

\$7000 Fine for Radio Operator Who Builds Construction Permit But Forgets to File a License Application

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The failure to follow FCC filing rules when a station finished construction of new facilities under a **construction permit** will apparently cost a radio station \$7000 according to a recent [Notice of Apparent Liability](#) released by the Commission's Media Bureau. Before a broadcast station can make most changes to its technical facilities, it must apply to the FCC for approval, which the FCC grants by way of a **construction permit**. In most cases, the broadcaster has 3 years to construct the proposed facilities. Once construction is complete, the broadcaster must notify the FCC of that fact by filing an **application for a license on FCC Form 302**. That form gives details of the construction, so that the FCC can tell that the station was built in the manner authorized by the construction permit, and in accordance with any conditions placed on construction in the permit. In this case, the broadcaster built the new facilities that it proposed within the 3 year period, but forgot to file the Form 302 - and only did so 3 years after the end of the construction period. Under this Notice, the late filing, and the failure to ask for **special temporary authority** ("STA") to operate the station after the failure to file was discovered, may cost the station \$7000.

In the past, the FCC had allowed some stations to file their license application late, if construction had occurred in a timely fashion, and where the licensee provided proof of the timely construction. In this decision, the FCC found that these cases were situations where the late filing was for an insignificant period of time - a few days or weeks at the most, not for the years that went by in the case here. The late filing, and the fact that, as the construction permit had expired and no license had been granted, the station was deemed to have been operating without authority at the new site, warranted the \$7000 fine in the FCC's opinion. The case not only serves as a reminder to those with construction permits to file their license applications on time after they complete construction, but also shows that while the FCC may show some flexibility in enforcing its procedural rules, it will not allow licensees to ignore them for long periods. So be careful to meet the requirements of the rules, or look for big fines from the Commission.

One other point bears mentioning in connection with this decision. The FCC faulted the licensee for not asking for an STA to continue to operate from the CP site once the failure to file the license was discovered. If a Form 302 is filed before the CP expires, the station has continuing authority to operate while the license application is being processed. Here, where there was no timely-filed 302 before the CP expired, the authority to operate had also expired. According to the decision, the licensee should

have requested an STA to continue operations while the late-filed Form 302 was being evaluated. In light of the dismissal of the late-filed license application, the station will now need to seek a new construction permit for the operation at the site, and once that is granted, it will need to file another Form 302. In the interim, the FCC on its own motion, granted them an STA to keep operating from the site. This decision shows that stations, when they are not operating with the facilities specified in their license, should ask for an STA to cover themselves. If an antenna is hit by lightning, or a transmitter blows up leaving you at low power, or if some FCC authorization is discovered to be at variance from your actual operations, ask for an STA to cover station operations until the problem is resolved. Otherwise, as here, you risk having the FCC conclude that you were operating without authority, adding to any fine that might otherwise be levied against your operations.

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