
Federal Communications Commission

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

In the Matter of	)	
	)	
Volusia Broadcasting Company, LLC	)	File No.: EB-FIELDSCR-13-00006337
Licensee of AM Station WORD	)	NOV No.: V201332700005
	)	Facility ID: 36169
Owner of Antenna Structure Number 1020821	)	
	)	
Daytona Beach, FL	)	
	)	

NOTICE OF VIOLATION

Released: February 13, 2013

By the District Director, Tampa 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 Volusia Broadcasting Company, LLC, licensee of AM Station WROD and owner of antenna structure number 1020821, both located in Daytona Beach, Florida. 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(s) noted herein.²

2. On January 17, 2013, agents of the Enforcement Bureau's Tampa Office observed the following violations regarding AM Station WROD:

- a. 47 C.F.R. § 11.35 (a): "Equipment operational readiness. 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 inspection, Station WROD's installed EAS encoder was not operational.
- 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

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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.” At the time of inspection, there was no evidence that Station WROD was monitoring the two EAS sources specified in the State EAS plan.

- 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 conducted on January 17, 2013, Station WROD did not have any of the required CAP-formatted EAS equipment.
- d. 47 C.F.R. § 17.4(g): “The Antenna Structure Registration Number must be displayed in a conspicuous place so that it is readily visible near the base of the antenna structure. Material used to display the Antenna Structure Registration Number must be weather resistant and of sufficient size to be easily seen at the base of the antenna structure.” At the time of inspection, the Antenna Structure Registration Number 1020821 was not posted near the base of the structure.
- e. 47 C.F.R. § 73.1560 (a)(1): “Except as provided for in paragraph (d) of this section, the antenna input power of an AM station as determined by the procedures specified in § 73.51 must be maintained as near as is practicable to the authorized antenna input power and may not be less than 90% nor more than 105% of the authorized power.” The transmitter’s meter indicated that radio Station WROD was operating at 665 watts or approximately 66.5% of its authorized power.
- f. 47 C.F.R. § 73.1590 (a)(6): “ The licensee of each AM, FM, TV and Class A TV station ...must make equipment performance measurements for each main transmitter as follows: (6) [a]nnually, for AM stations, with not more than 14 months between measurements.” At the time of inspection, the equipment performance measurements could not be found, and there was no evidence that they had been conducted within the last 14 months.
- g. 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 the calendar year 2012.

- h. 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 inspection, there were no entries for any EAS tests or activations after June 30, 2012. There were also no entries stating that individual EAS tests had not been received or transmitted.
- i. 47 C.F.R. § 73.3526(e)(12): “*Radio issues/programs lists*. For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station’s most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October-December, April 10 for the quarter January-March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be limited to, the time, date, duration, and title of each program in which the issue was treated.” At the time of the inspection, Station WROD was missing issues/programs lists for the 3rd and 4th quarters of 2011 and for the calendar year of 2012.

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, Volusia Broadcasting Company, LLC, 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 Volusia Broadcasting Company, LLC, to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer or representative of Volusia Broadcasting Company, LLC with personal knowledge of the representations provided in Volusia Broadcasting Company, LLC response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information

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, certification, 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 . . .

Federal Communications Commission

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
Tampa Office
4010 W. Boy Scout Blvd., Suite 425
Tampa, Florida, 33607

6. This Notice shall be sent to Volusia Broadcasting Company, LLC, at its address of record.

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

Ralph M. Barlow
District Director
Tampa District Office
South Central Region
Enforcement Bureau

. 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.

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).