

Federal Communications Commission

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

In the Matter of

KHCA, Inc.
Broadcast Station KHCA FM
Wamego, Kansas

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FileNo. EB-04-KC-058
NOV No. V20043256006

NOTICE OF VIOLATION

Released: May 5, 2004

By the District Director, Kansas City Office, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules,¹ to KHCA, Inc..

2. On April 9, 2004, an agent of the Commission's Kansas City Office inspected FM Broadcast radio station KHCA, licensed to Wamego, Kansas and observed the following violations:

- a. 47 C.F.R. § 73.1230: The station license and any other instrument of station authorization shall be posted in a conspicuous place.

At the time of inspection no station authorization was posted or found at the station. The public file inspected at the public library did have a copy of the station authorization with expiration date of June 1, 1997. No renewal card was found.

- b. 47 C.F.R. § 11.52(d): "Broadcast stations ... must monitor two EAS sources. The monitoring assignments of each broadcast station ... are specified in the State EAS Plan and FCC Mapbook. They are also developed in accordance with FCC monitoring priorities..."

At the time of inspection, only one EAS source, WIBW-FM, was being monitored and the station logs reflected receiving only one source. Logs from 12/28/03 through 4/10/04 were reviewed.

- c. 47 C.F.R. § 11.61(a)(2)(i)(A): "Tests of EAS procedures...Required Weekly Tests:...AM, FM, and TV stations must conduct tests...at least once each week and at random days and times..."

¹ 47 C.F.R. § 1.89.

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The station's EAS logs indicated that a weekly EAS test had not been received for the week of February 22, 2004 through February 28, 2004. No record of a weekly EAS test being sent for the week of March 21, 2004 through March 27, 2004. Additionally, the station is only monitoring one source and no reason was given as to why the secondary source was not receiving EAS tests.

- d. 47 C.F.R. § 11.35(a): Broadcast stations must determine the cause of any failure to receive the required EAS tests.

At the time of the inspection the station logs did not indicate why EAS tests had not been sent or received. The logs also did not indicate why the station was only monitoring one source instead of the required two sources. The station EAS logs that were reviewed at the time of the inspection were from 12/28/03 through 4/10/04.

- e. 47 C.F.R. § 73.3526(b): The public inspection file shall be maintained at the main studio of the station.

At the time of inspection the public file was not maintained at the main studio. The public file was located at the Wamego Kansas Public Library and was not up to date. The latest item placed in the public file was the issues/programs list for the first quarter of 1997 which was dated March 26, 1997.

- f. 47 C.F.R. § 73.3526(e)(1): The public inspection file shall contain a copy of the current FCC authorization to operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization.

FCC inspector went to the Wamego Kansas Public Library to inspect the contents of the public file. A copy of the station authorization was located, with expiration of June 1, 1997. No renewal card was found.

- g. 47 C.F.R. § 73.3526(e)(2): The public inspection file shall contain a copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decisions and Final Decisions in hearing cases pertaining thereto.

At the time of the inspection of the public file did not contain a copy of the license renewal application filed with the FCC. A draft copy of the license renewal application to be filed with FCC marked "DRAFT COPY", dated 9/13/1993, was found in the file.

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- h. 47 C.F.R. § 73.3526(e)(5): A copy of the most recent, complete ownership report filed with the FCC for the station, together with any statements filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file.

At the time of the inspection of the public file a current copy of the Ownership Report was not found in the file. The last dated Ownership Report found was dated 2/01/93. As part of the response to this notice, the licensee shall provide a copy of the current Ownership Report.

- i. 47 C.F.R. § 73.3526(e)(8): The public inspection file shall contain at all times, a copy of the most recent version of the manual entitled “The Public and Broadcasting.”

At the time of the inspection of the public file no copy of the “The Public and Broadcasting” manual was found.

- j. 47 C.F.R. § 73.3526(e)(12): The public inspection file shall contain for commercial 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.).

At the time of the inspection of the public file no current issues/programs list was found. The last issues/programs list found in the file was dated 3/26/1997. As part of the response to this notice, a copy of the first quarter of 2004 issues/programs list shall be provided.

- k. 47 C.F.R. § 73.1350(c): The licensee must establish monitoring procedures and schedules for the station.

The station did not have monitoring procedures or schedules established.

- l. 47 C.F.R. § 73.1350(c)(2): Monitoring equipment must be periodically calibrated so as to provide reliable indications of transmitter operating parameters with a known degree of accuracy.

At the time of inspection calibration procedures and schedules had not been established.

- m. 47 C.F.R. § 73.1870(b)(3): The designation of the chief operator must be in writing with a copy of the designation posted with the station license.

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At the time of the inspection no letter was posted or found to designate a person to serve as the station's chief operator. Mr. Jerry Hutchinson, president of the station, indicated that Kevin Block is the chief operator.

- n. 47 C.F.R. § 73.1870(c)(3): The chief operator is responsible for review of the station records at least once each week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.

At the time of the inspection there was no review of the station logs being conducted by any operator. The station logs contained no review dates or review signatures.

- o. 47 C.F.R. § 73.1350(b)(2): The transmitter control personnel must have the capability to turn the transmitter off at all times.

At the time of inspection the station's remote control system was not operational. Transmitter control personnel were located in Manhattan, KS. There, personnel did not have the capability to turn the transmitter on or off. Mr. Jerry Hutchinson, president of the station was unable to recall how long the remote control system had not been operational other than it had not functioned for quite some time.

3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,² and Section 1.89 of the Commission's Rules, KHCA, Inc., must submit a written statement concerning this matter within 20 days of release of this Notice. The response must fully explain each violation, must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and should include a time line for completion of pending corrective action(s). The response must be complete in itself and signed by a principal or officer of the licensee with personal knowledge of the matter. 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
Kansas City Office
520 NE Colbern Road
Second Floor
Lee's Summit, MO. 64086-4711

² 47 U.S.C. § 308(b).

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4. This Notice shall be sent to KHCA, Inc., 103 N. 3rd Street, Manhattan, KS 66502.

5. The Privacy Act of 1974³ 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. Any false statement made knowingly and willfully in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁴

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney
District Director
FCC/EB/Kansas City Office

³ P.L. 93-579, 5 U.S.C. § 552a(e)(3).

⁴ 18 U.S.C. § 1001 *et seq.*