

**Federal Communications Commission**

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

In the Matter of	)	
	)	
CVAC, Inc.	)	File No. EB-FIELDWR-13-00006437
Licensee of Station KRML(AM)	)	
Facility ID # 73064	)	
Carmel, California	)	NOV No. V201332960018
	)	

**NOTICE OF VIOLATION**

**Released:** April 25, 2013

By the District Director, San Francisco 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 CVAC, Inc., licensee of radio station KRML(AM) in Carmel, 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 violation(s) noted herein.<sup>2</sup>

2. On January 30, 2013, an agent of the Enforcement Bureau's San Francisco Office inspected radio station KRML(AM) located in Carmel, California, and observed the following violations:

- a. 47 C.F.R. § 73.1125(e): "Each AM, FM, TV and Class A TV broadcast station shall maintain a local telephone number in its community of license or a toll-free number." At the time of inspection there were no local or toll free phone numbers listed for KRML.
- b. 47 C.F.R. § 73.3526(e)(2): "*Applications and related materials.* A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto. If petitions to deny are filed against the application and have been served on the applicant, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition. Applications shall be retained in the public inspection file until final action has been taken on the application, except that

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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applications for a new construction permit granted pursuant to a waiver showing and applications for assignment or transfer of license granted pursuant to a waiver showing shall be retained for as long as the waiver is in effect. In addition, license renewal applications granted on a short-term basis shall be retained until final action has been taken on the license renewal application filed immediately following the shortened license term.” At the time of inspection, there were no applications or other related materials provided in the public inspection files.

- c. 47 C.F.R. § 73.3526(e)(4): “*Contour maps*. A copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours and/or main studio and transmitter location (State, county, city, street address, or other identifying information). These documents shall be retained for as long as they reflect current, accurate information regarding the station.” At the time of inspection, there were no contour maps provided at the station or in the public inspection file.
- d. 47 C.F.R. § 73.3526(e)(5): “*Ownership reports and related materials*. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the contracts listed in such reports in accordance with § 73.3615(a)(4)(i), or an up-to-date list of such contracts. Licensees or permittees who choose to retain a list of contracts must provide a copy of any contracts to requesting parties within 7 days.” At the time of inspection, there were no ownership reports or related materials provided in the public inspection file.
- e. 47 C.F.R. § 73.1800(a): “The licensee of each station must maintain a station log as required by § 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 inspection, there was no station log being maintained by the licensee.
- f. 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 times when the chief operator is unavailable or unable to act (e.g., vacations, sickness), the licensee shall designate another person as the

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acting chief operator on a temporary basis.” At the time of inspection, there was no person designated as the Chief Operator.

- g. 47 C.F.R § 73.1870(b)(3): “The designation of the chief operator must be in writing with a copy of the designation posted with the station license. Agreements with chief operators serving on a contract basis must be in writing with a copy kept in the station files.” At the time of inspection, there was no written letter posted with the station license designating the Chief Operator.
- h. 47 C.F.R § 73.1400(b): “The licensee of an AM, FM, TV or Class A TV station is responsible for assuring that at all times the station operates within tolerances specified by applicable technical rules contained in this part and in accordance with the terms of the station authorization. *Unattended operation.* Unattended operation is either the absence of human supervision or the substitution of automated supervision of a station's transmission system for human supervision. In the former case, equipment is employed which is expected to operate within assigned tolerances for extended periods of time. The latter consists of the use of a self-monitoring or ATS-monitored and controlled transmission system that, in lieu of contacting a person designated by the licensee, automatically takes the station off the air within three hours of any technical malfunction which is capable of causing interference.” At the time of inspection, the station was unable to switch to night time power at the required times or to shut the transmitter off if there was a technical malfunction.
- i. 47 C.F.R § 73.1745(a): “No broadcast station shall operate at times, or with modes or power, other than those specified and made a part of the license, unless otherwise provided in this part.” At the time of inspection, the station failed to switch to night time power as specified on the station authorization.

3. 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, CVAC, 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>

4. In accordance with Section 1.16 of the Rules, we direct CVAC, Inc., to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an

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<sup>3</sup> 47 U.S.C. § 308(b).

<sup>4</sup> 47 C.F.R. § 1.89(c).

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authorized officer of CVAC, Inc., with personal knowledge of the representations provided in CVAC, 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>

5. 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  
San Francisco Office  
5653 Stoneridge Drive, Suite 105  
Pleasanton, CA 94588-8543

6. This Notice shall be sent to CVAC, Inc., at its address of record.

7. 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

David K. Hartshorn  
District Director  
San Francisco Office  
Western Region  
Enforcement Bureau

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<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.

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