

Federal Communications Commission

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

In the Matter of)	
)	
ASARCO, LLC)	
)	File No. EB-FIELDWR-12-00008056
Licensee of Station WQHR264)	
)	NOV No. V201332940011
Sahaurita, Arizona)	

NOTICE OF VIOLATION

Released: May 9, 2013

By the District Director, San Diego District 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),¹ to ASARCO, LLC, licensee of Land Mobile radio station WQHR264, operating on the frequencies of 152.900 MHz, 152.930 MHz, and 152.975 MHz in Sahaurita, Arizona. Pursuant to Section 1.89(a) of the Rules, issuance of this NOV does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation noted herein.²

2. On April 9, 2013, in response to a complaint, an agent of the Enforcement Bureau's San Diego Office inspected the radio station WQHR264 located at 4201 West Pima Mine Road, Sahaurita, Arizona and observed the following violation:

- a. 47 C.F.R. § 1.903(a): "Stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part." During the inspection on April 9, 2013, the agent determined that spurious emissions from station WQHR264 caused harmful interference to the complainant's frequencies in the 153 MHz band. An ASARCO representative turned off the power to the transmitters operating on 152.900 MHz, 152.930 MHz, and 152.975 MHz, and the interference ceased.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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- b. 47 C.F.R. § 90.403(e): “Licensees shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference.” At the time of the investigation, Station WQHR264 caused harmful interference to the complainant’s frequencies in the 153 MHz band.

3. 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, ASARCO 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

4. In accordance with Section 1.16 of the Rules, we direct ASARCO to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of ASARCO with personal knowledge of the representations provided in ASARCO’s 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

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 Diego Office
4542 Ruffner Street, Suite 370
San Diego, CA 92111

6. This Notice shall be sent to ASARCO, LLC, at its address of record.

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. 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 T. Lyon
District Director
San Diego Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).