
Federal Communications Commission

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

In the Matter of

Eric Altenbernd
F/V KAI'AULANI HA3668F
Honolulu, Hawaii

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File No. EB-FIELDWR-13-00010779

NOV No. V201332860022

NOTICE OF VIOLATION

Released: August 29, 2013

By the Resident Agent, Honolulu Resident Agent Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's Rules,¹ to Eric Altenbernd, registered owner of the Emergency Indicating Radio Beacon (EPIRB) associated with the vessel KAI'AULANI, HA3668F, in Honolulu, Hawaii. 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 August 23, 2013, an agent of the Enforcement Bureau's Honolulu Resident Agent Office was contacted by the U. S. Coast Guard District 14 Joint Rescue Coordination Center, requesting assistance in locating interference to the safety and distress frequency of 121.5 MHz. The agent inspected the EPIRB associated with the F/V KAI'AULANI, located at Ala Wai Marina, and observed the following violations:

- a. 47 C.F.R. § 80.89(a): "Stations must not engage in superfluous radiocommunication." Transmissions by EPIRBs are intended to be actuated manually or automatically and operated automatically as part of a ship or a survival craft station as a locating aid for survival purposes. At the time of the inspection, the vessel EPIRB had been activated in the absence of any emergency situation.
- b. 47 C.F.R. § 80.1053: The use of Class A, Class B, and Class S (i.e. 121.5/243 MHz) EPIRBs is prohibited. Licensees may only operate 406.0 – 406.1 MHz EPIRBs.

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Commission's Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Eric Altenbernd 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 Commission's Rules, we direct Eric Altenbernd to support his response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by Eric Altenbernd, 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
Honolulu Resident Agent Office
POB 971030
Waipahu, Hawaii 96797-1030

6. This Notice shall be sent to Eric Altenbernd at his address of record.

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Commission's 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

John R. Raymond
Resident Agent
Honolulu Resident Agent Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).