

Federal Communications Commission

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

In the Matter of)	
Central Park Church of God)	File No.: EB-FIELDSCR-13-00007078
Licensee of Station KYFA-FM)	NOV No.: V201332500043
Ginger, Texas)	Facility ID Nos.: 174944, 150493
Licensee of Station K240DS)	
Garland, Texas)	

NOTICE OF VIOLATION

Released: April 22, 2013

By the District Director, Dallas Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission’s rules (Rules)¹ to Central Park Church of God, licensee of radio station KYFA-FM in Ginger, Texas and radio station K240DS in Garland, Texas. 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 violation(s) noted herein.²

2. On February 27 and 28, 2013, agents of the Enforcement Bureau’s Dallas Office inspected Stations KYFA-FM licensed to Ginger, Texas and K240DS located in Garland, Texas, and observed the following violation(s):

- a. 47 C.F.R. § 11.35(a): “EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation.” At the time of the inspection, the EAS equipment was installed in the Garland, Texas studio and then looped through the equipment at the Quinlan, Texas Church. This arrangement does not make the EAS equipment

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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and messages available when programs are originated from the Quinlan, Texas location.

- b. 47 C.F.R. § 11.52(d): “EAS Participants must comply with the following monitoring requirements: (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 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, Station KYFA-FM was not monitoring the assigned stations in the Waco EAS operational area. Station KYFA-FM was monitoring two unassigned stations.

- c. 47 C.F.R. § 11.56: “Obligation to process [Common Alerting Protocol] CAP-formatted EAS messages. (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...” During the inspection, Station KYFA-FM had installed CAP formatted equipment. However, the equipment appeared to have been installed or formatted incorrectly, because the Station was unable to convert CAP formatted messages during the inspection and had no evidence that it had ever been able to do so.

- d. 47 C.F.R. § 73.1125(a): “Except for those stations described in paragraph (b) of this section, each AM, FM, and TV broadcast station shall maintain a main studio at one of the following locations: (1) Within the station's community of license; (2) At any location within the principal community contour of any AM, FM, or TV broadcast station licensed to the station's community of license; or (3) Within twenty-five miles from the reference coordinates of the center of its community of license as described in § 73.208(a)(1).” At the time of the inspection, Station KYFA-FM had a ‘main studio’ which consisted of a small cabinet of equipment located in the pastor’s office of the Church of God in Quinlan, Texas. This equipment allowed the pastor to originate programming during scheduled times, however, at the time of inspection, this equipment was not operational. The pastor was unable to recall when the equipment failed. This studio was only staffed part-time by the pastor. The operational studio for Station KYFA-FM with the EAS equipment and staff is in Garland, Texas which does not meet any of the above-listed location criteria.

- e. 47 C.F.R. § 73.1400: “The licensee of an AM, FM, TV or Class A TV station is responsible for assuring that at all times the station operates within

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tolerances specified by applicable technical rules contained in this part and in accordance with the terms of the station authorization.” At the time of the inspection, station personnel did not know Station KYFA-FM was not transmitting.

- f. 47 C.F.R. § 73.1800(a): “The licensee of each station must maintain a station log as required by Section 73.1820. This log shall be kept by station employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this part, must accurately reflect the station operation. Any employee making a log entry shall sign the log, thereby attesting to the fact that the entry, or any correction or addition made thereto, is an accurate representation of what transpired.” At the time of the inspection, there was no station log for Station KYFA-FM.
- g. 47 C.F.R. § 73.1820(a)(1)(iii): “The following information must be entered [in the Station log]: (iii) An entry of each test and activation of the Emergency Alert System (EAS) pursuant to the requirement of part 11 of this chapter and the EAS Operating Handbook. Stations may keep EAS data in a special EAS log which shall be maintained at a convenient location: however, this log is considered to be part of the station log.” At the time of the inspection, there were no entries in any log for any EAS tests or activations.
- h. 47 C.F.R. § 73.1870(a): “The licensee of each AM, FM, TV or Class A TV broadcast station must designate a person to serve as the station's chief operator.” At the time of the inspection, Station KYFA-FM had not designated a chief operator.
- i. 47 C.F.R. § 73.3527(a): “Every permittee or licensee of an AM, FM, or TV station in the noncommercial educational broadcast services shall maintain a public inspection file containing the material, relating to that station,” At the time of the inspection, Station KYFA-FM did not maintain a public inspection file in either the Quinlan or Garland, Texas studios.
- j. 47 C.F.R. § 74.1296: “The licensee or permittee of a station authorized under this subpart shall have a current copy of Volumes I (parts 0, 1, 2 and 17) and III (parts 73 & 74) of the Commission's Rules and shall make the same available for use by the operator in charge. Each such licensee or permittee shall be familiar with those rules relating to stations authorized under this subpart.” Station K240DS did not have a copy of the rules and station personnel were unfamiliar with the applicable rules.
- k. 47 C.F.R. § 74.1231(b): “Purpose and permissible service. An FM translator may be used for the purpose of retransmitting the signals of a primary AM or FM radio broadcast station or another translator station the signal of which is

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received directly through space, converted, and suitably amplified.” At the time of the inspection, Station KYFA-FM, the station K240DS is authorized to retransmit, was not operational, yet Station K240DS was operating. Additionally, station personnel were not aware that Station KYFA-FM was not operational.

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 Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its licensees. We also must investigate violations of other rules that apply to broadcast licensees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Central Park Church of God, 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.⁴

5. In accordance with Section 1.16 of the Rules, we direct Central Park Church of God to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Central Park Church of God with personal knowledge of the representations provided in Central Park Church of God response, verifying the truth and accuracy of the information therein,⁵ 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.⁶

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:

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ 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.

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

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7. This Notice shall be sent to Central Park Church of God at its address of record.
8. The Privacy Act of 1974⁷ 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

James D. Wells
District Director
Dallas District Office
South Central Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).