

ALERT

# FCC Releases Proposed Changes to Rules for Low Power Television Stations

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June 14, 2024

On June 10, 2024, the Federal Communications Commission (FCC or Commission) released a Notice of Proposed Rulemaking (NPRM) seeking comment on revisions to Commission rules related to the Low Power Television (LPTV) Service, which includes Class A television, LPTV, and TV translator stations. Comments and reply comments on the proposed revisions are due 30 and 60 days, respectively, after publication in the Federal Register.

Citing changes to the LPTV service over the past 40-plus years, the Commission invites input on changes to its policies and rules for the service to “ensure that LPTV Service continues to flourish and serve the public interest.”

Below we have provided a summary of several of the major proposals and questions in the NPRM.

## ***Online Public Inspection File Requirements and Procedures***

The NPRM includes a number of questions about whether the FCC should expand its online political file rules – which currently only apply to commercial AM, FM, TV, or Class A TV stations – to certain LPTV stations, including whether:

- The public uses the public file to safeguard the value of the public airways, and what broadcaster public file information is routinely sought by the public.
- The FCC should extend the same online public inspection file (OPIF) requirements applicable to full power and Class A television stations to top-four network affiliated LPTV stations and whether OPIF requirements should be extended to LPTV

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stations that are affiliated with TV networks other than the top four.

- The Commission should include LPTV stations affiliated with other national TV networks in the requirement to maintain an OPIF or whether the agency should instead apply the OPIF requirement to LPTV stations that are among the top four TV stations in each market based on Nielsen ratings.
- There are any additional ways of differentiating among LPTV stations for purposes of imposing OPIF requirements.
- The benefits of imposing an OPIF requirement on top-four network affiliated LPTV stations or any other category of LPTV station outweigh the costs.
- These proposals appropriately accommodate small entities.

### ***Recordkeeping and Political Broadcasting***

LPTV stations are currently required to “maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, contracts, permission for rebroadcasts, and other pertinent documents.” Section 74.78(b) of the Commission’s rules also requires LPTV stations to retain certain information about tower lighting. The Commission seeks comment on the following proposed changes to these requirements:

- Specifying where LPTV stations must retain records not included in their OPIF. The Commission’s proposed revisions would also specify where records can be accessed by the public.
- Revising the inspection requirement to clarify that the rule applies to both TV translators and LPTV stations.
- Updating the list of political programming rules applicable to LPTV stations to align with existing and longstanding statutory requirements in Sections 312 and 315 of the Communications Act.

### ***Proposed Changes to Section 73.3526***

The Commission proposes to correct cross references and other inaccuracies. Perhaps most significantly, it proposes to require Class A and LPTV stations to disclose time brokerage agreements and joint service agreements.

### ***Relocation of Facilities***

The NPRM seeks comment on amending the displacement and channel sharing rules to eliminate the reference to a station’s community of license (COL) and incorporate the language of the minor change rule that measures distance from the reference and coordinates of the “[e]xisting station’s antenna location.” The NPRM also requests comment on clarifying the distance that Class A and LPTV/TV translator stations are allowed to move in a single minor modification application or a displacement application, proposing to remove the imprecise miles-to-kilometers conversion and instead solely state that facility relocations may be no greater than 48.3 kilometers. Notably, in response to requests from LPTV interests, the FCC asks whether a different distance is more appropriate.

The NPRM also seeks comment on how Class A and LPTV/TV translator stations designate their COL.

### ***Minimum Operating and Programming Requirements***

The NPRM proposes adopting minimum operating hours for LPTV stations and seeks comment on whether LPTV/TV translator stations should be required to certify regarding their minimum operating hours on certain applications. Specifically, the NPRM proposes:

- That all LPTV stations be required to operate no less than 14 hours per calendar week and seeks comment on whether there are alternatives to this benchmark that will satisfy the goal of “ensur[ing] that stations have a clear awareness of their public interest obligations to the viewers they have been licensed to serve and prevent[ing] warehousing and underutilization of spectrum.”
- Requiring all LPTV/TV translator licensees to certify in any application for minor or major modification of a licensed facility and in their license renewal applications whether the station has complied with its minimum operating requirement over the course of the current license term.
- Clarifying that, for LPTV/TV translator stations, visual transmissions of test patterns, slides, or still pictures accompanied by unrelated aural transmissions may not be counted for purposes of complying with any minimum operating requirement.

### ***Station Designations and Call Signs***

The NPRM proposes to clarify the distinctions between LPTV and TV translator stations and to require stations to seek Commission authority by way of a license modification application to make a change in their status.

### ***Additional/Other Clarifications or Proposed Changes***

To further reduce the potential for interference to Land Mobile Radio facilities in the 460-470 MHz band, the NPRM also proposes that new and modified channel 14 Class A and LPTV/TV translator stations be required to use a “full service” or “stringent” emission mask; a simple emission mask would be prohibited.

Finally, the NPRM proposes to make the Commission’s part 73 “program test authority” rule applicable to LPTV/TV translator stations, make a series of ministerial corrections to Parts 73 and 74 of the Commission’s rules, and seeks comment on the benefits and costs associated with the NPRM’s proposals.

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Wiley’s Media Practice provides regulatory and transactional counsel to radio and television broadcasters, as well as content creators and distributors, news organizations, financial institutions and investors, and equipment manufacturers. Please reach out to a member of our team with any questions.