



# Virginia Association of Broadcasters Legal Review



Brooks, Pierce, McLendon, Humphrey &  
Leonard, LLP  
Counsel to VAB • (919) 839-0300

250 West Main Street, Suite 100  
Charlottesville, VA 22902 • (434)  
977-3716

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## Legal Memorandum

### FCC Reports on “Initial Findings” of Nationwide EAS Test Conducted September 28, 2016

On December 28, 2016, the FCC released a [Public Notice](#) providing an “initial overview” of the results of the nationwide EAS (Emergency Alert System) test conducted on September 28, 2016. The Public Notice also identifies ways in which the EAS could be strengthened in the future.

As you will recall, all broadcast stations (and other EAS participants) were required to participate in the September 28 nationwide test, which was designed to help the FCC and FEMA evaluate the reliability and effectiveness of the EAS. The initial findings reported in the Public Notice are based on the FCC’s review and analysis of the “Form 2” and “Form 3” EAS reports filed by EAS participants in the ETRS (EAS Test Reporting System) following the conclusion of the nationwide test. (The Public Notice observed that the FCC is continuing to accept late-filed test reports via ETRS at this time. Thus, any station that has not already filed Form 2 or Form 3 may still have an opportunity to file and should contact legal counsel for assistance.)

Perhaps not surprisingly, the Public Notice pronounces that the nationwide EAS test “was successful.” In addition, the FCC observed that the September nationwide test demonstrated a significant improvement over the nationwide test conducted in 2011. Here are several data points the FCC touts in the Public Notice:

- Over 21,000 radio stations, broadcast television stations, cable systems, satellite services, and other EAS participants participated in the nationwide test, which represents more than a 25 percent increase in participation from the 2011 nationwide test.
- 94 percent of test participants successfully received the test alert, which represents a 12 percent improvement in success rate over 2011 nationwide test.
- 85 percent of participants successfully retransmitted the nationwide test alert.

- 69 percent of participants reported no complications in receiving or retransmitting the nationwide test alert.
  - Many participants reported that the test alert that they received featured the high quality audio from the CAP-based alert that FEMA distributed via IPAWS.
  - 74 participants retransmitted the IPAWS-generated Spanish language version of the alert.
- Finally, the Public Notice presents several areas that may warrant Commission consideration for strengthening the EAS. Among the issues that may receive attention in future EAS proceedings are:
- Some EAS Participants experienced poor quality audio and were not able to deliver the Spanish language alert because they received the test from an over-the-air broadcast source before their EAS equipment performed its regular check of the IPAWS Internet feed (which typically occurs every 30 seconds). Requiring participants to check the Internet-based IPAWS feed upon receiving a broadcast alert and transmit the corresponding CAP alert, if available, would ensure that the most timely and content-rich version of the alert is broadcast.
  - Some people with disabilities reported difficulty receiving or understanding alert text or audio. EAS tests can be made more accessible by applying to EAS tests the accessibility rules that already apply to live EAS alerts.
  - The preparations for the test highlighted shortfalls in some state EAS plans. Some plans were difficult for broadcasters (and other EAS participants) to locate, while others presented monitoring obligations and other information in a manner that stations found difficult to implement. The FCC may take steps to further facilitate the centralization and standardization of state EAS plan information.
  - Some EAS Participants did not receive the alert because they did not properly configure or maintain their equipment.

The FCC, together with FEMA, plans to continue to analyze the results of the September 2016 nationwide EAS test and release more detailed findings and recommendations when available.

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If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

*Stephen Hartzell, Editor*

BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, L.L.P.

Wade H. Hargrove  
Mark J. Prak  
Marcus W. Trathen  
David Kushner  
Coe W. Ramsey  
Charles E. Coble  
Charles F. Marshall  
Stephen Hartzell  
J. Benjamin Davis  
Julia C. Ambrose  
Elizabeth E. Spainhour  
Eric M. David  
Timothy G. Nelson

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