

**Federal Communications Commission**

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

In the Matter of	)	
	)	
Pacifica Foundation, Inc.	)	File No. EB-09-NY-0060
Licensee of Radio Station WBAI (FM)	)	
Facility ID # 51249	)	NOV No. V200932380028
Berkeley, California	)	
	)	

**NOTICE OF VIOLATION**

**Released: March 19, 2009**

By the District Director, New York Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation ("Notice") issued pursuant to Section 1.89 of the Commission's Rules<sup>1</sup> to Pacifica Foundation, Inc., licensee of FM radio station WBAI in New York, New York.
2. On February 25, 2009, an agent of the Commission's New York Office inspected FM station WBAI, located in New York, New York, and observed the following violations:

47 C.F.R. § 11.61(b): "Entries shall be made in EAS Participant records, as specified in Sections 11.35(a) and 11.54(b)(13)." At the time of inspection, the broadcast station records contained no entries documenting the receipt and retransmission of the monthly tests from the local primary stations during the months of November 2008 and December 2008. For the month of January 2009, the station records indicated that the monthly test was received, but there was no indication that the test was retransmitted. With regard to weekly tests, the station records failed to show entries of weekly tests conducted during November 2008, the week of December 21, 2008, and the weeks of January 4 and 18, 2009. The broadcast station records contained no reasons why tests were not received or transmitted. Records for received tests indicate that the station was not consistently monitoring two EAS sources, as required by Section 11.52(d).

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<sup>1</sup> 47 C.F.R. § 1.89.

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3. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,<sup>2</sup> and Section 1.89 of the Commission's Rules, Pacifica Foundation, Inc. must submit a written statement concerning this matter within twenty (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. 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  
New York Office  
201 Varick Street, Suite 1151  
New York, New York 10014

4. This Notice shall be sent to Pacifica Foundation, Inc. at its address of record.
5. The Privacy Act of 1974<sup>3</sup> 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.<sup>4</sup>

FEDERAL COMMUNICATIONS COMMISSION

Daniel W. Noel  
District Director  
New York District Office  
Northeast Region  
Enforcement Bureau

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<sup>2</sup> 47 U.S.C. § 308(b).

<sup>3</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).

<sup>4</sup> 18 U.S.C. § 1001 *et seq.*