

## Short Term License Issued to Radio Stations Because of Violations of RF Radiation Rules - Showing the FCC's Options for Penalties at License Renewal Time

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In every **license renewal application**, applicants must certify that their operations are in compliance with the **RF radiation standards set out in Section 1.1310** of the Commission's rules. In connection with the renewal applications of two Hawaii FM stations, the [FCC issued short-term one-year renewals of the station's licenses](#), rather than the normal 8 year renewals. The Commission's decision chronicles a period that spanned several years where the FCC twice found the stations to be in violation of the RF radiation rules, responding to complaints from those who worked nearby. The first time the station had reported that the problem was corrected, the FCC inspected and found that it still existed. Finally, after these inspections and FCC fines for noncompliance, the stations moved to new sites that resolved the issues.

Beyond the demonstration of how seriously the FCC takes its RF radiation rules, and how broadcasters need to be truthful and accurate in reporting on the state of their compliance, the decision shows the FCC's process of evaluating penalties when deciding whether to issue a license renewal to an applicant with a history of rule violations. The FCC has several choices when confronted at license renewal time with violations of its rules. In many cases (like [public file violations that we wrote about last week](#)), the FCC will simply issue a fine. As in this case, the FCC can issue a short-term renewal. But, in the case of serious violations, the FCC can "**designate a case for hearing**", meaning that they send the renewal application to an administrative law judge (a judge who is part of the FCC) to hold a trial-type hearing to determine if the license should be revoked. When is that most serious option pursued?

This case decides that, as the licensee eventually fixed the RF problems, the station was not operated in "an exceedingly careless, inept and negligent manner" that demonstrated that the licensee was incapable or unwilling to accept the violations. Nor were the violations so numerous that they demonstrated that the licensee could not be relied on to operate the station in compliance with FCC rules. What these criteria seem to suggest is that, if there are isolated violations (even where the licensee is slow to fix the problem), a fine or, at worst, a short-term renewal is likely to be the result. A raft of violations for different problems, combined with a lack of diligence in fixing the problems – that may lead to a different and more serious result.

What is the effect of a short-term renewal? In this case, a year from now, the licensee will have to file another license renewal and again have all of its performance evaluated by the FCC. As the stations are located in Hawaii, if that renewal is processed quickly, the licensee only months later will have to file yet another renewal application with other Hawaii radio stations in the normal license renewal cycle. Thus, it will have its qualifications reviewed a number of times over the next few years – assuring that it operates on its best behavior or it risks more serious penalties.

A designation for hearing, on the other hand, would have immediately subjected the qualifications of the licensee to exacting scrutiny and great expense, trying a hearing that carefully looks at its service to the public and its compliance with the rules. The FCC and other interested parties could present evidence as to whether the station had served the public, and the licensee would have the opportunity to show the judge why it had operated in the public interest and deserved renewal. A long process, and an expensive one with an uncertain result – not the situation in which any licensee should be.

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