

PROMETHEUS RADIO PROJECT

FLAME FILCHING, WAVE SNATCHING, PEOPLE-POWERED RADIO!
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When Your LPFM Station Interacts with the FCC

The Federal Communications Commission (FCC) is the government agency that regulates broadcast media in the United States. In addition to granting radio stations their initial license to operate, the FCC is involved with stations on an ongoing basis. There will be several situations when your Low Power FM station might need to interact with the FCC.

Most significant interaction with the FCC will require help from a broadcast attorney or engineer. You can join radiospark.org for access to our online community of radio enthusiasts including attorneys and engineers. Also, visit our State-by-State list of legal support for non-profits here prometheusradio.org/state-legal-support-nonprofit-organizations.

Key: ⚖ = requires legal expertise, ⚙ = requires engineering expertise

License Renewal -

Every radio station is required to renew their FCC license on a regular basis, usually every 8 years. Strangely enough, the date your license expires has nothing to do with when you got your license. Your expiration date is based on the state your station is located in. You can find out more about the renewal process by downloading our License Renewal Guide at prometheusradio.org/sites/default/files/LicenseRenewalGuide.pdf or visiting the FCC website at fcc.gov/guides/license-renewal-applications-radio-broadcast-stations.

Station Modification ⚙ -

There are several changes you might want to make to your station that might require authorization from the FCC. For example, if your station would like to change the location or configuration of the transmitter and antenna, you might need to apply for a construction permit and/or file a license modification with the FCC. Most interaction with the FCC will require help from a broadcast attorney or engineer.

You can submit a minor change application at anytime. These changes would require a construction permit (FCC Form 318):

- Changing the height of your tower or antenna.
- Changing the location of your tower and antenna.
- Changing your broadcast frequency.
- Modifying a Time Share Agreement if your station has one.

These changes only require a license modification (FCC Form 319) after the change is made:

- Replacing your antenna with a similar antenna at the same height.
- Replacing the transmission line (cable between your transmitter and the antenna) as long as it does not change your power (ERP).

- Changing your hours of operation (division of program hours) if you operate with a time-share agreement.

You can find out more by reading our guide “Changing Your LPFM Studios, Transmission, or License” at prometheusradio.org/transmission#changes_guide.

Encroachment ✪

Encroachment happens when a full power FM station interferes with your LPFM station’s transmission either through an increase in their transmission power or by moving their transmitter site closer to yours. The level and effects of the encroachment vary depending on their frequency and the proximity of their transmitter. It might mean that you could lose some of your signal coverage, be forced to move your transmitter, or even be forced to shut down your station for good.

Since the FCC considers Low Power FM a secondary service and full power FM a primary service, you have to give way to them in the event they want to move their location or frequency closer to yours. It doesn't matter if you were there first, or if they have the worst programming in the world, and you offer poignant, local programming. They are the 'Big Boys' and the FCC lets them throw their weight around.

For more information about encroachment and how to stay on the air visit prometheusradio.org/transmission#encroachment_explained.

Public Complaints -

The FCC accepts complaints from the public about the operation of any radio station. The most common complaints include indecent or obscene programming, Emergency Alert System failures, and signal interference. If the FCC receives a complaint they think is serious or if they receive a significant number of complaints, they will contact you to address the issue. The FCC also has the right to perform a surprise inspection (discussed below).

While complaints tend to be rare, they can result in hefty fines or even loss of your license. Before filing a complaint with the FCC, a listener is likely to first contact your station about the issue. Therefore, it might be in your interest to work to resolve a complaint you receive from a listener. Records of any correspondence you have with the listener with the complaint might be useful later in demonstrating to the FCC that you made efforts to address the complaint.

Inspections ✪

The FCC performs inspections of radio stations both randomly and in response to public complaints. When a representative from the FCC arrives for an inspection, they will be checking to see if your station is abiding by the terms of your license and operating in accordance with the rules published in the Low Power FM Station Self-Inspection Checklist (fcc.gov/eb/bc-chklsts). It could be helpful to have a plan in place in the event that your station is selected for an unannounced FCC inspection. Who is the point-person who will interact with the FCC representative? Does the DJ on duty know who to call? Where do you keep files your station is required to have by the FCC? For more information about FCC rules for station operation, visit our LPFM Self-Inspection Checklist Guide prometheusradio.org/legal_compliance#self-inspection.

Penalties -

The FCC imposes penalties on stations in the form of monetary forfeitures (fines) and license renewal decisions. The FCC might refuse to renew a station license or renew a license for only one or two years instead of the standard eight. Fines are determined based

on the severity of the infraction and the size of the listening audience affected. The FCC maintains a list of “base amounts” for each type of infraction (found on page 26 of fcc.gov/Bureaus/Compliance/Orders/1997/fcc97218.pdf): for example, \$10,000 for violating public file rules, \$9,000 for violating political rules, or \$4,000 for violating sponsorship ID requirements. The FCC has the discretion to modify the forfeiture amount based on the following criteria.

Downward Adjustment Criteria	Upward Adjustment Criteria
(1) Minor violation (2) Good faith or voluntary disclosure (3) History of overall compliance (4) Inability to pay	(1) Egregious misconduct (2) Ability to pay/relative disincentive (3) Intentional violation (4) Substantial harm (5) Prior violations of any FCC requirements (6) Substantial economic gain (7) Repeated or continuous violation

Fines imposed on small non-commercial stations can be hefty, ranging from in the low thousands to the tens of thousands of dollars. Recently, penalties have been imposed on stations for a variety of reasons, including:

- missing required documents in the station's public file
- station unattended during FCC inspection
- violations of FCC requirements for on-air contests
- late filing for license renewal
- failing to apply for a license after completing construction of modified facilities
- missing or non-functional Emergency Alert System.

You can learn more about how to avoid these infractions by visiting our LPFM Self-Inspection Checklist Guide at prometheusradio.org/legal_compliance#self-inspection.

In cases where fines would cause undue hardship to a station—reducing their capacity to serve the community or putting them out of business completely—the FCC has been willing to reduce the amount of the fine. However, the FCC takes into account the entire financial situation of the licensee, not just the budget of the station. You can read more about undue hardship decisions here (broadcastlawblog.com/2010/12/articles/fcc-fines/when-is-an-fcc-fine-too-big-analyze-licen-see-gross-income-to-determine-hardship-for-noncommercial-licensees-too/).