

Federal Communications Commission

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

In the Matter of)	
)	
David Dean)	File No. EB-FIELDWR-22-00034110
Licensee of Station K0PWO)	FRN: 0002147031
)	
Centennial, CO)	
)	
)	
)	

NOTICE OF VIOLATION

Released: November 16, 2022

By the Regional Director, Region Three, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to section 1.89 of the Commission’s rules¹ to David Dean (Dean), licensee of radio station K0PWO in Centennial, Colorado. Pursuant to section 1.89(a) of the Commission’s 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.²

2. On August 1, 2022, the Commission received a complaint from the State of Colorado alleging that someone had illegally cloned a radio ID that was transmitting on the State’s digital trunked radio system (DTRS) without authorization.³ The complaint was referred to the Enforcement Bureau’s Denver Office for investigation. On August 3, 2022, agents from the Commission’s Denver Office determined through direction-finding techniques, a signal was being transmitted from Dean’s residence. During the investigation, Dean provided a handheld radio, a Motorola XTS2500, that when pinged by a representative of the State of Colorado, responded to the ping indicating that the radio in Dean’s possession was the cloned radio.⁴ The agents observed the following violation:

- a. 47 CFR § 1.903(a): “*General Rule.* 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 . . .”: Dean was observed with a radio that operated in public safety bands even though his amateur radio license did not authorize him to operate on those frequencies. Additionally, Dean was not able to provide any authorization to operate on the Colorado DTRS from Jefferson County, Colorado, the State of Colorado, nor any entity associated with the State of Colorado’s DTRS. As indicated above, by simply turning the Motorola XTS2500 radio on, it pinged the State of Colorado’s DTRS to establish access, resulting in Dean operating on public safety frequencies.

¹ 47 CFR § 1.89.

² 47 CFR § 1.89(a).

³ The licensee of WPMI204 is Jefferson County, Colorado. The system, however, is operated by the State of Colorado as part of the state’s digital trunked radio system.

⁴ A “ping” is an over-the-air digital data signal used to establish a service connection with the radio and the system.

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3. Pursuant to section 308(b) of the Communications Act of 1934, as amended (Act), and section 1.89 of the Commission's rules, we seek additional information concerning the violations and any remedial actions taken.⁵ Therefore, David Dean 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 timeline 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.⁶

4. In accordance with section 1.16 of the Commission's rules, we direct Mr. Dean to support his response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by him, verifying the truth and accuracy of the information therein, 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.⁷ 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.⁸

5. All replies and documentation sent in response to this Notice should be marked with the File Number, specified above, and mailed to the following address:

Federal Communications Commission
Los Angeles Regional Office
11331 183rd Street, PMB #365
Cerritos, CA 90703

6. This Notice shall be sent to David Dean at his address of record.

7. The Privacy Act of 1974⁹ 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

Lark Hadley
Regional Director, Region Three
Enforcement Bureau

⁵ 47 U.S.C. § 308(b); 47 CFR § 1.89.

⁶ 47 CFR § 1.89(c).

⁷ 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 CFR § 1.16.

⁸ 18 U.S.C. §§ 1001, *et seq.*; *see also* 47 CFR § 1.17.

⁹ 5 U.S.C. § 552a(e)(3).