



# Virginia Association of Broadcasters Legal Review



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November 8, 2016

## Legal Memorandum

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*In this issue, link to information about*

*Deadlines:*      [November 14: Deadline to File EAS “Form Three” Report in ETRS](#)  
[December 1: FCC Form 317 Due to FCC for Digital Television Stations](#)

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Reminder: EAS Form Three Report Due  
for ALL Stations by **November 14, 2016**

Today, the FCC released a [Public Notice](#) reminding EAS Participants—including ALL broadcast stations—of the rapidly-approaching November 14 deadline for filing their EAS Form Three reports.

As we have previously advised, Form Three is the last of the three reports relating to the nationwide EAS test that occurred on September 28, 2016. All stations must file Form Three, even if they had a perfect experience with receipt and retransmission of the nationwide EAS test.

To access, complete, and submit Form Three, follow the same steps you used to access, complete, and submit Form Two via the FCC’s EAS Test Reporting System (“ETRS”). Beware: ETRS allows drafts of reports to be saved only for a few hours, so if you start the Form Three report and need to temporarily stop work on it before it is complete, you may be required to re-start the whole report when you come back to it later.

Remember, the nationwide test was exactly that—a *test*. If your station didn’t receive the test or had problems with the audio, or if some other aspect of your receipt or retransmission of the test was less than perfect, the FCC and FEMA want to hear about those issues in your Form

Three report. In other words, reporting these types of issues in your Form Three report does not mean that the FCC will think you have violated a rule. On the other hand, if the reason your station didn't receive and/or retransmit the test was because your station does not have compliant EAS equipment, you may wish to consult with legal counsel prior to filing your Form Three report.

Many stations have already filed their Form Three reports; if your station has not yet filed its Form Three report, you now have only a few business days until the November 14 deadline.

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## TV Ancillary and Supplementary Services Reports (FCC Form 317) Due December 1, 2016

Every year, all digital television broadcast licensees and permittees are required to report to the FCC whether they have offered any “ancillary” or “supplementary” services during the past year. These reports must be filed annually on FCC Form 317 via the Commission’s [Licensing and Management System](#) (“LMS”) even if a station did not provide any ancillary or supplementary services. (The FCC typically releases, in early November, an informational public notice about this deadline; as of this writing, however, no public notice has been released.)

Licensees of full power television stations, digital Class A television stations, digital low power television stations, and digital television translators are required to file the Form 317 report by **December 1, 2016**, covering the one-year period from October 1, 2015, to September 30, 2016.

“Ancillary” and “supplementary” services are services provided on that portion of the station’s digital spectrum capacity or bit stream that is not needed to provide the required one free, over-the-air video broadcast signal, *and for which the station receives compensation in return for the broadcast*. Such services include, but are not limited to, computer software distribution, data transmission, teletext, interactive materials, aural messages, paging services, audio signals, subscription video, and other similar services. Ancillary and supplementary services do not include “any video broadcast signal provided at no direct charge to viewers”—in other words, a free, over-the-air multicast stream is not an ancillary and supplementary service.

If a station has received compensation, either directly or indirectly, in exchange for ancillary or supplementary services, then it must **also** file FCC Form 159 and remit to the Commission 5% of the gross revenue received for the ancillary or supplementary services.

If you have any questions regarding FCC Form 317 filings for your station(s), please contact your communications counsel.

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*

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