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**Federal Communications Commission**

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

In the Matter of	)	
	)	
Adelman Broadcasting, Inc.	)	File No. EB-FIELDWR-12-00003515
Licensee of Station KEPD	)	
Facility ID # 458	)	
	)	
Ridgecrest, CA	)	NOV No. V201332900006

**NOTICE OF VIOLATION**

**Released: November 30, 2012**

By the Acting District Director, Los Angeles Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules),<sup>1</sup> to Adelman Broadcasting, licensee of radio station KEPD serving Ridgecrest, California. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.<sup>2</sup>

2. On July 16, 2012, an agent of the Enforcement Bureau's Los Angeles Office inspected radio station KEPD's main studio located at Quartz Hill, CA, and observed the following violations:

- a. 47 C.F.R. § 11.35(a): "EAS Participants must determine the cause of any failure to receive the required tests or activations specified in §11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§73.1820 and 73.1840 of this chapter for all broadcast streams ...." At the time of the inspection, there were no entries for the previous three months in the station's logs indicating receipt and retransmission of required monthly tests by either of the two sources being monitored by KEPD's EAS decoder/encoder. The stations logs failed to show explanations by the Chief Operator for why these tests were not received and retransmitted.
- b. 47 C.F.R. § 11.52(d)(1): "With respect to monitoring for EAS messages that are formatted in accordance with the EAS Protocol, EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities.” At the time of the inspection, the agent observed that station KEPD was not monitoring the correct LP-1 and LP-2 stations as required by the Kern County EAS plan.

- c. 47 C.F.R. § 11.56(a): “On or by June 30, 2012, EAS Participants must have deployed operational equipment that is capable of the following: (1) Acquiring EAS alert messages in accordance with the monitoring requirements in §11.52(d)(2); (2) Converting EAS alert messages that have been formatted pursuant to the Organization for the Advancement of Structured Information Standards (OASIS) Common Alerting Protocol Version 1.2 (July 1, 2010), and Common Alerting Protocol, v. 1.2 USA Integrated Public Alert and Warning System Profile Version 1.0 (Oct. 13, 2009), into EAS alert messages that comply with the EAS Protocol, such that the Preamble and EAS Header Codes, audio Attention Signal, audio message, and Preamble and EAS End of Message (EOM) Codes of such messages are rendered equivalent to the EAS Protocol (set forth in §11.31), in accordance with the technical specifications governing such conversion process set forth in the EAS–CAP Industry Group's (ECIG) Recommendations for a CAP EAS Implementation Guide, Version 1.0 (May 17, 2010) (except that any and all specifications set forth therein related to gubernatorial “must carry” shall not be followed, and that EAS Participants may adhere to the specifications related to text-to-speech on a voluntary basis); (3) Processing such converted messages in accordance with the other sections of this part.” At the time of the inspection, KEPD was not equipped with a CAP enabled EAS encoder/decoder or intermediary device capable of receiving, transmitting or translating CAP encoded messages.”
- d. 47 C.F.R. § 73.1870(c)(3): “(c) The chief operator is responsible for completion of the following duties specified in this paragraph below. When these duties are delegated to other persons, the chief operator shall maintain supervisory oversight sufficient to know that each requirement has been fulfilled in a timely and correct manner... (3) Review of the station records at least once each week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.” At the time of inspection, the Chief Operator was not signing the EAS logs weekly on a regular basis. The Los Angeles agent observed with multiple omissions over a three and on half month period prior to the inspection.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The

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Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>3</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Adelman Broadcasting Inc., must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>4</sup>

5. In accordance with Section 1.16 of the Rules, we direct Adelman Broadcasting Inc. to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Adelman Broadcasting Inc. with personal knowledge of the representations provided in Adelman Broadcasting Inc.'s response, verifying the truth and accuracy of the information therein,<sup>5</sup> and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>6</sup>

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Los Angeles Office  
18000 Studebaker Road., Suite 660  
Cerritos, CA 90703

7. This Notice shall be sent to Adelman Broadcasting Inc. at its address of record.

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

<sup>5</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>6</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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8. The Privacy Act of 1974<sup>7</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Margaret M. Egler  
Acting District Director  
Los Angeles Office  
Western Region  
Enforcement Bureau

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<sup>7</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).