

NEW WINDOW OPENS FOR APPLYING FOR CLASS A LPTV STATION STATUS

Low Power Television Stations are classified as “secondary” television services, insofar as LPTV stations can be forced off the air due to location changes or frequency changes by full-power, primary stations. Class A LPTV stations, on the other hand, receive status as a primary station, which cannot be “bumped” by other full-power station changes. However, a series of requirements must be maintained by Class A LPTV stations to maintain that Class A status. Specifically, a Class A station must broadcast an average of at least 3 hours per week of programming produced in the service area of the station; maintain an Online Public Inspection File (including the preparation and uploading of quarterly issues/programs lists); comply with all Children’s Programming Rules, including the broadcast of at least three hours per week of Children’s Programming and the filing of annual Children’s Programming Reports; and operate at least 18 hours per day.

On December 12, 2023, the Federal Communications Commission released a Report and Order that adopted rules to implement the Low Power Protection Act, that was passed by Congress last year. The new rules are providing an opportunity for a discrete group of existing low power television stations to apply for Class A status over the course of the next year.

In order to qualify for Class A status under the statute, stations must have satisfied the existing requirements for Class A and LPTV from October 7, 2022, to January 5, 2023. Stations must also demonstrate that they will not cause interference to other stations and, significantly, they **must operate in a Designated Market Area (DMA) with no more than 95,000 households**. As a result, only a very limited number of LPTV will be permitted to file Class A applications.

Specifically, the new FCC rules require LPTV stations seeking Class A status to certify that, between October 7, 2022, and January 5, 2023, they satisfied the following eligibility criteria:

- First, the station must have broadcast at least 18 hours per day;
- Second, the station must have broadcast three hours per week, on average, of locally produced programming (i.e., programming produced “within the predicted noise-limited contour of a Class A station [or] . . . stations in a commonly owned group”); and
- Third, the station must have complied with Class A and LPTV requirements.

The FCC rules also prohibit interference to other stations and limits the LPTV Filing Window to stations operating in DMAs with 95,000 or fewer households, measured by Nielsen Local TV Report data (which accounts for less than 35 out of the 210 DMAs).

LPTV stations will have one year from the effective date of the new rules (30 days after publication in the Federal Register) to apply for a Class A license.

The FCC will consider eligible LPTV stations' applications for Class A designation as modifications of the stations' existing licenses. To facilitate review, the Commission will consider LPTV stations' existing facilities only, rather than incorporate pending modifications or unbuilt construction permits.

Eligible LPTV stations must file applications online using FCC Form 2100. Stations must also provide documents, such as an operating schedule and list of locally produced programs, showing that they satisfy LPPA requirements. The Commission will consider, on a case-by-case basis, situations in which stations cannot apply by the deadline for reasons beyond their control.

If you have any questions, please contact this office.