

# FCC Enforcement Monitor

## March 2019

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### HEADLINES

*Pillsbury's communications lawyers have published FCC Enforcement Monitor monthly since 1999 to inform our clients of notable FCC enforcement actions against FCC license holders and others. This month's issue includes:*

- *Oregon LPFM Station Warned Over Emergency Alert System Violations*
- *Pennsylvania Man Accused of Interfering With Local Fire Department Operations*
- *Earth Station Transmission Problems Lead to Warning Against Florida Wireless Licensee*

#### **This is Not a Test: Low Power FM Station Warned Over Emergency Alert Violations**

The FCC's Enforcement Bureau presented a Notice of Violation ("NOV") to the licensee of a Portland, Oregon low-power FM radio station for a number of violations relating to the Emergency Alert System. The licensee is a local cultural community center that broadcasts Russian-language programming to the area's Eastern European community.

The Emergency Alert System ("EAS") is a nationwide warning system that allows authorized state and national public agencies to alert the public about urgent situations, including natural disasters and other incidents that require immediate attention. The EAS is jointly operated by the FCC, the Federal Emergency Management Agency, and the National Oceanographic Atmospheric Administration. Local radio stations make up a vital component of the system by monitoring authorized sources for alerts and rapidly relaying these emergency messages. Such stations are referred to as "EAS participants." Each state is responsible for creating a state EAS plan, which includes designating in-state stations that other stations must constantly monitor for alerts.

Section 11.15 of the FCC's Rules requires that a copy of the EAS Operating Handbook be located "at normal duty stations or EAS equipment locations when an operator is required to be on duty." Section 11 of the Rules also requires EAS participants to monitor two sources, which are specified in each state's respective EAS plan.

In February 2019, Enforcement Bureau agents inspected the Portland station and discovered two violations of the EAS Rules. According to the NOV, the station was unable to produce its copy of the EAS Operating Handbook. The agents also discovered a monitoring error. The most recent Oregon State Emergency Alert Plan required the station to monitor two specific Portland area FM stations. During the inspection, the agents found the LPFM station had instead been monitoring a different station.

The licensee has 20 days to respond to the NOV. In its response, it must provide: (1) an explanation of each violation; (2) a description of the licensee's corrective actions; and (3) a timeline for completion of these actions. The FCC will then consider the licensee's responses and all relevant information to determine what, if any, enforcement action it will take against the licensee for the violations.

### **State Your Emergency: FCC Accuses Pennsylvania Man of Interfering With Safety Services**

In a Notice of Unlicensed Operation and Notification of Harmful Interference ("Notice"), the FCC accused a man of using a two-way radio to cause harmful interference to a local emergency services operation by making unauthorized transmissions on a frequency reserved for public safety.

As we discussed last year, Chairman Pai has noted that protecting public safety and emergency response communications is of the utmost importance. The Enforcement Bureau has recently responded aggressively to interference complaints from first responders and emergency service departments, including issuing multi-thousand dollar fines.

Section 301 of the Communications Act prohibits the transmission of radio signals without prior FCC authorization. Section 90.20 of the Rules establishes the requirements for obtaining authorization to use public safety frequencies. The FCC reserves certain bands for first responders as "public safety spectrum." Unauthorized transmissions on such bands can pose a threat to first responders and the general public by interfering with local emergency service operations, including police, EMS, or in this case, the fire department.

The Enforcement Bureau began its investigation after being contacted by an eastern Pennsylvania county's Emergency Management Association. According to the complaint, harmful interference and unauthorized transmissions were occurring on 155.190 MHz, a frequency used for local fire department communications. The Enforcement Bureau identified a local individual as the source of the interfering transmissions.

According to the Notice, the individual admitted to operating a VHF-UHF two-way radio at 155.190 MHz, despite not being authorized to operate on that frequency.

The individual was given 10 days to respond to the Notice. In his response, the individual must explain the steps he is taking to avoid operating on unauthorized frequencies and causing harmful interference. It will then be up to the FCC to determine whether further enforcement action, including fines or other sanctions, is appropriate.

### **Keep the Noise Down: FCC Warns Florida Wireless Licensee Over Interference to Earth Station**

The Enforcement Bureau issued an NOV to the licensee of a Jacksonville, Florida private wireless access point in response to a complaint that it was emitting a constant radio transmission that interfered with the operations of a nearby satellite earth station. Wireless broadband providers use these access points to create a wireless Internet network in the 3650-3700 MHz band. Part 90 of the Rules permits non-exclusive nationwide licensing in this band, but each licensee must also register individual access locations before using them.

According to the NOV, an earth station registered in Jacksonville, Florida, began experiencing problems while receiving satellite downlink transmissions in the 3700-4200 MHz band, also known as the "C-Band." After the earth station operator reached out to the FCC, Enforcement Bureau agents were able to track down the source of the interference, which they determined was a constant radio transmission on 3723-3732 MHz, emanating from a wireless access point on a nearby tower.

The agents' suspicions were confirmed when, after requesting that the wireless licensee temporarily cease transmissions, all errant transmissions disappeared. The NOV states that the wireless licensee was only licensed to operate in the 3650-3700 band, and had no authority to transmit on 3723-3732 MHz. In addition, the agents found that the site from which the unauthorized transmission was emanating, as well as an additional site utilized by the wireless licensee, were not registered with the FCC.

Section 1.903(a) of the FCC's Rules requires wireless radio operations to be "used and operated only in accordance with the rules applicable to their particular service ... and with a valid authorization granted by the Commission[.]"

Based on the agents' findings, the Enforcement Bureau issued the NOV, providing the licensee with 20 days to respond. In its response, the licensee must include, under penalty of perjury: (1) a full explanation of each of the violations; (2) a statement of the specific remedial actions it will take to avoid future recurrences; and (3) a timeline for completing its corrective actions. The FCC will then consider whether to take further enforcement action against the licensee.