation to maintain records of the performance of his or her duties. FCC Rule 73.1870(c). These include:



1. Inspections and calibrations of the transmission system, required monitors, metering and control systems, and adjustments and repairs to them "as often as necessary to ensure proper station operation."
2. Periodic AM field monitoring point measurements, equipment performance measurements (see below), or other tests as specified in the rules or station license.
3. A weekly review of all technical records to determine that required entries are being made correctly, and to verify that the station has been operated in compliance with the rules and the station license. The Chief Operator must demonstrate that the weekly review has been done by dating and signing the documents, and must (i) initiate corrective action which is indicated by the records, and (ii) advise the licensee of any condition which is repetitive.

Contract with Chief Operator

Agreements with chief operators or other engineering personnel serving on a contract basis must be in writing with a copy kept in the station's non-public files. FCC Rules 73.1226(c)(4), 73.1870(b)(3) & 73.3613(e).

Station Logs and Related Records

Who Must Keep The Log

Entries must be made in the station log by a licensed operator in actual charge of the transmitter (usually the board operator), or by an automatic logging device. FCC Rule 73.1820(a) & (b).

How Readings Must Be Taken

Indications of operating parameters must be logged prior to any adjustment of the transmitter. If adjustments are made, the corrected indications must also be logged. Where a parameter is observed and recorded to be beyond specified tolerances, an additional notation must be made of the nature of the corrective action which was taken. If the value of a parameter is affected by carrier modulation, the reading must be taken without modulation. FCC Rule 73.1820(a).

How Entries Must Be Made

All entries must specify the date and time of the reading, and must be signed by the person taking the readings (ordinarily the operator on duty). The very signature on a station log is a representation that the information which was entered is an accurate representation of what happened. Therefore, a false or inaccurate entry can result in a claim that a misrepresentation was made to the FCC. FCC Rule 73.1800(a).



Corrections to the station log may be made only by striking through (not erasing or obliterating) the erroneous information and making a corrective explanation. Corrections must be dated and signed by the operator on duty, the chief operator, station manager, or an officer of the licensee. No auto-log may be altered in any way after entries have been recorded. No log or any portion may be erased, obliterated, or willfully destroyed during the time it is required to be retained. FCC Rule 73.1800(c).

How Long The Log Must Be Kept

Station logs must be retained for a period of two years. FCC Rule 73.1840(a).

In two situations, retention for a longer period is required:

(a) Logs involving communications incident to a disaster or to an FCC investigation about which the licensee has been notified. In these circumstances, station logs must be retained until the FCC specifically authorizes them to be destroyed.

(b) Logs incident to or involved in any claim or complaint of which the licensee has notice. These must be retained until such claim or complaint has been fully satisfied, or until legal action based upon the claim or complaint has been barred by the statute of limitations.

Storage Medium

Station logs may be retained in any type of data-storage system, provided that viewing devices are available to permit FCC inspection of logs, the logs can be restored to full-sized copies within two business days upon request, and any corrections to logs contain sufficient information to identify what was corrected, and when and by whom the correction was made. FCC Rule 73.1840(b).

The official station log must include:

1. Emergency Alert System ("EAS"). FCC Rules 11.54(b)(12) & 73.1820(a)(1)(iii).

The EAS log must reflect the Required Weekly Tests and the Required Monthly Tests. FCC Rule 11.61. Each station must send a test message once every week on random days and times. During the week of the monthly test, no weekly test is required. The Required Monthly Test must be conducted within 60 minutes of receipt. The monthly test message is transmitted between 8:30 A.M. and sunset in odd-numbered months, and between sunset and 8:30 A.M. in even-numbered months. The EAS log needs to include not only the station's transmission of tests but also the receipt of tests from two other sources it monitors – its LP1 station and its LP2 station as designated by the State Plan of the State in which the station is located. In the event a test is not received, the licensee must determine why a required test was not received and indicate the corrective action taken in the log. FCC Rule 11.35(a). If the EAS equipment is malfunctioning, the log must show



the date and time when the equipment was taken off line, the nature of the problem, and the date and time when it was restored to service. FCC Rule 11.35(b).

2. Tower Lights. FCC Rule 73.1820(a)(1)(i).

Stations must log any observed or otherwise known extinguishment or improper functioning of a structure light and include the following on the log:

- a. The nature of such extinguishment or improper functioning.
- b. The date and time the extinguishment or improper operation was observed or otherwise discovered.
- c. The date and time of FAA notification, if applicable.
- d. The date, time and nature of adjustments, repairs or replacements made.

3. Meter Calibrations. FCC Rules 73.69(e), 73.1350(c), 73.1580 & 73.1820(a)(2)(iii).

Broadcasters must inspect transmitter, monitors, and automatic logging devices to ensure proper station operation. To obtain reliable readings, all monitors and automatic logging devices must be calibrated periodically. How often to calibrate is left to the licensee's discretion. The date of calibration of each device should be entered in the station log along with any other resulting actions stemming from the calibration, such as replacement of a meter or other device. The licensee may keep calibration data in a special calibration log, but it will be considered a part of the official station log.

4. Transmitter Parameters, if required by the station license or FCC rules. FCC Rule 73.1820(a)(1)(ii).

With the exception of certain AM stations discussed below, stations are no longer required to take regular transmitter readings. Of course, many stations continue to read and record transmitter parameters in an operating log as an element of good engineering practice. The Commission's position is that stations are free to keep such records. Note, however, that just as a station may rely upon such records to demonstrate its operation in compliance with the rules, the FCC also may rely upon such records to fine a station, if they reflect operation in violation of the rules.

Logs Applicable Only to AM Stations:

No Type-Approved Sampling System.

Directional AM stations which have not installed a type-approved sampling system are required to read and record specified transmitter parameters (*e.g.*,



common point current, phase, antenna monitor sample currents, and, if determining power by the indirect mode, the efficiency factor and calculated antenna input power) every three hours. FCC Rule 73.1820(a)(2).

Indirect Power Measurement.

When AM stations cannot use the direct method of power determination for technical reasons, a notation in the station log must be made indicating the dates of commencement and termination of measurement using the indirect method of power determination. FCC Rule 73.51(d).

Antenna Resistance Measurement (AM only)

AM stations must keep on file at the station a full description of the method used to take antenna resistance and reactance measurements, including a schematic diagram showing all elements listed in Rule 73.54(c). FCC Rules 73.54(c) & 73.1225(d)(1).

Field Strength Measurements (AM only)

AM stations operating with directional antennas are required to conduct and to retain proofs-of-performance of their antenna systems. The two types of proofs are:

1. Complete proof, required of a new AM station or by a station which has made major changes in its facilities. Directional AM stations must take field strength measurements at monitoring point locations to establish performance of directional antennas. FCC Rules 73.61(a), 73.151 & 73.1225(d)(2). The complete proof of performance, required of a new AM station or by a station which has made major changes in its facilities, should be retained permanently.
2. Partial proof of performance, required of existing stations periodically, according to specific circumstances. Stations must keep available for FCC inspection the most recent partial proof. FCC Rules 73.154(d) & 73.1225(d)(3). Circumstances for conducting partial proofs are:
 - (i) Replacements to the sampling system which are made above the base of the towers if monitoring point field strengths or antenna monitor parameters exceed allowable limits. FCC Rule 73.68(d)(3).
 - (ii) Replacement of an antenna monitor, in cases in which variances between old and new measurements cannot be reconciled. FCC Rule 73.69(d)(4).
 - (iii) When the licensee has reason to believe that the radiated field may be exceeding licensed parameters. FCC Rule 73.61(b).
 - (iv) When directed by the FCC. FCC Rule 73.61(c).



Whenever the operating parameters of a directional AM antenna cannot be maintained within the required tolerances, the licensee shall measure and log every monitoring point at least once for each mode of directional operation within a 24-hour period. Subsequent variations in operating parameters will require the re-measuring and logging of every monitoring point to assure that the authorized monitoring point limits are not being exceeded. FCC Rule 73.62(b)(1).

Equipment Performance Data

Main Transmitter (AM, FM, TV and Class A TV, but not Class D NCE stations operating with 10 watts or less).

When a new or replacement main transmitter is installed or modified, equipment performance measurements must be taken. When AM or FM stations install stereophonic transmission equipment, or when FM or TV stations install subcarrier equipment, they must also take measurements. AM stations must perform measurements annually, no more than 14 months between measurements.

Spurious and Harmonic Emissions (AM, FM & TV) and TV Visual Equipment Performance Measurements.

Equipment performance measurement data, with a description of the instruments and procedures employed, signed and dated by the qualified person making the measurements, must be retained at the transmitter or remote control point of the station for a period of two (2) years. FCC Rule 73.1590(d).

Visual Modulating Monitoring

Each TV station must have equipment measuring its transmitted visual signal. TV stations that cannot operate in compliance with the timing and carrier level tolerance requirements must indicate the date and time of the initial out-of-tolerance condition in the station log. If operation at a variance continues up to 10 days, the FCC must be notified, and if normal operation cannot be resumed within 30 days, special temporary authority must be obtained. FCC Rule 73.691(b).

Applications to Modify Transmission Systems

If a license application is filed pursuant to FCC Rule 73.1690(c) for which prior FCC authorization is not required (e.g., making specified antenna changes and ERP changes, or replacing transmission line length or type that changes TPO), a copy of the application must be made available to an FCC representative upon request. FCC Rule 73.1225(c)(3). Note: Such applications must be made available for FCC inspection even though the time for which they needed to be maintained in the public file has expired (i.e., they can be removed from the public file after FCC action on the application has become final, unless they contain a waiver request, in which case they must be kept in the public file for as long as the waiver is in effect).



Information Documenting Modifications Not Requiring Prior Authorization

Informal statements or drawings depicting electrical or mechanical modifications to authorized transmitting equipment not requiring prior FCC approval must be retained for as long as the equipment is in use. FCC Rules 73.1225(c)(4) & 73.1690(e).

Subsidiary Communications

FM subchannel leasing agreements for subsidiary communications must be retained. FCC Rule 73.1226(c)(2).

Franchise and leasing agreements for the operation of telecommunications services on the television vertical blanking interval and in the visual signal must be retained. FCC Rules 73.669(c) & 73.3613(e).

Rebroadcast Consent

A station that rebroadcasts the programming of another station must keep on file a copy of the written rebroadcast consent of the licensee originating a program or any part of a program that is broadcast. FCC Rule 73.1207(b).

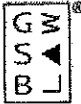
Time Sales Contracts

Stations must retain time sales contracts with the same sponsor for four or more hours per day, except where the length of the event broadcast pursuant to the contract is not under control of the station (such as athletic contests, musical programs and special events). FCC Rules 73.1226(c)(3) & 73.3613(e).

Antenna Structure Registration

FCC Rule 17.4(g) requires the owner of a tower that has been registered in the FCC's Antenna Structure Registration database to display the Antenna Structure Registration Number conspicuously "so that it is readily visible near the base of the antenna structure." The display must be weather-resistant and of sufficient size to be easily seen.

The FCC issues Antenna Structure Registrations on FCC Form 854-R. The form is an important record and although there is no separate recordkeeping requirement for it, the form should be kept where it can easily be retrieved. It may be retained with the station's license or in station engineering records. It should not be placed in the local public file.



Special Technical Records

The FCC has a catch-all rule, Rule 73.1835, that permits the FCC to require a station to keep operating and maintenance records “as necessary to resolve conditions of actual or potential interference, rule violations, or deficient technical operation.”

“Want Ad” Sponsors

Stations that carry “want ads” or classified ads sponsored by individuals under provisions of the FCC’s rules that permit omission of the sponsor’s name in the broadcast must maintain a list showing the name, address and (when available) the telephone number of each advertiser. The list must be made available to members of the public with a legitimate interest in the information and must be retained for two years after broadcast. FCC Rule 73.1212(g).

Records Needed to Respond to an FCC EEO Audit

The FCC is auditing 5% of stations each year to ensure compliance with its Rule 73.2080. In addition to the station’s two most recent Annual EEO Public File Reports, the FCC typically requests the following documentation in an EEO audit which is required to be maintained in the station’s business records:

1. If the station has a website, the url address for the link on the web site to the most recent Annual EEO Public File Report.
2. For each full-time position filled during the period covered by the EEO Public File Reports, dated copies of all advertisements, bulletins, letters, faxes, emails, or other communications announcing the position. Include copies of job announcements sent to any organizations (identified separately from other sources) that have notified the station that they want to be notified of job openings at the station, as described in FCC Rule 73.2080(c)(1)(ii).
3. The total number of interviewees for each vacancy and the referral source for each interviewee for all full-time vacancies filled during the period covered by the EEO Public File Reports. FCC Rule 73.2080(c)(5)(v).
4. Documentation demonstrating performance of recruitment initiatives described under FCC Rule 73.2080(c)(2) during this time period, such as participation at job fairs, mentoring programs, etc. Specify the station personnel involved in the recruitment initiatives. Also provide the total number of full-time employees of the station and whether the station is located in a market with 250,000 people or more. These two factors, as explained in FCC Rules 73.2080(c)(2) and (e)(3), determine whether the employment unit is required to perform two or four initiatives in a two-year period.



5. Documentation sufficient to provide a brief description of any discrimination complaint, including the persons involved, the date of the filing, the court or agency, the file number (if any), and the disposition or current status of the matter regarding any pending or resolved complaints filed during the current license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the station on the basis of race, color, religion, national origin, or sex.
6. In accordance with FCC Rule 73.2080(b), from the beginning of the most recent license renewal cycle until the date of the FCC's audit letter, any documentation describing the responsibilities of each level of management to ensure enforcement of EEO policies and that describes how the station has informed employees and job applicants of its EEO policies and program.
7. In accordance with FCC Rule 73.2080(c)(3), from the beginning of the most recent license renewal cycle until the date of the FCC's audit letter, any documentation sufficient to describe the station's efforts to analyze its EEO recruitment program to ensure that it is effective and that address any problems found as a result.
8. In accordance with FCC Rule 73.2080(c)(4), from the beginning of the most recent license renewal cycle until the date of the FCC's audit letter, any documentation that describes the station's efforts to analyze periodically measures taken to examine pay, benefits, seniority practices, promotions, and selection techniques and tests to ensure that they provide equal opportunity and do not have a discriminatory effect, and if the station has a union agreement, any documentation that describes how the station cooperates with the union(s) to ensure EEO policies are followed for the station's union-member employees and job applicants.

The best way to organize the station's EEO files that will have to be provided in an EEO audit is to set up a separate file for each opening that is filled. Place in that file all the documents relating to paragraphs 2 and 3 above. Set up separate files for documents relating to broad outreach initiatives specified in paragraph 4 above, such as a job fair file, a mentoring file, or a training file, depending on which of the outreach initiatives the station chooses to perform. A discrimination complaints file should be established if any complaints are received. A file documenting the station's self assessment of its EEO program should be established for the types of documents requested in paragraphs 6 through 8.

Contest Files

FCC rules do not require licensees to maintain records on over-the-air contests and similar promotions. Nonetheless, because contest losers are the source of many listener and viewer complaints filed with the FCC, serious consideration should be given to maintaining complete files on contest and promotions. Documentation is the station's best defense. In addition to a complete set of rules, stations should create a separate internal station file for each contest (but



do NOT place the contest file in the public file). The following materials should be preserved in that file:

1. Rules and eligibility requirements for the contest.
2. Verification as to when the rules for the contest were broadcast or otherwise disseminated.
3. Promotional materials relating to the contest or promotion, such as broadcast copy, recordings or air-checks of the copy as it was broadcast, print advertisements, billboard or poster layouts, direct mail pieces, bumper stickers, and promotional merchandise.
4. A listing of prizes awarded and the names, addresses (and in the case of prizes with a value of more than \$599, social security numbers) of winners. For prizes of \$600 or more, or for prizes won by a single individual in one year with a total value in excess of \$600, the Internal Revenue Service will require the station to file a 1099 MISC tax form reporting the identity of the prize winner. The winner's social security number must be included in the report. The filing of the 1099 MISC form will not affect the station's tax liability; it merely notifies the Internal Revenue Service to be sure that the amount of the prize is taxed as part of the prize winner's income.
5. Prize receipts signed by winners.
6. Personal releases allowing the station to use the name, voice and/or images of contest winners for promotional purposes.
7. Any written complaints or internal memoranda concerning complaints about the contest.
8. Recordings of any on-air telephone calls that were an element of the contest.

Conclusion

The FCC takes recordkeeping seriously. Assign responsibility for FCC recordkeeping to a detail-oriented responsible person. Adherence to the requirements will reduce the risk of a potentially hefty fine for noncompliance.

Comments and questions about station records and logs may be directed to Melodie A. Virtue at (202) 298-2527 or mvirtue@gsblaw.com.

The information presented here is intended solely for informational purposes and is of a general nature that cannot be regarded as legal advice. This article is current and up-to-date as of January 17, 2007.