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FCC Enforcement Monitor  
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## Communications Advisory

### FCC Enforcement Monitor

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#### **FCC Fines Radio Station \$3,200 for Exceeding Authorized Power Level**

The FCC recently fined a California radio station for operating in excess of its authorized power level. Agents responding to complaints discovered that the station was operating at 190% of the power level authorized in its license. Pursuant to FCC rules, an FM station may not broadcast at less than 90% nor more than 105% of its authorized transmitter output power without Commission approval. Station personnel reported that no one was available to adjust the transmitter as the station had been without a Chief Engineer or Chief Operator for a month. Accordingly, when the agents monitored the station again the next day, the overpower situation was unchanged.

The licensee argued that pursuant to the Commission's Forfeiture Policy Statement and prior FCC rulings, an admonishment rather than a fine would be appropriate. The Commission rejected this argument, finding that the station had not made good faith efforts to remedy the problem, particularly where the station had acknowledged that the overage continued for at least a month. Considering the nature, extent, and gravity of the situation, the Commission assessed a \$4,000 fine. However, due to the station's history of compliance with the Commission's rules, the fine was reduced to \$3,200.

#### **FCC Levies \$4,800 Fine for Public Inspection File Violations**

A Washington State radio station licensee was recently fined \$4,800 after items were discovered to be missing from the public inspection files of two of its AM stations. When an Enforcement Bureau agent initially visited the stations, the administrative assistant present at the time could not locate the most recent set of quarterly issues/programs lists and arranged to have the agent return to complete the inspection. Upon the agent's return, the current FCC license authorizations were missing and the file only contained public service announcement lists for 2005 and 2006, which the Commission stated did not constitute "appropriate" issues/programs lists.

At the time of the inspection, the general manager could not explain why the various documents were missing. The general manager later stated that he could not make the "current" licenses available since the sta-

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tions' prior licenses had expired, and with the stations' license renewal applications still pending, new licenses had not been issued. However, the public inspection file rule requires that a station's license be maintained in the file until replaced by a new one. Finding that the licensee's actions to promptly place at least some of the missing materials in the files evidenced a good faith, but incomplete, effort to remedy the situation, the Commission reduced the fine for each station from \$4,000 to \$3,200. The fine was further reduced to \$2,400 per station based upon a history of compliance with Commission rules.

### FCC Fines Radio Station \$3,200 for Operation from an Unauthorized Location

The Commission recently fined a California radio station for operating at an unauthorized location. An Enforcement Bureau agent responding to a complaint used direction finding equipment to determine that the station's signal was emanating from a point approximately two miles from its licensed site. When confronted with this information, the licensee reported that the station had been evicted on short notice from its licensed site, but had failed to notify the FCC. The licensee argued that its change in facilities constituted an emergency antenna that could be implemented without prior FCC approval. However, the emergency antenna rule applies only in circumstances in which an antenna is damaged and cannot be used, and the licensee must still request Special Temporary Authority ("STA") within 24 hours. At the time of the agent's visit, the station had been operating on its "emergency" antenna site for nearly a year and had yet to contact the FCC. The licensee informed the agent that the station was in the process of requesting an STA but failed to file this request until after the agent's inspection of the site. Finding that this delayed request did not constitute a good faith effort at compliance, the FCC fined the station \$4,000, but reduced the fine to \$3,200 based solely on the station's past history of compliance with the Commission's rules.

### FCC Fines Radio Station \$10,000 for Failure to Maintain Tower Lights

Responding to a complaint that a California radio station's tower was not properly lit, an Enforcement Bureau agent discovered that the tower's nighttime red obstruction lights were not functioning. The FCC's rules specify the lighting requirements for towers, and in the case of an outage, the station must immediately notify the Federal Aviation Administration.

The agent found no prior station log entries reporting the outage, and upon contacting the FAA, was told that no light outage report had been filed. The licensee later reported to the Commission that a tower light monitoring system was still in the process of being installed at the time of the agent's visit. The licensee also reported that the failed transformer which caused the outage was replaced a few days after the station was notified of the outage. The Commission found that while the rules allow a station some time to fix lighting failures, the station's failure to notify the FAA of a public safety hazard prevented any reduction in the proposed fine. Accordingly, the licensee was ordered to pay the full \$10,000 fine.

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