



Federal Communications Commission  
Washington, D.C. 20554

June 2, 2017

DA 17-535

## **Small Entity Compliance Guide**

### **Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location**

**MB Docket No. 16-161  
FCC 17-3**

This Guide is prepared in accordance with the requirements of Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It is intended to help small entities—small businesses, small organizations (non-profits), and small governmental jurisdictions—comply with the new rules adopted in the above-referenced FCC rulemaking docket(s). This Guide is not intended to replace the rules and, therefore, final authority rests solely with the rules. Although we have attempted to cover all parts of the rules that might be especially important to small entities, the coverage may not be exhaustive. This Guide may, perhaps, not apply in a particular situation based upon the circumstances, and the FCC retains the discretion to adopt approaches on a case-by-case basis that may differ from this Guide, where appropriate. Any decisions regarding a particular small entity will be based on the statute and regulations.

In any civil or administrative action against a small entity for a violation of rules, the content of the Small Entity Compliance Guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties or damages. Interested parties are free to file comments regarding this Guide and the appropriateness of its application to a particular situation; the FCC will consider whether the recommendations or interpretations in the Guide are appropriate in that situation. The FCC may decide to revise this Guide without public notice to reflect changes in the FCC's approach to implementing a rule, or to clarify or update the text of the Guide. Direct your comments and recommendations, or calls for further assistance, to the FCC's Consumer Center:

**1-888-CALL-FCC (1-888-225-5322)  
TTY: 1-888-TELL-FCC (1-888-835-5322)  
Fax: 1-866-418-0232**

## I. OVERVIEW OF THE PROCEEDING

In the *Report and Order* in MB Docket No. 16-161, released January 31, 2017,<sup>1</sup> the Commission eliminated two public inspection file requirements:

- the requirement that commercial broadcast stations retain in their public inspection file copies of letters and emails from the public; and
- the requirement that cable operators maintain for public inspection the designation and location of the cable system's principal headend.

Because principal headend location information must be accessible to the Commission, broadcast television stations, and franchisors, cable systems will be required to provide principal headend location information to these entities upon request. In lieu of responding to individual requests for such information, operators may alternatively elect voluntarily to provide this information to the Commission for inclusion in the Commission's online public inspection file ("OPIF") database and make the information publicly available there.

## II. BACKGROUND AND DISCUSSION

### Public Inspection File

The Commission's rules have long required television and radio broadcast stations, cable operators, DBS providers, and satellite radio (SDARS) licensees to maintain a physical public inspection file, including a political file, at their respective stations, local business office, or headquarters office and to place in the file records that provide information about the media entity's operations. In 2012, the Commission adopted online public inspection file rules for television broadcasters that required them to post public file documents to a central, FCC-hosted online database rather than maintaining files locally at their main studios.<sup>2</sup> In January 2016, the Commission expanded its online public file by adding cable operators, DBS providers, broadcast radio licensees, and satellite radio licensees to the list of entities required to post their public inspection files to the FCC-hosted online database.<sup>3</sup> More information about public inspection file requirements is available at <https://publicfiles.fcc.gov/>.

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<sup>1</sup> *Revisions to Public Inspection File Requirements – Broadcaster Correspondence File and Cable Principal Headend Location*, Report and Order, MB Docket No. 16-161, FCC 17-3, rel. Jan. 31, 2017, available at [https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-3A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-3A1.pdf) (Report and Order).

<sup>2</sup> *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, Second Report and Order, 27 FCC Rcd 4535 (2012) ("*Television Online Public File Order*"). Full-power television stations were required to upload new public file documents to the online database starting August 2, 2012. These stations were given six months from this date to upload public file documents that were already in their public inspection file prior to August 2, 2012. Stations were not required to upload existing political file material but only new political file material on a going-forward basis. In addition, to smooth the transition for television stations and the Commission and to allow smaller broadcasters additional time to begin posting their political files online, the Commission phased in the new political file posting requirement. Television stations affiliated with the top four national networks (ABC, NBC, CBS, and Fox) and licensed to serve communities in the top 50 Designated Market Areas were required to begin posting their new political file documents online starting August 2, 2012, but other television stations were exempted from posting their political file documents online for two years, until July 1, 2014.

<sup>3</sup> *Expansion of Online Public File Obligations to Cable and Satellite TV Operators and Broadcast and Satellite Radio Licensees*, Report and Order, 31 FCC Rcd 526 (2016) ("*Expanded Online Public File Order*"). Commencing June 24, 2016, cable systems with 1,000 or more subscribers, DBS providers, SDARS licensees, and commercial radio stations in the top 50 Nielsen Audio radio markets with five or more full-time employees were required to place their new public inspection file documents in the Commission-hosted online public file database. These entities had until December 24,

## Correspondence File

Section 73.3526(e)(9) of the Commission's rules provided that commercial broadcast stations must retain in their public inspection file "[a]ll 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 situation in which a letter contains content that is defamatory or obscene.<sup>4</sup> The rule expressly included email messages transmitted to station management or to an email address publicized by the station.<sup>5</sup> When it transitioned to the online public file in 2012, however, the Commission determined that letters and emails from the public should not be uploaded to the online file but should instead continue to be maintained locally at the station's main studio.<sup>6</sup> The Commission concluded that including letters and emails from the public in the online file could risk exposing personally identifiable information and that requiring stations to redact such information prior to uploading these documents would be overly burdensome.<sup>7</sup> In the *Report and Order*, the Commission eliminated the requirement that commercial broadcast stations retain letters and emails from the public in their public inspection files, concluding that this requirement is not necessary to ensure that broadcasters comply with their public interest obligation to air programming that is responsive to the needs and interests of their community of license. Apart from reducing public inspection file requirements, eliminating the correspondence file requirement will have the added benefit of permitting commercial broadcasters to transition to an entirely online public file and cease maintaining a local public file.

## Principal Headend Location Public File Requirement

Section 76.1708 of the Commission's rules required operators of all cable television systems to "maintain for public inspection the designation and location of [the system's] principal headend."<sup>8</sup> If an operator changed the designation of its principal headend, that new designation was also required to be included in its public file.<sup>9</sup> When cable operators were transitioned to the online public file in 2016, the Commission concluded that it would not require cable operators to include principal headend location information in the online public file and gave operators the option instead to continue to retain this information in their local public file.<sup>10</sup> In the *Report and Order*, the Commission eliminated the principal headend location public file requirement, concluding that the general public has no need for or interest in this information. This action will reduce burdens for cable system operators, particularly those with security concerns about posting principal headend location information

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2016 to place their existing public file documents into the online public file. Entities were not be required to place in the online public file existing political file material. Cable systems with fewer than 1,000 subscribers are exempt from all online filing requirements and systems with 1,000 or more subscribers but fewer than 5,000 subscribers are not required to place new political file material in the Commission's online file until March 1, 2018. In addition, until March 1, 2018, all NCE radio broadcast stations, commercial radio broadcast stations in the top 50 Nielsen Audio markets with fewer than five full-time employees, and all commercial radio broadcast stations in markets below the top 50 or outside all markets are exempt from all requirements to place public file materials in the online public file. As of March 1, 2018, these radio entities must have placed all existing public file material in the online public file, with the exception of existing political file material, and must begin placing all new public and political file material in the online file on a going-forward basis.

<sup>4</sup> See 47 C.F.R. § 73.3526(e)(9)(i) (2016). Prior to 2017, these letters and emails were required to be retained for a period of three years.

<sup>5</sup> See 47 C.F.R. § 73.3526(e)(9)(ii) (2016). Prior to 2017, section 73.1202 of the Commission's rules also included outdated references to correspondence file requirements.

<sup>6</sup> *Television Online Public File Order*, 27 FCC Rcd at 4541, para. 11.

<sup>7</sup> *Id.* at 4567, para. 63.

<sup>8</sup> See 47 C.F.R. § 76.1708(a) (2016).

<sup>9</sup> *Id.*

<sup>10</sup> *Expanded Online Public File Order*, 31 FCC Rcd at 549-50, para. 61.

online. It will also enable these systems to transition to a fully online public file and benefit from the long-term cost-savings and other efficiencies associated with an online file.

To ensure that the Commission has access to principal headend location information, the Commission will require that all cable systems provide it to the Commission promptly upon request made by phone, email, or other means. Systems must also provide this information upon request to broadcast television stations and franchisors. In lieu of responding to individual requests for principal headend location information, systems may alternatively elect voluntarily to input this information into OPIF or provide it to the Commission by mail or email to be included in that database. Systems that elect to provide this information in OPIF may choose to make it accessible only to the Commission or also make it publicly available.

Systems that elect to make principal headend location information in OPIF available to the public will avoid the necessity of providing information in response to requests for principal headend location information. Systems that elect not to provide principal headend information in OPIF, or that elect to protect this information from public view, will be required to make it available to broadcast television stations and local franchisors upon request. If a request is submitted to a cable system from a broadcaster or local franchisor in writing by certified mail, cable systems must respond in writing by certified mail within 15 calendar days. Cable systems may in addition elect to respond to requests from these entities submitted by telephone or email, but must respond in writing by certified mail if requested to do so by the station or franchisor. Systems that choose to provide principal headend information to the FCC by email or mail, and that state that it can be made public in OPIF, must provide it to stations upon request until their information appears in the OPIF database.

#### **Entities affected by this proceeding**

Commercial television and radio stations were subject to the correspondence file requirements that are eliminated in this proceeding. Cable operators were subject to the principal headend location public file requirement that is eliminated in this proceeding.

#### **Effective Date**

The Media Bureau will issue a Public Notice announcing the effective date of the changes adopted in this proceeding.

### **III. RECORDKEEPING**

Previously, commercial television and radio broadcasters were required to retain written comments and suggestions from the public and make them available for public inspection in their local public inspection files at their main studios. This Order eliminates that requirement.

Previously, operators of all cable television systems were required to maintain in their public inspection file the designation and location of the system's principal headend. If an operator changed the designation of its principal headend, that new designation was also required to be included in its public file. Operators had the option to either upload this information to the online public file or retain it locally in their local public inspection file. This Order eliminates the principal headend location public file requirement. Cable systems will be required to provide principal headend location information to the Commission, broadcast television stations, and franchisors upon request.

### **IV. BENEFITS OF COMMISSION ACTION FOR SMALL BUSINESS**

Eliminating the correspondence file and principal headend public file requirements will reduce regulatory burdens on commercial broadcasters and cable operators and improve security at local stations and principal headend locations. In addition, because of potential privacy concerns associated with putting the correspondence file online and because many cable operators prefer not to post online the location of their principal headend for security reasons, removing these requirements will enable commercial broadcasters and cable operators to make their entire public inspection file available online without these privacy and security concerns and eliminate the need to maintain a local public file.

## **INTERNET LINKS**

### **Report and Order**

[https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-3A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-3A1.pdf) (PDF)

[https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-3A1.doc](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-3A1.doc) (WORD)

[https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-3A1.txt](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-3A1.txt) (TEXT)

<https://www.federalregister.gov/documents/2017/02/23/2017-03465/expansion-of-revisions-to-public-inspection-file-requirements-broadcaster-correspondence-file-and> (Federal Register)

### **Chairman and Commissioner Statements**

[https://apps.fcc.gov/edocs\\_public/attachmatch/FCC-17-3A2.pdf](https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-3A2.pdf)

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