

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

In the Matter of )
Promoting the Integrity and Security of ) ET Docket No. 24-136
Telecommunications Certification Bodies, )
Measurement Facilities, and the Equipment )
Authorization Program )

REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING

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By the Commission: Chairman Carr and Commissioner Starks issuing separate statements.

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## I. INTRODUCTION

1. Today, we adopt new rules to help ensure that the telecommunication certification bodies (TCBs), measurement facilities (test labs), and laboratory accreditation bodies<sup>1</sup> that participate in our equipment authorization program are not subject to ownership, direction, or control by untrustworthy actors that pose a risk to national security. The Commission previously established new equipment authorization program rules that prohibit authorization of specified equipment determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.<sup>2</sup> It is incumbent on TCBs and test labs, to which certain functions of the certification process—including the receipt and maintenance of sensitive and proprietary information regarding communications equipment—have been entrusted, to be vigilant and to promote the integrity of our authorization procedures to help protect our nation’s supply chain against such unacceptable risk. In light of these responsibilities and ongoing security risks, today we strengthen our oversight of TCBs, test labs, and laboratory accreditation bodies by adopting new rules that will help ensure the integrity of these entities for purposes of our equipment authorization program, promote national security, and advance the Commission’s comprehensive strategy to build a more secure and resilient communications supply chain. We find that it is critical for national security and the integrity of the supply chain that we prohibit from recognition or participation in the equipment authorization program TCBs, test labs, and laboratory accreditation bodies that are owned by, controlled by, or subject to the direction of a prohibited entity.

2. In the Report and Order, we determine that certain entities deemed to be national security threats have the potential to undermine the integrity of our equipment authorization program and American national security through ownership, direction, or control of TCBs, test labs, and laboratory accreditation bodies. We therefore prohibit FCC recognition of any TCB, test lab, or laboratory accreditation body owned by, controlled by, or subject to the direction of a prohibited entity (as defined by the Order), and prohibit such TCBs, test labs, and laboratory accreditation bodies from participating in our equipment authorization program, not only with regard to the equipment certification process but also the Supplier’s Declaration of Conformity (SDoC) process. This prohibition applies regardless of the location of the TCB, test lab, or laboratory accreditation body.

3. In defining the scope of the term “prohibited entity,” we rely on federal government agency determinations identifying entities that pose national security threats. For purposes of this Order, the term “prohibited entity” means any of the following:

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<sup>1</sup> Equipment authorized under the certification procedure must be tested at a test lab that is accredited by a Commission-recognized laboratory accreditation body with a scope covering the measurements required for the types of equipment that it will test. *See* 47 CFR § 2.948.

<sup>2</sup> *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program*; *Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program*, ET Docket No. 21-232 and EA Docket No. 21-233, Report and Order and Further Notice of Proposed Rulemaking, 37 FCC Rcd 13493 (2022) (*EA Security R&O* and *EA Security FNPRM*, respectively).

- Entities identified on the FCC’s Covered List;<sup>3</sup>
- Entities identified by any of the following sources:
  - Department of Commerce Bureau of Industry and Security (BIS) Entity List;<sup>4</sup>
  - BIS Military End-User List;<sup>5</sup>
  - Department of Homeland Security (DHS) Uyghur Forced Labor Prevention Act (UFLPA) Entity List;<sup>6</sup>
  - Section 5949 of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023 (Section 5949 List of Semiconductor Companies);<sup>7</sup>
  - Department of Defense (DOD) 1260H list of Chinese Military Companies (1260H List);<sup>8</sup>

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<sup>3</sup> Section 1.50002 of the Commission’s rules directs the Public Safety and Homeland Security Bureau to publish a list of communications equipment and services (Covered List) that are deemed to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons, based exclusively on any of four sources for such a determination and that such equipment or services possess certain capabilities as enumerated in section 2(a) of the Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601–1609). Pursuant to the Commission’s rules, the Public Safety and Homeland Security Bureau will maintain this list on the Commission’s website, and will monitor the status of any determinations in order to update the Covered List. More information on how the Covered List is compiled and updated can be found in the Commission’s rules at 47 C.F.R. § 1.50000 *et seq.* See <https://www.fcc.gov/supplychain/coveredlist>.

<sup>4</sup> The BIS Entity List is a trade restriction list published by the United States Department of Commerce’s Bureau of Industry and Security (BIS), consisting of certain foreign persons or entities, including foreign government agencies. It is published in the Code of Federal Regulations at title 15, part 744, supplement no. 4. Entities on the BIS Entity List are subject to U.S. license requirements for the export, re-export, or transfer (in-country) of specified items, such as certain commodities, software, and technologies subject to BIS’s Export Administration Regulations (EAR) (15 CFR parts 730-774).

<sup>5</sup> The Military End User List (supplement no. 7 to 15 CFR part 744) identifies foreign parties that are prohibited from receiving items described in supplement no. 2 to 15 CFR part 744, which includes various communications devices, unless the exporter secures a license. These parties have been determined by the U.S. Government to be ‘military end users,’ as defined in 15 CFR § 744.21(g), and represent an unacceptable risk of use in or diversion to a ‘military end use’ or ‘military end user’ in Belarus, Burma, Cambodia, Nicaragua, China, Russia, or Venezuela.

<sup>6</sup> The DHS CBP’s Uyghur Forced Labor (UFLPA) Entity List, established under the Uyghur Forced Labor Prevention Act (UFLPA), identifies entities in the Xinjiang Uyghur Autonomous Region (XUAR) linked to forced labor, creating a rebuttable presumption that goods produced by these entities are prohibited from entry into the United States. See <https://www.dhs.gov/uflpa-entity-list>.

<sup>7</sup> Section 5949 of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023 prohibits government agencies from procuring or obtaining electronic products or services that use “covered semiconductor products or services” designed, produced, or provided by Semiconductor Manufacturing International Corporation (SMIC), ChangXin Memory Technologies (CXMT), or Yangtze Memory Technologies (YMTC), or their affiliates.

<sup>8</sup> The U.S. Department of Defense (DoD) maintains a list of “Chinese military companies” operating in the United States, as mandated by section 1260H of the National Defense Authorization Act (NDAA) for Fiscal Year 2021, and updates it annually. This list, also known as the “1260H List” or “CMC List,” identifies entities that are either owned or controlled by, or act as an agent of, the People’s Liberation Army (PLA) or the Chinese Communist Party’s Central Military Commission, or are “military-civil fusion contributors.”

- Department of Treasury NS-CMIC List of Chinese military companies (NS-CMIC List),<sup>9</sup> and
- Entities identified as “foreign adversaries” by the Department of Commerce.<sup>10</sup>

4. We will deem a TCB, test lab, or laboratory accreditation body as “owned by” a prohibited entity when any such prohibited entity, has, possesses, or otherwise controls an equity or voting interest of 10% or more in the relevant TCB, test lab, or laboratory accreditation body. We also provide further clarity on what it means for a TCB, test lab, or laboratory accreditation body to be controlled by or subject to the direction of a prohibited entity.

5. To help ensure that we have the necessary information to enforce this prohibition, we expand our current reporting and certification requirements. We adopt a requirement for all recognized TCBs, test labs, and laboratory accreditation bodies to certify to the Commission, within 30 days after the effective date of the rules, and thereafter with the request for recognition, that they are not owned by, controlled by, or subject to the direction of a prohibited entity. We also adopt a requirement for all recognized TCBs, test labs, and laboratory accreditation bodies to report, within 90 days after the effective date of the rules, and thereafter with the request for recognition, all equity or voting interests of 5% or greater by any entity. We also amend our rules to state that we will not recognize—and will revoke any existing recognition of—any TCB, test lab, or laboratory accreditation body that fails to provide, or that provides a false or inaccurate, certification; or that fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater.

6. In keeping with the new reporting requirements, we also clarify the requirement that every entity specifically named on the Covered List must provide to the Commission, pursuant to § 2.903(b), information regarding all of its subsidiaries and affiliates, not merely those that produce “covered” equipment. Each relevant entity must provide this information no later than 30 days after the effective date of this rule and thereafter in accordance with the provisions of § 2.903(b).<sup>11</sup> We make a minor rule change clarifying our process for withdrawing recognition from test labs and laboratory accreditation bodies. We also adopt several additional rules to strengthen the integrity of TCBs and test labs associated with our equipment authorization program.

7. In the Further Notice of Proposed Rulemaking, we propose and seek comment on further measures to safeguard the integrity of our equipment authorization program. Namely, we seek comment on whether to extend the prohibitions adopted today to also include entities subject to the jurisdiction of a foreign adversary. Alternatively, we ask whether we should apply a presumption-of-prohibition to a larger class of entities beyond prohibited entities. Additionally, we seek comment on our proposal to expand the group of prohibited entities to include several additional lists from federal agencies or statutes. We also seek further comment on ways the Commission can facilitate and encourage more equipment authorization testing to occur at test labs located within the United States or United States allied countries. Finally, we seek further comment on post-market surveillance procedures to ensure compliance relating to prohibitions on authorization of covered equipment.

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<sup>9</sup> The Non-Specially Designated Nationals Chinese Military-Industrial Complex Companies List (NS-CMIC List) is a sanctions list targeting entities associated with the Chinese military-industrial complex. It identifies companies believed to be involved in activities that undermine U.S. national security or foreign policy interests, particularly those contributing to the modernization of the People’s Republic of China’s military capabilities. The list is managed by the Office of Foreign Assets Control (OFAC), an agency of the Department of the Treasury, in coordination with the Departments of State and Defense. *See* <https://www.treasury.gov/ofac/downloads/ccmc/nscmiclist.pdf>.

<sup>10</sup> The U.S. Department of Commerce identifies certain foreign governments as “foreign adversaries” due to activities deemed contrary to U.S. national security or foreign policy interests. 15 CFR § 791.4.

<sup>11</sup> *See* 47 CFR § 2.903(b).

## II. BACKGROUND

8. In the *EA Integrity NPRM*, the Commission sought to strengthen our requirements for and oversight of FCC-recognized TCBs and test labs by proposing new rules that would help ensure the integrity of these entities for purposes of the equipment authorization program, better protect national security, and advance the Commission's comprehensive strategy to build a more secure and resilient supply chain.<sup>12</sup> As the Commission stated, it is vital to ensure that these TCBs and test labs are not subject to control by foreign adversaries or other untrustworthy actors that pose a risk to national security.<sup>13</sup>

### A. The Equipment Authorization Program

9. The Commission's equipment authorization program, codified in our part 2 rules,<sup>14</sup> plays a critical role in enabling the Commission to carry out its responsibilities under the Communications Act of 1934, as amended (the Act). Under section 302 of the Act, the Commission is authorized to make reasonable regulations governing the interference potential of equipment that emits radiofrequency (RF) energy and that can cause harmful interference to radio communications;<sup>15</sup> such regulations are implemented through the equipment authorization program. In addition, the equipment authorization program helps ensure that communications equipment complies with certain other policy objectives—which include protecting the communications networks and supply chain from equipment that poses an unacceptable risk to national security.<sup>16</sup>

10. Under section 302a(e) of the Act, certain important responsibilities have been delegated to TCBs and test labs with regard to implementing our equipment authorization program.<sup>17</sup> Specifically, TCBs and test labs each play a role in ensuring that RF equipment complies with Commission rules, which is required for such equipment to be marketed in or imported to the United States.<sup>18</sup> Test labs<sup>19</sup> gather radiofrequency measurement data and develop technical reports to demonstrate subject equipment compliance with the Commission's applicable technical rules to minimize the risk of harmful

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<sup>12</sup> See *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program*, Notice of Proposed Rulemaking, ET Docket No. 24-136, 39 FCC Rcd 5950 (adopted May 23, 2024) (*EA Integrity NPRM*).

<sup>13</sup> *Id.* at para. 1.

<sup>14</sup> 47 CFR part 2.

<sup>15</sup> 47 U.S.C. § 302a. Section 302a(b) states that “[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” 47 U.S.C. § 302a(b).

<sup>16</sup> See *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program; Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program*, ET Docket No. 21-232 and EA Docket No. 21-233, Notice of Proposed Rulemaking and Notice of Inquiry, 36 FCC Rcd 10578, 10589-90, para. 23 (2021) (in addition to minimizing harmful interference of devices, the equipment authorization program ensures that devices comply with other policy objectives, such as human RF exposure limits and hearing aid compatibility of mobile handsets, and the Anti-Drug Abuse Act of 1988); *EA Security R&O*, 37 FCC Rcd 13493 (adopting rules prohibiting authorization of equipment that poses an unacceptable risk to national security).

<sup>17</sup> 47 U.S.C. § 302a(e).

<sup>18</sup> See 47 CFR part 2 subpart I, §§ 2.801 *et seq.* (Marketing of Radio Frequency Devices); part 2 subpart J, §§ 2.901 *et seq.* (Equipment Authorization Procedures); part 2 subpart K, §§ 2.1201 *et seq.* (Importation of Devices Capable of Causing Harmful Interference).

<sup>19</sup> See 47 CFR §§ 2.947-2.949 for applicable rules concerning test labs, including their roles and responsibilities, the necessary laboratory accreditation (and periodic re-evaluation) of test labs by a Commission-recognized accrediting body, and the Commission recognition of accredited test labs.

interference, promote efficient use of spectrum, and advance other technical policy goals, such as ensuring hearing aid compatibility and controlling the environmental effects of RF radiation.<sup>20</sup>

11. TCBs perform evaluation and review of application data, including test reports, and make decisional determinations for certifications.<sup>21</sup> For all granted certification applications, the TCBs must send to the Commission any test lab data and other information relied upon by the TCB.<sup>22</sup> This information is made publicly available on the FCC's website upon grant of the equipment authorization.<sup>23</sup> Commission rules also impose certain obligations on each TCB to perform post-market surveillance, based on "type testing a certain number of samples of the total number of product types" that the TCB has certified.<sup>24</sup> Accreditation bodies conduct assessments to ensure that TCBs and test labs are competent and capable of providing accurate and reliable certification and testing services.<sup>25</sup>

12. To be recognized for participation in our equipment certification process,<sup>26</sup> TCBs, test labs, and laboratory accreditation bodies must meet certain criteria specified in our rules.<sup>27</sup> TCBs must be designated to issue grants of certification<sup>28</sup> and must be located in the United States<sup>29</sup> or in countries that have entered into applicable mutual recognition agreements (MRAs) with the United States.<sup>30</sup> Currently,

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<sup>20</sup> The Commission's rules establish RF radiation exposure limits for devices as part of the equipment certification process for mobile and portable devices. *See, e.g.*, 47 CFR §§ 1.1307(b), 1.1310, 2.1091, 2.1093. *See also* 47 CFR § 74.795, which specifies the operating requirements that are part of the equipment certification process for digital low power TV and TV translator transmitters; and 47 CFR § 15.117(h), which specifies the operating requirements that are part of the equipment authorization procedure for DTV broadcast receivers. The Commission's hearing aid compatibility rules promote equal access to communications services for individuals with hearing loss, and ensure the availability of wireless handsets that are compatible with hearing aids and cochlear implants. *See, e.g.*, *Improvements to Benchmarks and Related Requirements Governing Hearing Aid-Compatible Mobile Handsets*, WT Docket No. 15-285, Report and Order, 31 FCC Rcd 9336 (2016).

<sup>21</sup> *See generally* 47 CFR §§ 2.915, 2.960(a) (the TCB shall review the application to determine compliance with the Commission's requirements), 2.962(f) ("Scope of responsibility"). The TCB program—including the TCBs' roles and responsibilities—are discussed in KDB 641163 (2023). *See* FCC Office of Engineering and Technology, *TCB Program Roles and Responsibilities*, KDB Publication 641163, v04r2, available at <https://apps.fcc.gov/oetcf/kdb/forms/FTSSearchResultPage.cfm?id=44683&switch=P>. If the Commission publishes a "Pre-approval Guidance List" identifying categories of equipment or types of testing for which a TCB must request guidance, then the TCB must request such guidance before approving equipment on the list. 47 CFR § 2.964(a).

<sup>22</sup> 47 CFR §§ 2.911(b), 2.962(f)(8).

<sup>23</sup> FCC Office of Engineering and Technology, *Equipment Authorization Search*, <https://apps.fcc.gov/oetcf/eas/reports/GenericSearch.cfm>.

<sup>24</sup> 47 CFR § 2.962(g)(1). TCBs may request samples of equipment directly from the grantee. *Id.* § 2.962(g)(4).

<sup>25</sup> Accreditation bodies do not consider national security concerns or other trustworthiness factors addressed in this proceeding.

<sup>26</sup> For equipment authorized using the Supplier's Declaration of Conformity (SDoC) procedure, the Commission does not require testing performed at an FCC-recognized accredited testing laboratory. *See* 47 CFR § 2.906.

<sup>27</sup> *See* 47 CFR §§ 2.960, 2.948, 2.949.

<sup>28</sup> 47 CFR § 2.960(a). TCBs in the United States must be accredited and designated by the National Institute of Standards and Technology (NIST); TCBs outside of the United States must be designated under the authority of an effective bilateral or multilateral mutual recognition agreement or arrangement (MRA) to which the United States is a party.

<sup>29</sup> 47 CFR § 2.962(e)(1)(i).

<sup>30</sup> 47 CFR § 2.962(e)(1)(ii). MRAs are government-to-government trade facilitating measures aimed at a global approach to conformity assessment, providing a framework for all member economies (countries) to follow. In each of these agreements, participating countries agree to accept test results and/or product approvals (e.g., certifications)

(continued....)

there are 39 FCC-recognized TCBs,<sup>31</sup> 23 of which are located in the United States while the remaining 16 are located in seven MRA-partnered countries.<sup>32</sup> The Commission will withdraw recognition of a TCB if the TCB's designation or accreditation is withdrawn, if the Commission determines that there is "just cause," or if the TCB requests that it no longer hold its designation or recognition.<sup>33</sup> Our rules also set forth specific procedures, including notification requirements, that the Commission will follow if the Commission intends to withdraw its recognition of a TCB.<sup>34</sup>

13. Test lab recognition occurs based on current Commission rules stating that if a test lab has been accredited for the appropriate scope for the types of equipment that it will test, then it "shall be deemed competent to test and submit test data for equipment subject to certification."<sup>35</sup> Based on such accreditation, the Commission—namely, the Chief Engineer, to whom recognition authority has been delegated—makes determinations regarding the continued acceptability of individual test labs.<sup>36</sup> Test labs

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performed by the conformity assessment bodies of the other country. *See, e.g.,* FCC Office of Engineering and Technology, *Equipment Authorization – Mutual Recognition Agreements*, <https://www.fcc.gov/general/equipment-authorization-mutual-recognition-agreements>; *KDB Publication 901874*, <https://apps.fcc.gov/oetcf/kdb/forms/FTSSearchResultPage.cfm?switch=P&id=203873>. In the United States, MRAs as a general matter are negotiated through the U.S. Trade Representative. The Commission participates in eight MRAs—Asia-Pacific Economic Cooperation (APEC) Telecom MRA; Intra-American Telecommunications Committee of the Organization of American States MRA; European Union MRA; European Free Trade Association (EFTA) MRA; Japan MRA; Israel MRA; Mexico MRA; and United Kingdom MRA. *See* FCC Office of Engineering and Technology, *KDB Publication 901874*, found at <https://www.fcc.gov/general/equipment-authorization-mutual-recognition-agreements>. *See* Asia-Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment, May 8, 1998 (*APEC MRA*); Agreement on Mutual Recognition Between the European Community and the United States of America, May 18, 1998, KAV 5464 (*EU MRA*); Agreement on Mutual Recognition Between the United States of America and the EEA EFTA States, Oct. 17, 2005 (*EFTA MRA*); The Inter-American Telecommunications Committee of the Organization of American States Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment, Oct. 29, 1999 (*CITEL MRA*); Agreement on Mutual Recognition of Results of Conformity Assessment Procedures, with Annex, U.S.-Jap., Feb. 16, 2007 (*Japan MRA*); Mutual Recognition Agreement Between The Government of The United States of America And the Government of the State of Israel for Conformity Assessment of Telecommunications Equipment, U.S.-Isr., Oct. 15, 2012 (*Israel MRA*); Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment, with Appendices and Annexes, U.S.-Mex., May 26, 2011, TIAS 11-610 (*Mexico MRA*); Agreement on Mutual Recognition, U.S.-U.K., Feb. 14, 2019 (*U.K. MRA*).

<sup>31</sup> The Commission's website provides a searchable database of all currently recognized TCBs. 47 CFR § 2.962(e)(5). *See* FCC Office of Engineering and Technology, *Telecommunications Certification Bodies (TCB) Search*, <https://apps.fcc.gov/oetcf/tcb/reports/TCBSearch.cfm>. With respect to our obligations toward those TCBs designated pursuant to an MRA, each and every such agreement preserves the rights of, and provides specific procedures for, the United States to contest the competency of, and withdraw recognition of, an exporting party's TCB. *See EU MRA* arts. 7-9; *APEC MRA* art 8; *CITEL MRA* art. 8; *Israel MRA* art. 9; *Japan MRA* art. 8; *Mexico MRA* art. 8; *EFTA MRA* arts. 8-9; *U.K. MRA* art. 7.

<sup>32</sup> Most TCBs are located in the United States (23), and the others (16) are located in seven different countries: Canada (4), Germany (4), Netherlands (1), Singapore (1), Spain (2), Sweden (1), and United Kingdom (3). *See* <https://apps.fcc.gov/oetcf/tcb/reports/TCBSearch.cfm> (last visited May 19, 2025).

<sup>33</sup> 47 CFR § 2.962(e)(2).

<sup>34</sup> 47 CFR § 2.962(e)(2)-(4).

<sup>35</sup> 47 CFR § 2.948(e).

<sup>36</sup> 47 CFR § 0.241(f).

must be reassessed for accreditation and recognition at least every two years.<sup>37</sup> Approximately 75% of certified devices are tested in recognized labs located in China.<sup>38</sup>

14. The Commission recognizes four laboratory accreditation bodies in the U.S. that can accredit test labs in the United States.<sup>39</sup> For test labs in countries with which the U.S. has entered into an MRA, the Commission will consider for recognition an accredited laboratory that has been designated by a foreign designating authority.<sup>40</sup> Currently there are 24 such FCC-recognized laboratory accreditation bodies outside the United States, located in 23 different MRA-partnered countries.<sup>41</sup> All other test labs must be accredited by an organization recognized by the Commission to perform test lab accreditations in non-MRA countries.<sup>42</sup> Currently, the Commission recognizes three such accrediting bodies.<sup>43</sup> Current rules do not preclude a laboratory accreditation body that is not in an MRA-partnered country from submitting a request to be recognized, but, to date, the FCC has not recognized any laboratory accreditation body outside of an MRA-partnered country.

#### **B. Recent Related Commission Actions**

15. *The EA Security R&O and FNPRM.* On November 11, 2022, the Commission adopted the *EA Security Report and Order, Order, and Further Notice of Proposed Rulemaking*.<sup>44</sup> Specifically, the Commission established several new rules to prohibit authorization of equipment identified on the Commission's Covered List (covered equipment) maintained pursuant to the Secure and Trusted

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<sup>37</sup> See 47 CFR § 2.948(e) (requiring that laboratory accreditation bodies reassess test labs at least every two years).

<sup>38</sup> See FCC Office of Engineering and Technology, *Equipment Authorization Search*, <https://apps.fcc.gov/oetcf/eas/reports/GenericSearch.cfm>.

<sup>39</sup> American Association for Laboratory Accreditation (A2LA), National Voluntary Laboratory Accreditation Program (NVLAP), ANSI National Accreditation Board (ANAB), and Perry Johnson Laboratory Accreditation Inc. (PJLA). See FCC Office of Engineering and Technology, *Active Test Firm Accrediting Bodies (TFAB)*, <https://apps.fcc.gov/oetcf/mra/reports/AccreditingBodyReport.cfm>.

<sup>40</sup> 47 CFR § 2.948(f)(1). As noted in footnote 30, the FCC participates in eight MRAs. A recognized designating authority in any of the participating economies can assess and designate a competent test lab to the FCC and request FCC recognition. The designation process requires the designating authority to submit information establishing the capabilities of the test lab.

<sup>41</sup> We note that the laboratory accrediting bodies in MRA countries outside of the United States generally are governmental agencies. See FCC Office of Engineering and Technology, *Active Test Firm Accrediting Bodies (TFAB)*, <https://apps.fcc.gov/oetcf/mra/reports/AccreditingBodyReport.cfm>. In its recognition of these laboratory accreditation bodies, the FCC specifies for each laboratory accreditation body the countries in which the test labs can be accredited for operation.

<sup>42</sup> 47 CFR § 2.948(f)(2).

<sup>43</sup> These accrediting bodies (all of which also can accredit test labs in the United States) are: the American Association for Laboratory Accreditation (which can accredit test labs in China, India, Philippines, Thailand); the ANSI National Accreditation Board (which can accredit test labs in China, India, Indonesia, Philippines, Russian Federation, Switzerland, Thailand, Ukraine, and United States); and the National Voluntary Laboratory Accreditation Program (which can accredit test labs in China, India, Indonesia, Philippines, Russian Federation, Switzerland, Thailand, Ukraine). See FCC Office of Engineering and Technology, *Active Test Firm Accrediting Bodies (TFAB)*, <https://apps.fcc.gov/oetcf/mra/reports/AccreditingBodyReport.cfm>. We note that to date only U.S.-based laboratory accreditation bodies have applied for FCC recognition for the authority to accredit test labs in countries that are not within any MRA-partnered economies.

<sup>44</sup> *EA Security R&O and EA Security FNPRM*, 37 FCC Rcd 13493. That proceeding commenced in June 2021. See *Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program; Protecting Against National Security Threats to the Communications Supply Chain through the Competitive Bidding Program*, ET Docket No. 21-232 & EA Docket No. 21-233, Notice of Proposed Rulemaking and Notice of Inquiry, 36 FCC Rcd 10578 (2021).

Communications Networks Act of 2019 (Secure Networks Act).<sup>45</sup> The Covered List identifies certain types of communications equipment produced by particular entities as well as information security products and certain services provided by various entities.<sup>46</sup> This list is derived from specific determinations made by sources enumerated in the Secure Networks Act, including certain federal agencies and Congress, that certain equipment or services pose an unacceptable risk to national security.<sup>47</sup> The *EA Security R&O* adopted several revisions to part 2 of the Commission's rules concerning equipment authorization requirements and processes.<sup>48</sup> These revisions include requirements that, to help implement the prohibition on authorization of any covered equipment, applicants seeking equipment certification must make certain attestations about the relevant equipment.<sup>49</sup> These include attesting that the equipment is not prohibited from receiving authorization and whether the applicant is an entity identified on the Covered List as an entity producing covered communications equipment.<sup>50</sup> TCBs, pursuant to their responsibilities as part of the Commission's equipment authorization program, review the applications and must ensure that only applications that meet all of the Commission's applicable technical and non-technical requirements are ultimately granted, and that none of these grants are for covered equipment.<sup>51</sup>

16. In the *EA Security R&O*, the Commission, in affirming its authority to prohibit authorization of communications equipment that had been placed on the Covered List, noted that it has broad statutory authority, under sections 302 and 303(e) of the Communications Act and other statutory provisions, to take into account national security concerns when promoting the public interest, including in its equipment authorization program.<sup>52</sup>

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<sup>45</sup> See generally *EA Security R&O*, 37 FCC Rcd at 13509-98, paras. 32-263. Pursuant to sections 2(a) and (d) of the Secure and Trusted Communications Networks Act of 2019, and sections 1.50002 and 1.50003 of the Commission's rules, the Federal Communications Commission's Public Safety and Homeland Security Bureau (PSHSB) publishes a list of communications equipment and services that have been determined by one of the sources specified in that statute to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons (covered equipment). Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124, 133 Stat. 158 (2020) (codified as amended at 47 U.S.C. §§ 1601-1609) (Secure Networks Act); 47 CFR §§ 1.50002, 1.50003.

<sup>46</sup> The Covered List is available on the Commission's website at <https://www.fcc.gov/supplychain/coveredlist>.

<sup>47</sup> These sources include particular federal agencies with appropriate national security expertise—specifically the Department of Homeland Security (DHS), the Department of Defense (DOD), the Office of the Director of National Intelligence (ODNI), the National Security Agency (NSA), and the Federal Bureau of Investigation (FBI)—the Department of Commerce, and Congress (under section 889(f)(3) of the National Defense Authorization Act of 2019)). See Secure Networks Act, sections 2(c)(1)-(2), (4); section 9(2).

<sup>48</sup> *EA Security R&O*, 37 FCC Rcd at 13495-96, para. 3.

<sup>49</sup> *EA Security R&O*, 37 FCC Rcd at 13516-19, paras. 52-58; 47 CFR § 2.1033(b)(2)-(3).

<sup>50</sup> *Id.* Also, to help provide the oversight necessary to prevent “covered” equipment from improper authorization, any entity that has been identified on the Covered List as producing “covered” equipment is prohibited from obtaining equipment authorization through the Commission's SDoC procedures; such entities must instead use the certification procedures. *Id.* at 13525-27, paras. 75-79; 47 CFR § 2.906(d).

<sup>51</sup> See, e.g., *EA Security R&O*, 37 FCC Rcd at 13514-16, 13518, paras. 48, 50, 52, 55; 47 CFR § 2.962(f). See also *EA Security R&O*, 37 FCC Rcd at 13567-78, paras. 189-215 (providing significant Commission guidance on implementing the prohibition on authorizing “covered” equipment; TCBs have the responsibility for reviewing the applications for equipment certification, including the applicant attestations, and implementing this prohibition).

<sup>52</sup> *EA Report and Order*, 37 FCC Rcd at 13511-12, paras. 38-43. Among other things, the Commission noted that section 302 provides additional authority to make reasonable regulations governing RF devices, “consistent with the public interest, convenience, and necessity,” thus giving the Commission broad authority to implement other statutory responsibilities, including consideration of the national defense and the promotion of safety of life and property, citing section 1 of the Act. Furthermore, it noted that the rules were supported by both section 303(e),

(continued....)

17. *Evolving Risks Order and NPRM*. Since adopting the *EA Security R&O*, the Commission has taken several additional steps to address evolving national security concerns to protect the security of America’s critical communications networks and supply chains. In April 2023, in the *Evolving Risks Order and NPRM*, the Commission required all international section 214 authorization holders to respond to a one-time information collection to update the Commission’s records regarding their foreign ownership, noting that “the information will assist the Commission in developing a timely and effective process for prioritizing the review of international section 214 authorizations that are most likely to raise national security, law enforcement, foreign policy, and/or trade policy concerns.”<sup>53</sup> The Commission also sought comment on further actions it could take to protect the nation’s telecommunications infrastructure from threats in an evolving national security and law enforcement landscape by proposing comprehensive changes to the Commission’s rules that allow carriers to provide international telecommunications service.<sup>54</sup> The Commission proposed, among other things, to adopt a renewal framework or, in the alternative, a formalized periodic review process for all international section 214 authorization holders.<sup>55</sup> The Commission stated that, due to the evolving national security and law enforcement concerns identified in its recent proceedings to revoke the section 214 authorizations of certain providers controlled by the Chinese government,<sup>56</sup> a formalized system of periodically reassessing international section 214

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which gives the Commission authority to “[r]egulate the kind of apparatus to be used with respect to its external effects,” and by the Communications Assistance for Law Enforcement Act (CALEA), which gives the Commission authority to prescribe rules necessary to protect networks from equipment that raises national security threats. *See id.* at 13511-12, para. 40-41. In the *EA Security FNPRM*, the Commission sought comment on several issues that could help ensure effective implementation of the prohibition on authorization of covered equipment. *See generally EA Security FNPRM*, 37 FCC Rcd at 13599-602, paras. 267-332.

<sup>53</sup> *Review of International Section 214 Authorizations to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks, Amendment of the Schedule for Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission’s Rules*, IB Docket No. 23-119 and MD Docket No. 23-134, 38 FCC Rcd 4346, 4359, para. 16 (2023) (*Evolving Risks Order and NPRM*).

<sup>54</sup> *See generally Evolving Risks Order and NPRM*, 38 FCC Rcd 4346, para. 1. Section 214(a) of the Act prohibits any carrier from constructing, acquiring, or operating any line, and from engaging in transmission through any such line, without first obtaining a certificate from the Commission “that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such... line....” 47 U.S.C. § 214(a); *see Reform of Rules and Policies on Foreign Carrier Entry Into the U.S. Telecommunications Market*, IB Docket No. 12-299, Report and Order, 29 FCC Rcd 4256, para. 2, n.2 (2014) (*2014 Foreign Carrier Entry Order*) (“Any party seeking to provide common carrier telecommunications services between the United States, its territories or possessions, and a foreign point must request authority by application pursuant to section 214(a) of the Act, 47 U.S.C. § 214(a), and section 63.18 of the Commission’s rules, 47 CFR § 63.18.”).

<sup>55</sup> *Evolving Risks Order and NPRM*, 38 FCC Rcd at 4346, 4369, paras. 1, 41.

<sup>56</sup> *Id.* at 4358, para. 15. In the context of section 214 authorizations, the Commission has also taken several additional steps to promote national security and law enforcement. In the November 2021 *China Telecom Americas Order on Revocation and Termination*, the February 2022 *China Unicom Americas Order on Revocation*, and March 2022 *Pacific Networks/ComNet Order on Revocation and Termination*, the Commission revoked, and in certain cases terminated for failure to satisfy certain conditions, certain carriers’ section 214 authority based on recommendations and comments from interested Executive Branch agencies regarding evolving national security and law enforcement concerns. *China Telecom (Americas) Corporation*, GN Docket No. 20-109, File Nos. ITC-214-20010613-00346, ITC-214-20020716-00371, ITC-T/C-20070725-00285, Order on Revocation and Termination, 36 FCC Rcd 15966 (2021) (*China Telecom Americas Order on Revocation and Termination*), *aff’d*, *China Telecom (Ams.) Corp. v. FCC*, 57 F.4th 256 (D.C. Cir. 2022); *China Unicom (Americas) Operations Limited*, GN Docket No. 20-110, File Nos. ITC-214-20020728-00361, ITC-214-20020724-00427, Order on Revocation, 37 FCC Rcd 1480 (2022) (*China Unicom Americas Order on Revocation*), *aff’d*, *China Unicom (Americas) Operations Ltd. v. FCC*, 124 F.4th 1128 (9th Cir. 2024); *Pacific Networks Corp. and ComNet (USA) LLC*, GN Docket No. 20-111, File Nos. ITC-214-20090105-00006, ITC-214-20090424-00199, Order on Revocation and Termination, 37 FCC Rcd 4220 (2022) (*Pacific Networks/ComNet Order on Revocation and Termination*), *aff’d*, *Pacific Networks Corp. v. FCC*, 77 F.4th 1160 (D.C. Cir. 2023).

authorizations would better ensure that international section 214 authorizations, once granted, continue to serve the public interest.<sup>57</sup>

18. In addition, in the *Evolving Risks NPRM*, the Commission proposed, among other things, to prioritize the renewal applications or any periodic review filings and deadlines based on, for example, “reportable foreign ownership, including any reportable foreign interest holder that is a citizen of a foreign adversary country,” as defined in the Department of Commerce’s rule, 15 CFR § 791.4.<sup>58</sup> The Commission also sought comment on whether to revise its ownership reporting threshold, currently set at 10% or greater direct and indirect equity and/or voting interests, to 5%, noting that the current 10% threshold may not capture all of the foreign interests that may present national security, law enforcement, foreign policy, and/or trade policy concerns in today’s national security and law enforcement environment.<sup>59</sup> The Commission also proposed, among other things, to require applicants to certify in their application whether they use equipment or services identified on the Commission’s Covered List.<sup>60</sup>

19. *Cybersecurity IoT Labeling R&O*. On March 14, 2024, the Commission adopted the *Cybersecurity IoT Labeling R&O* to strengthen the nation’s cybersecurity protections by adopting a voluntary cybersecurity labeling program for wireless Internet of Things (IoT) products.<sup>61</sup> In that R&O, the Commission determined that entities that are owned by, controlled by, or affiliated with “foreign adversaries,” as defined by the Department of Commerce, should be ineligible for purposes of the Commission’s voluntary IoT Labeling Program.<sup>62</sup> The Commission also generally prohibited entities that produce equipment on the Covered List, as well as entities named on the DOD’s list of Chinese military

<sup>57</sup> *Evolving Risks Order and NPRM*, 38 FCC Rcd at 4358, para. 15.

<sup>58</sup> *Id.* at 4375-76, para. 63; *see id.* at 4361, para. 20 (stating “[a] ‘foreign adversary’ country is defined in the Department of Commerce’s rule, 15 CFR § 7.4.”); 15 CFR § 791.4 (“Determination of foreign adversaries”) (identifying as foreign adversaries: The People’s Republic of China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region (China), Republic of Cuba (Cuba), Islamic Republic of Iran (Iran), Democratic People’s Republic of Korea (North Korea), Russian Federation (Russia), and Venezuelan politician Nicolás Maduro (Maduro Regime)). Following the release of the *Evolving Risks Order and NPRM*, all sections of the 15 CFR part 7 rules were redesignated as 15 CFR 791. Department of Commerce, Redesignation of Regulations for Securing the Information and Communications Technology and Services Supply Chain, 89 Fed. Reg. 58263, 58264-65 (July 18, 2024) (July 2024 Federal Register Notice); *see also* Department of Commerce, Securing the Information and Communications Technology and Services Supply Chain, 89 Fed. Reg. 96872, 96875, 96882, 96893, (Dec. 6, 2024) (December 2024 Federal Register Notice) (updating section 791.4(a)(1) to state “The People’s Republic of China, including the Hong Kong Special Administrative Region and the Macau Special Administrative Region (China)”). The definition of “foreign adversary” is now set out in 15 CFR § 791.2, and the list of foreign governments or foreign non-government persons designated as “foreign adversaries” is now set out 15 CFR § 791.4. December 2024 Federal Register Notice, 89 Fed. Reg. at 96892-93; 15 CFR §§ 791.2, 791.4. In the *Evolving Risks NPRM*, the Commission further proposed, among other things, to require applicants for international section 214 authority and modification, assignment, transfer of control, and renewal of international section 214 authority to certify that they will not purchase and/or use equipment made by entities (and their subsidiaries and affiliates) on the Covered List as a condition of the potential grant of the application. *Evolving Risks Order and NPRM*, 38 FCC Rcd at 4406, para. 125.

<sup>59</sup> *Evolving Risks Order and NPRM*, 38 FCC Rcd at 4392-96, paras. 89-97. *See also id.* at 4394-95, para. 94 (noting that a 5% reporting threshold is consistent with information that U.S. public companies and their shareholders must provide to the Securities and Exchange Commission); *id.* at 4395, para. 95 (noting a 5% reporting threshold is consistent with information that the Committee on Foreign Investment in the United States (CFIUS) requires of parties to a voluntary notice filed with CFIUS).

<sup>60</sup> *Id.* at 4350, 4405-06, paras. 4, 124-26.

<sup>61</sup> *See Cybersecurity Labeling for Internet of Things*, PS Docket No. 23-239, Report and Order and Further Noticed of Proposed Rulemaking, 39 FCC Rcd 2497 (2024) (*Cybersecurity IoT Labeling R&O*).

<sup>62</sup> *See id.* at para. 61 (agreeing with commenters that the Commission should establish rules that are not subject to undue influence by foreign adversaries and noting that it would be problematic to rely on determinations made by such entities).

companies or the Department of Commerce's Entity List, and entities suspended or debarred from receiving federal procurements or financial awards, including all entities and individuals published as ineligible for award on the General Service Administration's System for Award Management, from any participation in the IoT Labeling Program.<sup>63</sup> Also, the Commission specifically prohibited any of these entities from serving as a Cybersecurity Label Administrator or serving as a CyberLAB for testing products for compliance with forthcoming cybersecurity technical standards.<sup>64</sup> The Commission concluded that these lists represent the determination of relevant federal agencies that entities on these lists may pose a national security threat within their respective areas, and that it is not in the public interest to permit these entities to provide assurance to the public that their IoT products meet the new cybersecurity standards for obtaining the U.S. Cyber Trust Mark.<sup>65</sup>

20. In the *Submarine Cable Landing License NPRM*, the Commission opened a proceeding to improve and streamline the submarine landing license rules, seeking comment on how to facilitate efficient deployment of submarine cables while ensuring the security, resilience, and protection of this critical infrastructure.<sup>66</sup> It noted that, of the 84 licensed cables that currently are operating or planned to enter service, three land in a "foreign adversary" country as defined by the U.S. Department of Commerce rules<sup>67</sup> and, according to the Commission's records, nine licensees of submarine cables have direct or indirect interest holders that include the Chinese government or an entity with a place of organization in China.<sup>68</sup>

21. The Commission, among other things, sought comment on whether to preclude the grant of a cable landing license application filed by any applicant that: (1) is directly and/or indirectly owned or controlled by, or subject to the influence of a government organization of a foreign adversary country, as defined under 15 CFR § 791.4;<sup>69</sup> (2) is directly and/or indirectly owned or controlled by, or subject to the influence of an individual or entity that has a citizenship(s) or place(s) of organization in a foreign adversary country;<sup>70</sup> (3) is directly and/or indirectly owned or controlled by, or subject to the influence of

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<sup>63</sup> See *id.* at paras. 33, 60-61, 74. See DOD National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, § 1260H, 134 Stat. 3388, 3580 (2021). The list can be found at <https://media.defense.gov/2024/Jan/31/2003384819/-1/-1/0/1260H-LIST.PDF> (viewed January 31, 2024); Bureau of Industry and Security, U.S. Department of Commerce, Supplement No. 4 to Part 744 – Entity List (2023), <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-744/appendix-Supplement%20No.%204%20to%20Part%20744>; U.S. General Services Administration System for Award Management, Exclusion Types, <https://sam.gov/content/entity-information/resources/exclusion-types> (last visited Feb. 15, 2024).

<sup>64</sup> See *Cybersecurity IoT Labeling R&O*. The Cybersecurity Label Administrator helps manage the program and certifies applications for compliance with Commission requirements for obtaining the U.S. Cyber Trust Mark.

<sup>65</sup> See, e.g., *Cybersecurity IoT Labeling R&O*, 39 FCC Rcd at 2530, para. 60.

<sup>66</sup> *Review of Submarine Cable Landing License Rules and Procedures to Assess Evolving National Security, Law Enforcement, Foreign Policy, and Trade Policy Risks; Amendment of the Schedule of Application Fees Set Forth in Sections 1.1102 through 1.1109 of the Commission's Rules*, OI Docket No. 24-523, MD Docket No. 24-524, Notice of Proposed Rulemaking, FCC 24-119, 2024 WL 4901990, at \*2, para. 1 (Nov. 22, 2024) (*Submarine Cable NPRM*).

<sup>67</sup> *Id.* at \*7, para. 12 (citing 15 CFR § 791.2); 15 CFR § 791.2 ("Foreign adversary means any foreign government or foreign non-government person determined by the Secretary to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.") (emphasis in original).

<sup>68</sup> *Submarine Cable NPRM* at \*7, para. 12 & n.55.

<sup>69</sup> *Id.* at \*35 (citing 15 CFR § 791.4(a)).

<sup>70</sup> *Id.* (citing 15 CFR § 791.4(a)).

an individual or entity on the Commission's Covered List; and/or (4) is using or will use equipment or services identified on the Commission's Covered List in the proposed submarine cable infrastructure.<sup>71</sup>

22. The Commission also proposed, among other things, to prioritize the filing and review of periodic ownership reports and related submarine cable system information<sup>72</sup> for submarine cable systems that: (1) have a licensee that is directly or indirectly wholly or partially owned by a government of, or other entities with a place of organization in, a "foreign adversary" country, as defined in the Department of Commerce's rule, 15 CFR § 791.4; (2) have a licensee with a place of organization in a "foreign adversary" country; or (3) land in a "foreign adversary" country.<sup>73</sup>

23. The Commission also sought comment on whether it should prohibit cable landing licensees from entering into arrangements for Indefeasible Rights of Use<sup>74</sup> or leases for capacity on submarine cables landing in the United States, with any entity that has a citizenship(s) or place(s) of organization in a "foreign adversary" country, as defined under 15 CFR § 791.4.<sup>75</sup> It sought comment on whether it should prohibit cable landing licensees from entering into such arrangements with any entity that is directly and/or indirectly owned or controlled by, or subject to the influence of, (1) a government organization of a foreign adversary country, and/or (2) any individual or entity that has a citizenship(s) or place(s) of organization in a "foreign adversary" country, as defined under 15 CFR § 791.4.<sup>76</sup> Additionally, it sought comment on whether to adopt rules that prohibit cable landing licensees from landing a cable licensed by the Commission in certain locations, such as landing points in a "foreign adversary" country, as defined under 15 CFR § 791.4.<sup>77</sup>

### C. The EA Integrity NPRM

24. On May 23, 2024, the Commission adopted the *EA Integrity NPRM*, in which it proposed measures to strengthen the requirements for and oversight of TCBs and test labs to help ensure the integrity of these entities for purposes of the equipment authorization program, better protect national security, and help build a more secure and resilient communications supply chain.<sup>78</sup> The Commission explained that, in light of the new national security-related responsibilities on TCBs and test labs, and their ongoing responsibilities to receive and maintain sensitive and proprietary information regarding communications equipment, among other reasons, it is vital to ensure that TCBs and test labs are not subject to influence or control by untrustworthy actors that pose a risk to national security.<sup>79</sup>

25. First, the Commission proposed to prohibit any TCB or test lab in which an entity identified on the Covered List has, possesses, or otherwise controls an equity or voting interest of 10% or more, from being recognized by the FCC or participating in the FCC's equipment authorization program.<sup>80</sup> Second, the Commission proposed prohibiting the use of, or reliance on, any TCB or test lab

<sup>71</sup> *Id.* at \*35, para. 85.

<sup>72</sup> *See id.* at \*21-26, 70-74, paras. 44-58, 180-195. *Id.* at \*70, para. 180 ("[W]e propose to codify, as a routine condition a requirement that all cable landing licensees must provide to the Commission updated information about their ownership, points of contact, description of the submarine cable system, and other critical information every three years.").

<sup>73</sup> *Id.* at \*25, para. 55.

<sup>74</sup> *See id.* at \*31, para. 75 & n. 246 ("In telecommunications, the Indefeasible Right of Use (IRU) is a contractual agreement (temporary ownership) of a portion of the capacity of an international cable.").

<sup>75</sup> *Id.* at \*37, para. 91; 15 CFR § 791.4(a).

<sup>76</sup> *Id.* at \*37, para. 91; 15 CFR § 791.4(a).

<sup>77</sup> *Id.* at \*37, para. 91; 15 CFR § 791.4(a).

<sup>78</sup> *See generally EA Integrity NPRM.*

<sup>79</sup> *Id.* at paras. 1-2.

<sup>80</sup> *Id.* at paras. 2, 23-25.

for equipment authorization if any entity listed on the Covered List holds, possesses, or otherwise controls an equity or voting interest of 10% or more.<sup>81</sup> Third, the Commission sought comment on prohibiting recognition of any TCB or test lab owned or controlled by a foreign adversary or any other entity that has been found to pose a risk to national security.<sup>82</sup> To that end, the Commission sought comment on whether and how the FCC should consider national security determinations made in other federal agency lists in establishing eligibility qualifications for Commission recognition of a TCB or a test lab in the equipment authorization program.<sup>83</sup> Fourth, to help ensure that the Commission has the information required to enforce any requirements adopted in this proceeding, the FCC proposed new certification, recordkeeping, and reporting obligations for TCBs and test labs, including requiring TCBs and test labs to certify that no entity identified on the Covered List has, possesses, or otherwise controls an equity or voting interest of 10% or more in the TCB or test lab, and to produce documentation identifying any entity that has, possesses, or otherwise controls an equity or voting interest of 5% or more in the TCB or test lab.<sup>84</sup> The Commission also sought comment on other revisions or clarifications to its rules to implement this requirement.<sup>85</sup> Finally, the Commission sought comment on various related matters regarding implementation of the proposed prohibition and the equipment authorization program generally.<sup>86</sup> Namely, the Commission sought comment regarding whether to revise our rules, policies, or guidance regarding post-market surveillance, accreditation and reassessment of TCBs, recognition and withdrawal of recognition of TCBs, transparency for test labs, accreditation of test labs, recognition and withdrawal of recognition of test labs, and whether to require the use of accredited, FCC-recognized test labs in the SDoC process.<sup>87</sup> In particular, in light of the goals of this proceeding, the Commission sought comment on potential revisions to the rules governing TCB and laboratory accrediting bodies.<sup>88</sup>

26. In response to the NPRM, we received 10 comments and two reply comments. Some commenters generally supported the goal of the Commission to ensure the integrity of entities that participate in our equipment authorization program and found the Commission's proposals to be reasonable and important to promoting national security,<sup>89</sup> while others generally supported the Commission's goals but expressed concerns with certain aspects of its proposals or contended that no changes to the equipment authorization program are needed.<sup>90</sup> Some advised that any action the

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<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at paras. 2, 26-34.

<sup>83</sup> *Id.*

<sup>84</sup> *Id.* at paras. 2, 35-41.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* at paras. 2, 42-63.

<sup>88</sup> *Id.* at paras. 44-45, 53-54.

<sup>89</sup> *See, e.g.*, Heritage Foundation (Heritage) Comments at 1 (supporting the proposed Covered List prohibition and urging the Commission to consult other executive branch agencies that maintain lists of entities that present national security risks and to extend the prohibition to all entities owned or controlled by a foreign adversary); IPVM Comments at 1 (expressing broad support for the Commission's proposals as necessary to ensuring that equipment is vetted properly against FCC standards as they evolve to address national security challenges); David Zimmerman Comments (agreeing with the content of the proposed FCC's rule). *See also* ACIL Comments at 1 (the Commission's threshold for ownership of TCBs by organizations on the Commission's Covered List is reasonable and appropriate).

<sup>90</sup> *See, e.g.*, TIC Council Americas (TIC) Reply Comments at 5 (a more narrow prohibition than that proposed by the Commission would minimize disrupting the larger testing market that enables thousands of innovative, non-RF interfering ICT products to reach the U.S. market each year); TAF Comments at 2-3 (the current lab authorization system is rigorous and controllable, with no national security incidents arising from lab issues, so it is not advisable to make significant changes to the existing authorization system).

Commission takes should be designed so as not to cause disruption or delay in the equipment authorization process and to our supply chains, and suggest alternative actions the Commission could take that those commenters believe would be less disruptive.<sup>91</sup>

### III. REPORT AND ORDER

27. In this Report and Order, we adopt revisions to the Commission's rules designed to promote the integrity of our equipment authorization program and ensure that it serves the Commission's goal of protecting our communications equipment supply chain from entities posing unacceptable risks to national security. We recognize that the benefits of protecting U.S. national security, law enforcement, foreign policy, and trade policy interests are difficult to quantify in monetary terms. The difficulty in quantifying these benefits does not, however, diminish their importance. The Commission previously has found that "a foreign adversary's access to American communications networks could result in hostile actions to disrupt and surveil our communications networks, impacting our nation's economy generally and online commerce specifically, and result in the breach of confidential data."<sup>92</sup> Given that our national gross domestic product was over \$29 trillion in 2024,<sup>93</sup> the digital economy accounted for approximately 16% of our economy,<sup>94</sup> and the volume of international trade for the United States (exports and imports) was \$7.3 trillion in 2024,<sup>95</sup> even a temporary disruption in communications could cause millions of dollars in economic losses. The harms by foreign adversaries or other untrustworthy actors thus could be significant, causing disruption to the U.S. economy, residential and government communications, and critical infrastructure.<sup>96</sup>

28. Through our equipment authorization process, third party entities are tasked with various responsibilities to ensure that RF devices comply with FCC rules. Specifically, equipment for which an authorization is sought is provided to a test lab to gather radiofrequency measurement data and develop

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<sup>91</sup> Telecommunication Terminal Industry Forum Association (TAF) Comments at 2 (the FCC's management of test labs will impact global telecommunications supply chains); TIA Comments at 3 (the most precise threat to the equipment authorization program is TCBs and test labs wholly owned by entities on the Covered List that have been already designated as a known security risk, as opposed to TCBs or test labs with only a minority stake); TIC Reply Comments at 2-3 (overly broad restrictions could severely disrupt the equipment testing and certification process so disclosure requirements should be a first step, like how the Commission addresses competitive bidding and foreign ownership issues).

<sup>92</sup> *Supply Chain 1<sup>st</sup> R&O*, 34 FCC Rcd at 11465, para. 109 (2019).

<sup>93</sup> See Press Release, Bureau of Economic Analysis, U.S. Department of Commerce, Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, 4<sup>th</sup> Quarter and Year 2024 (Mar. 27, 2025), <https://www.bea.gov/sites/default/files/2025-03/gdp4q24-3rd.pdf>.

<sup>94</sup> Staff estimates that the digital economy accounts for approximately 16% of the U.S. GDP based on the statistics published by the Bureau of Economic Analysis: \$3.7 trillion of digital economy/\$23 trillion U.S. GDP = 16%. See Tina Highfill & Christopher Surfield, Bureau of Economic Analysis, U.S. Department of Commerce, New and Revised Statistics of the U.S. Digital Economy, 2005-2021 (November 2022), <https://www.bea.gov/system/files/2022-11/new-and-revised-statistics-of-the-us-digital-economy-2005-2021.pdf> (estimates that the U.S. digital economy accounted for \$3.70 trillion of gross output). See also Press Release, Bureau of Economic Analysis, U.S. Department of Commerce, Gross Domestic Product, Fourth Quarter and Year 2021 (Second Estimate), [https://www.bea.gov/news/2022/gross-domestic-product-fourth-quarter-and-year-2021-second-estimate#:~:text=Current%20dollar%20GDP%20increased%2010.1,\(tables%201%20and%203\)](https://www.bea.gov/news/2022/gross-domestic-product-fourth-quarter-and-year-2021-second-estimate#:~:text=Current%20dollar%20GDP%20increased%2010.1,(tables%201%20and%203)) (estimates that the U.S. GDP was around \$23 trillion in 2021).

<sup>95</sup> See Press Release, Bureau of Economic Analysis, U.S. Department of Commerce, U.S. International Trade in Goods and Services, December and Annual 2024 (Feb. 5, 2025), <https://www.bea.gov/news/2025/us-international-trade-goods-and-services-december-and-annual-2024>.

<sup>96</sup> See Letter from Devin A. DeBacker, Chief, Foreign Investment Review Section, National Security Division, U.S. Department of Justice, to Brendan Carr, Chairman, FCC, ET Docket No. 24-136, at 4-5 (filed May 14, 2025) (FIRS *Ex Parte*).

technical reports to demonstrate device compliance with the Commission's applicable rules.<sup>97</sup> For devices for which equipment certification is sought (as opposed to SDoC), TCBs perform evaluation and review of those test reports along with other application data, and make decisional determinations for certifications.<sup>98</sup> The Commission has a process, known as "recognition," for ensuring that accredited TCBs and test labs, and the laboratory accreditation bodies, meet the necessary qualifications for participation in our equipment authorization program.<sup>99</sup>

29. We find that excluding from participation in our equipment authorization program entities that threaten to undermine national security is necessary to effectively promote the integrity of our equipment authorization program and to protect national security interests. To implement this finding, we take several actions to ensure the integrity of those entities we recognize for participation in our equipment authorization program or upon which entities seeking authorization may rely. First, we identify, pursuant to federal agency or congressional determinations, a class of "prohibited entities" that pose national security threats and therefore could adversely affect the trustworthiness of, or otherwise undermine the public's confidence in, a TCB, test lab, or laboratory accreditation body that is owned by, controlled by, or subject to the direction of a prohibited entity. Second, we prohibit from participation in our equipment authorization process, any TCB, test lab, or laboratory accreditation body that is owned by, controlled by, or subject to the direction of a prohibited entity. This includes a prohibition on the reliance on or use of, for purposes of equipment authorization, any such TCB or test lab, for both certification and supplier's declaration of conformity (SDoC). Third, we explain that we will consider a TCB, test lab, or laboratory accreditation body as "owned by" a prohibited entity when a prohibited entity has, possesses, or otherwise controls an equity or voting interest of 10% or more in the TCB, test lab, or laboratory accreditation body. We also provide clarification on what it means for a TCB, test lab, or laboratory accreditation body to be controlled by, or subject to the direction of, a prohibited entity. Fourth, we adopt expanded reporting requirements to require that all TCBs, test labs, and laboratory accreditation bodies seeking Commission recognition certify to the Commission that they are not owned by, controlled by, or subject to the direction of a prohibited entity and report all equity or voting interests of 5% or greater by any entity. We will not recognize, and will revoke recognition of, any TCB, test lab, or laboratory accreditation body that fails to provide or provides false or inaccurate information or certification. Finally, we adopt a minor rule change clarifying our process for withdrawing recognition from test labs and laboratory accreditation bodies, and we adopt other revisions to our rules including related recordkeeping and reporting obligations associated with our equipment authorization program and non-substantive changes to remove repetition of requirements.

#### A. Identifying "Prohibited Entities"

30. In the *EA Integrity NPRM*, the Commission proposed to not recognize or permit reliance on TCBs, test labs, or their accrediting bodies, or permit them to have any role in our equipment authorization program, if they have sufficiently close ties with Covered List entities.<sup>100</sup> We also sought comment on whether, and to what extent, the Commission should apply our measures to other entities identified by federal agencies or Congress that reflect expert determinations about entities that pose national security concerns.<sup>101</sup> Specifically, the Commission sought comment on extending the proposed prohibition to the entities identified pursuant to the following:

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<sup>97</sup> See 47 CFR §§ 2.947, 2.948.

<sup>98</sup> See generally 47 CFR §§ 2.915, 2.960(a) (the TCB shall review the application to determine compliance with the Commission's requirements), 2.962(f) ("Scope of responsibility").

<sup>99</sup> See 47 CFR §§ 0.241(f), 2.948, 2.949, 2.960.

<sup>100</sup> *EA Integrity NPRM*, para. 24.

<sup>101</sup> *EA Integrity NPRM*, paras. 26-34.

- Department of Commerce list of “foreign adversary” countries<sup>102</sup> that identifies any foreign government or foreign non-government person that the Secretary of Commerce has determined to have engaged in a “long-term pattern or serious instances of conduct significantly adverse to the national security interest of the United States or security and safety of United States persons;”<sup>103</sup>
- DOD 1260H list of Chinese Military Companies;<sup>104</sup>
- Department of Commerce Entity List;<sup>105</sup>
- Department of Commerce Military End-User List;<sup>106</sup>
- Non-Specially Designated Nationals Chinese Military-Industrial Complex Companies List;<sup>107</sup>
- FY2023 NDAA section 5949 list of semiconductor companies;<sup>108</sup>
- Foreign entities of concern as defined by the CHIPS Act;<sup>109</sup> and
- Uyghur Forced Labor Prevention Act Entity List.<sup>110</sup>

Today we conclude that the integrity of our equipment authorization program is more effectively ensured not only through the exclusion of participation by entities identified on the Covered List, but also the

<sup>102</sup> 15 CFR § 791.4 (“Determination of foreign adversaries”). Section 7.4 was promulgated pursuant to Executive Order 13873 of May 15, 2019, “Securing the Information and Communications Technology and Services Supply Chain.” See Executive Order 13873, of May 15, 2019, Securing the Information and Communications Technology and Services Supply Chain, 84 Fed. Reg. 22689 (May 15, 2019) (Executive Order 13873). Executive Order 13873 was issued pursuant to the President’s authority under the International Emergency Economic Powers Act, the National Emergencies Act, and § 301 of Title 3 of United States Code. 50 U.S.C. § 1701 *et seq.* (authorizing the President to regulate commerce after declaring a national emergency in response to an unusual and extraordinary threat to the U.S. which has its source in whole or in part outside the U.S.); 50 U.S.C. §§ 1601-1651 (empowering the President to activate certain powers during a national emergency and imposing the procedural requirements when invoking those powers); 3 U.S.C. § 301 (delegation of functions). The list was first issued in an Interim Final Rule by the Department of Commerce, on January 19, 2021. Department of Commerce, Securing the Information and Communications Technology and Services Supply Chain, Interim Final Rule, 86 Fed. Reg. 4909-01 (Jan. 19, 2021) (Interim Final Rule). Subsequently, all sections of the 15 CFR part 7 rules were redesignated as 15 CFR part 791. July 2024 Federal Register Notice, 89 Fed. Reg. at 58264-65. The definition of “foreign adversary” is now set out in 15 CFR § 791.2, and the list of foreign governments or foreign non-government persons designated as “foreign adversaries” is now set out 15 CFR § 791.4. December 2024 Federal Register Notice, 89 Fed. Reg. at 96892-93; 15 CFR §§ 791.2, 791.4. Section 791.4(b) states further that the Secretary’s determination of foreign adversaries is solely for the purposes of Executive Order 13873, this rule, and any subsequent rule promulgated pursuant to the Executive Order. 15 CFR § 791.4(b). Executive Order 13873, in turn, names the Commission as well as the U.S. Trade Representative and others as consultative agencies in implementing the Order. Executive Order 13873, 84 Fed. Reg. at 22869 (Section 1).

<sup>103</sup> *NPRM*, para. 28. See 15 CFR § 791.2. A “foreign adversary” country is defined in the Department of Commerce’s rules at 15 CFR § 791.4 and includes China (including Hong Kong and Macau), Cuba, Iran, North Korea, Russia, and Maduro Regime.

<sup>104</sup> *NPRM* at paras 29, 32.

<sup>105</sup> *Id.* at para. 30.

<sup>106</sup> *Id.* at para. 31.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at para. 31.

<sup>109</sup> *NPRM* at para. 34. See CHIPS Act of 2022, Sec. 10612(a)(2), Pub. L. 117-167, 136 Stat. 1366, 1635; codified at 42 U.S.C. 19221 (2022).

<sup>110</sup> *NPRM*, para. 34. See generally Pub. L. 117-78, 135 Stat. 1525 (2021).

other entities as described herein<sup>111</sup> that federal government agencies or Congress have determined pose national security risks. Collectively, we will refer to these as “prohibited entities”<sup>112</sup> with regard to participation in the Commission’s equipment authorization program.

### 1. Entities Identified on the Covered List

31. The Covered List is derived from specific determinations made by certain sources (particular federal agencies with national security expertise and Congress<sup>113</sup>) designated by the Secure Networks Act that certain equipment or services produced or provided by a specified entity poses an unacceptable risk to national security.<sup>114</sup> In light of these determinations from expert federal agencies and Congress about the serious national security risks posed by equipment or services produced or provided by entities identified on the Covered List, we conclude that the Commission should not permit TCBS, test labs, or laboratory accreditation bodies to have any role in our equipment authorization program, if they have sufficiently close ties with entities identified on the Covered List.<sup>115</sup> This exclusion will help to promote the integrity of the equipment authorization program and protect the equipment supply chain from pre-authorization exposure to entities that present national security concerns.

### 2. Other Entities that Raise National Security Concerns

32. The Covered List is only one source that identifies entities presenting national security concerns that have potential to compromise the integrity of the equipment authorization program. Several federal agencies with particular national security responsibilities—including two agencies that also serve as sources of determinations for the Covered List—develop or maintain lists that identify entities, companies, persons, and other parties that they have determined raise national security concerns. Congress has done similarly in legislation. We find that to help ensure the integrity of entities that play a role in our equipment authorization program, to promote national security, and to advance the Commission’s comprehensive strategy to build a more secure and resilient communications supply chain, we should not limit our definition of “prohibited entities” to entities identified on the Covered List, but also address entities that federal agencies have determined raise similar national security concerns.

33. Our conclusion to include entities identified by federal agencies as posing unacceptable risks to national security in addition to those on the Covered List is supported by the Heritage Foundation and the Foundation for Defense of Democracies (FDD) (two Washington, D.C. think tanks with national security expertise).<sup>116</sup> Heritage stated that “it would be prudent for the Commission to consult other

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<sup>111</sup> *Infra*, para. 36. See *FIRS Ex Parte* at 3.

<sup>112</sup> Our use of the term “entities” in this context includes any entity, person, party, or other descriptor used on the lists described herein that we adopt for purposes of our prohibitions.

<sup>113</sup> The Covered List is based on specific determinations made by sources enumerated under the Secure Networks Act—including the Department of Homeland Security (DHS), the Department of Defense (DOD), the Office of the Director of National Intelligence (ODNI), the National Security Agency (NSA), the Federal Bureau of Investigation (FBI), and the Department of Commerce—as well as Congress (under section 889(f)(3) of the National Defense Authorization Act of 2019)). See Secure Networks Act §§ 2(c), 9(2), 47 U.S.C. §§ 1601(2)(c), 1608(2).

<sup>114</sup> Secure Networks Act § 2.

<sup>115</sup> This action is consistent with actions taken in the *EA Security R&O*, in which the Commission has precluded entities identified on the Covered List from obtaining SDoC authorization, requiring that any equipment produced by these entities file requests for authorization under our equipment certification procedures. See 47 CFR § 2.906(d); *EA Security R&O*, 37 FCC Rcd at 13526-27, paras. 78-79. This action is also consistent with the Commission’s action in the *Cybersecurity IoT Labeling R&O*, which prohibited entities identified on the Covered List from having their products receive a Cyber Trust Mark label or from serving as Cybersecurity Label Administrator or other lab participating in the labelling program. See 47 CFR § 8.204; *Cybersecurity IoT Labeling R&O* at paras. 33-35, 59-60, 74.

<sup>116</sup> See Heritage Comments at 3; Letter from RADM (Ret.) Mark Montgomery, Senior Director, and Jiwon Ma, Senior Policy Analyst, FDD, to FCC, ET Docket No. 24-136, at 4 (filed April 14, 2025) (*FDD Ex Parte*). See also (continued....)

agencies that maintain lists of known entities that present national security risks to the U.S.”<sup>117</sup> In fact, Heritage encouraged the Commission to go even further and consider extending the prohibition to any foreign adversary-linked entity.<sup>118</sup> FDD similarly encouraged the Commission to extend its prohibition to “entities not only listed on the FCC’s Covered List, but also those subject to the jurisdiction, direction, or control of a foreign adversary, consistent with federal definitions under the Committee on Foreign Investment in the United States.”<sup>119</sup> According to FDD, “[g]iven the PRC’s current regulatory environment, including national security laws that coerce corporate cooperation with state intelligence objectives, firms operating under PRC jurisdiction cannot credibly demonstrate operational independence from the Chinese government. This presents a material compliance and reputational risk to U.S. markets. Therefore, all PRC-based or PRC-controlled entities must be assumed to be under state influence.”<sup>120</sup> Additionally, DOJ strongly supports “the FCC considering eligibility restrictions based on determinations made by Executive Branch agencies regarding entities that pose national security risks. This whole-of-government approach leverages specialized expertise across the federal enterprise to identify and mitigate evolving threats. For example, it is essential that the FCC utilizes other lists developed by Executive Branch agencies that reflect expert determinations about entities that pose national security concerns, rather than relying solely on the FCC’s Covered List.”<sup>121</sup> We seek comment on a similar proposal in the FNPRM, relying instead on the Department of Commerce’s definition of foreign adversary.<sup>122</sup>

34. Conversely, the China-based Telecommunication Terminal Industry Forum Association (TAF) argued that the Commission’s current regulations in this area are “sufficiently strict,” and that the Commission should not rely on lists from other U.S. government agencies, and instead, use these lists “as background references for the FCC when considering the covered list.”<sup>123</sup> We disagree and find unpersuasive TAF’s argument that these other federal agency lists “are established for different regulatory purposes.”<sup>124</sup> We also reject TAF’s argument that referencing other lists and determinations would “contravene the spirit of the [World Trade Organization Agreement on Technical Barriers to Trade]” and “increase the costs for telecommunications equipment manufacturers, ultimately driving up the final prices of electronic consumer products in the U.S.”<sup>125</sup> We find that prohibiting entities that have been

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IPVM July 12, 2024 *Ex Parte* at 1-2 (“IPVM broadly supports the NPRM as necessary to ensure equipment is vetted properly against FCC standards as they evolve to address national security challenges” and encouraging the FCC to rely on third-party determinations).

<sup>117</sup> Heritage Comments at 3 (citing the Department of Commerce and its BIS Entity List as examples of a government body and list to consult).

<sup>118</sup> *Id.* at 2-3 (“The proposed rule will have a greater impact if the FCC extends the prohibition to other known threats from foreign adversaries.”).

<sup>119</sup> FDD *Ex Parte* at 3.

<sup>120</sup> *Id.*

<sup>121</sup> See FIRS *Ex Parte* at 5.

<sup>122</sup> See FNPRM, para. 129. We interpret FDD’s comment as recommending reliance on the Department of Commerce definition, given the similarity in phrasing and the fact that the Committee on Foreign Investment in the United States has not implemented the definition FDD ascribes to it.

<sup>123</sup> TAF Comments at 3. Similarly to TAF, certain commenters asked the Commission to adopt more limited eligibility restrictions for test labs and TCBs than what was proposed in the EA Integrity NPRM, which we interpret as recommending against application of other lists and sources beyond the Covered List. TIC suggested that 10% ownership could trigger disclosure requirements rather than automatic disqualification. TIC Reply Comments at 2-3. TIA suggested that the Commission first “target” only test labs and TCBs wholly owned by entities on the Covered List as they pose the clearest risk. TIA Comments at 3; see also TIA Reply Comments at 3.

<sup>124</sup> TAF Comments at 3.

<sup>125</sup> TAF Comments at 4-5.

determined to pose risks to U.S. national security is not an unnecessary or arbitrary barrier to trade, but instead serves to promote public confidence in the integrity of our equipment authorization process and helps protect U.S. communications networks by addressing these national security concerns.<sup>126</sup> We also find that any potential increased costs are outweighed by the substantial benefit to enhancing national security.<sup>127</sup>

35. Each of the entities on the lists that we discuss in this Order has been determined by either Congress or a federal agency to raise national security concerns and has been blocked from accessing certain aspects of the U.S. supply chain, thereby addressing concerns similar to those that we seek to address today to protect the integrity of our equipment authorization program.<sup>128</sup> Moreover, many of the same agencies that Congress directed to serve as sources of determinations for inclusion on the Covered List are the sources of determination for entities on these other lists. We find that permitting such entities to participate in our equipment authorization program as TCBS, test labs, or laboratory accreditation bodies would adversely affect the trustworthiness of, or otherwise undermine the public's confidence in, the equipment authorization program, and would be inconsistent with U.S. national security interests.<sup>129</sup>

36. For these and the other reasons discussed in the Order, we find that, in addition to the entities identified on the Covered List,<sup>130</sup> it is incumbent upon us to also address, with regard to our equipment authorization program, other entities deemed by federal agencies to pose risks to national security<sup>131</sup> as follows:

- Entities identified by any of the following sources:
  - Department of Commerce Bureau of Industry and Security (BIS) Entity List (BIS Entity List);<sup>132</sup>
  - BIS Military End-User List;<sup>133</sup>
  - Department of Homeland Security (DHS) Uyghur Forced Labor Prevention Act

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<sup>126</sup> Indeed, even if relevant, the WTO Agreement maintains broad exceptions for national security. *See, e.g.*, art. 2.2 [https://www.wto.org/english/tratop\\_e/tbt\\_e/tbtagr\\_e.htm](https://www.wto.org/english/tratop_e/tbt_e/tbtagr_e.htm) (“For this purpose, technical regulations shall not be more trade-restrictive than necessary to fulfil a legitimate objective, taking account of the risks non-fulfilment would create. Such legitimate objectives are, inter alia: national security requirements....”).

<sup>127</sup> *See supra* para.27, *infra* 76.

<sup>128</sup> *See infra* paras. 37-44.

<sup>129</sup> *See FIRS Ex Parte* at 4.

<sup>130</sup> Entities identified on the Covered List include those entities specifically named in the Covered List and their subsidiaries and affiliates.

<sup>131</sup> *See FIRS Ex Parte* at 5.

<sup>132</sup>The BIS Entity List is a trade restriction list published by the United States Department of Commerce's Bureau of Industry and Security (BIS), consisting of certain foreign persons or entities, including foreign government agencies. It is published in the Code of Federal Regulations at title 15, part 744, supplement no. 4. Entities on the BIS Entity List are subject to U.S. license requirements for the export, re-export, or transfer (in-country) of specified items, such as certain commodities, software, and technology subject to BIS's Export Administration Regulations.

<sup>133</sup> The Military End User List (supplement no. 7 15 CFR part 744,) identifies foreign parties that are prohibited from receiving items described in supplement no. 2 to 15 CFR part 744, which includes various communications devices, unless the exporter secures a license. These parties have been determined by the U.S. Government to be 'military end users,' as defined in 15 CFR § 744.21(g), and present an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in Belarus, Burma, Cambodia, China, Nicaragua, Russia, or Venezuela.

- (UFLPA) Entity List;<sup>134</sup>
- Section 5949 of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023 (Section 5949 List of Semiconductor Companies);<sup>135</sup>
  - Department of Defense (DOD) 1260H list of Chinese Military Companies;<sup>136</sup>
  - Department of Treasury NS-CMIC List of Chinese military companies;<sup>137</sup> and
  - Entities identified as “foreign adversaries” by the Department of Commerce, including governments.<sup>138</sup>

37. *Department of Commerce BIS Entity List.* “The [BIS] Entity List... identifies persons or addresses of persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States” as determined by an End-User Review Committee consisting of various federal national security agencies.<sup>139</sup> The BIS Entity List in part seeks to ensure that sensitive technologies do not fall into the hands of known threats.<sup>140</sup> We conclude that these entities, which federal agencies found to, at the very least, “pose a significant risk” of activities threatening American national security or foreign policy interests, present the same concerns with regard to the integrity of our equipment authorization program. Seeing as U.S. persons are generally prohibited from providing unlicensed exports, re-exports, or transfers (in-country) of certain commodities, software, and technology subject to BIS jurisdiction to

<sup>134</sup> The DHS CBP's Uyghur Forced Labor (UFLPA) Entity List, established under the Uyghur Forced Labor Prevention Act (UFLPA), identifies entities in the Xinjiang Uyghur Autonomous Region (XUAR) linked to forced labor, creating a rebuttable presumption that goods produced by these entities are prohibited from entry into the United States. The UFLPA Entity List is published by the Forced Labor Enforcement Task Force pursuant to 19 U.S.C. § 4681. See <https://www.dhs.gov/uflpa-entity-list>.

<sup>135</sup> Section 5949 of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023 (Public Law 117-263) prohibits government agencies from procuring or obtaining electronic products or services that use “covered semiconductor products or services” designed, produced, or provided by SMIC, CXMT, or YMTC, or their affiliates.

<sup>136</sup> The U.S. Department of Defense (DOD) maintains a list of “Chinese military companies” operating in the United States, as mandated by Section 1260H of the National Defense Authorization Act (NDAA) for Fiscal Year 2021 (Public Law 116-283), which DOD updates annually. This list, also known as the “1260H List” or “CMC List,” identifies entities that are either owned or controlled by, or act as an agent of, the People’s Liberation Army (PLA) or the Chinese Communist Party’s Central Military Commission, or are “military-civil fusion contributors.”

<sup>137</sup> The Non-Specially Designated Nationals Chinese Military-Industrial Complex Companies List (NS-CMIC List) is a sanctions list targeting entities associated with the Chinese military-industrial complex. It identifies companies believed to be involved in activities that undermine U.S. national security or foreign policy interests, particularly those contributing to the modernization of the People’s Republic of China’s military capabilities. The list is managed by the Office of Foreign Assets Control (OFAC), an agency of the Department of the Treasury, in coordination with the Departments of State and Defense. See 31 CFR part 586. See also <https://www.treasury.gov/ofac/downloads/ccmc/nsemiclist.pdf>.

<sup>138</sup> The U.S. Department of Commerce identifies certain foreign governments and one non-governmental person (the Nicolas Maduro regime) as “foreign adversaries” due to activities deemed contrary to U.S. national security or foreign policy interests. 15 CFR § 791.4.

<sup>139</sup> *Id.* See Supp. No. 4 to 15 CFR part 744–Entity List; See also Supp. No. 9 to 15 CFR part 748 (outlining the procedures for the End-User Review Committee).

<sup>140</sup> See Press Release, BIS, The Department of Commerce Identifies Entities of National Security Concern (May 13, 2019), <https://2017-2021.commerce.gov/news/press-releases/2019/05/department-commerce-identifies-entities-national-security-concern.html>.

entities on the BIS Entity List,<sup>141</sup> we find it particularly risky for such entities to be closely associated with the review and approval of communications devices (with all the components therein) for the U.S. market—if these entities should not be allowed access to sensitive technologies after they are on the market, they similarly should not be allowed access before they are on the market through the equipment authorization program. This conclusion is consistent with the Commission’s action in the *Cybersecurity IoT Labeling R&O*, which prohibited entities named on the BIS Entity List from having their products receive a U.S. Cyber Trust Mark label or from serving as Cybersecurity Label Administrator or other lab participating in the labelling program.<sup>142</sup>

38. *Commerce Department BIS Military End-User List.* The Military End-User List consists of entities subject to heightened export controls because the End-User Review Committee determined that “exports, reexports, or transfers ... to that entity represent an unacceptable risk of use in or diversion to a ‘military end use’ in Belarus, Burma, Cambodia, China, Nicaragua, the Russian Federation, or Venezuela, or for a Belarusian, Burmese, Cambodian, Chinese, Nicaraguan, Russian, or Venezuelan ‘military end user,’ wherever located.”<sup>143</sup> We find that the national security risks presented by these foreign military-associated entities in terms of export activities are applicable to our obligation to ensure the integrity of our equipment authorization program, which is an integral step in the importation and marketing of devices in the U.S.<sup>144</sup>

39. *DHS Uyghur Forced Labor Prevention Act Entity List.* Section 2 of the UFLPA requires reporting a list of entities found to be involved in forced labor in the Xinjiang region of China,<sup>145</sup> which the Department of Homeland Security posts on its website.<sup>146</sup> We received no comments on this specific list, but Heritage did urge the Commission to consider forced labor practices in China<sup>147</sup> and noted that broadening the sources used to make determinations about recognition of test labs might remove from recognition consideration labs using forced labor or committing other human rights abuses.<sup>148</sup> Federal agencies have found the entities listed on the UFLPA Entity List to be involved in forced labor, and goods that are manufactured wholly or in part by such entities are prohibited from U.S. importation.<sup>149</sup> Because goods manufactured by these entities are prohibited from U.S. importation, we find that it would not be in the public interest or consistent with the integrity and security of the equipment authorization testing program for these entities to play a role in our equipment authorization program, particularly in such a way that contributes to ensuring compliance to our rules of equipment that must be authorized to be imported.

40. *Section 5949 List of Semiconductor Companies.* Section 5949 of the James M. Inhofe National Defense Authorization Act (NDAA) for Fiscal Year 2023<sup>150</sup> prohibits Executive Branch agencies from procuring, obtaining, or contracting with entities to obtain any electronic parts, products, or

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<sup>141</sup> 15 CFR § 744.16(a).

<sup>142</sup> *Cybersecurity IoT Labeling R&O* at paras. 33-35, 59-60, 74.

<sup>143</sup> 15 CFR § 744.21(b)(1).

<sup>144</sup> See 47 CFR § 2.1201(a).

<sup>145</sup> Uyghur Forced Labor Prevention Act, 135 Stat. 1525, Pub. L. 117-78, sec. 2(d)(2)(B)(i)-(ii), (iv)-(vi) (2021).

<sup>146</sup> *UFLPA Entity List*, Dep’t of Homeland Sec. (last updated Jan. 15, 2025), <https://www.dhs.gov/uflpa-entity-list>.

<sup>147</sup> See Heritage Foundation comment 2-3.

<sup>148</sup> Heritage Comments at 1-2 (adding that such action would be consistent with Congressional action to prohibit the importation of goods made with forced labor in the Xinjiang region through the Uyghur Forced Labor Prevention Act).

<sup>149</sup> 19 U.S.C. § 1307.

<sup>150</sup> Pub. L. No. 117-263, § 5949, 136 Stat. 2395, 3485 (2022). Section 5949 prohibits government agencies from procuring or obtaining electronic products or services that use “covered semiconductor products or services” designed, produced, or provided by specified entities.

services that include a semiconductor, a semiconductor product, or a product that incorporates semiconductor products designed or produced by Semiconductor Manufacturing International Corporation, ChangXin Memory Technologies, Yangtze Memory Technologies Corp, or any subsidiary, affiliate, or successor of such entities; or any such product produced by an entity determined by designated sources.<sup>151</sup> We find that Congress’s determination that these entities were not to be trusted to provide semiconductor products and services to “Federal systems” and were a threat in the “supply chains of Federal contractors and subcontractors”<sup>152</sup> is strong evidence that the Commission should address the threat such entities present to ensuring the integrity and security of the equipment authorization program.

41. *DOD 1260H List of Chinese Military Companies.* Under section 1260H of the FY 2021 NDAA, the Secretary of Defense is required to publicly list entities that the Secretary has determined to be a “Chinese military company” that is “operating directly or indirectly in the United States” and is “engaged in providing commercial services, manufacturing, producing, or exporting.”<sup>153</sup> Effective June 30, 2026, DOD is prohibited from entering into, renewing, or extending contracts for goods, services, or technology with entities on the 1260H List or their affiliates.<sup>154</sup> Contracts with companies controlled by these listed entities are also prohibited.<sup>155</sup> Further, in 2027, DOD is prohibited from entering into, renewing, or extending a contract for the procurement of goods or services that include goods or services produced or developed by an entity, or controlled by an entity, on the Section 1260H List.<sup>156</sup> The prohibitions do not extend to existing contracts or to contracts for goods, services, or technology that provide a service that connects to the facilities of a third party, including backhaul, roaming, or interconnection arrangements.<sup>157</sup> The Secretary of Defense may waive the prohibition under certain circumstances.<sup>158</sup>

42. We conclude that, for the same reasons that these entities are identified on the 1260 List, such companies present an unacceptable risk to ensuring the integrity and security of the equipment authorization testing program. This is consistent with the Commission’s action in the *Cybersecurity IoT Labeling R&O*, which prohibited entities named on the DOD 1260H List from having their products receive a U.S. Cyber Trust Mark label or from serving as Cybersecurity Label Administrator or other lab participating in the labelling program.<sup>159</sup>

43. *Department of Treasury NS-CMIC List of Chinese Military Companies.* The NS-CMIC List, maintained by the Department of Treasury, consists of persons found to “operate or have operated in the defense and related materiel sector or the surveillance technology sector of the economy of the PRC” and was created as part of an Executive Order to address “the threat posed by the military-industrial complex of the People’s Republic of China (PRC) and its involvement in military, intelligence, and security research and development programs, and weapons and related equipment production under the PRC’s Military-Civil Fusion strategy.”<sup>160</sup> This list is almost identical to the 1260H List. We conclude

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<sup>151</sup> *Id.* § 5949(a), (j).

<sup>152</sup> *Id.* § 5949(e)(2), (3).

<sup>153</sup> National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116–283, § 1260H, 134 Stat. 3388, 3580 (2021); National Defense Authorization Act for Fiscal Year 2025, Pub. L. No. 118-159, § 1346 (2025).

<sup>154</sup> National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118–31, § 805, 137 Stat. 136, 316 (2023).

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.*

<sup>158</sup> *Id.*

<sup>159</sup> *Cybersecurity IoT Labeling R&O* at paras. 33-35, 59-60, 74.

<sup>160</sup> Exec. Order No. 14032, Addressing the Threat From Securities Investments That Finance Certain Companies of the People’s Republic of China (June 3, 2021), 86 Fed. Reg. 30145, § 1 (replacing § 1(a)(i) of Exec. Order No. 13959).

that the threat presented by such entities as determined by federal agencies would apply in terms of our efforts to ensuring the integrity and security of the equipment authorization program.

44. *Foreign Adversary Governments and Persons.* The Department of Commerce has developed a list of “foreign adversary” governments and persons, which includes “any foreign government or foreign non-government person determined by the Secretary [of Commerce] to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.”<sup>161</sup> Currently, the list of foreign adversaries consists of the People’s Republic of China (including the Hong Kong Special Administrative Region and the Macau Special Administrative Region), Republic of Cuba, Islamic Republic of Iran, Democratic People’s Republic of North Korea, Russian Federation, and the Venezuelan politician Nicolas Maduro.<sup>162</sup>

45. The rules establishing the process for these determinations were made pursuant to Executive Order 13873 of May 15, 2019, “Securing the Information and Communications Technology and Services Supply Chain.”<sup>163</sup> President Trump issued Executive Order 13873 in response to the national emergency caused by the threat of foreign adversaries exploiting vulnerabilities in information and communications technology and services (ICTS).<sup>164</sup> The same concerns that the Department of Commerce’s ICTS rules seek to address are also a key component of the Commission’s equipment authorization program; namely, the equipment authorization program seeks to ensure we protect the U.S. communications networks and the supply chain from equipment that poses an unacceptable risk to national security.<sup>165</sup>

46. Moreover, the Secure Networks Act’s definition of “foreign adversary” is identical to the definition of “foreign adversary” as used by the Department of Commerce in producing its list of foreign adversaries.<sup>166</sup> National Telecommunications and Information Administration (NTIA), in a notice and request for public comment implementing these provisions of the Secure Networks Act, treated the Department of Commerce’s list of foreign adversaries as “foreign adversaries” for purposes of determining who is a “trusted... provider of advanced communications service or a supplier of communications equipment or service” under the Secure Networks Act.<sup>167</sup> If Congress and NTIA determined that entities subject to foreign adversaries’ ownership or control are not to be trusted to provide or supply communications equipment or services, the Commission does not believe they should be trusted to participate in the equipment authorization program, which tests and reviews communications equipment.

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<sup>161</sup> 15 CFR § 791.2. The Secretary of Commerce’s determination may be based on multiple sources across federal national security agencies. These sources include, but are not limited to: “(1) the National Security Strategy of the United States; (2) [t]he Director of National Intelligence’s Worldwide Threat Assessments of the U.S. Intelligence Community; (3) [t]he National Cyber Strategy of the United States of America; and (4) [r]eports and assessments from the U.S. Intelligence Community, the U.S. Departments of Justice, State and Homeland Security, and other relevant sources.” 15 CFR § 791.4(c). Further, the Secretary of Commerce will periodically review the list in consultation with appropriate agency heads to make any additions or subtractions to the list. *Id.* § 791.4(d).

<sup>162</sup> 15 CFR § 791.4(a). The Secretary’s determination of these 6 foreign adversaries is solely for the purposes of Executive Order 13873, this rule, and any subsequent rule promulgated pursuant to the Executive Order. 15 CFR § 791.4(a), (b).

<sup>163</sup> Executive Order 13873.

<sup>164</sup> *Id.*

<sup>165</sup> *Supra* para. 2; see *EA Security R&O*.

<sup>166</sup> Secure and Trusted Communications Networks Act of 2019, Pub. L. No. 116-124.

<sup>167</sup> NTIA, Promoting the Sharing of Supply Chain Security Risk Information Between Government and Communications Providers and Suppliers, 85 Fed. Reg. 35919, 35920 (June 12, 2020).

47. Our proposal to address participation by foreign adversaries in the equipment authorization program is generally supported by Heritage and FDD.<sup>168</sup> And we do not agree that application of the foreign adversary list is “discriminatory,” as TAF contends,<sup>169</sup> given that the list reflects determinations by an expert agency that the entities listed have engaged in a “long-term pattern or serious instances of conduct significantly adverse to the national security interest of the United States or security and safety of United States persons.”<sup>170</sup>

48. We find that our efforts to ensure the integrity and security of the equipment authorization program could be hindered by the participation of entities determined to have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons. These findings are consistent with the Commission’s actions in other proceedings.<sup>171</sup> For example, in the *Cybersecurity IoT Labeling R&O*, the Commission relied on the foreign adversary list as a disqualifier from receiving a U.S. Cyber Trust Mark label or from serving as Cybersecurity Label Administrator or other lab participating in the labelling program.<sup>172</sup> Additionally, in the *Evolving Risks Order and NPRM*, the Commission proposed to rely on the Department of Commerce’s definition of foreign adversary in its proposal to prioritize the renewal applications or any periodic review filings and deadlines based on, for example, “reportable foreign ownership, including any reportable foreign interest holder that is a citizen of a foreign adversary country.”<sup>173</sup>

49. *CHIPS Act*. At this time, we decline to extend the definition of prohibited entity to any “foreign entity of concern” as defined by the CHIPS Act,<sup>174</sup> because this definition extends to entities subject to the “jurisdiction” of specified countries.<sup>175</sup> We interpret this definition as potentially applicable to a broader range of entities than those owned by, controlled by, or subject to the direction of certain entities, and thereby more broadly applicable than anticipated in the *EA Integrity NPRM*. So, we seek further comment on adopting this definition, as discussed in the FNPRM portion of this proceeding. We also decline at this time to extend the prohibition in this R&O to several other federal agency-developed and statutory “lists” of entities of concern both because the record on these lists is not developed and because the alignment between the policy goals underlying those lists and the integrity and security of the equipment authorization testing program is not as obvious, and seek further comment in the FNPRM.

## **B. Preventing Prohibited Entities from Participating in the Equipment Authorization**

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<sup>168</sup> Heritage Comments at 1; FDD *Ex Parte* at 3.

<sup>169</sup> TAF Comments at 4.

<sup>170</sup> 15 CFR § 7.2. In the *Cybersecurity IoT Labeling R&O*, the Commission determined that entities that are owned, controlled by, or affiliated with “foreign adversaries,” as defined by the Department of Commerce, should be ineligible for purposes of the Commission’s voluntary IoT Labeling Program.

<sup>171</sup> The Commission has done so even though the rule states that the “Secretary’s determination of foreign adversaries is solely for the purposes of the Executive Order, this rule, and any subsequent rule promulgated pursuant to the Executive Order.” We conclude that the Commission should treat as “foreign adversary countries” any country that the Executive Branch has determined in any context to “have engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security of the United States or security and safety of United States persons.”

<sup>172</sup> *Cybersecurity IoT Labeling R&O*, paras. 61, 77.

<sup>173</sup> *Evolving Risks Order and NPRM*, 38 FCC Red at 4375-76, para. 63; *see id.* at 4361, para. 20 (stating “[a] ‘foreign adversary’ country is defined in the Department of Commerce’s rule, 15 CFR § 7.4.”).

<sup>174</sup> CHIPS Act of 2022, Sec. 10162, Pub. L. 117-167, 136 Stat. 1366, 1635 (2022); NPRM para. 34.

<sup>175</sup> The specified countries are defined as “covered nations” pursuant to 10 U.S.C. § 4872(f)(2), which currently includes North Korea, China, Russia, and Iran.

### Program

50. Recognizing the importance of ensuring that the TCBs and test labs that review equipment for importation and marketing in the U.S., and the entities that accredit test labs, are themselves trustworthy actors, and to complement our efforts to ensure the security of our supply chain, we take steps to remove from participation in our equipment authorization program entities that have been determined to pose unacceptable risks to the national security of the United States based on a number of sources (i.e., prohibited entities).<sup>176</sup> We adopt the Commission's proposals in the EA Integrity NPRM to: (1) prohibit from recognition by the Commission and participation in our equipment authorization program any TCB, test lab, or laboratory accreditation body owned by, controlled by, or subject to the direction of a prohibited entity; and (2) prohibit reliance on or use of, for purposes of equipment authorization, any TCB or test lab owned by, controlled by, or subject to the direction of a prohibited entity.<sup>177</sup> By adopting these prohibitions, we take a significant step in addressing the risks posed by these actors to U.S. national security in the communications equipment supply chain.<sup>178</sup>

51. The restriction on entities that present national security concerns is rooted in longstanding legislative and regulatory efforts aimed at safeguarding U.S. national security, economic interests, and technological leadership, which have consistently recognized the risks posed by foreign adversaries. These efforts have consistently targeted the same foreign adversaries (or a subset thereof) designated as such by the Department of Commerce and treated as "prohibited entities" in the rules we adopt today. These efforts include actions to safeguard military operations,<sup>179</sup> protect U.S. supply chains against foreign adversaries exploiting vulnerabilities in key industries,<sup>180</sup> and federal restrictions on adversarial

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<sup>176</sup> See *infra* para. 36.

<sup>177</sup> EA Integrity NPRM, paras. 23-25.

<sup>178</sup> See FIRS *Ex Parte* at 2.

<sup>179</sup> See, e.g., Pub. L. No. 114-92, 129 Stat. 726, 1118 (2015) (requires war games to assess U.S. Cyber Command's ability to counter cyber threats and large-scale attacks by foreign adversaries). Pub. L. No. 115-232, 132 Stat. 1636, 1905 (2018) (establishes restrictions on military engagement with certain foreign nations and enhances cybersecurity in defense operations). Pub. L. No. 116-260, 134 Stat. 1182 (2020) (imposes limitations on funding military assistance to certain foreign governments). Pub. L. No. 116-283, 134 Stat. 3388 (2021) (directs the Department of Defense to assess and refine cyber strategy for military operations and counter-campaigns). Pub. L. No. 117-103, 136 Stat. 49, 1026 (2022) (analyzes gray zone military tactics, including cyber warfare, information operations, and unconventional military threats). Pub. L. No. 117-263, 136 Stat. 2395, 2562 (2022) (provides classified briefings on military cooperation between foreign governments and adversarial regimes, including involvement in unconventional warfare). 50 U.S.C. § 3369d (expands the scope of the Committee to Counter Active Measures to address foreign military influence and adversarial operations). 10 U.S.C. § 394 (mandates a comprehensive list of countries of concern for military operations and national security strategy). 10 U.S.C.A. § 989 (restricts employment of former military personnel with foreign governments or entities of concern). 31 CFR § 2.2(f) (outlines restrictions on military-related national security risks posed by foreign adversaries).

<sup>180</sup> See, e.g., Pub. L. No. 115-232, 132 Stat. 1636, 1905 (2018) (implemented restrictions on defense-related supply chains and banned procurement from certain foreign sources). Pub. L. No. 116-283, 134 Stat. 3388 (2021) (assessed vulnerabilities in military and national security-related supply chains and identified countermeasures). Pub. L. No. 117-167, 136 Stat. 1366 (2022) (established a process for reviewing and restricting membership in U.S. manufacturing institutes by foreign entities to protect supply chain security). Pub. L. No. 117-263, 136 Stat. 2395, 2562 (2022) (analyzed foreign efforts to evade sanctions and restrictions on supply chains and trade flows). Pub. L. No. 117-328, 136 Stat. 4459 (2022) (required identification and assessment of supply chain risks posed by foreign agencies and affiliated entities). 10 U.S.C. § 394 (mandates an evaluation of supply chain risks linked to foreign countries of concern and their impact on national security). 15 U.S.C. § 4651 (defines foreign countries and entities of concern for supply chain security and restricted transactions with those entities). 15 U.S.C. § 4652 (prohibits certain supply chain transactions involving foreign adversaries for entities receiving federal financial assistance). 42 U.S.C. § 19040 (requires disclosure of financial interests and supply chain dependencies involving foreign entities of concern). 41 U.S.C.A. § 4713 (grants executive agencies authority to mitigate supply chain risks in procurement, particularly related to adversarial nations). 49 U.S.C.A. § 20171 (restricts the use of foreign-manufactured

(continued....)

access to sensitive data and emerging technologies that have been implemented to address cybersecurity, research security, and otherwise protect national security.<sup>181</sup> In February of this year, President Trump issued a memorandum announcing the America First Investment Policy which, among other things, states that “[e]conomic security is national security,” discusses the need to limit certain investments in strategic sectors by the same six foreign adversaries as identified in the Department of Commerce’s rules, and singles out China in particular for its nefarious exploitation of U.S. open capital markets to gain access to U.S. strategic technology and critical infrastructure.<sup>182</sup> Taken together, these measures reflect an ongoing, bipartisan effort to mitigate foreign adversary involvement in U.S. economic and technological supply chains across multiple fronts over multiple Congresses and multiple Presidential Administrations.

52. Contrary to TAF’s assertion that accreditation according to relevant ISO standards alone is sufficient to allow test lab participation in the Commission’s equipment authorization program,<sup>183</sup> we believe that compliance with ISO standards should be a floor, not a ceiling, for all equipment authorization participants. And, while such compliance with generally universally-applied standards may be necessary to ensure technical competency, it may not be sufficient. Furthermore, we believe that implementation of Congress’s instruction that the Commission “may... establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification”<sup>184</sup> requires us to address other concerns, such as protecting the supply chain from entities that present national security concerns. In light of ongoing security risks, the Commission must take measures to ensure that entities entrusted with access to equipment, and related data, prior to authorization for importing and marketing, as well as entities that assess the competence of such, are not acting on behalf of foreign adversaries but instead are operating consistent with their responsibilities to help ensure that equipment that poses an unacceptable risk to national security is kept out of our nation’s supply chain, in addition to being technically competent. In fact, the Secure Networks Act demonstrates Congress’s view that participants

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components in U.S. railroad freight cars for national security reasons); 10 U.S.C. § 4872(d)(2) (restricts acquisition of sensitive materials for “covered nations”); 10 U.S.C. § 4875(d)(2) (same for personal protective equipment and other items); 42 U.S.C. § 18741(a)(5)(C) (or (b)(3)(C) (gives priority for battery processing and manufacturing grants to entities that do not use battery materials supplied by or originating from countries of concern); 42 U.S.C. § 18743(a)(5)(C) (same for critical minerals mining and recycling research awards); 42 U.S.C. § 19221(a)(2)(C) (requires the role of “foreign countr[ies] of concern” to be included in a report on the nation’s economic security, science, research, and innovation to support the national security strategy).

<sup>181</sup> See, e.g., Pub. L. No. 116-283, 134 Stat. 3388 (2021) (DOD cybersecurity strategy review). Pub. L. No. 117-103, 136 Stat. 49, 1026 (2022) (foreign cyber and disinformation tactics). Pub. L. No. 117-263, 136 Stat. 2395, 2562 (2022) (foreign adversary cybersecurity threats). 6 U.S.C.A. § 188 (2024) (defines “countries of concern” for research). 10 U.S.C. § 394 (cybersecurity risk assessment). 15 CFR § 7.4 (designates foreign cyber threats). 28 CFR § 202.209 (defines “country of concern” for data security). 31 CFR § 2.2(f) (foreign entities in cyber intrusions). 42 U.S.C. § 18743 (limits foreign participation in research). 42 U.S.C. § 18912 (restricts funding to adversarial entities). 42 U.S.C. § 19040 (disclosure of foreign collaborations). 42 U.S.C. § 19221 (defines “foreign entities of concern”). 42 U.S.C. § 6627 (bans research on pandemic pathogens abroad). 50 U.S.C. § 2367 (foreign cyber threat reporting). 50 U.S.C. § 3241 (intelligence reports on bio threats). 50 U.S.C. § 4811 (export controls on cybersecurity tech); Pub. L. 118-50, div. H, § 2(g)(2), 138 Stat. 895, 959 (2024) (codified at 15 U.S.C. § 9901 note) (restricting the ability of certain entities controlled by foreign adversaries to operate social media companies in the U.S.); *id.* at div. I, § 2(c)(4), 138 Stat. at 961 (codified at 15 U.S.C. § 9901(c)(2)) (restricting transfer of personally identifiable sensitive data on U.S. persons to foreign adversaries). 50 U.S.C. § 4811 (imposes export controls to protect U.S. national security and foreign policy interests).

<sup>182</sup> *America First Investment Policy*, Presidential Memorandum, § 1 (Feb. 21, 2025) (“Certain foreign adversaries, including... China..., systematically direct and facilitate investment in United States companies and assets to obtain cutting-edge technologies, intellectual property, and leverage in strategic industries.”).

<sup>183</sup> TAF Comments at 4. The ISO standards for test labs require impartiality, which is defined as lack of conflicts of interest, including “freedom from bias” and a “lack of prejudice.” ISO-IEC 17025-2017 at 3.1, 4.1.

<sup>184</sup> 47 U.S.C. § 302a(e).

in the communications equipment supply chain that are “owned by, controlled by, or subject to the influence of a foreign adversary” are not to be “trusted.”<sup>185</sup>

53. Additionally, one of the agencies upon which the FCC regularly relies for national security expertise—the Department of Justice, National Security Division (FIRS)—has noted several other national security concerns arising from reliance on TCBs and test labs “that could be exploited by adversarial entities.”<sup>186</sup> Specifically, FIRS points out that TCBs and test labs perform certain activities that create technical vulnerabilities.<sup>187</sup> The privileged access by TCBs and test labs to highly sensitive intellectual property and emerging technologies could lead to systematic collection of information that represents a significant counterintelligence concern and the aggregation of such data has the potential to aid foreign adversaries in developing counterstrategies or identifying asymmetric advantages.<sup>188</sup> Also, compromised entities could deliberately overlook or inadequately test devices, or manipulate test results, which could result in compromised devices in the U.S. market that have the potential to facilitate access by foreign intelligence services or that do not meet compliance requirements and pose interference risks.<sup>189</sup>

54. We find that allowing entities that have been repeatedly identified as foreign adversaries of the U.S. government, specifically those identified in this Order as prohibited entities, to participate in the equipment authorization program as TCBs, test labs, and laboratory accreditation bodies could adversely affect a TCB’s, test lab’s, or laboratory accreditation body’s “trustworthiness, or otherwise undermine the public’s confidence,” especially their “access to proprietary, sometimes sensitive information about suppliers and their devices.”<sup>190</sup> By enforcing stricter regulations on ownership and control of TCBs, test labs, and laboratory accreditation bodies, we uphold core national security priorities, reinforcing the broader strategy to protect U.S. interests from adversarial exploitation.<sup>191</sup>

**1. Prohibiting Recognition of TCBs, Test Labs, and Laboratory Accreditation Bodies that are Owned by, Controlled by, or Subject to the Direction of Prohibited Entities**

55. In the *EA Integrity NPRM*, the Commission proposed to prohibit from recognition by the Commission and participation in our equipment authorization program any TCB, test lab, or laboratory accreditation body in which an entity identified on the Covered List has, possesses, or otherwise controls an equity or voting interest of 10% or more, either directly or indirectly, and sought comment on this proposal.<sup>192</sup> The Commission also proposed and sought comment on whether it should decline to recognize laboratory accreditation bodies associated with any foreign adversary, including as to how such association should be determined.<sup>193</sup>

56. We adopt a modified version of these proposals to include a prohibition on recognition of, or participation by, TCBs, test labs, and laboratory accreditation bodies that are owned by, controlled by, or subject to the direction of prohibited entities, as defined in this Order. Several commenters were broadly supportive of the proposal, stating, for example, that it is necessary to ensure equipment is

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<sup>185</sup> See Secure Networks Act.

<sup>186</sup> See *FIRS Ex Parte* at 4-5.

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

<sup>190</sup> *EA Integrity NPRM* para. 25.

<sup>191</sup> See *FIRS Ex Parte* at 3.

<sup>192</sup> *EA Integrity NPRM*, paras. 23-25.

<sup>193</sup> *EA Integrity NPRM*, App. A, paras. 53-54.

properly vetted against the Commission's rules intended to address national security threats.<sup>194</sup> The Covered List represents expert determinations made by Congress and relevant federal agencies that the specified equipment and services produced by certain named entities represent an unacceptable threat to national security, and the risk of their importation into the United States necessitates that we take measures to prevent such equipment from improperly obtaining FCC equipment authorization. Congress believed so strongly that the importation or marketing of certain equipment and services produced or provided by specific entities posed a threat to the national security and public safety that it passed the Secure Equipment Act to ensure that such equipment and services would be unable to obtain equipment authorizations from the Commission.<sup>195</sup> We take seriously the Congressional mandate to ensure that our equipment authorization system excludes entities that have been determined to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons. As such, we find it necessary to expand our proposal beyond the Covered List to include all prohibited entities as defined in the Order. We find it imperative that we not allow prohibited entities to circumvent supply chain protections or otherwise undermine the integrity of our supply chain. Prohibiting recognition of TCBs, test labs, or laboratory accreditation bodies that are owned by, controlled by, or subject to the direction of prohibited entities will help to ensure that participants in our equipment certification procedure, the most rigorous equipment authorization process, are not subject to undue influence and support the integrity and security of the program.

57. We reject TAF's arguments that there is no need to make changes to the existing authorization system because it has operated effectively to date without national security incidents,<sup>196</sup> and that restricting lab authorization based on national security lacks a technical basis because labs do not modify products and so cannot introduce national security issues, nor do they possess any information that could threaten national security.<sup>197</sup> A2LA also observed that as part of ISO/IEC 17011, accreditation bodies must maintain impartiality and, by that criteria, no accreditation body should have an "affiliation" with a foreign government, adversarial or not.<sup>198</sup> We emphasize that the measures we adopt today are both an important corollary to the rules we adopted in the *EA Security R&O* and proactive measures against evolving risks reflected in the record before us. As FDD noted, this action is just the latest Commission effort in recognition of "a growing vector of systemic risk: adversarial control over the authorization process that safeguards the U.S. communications technology ecosystem."<sup>199</sup> Further, the Commission agrees with FDD that "TCBs and test labs handle highly sensitive, proprietary manufacturing and development data, conduct testing protocols, and produce compliance certifications upon which the FCC relies," meaning "their actions directly affect what devices are legally imported into and offered for sale within the United States."<sup>200</sup> The Commission further agrees with FDD that if U.S.

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<sup>194</sup> See, e.g., Heritage Comments at 1 (supporting the proposed Covered List prohibition and urging the Commission to consult other Executive Branch Agencies that maintain lists of entities that present national security risks and to extend the prohibition to all entities owned or controlled by a foreign adversary); IPVM Comments at 1 (expressing broad support for the Commission's proposals as necessary to ensuring that equipment is vetted properly against FCC standards as they evolve to address national security challenges). See also ACIL Comments at 1 (the Commission's threshold for ownership of TCBs by organizations on the Commission's Covered List are reasonable and appropriate); FDD Comments at 1 (the Commission's proposal to strengthen oversight of TCBs and test labs is a necessary step toward addressing a longstanding gap in the equipment authorization framework)

<sup>195</sup> See Secure Equipment Act of 2021, Pub. L. No. 117-55, 135 Stat. 423 (2021) (codified at 47 U.S.C. § 1601 (Statutory Notes and Related Subsidiaries)) (Secure Equipment Act).

<sup>196</sup> TAF Comments at 2-3 (the current laboratory accreditation system is rigorous and ensures accuracy, reliability, and compliance with FCC technical and quality requirements).

<sup>197</sup> TAF Comments at 2.

<sup>198</sup> Comments of A2LA at 5.

<sup>199</sup> FDD Comments at 4.

<sup>200</sup> *Id.*

adversaries are participants in this layer of the supply chain, they can introduce vulnerabilities at scale, long before devices reach consumers or critical systems.”<sup>201</sup>

58. Absent rules intended to ensure the impartiality of TCBs, test labs, and laboratory accreditation bodies, prohibited entities could pressure TCBs, test labs, or laboratory accreditation bodies to take actions that are contrary to our efforts to protect the communications equipment supply chain.<sup>202</sup> For example, entities that own, control, or direct TCBs, test labs, or laboratory accreditation bodies could pressure the TCB, test lab, or laboratory accreditation body to overlook requirements that could ultimately result in the authorization of equipment identified on the Covered List. Furthermore, TCBs and test labs have access to sensitive, proprietary information related to equipment submitted for testing and certification and laboratory accreditation bodies are tasked with assessing the competence of test labs. Access to such information by entities who have been determined to pose unacceptable risks to national security would provide further opportunity for actions that would compromise the integrity of our equipment authorization program.<sup>203</sup>

59. Given the importance of ensuring the security of our supply chain and limiting vulnerabilities from entities that present national security concerns, we decline to implement certain alternatives proposed by commenters. For example, we find inadequate TIC’s suggestion that it would be sufficient to simply adopt disclosure requirements,<sup>204</sup> because such disclosure requirements would not necessarily prevent entities presenting national security concerns from, participating in our equipment authorization program. Moreover, such a disclosure regime would potentially require the Commission to engage in extensive, individualized reviews of test lab and TCB ownership to determine whether national security interests are implicated. Such a regime also would result in uncertainty within the regulated community as to what the Commission might do to address such instances. By adopting the rules in this Order, we are creating a transparent method of addressing the threat of entities that present national security risks within our equipment authorization program. We are also not persuaded that our proposed rules would meaningfully adversely impact global supply chains, slow equipment approvals, or increase costs for manufacturers.<sup>205</sup> The transparency of these new requirements will not only provide the

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<sup>201</sup> *Id.*

<sup>202</sup> See FIRS *Ex Parte* at 3.

<sup>203</sup> See Department of Commerce, National Institute of Standards and Technology, NIST Special Publication 800-171, Revision 3, Protecting Controlled Unclassified Information in Nonfederal Systems and Organizations (2024), available at <https://csrc.nist.gov/pubs/sp/800/171/r3/final> (describing the importance of protecting controlled unclassified information and recommending security requirements for protecting the confidentiality of such information—including requirements on personnel security and system and information security—when the information is resident in nonfederal systems and organizations). The Telecommunications Industry Association also provides a standard focused on ensuring the security of the information and communications technology supply chain including protecting against foreign adversary-sponsored attacks. See Telecommunications Industry Association, Quest Forum, SCS 9001 Supply Chain Security Management System Handbook (2023); see also *Big Hacks & Big Tech: China’s Cybersecurity Threat*, Hearing before the Subcomm. on Privacy, Technology, and the Law, S. Comm. on the Judiciary, 118th Cong. (2024) (Statement of David Stehlin, Chief Executive Officer, Telecommunications Industry Association).

<sup>204</sup> See TIC Reply Comments at 2-5.

<sup>205</sup> TIC Council Americas (TIC) Reply Comments at 5 (a more narrow prohibition would minimize disrupting the larger testing market that enables thousands of innovative, non-RF interfering ICT products to reach the U.S. market each year). See also TIC Comments at 4 (roughly 70 to 80 percent of manufacturing and testing takes place in a location that could be impacted by changes discussed in the NPRM so it is important that the rules be narrowly tailored to address probable security threats and avoid disruptions to the manufacturing and testing ecosystem); Telecommunication Terminal Industry Forum Association (TAF) Comments at 2-4 (the FCC’s management of test labs will impact global telecommunications supply chains); CTA Comments at 2; TIC Reply Comments at 1; Letter from Christopher L. Shipley, Executive Director of Public Policy, INCOMPAS, to Marlene H. Dortch, Secretary, FCC, ET Docket No. 24-136, at 2 (filed May 16, 2025) (INCOMPAS *Ex Parte*).

Commission with the necessary information to ensure the integrity of our equipment authorization program, it will also increase awareness within industry as to the entities with whom they choose to do business and lessen concern that prohibited entities could interfere with their equipment authorizations or the process of obtaining such, potentially speeding up equipment approvals and reducing costs. Additionally, we don't find it necessary to provide an extended transition period for implementation of the rules in order to allow sufficient time to identify and engage adequate replacement facilities, as suggested.<sup>206</sup> Considering the time needed for the rules adopted here to take effect, in addition to the procedural timeframes included in the rules for withdrawal of recognition, we believe that any concerns are speculative and outweighed by our goal of ensuring the integrity of the equipment authorization program.

60. The role of laboratory accreditation bodies in our equipment authorization program—namely, to provide impartial assessment of the competence of the test labs that they accredit—requires that they be free of and safeguarded from influence by actors that may pose a risk to national security. We also recognize that the activities and practices of laboratory accreditation bodies extend internationally and include relationships with various foreign actors, and so clarity is needed regarding how to determine which laboratory accreditation bodies will be recognized by the Commission. In addition, if we were to adopt a prohibition on TCBs and test labs owned by, controlled by, or subject to the direction of prohibited entities without adopting a corresponding prohibition on laboratory accreditation bodies, we would leave open the possibility that prohibited entities would simply move upstream to exercise ownership, control, or direction within the equipment authorization program. Acknowledging commenters' desire for clarity, we adopt a rule that the Commission will not recognize a laboratory accreditation body, and will revoke the recognition of any previously-recognized laboratory accreditation body, that is owned by, controlled by, or subject to the direction of a prohibited entity.

61. We find that this rule, along with the explanation provided in this proceeding of what we mean by “owned by, controlled by, or subject to the direction of”<sup>207</sup> will provide clear requirements for participation in the equipment authorization program. With regard to A2LA's observation that laboratory accreditation bodies are required to maintain impartiality pursuant ISO/IEC 17011, we find it incumbent upon us to take proactive measures to ensure the integrity and guarantee against equipment authorization program participation by entities owned by, controlled by, or subject to the direction of prohibited entities.<sup>208</sup>

## **2. Prohibiting Reliance on, or use of, for Purposes of Equipment Authorization, any TCB or Test Lab Owned by, Controlled by, or Subject to the Direction of a Prohibited Entity**

62. In the *EA Integrity NPRM*, the Commission also proposed to prohibit from recognition by the Commission and participation in our equipment authorization program, any TCB or test lab in which an entity identified on the Covered List has direct or indirect ownership or control.<sup>209</sup> The Commission tentatively concluded that, in light of the determinations made from expert federal agencies and Congress about the national security risks posed by entities with equipment identified on the Covered List, the

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<sup>206</sup> See *INCOMPAS Ex Parte* at 2.

<sup>207</sup> *Infra* Defining “Ownership” and “Direction or Control”

<sup>208</sup> See *FIRS Ex Parte* at 3.

<sup>209</sup> *EA Integrity NPRM*, para. 24. We note that this action also would be consistent with actions taken in the *EA Security R&O*, in which the Commission has precluded entities identified on the Covered List from obtaining SDoC authorization, requiring that any equipment produced by these entities file requests for authorization under our equipment certification procedures. See *EA Security R&O*, 37 FCC Rcd at 13526-27, paras. 78-79. As we noted above, under current rules the Commission does not require that only accredited and FCC-recognized test labs can be relied upon in the SDoC process with regard to ensuring technical compliance. See *supra* FN 26.

Commission should not permit such TCBs and test labs to have any role in our equipment authorization program.<sup>210</sup>

63. We adopt the proposed rule to prohibit reliance on or use of any TCB or test lab owned by, controlled by, or subject to the direction of an entity (or its subsidiaries or affiliates) identified on the Covered List, for purposes of equipment authorization. We expand this prohibition, however, to include all “prohibited entities.” This means that parties seeking equipment authorization pursuant to the SDoC process may not rely on testing performed at a test lab that is owned by, controlled by, or subject to the direction of a prohibited entity.

64. By prohibiting, for purposes of SDoC authorization, the use of test labs that are owned by, controlled by, or subject to the direction of a prohibited entity, we seek to ensure that entities posing national security risks cannot use the SDoC process as a loophole to circumvent our restrictions. We reject the arguments of commenters that extending the prohibition to the SDoC process will not enhance national security,<sup>211</sup> and that any security concerns are mitigated by the existing prohibition on entities identified on the Covered List from using SDoC.<sup>212</sup> We also disagree with TIA that we must provide specific evidence of abuse of the SDoC process to warrant changes.<sup>213</sup> In enacting the Secure Networks Act and Secure Equipment Act, Congress recognized that it was imperative that those entities determined to pose unacceptable risks to U.S. national security be foreclosed from accessing U.S. communications networks and supply chains, and nothing in the record would support excluding test labs used as part of the SDoC process from this prohibition.<sup>214</sup>

65. Information on equipment authorized via the SDoC process is less readily transparent to the Commission than information on equipment authorized via certification, meaning that equipment

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<sup>210</sup> *EA Integrity NPRM*, para. 24. We note that such action is consistent with the purposes of the Covered List and previous Commission action to ensure the security and integrity of our nation’s communications networks. The Covered List identifies equipment and services that poses an unacceptable risk to national security, and is derived from determinations made by sources enumerated in the Secure Networks Act (specifically, particular Executive Branch agencies with national security expertise, the Department of Commerce, and Congress). See *Secure Networks Act*, sections 2(c)(1)-(2), (4); section 9(2). In the 2022 *EA Security R&O*, the Commission adopted rules to prohibit authorization of certain equipment produced by entities named on the Covered List and adopted supply chain protections that include new informational requirements that seek to ensure that these untrustworthy entities do not adversely influence certification of equipment that poses unacceptable national security risks. See generally *EA Security R&O*, 37 FCC Rcd 13493. Even before the Secure Networks Act, the Commission designated Huawei and ZTE (along with their parents, affiliates, and subsidiaries) as “covered companies” that pose a unique threat to the security of our nation’s communications networks and supply chains because of their size, their close ties to the Chinese government, and security flaws in their equipment. *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18-89, Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Rcd 11423, 11439-41, paras. 43-46 (2019) (*Supply Chain 1<sup>st</sup> R&O*); *PSHSB Huawei Designation Order*, 35 FCC Rcd 6604; *PSHSB ZTE Designation Order*, 35 FCC Rcd 663; *Huawei Designation Order*, 35 FCC Rcd 14435.

<sup>211</sup> CTA Comments at 2.

<sup>212</sup> CTA Comments at 2; TIA Comments at 8.

<sup>213</sup> TIA Comments at 8.

<sup>214</sup> *Cf. TikTok Inc. v. Garland*, 145 S. Ct. 57, 70 (2025) (affording “substantial respect” to the Government’s “informed judgments” as to future events “in a context in which ‘national security and foreign policy concerns arise in connection with efforts to confront evolving threats in an area where information can be difficult to obtain and the impact of certain conduct difficult to assess.’” (quoting *Holder v. Humanitarian Law Project*, 561 U.S. 1, 34 (2010)); accord. *TikTok Inc. v. Garland*, 122 F.4th 930, 960-61 (D.C. Cir. 2024) (“[T]he Government reasonably predicts that TikTok ‘would try to comply if the PRC asked for specific actions to be taken to manipulate content for censorship, propaganda, or other malign purposes’ in the United States. That conclusion rests on more than mere speculation. It is the Government’s ‘informed judgment’ to which we give great weight in this context, even in the absence of ‘concrete evidence’ on the likelihood of PRC-directed censorship of TikTok in the United States.”) (quoting *Humanitarian Law Project*, 561 U.S. at 34).

authorization through the SDoC process may be at greater risk of potential exploitation by prohibited entities, raising national security concerns regarding the possible introduction of equipment that poses an unacceptable risk to national security into the U.S. market. In prohibiting entities identified on the Covered List from using SDoC to obtain equipment authorization, the Commission sought to ensure consistent application of the prohibition on further authorization of covered equipment, while also providing for more active oversight.<sup>215</sup> The same rationale applies here—namely that, absent the clarification we adopt today, prohibited entities might use their influence over labs, and take advantage of the more limited oversight the Commission has over the SDoC process, to allow for the introduction of equipment that poses an unacceptable risk to U.S. national security and otherwise undermine the integrity of our equipment authorization process. The value of the SDoC process to many parties seeking equipment authorization,<sup>216</sup> and the importance of prohibiting equipment that poses an unacceptable risk to national security, necessitates that we take measures to prevent abuse of the SDoC process.

### C. Defining “Ownership” and “Direction or Control”

66. Our prohibitions in section III.B. of this document rely on specific definitions of “ownership” and “direction or control.” As we discuss below, the Commission has repeatedly used ownership limits or attribution rules to identify entities presumed to be able to exert effective direction or control even in the absence of a majority voting interest. Here we define and adopt such a limit. We also recognize that an entity may exert direction or control when it has minority interests below the limits we set or no ownership interests, so we adopt and clarify qualitative indicia that entities, and the Commission, may use in determining and attesting to the existence of direction or control.

#### 1. Implementation of the 10% Ownership Threshold

67. We adopt the Commission’s proposals in the *EA Integrity NPRM* to prohibit from recognition by the Commission and participation in our equipment authorization program, any TCB, test lab, or laboratory accreditation body in which a prohibited entity directly or indirectly owns or controls 10% or more of the equity or voting rights.<sup>217</sup> Consistent with Commission precedent and the rules and precedent of other federal regulatory agencies, we find that the 10% ownership threshold provides a reasonable proxy or indication that a TCB, test lab, or laboratory accreditation body is controlled by or subject to the direction of a prohibited entity.

68. Some commenters oppose the proposed prohibition and recommended alternative approaches. For instance, TIA proposed that the Commission first “target” only TCBs and test labs that are wholly owned by entities on the Covered List.<sup>218</sup> TIA presented no evidence, however, to support its implicit contention that a threat is only present when a TCB or a test lab is wholly owned by a prohibited entity, nor does it explain why a prohibited entity cannot exert direction or control even though it may hold only a minority ownership interest or no ownership interest in the TCB, test lab, or laboratory accreditation body. Indeed, under TIA’s proposal, a TCB 99.99% owned by an entity identified on the Covered List would not be prohibited, but it would be prohibited if such ownership rose to 100%. Based on our record, such a limited prohibition would not adequately protect the integrity of the equipment authorization program against participation by prohibited entities. Therefore, we reject TIA’s proposal and conclude that prohibiting only those TCBs and test labs that are wholly owned by prohibited entities would not sufficiently advance the national security interests in this proceeding.

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<sup>215</sup> *Secure Equipment R&O* at paras. 78-79.

<sup>216</sup> See CTA Comments at 4; TIA Comments at 7.

<sup>217</sup> *EA Integrity NPRM*, 39 FCC Red at 5952, para. 2.

<sup>218</sup> TIA Comments at 3.

69. Some commenters question whether laboratory accreditation bodies have the capability to ascertain ownership interests.<sup>219</sup> In their view, because laboratory accreditation is primarily a technical assessment conducted by technical experts—and not a review of ownership interests by financial analysts, accountants, or auditors—reliance on laboratory accreditation bodies to prevent accreditation of test labs based on ownership interests is not feasible.<sup>220</sup> A preferable approach, according to A2LA, would be for the Commission to assess all test labs, offer accreditation if warranted, and then restrict the ability of labs to conduct testing or participate in the equipment authorization if accredited entities are found to be a national security risk.<sup>221</sup> Another proposed alternative was to create a “self-reporting component” for ownership interests of TCBs and test labs that the Department of Commerce might oversee.<sup>222</sup> A2LA further stated that it was unclear how ownership impacts national security risk.<sup>223</sup>

70. In response to concerns of commenters that laboratory accreditation bodies are not equipped to determine ownership interests, we clarify that the rules we adopt today do not require laboratory accreditation bodies to independently investigate and establish ownership. Rather, the rules will require TCBs and test labs themselves to certify that no prohibited entity has an equity or voting interest of 10% or more in the TCB or test lab. And while our rules do require that the laboratory accreditation body submit a test lab’s certification directly to the Commission in order for the test lab to be included on the list of accredited test labs that the FCC has recognized,<sup>224</sup> this does not require the laboratory accreditation body to undertake its own investigation of a test lab’s ownership. Nor do we see that this requirement imposes an undue burden on laboratory accreditation bodies, which must already submit to the Commission various information regarding the test lab. That said, we do, however, expect a laboratory accreditation body to take reasonable steps to not knowingly or negligently facilitate the obfuscation of the ownership of a test lab. In other words, a laboratory accreditation body could be held responsible for what it knew or should reasonably have known concerning the ownership interests in the TCB or test lab. Indeed, this is the same standard that TCBs should already be applying in the equipment authorization context in assessing whether an applicant’s attestations regarding the equipment for which authorization is sought—namely that the equipment is not “covered,”<sup>225</sup> and providing a valid U.S. agent for service of process—is accurate and true.

71. A2LA asked how “affiliation” would be defined, as used in the *NPRM*, and asked whether participation by accreditation bodies in countries with which the U.S. has MRA and accreditation of test labs in foreign countries might be considered “affiliation.”<sup>226</sup> A2LA said U.S. accreditation bodies have accredited test labs in foreign countries that “may be” on the adversary list and questioned whether those accreditation bodies would be precluded for that reason.<sup>227</sup> ANAB similarly said that the FCC should clarify that “affiliation” does not include participation in widely recognized international accreditation cooperations through which ANAB accepts and promotes the results of conformity assessment bodies accredited by other signatories, some of which are government organizations in

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<sup>219</sup> A2LA Comments at 2-3 (assessors used to conduct conformity assessments are technical experts, not financial analysts, accountants, or auditors); TIC Reply Comments at 6 (agreeing with A2LA’s observations in this regard).

<sup>220</sup> *Id.*

<sup>221</sup> A2LA Comments at 3.

<sup>222</sup> *Id.*

<sup>223</sup> A2LA Comments at 4 (it would be beneficial to receive a clearer understanding of ownership to national security risk, particularly at the 10% or lower level).

<sup>224</sup> *See* 47 CFR § 2.948(c).

<sup>225</sup> *EA Security R&O*, 37 FCC Rcd 13519, para. 58 (2022) (stating that “[a]ttestations by each applicant that the subject equipment is not prohibited from receiving an equipment authorization must be true and accurate”).

<sup>226</sup> A2LA Comments at 4.

<sup>227</sup> *Id.* at 5.

countries identified on the foreign adversaries list.<sup>228</sup> In the proposals we provided in the *NPRM*, we used the term “affiliation” very broadly throughout the discussion and once in the proposed rules to convey a connection between entities. We did not specifically propose to tie that term to our definition of “affiliate”<sup>229</sup> nor did we propose a new definition. In finalizing the rules that we adopt today, we are adopting a defined relationship of ownership, direction, or control in lieu of affiliation, for the reasons discussed herein. As such, we find no reason to further expand upon the discussion of “affiliation” as raised by A2LA and ANAB. We also clarify here that our rules apply equally to all TCBs, test labs, and laboratory accreditation bodies regardless of the existence of MRAs or physical location of the relevant facility.

72. We conclude that it is appropriate to prohibit any TCB, test lab, laboratory accreditation body from participating in the equipment authorization process if a prohibited entity directly or indirectly owns 10% or more of the equity or voting stock. Consistent with Commission precedent and that of other federal agencies, we find that a third party could exert direction or control over another entity even without holding a majority of the equity or voting rights. Establishing the direct and indirect ownership rule at 10% aligns with Commission precedent and reflects a reasonable standard for identifying potential direction or control. For example, applicants for an international section 214 authorization are required to identify any individual or entity that directly or indirectly owns 10% or more of the equity interests and/or voting interests, or a controlling interest, of the applicant.<sup>230</sup> Also, applicants or licensees subject to the ownership reporting requirements of section 1.2112 of our rules must identify any party holding 10% or more of stock, partnership interest, or indirect ownership interest in the reporting entity.<sup>231</sup>

73. This 10% threshold is also consistent with definitions of ownership applied by other federal agencies with expertise in examining corporate ownership and structure. For example, the Internal Revenue Code defines the term “United States shareholder” with respect to any foreign corporation, as “a United States person...who owns...10 percent or more of the total combined voting power of all classes of stock entitled to vote of such foreign corporation, or 10 percent or more of the total value of such shares of all classes of stock of such foreign corporation.”<sup>232</sup> Under the Change in Bank Control Act, anyone, including those “acting in concert,” must provide a written notice before acquiring control of a bank or bank holding company, if they acquire 10% or more of its voting shares.<sup>233</sup> Similarly, a foreign entity acquiring at least 10% of the voting interest (directly or indirectly through a U.S. entity) in a U.S. business enterprise, either through acquisition or establishment of a new entity, is required to file a BE-13 Report with the Bureau of Economic Analysis (BEA).<sup>234</sup> We conclude that adopting the 10% ownership threshold appropriately identifies entities with sufficient direction or control as to pose a risk.

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<sup>228</sup> ANAB Comments at 1-2.

<sup>229</sup> See 47 CFR § 2.903(c).

<sup>230</sup> 47 CFR § 63.18(h).

<sup>231</sup> 47 CFR § 1.2112(a).

<sup>232</sup> 26 U.S.C. § 951(b), 26 CFR § 1.951-1(g). See also 15 CFR § 801.7 (the foreign entity that owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in an acquired or a new U.S. business enterprise are required to file a BE-13, Survey of New Foreign Direct Investment in the United States report).

<sup>233</sup> See 12 CFR § 225.41 (whenever one or more persons “acting in concert” acquire 10% of more of bank or bank holding company voting shares and, in such circumstances, require the filing of a Change in Bank Control notice).

<sup>234</sup> See 15 CFR § 801.7 (the foreign entity that owns at least 10 percent of the voting interest (directly, or indirectly through an existing U.S. affiliate) in an acquired or a new U.S. business enterprise are required to file a BE-13, Survey of New Foreign Direct Investment in the United States report).

74. Heritage asked the Commission to explain “why entities with less than 10% [ownership or control] pose a risk, but entities below 5% do not.”<sup>235</sup> We recognize that a third party may exercise direction or control over another entity even where it holds less than a 10% ownership stake in that entity or holds no ownership stake.<sup>236</sup> Consistent with precedents discussed in Section III.D of this document, we expand our current reporting requirement and adopt a requirement that all TCBs, test labs, and laboratory accreditation bodies report all equity or voting interests of 5% or greater by any entity. This 5% reporting threshold balances the need to protect national security while minimizing undue reporting burden by providing the Commission with the necessary information to confirm compliance with the ownership prohibitions and to more easily identify closely associated entities. We note that the reporting requirement is parallel to and not a substitute for our requirement that all TCBs, test labs, and laboratory accreditation bodies, regardless of ownership interests, certify that they are not under the ownership, or otherwise direction or control of prohibited entities based on the indices of direction or control that we discuss next.

## 2. Definition of “Direction or Control”

75. In addition to prohibiting any TCB, test lab, or laboratory accreditation body in which a prohibited entity has direct or indirect ownership or control of 10% or more equity or voting interest from recognition or participation in our equipment authorization process, we also adopt that prohibition for any TCB, test lab, or laboratory accreditation body that is subject to the direction or control of a prohibited entity.<sup>237</sup> The concept of direction and control includes the control that is inherent when an entity is a part of the governmental structure or hierarchy of a foreign adversary, including subnational governments thereof. Recognizing that a prohibited entity may exert direction or control over another entity even where it does not own 10% or more of the equity or voting stock of that entity, we therefore require TCBs, test labs, and laboratory accreditation bodies to assess whether a prohibited entity directly or indirectly possesses or has the power (whether or not exercised) to determine, direct, or decide important matters affecting an entity. Factors indicating direction or control could include the power to decide matters pertaining to the entity’s reorganization, merger, or dissolution; the opening or closing of facilities or major expenditures or to exercise authority over its operating budget; selection of new lines of business; entering into, terminating, or otherwise affecting the fulfillment of significant contracts; adopting policies relating to treatment of non-public or proprietary information; appointing officers or senior leadership; appointing or dismissing employees with access to critical or sensitive technology; or amending the entity’s organizational documents.<sup>238</sup> Such indicators would be relevant regardless of whether the power was exercised, and could take the form of, for example, ownership of securities or partnership or other ownership interests, board representation, holding a special share, contractual arrangements, or other formal or informal arrangements to act in concert or to decide important matters affecting an entity.<sup>239</sup> Additionally, we consider any applicant, wherever located, to be under the direction or control of a prohibited entity if that applicant acts as an agent or representative of a prohibited

<sup>235</sup> Heritage Comments at 3-4 (the Commission needs to carefully determine the percentage of ownership that constitutes a threat to national security and the subsequent disclosure requirements).

<sup>236</sup> *Evolving Risks Order and NPRM*, 38 FCC Rcd at 4392-96, paras. 89-97. See also Foundation for Defense of Democracies Comments (filed Apr. 14, 2025) at 2 (noting that “[a]dversarial influence can be exerted through complex investment structures, joint ventures, or minority ownership stakes that fall below the FCC’s existing 10 percent thresholds.”).

<sup>237</sup> See, e.g., Foundation for Defense of Democracies Comments (filed Apr. 14, 2025) at 3 (recommending that the Commission not only disqualify entities that are owned by foreign adversaries, but also those “subject to the jurisdiction, direction, or control of a foreign adversary”).

<sup>238</sup> See, e.g., 31 CFR § 800.208.

<sup>239</sup> See, e.g., 31 CFR § 800.208; 15 CFR § 791.2. See also 47 CFR § 1.2110(c)(2)(i) (indicia of *de facto* control over designated entities include whether the entity “constitutes or appoints more than 50 percent of the board of directors or management committee;” whether it “has the authority to appoint, promote, demote, and fire senior executives;” and whether the entity “plays an integral role in management decisions.”)

entity or acts in any other capacity at the order or request of a prohibited entity or whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part.<sup>240</sup>

#### **D. Reporting, Certification, and Recordkeeping Requirements**

76. To help ensure that we have the necessary information to implement the measures we adopt here to prohibit from participation in our equipment authorization program entities that have been determined to pose unacceptable risks to national security, we expand our current reporting and certification requirement for TCBs, test labs, and laboratory accreditation bodies that seek Commission recognition. The Commission finds that requiring certification and reporting of ownership is necessary to minimize vulnerabilities in the telecommunications infrastructure and strengthen national security through the equipment authorization process by ensuring that TCBs, test labs, and laboratory accreditation bodies will not be owned by or under the direction or control by prohibited entities. We find that these adopted rules will yield significant benefits, including improved consistency in the Commission's consideration of evolving national security risks, completeness of the Commission's information regarding equipment authorization, and timely Commission attention to issues that warrant heightened scrutiny. We also find that the adoption of the rules will better protect U.S. telecommunications infrastructure from national security risks posed by prohibited entities. These benefits cannot be achieved with *ad hoc* reviews alone. Thus, adopting a systemized review of the ownership certification and report by TCBs, test labs, and laboratory accreditation bodies is necessary to help ensure that the Commission and the Executive Branch agencies have the necessary information to address evolving national security, law enforcement, foreign policy, and/or trade policy risks on a continuing basis. While it is difficult to quantify these economic benefits, we believe the benefits are far greater than the costs of the requirements.

77. We adopt a requirement for all recognized TCBs, test labs, and laboratory accreditation bodies to certify to the Commission, within 30 days after the effective date of the relevant rules, and thereafter with each request for recognition, that they are not owned by, controlled by, or subject to the direction of a prohibited entity. We also adopt a requirement that all recognized TCBs, test labs, and laboratory accreditation bodies report, within 90 days after the effective date of the relevant rules and thereafter with each request for recognition, all equity or voting interests of 5% or greater by any entity. We will not recognize—and will revoke any existing recognition of—any TCB, test lab, or laboratory accreditation body that fails to provide, or that provides a false or inaccurate certification; or that fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater. If there is any change to any of the lists that make up the prohibited entities resulting in the addition of an entity after the effective date of these rules, the Commission will require compliance with the relevant reporting, certification, and recordkeeping requirements no later than 90 days after the effective date of such change. In keeping with these reporting requirements, we also clarify the requirement that every entity specifically named on the Covered List must provide to the Commission, pursuant to § 2.903(b), information regarding all of its subsidiaries and affiliates, not merely those that produce “covered” equipment. We order each relevant entity to provide this information no later than 30 days after the effective date of this rule and thereafter in accordance with the provisions in § 2.903(b).<sup>241</sup>

78. In order to more effectively protect our equipment authorization program from the direction or control of untrustworthy entities and ensure the integrity of the program, the Commission proposed and sought comment in the *EA Integrity NPRM* on new recordkeeping, reporting, and certification obligations for TCBs and test labs to enable the Commission to determine ownership or control, as well as comment on any changes to its rules governing laboratory accreditation bodies.

79. First, the Commission proposed that any entity seeking to become an FCC-recognized TCB or test lab report to the Commission equity or voting interests in the TCB or test lab of 5% or

<sup>240</sup> See, e.g., 15 CFR § 791.2.

<sup>241</sup> See 47 CFR § 2.903(b).

more.<sup>242</sup> Second, the Commission proposed to require that recognized TCBs and test labs: (1) no later than 30 days after the effective date of any final rules adopted in this proceeding, certify that no entity identified on the Covered List (or otherwise specified in our final rules) has, possesses, or otherwise controls an equity or voting interest of 10% or more in the TCB or test lab, and (2) no later than 90 days after the effective date of any final rules adopted in this proceeding identify any entity (including the ultimate parent of such entities) that holds such ownership or control interest as our final rules require, proposed as 5% or more ownership, as discussed above.<sup>243</sup> Third, the Commission proposed that any test lab that takes measurements of equipment subject to an equipment authorization, whether pursuant to certification or SDoC, maintain in its records a certification that no entity identified on the Covered List has, possesses, or otherwise controls an equity or voting interest of 10% or more in the test lab and documentation identifying any entity that has, possesses, or otherwise controls an equity or voting interest of 5% or more in the test lab. Finally, the Commission sought comment on precluding laboratory accreditation bodies associated with foreign adversaries, including how such association should be determined.<sup>244</sup>

80. We received comments directed at these reporting requirements. The American Council of Independent Laboratories commented that the Commission's reporting requirements are reasonable and appropriate.<sup>245</sup> Other commenters expressed concerns or suggested changes to these proposals. For instance, TIC commented that the proposed reporting requirements are not currently covered in MRAs between the United States and participating countries,<sup>246</sup> and asked that any rules adopted be tailored to address supply chain security without disrupting testing capacity or U.S. trade commitments.<sup>247</sup> Heritage asked the Commission to consider whether any level of ownership by an entity on the Covered List needs to be disclosed.<sup>248</sup> Other commenters made more general observations that are relevant here. For example, TIA said that any new rules should not overly burden trustworthy TCBs or test labs.<sup>249</sup>

81. We adopt the certification, reporting, and recordkeeping requirements that the Commission proposed in the *EA Integrity NPRM* with the modifications that these requirements will be extended to laboratory accreditation bodies and broadened to include ownership, control, or direction by any prohibited entity, as well as the additional note that reported ownership information will be made publicly available on the Commission's website. The Commission and all parties seeking equipment authorization must have ready access to the information necessary to determine which TCBs, test labs,

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<sup>242</sup> *EA Integrity NPRM*, para. 40.

<sup>243</sup> *EA Integrity NPRM*, para. 41.

<sup>244</sup> *EA Integrity NPRM*, para. 54.

<sup>245</sup> ACIL Comments.

<sup>246</sup> We reject this assertion. Mutual recognition agreements/arrangements typically include preservation of regulatory authority provisions. The MRAs do not supplant or limit the regulatory authority of each party to establish its own regulatory requirements. *See, e.g.,* Asia-Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity Assessment of Telecommunications Equipment, art. 14, May 8, 1998 (*APEC MRA*); Agreement on Mutual Recognition Between the United States of America and the European Community, art. 15, May 18, 1998, KAV 5464 (*EU MRA*); Agreement on Mutual Recognition Between the United States of America and the EEA EFTA States, art. 15, Oct. 17, 2005 (*EFTA MRA*); Agreement on Mutual Recognition of Results of Conformity Assessment Procedures, with Annex, U.S.-Jap., art. 14, Feb. 16, 2007 (*Japan MRA*); Mutual Recognition Agreement Between The Government of The United States of America And the Government of the State of Israel for Conformity Assessment of Telecommunications Equipment, U.S.-Isr., art. 14, Oct. 15, 2012 (*Israel MRA*); Mutual Recognition Agreement for Conformity Assessment of Telecommunications Equipment, with Appendices and Annexes, U.S.-Mex., art. 15, May 26, 2011, TIAS 11-610 (*Mexico MRA*); Agreement on Mutual Recognition, U.S.-U.K., art. 14, Feb. 14, 2019 (*U.K. MRA*).

<sup>247</sup> TIC Comments at 7.

<sup>248</sup> *Id.*

<sup>249</sup> TIA Comments at 10-11.

and laboratory accreditation bodies can be relied upon for purposes of our equipment authorization program. In particular, stakeholders must be able to evaluate any ownership interest concerns that may be raised regarding an entity's impartiality or trustworthiness, particularly with regard to potential influence by entities that raise national security concerns. We also find that such ownership information could be relevant going forward to establishing appropriate "qualifications and standards" under section 302(e) of the Act regarding private entities to which the Commission has delegated and entrusted certain responsibilities as part of its equipment authorization program.<sup>250</sup> Such data could also be instructive in other efforts to bolster the integrity of the equipment authorization program, such as ensuring that TCBs are complying with applicable impartiality requirements and rules targeted at ensuring they are not owned or controlled by a manufacturer whose equipment they must examine.<sup>251</sup>

82. *Certification Requirement.* To implement our prohibition on recognition of TCBs, test labs, and laboratory accreditation bodies that are subject to ownership or direction or control of a prohibited entity, we adopt the proposal that, no later than 30 days after the effective date of the rules adopted in this proceeding, recognized TCBs, test labs, and laboratory accreditation bodies must certify that no prohibited entity has, possesses, or otherwise controls an equity or voting interest of 10% or more. We also require that recognized TCBs, test labs, and laboratory accreditation bodies certify compliance with these rules and submit the requested ownership information along with the request for recognition and within 30 days after any relevant change. Because ownership interests evolve over time, and the lists of prohibited entities are subject to modification, the Commission believes that change-dependent certification and reporting requirements, along with regular confirmation, are critical to verifying the integrity of TCBs, test labs, and laboratory accreditation bodies. We recognize that relevant entities would need time to consider their options when there is a change to any of the lists that make up the prohibited entities resulting in the addition of an entity. To allow TCBs, test labs, and laboratory accreditation bodies to fully assess their ownership considerations, the Commission will require compliance with the relevant certification requirements no later than 90 days after the effective date of such changes to the prohibited entities.

83. *Reporting Requirement.* We also adopt a requirement that all recognized TCBs, test labs, and laboratory accreditation bodies report, within 90 days after the effective date of the rules, all equity or voting interests of 5% or greater by any entity. We further require that recognized TCBs, test labs, and laboratory accreditation bodies submit an updated report with the request for recognition and within 30 days after any change to entities that own 5% or more of its equity or voting interests. We recognize that the current 10% ownership threshold may not capture all of the information necessary to adequately assess whether a TCB, test lab, or laboratory accreditation body is owned by, controlled by, or subject to the direction of a prohibited entity. In certain instances, an entity holding less than 10% of direct or indirect ownership may nonetheless be able to exert direction or control over a TCB, a test lab, or a laboratory accreditation body. For example, where enhanced voting rights are present, such an entity may possess disproportionate decision-making power relative to its ownership stake. To balance the need to protect national security while minimizing undue reporting burden, we expand our current reporting requirement and adopt a requirement that all recognized TCBs, test labs, and laboratory accreditation bodies, or those seeking recognition, report all equity or voting interests of 5% or greater by any entity. A

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<sup>250</sup> 47 U.S.C. § 302a(e) (providing that the Commission may authorize the use of private organizations for testing and certifying the compliance of devices and that the Commission may "establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification").

<sup>251</sup> Pursuant to the provisions of the ISO/IEC 17065 standard, TCBs must meet numerous requirements, including ensuring impartiality; having an appropriate organizational structure and management; ensuring the competence of its personnel; establishing effective processes for application review, evaluation, and certification; and maintenance of records. *See generally* ISO/IEC 17065. For instance, regarding impartiality, the standard provides that the certification body, here the TCB, "shall be responsible for the impartiality of its certification activities, and shall not allow commercial, financial or other pressures to compromise impartiality." ISO/IEC 17065, section 4.2.2. TCBs must structure and manage their certification activities so as to safeguard impartiality. *See, e.g., id.* sections 5.1.1, 5.2, Annex A.2 ("Impartiality").

reporting threshold of 5% would be consistent with the ownership threshold used by the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector (Committee) in its review of certain applications.<sup>252</sup> For instance, in the *2021 Standard Questions Order*, the Commission noted the views of Committee staff that, “5% threshold is appropriate because in some instances a less-than-ten percent foreign ownership interest—or a collection of such interests—may pose a national security or law enforcement risk.”<sup>253</sup> The Commission, based on the views of Committee staff,<sup>254</sup> agreed that a 5% ownership reporting threshold is appropriate with respect to the Standard Questions.<sup>255</sup> Given the Committee’s expertise in assessing national security and law enforcement risks associated with foreign ownership interests, we find its reliance on a 5% threshold lends further support to our decision to adopt the same. We conclude that a 5% reporting threshold would position the Commission to more easily identify foreign interests and their possible control.

84. A reporting threshold of 5% would also be consistent with requirements imposed by other agencies, such as the Securities and Exchange Commission (SEC). The SEC Exchange Act Rule 13d-1 requires a person or “group” that becomes, directly or indirectly, the “beneficial owner” of more than 5% of a class of equity securities registered under section 12 of the Exchange Act to report the acquisition to the SEC.<sup>256</sup> We further note that various SEC forms filed by issuers, including their annual

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<sup>252</sup> The types of applications the Commission generally refers to the Committee include applications for international section 214 authorizations and submarine cable landing licenses and applications to assign, transfer control of, or modify such authorizations and licenses where the applicant has reportable foreign ownership, and petitions for section 310(b) foreign ownership rulings for broadcast, common carrier wireless, and common carrier satellite earth station licenses. 47 CFR § 1.40001(a)(1); *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, IB Docket No. 16-155, Report and Order, 35 FCC Rcd 10927, 10935-38, paras. 24-28 (2020) (setting out which types of applications will generally be referred to the Executive Branch, but noting the Commission retains the discretion to refer additional types of applications if it finds that the specific circumstances of an application require the input of the Executive Branch as part of its public interest determination of whether an application presents national security, law enforcement, foreign policy, or trade policy concerns.); *see infra* note 254 (discussing the establishment of the Committee).

<sup>253</sup> *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Second Report and Order, FCC 21-104, 36 FCC Rcd 14848, 14856-57, para. 16 (*2021 Standard Questions Order*) (citing Letter from Francis Gutierrez, Deputy Chief, Telecommunications and Analysis Division, International Bureau, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 16-155, at 2 (filed Sept. 7, 2021)).

<sup>254</sup> *See* Executive Order No. 13913 of April 4, 2020, Establishing the Committee for the Assessment of Foreign Participation in the United States Telecommunications Services Sector, 85 Fed. Reg. 19643, 19643-44 (Apr. 8, 2020) (Executive Order 13913) (establishing the “Committee,” composed of the Secretary of Defense, the Secretary of Homeland Security, and the United States Attorney General, who serves as the Chair, and the head of any other executive department or agency, or any Assistant to the President, as the President determines appropriate (Members), and also providing for Advisors, including the Secretary of State, the Secretary of Commerce, and the United States Trade Representative); *id.* at 19643 (stating that, “[t]he security, integrity, and availability of United States telecommunications networks are vital to United States national security and law enforcement interests”).

<sup>255</sup> *See 2021 Standard Questions Order*, 36 FCC Rcd at 14855-57, paras. 14-17 (“The Committee staff states that a group of foreign entities or persons, each owning nine percent and working together, could easily reach a controlling interest in a company without having to disclose any of their interests to the Committee for certain FCC application types.”).

<sup>256</sup> *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, GN Docket No. 15-236, Report and Order, 31 FCC Rcd 11272, 11293, para. 45 (2016) (*2016 Foreign Ownership Report and Order*). Exchange Act Rule 13d-3(a) defines a beneficial owner of a security to include any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, or otherwise has or shares voting power, which includes the power to vote, or to direct the voting of, such security; and/or investment power, which includes the power to dispose, or to direct the disposition of, such security. *Id.* at n.128; 17 CFR § 240.13d-3(a). Exchange Act Rule 13d-1(i) defines the term “equity security” as any equity security of a class which is registered pursuant to section 12 of that Act as well as certain equity securities of insurance companies and equity securities issued by closed-end investment

(continued....)

reports (or proxy statements) and quarterly reports, require the issuer to include a beneficial ownership table that contains, *inter alia*, the name and address of any individual or entity, or “group,” who is known to the issuer to be the beneficial owner of more than 5% of any class of the issuer’s voting securities.<sup>257</sup> Finally, a reporting threshold of 5% is also consistent with the standards adopted by the Committee on Foreign Investment in the United States (CFIUS),<sup>258</sup> which reviews certain transactions involving foreign acquisitions of U.S. businesses.<sup>259</sup>

85. We are mindful of the caution from commenters against placing overly burdensome restrictions on TCBs or test labs. However, we consider this type of information collection to be routine in many contexts and find that these obligations are an appropriate and not unduly burdensome means of enabling the Commission to confirm compliance with the ownership prohibitions and to more easily identify closely associated entities of TCBs, test labs, and laboratory accreditation bodies seeking to participate in the equipment authorization program. As aforementioned, the Commission and other government agencies commonly adopt rules to identify direct or indirect ownership or control of entities by third parties to address various concerns including national security.<sup>260</sup> We conclude that ascertaining the holders of 5% or more of the direct or indirect ownership should not present a substantial burden because it is reasonable to conclude that a privately held company would be aware of its investors and would maintain record of such information in the ordinary course of business, while for publicly held companies, the information on persons holding 5% or more of any class of equity security should be generally available to the public.<sup>261</sup> We recognize that relevant entities would need time to consider their options when there is a change to any of the lists that make up the prohibited entities resulting in the addition of an entity. To allow TCBs, test labs, and laboratory accreditation bodies to fully assess their

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companies registered under the Investment Company Act of 1940. *2016 Foreign Ownership Report and Order*, 31 FCC Rcd at 11293, n.128; 17 CFR § 240.13d-1(i).

<sup>257</sup> *2016 Foreign Ownership Report and Order*, 31 FCC Rcd at 11294, n.130; see SEC Regulation S-K, 17 CFR § 229.403; see also 17 CFR § 229.10.

<sup>258</sup> CFIUS is “an interagency committee authorized to review certain transactions involving foreign investment in the United States and certain real estate transactions by foreign persons, in order to determine the effect of such transactions on the national security of the United States.” U.S. Department of Treasury, *The Committee on Foreign Investment in the United States (CFIUS)*, <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius> (last visited Mar. 24, 2025); see U.S. Department of Treasury, *CFIUS Overview*, <https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius/cfius-overview> (last visited Mar. 24, 2025).

<sup>259</sup> See 31 CFR §§ 800.501, 800.502(c)(1)(v)(C), 802.501, 802.502(b)(1)(vi)(C).

<sup>260</sup> For example, applicants seeking a new FCC satellite license, modification of a satellite license, or the assignment or transfer of a satellite license must disclose certain information both about foreign ownership and corporate ownership. See Form 312, questions 29-34 and 40; see generally 47 U.S.C. 310; 47 CFR §§ 1.2112; 25.114. The Commission’s rules also require the disclosure of ownership information and information about foreign carrier affiliation in applications for international section 214 authority. 47 CFR § 63.18(h), (i). With respect to wireless licenses, there are a number of rules requiring applicants and/or licensees to disclose certain information on ownership and control, including regarding foreign ownership. See, e.g., FCC Form 601, questions 28, 44-47 (requesting information regarding corporate and foreign ownership); FCC Form 602 (used by applicants or licensees subject to the ownership reporting requirements of 47 CFR § 1.2112 to provide ownership information); FCC Form 603 (requesting corporate and foreign ownership information of parties seeking transfers or assignments of wireless licenses); and FCC Form 608 (requesting corporate and foreign ownership information of applicants seeking approvals to lease wireless licenses); see generally 47 CFR §§ 1.2112(a); see also 47 CFR §§ 1.9020, 9030, and 9035 (regarding spectrum leases). Similarly, with respect to radio and local television licenses, the Commission’s media ownership rules require extensive disclosure of information. See, e.g., 47 CFR §§ 73.3555, 73.3615, 74.797.

<sup>261</sup> 15 U.S.C. § 78m(d)(1).

ownership considerations, the Commission will require compliance with the relevant reporting requirements no later than 90 days after the effective date of such an addition of prohibited entities.

86. *Recordkeeping requirements.* In order to implement the prohibition, for purposes of SDoC authorization, on the use of test labs that are owned by, controlled by, or subject to the direction of a prohibited entity, we adopt a requirement that parties seeking equipment authorization pursuant to the SDoC process maintain a record that the entity performing the testing conducted pursuant to the SDoC process is not owned by, controlled by, or subject to the direction of a prohibited entity. Specifically, parties availing themselves of the SDoC process must maintain a record that no prohibited entity has, possesses, or otherwise controls an equity or voting interest of 5% or more in the test lab performing the testing conducted pursuant to the SDoC process. This requirement will help to ensure that responsible parties<sup>262</sup> perform the due diligence necessary to compile the required record and determine that the test lab is eligible to participate in our equipment authorization program pursuant to the rules we adopt today.<sup>263</sup> We also find, and agree with CTA, that this requirement will not meaningfully raise the cost and complexity of the SDoC process.<sup>264</sup> As with test labs seeking FCC recognition, we believe this type of ownership information would be retained by the test lab in the ordinary course of business. For these reasons, we modify section 2.938(b)(2) of our rules to adopt this requirement. We recognize that relevant entities would need time to consider their options when there is a change to any of the lists that make up the prohibited entities resulting in the addition of an entity. To allow TCBs, test labs, and laboratory accreditation bodies to fully assess their ownership considerations, the Commission will require compliance with the relevant recordkeeping requirements no later than 90 days after the effective date of such changes to the prohibited entities. To make determinations regarding the continued acceptability of TCBs, test labs, and laboratory accreditation bodies, the Commission may also request additional information regarding the test site, the test equipment, or the qualifications of the company or individual performing the tests for the SDoC process, including documentation identifying any entity that holds a 5% or greater direct or indirect equity or voting interest in the test lab, company, or individual performing the testing.<sup>265</sup>

87. *Reporting subsidiaries and affiliates of Covered List entities.* The Commission proposed in the *EA Integrity NPRM* to require that every entity specifically named on the Covered List must provide to the Commission information regarding all of its subsidiaries and affiliates, not just those subsidiaries and affiliates that produce “covered” equipment, pursuant to § 2.903(b).<sup>266</sup> The Commission stated that this proposal would be in keeping with the certification and reporting requirements for test labs and TCBs discussed above.<sup>267</sup> We did not receive comment directed at this proposal.

88. We adopt this proposal and require that every entity specifically named on the Covered List must provide to the Commission information regarding all of its subsidiaries and affiliates. The Commission has previously explained that in adopting rules and procedures to prohibit authorization of “covered” equipment, it is critical for the Commission, applicants for equipment authorizations, TCBs, and other interested parties to have the requisite, transparent, and readily available information of the particular entities that in fact are associated with the named entities on the Covered List.<sup>268</sup> In light of the rules we adopt today, it is now critical that the Commission and all stakeholders have complete information regarding all of the subsidiaries and affiliates of Covered List entities in order for the

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<sup>262</sup> See 47 CFR § 2.909(b).

<sup>263</sup> See CTA Comments at 4.

<sup>264</sup> CTA Comments at 3-4.

<sup>265</sup> See 47 CFR § 0.241(f), (g).

<sup>266</sup> *EA Integrity NPRM*, para. 41.

<sup>267</sup> *Id.*

<sup>268</sup> *EA Security R&O*, 37 FCC Rcd at 13566, para. 185.

Commission, applicants for equipment authorization, TCBs, and others to make determinations about which entities may be relied upon for purposes of the Commission's equipment authorization program. Requiring this information is reasonable and justified in keeping with our goal of effectively ensuring that "covered" equipment determined as posing an unacceptable risk to national security under the Secure Networks Act, and prohibited from authorization under the Secure Equipment Act, is not authorized, and helps to ensure that the Commission meet the mandate in the Secure Equipment Act that the Commission not approve the grant of any "covered" equipment.<sup>269</sup>

89. Accordingly, we require each entity specifically named on the Covered List to submit a complete and accurate list to the Commission, within 30 days after the effective date of the rules, identifying all subsidiaries and affiliates. For each associated entity (e.g., subsidiary or affiliate), the entity named on the Covered List must provide the following information: the full name, mailing address or physical address (if different from mailing address), e-mail address, and telephone number of each of that named entity's associated entities (e.g., subsidiaries or affiliates). As before, named entities must provide up-to-date information on any changes to the list, and if there are changes, the named entity must submit such updated information to the Commission within 30 days after the change(s), and indicate the date on which the particular change(s) occurred. Furthermore, when the Covered List is updated, any newly named entity must submit the required information for associated entities within 30 days after its inclusion on the Covered List. These submissions must be reported by an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of the named entity on the Covered List with personal knowledge verifying the truth and accuracy of the information provided about the entity's associated entities. The affidavit or declaration must comply with section 1.16 of the Commission's rules.<sup>270</sup> We direct the Office of Engineering and Technology to make the lists of affiliates and subsidiaries available to the public for review and inspection.

90. *Defining "own" for purposes of identifying affiliates.* The Commission also proposed in the *EA Integrity NPRM* to revise the term "own," in the context of determining what is an "affiliate" of an entity named on the Covered List, from ownership of more than 10 percent to ownership of 10 percent *or more*.<sup>271</sup> We received only one comment relevant to this revision. A2LA observed that the current definition of "affiliate" uses an ownership threshold of "more than 10 percent," while the rule as proposed uses a threshold of 10% or more, and asked for clarity as to the threshold.<sup>272</sup>

91. We adopt the revision as proposed. Specifically, we revise our rules such that the term "own" in the context of determining what is an "affiliate" of an entity named on the Covered List means to "have, possess, or otherwise control an equity or voting interest (or the equivalent thereof) of 10 percent *or more*."<sup>273</sup> We observe first that the Commission is not bound, here, by a particular statutory definition of the term "affiliate." Rather, while the Communications Act generally defines the terms "affiliate" and "own," and there "own" means "to own an equity interest (or the equivalent thereof) of

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<sup>269</sup> *See id.* We note that the Commission may require information that is otherwise kept confidential to be submitted to it and may publicly reveal that information when, on balance, it is in the public interest to do so. 47 U.S.C. § 154(j); *FCC v. Schreiber*, 381 U.S. 279, 291-92 (1965); *Applications of Charter Communications, Inc., Time Warner Cable Inc., and Advance/Newhouse Partnership for Consent to Assign or Transfer Control of Licenses and Authorizations*, Order, 30 FCC Rcd 10360, 10365-67, paras. 13, 15 (2015); *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Notice of Inquiry and Notice of Proposed Rulemaking, 11 FCC Rcd 12406, 12414-15, para. 15 (1996).

<sup>270</sup> 47 CFR § 1.16.

<sup>271</sup> The Commission currently defines the term 'own' in this context as to "have, possess, or otherwise control an equity interest (or the equivalent thereof) of more than 10 percent." *EA Security R&O*, para. 183; 47 CFR § 2.903(c).

<sup>272</sup> A2LA Comments at 4.

<sup>273</sup> *See infra* Appendix A (revising 47 CFR § 2.903(c)) (emphasis added).

more than 10 percent,<sup>274</sup> such definitions are applied “unless the context otherwise requires.”<sup>275</sup> The National Defense Authorization Act for Fiscal Year 2019, which designated as “covered telecommunications equipment or services” any telecommunications equipment produced by Huawei or ZTE “or any subsidiary or affiliate of such entities,” and, for certain purposes, video surveillance and telecommunications equipment produced by Hytera, Hikvision, or Dahua “or any subsidiary or affiliate of such entities,” did not define the term “affiliate,”<sup>276</sup> but we believe that the threshold of 10% or more, rather than more than 10%, is most consistent with Congress’s intent because of its use in several other statutory schemes as well as other Commission information collections.<sup>277</sup> We find that the compelling interest in preventing authorization of equipment that may pose an unacceptable risk to national security also justifies using the moderately more expansive definition we adopt today.

#### E. Other Rule Revisions

92. *TCB, test lab, and laboratory accreditation body recognition withdrawal.* The Commission proposed in the *EA Integrity NPRM* that, if a relevant TCB or test lab does not make the certification required in this proceeding, or provides a false or inaccurate certification, we would suspend the recognition of any such TCB or test lab and commence action to withdraw FCC recognition under applicable withdrawal procedures.<sup>278</sup> The Commission also sought comment on whether laboratory accreditation bodies should be subject to additional requirements.<sup>279</sup> With regard to withdrawal of recognition of test labs, we received one comment directly relevant to this proposal. A2LA suggested that the Commission employ different levels of sanctions for different violations, such as harsher penalties for intentional violations of FCC requirements. Further, A2LA asked the Commission to consider offering test labs the opportunity to remediate an otherwise prohibited ownership threshold before withdrawing recognition.<sup>280</sup>

93. Inherent in the authority to recognize a TCB, test lab, or laboratory accreditation body is the authority to withdraw or cease such recognition when a TCB, test lab, or laboratory accreditation body does not comply with our requirements. Accordingly, we adopt rules specifying that the Commission will withdraw our recognition of a TCB, test lab, or laboratory accreditation body, if the TCB, test lab, or laboratory accreditation body is owned by, controlled by, or subject to the direction of a prohibited entity; fails to provide, or provides a false or inaccurate, certification that it is not owned by, controlled by, or subject to the direction of a prohibited entity or, similarly, fails to provide, or provides a false or inaccurate, report regarding entities with more than 5% ownership.<sup>281</sup> Although we believe that such ownership, control, or direction, a failure to report, or providing a false or inaccurate report, would constitute “just cause” that would permit revocation under existing rules,<sup>282</sup> we take the opportunity here to codify it as an explicit basis for revocation and to provide a more streamlined process for resolution. We find this is necessary to adequately ensure the integrity of our equipment authorization program. It is also consistent with existing obligations on TCBs, test labs, and laboratory accreditation bodies and the

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<sup>274</sup> 47 USC § 153(2).

<sup>275</sup> 47 USC § 153.

<sup>276</sup> National Defense Authorization Act for Fiscal Year 2019, Pub L. 115-232, 132 Stat. 1636, 1918 § 889(f)(2)-(3) (2019 NDAA).

<sup>277</sup> See *supra* Section III.C.1.

<sup>278</sup> *EA Integrity NPRM*, para. 41.

<sup>279</sup> *EA Integrity NPRM*, para. 53.

<sup>280</sup> *Id.* (lesser sanctions than withdrawal of recognition might include directed plans of corrective action, civil monetary penalties, or onsite monitoring prior to withdrawal of recognition).

<sup>281</sup> See *infra* Appendix A, § 2.962(e)(2)(i)(D).

<sup>282</sup> 47 CFR §§ 2.962(e)(2)-(3), 2.962(f)(1). See *FIRS Ex Parte* at 6.

Commission's rules regarding withdrawal of recognition of a TCB for just cause or if the TCB is not certifying equipment in accordance with the Commission's rules and policies.<sup>283</sup>

94. Our rules already specify the procedures the Commission will follow when withdrawing recognition of a TCB. We adopt similar rules here, specific to withdrawal of recognition of a TCB, test lab, or laboratory accreditation body, if the TCB, test lab, or laboratory accreditation body is owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; fails to provide, or provides a false or inaccurate, certification that it is not owned by, controlled by, or subject to the direction of a prohibited entity or, similarly, fails to provide, or provides a false or inaccurate, report regarding entities with more than 5% ownership. The procedure for such withdrawal is consistent with that explained in the *EA Integrity NPRM* and already employed by OET in taking action to suspend or deny the recognition of a test lab apparently owned by an entity on the Covered List.<sup>284</sup> In any instance in which the Commission or OET, acting on delegated authority, has a reasonable basis for determining that a TCB, test lab, or laboratory accreditation body is owned by, controlled by, or subject to the direction of a prohibited entity, or fails to provide or provides a false or inaccurate, certification of such, we direct OET to issue a letter to the TCB, test lab, or laboratory accreditation body notifying it of the FCC's intent to withdraw or deny recognition. The letter will request explanation or correction of any apparent deficiencies, and for the TCB, test lab, or laboratory accreditation body to show cause it should be allowed recognition, within 30 days after the date of correspondence. We direct OET to withdraw or deny recognition of any TCB, test lab, or laboratory accreditation body that fails, in OET's determination, to timely reply, to adequately explain or correct any deficiencies, or to show cause. OET will issue a public notice of withdrawal of recognition of any TCB, test lab, laboratory accreditation body.

#### F. Other NPRM Proposals

95. *TCB Post-market surveillance.* In the *EA Integrity NPRM*, the Commission invited comment on whether to revise the post-market surveillance rules, policies, or guidance to require surveillance of authorized equipment for compliance relating to the prohibition on authorization of "covered" equipment.<sup>285</sup> In particular, we sought comment on reasonable practices TCBs could implement to identify erroneous authorizations of "covered" equipment, whether to change the post-market surveillance requirements to require that TCBs review grants by other TCBs, whether to require that any post-market surveillance be done only by FCC-recognized labs in the United States or MRA countries, and other measures the Commission might take to strengthen the integrity of the post-market surveillance process.

96. We received comments directed at this proposal from one commenter. TIC "fores[aw] challenges" leveraging post-market surveillance to identify erroneous authorizations – particularly if used to monitor for authorized equipment that is discovered post-authorization to be ineligible – because TCBs rely on attestations and information from the Commission to assess whether a grantee is ineligible based on the Covered List, and TCBs are unlikely to have more information than the Commission.<sup>286</sup> TIC also said that it is unlikely that changes in eligibility would be discovered during the "relatively short" post-market surveillance look-back period of 12 to 18 months.<sup>287</sup> Finally, TIC noted that TCBs have "limited" resources and skills to perform the organizational and financial analysis necessary for

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<sup>283</sup> 47 CFR §§ 2.962(e)(2)-(3), 2.962(f)(1).

<sup>284</sup> See, e.g., *EA Integrity NPRM*, para. 25; Letter from Hermes, Jihad, Electronics Engineer, Laboratory Division, FCC Office of Engineering and Technology, to Global Compliance and Testing Center of Huawei Tec (April 22, 2024).

<sup>285</sup> *EA Integrity NPRM*, para. 43.

<sup>286</sup> TIC Comments at 5-6.

<sup>287</sup> TIC Comments at 6.

identifying manufacturers impermissibly connected to the Covered List, and believes the Commission is in a superior position to request, track, and review such information.<sup>288</sup>

97. The purpose of post-market surveillance is to reassess compliance of the product with the Commission's rules.<sup>289</sup> While OET guidance provides that evaluation against all of the Commission's rules is not required, sufficient testing must be performed to allow the TCB to evaluate those requirements most likely to be in non-compliance, and to provide a high level of confidence that the sample complies with the Commission's rules, including our rules on authorizations prohibited by virtue of the Covered List. Accordingly, TCBs must consider compliance with the rules we adopt today when reviewing and deciding whether a product subject to post-market surveillance complies with applicable Commission rules. Consistent with our rules, should the TCB find that a sample fails to comply with Commission requirements, the TCB is required to immediately notify the grantee and the Commission in writing of its findings.<sup>290</sup> We therefore expect that the existing post-market surveillance process, even absent any changes, will help ensure that prohibited equipment is not authorized.

98. We will not at this time revise our rules related to post-market surveillance but seek further comment on doing so in the Further Notice portion of this proceeding. We believe the rules we adopt today will be a significant measure in ensuring the integrity of test labs and TCBs that participate in our equipment authorization program and preventing the authorization of equipment that poses an unacceptable risk to national security. Nevertheless, we may revisit this decision as our rules are implemented and we learn more about the potential influence of untrustworthy actors in the program.

99. *Accreditation and reassessment of TCBs.* We sought comment in the *EA Integrity NPRM* on whether the Commission should clarify or revise its rules or procedures concerning the accreditation of TCBs to ensure that the TCBs can meet their responsibilities.<sup>291</sup> In particular, the Commission sought comment on what particular steps or procedures in the accreditation process could be implemented to examine how TCBs are structured, owned, or managed to safeguard impartiality and otherwise ensure that commercial, financial, or other pressures do not compromise impartiality on certification activities concerning prohibited equipment authorization.<sup>292</sup> The Commission also proposed that, if we were to revise any such rules or procedures, the changes would also apply to reassessments required for continued accreditation,<sup>293</sup> and sought comment on whether to provide additional clarity on the reassessment process. Further, the Commission sought comment on whether any such changes may implicate U.S. international agreements such as MRAs, and asked any commenters that proposed further clarification or revisions to address any implications under the existing MRAs and whether and how to implement any suggested changes.<sup>294</sup>

100. We received two comments relevant to TCB accreditation procedures. As noted above, A2LA said that ownership assessments for certification bodies should not be the responsibility of

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<sup>288</sup> TIC Comments at 6 (currently, grantee codes are issued by the Commission without a review of ownership information, and without a renewal requirement).

<sup>289</sup> FCC Office of Engineering and Technology, *KDB 610077, TCB Post-Market Surveillance*, at 3 (Apr. 26, 2022) (“The sample [of the authorized product] shall be evaluated by the TCB to determine compliance with the Commission's Rules.”), <https://apps.fcc.gov/oetcf/kdb/forms/FTSsearchResultPage.cfm?id=20540&switch=P>.

<sup>290</sup> 47 CFR § 2.962(g)(5)

<sup>291</sup> *EA Integrity NPRM*, paras. 46-47.

<sup>292</sup> ISO/IEC 17065, sections 4.2.2, 5.1.1, and 5.2. See also, *id.*, Annex A (“Impartiality”).

<sup>293</sup> Under our rules, each TCB must be reassessed for continued accreditation at least every two years. 47 CFR § 2.962(c)(7).

<sup>294</sup> *EA Integrity NPRM*, para. 46.

accreditation bodies as they lack the necessary expertise in financial analysis or auditing.<sup>295</sup> TIA asked that the Commission provide notice and timelines for accreditation and reassessments.<sup>296</sup>

101. We do not believe it necessary to clarify our rules regarding accreditation and reassessment of TCBs at this time, for the following reasons. First, we note that the standard to which TCBs are accredited, ISO/IEC 17065, already requires that certification activities by TCBs be “undertaken impartially” and contains provisions intended to ensure impartiality, including regarding the management, structure, and personnel of the TCB, and TCBs are required to have a mechanism to ensure impartiality.<sup>297</sup> Second, insofar as the existing impartiality requirements are insufficient, the rules we adopt today will help to ensure the impartiality of TCBs and prevent undue influence on them by entities that pose a risk to national security and other untrustworthy actors. They will also improve Commission oversight over the entities that participate in our equipment authorization program and provide information that will help in determining whether and what further changes to our equipment authorization program may be necessary, including with regard to accreditation and reassessment of TCBs. Third, while the Commission has experience in recognizing TCBs, the Commission is not directly involved in the accreditation of TCBs,<sup>298</sup> so we are better positioned to effectuate our aims in this proceeding through amendments and clarifications to recognition processes, as we do herein.

102. *FCC recognition of TCBs.* We sought comment in the *EA Integrity NPRM* on whether the Commission should consider revisions to the rules or processes by which the Commission recognizes a TCB following its initial accreditation, or the process by which accreditation is subsequently extended on a periodic basis, including any further review the FCC would do to continue to recognize an accredited TCB.<sup>299</sup> In particular, the Commission sought comment on whether we should make any clarifications or changes to the FCC recognition rules or procedures to better ensure that TCBs have the capacity and procedures to meet their obligations under Commission rules, including any requirements adopted in this proceeding.<sup>300</sup> We did not receive comments directly responsive to these inquiries.

103. We adopt the requirement proposed in the *EA Integrity NPRM* that TCBs must have an organizational and management structure in place, including personnel with specific training and

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<sup>295</sup> A2LA Comments at 3 (suggesting that TCBs or test labs could instead be required to self-report ownership interests, potentially to the Department of Commerce for review).

<sup>296</sup> TIA Comments at 6 (further advocating that the Commission should also provide notice and timelines for potential revocation of TCB and laboratory accreditation).

<sup>297</sup> ISO/IEC 17065, sections 4.2 (“Management of impartiality”) (providing in part that the certification body shall have top management commitment to impartiality), 5.1 (“Organizational structure and top management”) (specifying that certification activities shall be structured and managed so as to safeguard impartiality), 5.2 (“Mechanism for safeguarding impartiality”) (requiring that the certification body have a mechanism for safeguarding impartiality), Annex A.2 (“Impartiality”) (specifying that certification bodies and their personnel be and be perceived as impartial, and identifying various risks to impartiality).

<sup>298</sup> Accreditation of TCBs in the United States is the responsibility of NIST, or NIST’s designated accreditor, while accreditation of TCBs in MRA-partnered countries outside the United States is the responsibility of the designating authority in that country. See 47 CFR § 2.960(b), (c).

<sup>299</sup> See 47 CFR §§ 2.960, 2.962. Under current rules, the Commission will recognize as a TCB any organization in the United States that meets the qualification criteria and is accredited and designated by NIST or NIST’s recognized accreditor. 47 CFR § 2.962(e)(1)(i). Additionally, the Commission will recognize as a TCB any organization outside the United States that meets the qualification criteria and is designated pursuant to the applicable bilateral or multilateral MRA. 47 CFR § 2.962(e)(1)(ii).

<sup>300</sup> *EA Integrity NPRM*, para. 48. We note that the Commission sought comment both as to changes that should be considered concerning initial recognition of a TCB and concerning continued recognition following any periodic reassessment or reaccreditation of a TCB. *Id.* The Commission also asked that, to the extent that commenters suggest any changes to the rules or procedures, they address any implications for MRAs applicable to equipment certification. *Id.*

expertise, to verify that no authorization is granted for any equipment that is listed on the Covered List.<sup>301</sup> We do not believe this represents a substantial burden for TCBs, as TCBs are required to certify equipment in accordance with the Commission's rules and policies<sup>302</sup> and equipment on the Covered List is already prohibited from obtaining FCC equipment authorization.<sup>303</sup> Therefore, TCBs should already have the means, including the requisite organizational structure and personnel, to determine when authorizations are prohibited under our rules.

104. We are otherwise confident that TCBs, which as noted must already be capable of understanding and applying the Commission's rules and policies in order to participate in our equipment authorization program, will be capable of interpreting and implementing the requirements we adopt today, and that they will have the requisite information to do so pursuant to the certification and reporting requirements for test labs that we have established. As such, we do not believe further revision of our rules regarding recognition of TCBs is necessary at this time. We will monitor implementation of the rules we adopt today and may later revisit this question.

105. *Procedures for withdrawing FCC recognition of a TCB.* In the *EA Integrity NPRM* we invited comment on the Commission's rules and policies regarding withdrawal of FCC recognition of a TCB,<sup>304</sup> in particular as to the procedures by which the Commission would withdraw recognition of a TCB,<sup>305</sup> and whether and to what extent any changes would affect MRAs.<sup>306</sup>

106. One commenter addressed the Commission's procedures for withdrawing recognition of a TCB. Specifically, TIA commented that if the Commission revokes the authority of a TCB, the FCC should provide clear guidelines and procedures, including notice and timelines, to allow manufacturers sufficient time to plan alternative testing arrangements.<sup>307</sup> Further, to prevent disruption to manufacturers and existing contracts, such revocations should be prospective, not retroactive – that is, if a manufacturer has engaged in certification with a recognized TCB, the Commission should not retroactively revoke authorizations from a TCB that were granted based on an existing recognition.<sup>308</sup>

107. We find that, with the revisions we adopt today, our rules are sufficiently clear regarding the procedures by which the Commission will withdraw recognition of a TCB, and provide TCBs with ample time to respond to the Commission's concerns. Specifically, § 2.962(e)(2) of our existing rules states that the Commission will notify a TCB in writing of our intention to withdraw the TCB's recognition. We maintain that procedure and adopt a withdrawal procedure specific to instances where the TCB is found to be owned by, controlled by, or subject to the direction of a prohibited entity pursuant

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<sup>301</sup> *EA Integrity NPRM*, Appendix A.

<sup>302</sup> 47 CFR § 2.962(f)(1).

<sup>303</sup> 47 CFR § 2.903(a).

<sup>304</sup> *EA Integrity NPRM*, para. 49. Under current rules, the Commission will withdraw recognition of a TCB if its designation or accreditation is withdrawn, if the Commission determines that there is "just cause" for withdrawing the recognition, or if the TCB requests that it no longer be designated or recognized. 47 CFR § 2.962(e)(2).

<sup>305</sup> Current rules provide that the Commission will notify a TCB in writing when it has concerns or evidence that the TCB is not certifying equipment in accordance with the Commission rules and policies, and request that the TCB explain and correct any deficiencies. 47 CFR § 2.962(e)(3). The rules also provide particular procedures for withdrawal, including notification requirements such as providing TCBs at least 60 days to respond. 47 CFR § 2.962(e)(2). To the extent the TCB was designated and recognized pursuant to an MRA, the Commission must consult with the U.S. Trade Representative, as necessary, concerning any disputes involving the Telecommunications Trade Act of 1988. *Id.*

<sup>306</sup> *EA Integrity NPRM*, para. 50.

<sup>307</sup> TIA Comments at 4-6; TIA Reply Comments at 4.

<sup>308</sup> *Id.* (the Commission should not later punish manufacturers that relied on certifications from TCBs that were granted based on existing recognition).

to § 2.902; fails to provide, or provides a false or inaccurate, certification, as required in this section; or that fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required in this section. In such instances, OET will notify a TCB in writing of its intention to withdraw the TCB's recognition and provide at least 30 days for the TCB to respond.. We find that the potential harm posed by such TCBs, as discussed throughout this proceeding, necessitates a more streamlined process for withdrawal of recognition so as to ensure timely removal from participation in our equipment authorization process.<sup>309</sup> Further, as discussed in this proceeding, we expect the relevant information would be maintained by the TCB in the ordinary course of business thereby presenting minimal burden to disclose whereas other reasons for withdrawal of recognition are likely to be related to technical functions of the entity, which could require more time for resolution. While the Commission is not in a position to inform every equipment manufacturer that may be seeking authorization through that TCB that the Commission may withdraw the TCB's recognition, the Commission could request that the TCB so inform parties seeking equipment authorizations, or otherwise make public that the Commission intends to withdraw recognition of a TCB if the Commission believes that withdrawing recognition might disrupt time to market timelines for manufacturers. Further, our rules already provide that if the Commission withdraws recognition of a TCB, all certifications will remain valid unless specifically set aside or revoked by the Commission,<sup>310</sup> effectively addressing concerns of commenters about broad, retroactive revocations of authorizations.

108. *Test lab transparency.* In the *EA Integrity NPRM*, the Commission sought comment on whether additional transparency requirements for test labs are necessary and appropriate in light of the proposals in the NPRM.<sup>311</sup> We received one comment. Heritage commented that while test labs are reassessed every two years, that is "too lengthy" a time period for change in ownership disclosures, noting that the Securities and Exchange Commission requires quarterly and annual earnings reports from publicly traded companies.<sup>312</sup>

109. In response to Heritage's comment, we note that recognized TCBs, test labs, and laboratory accreditation bodies will be required to provide updated certifications or documentation regarding their ownership within 30 days after the effective date of the rules, within 30 days after any relevant change, and thereafter with the request for recognition. Should these mechanisms prove insufficient to protect the certification and SDoC equipment authorization procedures under the rules we adopt today, we may consider additional transparency measures in the future. We will, therefore, not at this time require additional transparency measures.

110. *Test labs in non-MRA countries.* The Commission sought comment in the *EA Integrity NPRM* on whether, in light of evolving national security concerns, we should revisit our rules and procedures for recognizing test labs with regard to some or all of the countries that do not have an MRA with the United States, and asked specifically whether to no longer recognize any test lab that is located in a "foreign adversary" country that does not have an MRA with the United States.<sup>313</sup>

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<sup>309</sup> See *supra* paras. 55-61.

<sup>310</sup> 47 CFR § 2.962(e)(4).

<sup>311</sup> *EA Integrity NPRM*, para. 52. The Commission also asked that commenters recommending any particular changes address the implications of such changes for existing Commission rules and policies, including the consistency of such changes with ISO/IEC 17025, as well as any potential MRA-related implications. *Id.*

<sup>312</sup> Heritage Comments at 3.

<sup>313</sup> The Commission revised its policies with regard to laboratory accreditation of test labs in non-MRA economies in 2016. *2016 EA MO&O*, 31 FCC Rcd 7426 (2016). To date, the Commission has recognized three laboratory accreditation bodies, all located in the United States, to designate test labs that are located in non-MRA countries. Under our current rules, these bodies accredit test labs based on ISO/IEC 17025, the same standard by which test labs located in the United States and other MRA-partnered countries are accredited. *2016 EA MO&O*, 31 FCC Rcd at 7429, para. 10. The Commission has recognized numerous test labs located in economies that do not have an

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111. TIA commented that changes in testing requirements, including as to test labs in non-MRA countries, could negatively impact the global information and communications technology market, interfere with international trade agreements, and negatively affect U.S. competitiveness.<sup>314</sup> TIA recommended that the Commission should consult with industry and U.S. trade officials to assess the impacts of revoking authorizations from non-MRA countries.<sup>315</sup>

112. While test labs in non-MRA countries may be impacted by the rules we adopt today, we will not at this time take additional action related to these inquiries and directed toward test labs in non-MRA countries. The Commission believes that the rules announced today will mitigate the potential for national security threats arising from test labs in foreign countries. To the extent that the location of the test lab indicates potential ownership of direction or control over the test lab, we observe again that the Commission has limited information at this time about the ownership and control of test labs that participate in our equipment authorization program, and accordingly a limited understanding of the entities that may be under the ownership of, or direction or control over, the lab, and limited ability to forecast the impact of additional prohibitions on our equipment authorization program. Further, any action we take should properly first look to sources and lists of entities that pose a risk to national security compiled by agencies and other bodies with appropriate national security expertise, and it is unclear whether prohibiting test labs based on their location, rather than on the identity of the entities that own, direct, or control the test lab, will accomplish that aim. Nevertheless, the Commission intends to revisit this decision after we have had time to review the ownership information reported by test labs pursuant to the rules we adopt today and assess, in consultation with relevant federal agencies and other sources, the necessity, benefits, and any potential adverse impacts of precluding recognition of test labs on bases other than the one we adopt today.

113. *Use of accredited, FCC-recognized test labs in SDoC process.* The Commission sought comment in the *EA Integrity NPRM* on whether to require that all equipment authorized pursuant to the SDoC process be tested by accredited and FCC-recognized test labs, which could serve to promote the integrity of the program in precluding potentially untrustworthy test labs from participating in the equipment authorization program and serve the national security goals of this proceeding.<sup>316</sup>

114. Some commenters expressed concern about the potential “rolling back” of the successful SDoC program.<sup>317</sup> These commenters say that the SDoC program has been a resounding success that has added efficiency to the equipment authorization program without raising interference or national security concerns, as evidenced by the few enforcement actions related to SDoC devices, and that therefore it is unclear what national security benefit would be derived from so revising the SDoC program.<sup>318</sup> The

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MRA with the United States. A number of these test labs also are owned and controlled by TCBs, which must be located in economies that have entered into MRAs with the United States.

<sup>314</sup> TIA Comments at 8-10.

<sup>315</sup> *Id.*

<sup>316</sup> *Id.* at para. 62. The Commission’s current rules for authorization of equipment through the SDoC process, as modified in 2017, do not require that any requisite testing of equipment be conducted by an accredited, FCC recognized test lab. *Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment*, ET Docket No. 15-170, Report and Order, 32 FCC Rcd 8746, 8749-51, paras. 4, 7-8 (2017).

<sup>317</sup> TIA Comments at 6.

<sup>318</sup> TIA Comments at 7-8 (TIA and its members are unaware of any evidence of existing concerns with the integrity of the SDoC procedure, and absent any such specific evidence of misuse further action on SDoC is unwarranted and unnecessary); TIA Reply Comments at 5 (there is no evidence in this proceeding that would justify a departure from the rationales for SDoC the Commission identified in 2017); Consumer Technology Association (CTA) Comments at 1-4 (the proposal to roll back SDoC would not materially enhance national security or value for consumers but would disrupt global testing operations, delaying RF equipment approvals, stifling competition and increasing costs to consumers).

Consumer Technology Association (CTA) suggests that, alternatively, the FCC could require parties seeking equipment authorization to maintain a record that the equipment was not tested by a lab, company, or individual owned by an entity named on the Covered List (or otherwise identified by the lists or processes determined by the outcome of this proceeding).<sup>319</sup> In CTA's view, doing so would preclude the use of such labs for SDoC without raising the cost and complexity for all users of the process.<sup>320</sup>

115. We acknowledge the concerns of commenters and recognize that any changes we adopt herein must be balanced with the significant interest in maintaining the ability of our equipment authorization program to timely review new products and allow compliant products to come to market. In light of the changes we adopt today to promote the integrity of test labs,<sup>321</sup> and the limited record the Commission currently possesses regarding whether and how to amend the current SDoC process, we have determined that we will not at this time require the use of accredited, FCC-recognized labs in the SDoC process. Nevertheless, in light of the persistent and evolving threats posed by untrustworthy actors seeking, among other things, to compromise our networks and supply chains, we will continue to consider whether and what reforms may be necessary to ensure the integrity of our SDoC process and that equipment authorized pursuant to that process does not pose a risk to national security. We further consider this issue in the FNPRM portion of this proceeding.

116. *Location of laboratory accreditation bodies.* The Commission sought comment on whether laboratory accreditation bodies should be located only in the United States or other MRA-partnered countries.<sup>322</sup> We received one relevant comment. A2LA commented that accreditation bodies that meet the competency criteria should be permitted to accredit test labs in the United States, no matter their country of origin, and that this is and should be a reciprocal arrangement among MRA-partners.<sup>323</sup> We will not require that laboratory accreditation bodies be located only in the United States or other MRA-partnered countries because we believe that the rules we adopt today are better suited to ensuring the integrity of the laboratory accreditation bodies participating in the equipment authorization process, and additional requirements are not necessary at this time.

117. *Accreditation and assessment of test labs.* The Commission sought comment in the *EA Integrity NPRM* on the responsibilities and procedures by which FCC-recognized laboratory accreditation bodies conduct their assessment of prospective test labs and determine whether to accredit particular test labs. In part, the Commission asked whether to clarify its recognition requirements with regard to any of the ISO/IEC 17025 standards to ensure that the test lab accreditation process guarantees that test labs are competent and impartial, generate valid test results, and ensure that effective procedures are in place to ensure that test labs meet the ownership, direction, and control requirements adopted in this proceeding.<sup>324</sup> The Commission proposed that if we were to adopt clarifications of any ISO/IEC 17025 principles, we would require that the laboratory accreditation bodies reassess test labs under the new requirements or procedures.<sup>325</sup> The Commission also requested comment on whether to clarify or revise any of the

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<sup>319</sup> CTA Comments at 3-4.

<sup>320</sup> CTA Comments at 4.

<sup>321</sup> In particular, that the prohibition from participation in our equipment authorization program on test labs in which an entity identified on the Covered List has, possesses, or otherwise controls an equity or voting interest of 10% or more precludes the use of such test labs as part of any equipment authorization-related reliance or testing, not only with regard to certification of equipment, but also authorization of equipment pursuant to SDoC procedures. See *supra* para. 29.

<sup>322</sup> *EA Integrity NPRM*, para. 54.

<sup>323</sup> A2LA Comments at 6 (adding that only U.S. based, FCC-approved laboratory accreditation bodies should be permitted to perform assessments of test labs in non-MRA countries).

<sup>324</sup> *EA Integrity NPRM*, paras. 55-57. The Commission also sought comment on any MRA-related issues or concerns that could arise from adoption of any rule revisions. *EA Integrity NPRM*, para. 56.

<sup>325</sup> *EA Integrity NPRM*, para. 56.

Commission's rules or policies concerning assessment of test lab accreditation every two years in order to help ensure implementation of the prohibitions on recognition adopted in this proceeding, and asked whether OET should establish specific procedures for reassessment and recognition of test labs and other potential revisions of our procedures for reassessment, recognition, and revocation.<sup>326</sup>

118. Commenters observed that laboratory accreditation is primarily an assessment of the technical capabilities of the test lab and said that the laboratory accreditation process is "rigorous." A2LA said that accreditation against the ISO/IEC 17025 standard is a technical assessment "limited to activities directly related to the tests on the proposed scope of accreditation" and that assessors are "technical experts in their fields," not financial analysts or other personnel with expertise in examining ownership and financial records.<sup>327</sup> TIC said that the "accreditation process is a thorough assessment of the capacity and competency of the lab and its personnel to understand and perform the testing, as well as to generate accurate test reports that can be relied upon for equipment authorization."<sup>328</sup> TIC also said that the accreditation process is "rigorous, requiring a demonstration of technical competence, an understanding of program rules, and well-established policies and procedures to safeguard objectivity, confidentiality, and impartiality."<sup>329</sup>

119. Based on the record, in which commenters argue that the laboratory accreditation process is adequate, we will not at this time adopt any rules related to these inquiries, but we seek additional comment in the FNPRM portion of this proceeding on certain proposals that were not substantially addressed by commenters.

### G. Cost-Benefit Analysis

120. In this Report and Order, we strengthen our oversight of TCBs, test labs, and laboratory accreditation bodies by adopting new rules that help ensure the integrity of these entities to the extent that they participate in our equipment authorization program. We find that it is critical for national security and the integrity of the supply chain that we prohibit from recognition, or participation in the equipment authorization program by, TCBs, test labs, and laboratory accreditation bodies that are owned by, controlled by, or subject to the direction of a prohibited entity.

121. We recognize that the benefits of protecting U.S. national security, law enforcement, foreign policy, and trade policy interests are difficult to quantify in monetary terms. The difficulty in quantifying these benefits does not, however, diminish their importance. The Commission previously has found that "a foreign adversary's access to American communications networks could result in hostile actions to disrupt and surveil our communications networks, impacting our nation's economy generally and online commerce specifically, and result in the breach of confidential data."<sup>330</sup> Given that our national gross domestic product was over \$29 trillion in 2024,<sup>331</sup> the digital economy accounted for approximately 16% of our economy,<sup>332</sup> and the volume of international trade for the United States (exports and imports)

<sup>326</sup> *Id.*

<sup>327</sup> A2LA Comments at 3.

<sup>328</sup> TIC Comments at 2.

<sup>329</sup> TIC Comments at 1-2.

<sup>330</sup> *2020 Protecting Against National Security Threats Order*, 34 FCC Rcd at 11465, para. 109 (2019).

<sup>331</sup> See Press Release, Bureau of Economic Analysis, U.S. Department of Commerce, Gross Domestic Product (Third Estimate), Corporate Profits, and GDP by Industry, 4<sup>th</sup> Quarter and Year 2024, Table 3 at 9 (Mar. 27, 2025), <https://www.bea.gov/sites/default/files/2025-03/gdp4q24-3rd.pdf>.

<sup>332</sup> Staff estimates that the digital economy accounts for approximately 16% of the U.S. GDP based on the statistics published by the Bureau of Economic Analysis: \$3.7 trillion of digital economy/\$23 trillion U.S. GDP = 16%. See Tina Highfill & Christopher Surfield, Bureau of Economic Analysis, U.S. Department of Commerce, New and Revised Statistics of the U.S. Digital Economy, 2005-2021 (November 2022), <https://www.bea.gov/system/files/2022-11/new-and-revised-statistics-of-the-us-digital-economy-2005-2021.pdf>

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was \$7.3 trillion in 2024,<sup>333</sup> even a temporary disruption in communications could cause billions of dollars in economic losses. The harms by foreign adversaries or other untrustworthy actors thus could be significant, causing disruption to the U.S. economy, residential and government communications, and critical infrastructure.

122. The Commission finds that requiring certification and reporting of ownership is necessary to minimize vulnerabilities in the telecommunications infrastructure and the communications and consumer technology supply chain. Furthermore, it would strengthen national security through the equipment authorization process by ensuring that TCBs, test labs, and laboratory accreditation bodies are not owned by, controlled by, or under the direction of prohibited entities. We find that these adopted rules will yield significant benefits, including improved consistency in the Commission's consideration of evolving national security risks, completeness of the Commission's information regarding equipment authorization, and timely Commission attention to issues that warrant heightened scrutiny. We also find that the adoption of the rules will better protect U.S. telecommunications infrastructure and the communications and consumer technology supply chain from national security risks posed by prohibited entities. These benefits cannot be achieved with *ad hoc* reviews alone. Thus, adopting a systemized review of the ownership certification and reporting by TCBs, test labs, and laboratory accreditation bodies is necessary to help ensure that the Commission and the Executive Branch agencies have the necessary information to address evolving national security, law enforcement, foreign policy, and/or trade policy risks on a continuing basis. The benefits exceed the requirements' costs as discussed in this section.

123. By adopting the proposed rules, the Commission requires TCBs, test labs, and laboratory accreditation bodies to: (1) certify that they are not owned by or subject to the direction or control of, a prohibited entity; and (2) report all equity or voting interests of 5% or greater by any entity. The Commission further adopts the proposal and requires that every entity specifically named on the Covered List must provide to the Commission information regarding all of its subsidiaries and affiliates. The Commission concludes that requiring TCBs, test labs, and laboratory accreditation bodies to ascertain their direct and indirect ownership information or whether they are under direction of or controlled by prohibited entities does not present a substantial burden because a privately held company likely knows its investors and stakeholders with significant control of the business directives, while a publicly held company is required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission.<sup>334</sup> For similar reasons, the Commission finds that requiring entities on the Covered List to provide information on its subsidiaries and affiliates imposes only a minimal burden as these entities should retain this information as part of their normal business operations.

124. We estimate that the aggregate recurring annual costs associated with the attestation and reporting requirements adopted in this Report and Order will not exceed \$800,000. Specifically, we estimate that each of the 706 FCC-recognized TCBs, test labs, and laboratory accreditation bodies<sup>335</sup> will

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(estimates that the U.S. digital economy accounted for \$3.70 trillion of gross output). *See also* Press Release, Bureau of Economic Analysis, U.S. Department of Commerce, Gross Domestic Product, Fourth Quarter and Year 2021 (Second Estimate), [https://www.bea.gov/news/2022/gross-domestic-product-fourth-quarter-and-year-2021-second-estimate#:~:text=Current%2Ddollar%20GDP%20increased%2010.1,\(tables%201%20and%203\)](https://www.bea.gov/news/2022/gross-domestic-product-fourth-quarter-and-year-2021-second-estimate#:~:text=Current%2Ddollar%20GDP%20increased%2010.1,(tables%201%20and%203)) (estimates that the U.S. GDP was around \$23 trillion in 2021).

<sup>333</sup> *See* Press Release, Bureau of Economic Analysis, U.S. Department of Commerce, U.S. International Trade in Goods and Services, December and Annual 2024 (Feb. 5, 2025), <https://www.bea.gov/news/2025/us-international-trade-goods-and-services-december-and-annual-2024> (stating that exports were \$3,191.6 billion, and imports were \$4,110.0 billion in 2024).

<sup>334</sup> 15 U.S.C. § 78m(d)(1).

<sup>335</sup> We estimate that there are 706 entities, consisting of 30 laboratory accreditation bodies, 636 testing laboratories, and 40 TCBs subject to the attestation and reporting requirement. *See* FCC Office of Engineering and Technology, *Telecommunications Certification Bodies (TCB) Search*,

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require approximately two hours of outside legal counsel time at a rate of \$300 per hour and eight hours of administrative staff time at a rate of \$57 per hour to complete the attestation and reporting process each year.<sup>336</sup> For the 11 entities named on the Covered List,<sup>337</sup> we conservatively double the estimated time to account for additional reporting obligations regarding subsidiaries and affiliates. Based on these assumptions, we estimate the upper bound of the aggregate annual compliance costs to be \$768,768.<sup>338</sup> We find that this estimate likely substantially overestimates the actual attestation and reporting burden for several reasons. First, many test labs operate under common ownership and may therefore satisfy the attestation and reporting requirements at the firm level, rather than on a per-laboratory basis. Second, we assume that, for purposes of this estimate, each TCB, test lab, and laboratory accreditation body will report changes in ownership annually, whereas many entities are unlikely to experience ownership changes each year. Third, our estimate assumes reliance on outside counsel, whereas many entities may utilize in-house resources or forego legal review altogether, thereby potentially incurring lower compliance costs.<sup>339</sup> Finally, as discussed above, we expect that many entities already maintain the information required by this Report and Order as part of routine business practices or to comply with obligations imposed by other government agencies (e.g., the Securities and Exchange Commission, Team Telecom). Accordingly, these entities are unlikely to incur material additional costs in complying with the requirements set forth herein.

125. The Commission further requires parties seeking equipment authorization pursuant to the SDoC process to maintain a record that no prohibited entity has ownership in or direction or control of the test lab, company, or individual performing the testing conducted pursuant to the SDoC process. As we clarify in the section titled “Reporting, Certification, and Recordkeeping Requirements,” we believe this type of ownership information would be retained by the test lab in the ordinary course of business. As a result, we find the requirement imposes minimal burden, and that any associated costs are negligible

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<https://apps.fcc.gov/oetcf/tcb/reports/TCBSearch.cfm?calledFromFrame=N> (last visited May 16, 2025) (we downloaded all currently recognized TCBs, and identified 40 log-in accounts from 298 entries, as each TCB has multiple certification scopes within the same address); *see also* FCC Office of Engineering and Technology, *Equipment Authorization System Test Firm Search*, <https://apps.fcc.gov/oetcf/eas/reports/TestFirmSearch.cfm> (last visited May 16, 2025) (we identify 636 FCC-recognized test labs using distinct designation numbers from 642 entries; we further identify 30 distinct laboratory accreditation bodies using the same dataset).

<sup>336</sup> Our estimated rates for attorneys (\$300/hour) and in-house staff (\$40/hour) are based on the Commission’s estimates of labor costs as represented in a 2024 Paperwork Reduction Act (PRA) analysis. International Section 214 Process and Tariff Requirements – 47 CFR Sections 63.10-63.25, 1.40001, 1.40003, OMB Control No. 3060-0686 Paperwork Reduction Act (PRA) Supporting Statement at 10 (Mar. 2024), [https://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=202404-3060-002](https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202404-3060-002) According to the Bureau of Labor Statistics, as of December 2024, civilian wages and salaries averaged \$31.47/hour and benefits averaged \$13.20/hour. Total compensation therefore averaged \$31.47 + \$13.20 = \$44.67. Press Release, Bureau of Labor Statistics, Employer Costs for Employee Compensation – September 2023 (Mar. 14, 2025), <https://www.bls.gov/news.release/pdf/ecec.pdf>. Using these figures, benefits constitute a markup of \$13.20/\$31.47 = 42%. We therefore markup wages by 42% to account for benefits to arrive at the hourly compensation for in-house staff at \$57/hour (\$40 × 142% = \$57).

<sup>337</sup> *See* FCC, *List of Equipment and Services Covered by Section 2 of the Secure Networks Act*, <https://www.fcc.gov/supplychain/coveredlist>.

<sup>338</sup> 706 TCBs, test labs, and accreditation certification bodies × (\$300/hour attorney fee × 2 hours + \$57/hour staff compensation × 8 hours) + 11 Covered List entities × (\$300/hour attorney fee × 4 hours + \$57/hour staff compensation × 16 hours) = \$768,768.

<sup>339</sup> We note that the \$300/hour attorney fee is comparable to the 75th percentile lawyer compensation after accounting for benefits, or \$308,651 = \$217,360 × 1.42. U.S. Bureau of Labor Statistics, *Occupational Employment and Wages, May 2023, 23-1011 Lawyers* (last modified Apr. 3, 2024), <https://www.bls.gov/oes/2023/may/oes231011.htm>.

when weighed against the substantial benefits to the security of the telecommunications infrastructure and national interests.

126. We find that the requirements adopted in this Report and Order are highly unlikely to impose substantial harms on U.S. consumers, equipment manufacturers, or other stakeholders. We find any direct costs stemming from the requirements in this Report and Order will be minor; any indirect costs that may be borne by domestic stakeholders are likely similarly minor but also highly speculative in nature. First, we did not receive substantive comments or reply comments in our record outlining such harms.<sup>340</sup> Second, the Commission tentatively believes that most test labs negatively affected by this Report and Order are owned by, controlled by, or subject to the direction of China and that these test labs disproportionately test equipment from Chinese companies. Harms to such entities are not considered in a Cost-Benefit Analysis. Third, the vast majority of TCBs, test labs, and laboratory accreditation bodies would maintain their recognition under these rules, and we have no evidence that U.S. equipment producers or U.S. consumers would face significant costs as a result of some producers switching to non-prohibited test labs. Therefore, we find the requirements to be minimally harmful to U.S. stakeholders.

#### IV. FURTHER NOTICE OF PROPOSED RULEMAKING

127. In this Further Notice of Proposed Rulemaking, we seek to expand upon our efforts to ensure the integrity of our equipment authorization program, particularly through prohibitions on ownership, direction, or control by untrustworthy actors that pose a risk to national security. Specifically, we look at additional sources of entities that pose a risk to national security and seek comment on whether and how we should expand our list of prohibited entities. To balance these efforts, we also solicit feedback on ways to increase equipment testing and certification within the United States or allied countries. We also explore other opportunities to build upon these efforts by proposing tighter controls over post-market surveillance procedures, avoiding conflicts between test labs and the TCBs that review their test reports, and requiring equipment authorized under the SDoC procedure to be tested at an accredited and FCC-recognized laboratory.

##### A. Expanding Equipment Authorization Program Prohibitions

128. *Other Entities Potentially Controlled by a Foreign Adversary.* In the Report & Order, the Commission imposed restrictions on TCBs, test labs, and laboratory accreditation bodies owned by certain entities on one or more federal agency or statutory lists.<sup>341</sup> In the *NPRM*, the Commission also sought comment “on whether there are other types of direct or indirect ownership or control, or other types of influences beyond the Covered List determinations that potentially could adversely affect a TCB’s or test lab’s trustworthiness, or otherwise undermine the public’s confidence.”<sup>342</sup> We seek further comment on various additions to the list of prohibited entities.

129. We are concerned, based on the record before us, that limiting our restriction to TCBs, test labs, and laboratory accreditation bodies that are owned by, or under the direction or control of, prohibited entities, may not be sufficient to address the threats to the integrity of our equipment authorization processes posed by malign foreign actors.<sup>343</sup> Now that the Commission has included

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<sup>340</sup> A few commenters claim, without providing supporting data or evidence, that the proposed rules would increase the costs to consumers and manufacturers. See CTA Comments at 2 (stating that rolling back SDoC will increase costs to consumers); see also TIA Comments at 4-6 (stating the proposals will significantly increase costs in the equipment authorization program); TAF comments at 3-5 (claiming the use of multiple banning lists increase management costs for U.S. government agencies, and compliance burden for testing and certification, resulting in higher price for consumers).

<sup>341</sup> See Report and Order, *supra*.

<sup>342</sup> *NPRM*, para. 26.

<sup>343</sup> Some commenters noted that any company based in China could pose national security risks if they participated in the equipment authorization program. See Heritage Comments at 3; FDD Comments at 1-2.

foreign adversaries, as defined by the Department of Commerce, as prohibited entities, should we prohibit Commission recognition of any TCB, test lab, or laboratory accreditation body that conducts operations related to the Commission's equipment authorization program within foreign adversary countries? In other words, should the Commission extend the prohibitions in this rule beyond TCBs, test labs, and laboratory accreditation bodies that are owned by, controlled by, or subject to the direction of a foreign adversary or other prohibited entity to also include those TCBs, test labs, and laboratory accreditation bodies that are subject to the *jurisdiction* of a foreign adversary country? Should the Commission fully extend the prohibitions announced today to any TCB, test lab, or laboratory accreditation body that meets the Commerce Department's definition of "owned by, controlled by, or subject to the jurisdiction of or direction of a foreign adversary"?<sup>344</sup> If so, how should we implement such a prohibition? For example, would we base the prohibition on any activity that physically occurs within the relevant foreign adversary country or any activity performed by an entity that is subject to the jurisdiction of such, regardless of physical location? Should we require disclosure of the location of employees or activity conducted by the TCB, test lab, or laboratory accreditation body within the jurisdiction of a foreign adversary or other prohibited entity? What other methods of implementation should we consider to protect the integrity of our equipment authorization program against foreign adversary countries?

130. In what ways would foreign adversary countries have the capability to effectively control any and all entities organized under or doing business within their jurisdiction?<sup>345</sup> Would such action be under- or over-inclusive? What would the economic effects of such action be? In particular, could TCBs and test labs conducting equipment authorization functions in China, or any other foreign adversary, be rapidly replaced by TCBs and test labs conducting such functions outside of a foreign adversary country? What are the estimated costs associated with such a prohibition? How much of the costs are estimated to be passed on to U.S. consumers? Commenters have also raised concerns that the withdrawal of recognition of a significant number of testing facilities would slow down the equipment approval process for manufacturers and require ample time for U.S. companies to identify alternative testing facilities and make new arrangements for certifications, and may even require breaking commercial agreements.<sup>346</sup> How, if at all, should the Commission weigh these economic concerns against potential national security threats? What could the Commission do to assist this transition and mitigate economic harms? As an alternative to wholesale prohibitions, should the Commission consider other limitations on TCBs and test labs operating in foreign adversary countries to mitigate the potential risks to national security and the integrity of the equipment authorization program? If so, what sort of mitigation measures would suffice to ensure the integrity of the equipment authorization program against national security risks?

131. We also seek comment on the extent to which the existence of test labs in foreign adversary countries, particularly China, encourage trade and supply chain dependencies for RF-emitting equipment. Does the prominence of FCC-recognized test labs in China<sup>347</sup> encourage greater manufacturing and production of finished equipment and components in China? If so, how much? Do test labs in China offer favorable treatment for equipment produced in China or by Chinese companies? Should the Commission prohibit test labs in China from participation in the equipment authorization program in part as a means of reducing these trade and supply chain dependencies on foreign adversaries, given the potential risks to national security threats such dependencies pose?<sup>348</sup> How, if at all, do these considerations relate to the goals of this proceeding?

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<sup>344</sup> 15 CFR § 791.2.

<sup>345</sup> See *FIRS Ex Parte* at 3-4.

<sup>346</sup> *INCOMPAS Ex Parte* at 2.

<sup>347</sup> As of April 25, 2025, the FCC recognizes 171 test labs in China. See FCC Office of Engineering and Technology, *Equipment Authorization System Test Firm Search*, <https://apps.fcc.gov/oetcf/eas/reports/TestFirmSearch.cfm>.

<sup>348</sup> See, e.g., EO 14017 sec 1 ("The United States needs resilient, diverse, and secure supply chains to ensure our economic prosperity and national security."). See also *FIRS Ex Parte* at 3-4.

132. As the Commission weighs the national security threat posed by test labs and test lab accreditation bodies located in foreign adversary nations, to what extent should the Commission consider the President’s determination that nominally private companies in China in particular are not really “private,” but functionally controlled by, and answerable to, the Chinese government and the Chinese Communist Party, which is a foreign adversary? For example, Executive Order 13959 states President Donald J. Trump’s finding that, “key to the development of the PRC’s military, intelligence, and other security apparatuses is the country’s large, *ostensibly private* economy. Through the national strategy of Military-Civil Fusion, China increases the size of the country’s military-industrial complex by compelling civilian Chinese companies to support its military and intelligence activities. Those companies, *though remaining ostensibly private and civilian*, directly support China’s military, intelligence, and security apparatuses and aid in their development and modernization.”<sup>349</sup> Indeed, in February of this year, President Trump wrote to several of his Cabinet secretaries recognizing that “[t]hrough its national Military-Civil Fusion strategy, [China] increases the size of its military-industrial complex by compelling civilian Chinese companies and research institutions to support its military and intelligence activities.”<sup>350</sup> Even the Supreme Court has accepted that a private company in China “is subject to Chinese laws that require it to assist or cooperate with the Chinese Government’s intelligence work and to ensure that the Chinese Government has the power to access and control private data the company holds.”<sup>351</sup> As the Public Safety and Homeland Security Bureau has previously recognized, “the Chinese government is highly centralized and exercises strong control over commercial entities in its sphere of influence, permitting the government, including state intelligence agencies, to demand that private communications sector entities cooperate with governmental requests, including revealing customer information and network traffic information. Demands for such information could come in the form of legal pressure, as in the case of the Chinese National Intelligence Law, or in the form of extralegal political pressure taken through control of subsidy funding, employee unions, or threats and/or coercion.”<sup>352</sup> Several commenters also made this point.<sup>353</sup>

133. We seek comment as well on whether and to what extent the Commission should factor in the military situation in the Indo-Pacific<sup>354</sup> in recognizing test labs and laboratory accreditation bodies. To what extent should the Commission consider the threat China poses to U.S. interests in the Indo-Pacific region, particularly with regard to a possible invasion of Taiwan, potentially as soon as 2027?<sup>355</sup> If such a conflict erupts, there would no doubt be a substantial, if not total, rupture in trade and

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<sup>349</sup> See Exec. Order No. 13959, 85 FR 73185 (Nov. 17, 2020) (emphasis added).

<sup>350</sup> *America First Investment Policy*, Presidential Memorandum, § 1 (Feb. 21, 2025).

<sup>351</sup> *TikTok v. Garland*, 145 S. Ct. 57, 63 (2025) (internal quotation marks omitted).

<sup>352</sup> *Protecting Against National Security Threats to the Communications Supply Chain Through FC Programs – Huawei Designation*, PS Docket No. 19-351, FCC Rcd 14435, 14439, para. 14, (2020).

<sup>353</sup> Heritage Comment at 3 (“any Chinese ‘private’ entity can be reasonably presumed to be linked to the Chinese Communist Party.”); FDD Comment at 2 (“Chinese firms and individuals are legally required to assist with state intelligence operations, effectively eliminating the legal distinction between corporates and the state.”).

<sup>354</sup> Generally, the military situation in the Indo-Pacific is characterized by increased Chinese military buildup that threatens U.S. interests in the region. See David Vergun, *China’s Military Buildup Threatens Indo-Pacific Region Security*, (April 9, 2025), <https://www.defense.gov/News/News-Stories/Article/Article/4150802/chinas-military-buildup-threatens-indo-pacific-region-security/>.

<sup>355</sup> Earlier this year, John Noh, performing the duties of assistant secretary of defense for Indo-Pacific security affairs, testified at a House Armed Services Committee hearing. According to the official Department of Defense account of his testimony: “China aims to dominate the Indo-Pacific region and displace the United States as the world’s most powerful nation, Noh said, noting Chinese President Xi Jinping has ordered the People’s Liberation Army to be ready to invade Taiwan by 2027. Noh said to counter this growing threat, the U.S. must reestablish deterrence in the Indo-Pacific region with combat-credible military forces, rebalance burden sharing with allies and (continued....)

economic relations between the U.S. and China, raising significant concerns if the Commission's authorization program is partially reliant on test labs in China. Should the Commission treat test labs in China differently from those in other foreign adversary countries given this consideration of potential military conflicts? We seek comment on whether we should consider this possibility in determining whether to prohibit recognition of a broader array of test labs in China. How, if at all, do these considerations relate to the goals of this proceeding?

134. Are there other considerations appropriate for us to consider related to the goals of this proceeding, for example, should we consider the extent to which there is a lack of reciprocity with another country with regard to equipment testing and certification? For example, should the Commission take into account whether China requires domestic testing for all equipment sold in China? If so, to what extent does that unfairly encourage entities that want to sell equipment both in the U.S. and China to test their equipment in China-based test labs?

135. *Alternative Approaches.* Congress recently twice codified a definition of “controlled by a foreign adversary” in statutes involving data privacy.<sup>356</sup> In this context, Congress defines a “company or other entity” as “controlled by a foreign adversary” if it satisfies one of three conditions:

- (A) a foreign person that is domiciled in, is headquartered in, has its principal place of business in, or is organized under the laws of a foreign adversary country;
- (B) an entity with respect to which a foreign person or combination of foreign persons described in subparagraph (A) directly or indirectly own at least a 20 percent stake; or
- (C) a person subject to the direction or control of a foreign person or entity described in subparagraph (A) or (B).<sup>357</sup>

136. We seek comment on whether to revise the definitions adopted in the Report & Order to include entities that meet one of these three conditions to be considered “controlled by a foreign adversary.”<sup>358</sup> Should the Commission consider “historical patterns of behavior by affiliated organizations,” as suggested by FIRS?<sup>359</sup> Can any entity that Congress has, in the context of data privacy considerations, twice found to be “controlled by a foreign adversary” be trusted not to undermine the integrity and security of the equipment authorization program? Would such a definition be under- or over-inclusive? What would be the economic harms or implementation burden of such a prohibition? What steps, if any, could the Commission undertake to mitigate those concerns? As an alternative to outright prohibition of participation by such entities, should the Commission impose mitigation requirements on entities “controlled by foreign adversaries”?

137. Should the Commission adopt the definition used in the CHIPS Act for a “foreign entity of concern”?<sup>360</sup> This definition lists various ways for an entity to be a “foreign entity of concern,”

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partners and invest in the U.S. defense industrial base.” David Vergun, *China's Military Buildup Threatens Indo-Pacific Region Security*, DOD News (Apr. 9, 2025), <https://www.defense.gov/News/News-Stories/Article/Article/4150802/chinas-military-buildup-threatens-indo-pacific-region-security/>.

<sup>356</sup> 15 U.S.C. § 9901(c)(2); *id.* at § 9901 note.

<sup>357</sup> *Id.*

<sup>358</sup> These provisions define “foreign adversary country” more narrowly than the federal agencies or the Commission in the R&O, only including China, Russia, North Korea, and Iran. See 15 U.S.C. § 9901(c)(4); *id.* at § 9901 note. But the Commission seeks comment on whether to apply the definition of “controlled by a foreign adversary” but retain the Department of Commerce’s list of foreign adversary countries. See 15 CFR § 791.4(a).

<sup>359</sup> See FIRS *Ex Parte* at 6.

<sup>360</sup> CHIPS Act of 2022, Sec. 10612(a)(2), Pub. L. 117-167, 136 Stat. 1366, 1635; codified at 42 U.S.C. 19221 (2022) (listing various ways in which an entity can be a “foreign entity of concern,” including being “owned by, controlled by, or subject to the jurisdiction or direction of” China, Russia, Iran, or North Korea).

including being “owned by, controlled by, or subject to the jurisdiction or direction of” China, Russia, Iran, or North Korea,<sup>361</sup> which is similar to the statutory definition of “controlled by a foreign adversary.” However, the CHIPS Act also includes numerous other ways for an entity to be a “foreign entity of concern,” including being designated as a foreign terrorist organization and being alleged to have been involved in various activities for which a conviction was obtained. Is one of these definitions preferable? Should the Commission adopt some amalgamation of this definition along with the other statutory definition?

138. Alternatively, should the Commission adopt a different definition? If so, what should that definition be and why? The Commission welcomes comment on which category of entities are “controlled by a foreign adversary.” Should the Commission adopt a more limited or expansive definition? Does the definition need to be clearly defined? To what extent should the definition be aligned with other Commission rules on foreign ownership?

139. As an alternative to an outright prohibition on TCBs, test labs, and laboratory accreditation bodies located in or subject to the jurisdiction of a foreign adversary, should the Commission adopt a presumption-of-prohibition policy? Under this policy, any entity subject to the jurisdiction of a foreign adversary would need to provide clear-and-convincing evidence that there was no national security risk from its participation in the equipment authorization program. What are some potential benefits and drawbacks of such an approach? If the Commission adopts such an approach, should the Commission use a different standard than clear-and-convincing? Should the Commission consult the Committee and require its approval before recognizing for participation in the equipment authorization program TCBs, test labs, or laboratory accreditation bodies “controlled by a foreign adversary”? Should the Commission adopt any alternative mechanism to screen such entities for participation?

140. *Other Federal Agency Lists.* In the *NPRM*, the Commission sought comment on “whether the Commission should consider any other Executive Branch agency lists to rely upon as a source to identify entities that raise national security concerns and to restrict participation of those entities in our equipment authorization program.<sup>362</sup> This Report & Order incorporated several of these lists in our determination regarding prohibited entities.<sup>363</sup> What other federal agency lists, or entities identified by federal agencies, or lists created by statute, should we consider including in our definition of “prohibited entity”?<sup>364</sup> We welcome comment on which “lists” are particularly appropriate and which are not.

141. The Commission is particularly interested in and seeks comment on the usefulness of relying on the following sources:

- The Protecting Americans from Foreign Adversary Controlled Applications Act (“PFACA”) imposed restrictions on the domestic operations of certain foreign adversary-controlled social media applications.<sup>365</sup> In particular, the PFACA imposed restrictions on applications directly or indirectly operated by ByteDance, Ltd., TikTok, their subsidiaries, entities they controlled, or any other entity that the President determines “is controlled by a foreign adversary” and “present[s] a significant threat to the national security of the United States.”<sup>366</sup> Should the Commission rely on this list to impose restrictions with regard to participation in the

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<sup>361</sup> *Id.* at § 10162(a)(2)(C).

<sup>362</sup> *NPRM* at para. 32.

<sup>363</sup> See para. 36 *supra*.

<sup>364</sup> For example, should the Commission consider the forthcoming U.S. Department of Justice Data Security Covered person List? See *FIRS Ex Parte* at 6.

<sup>365</sup> See Pub. L. 118-50, div. H, 138 Stat. 895 (codified at 15 U.S.C. § 9901 note).

<sup>366</sup> *Id.* at § 2(g)(3), 138 Stat. 958-59. Entities on this PAFACA list can have restrictions lifted if a “qualified divestiture is completed. See *id.* at § 6.

equipment authorization program given that either Congress or the President has expressly determined such entities to be national security threats? The Commission welcomes comment on the usefulness and applicability of this list in terms of the equipment authorization program.

- Pursuant to various statutory authorities and Executive Orders, the Office of Foreign Assets Control (“OFAC”) in the U.S. Department of Treasury publishes a Specially Designated Nationals and Blocked Persons List (“SDN List”) of entities subject to certain prohibitions.<sup>367</sup> “Collectively, such individuals and companies are called ‘Specially Designated Nationals’ or ‘SDNs.’ Their assets are blocked, and U.S. persons are generally prohibited from dealing with them.”<sup>368</sup> The justifications for these sanctions are wide ranging, but entities on the SDN List are generally subject to the most extreme form of sanctions, suggesting that such entities should have no role in the Commission’s TCB and test lab program. Additionally, although the SDN List is long, it is published, and businesses have well-established compliance mechanisms. Should the Commission include entities on the SDN List in its definition of prohibited entities?
- The National Defense Authorization Act for Fiscal Year 2024 prohibits the DOD from procuring batteries produced by several Chinese entities, starting in 2027.<sup>369</sup> This list included leading battery manufacturers and their successors.<sup>370</sup> Should the Commission consider this list of battery manufacturers as part of its definition of prohibited entities? Would this list be relevant or useful in determining the integrity and security of TCBs, test labs, and laboratory accreditation bodies?

142. Are there any other federal agency or statutory “lists” that the Commission should consider including within its prohibition?

**B. Increasing Equipment Authorization Testing and Certification Within the United States.**

143. The actions we take in the Report and Order portion of this proceeding are the first steps in ensuring the integrity of our equipment authorization program against ownership, direction, or control by untrustworthy actors that pose a risk to national security. To further our goals in this area, we seek comment on ways in which the Commission can facilitate and encourage more equipment authorization testing and certification within the United States and allied countries, such as those with which we have a mutual recognition agreement (MRA). In addition to financial, what other hinderances or advantages (*i.e.*, costs and benefits) would entities seeking equipment authorization encounter in relying primarily on TCBs, test labs, and laboratory accreditation bodies located in the U.S.? What conflicts or other concerns might arise? What rules or processes could the Commission implement or modify to encourage equipment authorization processes that rely primarily upon domestic TCBs, test labs, and laboratory accreditation bodies? How can the Commission encourage the establishment of new, or expansion of existing, TCBs and test labs in the U.S.? What are the primary barriers limiting the presence of TCBs and test labs in the U.S.? Are there actions the Commission can take to reduce regulatory barriers to TCBs and test labs? Should the Commission offer incentives for utilization of domestic TCBs and test labs, and, if so, what sort of incentives? Should any of these incentives or efforts to increase testing be similarly directed toward utilization of TCBs and test labs in allied countries, such as those with which the U.S. has an MRA? If so, which ones and why?

<sup>367</sup> See *Specially Designated Nationals List*, OFAC Sanctions List Service, <https://sanctionslist.ofac.treas.gov/Home/SdnList>.

<sup>368</sup> *Id.* See also 31 CFR pt. 501, App. A (describing these prohibitions in more detail).

<sup>369</sup> See 137 Stat. 136, Pub. L. 118-31, sec. 154(b).

<sup>370</sup> *Id.*

144. To what extent would having more equipment authorization testing and certification in the United States reduce risks and threats to national security in terms of the equipment supply chain or in other ways? Given the importance of a strong industrial base for national security,<sup>371</sup> should the Commission consider such reindustrialization goals in crafting a program of incentives? We seek comment on the overall benefits and costs, with quantifiable data, associated with any proposed measures to encourage more equipment authorization testing and certification within the United States or allied countries.

### C. Other Matters

145. *Post-market surveillance procedures.* Commission rules impose certain obligations on each TCB to perform post-market surveillance, based on “type testing a certain number of samples of the total number of product types” that the TCB has certified. In light of issues discussed in the Report and Order to ensure the integrity of our equipment authorization program, we invite further comment on whether the Commission should revise the post-market surveillance rules, policies, or guidance to address such concerns. We seek comment on reasonable practices TCBs could implement to better identify equipment that may be noncompliant with Commission rules, despite authorization. In particular, should the Commission change the post-market surveillance requirements to require that TCBs review certification grants by other TCBs? How would such a requirement work? Should the Commission require, instead, that TCBs engage independent reviewers/auditors to conduct their required post market surveillance? If so, what would be the criteria for such third-party reviewers? We invite comment on this and any other measures the Commission might take to strengthen the integrity of the post-market surveillance process.

146. *TCB and test lab relationships.* Our rules incorporate ISO/IEC 17025 and ISO/IEC 17065 standards, against which accreditation bodies assess test labs and TCBs, respectively to ensure, in part, that these entities operate in a competent, consistent, and impartial manner. TCBs also are required under our rules to have the technical expertise and capability to test the equipment it will certify and be accredited to ISO/IEC 17025.<sup>372</sup> We recognize that this results in most, or all, TCBs in a position to not only verify the test reports received with an application for authorization but also to produce such test reports. We seek comment on any potential for this current structure to raise questions as to the integrity of our equipment authorization program or the impartiality of TCBs or test labs. What types of procedures have TCBs and test labs put into place to ensure impartiality, particularly when a TCB reviews an authorization application for which a test lab under the same ownership as the TCB conducted the required testing? What additional information should we require regarding the relationship between the individuals who each performed a defined role in the review and approval process? We seek comment on additional safeguards that we should consider to further ensure the impartiality of our TCBs and test labs. Specifically, we seek comment on whether the Commission should restrict the relationships between TCBs and test labs to prevent TCBs from reviewing authorization applications for which the equipment was tested by a test lab owned by, or under the direction or control of the same entities that own, direct, or control the TCB.

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<sup>371</sup> See, e.g., Exec. Or. 13806 Sec. 1 (“A healthy manufacturing and defense industrial base and resilient supply chains are essential to the economic strength and national security of the United States. The ability of the United States to maintain readiness, and to surge in response to an emergency, directly relates to the capacity, capabilities, and resiliency of our manufacturing and defense industrial base and supply chains. Modern supply chains, however, are often long and the ability of the United States to manufacture or obtain goods critical to national security could be hampered by an inability to obtain various essential components, which themselves may not be directly related to national security. Thus, the United States must maintain a manufacturing and defense industrial base and supply chains capable of manufacturing or supplying those items. ... Strategic support for a vibrant domestic manufacturing sector, a vibrant defense industrial base, and resilient supply chains is therefore a significant national priority.”); 10 U.S.C. § 4811 (“The Secretary of Defense shall develop a national security strategy for the national technology and industrial base.”).

<sup>372</sup> 47 CFR § 2.962(c)(3).

147. *Supplier's Declaration of Conformity Procedures.* By the Report and Order portion of this proceeding, we prohibit reliance upon test labs owned by, or under the direction or control of, a prohibited entity for SDoC authorization measurement requirements.<sup>373</sup> The ownership information required to be collected pursuant to these new rules will be retained by the responsible party<sup>374</sup> and made available to the Commission upon request.<sup>375</sup> To further our efforts to ensure the integrity of the equipment authorization program, we are considering additional measures to strengthen the integrity of laboratories upon which entities rely for the SDoC procedure. Specifically, we propose to require that all equipment authorized under the SDoC procedure be tested at an accredited and FCC-recognized laboratory. We seek comment on some of the impacts such an action could have on the supply chain and to the testing process, particularly with regard to the confidence in the integrity of the test labs and thereby the security of the U.S. equipment supply chain.

## V. PROCEDURAL MATTERS

148. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),<sup>376</sup> requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that “the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.”<sup>377</sup> Accordingly, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) concerning the possible impact of the rule changes contained in this Report and Order on small entities. The FRFA is set forth in Appendix C.

149. The Commission has also prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of the rule and policy changes contained in the Further Notice of Proposed Rulemaking. The IRFA is set forth in Appendix D. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the Further Notice indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

150. *Paperwork Reduction Act.* This document contains proposed new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on any information collection requirements contained in this document. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

151. *Ex Parte Presentations–Permit-But-Disclose.* The proceeding this Further Notice of Proposed Rulemaking initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.<sup>378</sup> Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made,

<sup>373</sup> *Supra* para. 29.

<sup>374</sup> *Supra* para. 86.

<sup>375</sup> See 47 CFR § 2.948(b)(3).

<sup>376</sup> 5 U.S.C. §§ 601–612. The RFA has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>377</sup> 5 U.S.C. § 605(b).

<sup>378</sup> 47 CFR § 1.1200 *et seq.*

and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

152. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of this document will be available on <https://www.fcc.gov/proposed-rulemakings>.

153. *OPEN Government Data Act.* The OPEN Government Data Act<sup>379</sup> requires agencies to make “public data assets” available under an open license and as “open Government data assets,” *i.e.*, in machine-readable, open format, unencumbered by use restrictions other than intellectual property rights, and based on an open standard that is maintained by a standards organization.<sup>380</sup> This requirement is to be implemented “in accordance with guidance by the Director” of the OMB.<sup>381</sup> The term “public data asset” means “a data asset, or part thereof, maintained by the Federal Government that has been, or may be, released to the public, including any data asset, or part thereof, subject to disclosure under [the Freedom of Information Act (FOIA)].”<sup>382</sup> A “data asset” is “a collection of data elements or data sets that may be grouped together,”<sup>383</sup> and “data” is “recorded information, regardless of form or the media on which the data is recorded.”<sup>384</sup>

154. *Filing Requirements—Comments and Replies.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
  - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.

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<sup>379</sup> Congress enacted the OPEN Government Data Act as Title II of the Foundations for Evidence-Based Policymaking Act of 2018, Pub. L. No. 115-435 (2019), §§ 201-202.

<sup>380</sup> 44 U.S.C. §§ 3502(20), (22) (definitions of “open Government data asset” and “public data asset”), 3506(b)(6)(B) (public availability).

<sup>381</sup> OMB has not yet issued final guidance.

<sup>382</sup> 44 U.S.C. § 3502(22).

<sup>383</sup> 44 U.S.C. § 3502(17).

<sup>384</sup> 44 U.S.C. § 3502(16).

- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

155. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice).

156. *Congressional Review Act.* The Commission will submit this Report & Order to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for concurrence as to whether this rule is "major" or "non-major" under the Congressional Review Act, 5 U.S.C. § 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. § 801(a)(1)(A).

157. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be publicly available online via ECFS.

158. *Further Information.* For further information, contact Jamie Coleman of the Office of Engineering and Technology, at 202-418-2705 or [Jamie.Coleman@fcc.gov](mailto:Jamie.Coleman@fcc.gov).

## VI. ORDERING CLAUSES

159. Accordingly, IT IS ORDERED, pursuant to the authority found in sections 1, 4(i), 229, 301, 302, 303, 309, 312, 403, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 229, 301, 302a, 303, 309, 312, 403, and 503, section 105 of the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1004; the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. §§ 1601-1609; and the Secure Equipment Act of 2021, Pub. L. 117-55, 135 Stat. 423, 47 U.S.C. § 1601 note, that this Report and Order and Further Notice of Proposed Rulemaking IS HEREBY ADOPTED.

160. IT IS FURTHER ORDERED that the amendments of parts 2 and 15 of the Commission's rules as set forth in Appendix A ARE ADOPTED, effective 30 days after the date of publication in the Federal Register, with the exception of sections 2.903(b); 2.911(d)(5)(ii); 2.929(c)(2), (d)(1)(ii); 2.932(e)(2); 2.938(b)(2); 2.949(b)(5)-(6), (d); 2.950(c)-(e); 2.951(a)(10)-(11), (c); 2.960(a)(2)-(3); 2.962(d)(9); 2.1033(b)(3), (c)(3), and 2.1043(b)(2)(i)(C), (b)(3)(i)(C) which contain new or modified information collection requirements that require review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The Commission directs the Office of Engineering and Technology to establish and announce the effective date of these sections in a document published in the Federal Register after completion of OMB review.

161. IT IS FURTHER ORDERED that the Office of the Secretary, SHALL SEND a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

162. IT IS FURTHER ORDERED that the Office of the Managing Director, Performance Program Management, SHALL SEND a copy of the Report and Order in a report to be sent to Congress

and the Government Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. § 801(a)(1)(A).

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

## APPENDIX A

## Final Rules

**Part 2 — FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS**

1. The authority citation for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, and 336 unless otherwise noted.

2. Add § 2.902 to read as follows:

**§ 2.902 Terms and definitions.**

The following definitions apply to this subpart J:

*Owned by, controlled by, or subject to the direction of.* Any entity:

- (1) In which any other entity has direct or indirect ownership or control of 10% or more equity, voting interest, or stock;
- (2) In which any other entity directly or indirectly possesses or has the power (whether or not exercised) to determine, direct, or decide important matters affecting the subject entity; or
- (3) That acts as an agent or representative of another entity or acts in any other capacity at the order or request of another entity or whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in majority part, including being part of a governmental structure or hierarchy.

*Prohibited entities.*

- (1) Each entity identified on the Covered List pursuant to § 1.50002 of this chapter.
- (2) Entities identified by any of the following sources:
  - (i) Department of Commerce Bureau of Industry and Security Entity List pursuant to 15 CFR part 744, supplement no. 4;
  - (ii) Department of Commerce Bureau of Industry and Security Military End-User List pursuant to 15 CFR part 744, supplement no. 7;
  - (iii) Department of Homeland Security Uyghur Forced Labor Prevention Act Entity List as published by the Forced Labor Enforcement Task Force pursuant to 19 U.S.C. § 4681;
  - (iv) Section 5949 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117-263);
  - (v) Section 1260H of the National Defense Authorization Act (NDAA) for Fiscal Year 2021 (Pub. L. 116-283); and
  - (vi) Department of Treasury Non-Specially Designated Nationals Chinese Military-Industrial Complex Companies List pursuant to 31 CFR part 586.
- (3) Entities identified as “foreign adversaries” by the Department of Commerce pursuant to 15 CFR § 791.4.

3. Amend § 2.903 by revising the definition of “affiliate” in paragraph (c) to read as follows:

**§ 2.903 Prohibition on authorization of equipment on the Covered List.**

\* \* \* \* \*

(c) \* \* \*

*Affiliate.* The term “affiliate” means an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another entity; for purposes of this definition, the term “own” means to have, possess, or otherwise control an equity interest (or the equivalent thereof) of 10 percent or more.

\* \* \* \* \*

4. Delayed indefinitely, further amend § 2.903 by revising paragraph (b) to read as follows:

**§ 2.903 Prohibition on authorization of equipment on the Covered List.**

\* \* \* \* \*

(b) Each entity named on the Covered List, as established pursuant to § 1.50002 of this chapter, must provide to the Commission the following information: the full name, mailing address or physical address (if different from mailing address), email address, and telephone number of each of that named entity's associated entities (*e.g.*, subsidiaries or affiliates).

(1) Each entity named on the Covered List must provide the information described in paragraph (b) of this section no later than 30 days after the effective date of each updated Covered List; and

(2) Each entity named on the Covered List must notify the Commission of any changes to the information described in this paragraph (b) no later than 30 days after such change occurs.

\* \* \* \* \*

5. Amend § 2.906 by revising paragraphs (a) and (d) to read as follows:

**§ 2.906 Supplier's Declaration of Conformity.**

(a) Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in § 2.909, makes measurements or completes other procedures found acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards and other applicable requirements.

(1) Equipment testing necessary to ensure compliance with the appropriate technical standards and other applicable requirements must not be performed at a measurement facility that is owned by, controlled by, or under the direction of a prohibited entity, as defined in § 2.902.

(2) Submittal to the Commission of a sample unit or representative data demonstrating compliance is not required unless specifically requested pursuant to § 2.945.

\* \* \* \* \*

(d) Notwithstanding other parts of this section, equipment otherwise subject to the Supplier's Declaration of Conformity process that is produced by any entity identified on the Covered List, established pursuant

to § 1.50002 of this chapter, is prohibited from obtaining equipment authorization through that process. The rules in this chapter governing certification apply to authorization of such equipment.

6. Amend § 2.907 by revising paragraph (c) to read as follows:

**§ 2.907 Certification.**

\* \* \* \* \*

(c) Any equipment otherwise eligible for authorization pursuant to the Supplier's Declaration of Conformity, or exempt from equipment authorization, produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter, must obtain equipment authorization through the certification process.

7. Amend § 2.910 by revising paragraphs (c)(1) through (4) to read as follows:

**§ 2.910 Incorporation by reference.**

\* \* \* \* \*

(c) \* \* \*

(1) ISO/IEC 17011:2004(E), *Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies*, First Edition, 2004-09-01; IBR approved for [§§ 2.948\(e\); 2.949\(b\); 2.960\(d\)](#).

(2) ISO/IEC 17025:2005(E), *General requirements for the competence of testing and calibration laboratories*, Second Edition, 2005-05-15; IBR approved for [§§ 2.948\(e\); 2.949\(b\); 2.950\(a\); 2.960\(a\); 2.962\(c\)](#).

(3) ISO/IEC 17025:2017(E), *General requirements for the competence of testing and calibration laboratories*, Third Edition, November 2017; IBR approved for [§§ 2.948\(e\); 2.949\(b\); 2.950\(a\); 2.960\(a\); 2.962\(c\)](#).

(4) ISO/IEC 17065:2012(E), *Conformity assessment—Requirements for bodies certifying products, processes and services*, First Edition, 2012-09-15; IBR approved for [§§ 2.960\(a\) and \(c\); 2.962\(a\), \(c\), \(d\), and \(i\)](#).

\* \* \* \* \*

8. Delayed indefinitely, amend § 2.911 by revising paragraphs (b) and (d)(5)(ii) to read as follows:

**§ 2.911 Application requirements.**

\* \* \* \* \*

(b) A TCB shall submit an electronic copy of each equipment authorization application to the Commission pursuant to [§ 2.962\(d\)\(6\)](#) on a form prescribed by the Commission at <https://www.fcc.gov/eas>.

\* \* \* \* \*

(d) \* \* \*

(5) \* \* \*

(ii) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter.

\* \* \* \* \*

9. Delayed indefinitely, amend § 2.929 by revising paragraphs (c)(2) and (d)(1)(ii) to read as follows:

**§ 2.929 Changes in name, address, ownership, or control of grantee.**

\* \* \* \* \*

(c) \* \* \*

(2) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter; and

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(ii) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter; and

\* \* \* \* \*

10. Delayed indefinitely, amend § 2.932 by revising paragraph (e)(2) to read as follows:

**§ 2.932 Modification of equipment.**

\* \* \* \* \*

(e) \* \* \*

(2) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter; and

\* \* \* \* \*

11. Amend § 2.938 by revising paragraph (b)(1)(ii) and adding paragraph (h) to read as follows:

**§ 2.938 Retention of records.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) State the name of the test laboratory, company, or individual performing the testing.

\* \* \* \* \*

(h) The Commission may request additional information regarding the test site, the test equipment, or the qualifications of the company or individual performing the tests, including documentation identifying any entity that has equity or voting interests of 5% or greater in the test lab.

12. Delayed indefinitely, further amend § 2.938 by revising paragraph (b)(2) to read as follows:

**§ 2.938 Retention of records.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(2) A written and signed certification that:

(i) As of the date of first importation or marketing of the equipment, the equipment for which the responsible party maintains Supplier's Declaration of Conformity is not produced by any entity identified on the Covered List, established pursuant to § 1.50002 of this chapter; and

(ii) As of the date of testing, the test laboratory performing the testing is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902.

\* \* \* \* \*

13. Amend § 2.948 by:

a. Revising paragraph (a); and

b. Removing and reserving paragraph (c).

The revision reads as follows:

**§ 2.948 Measurement facilities.**

(a) Equipment authorized under the certification procedure must be tested at a laboratory that is:

(1) Accredited in accordance with paragraph (e) of this section; and

(2) Recognized by the Commission in accordance with § 2.951.

\* \* \* \* \*

14. Amend § 2.949 by adding paragraphs (c) through (f) to read as follows:

**§ 2.949 Recognition of laboratory accreditation bodies.**

\* \* \* \* \*

(c) The Commission will not recognize a laboratory accreditation body that:

(1) Is owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902;

(2) Fails to provide, or provides a false or inaccurate, certification as required in this section; or

(3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater as required in this section.

(d) [Reserved]

(e) The Commission will withdraw recognition of any laboratory accreditation body that:

(1) Is owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902;

(2) Fails to provide, or provides a false or inaccurate, certification, as required by this section; or

(3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required by this section.

(f) The Commission will notify a laboratory accreditation body in writing of its intention to withdraw the laboratory accreditation body's recognition and provide at least 30 days for the laboratory accreditation body to respond.

15. Delayed indefinitely, further amend § 2.949 by adding paragraphs (b)(5) and (6) and (d) to read as follows:

**§ 2.949 Recognition of laboratory accreditation bodies.**

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(5) Certification to the Commission that the laboratory accreditation body is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902.

(6) Documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the laboratory accreditation body.

\* \* \* \* \*

(d) Each recognized laboratory accreditation body must provide to the Commission, in accordance with § 2.950 and no later than 30 days after any relevant change to the required information takes effect:

(1) Certification to the Commission that the laboratory accreditation body is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902.

(2) Documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the laboratory accreditation body.

\* \* \* \* \*

16. Delayed indefinitely, amend § 2.950 by adding paragraphs (c) through (e) to read as follows:

**§ 2.950 Transition periods.**

\* \* \* \* \*

(c) Each recognized laboratory accreditation body must provide to the Commission:

(1) No later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], certification to the Commission that the laboratory accreditation body is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; and

(2) No later than [INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the laboratory accreditation body.

(d) Each recognized laboratory must provide to the Commission:

(1) No later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], certification to the Commission that the laboratory is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; and

(2) No later than [INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the laboratory.

(e) Each recognized TCB must provide to the Commission:

(1) No later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], certification to the Commission that the TCB is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; and

(2) No later than [INSERT DATE 120 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the TCB.

17. Add § 2.951 to read as follows:

**§ 2.951 Recognition of measurement facilities.**

(a) The Commission will consider for recognition a measurement facility (i.e., testing laboratory) for which an FCC-recognized accrediting organization submits a written request to the Chief of the Office of Engineering and Technology (OET) requesting such recognition, including the following information:

(1) Laboratory name, location of test site(s), mailing address, and contact information.

(2) Name of accrediting organization.

(3) Scope of laboratory accreditation.

(4) Date of expiration of accreditation.

(5) Designation number.

(6) FCC Registration Number (FRN).

(7) A statement as to whether the laboratory performs testing on a contract basis. (8) For laboratories outside the United States, the name of the mutual recognition agreement or arrangement under which the accreditation of the laboratory is recognized.

(9) Other information as requested by the Commission.

(b) The Commission will not recognize a laboratory:

(1) In which a prohibited entity, as established pursuant to § 2.902, has, possesses, or otherwise controls an equity or voting interest of 10% or more;

(2) That fails to provide, or that provides a false or inaccurate, certification as required in this section; or

(3) That fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater as required in this section.

(c) [Reserved]

(d) The Commission will withdraw recognition of any laboratory that:

(1) Is owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902;

- (2) Fails to provide, or provides a false or inaccurate, certification, as required in this section; or
- (3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required in this section.
- (e) The Commission will notify a laboratory in writing of its intention to withdraw the laboratory's recognition and provide at least 30 days for the lab to respond.

18. Delayed indefinitely, amend § 2.951 by adding paragraphs (a)(10) and (11) and (c) to read as follows:

**§ 2.951 Recognition of measurement facilities.**

(a) \* \* \*

(10) Certification to the Commission that the laboratory is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902.

(11) Documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the laboratory.

\* \* \* \* \*

(c) Each recognized laboratory must provide to the Commission, in accordance with § 2.950 and no later than 30 days after any relevant change to the required information takes effect:

(1) Certification to the Commission that the laboratory is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902.

(2) Documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the laboratory.

\* \* \* \* \*

19. Revise § 2.960 to read as follows:

**§ 2.960 Recognition of Telecommunication Certification Bodies (TCBs).**

(a) The Commission will consider for recognition under the terms of this section a Telecommunication Certification Body (TCB) that:

(1) Has been designated according to requirements of this section to issue grants of certification as required under this part;

(2) - (3) [Reserved];

(4) By means of accreditation specifying the group of equipment to be certified and the applicable regulations for product evaluation, meets all appropriate specifications in ISO/IEC 17065 (incorporated by reference, see § 2.910) for the scope of equipment the TCB would certify;

(5) Demonstrates expert knowledge of the regulations for each product with respect to which the body seeks designation. Such expertise must include familiarity with all applicable technical regulations, administrative provisions or requirements, as well as the policies and procedures used in the application thereof;

- 
- (6) Has the technical expertise and capability to test the equipment it will certify and must also be accredited in accordance with ISO/IEC 17025 (incorporated by reference, see § 2.910) to demonstrate it is competent to perform such tests;
- (7) Demonstrates an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel must demonstrate knowledge of how to obtain current and correct technical regulation interpretations.
- (i) The competence of the TCB must be demonstrated by assessment. The general competence, efficiency, experience, familiarity with technical regulations and products covered by those technical regulations, as well as compliance with applicable parts of ISO/IEC 17025 and ISO/IEC 17065 must be taken into consideration during assessment; and
- (ii) The TCB must be assessed for accreditation on intervals not exceeding two years.
- (iii) The Commission will provide public notice of the specific methods that will be used to accredit TCBs, consistent with the qualification criteria provided in this part.
- (b) The Commission will not recognize a TCB:
- (1) In which a prohibited entity, as established pursuant to § 2.902, has, possesses, or otherwise controls an equity or voting interest of 10% or more;
- (2) That fails to provide, or provides a false or inaccurate, certification as required in paragraph (a) of this section; or
- (3) That fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater.
- (c) In the United States, TCBs must be accredited and designated by the National Institute of Standards and Technology (NIST) under its National Voluntary Conformity Assessment Evaluation (NVCASE) program, or other recognized programs based on ISO/IEC 17065 (incorporated by reference, see § 2.910) to comply with the Commission's qualification criteria for TCBs. NIST may, in accordance with its procedures, allow other appropriately qualified accrediting bodies to accredit TCBs.
- (d) Outside the United States, a TCB must be designated in accordance with the terms of an effective bilateral or multilateral mutual recognition agreement or arrangement (MRA) to which the United States is a party.
- (1) The Commission will not recognize a TCB in an MRA partner economy if that economy does not permit TCBs in the United States to authorize equipment to its requirements.
- (2) The organization accrediting the prospective telecommunication certification body must be capable of meeting the requirements and conditions of ISO/IEC 17011 (incorporated by reference, see § 2.910).
- (3) A team of qualified experts in, but not limited to, electromagnetic compatibility and telecommunications equipment (wired and wireless), must perform the accreditation assessment covering all of the elements within the scope of accreditation.
- (e) The Commission will notify a TCB in writing when it has concerns or evidence that the TCB is not certifying equipment in accordance with the Commission's rules in this chapter and policies and request that it explain and correct any apparent deficiencies.

- 
- (1) The Commission may require that all applications for the TCB be processed under the pre-approval guidance procedure in § 2.964 for at least 30 days, and will provide a TCB with 30 days' notice of its intent to do so unless good cause exists for providing shorter notice.
- (2) The Commission may request that a TCB's Designating Authority or accreditation body investigate and take appropriate corrective actions as required, and the Commission may initiate action to limit or withdraw the recognition of the TCB.
- (3) In the case of a TCB designated and recognized pursuant to a bilateral or multilateral mutual recognition agreement or arrangement (MRA), the Commission will consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with the Telecommunications Trade Act of 1988 (section 1371-1382 of the Omnibus Trade and Competitiveness Act of 1988).
- (f) The Commission will limit the scope of equipment that can be certified by a TCB if its accreditor limits the scope of its accreditation or if the Commission determines there is good cause to do so. The Commission will notify a TCB in writing of its intention to limit the scope of the TCB's recognition and provide at least 60 days for the TCB to respond.
- (g) The Commission will notify a TCB in writing of its intention to withdraw the TCB's recognition, and provide at least 60 days for the TCB to respond, if:
- (1) The TCB's designation or accreditation is withdrawn;
  - (2) The Commission determines there is just cause for withdrawing the recognition; or
  - (3) The TCB requests that it no longer hold its designation or recognition.
- (h) The Commission will notify a TCB in writing of its intention to withdraw the TCB's recognition, and provide at least 30 days for the TCB to respond, if the Commission determines that the TCB:
- (1) Is owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902;
  - (2) Fails to provide, or provides a false or inaccurate, certification, as required in this section; or
  - (3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required in this section.
- (i) If the Commission withdraws its recognition of a TCB, all certifications issued by that TCB will remain valid unless specifically set aside or revoked by the Commission.
- (j) The Commission will publish a list of recognized TCBs.

20. Delayed indefinitely, further amend § 2.960 by adding paragraphs (a)(2) and (3) to read as follows:

**§ 2.960 Recognition of Telecommunication Certification Bodies (TCBs).**

(a) \* \* \*

- (2) Has certified to the Commission that the TCB is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902.

(3) Has reported to the Commission documentation identifying any entity that has equity or voting interests of 5% or greater in the TCB.

\* \* \* \* \*

21. Revise § 2.962 to read as follows:

**§ 2.962 Requirements for Telecommunication Certification Bodies.**

(a) A TCB must review for compliance with the Commission's requirements an application that includes all the information specified in this part to determine whether to grant equipment certification in accordance with § 2.911.

(1) The certification system must be based on type testing as identified in ISO/IEC 17065 (incorporated by reference, see § 2.910).

(2) Certification determinations must typically be based on testing of no more than one unmodified representative sample of each product type for which certification is sought. A TCB may request additional samples when clearly warranted, such as when certain tests are likely to render a sample inoperative.

(b) A TCB must not outsource review and certification decision activities.

(c) Evaluation may be performed using internal TCB resources or external (outsourced) resources.

(1) Evaluation is the selection of applicable requirements and the determination that those requirements are met.

(2) Bodies that meet the applicable requirements of ISO/IEC 17025 may perform the evaluation of a product in accordance with the applicable provisions of ISO/IEC 17065 for external resources (outsourcing) and other relevant standards.

(3) The TCB remains responsible for any evaluation function provided by external resources, including the testing of equipment subject to certification, and the TCB must maintain appropriate oversight of the external resources used to ensure reliability of the evaluation. Such oversight must include periodic audits of products that have been tested and other activities as required in ISO/IEC 17065.

(d) A TCB must:

(1) Certify equipment in accordance with the Commission's rules in this chapter and policies.

(2) Accept test data from any Commission-recognized accredited test laboratory, subject to the requirements in ISO/IEC 17065, and must not unnecessarily repeat tests.

(3) Only act on applications that it has received or for which it has issued a grant of certification.

(4) Dismiss an application that is not in accordance with the provisions of this subpart or when the applicant requests dismissal. A TCB may dismiss an application if the applicant does not submit additional information or test samples requested by the TCB.

(5) Follow the procedures in § 2.964 for equipment on the pre-approval guidance list.

(6) Supply an electronic copy of each certification application and all necessary exhibits to the Commission prior to grant or dismissal of the application. Where appropriate, the application must be

accompanied by a request for confidentiality of any material that may qualify for confidential treatment under the Commission's rules in this chapter.

- (7) Grant or dismiss each certification application through the Commission's electronic filing system.
  - (8) Participate in any consultative activities, identified by the Commission or NIST, to facilitate a common understanding and interpretation of applicable regulations.
- (e) A TCB may establish and assess fees for processing certification applications and other Commission-required tasks.
- (f) Within 30 days of the date of grant of certification, the Commission or TCB issuing the grant may set aside a grant of certification that does not comply with the applicable requirements or upon the request of the applicant. A TCB must notify the applicant and the Commission when a grant is set aside. After 30 days, the Commission may revoke a grant of certification through the procedures in § 2.939.
- (g) A TCB must not:
- (1) Grant a waiver of the rules in this chapter;
  - (2) Take enforcement actions; or
  - (3) Authorize a transfer of control of a grantee.
- (h) All TCB actions are subject to Commission review.
- (i) In accordance with ISO/IEC 17065 a TCB must perform appropriate post-market surveillance activities. These activities must be based on type testing a certain number of samples of the total number of product types that the TCB has certified.
- (1) The Chief of the Office of Engineering and Technology (OET) has delegated authority under § 0.241(g) of this chapter to develop procedures that TCBs will use for performing post-market surveillance. OET will publish a document on TCB post-market surveillance requirements that provides specific information such as the number and types of samples that a TCB must test.
  - (2) OET may request that a grantee of equipment certification submit a sample for evaluation directly to OET, to the TCB that performed the original certification, or to an entity designated by OET. Any equipment samples requested by the Commission and properly tested by a TCB may be counted toward the minimum number of samples that the TCB must test.
  - (3) TCBs may request samples of equipment that they have certified directly from the grantee of certification in accordance with § 2.945.
  - (4) If during post market surveillance of a certified product, a TCB determines that a product fails to comply with the technical regulations for that product, the TCB must immediately notify the grantee and the Commission in writing of its findings. The grantee must provide a report to the TCB describing the actions taken to correct the situation, and the TCB must provide a report of these actions to the Commission within 30 days.
  - (5) TCBs must submit periodic reports to OET of their post-market surveillance activities and findings in the format and by the date specified by OET.

22. Delayed indefinitely, further amend § 2.962 by adding paragraph (d)(9) to read as follows:

**§ 2.962 Requirements for Telecommunication Certification Bodies.**

\* \* \* \* \*

(d) \* \* \*

(9) Provide to the Commission, in accordance with § 2.950 and no later than 30 days after any relevant change to the required information takes effect:

(i) Certification to the Commission that the TCB is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; and

(ii) Documentation to the Commission identifying any entity that has equity or voting interests of 5% or greater in the TCB.

\* \* \* \* \*

23. Delayed indefinitely, amend § 2.1033 by revising paragraphs (b)(3) and (c)(3) to read as follows:

**§ 2.1033 Application for certification.**

\* \* \* \* \*

(b) \* \* \*

(3) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter; and.

\* \* \* \* \*

(c) \* \* \*

(3) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter.

\* \* \* \* \*

24. Delayed indefinitely, amend § 2.1043 by revising paragraphs (b)(2)(i)(C) and (b)(3)(i)(C) to read as follows:

**§ 2.1043 Changes in certificated equipment.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) \* \* \*

(C) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter;

\* \* \* \* \*

(3) \* \* \*

(i) \* \* \*

(C) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter;

\* \* \* \* \*

**Part 15 — RADIO FREQUENCY DEVICES**

25. The authority citation for part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a, and 549.

26. Amend § 15.103 by revising paragraph (j) to read as follows:

**§ 15.103 Exempted devices.**

\* \* \* \* \*

(j) Notwithstanding other provisions of this section, the rules in this chapter governing certification apply to any equipment produced by any entity identified on the Covered List, as established pursuant to § 1.50002 of this chapter.

## APPENDIX B

## Proposed Rules

**Part 2 — FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS**

1. The authority citation for part 2 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302a, 303, and 336 unless otherwise noted.

2. Amend § 2.902 by revising the entry for “Prohibited entities” to add paragraphs (2)(vii) through (ix) to read as follows:

**§ 2.902 Terms and definitions.**

\* \* \* \* \*

*Prohibited entities.*

\* \* \*

(2) \* \* \*

(vii) The Protecting Americans from Foreign Adversary Controlled Applications Act (15 U.S.C. 9901 note);

(viii) Department of Treasury, Office of Foreign Assets Control, Specially Designated Nationals and Blocked Person List; and

(ix) Section 154(b) of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31).

(3) \* \* \*

\* \* \* \* \*

2. Amend § 2.948 by revising paragraphs (a) and (b) to read as follows:

**§ 2.948 Measurement facilities.**

(a) Equipment authorized under the procedures set forth in this subpart must be tested at a laboratory that is:

\* \* \* \* \*

(b) A laboratory that makes measurements of equipment subject to an equipment authorization must compile a description of the measurement facilities employed.

\* \* \* \* \*

3. Amend § 2.949 by revising paragraphs (b)(5), (c), and (e), and adding paragraphs (c)(4) and (e)(4) to read as follows:

**§ 2.949 Recognition of laboratory accreditation bodies.**

\* \* \* \* \*

(b) \* \* \*

(5) Certification to the Commission that the laboratory accreditation body is not:

- (i) Owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; or
- (ii) Physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

(c) \* \* \*

(3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater as required in this section; or

(4) Is physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

(e) The Commission will withdraw recognition of any laboratory accreditation body that:

- (2) Fails to provide, or provides a false or inaccurate, certification, as required by this section;
- (3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required by this section; or
- (4) Is physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

4. Amend § 2.951 by revising paragraphs (a)(10), (b)(2) and (3), adding paragraph (b)(4), revising paragraphs (d)(2) and (3), and adding paragraph (d)(4) to read as follows:

**§ 2.951 Recognition of measurement facilities.**

(a) \* \* \*

(10) Certification to the Commission that the laboratory is not:

- (i) Owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; or
- (ii) Physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

(2) That fails to provide, or that provides a false or inaccurate, certification as required in this section;

(3) That fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater as required in this section; or

(4) That is physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

(d) \* \* \*

- (2) Fails to provide, or provides a false or inaccurate, certification, as required in this section;
- (3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required in this section; or
- (4) Is physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

5. Amend § 2.960 by revising paragraphs (a)(2), (b)(2) and (3), adding paragraph (a)(4), revising paragraphs (h)(2) and (3), and adding paragraph (h)(4) to read as follows:

**§ 2.960 Recognition of Telecommunication Certification Bodies (TCBs).**

(a) \* \* \*

\* \* \* \* \*

- (2) Certified to the Commission that:
  - (i) The TCB is not owned by, controlled by, or subject to the direction of a prohibited entity pursuant to § 2.902; or
  - (ii) Physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

(b) \* \* \*

\* \* \* \* \*

- (2) That fails to provide, or provides a false or inaccurate, certification as required in paragraph (a) of this section;
- (3) That fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater; or
- (4) That is physically or legally located within the geographical jurisdiction of a foreign adversary country.

(h) \* \* \*

- (2) Fails to provide, or provides a false or inaccurate, certification, as required in this section;
- (3) Fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater, as required in this section; or
- (4) Is physically or legally located within the geographical jurisdiction of a foreign adversary country.

\* \* \* \* \*

6. Amend § 2.962 by adding (a)(3) and revising paragraphs (d)(2) and (i) introductory text to read as follows:

**§ 2.962 Requirements for Telecommunication Certification Bodies.**

(a) \* \* \*

(3) A TCB is prohibited from reviewing an application that includes test data, as required under this part, that was prepared by a measurement facility that is owned by, controlled by, or subject to the direction of any entity that also owns, controls, or directs the TCB.

\* \* \* \* \*

(d) \* \* \*

\* \* \* \* \*

(2) Accept test data from any Commission-recognized accredited test laboratory, except as provided in paragraph (a)(3), subject to the requirements in ISO/IEC 17065, and must not unnecessarily repeat tests.

\* \* \* \* \*

(i) In accordance with ISO/IEC 17065 a TCB must perform appropriate post-market surveillance activities. These activities must be based on type testing a certain number of samples of the total number of product types that a different TCB has certified.

\* \* \* \* \*

## APPENDIX C

## Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Federal Communications Commission (Commission) incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program Notice of Proposed Rulemaking* (NPRM) released in May 2024.<sup>2</sup> The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were filed addressing the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA and its summaries thereof will be published in the Federal Register.<sup>3</sup>

**A. Need for, and Objectives of, the Rules**

2. In the *Report and Order*, the Commission, pursuant to section 302(e) of the Communications Act,<sup>4</sup> adopts rules to help ensure that measurement facilities (test labs), laboratory accreditation bodies, and telecommunications certification bodies (TCBs) that participate in the Commission's equipment authorization program are not subject to influence or control by untrustworthy actors that pose a risk to American national security. Specifically, the adopted rules prohibit Commission recognition of any TCB, test lab, or laboratory accreditation body owned by, controlled by, or subject to the direction of a prohibited entity (as defined by the *Report and Order*) and prohibit such TCBs, test labs, and laboratory accreditation bodies from participating in our equipment authorization program, not only with regard to the equipment certification process but also the Supplier's Declaration of Conformity (SDoC) process. The *Report and Order* defines "prohibited entities" as entities identified by several federal government sources, those identified as "foreign adversaries" by the Department of Commerce, and those identified on our Covered List,<sup>5</sup> which identifies equipment and services that pose an unacceptable risk to the national security of the United States or the security and safety of United States persons.

3. In addition, the *Report and Order* clarifies when a TCB, test lab, or laboratory accreditation body is considered "owned by, controlled by, or subject to the direction of" a prohibited entity, expands our current reporting and certification requirements to ensure we have the necessary information to enforce the relevant prohibitions, and also adopts several additional rules which serve to buttress the integrity of TCBs, laboratory accreditation bodies, and test labs associated with our equipment authorization program.

4. The adoption of these rules enables the Commission to better meet its long-standing objectives of protecting the national security of the United States, strengthen our oversight of TCBs, test labs, and laboratory accreditation bodies, and build a more secure and resilient communications supply chain.

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<sup>1</sup> 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

<sup>2</sup> *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program*; FCC 24-58, 39 FCC Rcd 5950 (7), Appendix B.

<sup>3</sup> 5 U.S.C. § 604.

<sup>4</sup> 47 U.S.C. § 302a(e).

<sup>5</sup> The Commission's Public Safety and Homeland Security Bureau maintains the Covered List on the Commission's website at <https://www.fcc.gov/supplychain/coveredlist>.

**B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA**

5. No comments were filed addressing the impact of the proposed rules on small entities.

**C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration**

6. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and provide a detailed statement of any change made to the proposed rules as a result of those comments.<sup>6</sup> The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

**D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply**

7. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein.<sup>7</sup> The RFA generally defines the term “small entity” as having the same, Small Business Act.<sup>8</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>9</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>10</sup>

8. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.<sup>11</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>12</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.<sup>13</sup>

9. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>14</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual

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<sup>6</sup> *Id.* § 604 (a)(3).

<sup>7</sup> *Id.* § 604 (a)(4).

<sup>8</sup> *Id.* § 601(6).

<sup>9</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>10</sup> 15 U.S.C. § 632.

<sup>11</sup> 5 U.S.C. § 601(3)-(6).

<sup>12</sup> See SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* 1 (July 23, 2024), [https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business\\_2024-508.pdf](https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf).

<sup>13</sup> *Id.*

<sup>14</sup> 5 U.S.C. § 601(4).

electronic filing requirements for small exempt organizations.<sup>15</sup> Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>16</sup>

10. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>17</sup> U.S. Census Bureau data from the 2022 Census of Governments<sup>18</sup> indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>19</sup> Of this number, there were 36,845 general purpose governments (county,<sup>20</sup> municipal, and town or township<sup>21</sup>) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts<sup>22</sup>) with enrollment

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<sup>15</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>16</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2022 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

<sup>17</sup> 5 U.S.C. § 601(5).

<sup>18</sup> 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7”. See also Census of Governments, <https://www.census.gov/programs-surveys/cog.html>.

<sup>19</sup> See U.S. Census Bureau, 2022 Census of Governments – Organization Table 2. Local Governments by Type and State: 2022 [CG2200ORG02], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG2200ORG02 Table Notes\_Local Governments by Type and State\_2022.

<sup>20</sup> See *id.* at tbl.5. County Governments by Population-Size Group and State: 2022 [CG2200ORG05], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. There were 2,097 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>21</sup> See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2022 [CG2200ORG06], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. There were 18,693 municipal and 16,055 town and township governments with populations less than 50,000.

<sup>22</sup> See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2022 [CG2200ORG10], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. There were 11,879 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2022 [CG2200ORG04], CG2200ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2022.

populations of less than 50,000.<sup>23</sup> Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of “small governmental jurisdictions.”<sup>24</sup>

11. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>25</sup> This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.<sup>26</sup> Providers of Internet services (e.g. dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.<sup>27</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small.<sup>28</sup> U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.<sup>29</sup> Of those firms, 1,039 had revenue of less than \$25 million.<sup>30</sup> Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

12. *Auxiliary, Special Broadcast and Other Program Distribution Services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). Neither the SBA nor the Commission have developed a small business size standard applicable to broadcast auxiliary licensees. The closest applicable industries with a SBA small business size standard fall within two industries - Radio Stations<sup>31</sup> and Television Broadcasting.<sup>32</sup> The SBA small business size standard for Radio Stations classifies firms having \$47 million or less in annual receipts as small.<sup>33</sup> U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry

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<sup>23</sup> While the special purpose governments category also includes local special district governments, the 2022 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>24</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,845) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (11,879), from the 2022 Census of Governments - Organizations tbls. 5, 6 & 10.

<sup>25</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517919 All Other Telecommunications,” <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

<sup>29</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>30</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>31</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “515112 Radio Stations,” <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

<sup>32</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “515120 Television Broadcasting,” <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

<sup>33</sup> See 13 CFR § 121.201, NAICS Code 515112 (as of 10/1/22 NAICS Code 516110).

during that year.<sup>34</sup> Of that number, 1,879 firms operated with revenue of less than \$25 million per year.<sup>35</sup> For Television Broadcasting, the SBA small business size standard also classifies firms having \$47 million or less in annual receipts as small.<sup>36</sup> U.S. Census Bureau data for 2017 show that 744 firms in this industry operated for the entire year.<sup>37</sup> Of that number, 657 firms had revenue of less than \$25 million per year.<sup>38</sup> Accordingly, based on the U.S. Census Bureau data for Radio Stations and Television Broadcasting, the Commission estimates that the majority of Auxiliary, Special Broadcast and Other Program Distribution Services firms are small under the SBA size standard.

13. *Facilities-Based Carriers (International Telecom Services)*. Facilities-based providers of international telecommunications services fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. Wired Telecommunications Carriers<sup>39</sup> is the closest industry with a SBA small business size standard.<sup>40</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>41</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>42</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>43</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported

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<sup>34</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available. We note that the US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies.

<sup>35</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>36</sup> See 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120).

<sup>37</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>38</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>39</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>40</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>41</sup> *Id.*

<sup>42</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false>.

<sup>43</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

they were engaged in the provision of interexchange services.<sup>44</sup> Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees.<sup>45</sup> Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

14. *Fixed Satellite Small Transmit/Receive Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Fixed Satellite Small Transmit/Receive Earth Stations. Satellite Telecommunications<sup>46</sup> is the closest industry with an SBA small business size standard. The SBA size standard for this industry classifies a business as small if it has \$44 million or less in annual receipts.<sup>47</sup> For this industry, U.S. Census Bureau data for 2017 show that there was a total of 275 firms that operated for the entire year.<sup>48</sup> Of this total, 242 firms had revenue of less than \$25 million.<sup>49</sup> Consequently, using the SBA's small business size standard most fixed satellite small transmit/receive earth stations can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of fixed satellite small transmit/receive earth stations that would be classified as a small business under the SBA size standard.

15. *Mobile Satellite Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Mobile Satellite Earth Stations. Satellite Telecommunications<sup>50</sup> is the closest industry with a SBA small business size standard. The SBA small business size standard classifies a business with \$44 million or less in annual receipts as small.<sup>51</sup> For this industry, U.S. Census Bureau data for 2017 show that there were 275 firms that operated for the entire year.<sup>52</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>53</sup> Thus, for this industry under

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<sup>44</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>45</sup> *Id.*

<sup>46</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>47</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>48</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>49</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>50</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517410 Satellite Telecommunications,"* <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>51</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>52</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>53</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

the SBA size standard, the Commission estimates that the majority of Mobile Satellite Earth Station licensees are small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, based on Commission data as of February 1, 2024, there were 16 Mobile Satellite Earth Stations licensees.<sup>54</sup> The Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to estimate the number of Mobile Satellite Earth Station licensees that would be classified as a small business under the SBA size standard.

16. *Private Land Mobile Radio Licensees.* Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. Wireless Telecommunications Carriers (*except* Satellite),<sup>55</sup> which encompasses business entities engaged in radiotelephone communications, is the closest industry with an SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>56</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>57</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>58</sup> Thus, under the SBA size standard, the Commission estimates licensees in this industry can be considered small.

17. Based on Commission data as of December 14, 2021, there are approximately 387,370 active PLMR licenses.<sup>59</sup> Active PLMR licenses include 3,577 licenses in the 4.9 GHz band;<sup>60</sup> 19,011

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<sup>54</sup> Based on a FCC Space Bureau, International Communication Filing System (ICFS), Advanced Search on February 1, 2024, <https://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr030b.hts?set=>. Search Terms used - Nature of Application Service = SES - Satellite Earth Station; Application Type = All; Class of Station = MES – Mobile Earth Station; and under “Filing Status” = Current.

<sup>55</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (*except* Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>56</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>57</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.:* 2017, Table ID: EC1700SIZEEMPFFIRM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>58</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>59</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, “Match only the following radio service(s)”, Radio Service = GB, GE, GF, GI, GJ, GO, GP, GU, IG, IQ, PA, PW, QM, QQ, RS, SG, SL, SP, SY, YB, YE, YF, YG, YI, YJ, YO, YP, YU, YW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>60</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, “Match only the following radio service(s)”, Radio Service = PA; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

licenses in the 800 MHz band,<sup>61</sup> and 2,716 licenses in the 900 MHz band.<sup>62</sup> Since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard. Nevertheless, the Commission believes that a substantial number of PLMR licensees are small entities.

18. *Radio Frequency Equipment Manufacturers (RF Manufacturers)*. There are several analogous industries with an SBA small business size standard that are applicable to RF Manufacturers. These industries are Fixed Microwave Services, Other Communications Equipment Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. A description of these industries and the SBA small business size standards are detailed below.

19. *Fixed Microwave Services*. Fixed microwave services include common carrier,<sup>63</sup> private-operational fixed,<sup>64</sup> and broadcast auxiliary radio services.<sup>65</sup> They also include the Upper Microwave Flexible Use Service (UMFUS),<sup>66</sup> Millimeter Wave Service (70/80/90 GHz),<sup>67</sup> Local Multipoint Distribution Service (LMDS),<sup>68</sup> the Digital Electronic Message Service (DEMS),<sup>69</sup> 24 GHz Service,<sup>70</sup> Multiple Address Systems (MAS),<sup>71</sup> and Multichannel Video Distribution and Data Service (MVDDS),<sup>72</sup> where in some bands licensees can choose between common carrier and non-common carrier status.<sup>73</sup> Wireless Telecommunications Carriers (*except* Satellite)<sup>74</sup> is the closest industry with an SBA small business size standard applicable to these services. The SBA small size standard for this

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<sup>61</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = GB, GE, GF, GJ, GM, GO, GP, YB, YE, YF, YJ, YM, YO, YP, YX; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>62</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = GI, GR, GU, YD, YS, YU; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>63</sup> See 47 CFR part 101, subparts C and I.

<sup>64</sup> See *id.* subparts C and H.

<sup>65</sup> Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. See 47 CFR part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

<sup>66</sup> See 47 CFR part 30.

<sup>67</sup> See 47 CFR part 101, subpart Q.

<sup>68</sup> See *id.* subpart L.

<sup>69</sup> See *id.* subpart G.

<sup>70</sup> See *id.*

<sup>71</sup> See *id.* subpart O.

<sup>72</sup> See *id.* subpart P.

<sup>73</sup> See 47 CFR §§ 101.533, 101.1017.

<sup>74</sup> See U.S. Census Bureau, 2017 NAICS Definition, "517312 Wireless Telecommunications Carriers (*except* Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

industry classifies a business as small if it has 1,500 or fewer employees.<sup>75</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>76</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>77</sup> Thus, under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

20. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in part 101 of the Commission's rules for the specific fixed microwave services frequency bands.<sup>78</sup>

21. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

22. *Other Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).<sup>79</sup> Examples of such manufacturing include fire detection and alarm systems manufacturing, Intercom systems and equipment manufacturing, and signals (e.g., highway, pedestrian, railway, traffic) manufacturing.<sup>80</sup> The SBA small business size standard for this industry classifies firms having 750 or fewer employees as small.<sup>81</sup> For this industry, U.S. Census Bureau data for 2017 shows that 321 firms operated for the entire

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<sup>75</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>76</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.:* 2017, Table ID: EC1700SIZEEMPFFIRM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFFIRM&hidePrevious=false>. At this time, the 2022 Economic Census data is not available.

<sup>77</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>78</sup> See 47 CFR §§ 101.538(a)(1)-(3), 101.1112(b)-(d), 101.1319(a)(1)-(2), and 101.1429(a)(1)-(3).

<sup>79</sup> See U.S. Census Bureau, *2017 NAICS Definitions, "334290 Other Communications Equipment Manufacturing,"* <https://www.census.gov/naics/?input=334290&year=2017&details=334290>.

<sup>80</sup> *Id.*

<sup>81</sup> See 13 CFR 121.201, NAICS Code 334290.

year.<sup>82</sup> Of that number, 310 firms operated with fewer than 250 employees.<sup>83</sup> Based on this data, we conclude that the majority of Other Communications Equipment Manufacturers are small.

23. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.<sup>84</sup> Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.<sup>85</sup> The SBA small business size standard for this industry classifies firms having 1,250 employees or less as small.<sup>86</sup> U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.<sup>87</sup> Of this number, 624 had fewer than 250 employees.<sup>88</sup> Based on this data, we conclude that a majority of manufacturers in this industry are small.

24. *Satellite Telecommunications.* This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”<sup>89</sup> Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$44 million or less in annual receipts as small.<sup>90</sup> U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.<sup>91</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>92</sup> Consequently, using the SBA’s small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however,

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<sup>82</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 334290, <https://data.census.gov/cedsci/table?y=2017&n=334290&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>83</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>84</sup> See U.S. Census Bureau, *2017 NAICS Definition, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,”* <https://www.census.gov/naics/?input=334220&year=2017&details=334220>.

<sup>85</sup> *Id.*

<sup>86</sup> See 13 CFR § 121.201, NAICS Code 334220.

<sup>87</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 334220, <https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>88</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>89</sup> See U.S. Census Bureau, *2017 NAICS Definition, “517410 Satellite Telecommunications,”* <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>90</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>91</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVfirm, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVfirm&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>92</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

25. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.<sup>93</sup> Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband Internet services.<sup>94</sup> By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>95</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>96</sup>

26. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>97</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>98</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>99</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services.<sup>100</sup> Of these providers, the Commission estimates that 4,146 providers have 1,500 or fewer employees.<sup>101</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

27. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide

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<sup>93</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

<sup>97</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>98</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>99</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>100</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>, <https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>

<sup>101</sup> *Id.*

communications via the airwaves.<sup>102</sup> Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.<sup>103</sup> The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>104</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.<sup>105</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>106</sup> Additionally, based on Commission data in the 2024 Universal Service Monitoring Report, as of December 31, 2023, there were 585 providers that reported they were engaged in the provision of wireless services.<sup>107</sup> Of these providers, the Commission estimates that 498 providers have 1,500 or fewer employees.<sup>108</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

**E. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

28. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.<sup>109</sup>

29. In the *Report and Order*, the Commission's part 2 rules include an expansion of our current reporting and certification requirements for TCBs, test labs, and laboratory accreditation bodies that seek recognition from the Commission. The Commission expects that all filing, recordkeeping, and reporting requirements associated with the adopted rules will be the same for small and other entities that have been determined to pose unacceptable risks to national security. The expansion of our current rules will help ensure we have the necessary information to prohibit entities deemed to be national security threats from participation in our equipment authorization program. We adopt a requirement that, within 60 days after the effective date of these rules and thereafter with the request for recognition, each TCB, test lab, or laboratory accreditation body certify that it is not owned by, controlled by, or subject to the direction of a prohibited entity. We also adopt a requirement that each TCB, test lab, or laboratory accreditation body report, within 120 days after the effective date of these rules and thereafter with the request for recognition, all equity or voting interest of 5% or greater by any entity. The Commission believes that expanding our current reporting requirement will balance the need to protect national security and better identify foreign interests and their possible control, while also minimizing undue reporting burdens on small entities.

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<sup>102</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (except Satellite)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>103</sup> *Id.*

<sup>104</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>105</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePrevie w=false>. At this time, the 2022 Economic Census data is not available.

<sup>106</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>107</sup> Federal-State Joint Board on Universal Service, *Universal Service Monitoring Report at 26*, Table 1.12 (2024), <https://docs.fcc.gov/public/attachments/DOC-408848A1.pdf>.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.* § 604(a)(5).

30. In addition, under the adopted rules, the Commission will not recognize, and will revoke, recognition of any TCB, test lab, or laboratory accreditation body that fails to provide, or that provides a false or inaccurate, certification; or that fails to provide, or provides false or inaccurate, information regarding equity or voting interests of 5% or greater. The adopted rules clarify these failures to comply with Commission rules concerning national security as “just cause” that would permit revocation under its existing rules. The Commission already specifies the procedures it will follow when withdrawing recognition of TCBs, for which the Report and Order expands to include test labs and laboratory accreditation bodies. The Commission directs OET to issue a letter notifying the non-compliant entity of the intent to withdraw or deny recognition, with an explanation of the basis for determining that the relevant entity may not be in compliance with the Commission’s rules. Further, the letter will request that the relevant entity explain and correct any apparent deficiencies, and also request that the relevant entity show cause why its recognition should not be suspended as well as why it should be allowed re-recognition, within 30 days of the date of correspondence. The letter may also request updated ownership information and other information OET deems necessary and appropriate to assess compliance with the Commission’s rules. OET has authority to suspend or deny recognition of any TCB, test lab, or laboratory accreditation body that fails, in OET’s determination, to timely reply, to adequately explain or correct any deficiencies, or to show cause.

31. Finally, we also clarify the reporting requirements that every entity specifically named on the Covered List must provide to the Commission, pursuant to § 2.903(b), information regarding all of its subsidiaries and affiliates, not merely those that produce “covered” equipment. Therefore, we require each relevant entity to certify to the Commission the following information: the full name, mailing address or physical address (if different from mailing address), e-mail address, and telephone number of each of that named entity’s associated entities (e.g., subsidiaries or affiliates). We also define the term “affiliates” and “own” in part 2.903(c) as an entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another entity; the term ‘own’ means to have, possess, or otherwise control an equity or voting interest (or the equivalent thereof) of 10 percent or more.

32. The adopted rules also further protect the integrity of our equipment authorization program from untrustworthy entities by determining that reported ownership information will be made publicly available on the Commission’s website. These modifications address supply chain security without disrupting testing capacity or U.S. trade commitments, without placing excessive burdens on small entities and trustworthy TCBs or test labs. As a result of the adopted rules, the Commission and all parties seeking equipment authorization must be able to evaluate any ownership interest concerns that may be raised regarding an entity’s impartiality or trustworthiness in regards to potential influence by entities that raise national security concerns to determine which TCBs, test labs, and laboratory accreditation bodies can be relied upon for purposes of our equipment authorization program.

33. As these types of information collection are routine in nature, these unique obligations should not be overly burdensome to small and other entities. Ascertaining the holders of 5% or more of the direct or indirect ownership should not present a substantial burden on TCBs, test labs, and laboratory accreditation bodies because a privately held company, many of which are small entities, likely has readily-known information about its investors, while a larger, publicly held company is required to identify its interest holders in requisite filings with the U.S. Securities and Exchange Commission. As a result, the Commission believes these adopted reporting requirements do not pose an excessive compliance burden on small and other entities.

**F. Discussion of Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

34. The RFA requires an agency to provide, “a description of the steps the agency has taken to minimize the significant economic impact on small entities...including a statement of the factual,

policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”<sup>110</sup>

35. In reaching its conclusions in the *Report and Order*, the Commission took steps to minimize significant economic burdens to small entities as a result of the adopted rules, while also considering alternative approaches. For example, the Commission adopted a requirement that TCBs have an organizational and management structure in place that ensures the TCB conducts the necessary level of review and scrutiny so as to prevent authorization of any “covered” equipment. In doing so, we adopted reporting requirements that would be appropriate for TCBs, test labs, and laboratory accreditation bodies to provide, such as general ownership information, the name of the person responsible for determining whether equipment is “covered” equipment, as well as a statement providing a rationale for determining that the particular equipment that the TCB is authorizing is not “covered” equipment. These requirements took the interests of small entities into account based on information in the record, and we will consider requiring additional information from the TCBs should there be relevant comments concerning small entities added to the record. Alternatively, we considered approaches that could minimize significant economic impact on small entities such as simplified reporting mechanisms or providing small entities with a more manageable timeframe in which they could comply and take into account the limited budgetary and personnel resources experienced by small TCBs, test labs, and laboratory accreditation bodies. However, we concluded that the types of information we routine in many contexts, and would not create an undue burden for small entities that would warrant adopting such an approach. Nevertheless, we encourage further comment from small entities that can provide us with information detailing what, if any, economic burdens they would face as a result of complying with the adopted rules, and on various steps it could take to balance its objective of fine tuning its equipment authorization program for TCBs, test labs, and laboratory accreditation bodies without creating significant economic burdens to small entities in order to comply with the adopted rules in the *Report and Order*.

36. Regulatory burdens, such as the requirement that every entity and each associated entity named on the Covered List must provide information regarding all of its subsidiaries and affiliates to the Commission, are necessary to ensure the safety of the American people. We believe taking the approach of amending our part 2 rules to narrow the equipment authorization process will achieve the Commission’s national security goals in a cost-effective manner. We seek further comment from third party entities and from other interested parties on the best methods in which to ensure the reliability of TCBs, test labs, and laboratory accreditation bodies, while also complying with the prohibition on authorizing Covered List equipment under our part 2 equipment authorization rules.

### **G. Report to Congress**

37. The Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, in a report to Congress pursuant to the Congressional Review Act.<sup>111</sup> In addition, the Commission will send a copy of the *Report and Order*, including this Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the SBA and will publish a copy of the *Report and Order*, and this Final Regulatory Flexibility Analysis (or summaries thereof) in the Federal Register.<sup>112</sup>

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<sup>110</sup> *Id.* § 604(a)(6).

<sup>111</sup> *Id.* § 801(a)(1)(A).

<sup>112</sup> *Id.* § 604(b).

## APPENDIX D

## Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Further Notice of Proposed Rulemaking (Further Notice)* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Further Notice*. The Commission will send a copy of the *Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).<sup>2</sup> In addition, the *Further Notice* and IRFA (or summaries thereof) will be published in the Federal Register.<sup>3</sup>

**A. Need for, and Objectives of, the Proposed Rules**

2. In the *Further Notice*, pursuant to section 302(e) of the Communications Act,<sup>4</sup> we seek further comment on several matters, proposed rules, and potential revisions to our rules to expand upon our efforts to ensure the integrity of our equipment authorization program, particularly through prohibitions on ownership, direction, or control by untrustworthy actors that pose a risk to national security. Specifically, the Commission seeks further comment on alternative approaches concerning expanding the prohibitions, increasing equipment authorization testing and certification within the United States, and other matters such as post-market surveillance procedures and TCB and test lab relationships.

3. The Commission's objective is to effectively safeguard the integrity of our equipment authorization program by seeking further comment on the proposed rules, and we welcome comments from small entities that can clarify what, if any, significant economic impact the proposed rules may have on their operations. We also find it purposeful to seek further comment on ways the Commission can simplify and reassure more equipment authorization testing to occur at laboratories, equally to small and other entities, within the United States or its allied countries. Overall, the proposals contained in the *Further Notice* represent a necessary step by the Commission to prohibit entities subject to the jurisdiction of a foreign adversary which would help reduce national security threats on the United States and the United States people.

**B. Legal Basis**

4. The proposed action is authorized pursuant to sections 1, 4(i), 229, 301, 302, 303, 309, 312, 403, and 503 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 229, 301, 302a, 303, 309, 312, 403, and 503, section 105 of the Communications Assistance for Law Enforcement Act, 47 U.S.C. § 1004; the Secure and Trusted Communications Networks Act of 2019, 47 U.S.C. §§ 1601-1609; and the Secure Equipment Act of 2021, Pub. L. 117-55, 135 Stat. 423, 47 U.S.C. § 1601.

**C. Description and Estimate of the Number of Small Entities to Which the Proposed**

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<sup>1</sup> 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

<sup>2</sup> *Id.* § 603(a).

<sup>3</sup> *Id.*

<sup>4</sup> 47 U.S.C. § 302a(e).

### Rules Would Apply

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>5</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>6</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>7</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.<sup>8</sup>

6. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe, at the outset, three broad groups of small entities that could be directly affected herein.<sup>9</sup> First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the Small Business Administration’s (SBA) Office of Advocacy, in general a small business is an independent business having fewer than 500 employees.<sup>10</sup> These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.<sup>11</sup>

7. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.”<sup>12</sup> The Internal Revenue Service (IRS) uses a revenue benchmark of \$50,000 or less to delineate its annual electronic filing requirements for small exempt organizations.<sup>13</sup> Nationwide, for tax year 2022, there were approximately 530,109 small exempt organizations in the U.S. reporting revenues of \$50,000 or less according to the registration and tax data for exempt organizations available from the IRS.<sup>14</sup>

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<sup>5</sup> *Id.* § 603(b)(3).

<sup>6</sup> *Id.* § 601(6).

<sup>7</sup> *Id.* § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>8</sup> 15 U.S.C. § 632.

<sup>9</sup> 5 U.S.C. § 601(3)-(6).

<sup>10</sup> See SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* 1 (July 23, 2024), [https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business\\_2024-508.pdf](https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> 5 U.S.C. § 601(4).

<sup>13</sup> The IRS benchmark is similar to the population of less than 50,000 benchmark in 5 U.S.C § 601(5) that is used to define a small governmental jurisdiction. Therefore, the IRS benchmark has been used to estimate the number of small organizations in this small entity description. See Annual Electronic Filing Requirement for Small Exempt Organizations – Form 990-N (e-Postcard), “Who must file,” <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>. We note that the IRS data does not provide information on whether a small exempt organization is independently owned and operated or dominant in its field.

<sup>14</sup> See Exempt Organizations Business Master File Extract (EO BMF), “CSV Files by Region,” <https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>. The IRS Exempt Organization Business Master File (EO BMF) Extract provides information on all registered

(continued....)

8. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.”<sup>15</sup> U.S. Census Bureau data from the 2022 Census of Governments<sup>16</sup> indicate there were 90,837 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States.<sup>17</sup> Of this number, there were 36,845 general purpose governments (county,<sup>18</sup> municipal, and town or township<sup>19</sup>) with populations of less than 50,000 and 11,879 special purpose governments (independent school districts<sup>20</sup>) with enrollment populations of less than 50,000.<sup>21</sup> Accordingly, based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 entities fall into the category of “small governmental jurisdictions.”<sup>22</sup>

9. *All Other Telecommunications.* This industry is comprised of establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation.<sup>23</sup> This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial

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tax-exempt/non-profit organizations. The data utilized for purposes of this description was extracted from the IRS EO BMF data for businesses for the tax year 2022 with revenue less than or equal to \$50,000 for Region 1-Northeast Area (71,897), Region 2-Mid-Atlantic and Great Lakes Areas (197,296), and Region 3-Gulf Coast and Pacific Coast Areas (260,447) that includes the continental U.S., Alaska, and Hawaii. This data includes information for Puerto Rico (469).

<sup>15</sup> 5 U.S.C. § 601(5).

<sup>16</sup> 13 U.S.C. § 161. The Census of Governments survey is conducted every five (5) years compiling data for years ending with “2” and “7.” See also Census of Governments, <https://www.census.gov/programs-surveys/cog.html>.

<sup>17</sup> See U.S. Census Bureau, 2022 Census of Governments – Organization Table 2. Local Governments by Type and State: 2022 [CG2200ORG02], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. Local governmental jurisdictions are made up of general purpose governments (county, municipal and town or township) and special purpose governments (special districts and independent school districts). See also tbl.2. CG2200ORG02 Table Notes\_Local Governments by Type and State\_2022.

<sup>18</sup> See *id.* at tbl.5. County Governments by Population-Size Group and State: 2022 [CG2200ORG05], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. There were 2,097 county governments with populations less than 50,000. This category does not include subcounty (municipal and township) governments.

<sup>19</sup> See *id.* at tbl.6. Subcounty General-Purpose Governments by Population-Size Group and State: 2022 [CG2200ORG06], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. There were 18,693 municipal and 16,055 town and township governments with populations less than 50,000.

<sup>20</sup> See *id.* at tbl.10. Elementary and Secondary School Systems by Enrollment-Size Group and State: 2022 [CG2200ORG10], <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>. There were 11,879 independent school districts with enrollment populations less than 50,000. See also tbl.4. Special-Purpose Local Governments by State Census Years 1942 to 2022 [CG2200ORG04], CG2200ORG04 Table Notes\_Special Purpose Local Governments by State\_Census Years 1942 to 2022.

<sup>21</sup> While the special purpose governments category also includes local special district governments, the 2022 Census of Governments data does not provide data aggregated based on population size for the special purpose governments category. Therefore, only data from independent school districts is included in the special purpose governments category.

<sup>22</sup> This total is derived from the sum of the number of general purpose governments (county, municipal and town or township) with populations of less than 50,000 (36,845) and the number of special purpose governments - independent school districts with enrollment populations of less than 50,000 (11,879), from the 2022 Census of Governments - Organizations tbls. 5, 6 & 10.

<sup>23</sup> See U.S. Census Bureau, 2017 NAICS Definition, “517919 All Other Telecommunications,” <https://www.census.gov/naics/?input=517919&year=2017&details=517919>.

systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.<sup>24</sup> Providers of Internet services (e.g. dial-up ISPs) or Voice over Internet Protocol (VoIP) services, via client-supplied telecommunications connections are also included in this industry.<sup>25</sup> The SBA small business size standard for this industry classifies firms with annual receipts of \$40 million or less as small.<sup>26</sup> U.S. Census Bureau data for 2017 show that there were 1,079 firms in this industry that operated for the entire year.<sup>27</sup> Of those firms, 1,039 had revenue of less than \$25 million.<sup>28</sup> Based on this data, the Commission estimates that the majority of “All Other Telecommunications” firms can be considered small.

10. *Auxiliary, Special Broadcast and Other Program Distribution Services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). Neither the SBA nor the Commission have developed a small business size standard applicable to broadcast auxiliary licensees. The closest applicable industries with a SBA small business size standard fall within two industries - Radio Stations<sup>29</sup> and Television Broadcasting.<sup>30</sup> The SBA small business size standard for Radio Stations classifies firms having \$47 million or less in annual receipts as small.<sup>31</sup> U.S. Census Bureau data for 2017 show that 2,963 firms operated in this industry during that year.<sup>32</sup> Of that number, 1,879 firms operated with revenue of less than \$25 million per year.<sup>33</sup> For Television Broadcasting, the SBA small business size standard also classifies firms having \$47

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> See 13 CFR § 121.201, NAICS Code 517919 (as of 10/1/22, NAICS Code 517810).

<sup>27</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517919, <https://data.census.gov/cedsci/table?y=2017&n=517919&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>28</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>29</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515112 Radio Stations,”* <https://www.census.gov/naics/?input=515112&year=2017&details=515112>.

<sup>30</sup> See U.S. Census Bureau, *2017 NAICS Definition, “515120 Television Broadcasting,”* <https://www.census.gov/naics/?input=515120&year=2017&details=515120>.

<sup>31</sup> See 13 CFR § 121.201, NAICS Code 515112 (as of 10/1/22 NAICS Code 516110).

<sup>32</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515112, <https://data.census.gov/cedsci/table?y=2017&n=515112&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available. We note that the US Census Bureau withheld publication of the number of firms that operated for the entire year to avoid disclosing data for individual companies.

<sup>33</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We note that the U.S. Census Bureau withheld publication of the number of firms that operated with sales/value of shipments/revenue in the individual categories for less than \$100,000, and \$100,000 to \$249,999 to avoid disclosing data for individual companies (see Cell Notes for the sales/value of shipments/revenue in these categories). Therefore, the number of firms with revenue that meet the SBA size standard would be higher than noted herein. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

million or less in annual receipts as small.<sup>34</sup> U.S. Census Bureau data for 2017 show that 744 firms in this industry operated for the entire year.<sup>35</sup> Of that number, 657 firms had revenue of less than \$25 million per year.<sup>36</sup> Accordingly, based on the U.S. Census Bureau data for Radio Stations and Television Broadcasting, the Commission estimates that the majority of Auxiliary, Special Broadcast and Other Program Distribution Services firms are small under the SBA size standard.

11. *Facilities-Based Carriers (International Telecom Services)*. Facilities-based providers of international telecommunications services fall into the larger category of interexchange carriers. Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. Wired Telecommunications Carriers<sup>37</sup> is the closest industry with a SBA small business size standard.<sup>38</sup> The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>39</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>40</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>41</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 127 providers that reported they were engaged in the provision of interexchange services.<sup>42</sup> Of these providers, the Commission estimates that 109 providers have 1,500 or fewer employees.<sup>43</sup> Consequently, using the SBA's small business size standard, the Commission estimates that the majority of providers in this industry can be considered small entities.

12. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as

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<sup>34</sup> See 13 CFR § 121.201, NAICS Code 515120 (as of 10/1/22 NAICS Code 516120).

<sup>35</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 515120, <https://data.census.gov/cedsci/table?y=2017&n=515120&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>36</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>37</sup> See U.S. Census Bureau, *2017 NAICS Definition, "517311 Wired Telecommunications Carriers,"* <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>38</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>39</sup> *Id.*

<sup>40</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIRM, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPFIRM&hidePreview=false>.

<sup>41</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>42</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>43</sup> *Id.*

identified in part 101 of the Commission's rules for the specific fixed microwave services frequency bands.<sup>44</sup>

13. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

14. *Fixed Satellite Small Transmit/Receive Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Fixed Satellite Small Transmit/Receive Earth Stations. Satellite Telecommunications<sup>45</sup> is the closest industry with an SBA small business size standard. The SBA size standard for this industry classifies a business as small if it has \$44 million or less in annual receipts.<sup>46</sup> For this industry, U.S. Census Bureau data for 2017 show that there was a total of 275 firms that operated for the entire year.<sup>47</sup> Of this total, 242 firms had revenue of less than \$25 million.<sup>48</sup> Consequently, using the SBA's small business size standard most fixed satellite small transmit/receive earth stations can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of fixed satellite small transmit/receive earth stations that would be classified as a small business under the SBA size standard.

15. *Mobile Satellite Earth Stations.* Neither the SBA nor the Commission have developed a small business size standard specifically applicable to Mobile Satellite Earth Stations. Satellite Telecommunications<sup>49</sup> is the closest industry with a SBA small business size standard. The SBA small business size standard classifies a business with \$44 million or less in annual receipts as small.<sup>50</sup> For this industry, U.S. Census Bureau data for 2017 show that there were 275 firms that operated for the entire

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<sup>44</sup> See 47 CFR §§ 101.538(a)(1)-(3), 101.1112(b)-(d), 101.1319(a)(1)-(2), and 101.1429(a)(1)-(3).

<sup>45</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517410 Satellite Telecommunications," <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>46</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>47</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>48</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>49</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517410 Satellite Telecommunications," <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>50</sup> See 13 CFR § 121.201, NAICS Code 517410.

year.<sup>51</sup> Of this number, 242 firms had revenue of less than \$25 million.<sup>52</sup> Thus, for this industry under the SBA size standard, the Commission estimates that the majority of Mobile Satellite Earth Station licensees are small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, based on Commission data as of February 1, 2024, there were 16 Mobile Satellite Earth Stations licensees.<sup>53</sup> The Commission does not request nor collect annual revenue information from satellite telecommunications providers, and is therefore unable to estimate the number of Mobile Satellite Earth Station licensees that would be classified as a small business under the SBA size standard.

16. *Private Land Mobile Radio Licensees.* Private land mobile radio (PLMR) systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. Companies of all sizes operating in all U.S. business categories use these radios. Wireless Telecommunications Carriers (*except Satellite*)<sup>54</sup> which encompasses business entities engaged in *radiotelephone communications*, is the closest industry with an SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>55</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>56</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>57</sup> Thus, under the SBA size standard, the Commission estimates licensees in this industry can be considered small.

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<sup>51</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFIRM, NAICS Code 517410, <https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>52</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>53</sup> Based on an FCC Space Bureau, International Communication Filing System (ICFS), Advanced Search on February 1, 2024, <https://licensing.fcc.gov/cgi-bin/ws.exe/prod/ib/forms/reports/swr030b.hts?set=>. Search Terms used - Nature of Application Service = SES - Satellite Earth Station; Application Type = All; Class of Station = MES – Mobile Earth Station; and under “Filing Status” = Current.

<sup>54</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (*except Satellite*)” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>55</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>56</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>57</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

17. Based on Commission data as of December 14, 2021, there are approximately 387,370 active PLMR licenses.<sup>58</sup> Active PLMR licenses include 3,577 licenses in the 4.9 GHz band;<sup>59</sup> 19,011 licenses in the 800 MHz band;<sup>60</sup> and 2,716 licenses in the 900 MHz band.<sup>61</sup> Since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard. Nevertheless, the Commission believes that a substantial number of PLMR licensees are small entities.

18. *Radio Frequency Equipment Manufacturers (RF Manufacturers)*. There are several analogous industries with an SBA small business size standard that are applicable to RF Manufacturers. These industries are Fixed Microwave Services, Other Communications Equipment Manufacturing, Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. A description of these industries and the SBA small business size standards are detailed below.

19. *Fixed Microwave Services*. Fixed microwave services include common carrier,<sup>62</sup> private-operational fixed,<sup>63</sup> and broadcast auxiliary radio services.<sup>64</sup> They also include the Upper Microwave Flexible Use Service (UMFUS),<sup>65</sup> Millimeter Wave Service (70/80/90 GHz),<sup>66</sup> Local Multipoint Distribution Service (LMDS),<sup>67</sup> the Digital Electronic Message Service (DEMS),<sup>68</sup> 24 GHz

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<sup>58</sup> Based on an FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = GB, GE, GF, GI, GJ, GO, GP, GU, IG, IQ, PA, PW, QM, QQ, RS, SG, SL, SP, SY, YB, YE, YF, YG, YI, YJ, YO, YP, YU, YW; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>59</sup> Based on an FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = PA; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>60</sup> Based on an FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = GB, GE, GF, GJ, GM, GO, GP, YB, YE, YF, YJ, YM, YO, YP, YX; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>61</sup> Based on a FCC Universal Licensing System search on December 14, 2021, <https://wireless2.fcc.gov/UlsApp/UlsSearch/searchAdvanced.jsp>. Search parameters: Service Group = All, "Match only the following radio service(s)", Radio Service = GI, GR, GU, YD, YS, YU; Authorization Type = All; Status = Active. We note that the number of active licenses does not equate to the number of licensees. A licensee can have one or more licenses.

<sup>62</sup> See 47 CFR part 101, subparts C and I.

<sup>63</sup> See *id.* subparts C and H.

<sup>64</sup> Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. See 47 CFR part 74. Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

<sup>65</sup> See 47 CFR part 30.

<sup>66</sup> See 47 CFR part 101, subpart Q.

<sup>67</sup> See *id.* subpart L.

<sup>68</sup> See *id.* subpart G.

Service,<sup>69</sup> Multiple Address Systems (MAS),<sup>70</sup> and Multichannel Video Distribution and Data Service (MVDDS),<sup>71</sup> where in some bands licensees can choose between common carrier and non-common carrier status.<sup>72</sup> Wireless Telecommunications Carriers (*except Satellite*)<sup>73</sup> is the closest industry with an SBA small business size standard applicable to these services. The SBA small size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>74</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms that operated in this industry for the entire year.<sup>75</sup> Of this number, 2,837 firms employed fewer than 250 employees.<sup>76</sup> Thus, under the SBA size standard, the Commission estimates that a majority of fixed microwave service licensees can be considered small.

20. The Commission's small business size standards with respect to fixed microwave services involve eligibility for bidding credits and installment payments in the auction of licenses for the various frequency bands included in fixed microwave services. When bidding credits are adopted for the auction of licenses in fixed microwave services frequency bands, such credits may be available to several types of small businesses based average gross revenues (small, very small and entrepreneur) pursuant to the competitive bidding rules adopted in conjunction with the requirements for the auction and/or as identified in part 101 of the Commission's rules for the specific fixed microwave services frequency bands.<sup>77</sup>

21. In frequency bands where licenses were subject to auction, the Commission notes that as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Further, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated. Additionally, since the Commission does not collect data on the number of employees for licensees providing these services, at this time we are not able to estimate the number of licensees with active licenses that would qualify as small under the SBA's small business size standard.

22. *Other Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).<sup>78</sup> Examples of such manufacturing include fire detection and alarm systems manufacturing, Intercom systems and

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<sup>69</sup> See *id.*

<sup>70</sup> See *id.* subpart O.

<sup>71</sup> See *id.* subpart P.

<sup>72</sup> See 47 CFR §§ 101.533, 101.1017.

<sup>73</sup> See U.S. Census Bureau, *2017 NAICS Definition*, "517312 Wireless Telecommunications Carriers (*except Satellite*)," <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>74</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>75</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>76</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>77</sup> See 47 CFR §§ 101.538(a)(1)-(3), 101.1112(b)-(d), 101.1319(a)(1)-(2), and 101.1429(a)(1)-(3).

<sup>78</sup> See U.S. Census Bureau, *2017 NAICS Definitions*, "334290 Other Communications Equipment Manufacturing," <https://www.census.gov/naics/?input=334290&year=2017&details=334290>.

equipment manufacturing, and signals (e.g., highway, pedestrian, railway, traffic) manufacturing.<sup>79</sup> The SBA small business size standard for this industry classifies firms having 750 or fewer employees as small.<sup>80</sup> For this industry, U.S. Census Bureau data for 2017 shows that 321 firms operated for the entire year.<sup>81</sup> Of that number, 310 firms operated with fewer than 250 employees.<sup>82</sup> Based on this data, we conclude that the majority of Other Communications Equipment Manufacturers are small.

23. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment.<sup>83</sup> Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.<sup>84</sup> The SBA small business size standard for this industry classifies firms having 1,250 employees or less as small.<sup>85</sup> U.S. Census Bureau data for 2017 show that there were 656 firms in this industry that operated for the entire year.<sup>86</sup> Of this number, 624 had fewer than 250 employees.<sup>87</sup> Based on this data, we conclude that a majority of manufacturers in this industry are small.

24. *Satellite Telecommunications.* This industry comprises firms “primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.”<sup>88</sup> Satellite telecommunications service providers include satellite and earth station operators. The SBA small business size standard for this industry classifies a business with \$44 million or less in annual receipts as small.<sup>89</sup> U.S. Census Bureau data for 2017 show that 275 firms in this industry operated for the entire year.<sup>90</sup> Of this number, 242 firms had revenue of less than

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<sup>79</sup> *Id.*

<sup>80</sup> See 13 CFR § 121.201, NAICS Code 334290.

<sup>81</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 334290, <https://data.census.gov/cedsci/table?y=2017&n=334290&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>82</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>83</sup> See U.S. Census Bureau, *2017 NAICS Definition, “334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,”* <https://www.census.gov/naics/?input=334220&year=2017&details=334220>.

<sup>84</sup> *Id.*

<sup>85</sup> See 13 CFR § 121.201, NAICS Code 334220.

<sup>86</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFI, NAICS Code 334220, <https://data.census.gov/cedsci/table?y=2017&n=334220&tid=ECNSIZE2017.EC1700SIZEEMPFI&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>87</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>88</sup> See U.S. Census Bureau, *2017 NAICS Definition, “517410 Satellite Telecommunications,”* <https://www.census.gov/naics/?input=517410&year=2017&details=517410>.

<sup>89</sup> See 13 CFR § 121.201, NAICS Code 517410.

<sup>90</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEREVFI, NAICS Code 517410,

(continued....)

\$25 million.<sup>91</sup> Consequently, using the SBA's small business size standard most satellite telecommunications service providers can be considered small entities. The Commission notes however, that the SBA's revenue small business size standard is applicable to a broad scope of satellite telecommunications providers included in the U.S. Census Bureau's Satellite Telecommunications industry definition. Additionally, the Commission neither requests nor collects annual revenue information from satellite telecommunications providers, and is therefore unable to more accurately estimate the number of satellite telecommunications providers that would be classified as a small business under the SBA size standard.

25. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks.<sup>92</sup> Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband Internet services.<sup>93</sup> By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.<sup>94</sup> Wired Telecommunications Carriers are also referred to as wireline carriers or fixed local service providers.<sup>95</sup>

26. The SBA small business size standard for Wired Telecommunications Carriers classifies firms having 1,500 or fewer employees as small.<sup>96</sup> U.S. Census Bureau data for 2017 show that there were 3,054 firms that operated in this industry for the entire year.<sup>97</sup> Of this number, 2,964 firms operated with fewer than 250 employees.<sup>98</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 4,590 providers that reported they were engaged in the provision of fixed local services.<sup>99</sup> Of these providers, the Commission estimates that 4,146

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<https://data.census.gov/cedsci/table?y=2017&n=517410&tid=ECNSIZE2017.EC1700SIZEREVFIRM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>91</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard. We also note that according to the U.S. Census Bureau glossary, the terms receipts and revenues are used interchangeably, see [https://www.census.gov/glossary/#term\\_ReceiptsRevenueServices](https://www.census.gov/glossary/#term_ReceiptsRevenueServices).

<sup>92</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517311 Wired Telecommunications Carriers,” <https://www.census.gov/naics/?input=517311&year=2017&details=517311>.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> Fixed Local Service Providers include the following types of providers: Incumbent Local Exchange Carriers (ILECs), Competitive Access Providers (CAPs) and Competitive Local Exchange Carriers (CLECs), Cable/Coax CLECs, Interconnected VOIP Providers, Non-Interconnected VOIP Providers, Shared-Tenant Service Providers, Audio Bridge Service Providers, and Other Local Service Providers. Local Resellers fall into another U.S. Census Bureau industry group and therefore data for these providers is not included in this industry.

<sup>96</sup> See 13 CFR § 121.201, NAICS Code 517311 (as of 10/1/22, NAICS Code 517111).

<sup>97</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Selected Sectors: Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPfirm, NAICS Code 517311, <https://data.census.gov/cedsci/table?y=2017&n=517311&tid=ECNSIZE2017.EC1700SIZEEMPfirm&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>98</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>99</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), (continued....)

providers have 1,500 or fewer employees.<sup>100</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

27. *Wireless Telecommunications Carriers (except Satellite)*. This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves.<sup>101</sup> Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless Internet access, and wireless video services.<sup>102</sup> The SBA size standard for this industry classifies a business as small if it has 1,500 or fewer employees.<sup>103</sup> U.S. Census Bureau data for 2017 show that there were 2,893 firms in this industry that operated for the entire year.<sup>104</sup> Of that number, 2,837 firms employed fewer than 250 employees.<sup>105</sup> Additionally, based on Commission data in the 2022 Universal Service Monitoring Report, as of December 31, 2021, there were 594 providers that reported they were engaged in the provision of wireless services.<sup>106</sup> Of these providers, the Commission estimates that 511 providers have 1,500 or fewer employees.<sup>107</sup> Consequently, using the SBA's small business size standard, most of these providers can be considered small entities.

#### **D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

28. The RFA directs agencies to describe the economic impact proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which would be subject to the requirement and the type of professional skills necessary for preparation of the report or record.<sup>108</sup>

29. Many of the rule changes which the *Further Notice* proposes or seeks comment on would, if adopted, involve making changes to the current certification and technical rule requirements. These particular proposed changes may involve new reporting, recordkeeping, or other compliance requirements that impose compliance burdens on regulated entities identified above. However, the *Further Notice* seeks comment on how any restrictions imposed by the Commission on TCBs, test labs, and laboratory accreditation bodies may affect the integrity of our equipment authorization program.

30. At this time, the Commission is not in a position to determine whether, if adopted, our proposals and the matters upon which we seek comment would require small entities to hire professionals

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<https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>

<https://docs.fcc.gov/public/attachments/DOC-379181A1.pdf>

<sup>100</sup> *Id.*

<sup>101</sup> See U.S. Census Bureau, *2017 NAICS Definition*, “517312 Wireless Telecommunications Carriers (except Satellite),” <https://www.census.gov/naics/?input=517312&year=2017&details=517312>.

<sup>102</sup> *Id.*

<sup>103</sup> See 13 CFR § 121.201, NAICS Code 517312 (as of 10/1/22, NAICS Code 517112).

<sup>104</sup> See U.S. Census Bureau, *2017 Economic Census of the United States, Employment Size of Firms for the U.S.: 2017*, Table ID: EC1700SIZEEMPFIEM, NAICS Code 517312, <https://data.census.gov/cedsci/table?y=2017&n=517312&tid=ECNSIZE2017.EC1700SIZEEMPFIEM&hidePreview=false>. At this time, the 2022 Economic Census data is not available.

<sup>105</sup> *Id.* The available U.S. Census Bureau data does not provide a more precise estimate of the number of firms that meet the SBA size standard.

<sup>106</sup> Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 26, Table 1.12 (2022), <https://docs.fcc.gov/public/attachments/DOC-391070A1.pdf>.

<sup>107</sup> *Id.*

<sup>108</sup> 5 U.S.C. § 603(b)(4).

to comply, and has not quantified the cost of compliance with the potential rule changes discussed in the *Further Notice*. We anticipate the information we receive in comments including where requested, cost and benefit analyses, would help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries made in the *Further Notice*.

**E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities**

31. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities.<sup>109</sup> The discussion is required to include alternatives such as: “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>110</sup>

32. Through the proposals contained in the *Further Notice*, we have taken steps to encourage further development of the equipment authorization program, while protecting America and the American people from entities potentially controlled by a foreign adversary and minimizing significant economic impact to small entities. One way the Commission has sought to accomplish these objectives is to include proposals that provide a benefit to America’s economy, while causing minimal, if any, economic or regulatory burdens to small and other entities. For example, in the *Further Notice*, we consider and seek additional comment on various additions to the list of prohibited entities potentially controlled by a foreign adversary, request quantifiable data associated with any proposed measures to encourage more equipment authorization testing and certification within the U.S.A, determine ways to strengthen the integrity of the post-market surveillance process, and lastly, if we should further ensure the impartiality of our TCBs and test labs.

33. In proposing additions to the list of prohibited entities, as discussed in the *Further Notice*, we acknowledge that such an approach, if adopted, could impact current TCBs, test labs, and laboratory accreditation bodies. Based on the Commission-defined foreign adversaries, we are considering prohibiting the Commission recognition of any TCB, test lab, or laboratory accreditation bodies that conduct operations related to the Commission’s equipment authorization program within foreign adversary countries. Alternatively, the Commission seeks input on whether these prohibitions should also extend to TCBs, test labs, and laboratory accreditation bodies that, while not directly owned or controlled by foreign adversaries, operate under the jurisdiction of a foreign adversary country.

34. Additionally, in developing these proposals, we have considered any significant economic impact on the equipment authorization program. For instance, whether such action be under- or over-inclusive and what the economic effects of such action would be. In particular, we take into account whether TCBs and test labs conducting equipment authorization functions in China could be rapidly replaced by TCBs and test labs conducting such functions outside of a foreign adversary country and seek to add to the record information as to what the estimated costs associated with such a prohibition are, or, how much of the costs are estimated to be passed on to U.S. consumers. Further, we consider whether, and by what means, the Commission could help mitigate economic harm during this transition. Alternatively, rather than imposing sweeping prohibitions, we could instead consider targeted limitations on TCBs and test labs operating in foreign adversary countries to reduce risks to national security and

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<sup>109</sup> *Id.* § 603(c).

<sup>110</sup> *Id.* § 603(c)(1) - (4).

maintain the integrity of the equipment authorization program. We seek comment from small and other entities concerning this issue.

35. In the *Further Notice*, the Commission also proposes increasing equipment authorization testing and certification within the United States and allied countries and considers various options. We seek comment on alternatives to this proposal. For instance, we consider ways the Commission could facilitate and encourage more testing and certification within those countries with which we have a mutual recognition agreement (MRA). Alternatively, we consider whether there are any hinderances or advantages entities seeking equipment authorization may encounter in relying on TCBs and test labs located in the U.S., or if there are any rules or processes the Commission could implement or modify to encourage equipment authorization processes that rely upon domestic TCBs and test labs with the possibility of incentives. Overall, we seek comment on the overall benefits and costs, as well as consider any questions raised that can help identify quantifiable data associated with any proposed measures to encourage more equipment authorization testing and certification within the United States.

36. In other matters, the Commission rules impose certain obligations on each TCB to perform post-market surveillance of equipment for which the TCB granted certification. We recognize the potential questions such a process may raise regarding the integrity of the post-certification portion of our program. Therefore, we invite further comment on whether we should revise the post-market surveillance rules, policies, or guidance, or any other measures the Commission might take, to strengthen the integrity of the post-market surveillance process.

37. In addition, TCBs are required under our rules to have the technical expertise to test the equipment it will certify. The Commission recognizes that most TCBs conducting testing of equipment are responsible for verifying the test reports received, but also for producing the required test reports. Therefore, the *Further Notice* considers, and seeks comment on, additional safeguards to the current structure as a means of further ensuring the impartiality of TCB or test lab procedures, especially for instances in which the TCB that reviews an authorization application for a test lab is under the same ownership as the test lab.

38. Lastly, to assist with the Commission's efforts to minimize significant economic impact on small entities that may result from proposals in this proceeding, the *Further Notice* seeks alternative proposals and requests information on the potential costs of such alternatives to TCBs, test labs, and laboratory accreditation bodies. The Commission expects to more fully consider the economic impact on small entities following its review of comments filed in response to the *Further Notice*, including costs and benefits information. Alternative proposals and approaches from commenters could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding would shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities from the final rules that are ultimately adopted.

**F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules**

39. None.

**STATEMENT OF  
CHAIRMAN BRENDAN CARR**

Re: *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program*, ET Docket No. 24-136, Report and Order and Notice of Proposed Rulemaking (May 22, 2025).

Over the past several years, the FCC has worked on a bipartisan basis and across Administrations to address the serious threats that foreign adversaries and other bad actors pose to our communications networks.

In 2019, for instance, under Chairman Pai, the FCC took some of its first concrete steps in this new effort. That’s when the FCC designated Huawei and ZTE as unacceptable threats to our national security. We then followed up on those actions by denying or revoking the authority of risky carriers, like China Mobile and China Telecom, to connect to our networks.

Under Chairwoman Rosenworcel, the FCC built on these actions. For example, we prohibited Huawei, ZTE, and others on our “Covered List” from selling new device models in this country, and we revoked additional FCC authorizations.

To extend these efforts and further protect America’s networks, one of my first actions as Chairman was to establish a new Council on National Security—pulling together resources from across the agency to effectively combat threats from foreign adversaries.

I am pleased that, today, we are building on these actions with our decision to adopt rules that address what we have called “Bad Labs.”

Here’s the issue. Before any electronic devices (like smartphones or computers or baby monitors) can be imported or sold in the U.S., they must be tested at a lab to ensure compliance with FCC regulations. The Commission certifies these labs, and, historically, those labs focused on compliance with technical rules, like power levels and spectrum bands. But the closer we looked at these labs, the clearer it became that they create a potential loophole in our national security efforts.

After all, these labs provide a gateway into the U.S. telecommunications infrastructure. And it is not hard to imagine that an unreliable lab—one beholden to a foreign adversary—could sign off on insecure gear entering the U.S. market. Indeed, as the Department of Justice’s National Security Division recently wrote to the FCC: “If foreign adversaries were to infiltrate this segment of the supply chain, they could exploit it on a broad scale – potentially authorizing compromised equipment, submitting fraudulent compliance documentation, or misappropriating sensitive intellectual property and business intelligence from U.S. companies to advance their own national interests.”

This threat is not a speculative one either. Even after the FCC’s national security determinations, Huawei continued to operate its own test lab up until we took action in April of last year. Trusting a Huawei lab to certify that it is not approving prohibited Huawei gear does not sound like a smart bet to me.

This order will eliminate this type of risk. It establishes a rule that prohibits test labs from participating in the FCC’s equipment authorization process if they are owned, controlled, or directed by entities that pose national security risks. And this restriction will apply to foreign adversary governments, like China.

We not only want to make sure that overseas labs are trustworthy, we also want to boost our capacity to test and certify imported electronics here in the United States. After all, the FCC estimates that, today, roughly 75 percent of all electronics are tested in labs located inside China. That's why we will be seeking comment on ways to reshore America's testing capacity.

This is a continuation of strong, bipartisan, national security work from the FCC and will put our country in a better position to advance U.S. leadership.

For their work on this item, I want to thank to Jamie Coleman, Dana Shaffer, Krista Senell, Zenji Nakazawa, Jim Schlichting, Michael Connelly, Rebecca Clinton, Olga Madruga-Forti, Kathleen Collins, Aleks Yankelevich, Cher Li, Donald Stockdale, Deborah Broderson, Douglas Klein, and Michael Gussow.

**STATEMENT OF  
COMMISSIONER GEOFFREY STARKS**

Re: *Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities, and the Equipment Authorization Program*, ET Dkt No. 24-136, Report and Order and Further Notice of Proposed Rulemaking

The simplest way to make sure our networks are safe is to keep bad equipment out in the first place. Over the past few years, we've worked hard to update our equipment authorization rules consistent with the Secure Equipment Act, but our equipment authorization process is only as strong as the sum of its parts.

We place a great deal of trust on the Telecommunications Certifications Bodies (TCBs), test labs, and accreditation bodies that are widely disbursed across the globe. Historically, this hasn't been a problem. In many ways, it benefits innovators to efficiently be able to test their products no matter their location before offering them to United States consumers.

But we now face an increasing risk that adversarial nations will try to sneak insecure and harmful equipment into our networks through our equipment authorization process. To mitigate that threat we need to know that when a test lab certifies equipment, it is doing so on the merits, and not due to undue influence from an adversary. The information collection proposed in this item will help ensure that the third parties we use to ensure conformity to our rules are themselves acting in good faith. Count me in.

Equally important is that when we identify a TCB, test lab, or accreditation body that is owned, controlled, or subject to the direction of a prohibited entity, we alert manufacturers and the public to stop using them. I'm happy that the item now directs PSHSB to release a Public Notice doing just that, and I thank the Chair for working with me on this edit.

I thank the Office of Engineering and Technology, and the many other staff that contributed to this item, for their hard work. I approve.