

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b)) MB Docket No. 26-152
Table of Allotments,)
FM Broadcast Stations.)
(Whitehall, Michigan))

NOTICE OF PROPOSED RULEMAKING

Adopted: July 7, 2026

Released: July 8, 2026

Comment Date: August 24, 2026
Reply Comment Date: September 8, 2026

By the Assistant Chief, Audio Division, Media Bureau:

I. INTRODUCTION

1. The Audio Division, on its own motion, proposes to amend the Table of FM Allotments (FM Table), section 73.202(b) of the Commission's rules (Rules),¹ by substituting Channel 258A for vacant Channel 248A at Whitehall, Michigan. The vacant Whitehall channel does not comply with the minimum distance separation requirements of section 73.207 of the Rules.² In this Notice of Proposed Rulemaking, we seek comment on that proposal.

II. BACKGROUND

2. On March 16, 2026, the Audio Division cancelled the license (Application File No. 0000214859) and deleted the callsign of Station WLAW-FM, Whitehall, Michigan (DWLAW-FM).³ As a result, Channel 248A at Whitehall became a vacant FM channel following the cancellation of the Station DWLAW-FM license. A recent staff engineering analysis determines that vacant Channel 248A at Whitehall is short-spaced to Station WLAV-FM, Grand Rapids, Michigan by 10 kilometers;⁴ Station WJIM-FM, Lansing, Michigan by 10 kilometers;⁵ and Station WKLT(FM), Kalkaska, Michigan by 4 kilometers.⁶ The staff engineering analysis found that alternate Channel 258A is available at Whitehall to resolve the existing spacing conflicts with Stations WLAV-FM, WJIM-FM, and WKLT(FM).

III. DISCUSSION

3. Channel 248A at Whitehall is not currently listed in the FM Table since it was occupied

¹ 47 CFR § 73.202(b).

² 47 CFR § 73.207.

³ See Actions, Public Notice, Report No. PN-2-260318-01, published March 18, 2026 (cancelling the license and deleting the callsign at the request of the licensee (Application File No. 0000290925)).

⁴ See Application File No. 0000103671. The minimum distance spacing requirement is 69 kilometers pursuant to 47 CFR § 73.207(b)(1).

⁵ See Application File No. BLH-19971226KC. The minimum distance spacing requirement is 178 kilometers pursuant to 47 CFR § 73.207(b)(1).

⁶ See Application File No. 0000298707. The minimum distance spacing requirement is 166 kilometers pursuant to 47 CFR § 73.207(b)(1).

by Station DWLAW-FM.⁷ Generally, when a station’s license is cancelled, the vacant FM channel is reinstated in the FM Table in order to be protected for spacing purposes and to preserve the opportunity to license a future station in the specified community.⁸ In this instance, vacant Channel 248A at Whitehall cannot be reinstated in the FM Table, because it does not comply with minimum distance separation requirements of section 73.207 of the Rules.⁹

4. Accordingly, we propose the substitution of Channel 258A for vacant Channel 248A at Whitehall, Michigan. We determine that the proposed Channel 258A substitution at Whitehall advances the public interest, because it resolves the existing spacing conflicts between vacant Channel 248A at Whitehall and Stations WLAV-FM, WJIM-FM and WKLT(FM), and maintains a second local service at Whitehall under Priority (4).¹⁰

5. A staff engineering analysis determines that Channel 258A can be allotted to Whitehall consistent with the minimum distance separation requirements of section 73.207 of the Rules,¹¹ with a site restriction of 13 kilometers (8.1 miles) northwest of the community. The reference coordinates are 43-28-30 NL and 86-27-38 WL. The staff engineering analysis determines also that the proposed Channel 258A at Whitehall complies with the city-grade coverage requirements of section 73.315 of the Rules.¹²

6. Accordingly, we seek comment on the proposed amendment to the Table of FM Allotments, section 73.202(b) of the Commission’s rules,¹³ as follows:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Whitehall, Michigan	-----	258A

IV. PROCEDURAL MATTERS

7. *Showings Required.* Comments are invited on the proposal discussed in this Notice of Proposed Rulemaking (NPRM). Any party that expresses interest in the allotment will be expected to answer whatever questions are presented in initial comments. Any requests by a proponent for withdrawal or dismissal of an allotment request must be filed with the Commission in accordance with section 1.420(j) of the Rules.¹⁴

8. *Cut-off Protection.* The following procedures will govern the consideration of the filings in this proceeding:

- (a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will

⁷ See *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of Community of License in the Radio Broadcast Services*, Report and Order, 21 FCC Rcd 14212, 14221 ¶ 15 (2006) (removing the allotments of authorized and awarded FM facilities from the FM Table to accommodate the new community of license procedures) (“*Changes of Community R&O*”).

⁸ See e.g., *Various Locations*, Order, 40 FCC Rcd 9946 (MB 2025) and *Various Locations*, Order, 40 FCC Rcd 4414 (MB 2025) (amending the FM Table to reinstate certain channels in various communities as a vacant FM allotment).

⁹ 47 CFR § 73.207.

¹⁰ See *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1982). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

¹¹ *Id.* note 9.

¹² 47 CFR § 73.315.

¹³ 47 CFR § 73.202(b).

¹⁴ 47 CFR § 1.420(j).

not be considered if advanced in reply comments.¹⁵

- (b) The filing of a counterproposal may lead the Commission to allot a different channel than was requested in the NPRM.¹⁶

9. *Comments and Reply Comments.* Pursuant to sections 1.415, 1.419, and 1.420 of the Commission's rules,¹⁷ interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).¹⁸

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/filings/standard>. Parties that choose to file electronically only need to submit one copy of each filing so long as the submission conforms to all procedural and filing requirements. Online filing is optional.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street, NE, Washington DC 20554.
 - Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

10. *Service.* Pursuant section 1.420 of the Commission's rules,¹⁹ all submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. The person filing the comments shall serve comments on the petitioners. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. A certificate of service shall accompany such comments and reply comments.²⁰

11. *Ex Parte Notices– Restricted.* The proceeding this NPRM initiates shall be treated as a "restricted" proceeding in accordance with the Commission's *ex parte* rules.²¹ For purposes of this restricted notice and comment rulemaking proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a notice of proposed rulemaking until

¹⁵ 47 CFR § 1.420(d).

¹⁶ 47 CFR § 1.420(g)(2).

¹⁷ 47 CFR §§ 1.415, 1.419, and 1.420.

¹⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, Report and Order, 13 FCC Rcd 11322 (1998); *recon. granted*, 13 FCC Rcd 21517 (1998).

¹⁹ 47 CFR § 1.420.

²⁰ 47 CFR § 1.420(a), (b) and (c).

²¹ 47 CFR §§ 1.1200 *et seq.*

the proceeding has been decided and such decision in the applicable docket is no longer subject to reconsideration by the Commission or review by any court.²² An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding.²³ However, any new written information elicited from such a request or any summary of any new information shall be served by the person making the presentation upon the other parties to the proceeding in a particular docket unless the Commission specifically waives this service requirement.²⁴ Any comment that has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

12. *Providing Accountability Through Transparency Act.* The Providing Accountability Through Transparency Act requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule.²⁵ Accordingly, the Commission will publish the required summary of this Notice of Proposed Rulemaking on <https://www.fcc.gov/proposed-rulemakings>.

13. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection via ECFS (<https://www.fcc.gov/ecfs/search/search-filings>). Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

14. *Paperwork Reduction and Regulatory Flexibility.* The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980, as amended,²⁶ do not apply to a rulemaking proceeding to amend the Table of FM Allotments, section 73.202(b) of the Commission's rules.²⁷ This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995.²⁸ In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002.²⁹

15. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

²² 47 CFR § 1.1208.

²³ 47 CFR § 1.1204(a)(10).

²⁴ 47 CFR § 1.1204(a)(10)(ii). In addition, an oral presentation in a restricted proceeding not designated for hearing requesting action by a particular date or giving reasons that a proceeding should be expedited other than the need to avoid administrative delay is permitted. A detailed summary of the presentation must be filed in the record and served by the person making the presentation on the other parties to the proceeding, who may respond in support or opposition to the request for expedition, including by oral *ex parte* presentation, subject to the same service requirement. 47 CFR § 1.1204(a)(11).

²⁵ See 5 U.S.C. § 553(b)(4). The Providing Accountability Through Transparency Act, Pub. L. No. 118-9 (2023), amended section 553(b) of the Administrative Procedure Act.

²⁶ See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 *et seq.*, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996). The SBREFA was enacted as Title II of the Contract with America Advancement Act of 1996 (CWAAA).

²⁷ 47 CFR § 73.202(b).

²⁸ See 44 U.S.C. §§ 3501-3520.

²⁹ See 44 U.S.C. § 3506(c)(4).

16. *Additional Information.* For further information concerning this proceeding, contact Rolanda F. Smith, Audio Division, Media Bureau, at (202) 418-2054, Rolanda-Faye.Smith@fcc.gov.

FEDERAL COMMUNICATIONS COMMISSION

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