



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 2, 15 and 68

[ET Docket No. 13-44; FCC 14-208]

Authorization of Radiofrequency Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document updates the Federal Communications Commission's (the Commission) radiofrequency (RF) equipment authorization program. The rules adopted by the Commission build on the success realized by our use of Commission-recognized Telecommunication Certification Bodies (TCBs) and will facilitate the continued rapid introduction of new and innovative products to the market while ensuring that these products do not cause harmful interference to each other or to other communication devices and services.

DATES: Effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The incorporation by reference listed in the rule is approved by the Director of the Federal Register as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, ET Docket No. 13-44, FCC 14-208, adopted December 17, 2014, and released December 30, 2014. The full text of this document is available for inspection and copying during normal business hours in the FCC

Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text may also be downloaded at: www.fcc.gov.

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 or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Summary of the Report and Order

1. In the Notice of Proposed Rulemaking (“NPRM”) in this proceeding, the Commission proposed certain changes to ensure that its part 2 equipment authorization processes continue to operate efficiently and effectively, See Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment and Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies, Notice of Proposed Rulemaking, ET Docket No. 13-44, 28 FCC Rcd 1606 (2013) (NPRM); 78 FR 25916, May 3, 2013.

2. Specifically, the Commission proposed to clarify the obligations of TCBs and to strengthen the Commission’s oversight of the TCBs. The Commission also proposed to require accreditation for all laboratories performing equipment authorization compliance tests. The Commission also proposed adopting updates to the measurement procedures used to determine RF equipment compliance.

3. In this Report and Order, the Commission updated its radiofrequency (RF) equipment authorization program. Specifically, it:

- Discontinued FCC acceptance of applications for equipment Certification of RF equipment and instead permitted TCBs to process and grant all applications for Certification;
- Codified a pre-grant approval procedure that TCBs must follow when certifying equipment based on new technology that requires consultation with the FCC;
- Clarified a TCB’s responsibilities in performing post-market surveillance of products it has approved;
- Specified steps for addressing instances of deficient TCB performance, including appropriate

sanctions for deficiencies that do not warrant rescinding a TCB's authority to issue a grant of Certification;

- Modified the rules to reference new standards used to accredit TCBs that approve RF equipment under part 2 of the Commission's rules and terminal equipment under part 68 of the Commission's rules;
- Required accreditation of all laboratories that test equipment subject to any of the certification procedures under part 2 of the Commission's rules and codify a procedure through which the Commission currently recognizes new laboratory accreditation bodies;
- Updated references to industry measurement procedures in the Commission's rules; and
- Provided greater flexibility under the Office of Engineering and Technology's (OET) existing delegated authority to enable it to address minor technical issues that may be raised when updating to the latest versions of industry standards that are referenced in parts 2, 5, 15, and 18 of the Commission's rules.

TCB Program

4. TCBs currently approve more than 98 percent of the RF equipment subject to the Certification process but are not permitted to certify equipment for which Commission rules or requirements do not exist or for which the application of the rules or requirements are unclear. Currently, OET publishes an "exclusion list" of the types of equipment that a TCB is not allowed to certify on the Commission's Knowledge DataBase (KDB) system. To enable TCBs to certify more types of devices, OET has established a "permit-but-ask" procedure that allows a TCB to review applications for Certification of equipment that would otherwise be excluded from TCB approval, provided that OET guidance on the specific test methods and technical requirements is sought prior to filing the application for Certification. Once a TCB has completed a review of equipment covered by the permit-but-ask procedure, it confirms with OET that appropriate measures have been taken prior to issuing a grant of Certification.

5. The Commission maintains a publicly-available database of all RF equipment certified by the Commission and TCBs (the Equipment Authorization System or “EAS”) that contains copies of applications for and grants of Certification. This database also contains information on all entities recognized by the Commission in the equipment authorization process, thus allowing the Commission to monitor the activities of TCBs and the equipment authorization program in general.

1. Certification of RF Equipment

a. Application Processing Procedures

6. The Commission adopted the NPRM proposal to allow TCBs to issue all grants of equipment Certification, and to discontinue OET’s acceptance and granting of applications for equipment Certification. Furthermore, the Commission eliminated the exclusion list and replaced it with pre-approval guidance procedures as proposed in the NPRM and supported by most of the commenters who addressed this issue. All items that were on the exclusion list or considered under the “permit-but-ask” procedure will now be considered under the pre-approval guidance procedures. Further, future changes to the devices and procedures included on the list will be made in a similar manner as the “permit-but-ask” list has been maintained, that is, via Commission/OET decision documents and OET Laboratory KDB guidance. Finally, the Commission adopted its proposal to allow TCBs to dismiss Certification applications consistent with the Commission’s current dismissal authority, as also supported by several parties. The Commission also amended its rules to uniformly employ the phrase “set aside” to reference a TCB’s decision to take back the grant of a Certification. In response to a question raised by Bay Area Compliance Laboratories Corp. (BACL), the Commission noted that TCBs will have authority to dismiss only those applications that have been submitted to them, and not those submitted to other TCBs. Similarly, TCBs will have authority to set aside only those grants of Certification that they have issued within the prior 30 days, and not those granted by other TCBs.

7. As it adopted the proposals to fully shift application processing to TCBs, the Commission noted its experience that TCBs have generally done an excellent job of reviewing and granting applications and following OET staff guidance on technical matters. The Commission noted that the various actions taken in the order would improve its oversight of the TCBs and ensure that products subject to Certification will comply with FCC rules. The Commission concluded that the adopted measures would continue the successful migration of additional responsibilities to TCBs while maintaining our control over the critical elements of the process, thus addressing National Association of Broadcasters' (NAB) underlying concern that devices with a greater potential for causing harmful interference are properly evaluated before being approved. The Commission also noted that, while ARRL, the National Association for Amateur Radio (ARRL) claims that the current TCB approval process has resulted in numerous incorrect grants of Certification, the group mentioned only one particular instance where an incorrect grant was alleged. The Commission did not find ARRL's arguments against the TCB processing proposals persuasive because ARRL had not provided any specific information to support this claim.

b. Application Filing Procedures

8. The Commission adopted the proposals made in the NPRM to codify existing application filing practice into its rules by modifying § 2.911 to specify how applicants will file with TCBs and modifying § 2.962 to specify that TCBs will file certification application information with the Commission electronically through the Commission's EAS. The Commission adopted its proposal to require TCBs to document via the EAS all information relevant to the processing of an application for certification, including pre-approval guidance inquiries and the dismissal of any applications. The Commission amended various sections of part 2 to reflect the TCB role in the Certification process.

9. The Commission decided to stop accepting applications for it to issue the grant of Certification as of the effective date of the Report and Order. The Commission modified § 1.1103 of the rules to remove the equipment authorization services sections related to Certification, and stated that no fee will be

charged by the Commission when a TCB issues a grant of Certification. The Commission determined that it would review any applications that it received prior to the effective date under current procedures.

10. The Commission stated that Grants of certification are legal documents created by the TCB under the authority of the Commission when submitted to EAS, and must not be modified (by, for example, adding a letterhead or additional information) in any way.

11. The Commission agreed with the Hewlett Packard Company (HP) that a TCB may combine the different statements required of applicants – such as the verification of truthfulness and compliance with the Anti-Drug Abuse Act of 1988 – into a single document with a single signature set, so long as the applicant makes all necessary certifications. The Commission declined HP’s request to require TCB’s to accept materials submitted by an applicant in electronic form rather than paper. While the Commission acknowledged that it expected that TCBs would accommodate electronic submissions to promote efficiency and reduce costs, it decided not to mandate such a requirement because the existence of numerous TCB choices will give applicants the option to select a TCB on a variety of factors, including the convenience or efficiency of their provision of service.

12. The Commission did not adopt Bay Area Compliance Laboratories, Corp.’s (BACL) suggestion that it mandate the use of secure electronic signatures or require a time and date stamp on all documents submitted with the filing. The Commission was not convinced that the use of such requirements would fully resolve the issues of document authenticity, and stated that it expected TCBs to establish appropriate procedures to determine the veracity of documents.

13. The Commission determined, in response to comments of Northwest EMC, Inc., that a TCB confirmation of the authenticity of the test reports that submitted with an application for certification and is necessary. The Commission cited the existing TCB requirement to review submitted tests in a manner that allows it to be “confident that the product meets the relevant requirements before it certifies the product.” and noted that its adoption of an accreditation requirement for all compliance testing laboratories would ensure that the data reviewed by TCBs was based on testing that was performed by a

competent organization.

14. The Commission found that Cisco and HP had not provided evidence to support their concern that TCBs could potentially establish higher fees to expedite the processing of applications. The Commission found it was not necessary to codify TCB fee requirements, noting the 36 TCBs recognized by the Commission to provide equipment authorization services and observing that clients can choose their TCB based upon factors most relevant to them, including cost.

2. Post-Market Surveillance

15. TCBs are required to be accredited, and accreditation is conditioned on their performance of post-market surveillance on products that it has certified. Section 2.962(g) of the Commission's rules provides general guidance regarding the scope of such post-market surveillance and the actions the TCB shall take in the event of a compliance problem. OET has developed specific procedures, detailed in KDB Publication 610077, that TCBs can use for performing post-market surveillance. The current guidance specifies a sample rate of at least 5 percent.

16. The Commission adopted its proposals to codify the guidelines currently appearing in the KDB for conducting post-market surveillance by placing them into § 2.962 of the Commission's rules as mandatory requirements. The new § 2.962 will address the amount of surveillance required, the responsibilities related to testing, the timing and content of periodic reports required to be submitted to the Commission, and other pertinent requirements.

17. The Commission consolidated all part 2 rules referring to the post-market sampling process into § 2.945, which codifies the current procedure whereby TCBs may request samples of equipment that they have certified directly from the grantee of Certification. Further, the Commission adopted the proposed procedure that permits OET to request the grantee of Certification to submit a sample directly to the TCB that issued the grant of Certification, and stated that failure to comply with a TCB request could lead to Commission enforcement action. The Commission required the TCB to immediately notify the

grantee and the Commission if it determines that a device fails to comply with the Commission's rules, established that the grantee will be required to take corrective actions, and required the TCB to submit a follow-up report on these actions to the Commission within 30 days. The Commission also required TCBs to submit periodic reports of their post-market surveillance activities and findings to OET.

18. The Commission also addressed specific process-related issues raised on the record. The Commission found little benefit in allowing a TCB to perform post-market surveillance on a device that it did not certify and identified potential complications, such as anti-competitive behavior where one TCB could raise doubt about the performance of another. Thus, the Commission adopted the requirement that TCBs shall perform post-market surveillance only on devices for which they issued the grant of Certification. The Commission affirmed that when a grantee challenges a TCB's finding that a device does not comply with the FCC rules, the grantee will be provided with appropriate information about test results and methodologies and the Commission will be the final arbiter in cases where a TCB and grantee are not able to resolve disagreements about compliance.

19. The Commission found that no commenter that filed in support of modifying the 5 percent sample size requirement provided sufficient evidence to justify either increasing or decreasing this number, and that in its monitoring of the market surveillance performed by TCBs, the Commission has found the vast majority of devices to be compliant. Most OET investigations have found that devices become non-compliant for reasons such as changes to the manufacturing process, and OET has been able to work with the grantee to resolve the matter and ensure compliance with our rules. When it has discovered manufacturers that are willfully non-compliant with our equipment authorization procedures, the Commission has not hesitated to take enforcement action.

20. The Commission rejected the TCB Council's suggestion that permissive changes and changes in FCC IDs not be included in the sampling process on the basis that the request did not include any actual filing totals that would quantify how the proposed change would affect the post-market surveillance burden of a given TCB; because it is not apparent that excluding a wide segment of

applications would further improve the compliance process, since many products are updated via permissive changes; and because the inappropriate use of a permissive change or an FCC ID change presents the opportunity for the introduction of non-compliant equipment that needs to be monitored by inclusion in the sampling activity.

21. The Commission noted that, while the TCBs will continue to directly request samples from grantees, it intended to add a process to the EAS that allows TCBs to initiate a sample request from the Commission's EAS. This will allow the FCC to oversee the process, follow up directly with non-responsive grantees and improve the responsiveness of grantees.

22. The Commission observed that the requirements placed upon both the TCBs and the grantees should be sufficient to ensure that equipment samples are submitted and processed in a manner that ensures valid post-market surveillance, and that samples provided for testing will be appropriately representative of the marketed device. Thus, the Commission did not adopt suggestions in the record to implement additional compliance measures such as criminal sanctions or consumer refunds.

23. The Commission adopted the requirement that grantees, upon request, must provide a voucher to the Commission or the TCB authorizing the TCB to obtain a sample of the product from the marketplace at no cost to the Commission or TCB. As an alternative to providing a voucher, the grantee can allow the Commission or TCB to select a product randomly from the manufacturing or warehousing location. Furthermore, if special software or specialized mechanisms, methods, or modifications are required to test such unmodified production devices, the manufacturer must make these available (at no cost) along with any necessary instructions to the Commission or TCB upon request. In the case of expensive devices manufactured in limited numbers, the responsible party can negotiate with the TCB or the Commission for alternative means of providing a sample or providing a testing opportunity. The Commission agreed with commenters that such steps would help ensure that devices being post-market tested are representative of the devices being marketed.

3. Assessing TCB Performance

a. Designating Authority

24. An entity seeking recognition from the Commission as a TCB entitled by the FCC to issue grants of Certification must first be accredited by a Commission-recognized accreditation body as meeting applicable international standards and any additional Commission requirements. Subsequent to accreditation, the TCB would then apply to a recognized Designating Authority in its country that would designate it to the Commission for recognition. The Designating Authority evaluates the qualifications of prospective TCBs to ensure that they comply with all of the Commission's TCB requirements, and then designates them to the Commission via the EAS. TCBs outside the United States must be accredited and designated by an authority recognized by the Commission under the terms of a Mutual Recognition Agreement. For both foreign and domestic TCBs, once the Commission receives the Designating Authority's designation, the Commission performs a review of the TCB's qualifications and recognizes those that it determines meet the requirements. A recognized TCB will then be included on the Commission's publicly- available recognized TCB list. The NPRM included several proposals to clarify and codify this process.

25. All comments made in this regard supported the Commission's proposals, and the Commission revised §§ 2.960(b) and 68.160(b) of the rules to state with clarity that NIST is the recognized Designating Authority for TCBs within the United States (consistent with existing practice). NIST will continue to have authority to recognize other organizations to accredit TCBs. The Commission adopted the proposals codifying the requirement that an organization designated by NIST as a TCB would have to be recognized by the Commission before it could function as a TCB, and that the Commission could withdraw its recognition of a TCB designated by NIST that does not operate in accordance with the rules. The Commission made the designation and recognition requirements for domestic and foreign TCBs more consistent by modifying § 2.962 to clearly specify the recognition requirements for both foreign and domestic TCBs and address disputes over the recognition of foreign TCBs.

b. TCB Performance

26. Currently, the rules state that the Commission will withdraw recognition of a domestic TCB if the TCB's accreditation or designation is withdrawn, if the Commission determines there is just cause for withdrawing the recognition, or if the TCB no longer wants the recognition. The rules do not specify any action less severe than the withdrawal of the designation or recognition of a TCB if the Commission has concerns about the performance of a TCB. In the NPRM, the Commission acknowledged that there can be performance issues which need correcting but do not warrant complete withdrawal of a TCB's recognition and it proposed measures that the Commission could take to address TCB performance issues.

27. The Commission adopted the proposed procedures for addressing TCB performance issues: Initially, OET would send the TCB a notification to correct any apparent deficiencies. While it awaits response, OET may choose to monitor all grants, setting aside any that were granted in error within the 30-day period provided for in the rules. If the TCB does not adequately address all identified deficiencies, OET will have the option of requiring that all Certification applications filed with that TCB would be processed using the pre-approval guidance procedure for a period of at least 30 days. Once a TCB demonstrates that it is again processing Certification applications in accordance with the rules, it would be permitted to resume normal processing.

28. For a TCB that continues to exhibit performance deficiencies after a Commission request for corrective action, the Commission could refer the case to the Designating Authority and accreditation body for investigation and identification of any necessary corrective actions. For such instances, the Commission will act based on the Designating Authority's and/or the accrediting body's response by, for example, limiting the scope of equipment that a TCB could approve or withdrawing its recognition of the TCB. For a foreign TCB recognized pursuant to the terms of a Mutual Recognition Agreement (MRA), the Commission will take similar actions, under the terms of the pertinent MRA. Any equipment Certifications previously approved by the TCB would remain valid unless specifically set aside or revoked by the Commission.

29. In adopting new procedures to address TCB performance issues, the Commission did not adopt American Association for Laboratory Accreditation's (A2LA) suggestion that the 60-day notice given to a TCB by the Commission when it intends to withdraw recognition be reduced routinely to 30 days, but the Commission did adopt the proposal permitting the reduction of the notice period if circumstances so warrant. The Commission identified other sanctions, including requiring the TCB to follow the pre-approval guidance procedure for all applications for certification before they can be granted, as well as an immediate suspension of recognition, if necessary. The Commission concluded that the procedures set forth are a clear indication of the Commission's willingness to address TCB performance issues, and address AFTRCC's concerns in this regard. The Commission noted that any finding that a TCB is non-compliant will be displayed on the Commission's website. Additionally, OET participates in workshops where TCBs are also required to attend in which OET presents changes and updates in the Commission rules; equipment authorization process and procedures; and updates to technical interpretations or guidance issued by the staff. Because these presentations are publicly available at the Commission's website, they include Commission guidance related to new or clarified TCB processes and procedures, and much of this guidance is the result of observations that OET derives from TCB audits and other information, the Commission concluded such processes are sufficient to address comments NAB raised regarding the overall transparency of the TCB process,.

4. TCB Accreditation

30. The rules currently require that TCBs that approve either RF equipment under part 2 or terminal equipment under part 68 of the Commission's rules meet the accreditation standards in specific ISO/IEC standards. Subsequent to the adoption of the rules specifying these requirements, several ISO/IEC guides were updated. In the NPRM, the Commission proposed to modify the rules in parts 2 and 68 to reflect these updates. Specifically, the Commission proposed replacing references to Guide 58 and Guide 61 with references to ISO/IEC 17011, and to replace references to Guide 65 with references to ISO/IEC 17065. The Commission also proposed to change the term "sub-contractors" to "external

resources” in the part 2 and 68 rules for consistency with the revised ISO/IEC 17065. The Commission also proposed to update § 68.162 to correct outdated references to ISO/IEC Guide 25, which is now designated ISO/IEC 17025. In the Order, the Commission adopted these proposals and will require that the standards be met by September 15, 2015 – A date suggested by A2LA that conforms to the compliance date for ISO/IEC 17065 that was adopted in an International Accreditation Forum decision.

Test Laboratories

5. Accreditation of Test Laboratories

31. The Certification and DoC processes specify the type of testing facility in which a product shall be tested for compliance with the Commission’s technical standards. Devices authorized under the DoC process must be tested at a testing laboratory that OET recognizes as “accredited.” Devices authorized under the Certification process for operation under that operates under part 15 or 18 of the Commission’s rules must be tested in a facility that is either accredited or has been recognized by OET as having met the requirements of § 2.948 of the Commission’s rules (“Section 2.948-listed”).

32. Laboratory accreditation is a rigorous process involving an extensive review of documentation and onsite visits by representative(s) of the accrediting body, a process repeated at intervals not to exceed two years. A testing laboratory may be recognized by the OET as accredited if it is assessed to the ISO/IEC 17025 standard in accordance with the requirements in § 2.948 of the Commission’s rules. The accreditation of a foreign-based testing laboratory is considered acceptable under only one of the following conditions: 1) it is based on the terms of an applicable government-to-government MRA with the United States; or 2) the laboratory is accredited by an organization that has entered into an arrangement between accrediting organizations that is recognized by the Commission. On the other hand, a testing laboratory may be recognized as 2.948-listed of our rules based upon OET review of the information specified by § 2.948(b).

33. The Commission adopted the NPRM proposal to require that all laboratories that test equipment subject to Certification or to DoC under any rule part be accredited to ISO/IEC 17025, thus

ending the “2.948-listing” program for unaccredited labs to test equipment to be certified under parts 15 and 18 of the rules. The Commission retained the requirement that accredited testing laboratories must be reassessed at least every two years to ensure continued compliance with the accreditation requirements to provide confidence that equipment testing done in support of Certification applications is conducted in accordance with the applicable standard and to maintain the reliability of and confidence in our certification program in the face of increasingly complex technology and devices. The Commission found little evidence in the record that the accreditation requirement represents a significant impact on small test laboratories and such concerns are greatly outweighed by the costs that can result when equipment causes harmful interference to other radio services or must be pulled from the market due to non-compliance that is the result of improper testing.

34. The Commission further proposed to include laboratories located outside of the United States on the accredited testing laboratory list only if it recognized the laboratories’ accreditation under the terms of a Mutual Recognition Agreement (MRA) or other agreement. Because some testing laboratories are located in countries that do not have an MRA with the United States, the Commission proposed to continue to require in § 2.948 of the rules that such a laboratory must be accredited by an organization recognized by the Commission for performing accreditations in the country where the laboratory is located. The Commission sought comment on the appropriate process for recognizing the accreditation of testing laboratories in countries that do not have an MRA with the United States, such as by recognizing accreditations made by accreditation bodies that have been peer reviewed through the International Laboratory Accreditation Cooperation (ILAC) or other organizations. Comments related to the appropriate process for recognizing the accreditation of test laboratories in countries that do not have an MRA with the United States were almost evenly split, with a slight majority indicating that we should not recognize foreign laboratories unless there is an MRA in place. The comments that supported the recognition of accredited testing laboratories located in non-MRA countries provided limited recommendations on procedures that would ensure that such testing laboratories have the appropriate

capabilities and reliability and that all products approved are compliant with our rules. In this regard, the Commission decided that requests for recognition of testing laboratories in countries that do not have an MRA with the United States and which were accredited by accreditation bodies recognized by the Commission will be handled under our current procedures in § 2.948.

35. The Commission also adopted the requirement that testing laboratories may only sub-contract/outsourced testing to laboratories that have been recognized by the Commission as accredited to the appropriate international standard. The Commission rejected comments asking it to adopt a more permissive rule that would also allow an accredited testing laboratory to sub-contract/outsourced testing to a competent unaccredited entity. The Commission found it to be inconsistent to disallow submission of test results from an unaccredited submitting laboratory but allow submission of test results from an unaccredited sub-contracting laboratory. The Commission also noted that it had not been provided with any information indicating that sub-contracting with laboratories that are recognized by the Commission as accredited is more burdensome to applicants for certification than using a sub-contracting process that meets the requirements of ISO/IEC 17025, or that such burdens (if any) would be substantial enough to outweigh the benefits associated with ensuring that all work is performed by accredited laboratories. The Commission also found no reason to exempt bench testing from the accreditation requirement, citing the importance of ensuring that such tests are performed properly and observing that because equipment subject to certification is rarely subject only to bench tests, there would be little benefit in providing an exception for labs that perform only such testing.

36. While the “2.948 listing” process was ended, the Commission decided that it would still maintain a list of accredited testing laboratories that are acceptable to the Commission for testing equipment subject to the Certification and DoC procedures, as well as the types of equipment that each laboratory is accredited to test. Additionally, the Commission decided to retain the requirement in § 2.948 that test laboratories compile a description of their measurement facilities and require that they

supply this information to a laboratory accreditation body for review as part of its documentation for accreditation or to the Commission upon request.

37. The Commission will cease recognizing new unaccredited 2.948-listed laboratories as of the effective date of the rules adopted in the Report and Order. Laboratories recognized under the 2.948 criteria as of the effective date of this Report and Order will continue to appear on the OET published list for such laboratories and be recognized until their expiration date of recognition or for one year from the effective date, whichever is sooner, to allow them time to become accredited. 2.948-listed laboratories whose recognition expires prior to one year from the effective date of the rules may request that the Commission extend their recognition date until one year from the effective date of the rules set forth in the Report and Order. Any testing that is completed by unaccredited recognized 2.948-listed laboratories during the one-year period beginning on the effective date of the rules adopted in the Report and Order will be accepted only in support of a Certification application submitted within 15 months of the aforementioned effective date.

6. Selection of New Laboratory Accreditation Bodies

38. Under § 2.948(d) of the rules, any entity seeking recognition from the Commission as an accreditation body for test laboratories must obtain the approval of OET. The Commission proposed, in the NPRM, to codify the type of information that an applicant that desires to be recognized as a laboratory accreditation body should provide in support of its application. Specifically, it proposed to codify the following criteria for OET to use when determining the acceptability of new laboratory accreditation bodies:

1. Successful completion of a ISO/IEC 17011 peer review, such as being a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement or other equivalent laboratory accreditation agreement;
2. Experience with the accreditation of electromagnetic compatibility (EMC), radio and telecom testing laboratories to ISO/IEC 17025. This can be demonstrated by having OET staff

participate in a witness audit of the accreditation body performing an assessment of an EMC/Radio/Telecom testing laboratory; or by having OET staff review the report generated by the NIST laboratory accreditation evaluation program conducted to support the Asia Pacific Economic Cooperation (APEC) Mutual Recognition Arrangement for Conformity tries that do not have an MRA with the United States were almost evenly split, with an Assessment of Telecommunications Equipment. An applicant that offers other evidence has the burden of demonstrating that the information would enable OET to evaluate its experience with the accreditation of EMC, radio and telecom testing laboratories to ISO/IEC 17025.

3. Accreditation personnel/assessors with specific technical experience in the Commission equipment authorization rules and requirements; and
4. Procedures and policies developed by [the testing firm accreditation bodies] for the accreditation of testing laboratories for FCC equipment authorization programs.

39. The Commission adopted the proposal to codify the above criteria for OET's determination of the acceptability of new laboratory accreditation bodies. Under these rules, the applicant will submit information addressing each of the four elements to OET for evaluation. Applicants will be able to choose how they show that they meet each of the elements, and OET was directed to use its existing resources – including the KDB and public notice process – to provide additional guidance, clarification, and updates, as needed.

40. In a slight change from the proposal, the adopted rule will not list specific organizations that operate recognition programs under ISO/IEC 17011 and instead includes a general statement that recognition will be based on a peer review pursuant to an agreement found to be acceptable to the Commission. The Commission ultimately decided that the inclusion of specific organizations in the rules could inadvertently limit the flexibility of entities seeking recognition as an accreditation body or give the specific organization(s) a perceived advantage. Similarly, in response to NIST's suggestion that it clarify

that its program only applies to domestic accrediting bodies, the Commission decided to remove the rule reference to the NIST program. The Commission will maintain a list of recognized accreditation bodies on its web page to facilitate the prompt notice of new recognitions.

41. As to NIST's suggestion that the rule include further specific elaboration on other supporting evidence, the Commission noted that the rule specifies only the key elements that OET will use in evaluating the competence of an accreditation body and it gave OET the flexibility to accept other supporting evidence on a case-by-case basis in order to accommodate evolving industry practices.

7. Test Site Validation

42. Under the current rules, a measurement facility that is used for measuring radiated emissions from equipment subject to parts 15 and 18 must meet the site validation requirements in ANSI C63.4-2001. While radiated emission measurements at frequencies above 1 GHz are required for many devices subject to parts 15 and 18 of the rules, ANSI C63.4-2001 does not have specific site validation criteria for test facilities used for making radiated emissions in this frequency range. Rather, it only states that facilities determined to be suitable for performing measurements in the frequency range 30 MHz to 1 GHz are considered suitable for performing measurements in the frequency range 1 GHz to 40 GHz, without specific site validation criteria for the higher frequencies. Subsequent versions of the emission measurement standard, ANSI C63.4-2009 and ANSI C63.4-2014, both provide two options for test site validation for facilities used to make radiated emission measurements above 1 GHz, both of which include additional requirements. To be suitable for measurements in the frequency range 1 GHz to 40 GHz the facility must utilize RF absorbing material covers the ground plane in such a manner that either of the following conditions are met: 1) the site validation criteria specified in the CISPR 16-1-4 (CISPR 16) standard is met; or 2) a minimum area of the ground plane is covered using RF absorbing material.

43. In the NPRM, the Commission proposed to require that test facilities used to make radiated emission measurements on equipment authorized under any rule part meet the site validation requirements in ANSI C63.4-2009. Additionally, if the measurement site will be used for measuring

radiated emissions in the range of 1 GHz to 40 GHz, it must meet the site validation criterion specified in ANSI C63.4 that references CISPR 16. The Commission indicated that the additional requirements were intended to provide better accuracy and repeatability of measurements than simply covering a minimum area of its ground plane. The Commission further proposed that a laboratory must confirm compliance with the site validation criterion no less than once every three years.

44. In the Order, the Commission required that test facilities that conduct radiated emission measurements above 1 GHz must meet the site validation requirements in ANSI C63.4-2014. The Commission found ANSI C63.4-2014 to be essentially the same as the 2009 version discussed in the NPRM (a specific set of validation criteria for test facilities that was missing in the 2001 version), and, noting that no parties had opposed ANSI C63's recommendation to we use the 2014 standard, determined that use of the 2014 version would avoid any confusion associated with using a version of the standard that is not the most current.

45. On its face, the adoption of the revised ANSI C63.4 standard necessitates compliance with the CISPR 16 standard. The Commission acknowledged the costs of the upgrades to test facilities that would be necessary to meet the site validation requirements in CISPR 16, and decided to allow either alternative for site validation in ANSI C63.4-2014 to be used to determine the suitability of a test facility to be used to make radiated emissions measurements above 1 GHz during a three-year transition period. After this time, test facilities used to make radiated emissions will be required to demonstrate compliance with the site validation criteria specified in CISPR 16. Because not all radiated emission measurement methods for licensed devices require the use of a test facility that meets the site validation requirements in ANSI C63.4-2014, the Commission revised to §2.948(d) to specify that the site validation requirements only apply for radiated emissions test methods that require the use of a validated test site.

Measurement Procedures

8. Part 15 Devices

46. The Commission requires that most devices subject to part 15 technical requirements be tested to demonstrate compliance with the measurement procedures in ANSI C63.4 before they can be imported into or marketed within the United States. Specifically, § 15.31(a) of the rules states that the Commission will measure emissions from most intentional and unintentional radiators using the standard published by the American National Standard Institute Accredited Standards Committee C63[®] - Electromagnetic Compatibility (ANSI-ASC C63), titled ANSI C63.4-2003, American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 KHz to 40 GHz (ANSI C63.4 standard) to determine compliance with the Part 15 technical requirements.

47. The Commission has issued a number of public notices, interpretations and advisories on measurement standards to supplement the test procedures given in the ANSI C63.4 standard listed in the rules (i.e. ANSI C63.4-2003) to account for the growing number of intentional radiators and the resulting numbers of questions from test laboratories. Subsequently, ANSI-ASC C63 developed a new standard, ANSI C63.10-2009, for use in the measurement of intentional radiators in a wide range of frequency bands. This standard is essentially combines existing measurement procedures and associated Commission guidance for intentional radiators and does not add any new requirements for compliance testing. ANSI-ASC C63 also released a revised version of the ANSI C63.4 standard, ANSI C63.4-2014, to address unintentional radiators. Thus, ANSI C63.10 now contains the measurement procedures for intentional radiators, and ANSI C63.4 now contains the measurement procedures for unintentional radiators.

48. Upon publication of the 2009 standards by ANSI-ASC C63, OET issued a Public Notice announcing that, until it could initiate a rulemaking proceeding to incorporate the new standards into the rules, compliance measurements may be made under either the then-new 2009 standards or the 2003

standard currently in the rules. In the NPRM, the Commission proposed to update its rules to incorporate the latest standards – at that time, ANSI C63.10-2009 for intentional radiators and ANSI C63.4-2009 for unintentional radiators – into the rules. In keeping with its previous policy with respect to ANSI C63.4, the Commission proposed to exclude the use of the sections in ANSI C63.4-2009 that allow the use of rod antennas for electric field measurements below 30 MHz; an artificial hand for holding handheld devices; an absorbing clamp for radio noise power measurements; and relaxed limits for transient emissions. Subsequent to the release of the NPRM ANSI-ASC C63 published updated versions of both standards, ANSI C63.4-2014 and ANSI C63.10-2013.

49. In the NPRM the Commission asked several questions related to the use of the updated ANSI C63.4 standard. Specifically, it questioned whether the benefits of adopting the increased burdens associated with the new standard outweighed the associated costs. It also asked whether certain technical changes in the 2009 revision (e.g., a restriction on the use of hybrid antennas or the 2 dB rule) cause problems for manufacturers and/or test laboratories. Further, the Commission asked if the references to undated standards that are incorporated in the 2009 revision could result in a mandate of compliance with subsequently-modified standards without the opportunity for comment or transition period. The Commission also asked whether the interpretations of C63.4-2009 and C63.10-2009 on ANSI's web site be accepted by the Commission as valid means for compliance. Finally, the Commission asked whether it could address the above concerns by not incorporating certain sections of the 2009 versions of the standards into the rules, and, if so, which particular sections should not be incorporated.

50. Finally, in the NPRM, the Commission recognized that work was underway to provide further updates to the standards, and sought comment on whether there were any significant differences between the 2009 versions of the standards and the latest drafts, and whether any of the changes in these drafts would address our concerns. After release of the NPRM and completion of the pleading cycle, ANSI-ASC C63 completed the process of adopting newer versions of both standards, and released ANSI C63.4-2014 and ANSI C63.10-2013.

51. ANSI-ASC C63 initially provided comments supporting the adoption of ANSI C63.4-2009 and ANSI C63.10-2009, along with suggestions that address concerns raised by other commenters. In its subsequent *ex parte* filings, ANSI C63.4 requested that the Commission update the rules to cross-reference ANSI C63.10-2013 and ANSI C63.4-2014.

52. ANSI-ASC C63 claimed that ANSI C63.4-2014 improved on various aspects of the C63.4-2009 standard. Specifically, the newest version of the standard addresses: hybrid antenna qualification procedure; removal of testing procedures for transmitters as they are now covered by ANSI C63.10-2013; application of standard in the United States and Canada; improvements to “2 dB rule”; test setup details for tablet computers; test site validation interval guideline for radiated emissions above 1 GHz; use of RF absorber for radiated emissions above 1 GHz; visual display procedures based on size of screen; and further clarification on radiated emissions above 1 GHz.

53. ANSI-ASC C63 further stated that the ANSI C63.10-2013 standard further improved on various aspects of the C63.10-2009, and it noted changes relating to: clarifications of instrumentation factors such as detector and antenna requirements; the use of spectrum analyzers; out-of-band emission (OOBE) and band edge requirements; millimeter wave procedures, measurements below 30 MHz and above 1 GHz; new procedures for wireless devices using new technology (*e.g.*, Digital Transmission Systems (DTS); Unlicensed National Information Infrastructure (U-NII) devices; FM transmitters in vehicles; and Inductive Loop devices.

54. The Commission found that the improvements made in ANSI C63.4-2014 and ANSI C63.10-2013 represented the best measurement procedures, and it therefore decided to incorporate references to ANSI C63.4-2014 and ANSI C63.10-2013 into the rules as the measurement procedures for determining the compliance of unintentional and intentional radiators, respectively. The Commission concluded that the newest editions of the standards were adopted with the input of manufacturers, trade groups, and other academic bodies, and reflects the current state-of-the-art design and manufacturing processes. The new standards also provide a meaningful distinction between intentional and unintentional radiators, which

will to ensure that noncompliant devices do not enter the marketplace where they may be difficult to eliminate. While the Commission acknowledged that compliance costs are a normal and expected part of a standards-driven regime where the standards are periodically updated, it noted that by implementing the 2013 and 2014 editions it can mitigate any costs that would have been associated with meeting the 2009 editions as an interim step, and recognized that there would be costs associated with not acting to implement the latest standards.

55. The Commission asserted its continued belief that there is insufficient evidence that rod antennas, artificial hands or absorber clamps produce accurate, repeatable measurements, and that short-duration emissions can produce as much nuisance to radio communications as continuous emissions, and decided to exclude ANSI C63.4-2014 sections that allow for these methods. The Commission also provided a transition period for ANSI C63.4 that will end one year from the effective date of the rules. During this time which parties may continue to comply with either ANSI C63.4-2003, ANSI C63.4-2009 (consistent with current practice) or with the new ANSI C63.4-2014. After the transition period date only compliance with ANSI C63.4-2014 will be accepted. The Commission also decided to apply a one-year transition period for use of the new edition of ANSI C63.10-2013.

56. The Commission also addressed numerous comments that addressed engineering and administrative issues implicated by the adoption of the new standards. Several commenters requested that the Commission not rule out future consideration of the use of CISPR 22 standard for measuring equipment subject to Part 15, as an alternative to ANSI C63.4-2009. In addition, HP proposed referencing CISPR 32 for test methods up to 6 GHz.

57. In the NPRM the Commission noted some differences between CISPR 22 requirements and those in ANSI C63.4-2009 and concluded that the ANSI standard was more appropriate for its purposes. Based on the record, the Commission to remains unconvinced that the measurement procedures in CISPR 22 for unintentional radiators would be an appropriate alternative to the ANSI-ASC standards. The

Commission further noted that, CISPR 22 had been superseded by CISPR 32 and, in any event neither standard addresses all types of unintentional radiators covered in part 15.

58. Several commenters addressed the so-called “2 dB rule,” a method used to limit the amount of testing needed by determining the worst-case configuration. In this regard, ANSI-ASC C63 stated it had made additional improvements to the “2 dB rule” in ANSI C63.4-2014. The Commission found that the ANSI C63.4-2014 changes improved on ANSI C63.4-2009 and should address the record comments. Nevertheless, to reduce potential burdens on equipment manufactures and as proposed by HP, the Commission decided to continue accepting the use of the “2 dB” method in ANSI C63.4-2003 for demonstrating compliance with the requirement in §15.31(i) until it adopts further revisions to the standard.

59. ACIL and dB Technology discussed the proper arrangement of the measurement antenna relative to the equipment under test (EUT) when performing radiated emissions testing above 1 GHz. The Commission offered guidance for such testing: Measurement procedures for radiated emissions measurements above 1 GHz have required that the measurement antenna be pointed at the source of the radiated emission from the EUT in a manner that ensures that the measurement is maximized. This can be achieved using different methods.

60. The Commission received several comments complaining that ANSI C63.4-2009 excludes hybrid antennas for making radiated emissions measurements. ANSI-ASC C63 stated that ANSI C63.4-2014 has addressed concerns with the use of hybrid antennas, and it recommended that the Commission allow the use of hybrid antennas for testing of products pursuant to the new procedures in ANSI C63.4-2014 that detail how they are to be used. The Commission agreed and found that the ANSI C63.4-2014 standard is an improvement over the 2009 standard in that it provides a means for the use of hybrid antennas that is appropriate and reliable for providing accurate measurements.

61. The Commission recognized that standards development organizations often provide informative explanations and interpretations of the standards that they develop, offering helpful insight to

the rationale behind the development of a standard. While it will continue to consider them in response to requests for guidance or clarification, the Commission clarified that it will not incorporate the interpretations of standards organizations automatically into its rules, as some commenters had assumed. The Commission asserted its discretion to use its own judgment in interpreting standards, even as it is informed by the interpretation(s) of the standards organization. In addition, the Commission would not adopt the interpretation of a standards organization in a case in which doing so would effectively change the Commission's rules without the opportunity for comment. Moreover, the Commission pointed out that ANSI-ASC C63 comments indicated that it does not require parties to follow such explanations and interpretations to be considered "compliant" with a standard, until such time that they are included in the normative part of the standard via full approval process by the ANSI-ASC C63 committee. The Commission also disagreed with commenters who asserted that it should not adopt the new ANSI standards because they cross-reference to other undated standards. These commenters were concerned that this practice could inadvertently result in new compliance requirements by introducing revised editions without the opportunity for comment or defined transition periods. The Commission recognized that the use of undated references could be unclear to users – particularly when there are several versions of the referenced standard. However, the Commission believed that requiring that only dated standards be cross-referenced would not always result in certainty regarding compliance requirements. ANSI-ASC C63 explained that it decided to use undated references to other ANSI-ASC C63 standards since it carefully reviews the effect of any revisions as part of the standards development process. The Commission accepted this convention, acknowledging that, under this approach, there could be a revision to a standard cross-referenced in ANSI C63.4 or ANSI C63.10. When this occurs, OET will provide guidance via the KDB on the use of updated references in ANSI C63.4 and ANSI C63.10. If the change that would result in a substantive change in requirements, the revised cross-referenced standard would not take effect until the Commission or OET on delegated authority completes a rulemaking adopting that change.

62. Finally, the Commission addressed a specific and narrow concern raised by Inovonics which stated that, while its products meet the frequency hopping requirements for unlicensed devices in §15.247(a)(1)(i) using the bandwidth measurement procedure in ANSI C63.4-2003, it would be unable to meet the frequency hopping requirement using the proposed bandwidth measurement procedure in ANSI C63.10-2009 due to difference in resolution bandwidth setting techniques when measuring occupied bandwidth. Inovonics asserted that redesigning future products to meet the frequency hopping requirement would impose burdens on consumers of large-scale unlicensed systems who would no longer be able to modify their existing systems without substantially replacing all of their equipment. It suggested that, if the Commission adopts a revised standard, it include an extensive grandfathering period for testing equipment under the existing standard.

63. The Commission agreed with Inovonics argument that application of the 2009 standard would result in Inovonics' existing consumers having to choose whether to replace entire systems or forego the benefits of updating equipment or expanding their existing installations, and that application of the standard would be so unduly burdensome as to run counter to the public interest. In the evaluation of devices from Inovonics that are designed to be compatible with Inovonics equipment that has already been authorized, the Commission will to continue to accept the bandwidth measurement procedure in ANSI C63.4-2003 for purposes of demonstrating that products meet the frequency hopping requirements for its unlicensed devices in §15.247(a)(1)(i). Inovonics must phase out its use of the 2003 standard after December 31, 2020 – the date it suggests in its comments – or when the Commission adopts further revisions to the standard, whichever occurs first. The Commission found that this transition would allow Inovonics sufficient time to prepare its customers for replacing their systems as it plans equipment designs that can be tested to comply with the updated standard. Because it will still be subject to the objective measurement procedure embodied in the 2003 standard, the Commission affirmed its confidence that Inovonics' equipment will comport with the appropriate part 15 technical requirements and not create a risk of interference.

9. Updating Measurement Procedures

64. Parts 2 and 15 of the Commission's rules incorporate various industry measurement standards that have been developed by different industry groups, subject to periodic revision. The Commission has delegated authority to the Chief of OET to make editorial non-substantive changes to the rules pertaining to parts 2, 5, 15, and 18 of the rules, including references to updated standards that do not involve substantive changes. Non-editorial revisions to the rules require action by the full Commission and all rule changes to reference updated standards have been effected by Commission action. In the NPRM, the Commission proposed to explicitly allow OET to update references to industry standards that are already in the rules in parts 2, 5, 15 and 18 of the rules, provided that the changes do not raise major compliance issues.

65. The Commission adopted its NPRM proposal to give the Chief of OET delegated authority to engage in limited rulemaking action in order to modify parts 2, 5, 15, and 18 of rules to reference updated versions of standards that are already referenced in the rules. When it updates these references, in order to effectuate any degree of change to the substantive obligations of any party subject to FCC regulation, OET must follow Administrative Procedure Act (APA) requirements by publishing a notice in the Federal Register, providing sufficient opportunity for public comment, and considering the record compiled in the proceeding prior to adopting any substantive update to the standards. OET will determine whether there is a need for a transition period, and the appropriate length of any such transition, based on the comments filed in response to each public notice. In cases where parties provide convincing evidence that the proposed use of an updated standard would, in fact, raise major compliance issues, the Commission directed OET to refer the matter for review and decision by the Commission.

10. Other Issues

66. The Commission amended § 2.1033 of the rules to require that applications for Certification include photographs or diagrams of the test set-up for each of the required types of tests applicable to the device for which Certification is requested. The photographs or diagrams must show enough detail to

confirm other information contained in the test report, and any photographs must clearly show the test configuration used. The Commission stated that the changes will make the Certification procedure consistent with the verification and DoC procedures, which require photographs or diagrams, and will allow it to determine whether a test laboratory or TCB tested equipment in accordance with the applicable measurement procedures. The Commission determined that the cost of this requirement would be negligible because it requires a test laboratory or TCB to take a minimal number of additional photographs during testing or provide some relatively simple diagrams and include those with the test report submitted with the application for Certification. Additionally, the Commission found no need to specify in § 2.1033 that photographs or diagrams may be in electronic format since it accepts only electronic filings from TCBs and because codifying such aspects of the filing procedure could limit OET's flexibility in modifying them later. Additionally, the Commission decided to not adopt Bay Area Compliance's suggestion regarding a time/date stamp requirement since such data could be easily altered in conjunction with a fraudulent filing.

67. Obsolete rules. The Commission removed § 15.109(g)(4) because it references a rule provision that was deleted in 2002. The Commission also deleted the note in §15.31(a)(3) as unnecessary.

Transition period

68. To allow time for currently operating laboratories to become fully accredited and comply with the new ANSI C63.4 site validation criteria above 1 GHz, the Commission proposed adopted the transition periods set forth in the NPRM and applied them to the versions of the standards it adopted. Testing laboratories currently listed by the Commission under the § 2.948 process will remain recognized for the sooner of one year from the effective date of the rules adopted herein or until the date that their listing expires. As of the effective date of the rules, new laboratories must be accredited in order to be added to the Commission's list of recognized testing laboratories and the Commission will not recognize new 2.948-listed laboratories. Testing laboratories whose 2.948-listings expire within one year of the

effective date of the rules may renew their listing but the renewal will be valid only until one year after the effective date of the rules. Applicants for grants of Certification using recognized 2.948-listed testing laboratories that test devices up until one year after the effective date of the rules must submit those test reports for grants of Certification within 90 days of the end of the one-year transition period (i.e. within approximately 15 months of the effective date of the rules). The transition to the new site validation criteria will require testing laboratories to demonstrate compliance with the site validation criteria in ANSI C63.4-2014 clause 5.5.1 a) (CISPR 16-1-4), no later than three years after the effective date of the rules.

OTHER MATTERS

69. The docket included a Petition for Rulemaking filed by James E. Whedbee that proposed a new rule stating that a Commission license holder may use devices authorized for use under our part 15 rules and that such devices would not require a separate equipment authorization. Since the Commission currently does not place any restrictions on the use of part 15 devices by a holder of any other Commission license holder as long as the device is used within its authorized parameters, the Commission denied the petition as moot. To the extent that the petitioner intended to propose other alterations to our practice or procedures, the Commission found that the petition did not state what the proposed changes would do or why they are needed, and therefore failed to provide sufficient reason to justify the institution of a rulemaking proceeding.

INCORPORATION BY REFERENCE

70. . The OFR recently revised the regulations to require that agencies must discuss in the preamble of the rule ways that the materials the agency incorporates by reference are reasonably available to interested persons and how interested parties can obtain the materials. In addition, the preamble of the rule must summarize the material. 1 CFR 51.5(b). In accordance with OFR's requirements, the discussion in this section summarizes ANSI, CISPR and ISO/IEC standards. Copies of the standards are also available for purchase from the standards development organizations: the IEEE standards may be

purchased from the Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108, 1-800-699-9277, <http://www.techstreet.com/ieee>; and the ANSI, ISO and IEC standards are available for purchase from American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036, (212) 642-4900, <http://webstore.ansi.org/ansidocstore/>

IEEE

(1) ANSI C63.4-2014: “American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,” ANSI approved June 13, 2014:

- Except sections 4.5.3, 4.6, 6.2.13, 8.2.2, 9, and 13, IBR approved for §§ 2.950(h), 15.31(a)(4), and 15.38(b)(1).
- Sections 5.4.4 through 5.5 IBR approved for §§ 2.910(c)(1), 2.948(d), and 2.950(f).

This standard, ANSI C63.4-2014, contains methods, instrumentation, and facilities for measurement of radio-frequency (RF) signals and noise emitted from electrical and electronic devices in the frequency range of 9 kHz to 40 GHz, as usable, for example, for compliance testing to U.S. (47 CFR part 15) and Industry Canada (ICES-003) regulatory requirements.

(2) ANSI C63.10-2013, “American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,” ANSI approved June 27, 2013, IBR approved for §§ 2.910(c)(3), 2.950(g), 15.31(a)(3), and 15.38(b)(4).

This standard, ANSI C63.10-2013, contains standard methods and instrumentation and test facilities requirements for measurement of radio frequency (RF) signals and noise emitted from unlicensed wireless devices (also called unlicensed transmitters, intentional radiators, and license-exempt transmitters) operating in the frequency range 9 kHz to 231 GHz.

IEC

(1) CISPR 16-1-4:2010-04: “Specification for radio disturbance and immunity measuring apparatus and methods – Part 1-4: Radio disturbance and immunity measuring apparatus – Antennas and test sites for radiated disturbance measurements” Edition 3.0, 2010-04, IBR approved for §§ 2.910(b)(1), 2.948(d), and 2.950(f).

This standard, CISPR 16-1-4:2010-04, specifies the characteristics and performance of equipment for the measurement of radiated disturbances in the frequency range 9 kHz to 18 GHz. Specifications for antennas and test sites are included. The requirements of this publication apply at all frequencies and for all levels of radiated disturbances within the CISPR indicating range of the measuring equipment.

ISO

(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 §§ 2.910(d)(1), 2.948(e), 2.949(b)(1), 2.950(c) and (d), 2.960(b), and (c)(1), and 68.160(c)(1).

This standard, ISO/IEC 17011:2004(E), specifies general requirements for accreditation bodies assessing and accrediting conformity assessment bodies (CABs). It is also appropriate as a requirements document for the peer evaluation process for mutual recognition arrangements between accreditation bodies.

(2) ISO/IEC 17025:2005(E), “General requirements for the competence of testing and calibration laboratories,” Second Edition, 2005-05-15 IBR approved for §§ 2.910(d)(2), 2.948(e), 2.949(b)(2), 2.962(c)(3), (c)(4), and (d)(1), and 68.162(c)(3), (c)(4), and (d)(1).

This standard, ISO/IEC 17025:2005(E), specifies the general requirements for the competence to carry out tests and/or calibrations, including sampling. It covers testing and calibration performed using standard methods, non-standard methods, and laboratory-developed methods.

(3) ISO/IEC 17065:2012(E), “Conformity assessment - Requirements for bodies certifying products, processes and services,” First Edition, 2012-09-15, IBR approved for §§ 2.910(d)(3), 2.950(b), 2.960(b), 2.962(b)(1), (c)(1), (c)(4), (d)(1), (d)(3), (f)(2), and (g)(1), 68.160 (b) and 68.162(b)(1), (c)(1), (c)(4), (d)(1), (d)(2), (f)(2), and (g)(2).

This standard, ISO/IEC 17065:2012(E), specifies requirements, the observance of which is intended to ensure that certification bodies operate certification schemes in a competent, consistent and impartial manner, thereby facilitating the recognition of such bodies and the acceptance of certified products, processes and services on a national and international basis and so furthering international trade. This International Standard can be used as a criteria document for accreditation or peer assessment or designation by governmental authorities, scheme owners and others.

(4) ISO/IEC Guide 58:1993 “Calibration and testing laboratory accreditation systems – General requirements for operation and recognition”, First Edition 1993 IBR approved for §§ 2.910(d)(4), and 2.950(d).

This document, ISO/IEC Guide 58:1993, sets out the general requirements for the operation of a system for accreditation of calibration and/or testing laboratories so that the accreditations granted and the services covered by the accreditations may be recognized at a national or international level as competent and reliable.

(5) ISO/IEC Guide 61:1996 “General requirements for assessment and accreditation of certification/registration bodies”, First Edition 1996, IBR approved for §§2.910(d)(5), and 2.950(c).

This document, ISO/IEC Guide 61:1996, specifies general requirements for a body to follow if it is to be recognized at a national or international level as competent and reliable in assessing and subsequently accrediting certification bodies or registration bodies. Conformity to the requirements of

this Guide will promote equivalence of national systems and facilitate agreements on mutual recognition of accreditations between such bodies.

(6) ISO/IEC Guide 65:1996, “General requirements for bodies operating product certification systems,” First Edition 1996, IBR approved for §§ 2.910(d)(6), and 2.950(b).

This document, ISO/IEC Guide 65: 1996, specifies requirements, the observance of which is intended to ensure that certification bodies operate third-party certification systems in a consistent and reliable manner, thereby facilitating their acceptance on a national and international basis and so furthering international trade.

PROCEDURAL MATTERS

Final Regulatory Flexibility Analysis

71. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM of Proposed Rulemaking (Authorization of Radiofrequency Equipment NPRM) in ET Docket No. 13-44.² The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. Those comments are discussed in the following text. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.³

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 – 612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104-121, Title II, 110 Stat. 857 (1996), and the Small Business Jobs Act of 2010, Public Law 111-240, 124 Stat. 2504 (2010).

² See Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules to regarding Authorization of Radiofrequency Equipment and Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies, NPRM of Proposed Rulemaking, ET Docket No. 13-44, RM-11673, 28 FCC Rcd 1606 (2013) (NPRM).

³ See 5 U.S.C. 604.

A. Need for, and Objective of, the Report and Order.

72. In the Report and Order, the Commission took actions to update its radiofrequency (RF) equipment authorization program to build on the success realized by our use of Commission-recognized Telecommunication Certification Bodies (TCBs). The adopted rules will facilitate the continued rapid introduction of new and innovative products to the market while maintaining our ability to ensure that these products do not cause harmful interference with each other or with other communications devices and services.

Specifically, in this Report and Order the Commission:

- Discontinued FCC processing of any applications for equipment Certification of RF equipment;
- Permitted TCBs to process and grant all applications for Certification;
- Codified a pre-grant approval procedure that TCBs must currently follow when certifying equipment based on new technology that requires consultation with the FCC;
- Clarified a TCB's responsibilities in performing post-market surveillance of products it has approved;
- Specified steps for addressing instances of deficient TCB performance, including appropriate sanctions for deficiencies that do not warrant rescinding a TCB's authority to issue a grant of Certification;
- Modified the rules to reference current standards used to accredit TCBs that approve RF equipment under part 2 of the Commission's rules and terminal equipment under part 68 of the Commission's rules;
- Required accreditation of all laboratories that test equipment subject to any of the certification procedures under part 2 of the Commission's rules and codified a procedure through which the Commission currently recognizes new laboratory accreditation bodies;
- Updated references to industry measurement procedures in the Commission's rules; and provided greater flexibility under the Office of Engineering and Technology's (OET) existing delegated

authority to enable it to address minor technical issues that may be raised when updating to the latest versions of industry standards that are referenced in parts 2, 5, 15, and 18 of the Commission's rules.

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

73. One commenter addressed the conclusions that were reached in the Initial Regulatory Flexibility Analysis (IRFA) regarding the economic impact that the proposed rules would have on small entities. That commenter, dB Technology, asserted that the IRFA failed to account for the negative effects of adopting the proposal to require that all laboratories that perform certification testing be accredited.⁴ Specifically, dB Technology stated that the "...cost overhead associated with 'accreditation' which has a much more significant impact on smaller test labs ... may result in some small test labs no longer being able to offer services to local small entities." As a result, dB Technology concluded that there could be a "...reduction in the number of competing test labs and increased costs for manufacturers."⁵

74. In the Report and Order in this proceeding, the Commission adopted the requirement that all laboratories that perform Certification testing be accredited. It did so on the basis that requiring testing laboratory accreditation is an important adjunct to our decision to allow TCBs to certify all RF equipment, and because the requirement will provide a higher degree of confidence that equipment testing done in support of Certification applications is conducted in accordance with the applicable standards. To the extent that dB technologies is suggesting that the Commission take an alternate approach, such as continuing to allow for unaccredited laboratories, it was considered but rejected on the basis that it would not accomplish the objectives of the proceeding. It is extremely important that equipment be properly

⁴ See dB Technology "small business impact" comments filed March 22, 2013. dB Technology refers to itself as "an independent EMC/Radio Test Site located in the United Kingdom," whose test facilities are "'listed' with the FCC but not 'accredited.'"

⁵ dB Technology also suggested that the IRFA should have considered the "positive impact" of relaxing other Commission equipment authorization procedures. However, the procedures it mentioned were not the direct subjects of this proceeding and these comments will not be discussed further.

evaluated prior to being released into the marketplace (where it may be difficult or impossible to retrieve). Not requiring accreditation, or only applying such a requirement to certain types of laboratories, would present unacceptable risks to the integrity and success of our equipment authorization program. It would also increase the potential for the imposition of extraordinary costs (both costs associated with the identification and recall of noncompliant products by manufacturers, and costs associated with interference by noncompliant devices that could affect a larger group of users). For these reasons, the Commission adopted the accreditation rule based on the proposals in the NPRM and its accompanying IRFA.

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

Administration.

75. Pursuant to the Small Business Jobs Act of 2010, the Commission was required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. 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.

76. 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.⁶ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁷ A small business concern is one which: 1) is independently owned and operated; 2) is not dominant in its field of operation; and 3)

⁶ *Id.* at 603(b)(3).

⁷ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, 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." 5 U.S.C. 601(3).

satisfies any additional criteria established by the SBA.⁸

77. Radio and Television Broadcasting and Wireless Communications Equipment

Manufacturing. The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. 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.”⁹ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. Of this total, 912 had less than 500 employees and 17 had more than 1000 employees.¹⁰ Thus, under that size standard, the majority of firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.

78. The Commission’s rules require that equipment be authorized in accordance with one of three procedures specified in Subpart J of part 2 of the rules described below (with certain limited exceptions).¹¹ These requirements not only minimize the potential for harmful interference, but also

⁸ Small Business Act, 15 U.S.C. 632 (1996).

⁹ The NAICS Code for this service 334220. See 13 CFR 121/201. See also http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-skip=300&-ds_name=EC0731SG2&-lang=en

¹⁰ See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-skip=4500&-ds_name=EC0731SG3&-lang=en

¹¹ See 47 CFR part 2, Subpart J, 2.901, et seq. Some devices are exempt from the equipment authorization requirements, such as unlicensed digital devices used exclusively in transportation vehicles, utility or industrial plants, test equipment, appliances and medical devices. See 47 CFR 15.103. In addition, most radio receivers that tune only outside the frequency range of 30-960 MHz are exempt from equipment authorization requirements. See 47 CFR 15.101(b). Operation of these exempt digital devices and radio receivers is subject to the condition that the devices may not cause harmful interference to authorized services. See 47 CFR 15.5(b). Additionally, some devices

ensure that the equipment complies with our rules that address other policy objectives – such as RF human exposure limits and hearing aid compatibility (HAC) with wireless handsets. The specific provisions of the three procedures apply to various types of devices based on their relative likelihood of harmful interference and the significance of the effects of such interference from the particular device at issue.

Certification, the most rigorous process for devices with the greatest potential to cause harmful interference, is an equipment authorization issued by the Commission or grant of Certification by a recognized TCB based on an application and test data submitted by the responsible party (e.g., the manufacturer or importer).¹² The testing is done by a testing laboratory listed by the Commission as approved for such work and the Commission or a TCB examines the test procedures and data to determine whether the testing followed appropriate protocols and the data demonstrates technical and operational compliance with all pertinent rules. Technical parameters and other descriptive information for all certified equipment submitted in an application for Certification are published in a Commission-maintained public database, regardless of whether it is approved by the Commission or a TCB.¹³

Declaration of Conformity (DoC) is a procedure that requires the party responsible for compliance to use an accredited testing laboratory that follows established measurement protocols to ensure that the equipment complies with the appropriate technical standards.¹⁴ The responsible party is not required to file an equipment authorization application with the Commission or a TCB, and equipment authorized under the DoC procedure is not listed in any Commission database. However, the responsible party must provide a test report and other information demonstrating compliance with the rules upon request by the Commission.

are exempt from equipment authorization requirements by statute, such as equipment intended solely for export or marketed exclusively for use by the Federal Government. See 47 U.S.C. 302a(c) and 47 CFR 2.807.

¹² See 47 CFR 2.907.

¹³ See <http://www.fcc.gov/eas/>.

¹⁴ See 47 CFR 2.906. The party responsible for compliance is defined in 47 CFR 2.909.

Verification is a procedure that requires the party responsible for compliance to rely on measurements that it or another party makes on its behalf to ensure that the equipment complies with the appropriate technical standards.¹⁵ The responsible party is not required to use an accredited testing laboratory. It is not required to file an application with the Commission or a TCB, and equipment authorized under the verification procedure is not listed in any Commission database. However, the responsible party must provide a test report and other information demonstrating compliance with the rules upon request by the Commission.

79. In the Notice of Proposed Rulemaking (“NPRM”) in this proceeding, the Commission proposed certain changes to ensure its part 2 equipment authorization processes continue to operate efficiently and effectively.¹⁶ Specifically, the Commission proposed to clarify the obligations of TCBs and to strengthen the Commission’s oversight of the TCB’s. The Commission also proposed to require accreditation for all labs performing equipment authorization compliance tests. The Commission also proposed adopting updates to the measurement procedures used to determine RF equipment compliance.

80. The Commission adopted its proposals specifying how applicants will file with TCBs and how TCBs will file with the Commission, and will required that the information provided to the Commission shall be submitted electronically through the Commission’s EAS.

81. The Commission will stop accepting applications for grant of Certification as of the effective date of the Report and Order and will modify § 1.1103 of the rules to remove the equipment authorization services sections related to Certification as all of the processes under the Certification section will no longer be handled by the Commission, and no fee will be charged by the Commission when a TCB issues a grant of Certification. Applications received prior to the effective date will be reviewed following the

¹⁵ See 47 CFR 2.909(b) and 2.953.

¹⁶ See Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment and Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies, Notice of Proposed Rulemaking, ET Docket No. 13-44, 28 FCC Rcd 1606 (2013).

current review procedures and approved if compliant with all requirements. Finally, the Commission also adopted the proposed TCB process changes and amended the various sections of part 2 that required updating to reflect the TCB role in the Certification process, as modified herein.

F. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

82. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): 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 or reporting requirements under the rule for 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 small entities.¹⁷

83. The Commission adopted the proposed modifications to the administrative requirements for test laboratories and TCBs on the belief that the changes will make the equipment authorization program more efficient and effective, thus benefiting small entities. Specifically, TCBs will approve all equipment, including equipment that TCBs may not currently approve because it incorporates new technology or requires measurements for which the procedures are not yet clearly defined. To more efficiently implement this change, the Commission will also integrate a new procedure into our equipment authorization system that will enable TCBs to obtain guidance from the Commission on testing or other certification issues. It is expected that these changes will reduce the time required for manufacturers to obtain equipment approval.

84. The Commission also adopted its proposals to require accreditation of test laboratories that perform certification testing and establish additional measures to address TCB performance in order to ensure the continuing quality of the TCB program. This will benefit equipment manufacturers by

¹⁷ 5 U.S.C. 603(c).

ensuring that all TCBs operate in accordance with the Commission's rules, thus providing a clear path to market and a level playing field for all manufacturers, both large and small.

Report to Congress: The Commission will send a copy of the Report and Order, including this FRFA, in a report to Congress pursuant to the Congressional Review Act.¹⁸ In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.

Paperwork Reduction Act

85. This Report and Order contains no new information collection requirements, only non-substantive modifications.

Congressional Review Act

86. The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.¹⁹

Ordering Clauses

87. Pursuant to sections 1, 4(i), 7(a), 301, 302, 303(f), 303(g), 303(r), 307(e) and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 157(a), 301, 302a, 303(f), 303(g), 303(r), 307(e), and 332, this Report and Order IS ADOPTED.

88. The rules and requirements adopted in this Report and Order will be effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].**

89. Pursuant to the authority of Section 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c), the Commission delegate authority to the Office of Engineering and Technology as set forth herein.

¹⁸ See 5 U.S.C. 801(a)(1)(A).

¹⁹ See 5 U.S.C. 801(a)(1)(A).

90. The Petition for Rulemaking filed by James E. Whedbee IS DENIED.

91. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

92. Pursuant to the authority contained in Sections 4(i), 4(j), and 303 of the Communications Act, as amended, 47 U.S.C. 154(i), 154(j) and 303, that should no petitions for reconsideration or applications for review be timely filed, this proceeding **IS TERMINATED** and ET Docket No. 13-44 **IS CLOSED**.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies), Reporting and recordkeeping requirements.

47 CFR Part 1

Administrative practice and procedure, Reporting and recordkeeping requirements.

47 CFR Part 2

Communications equipment, Incorporation by Reference, Reporting and recordkeeping requirements.

47 CFR Part 15

Communications equipment, Incorporation by reference, Radio, and Reporting and recordkeeping requirements.

47 CFR Part 68

Communications equipment, Incorporation by reference, and Reporting and recordkeeping.

FEDERAL COMMUNICATIONS COMMISSION.

Gloria J. Miles
Federal Register Liaison Officer

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0, 1, 2, 15 and 68 as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.241 is amended by revising paragraphs (a)(1) and (f) to read as follows:

§ 0.241 Authority delegated.

(a) * * *

(1) Notice of proposed rulemaking and of inquiry and final orders in rulemaking proceedings, inquiry proceedings and non-editorial orders making changes, except that:

(i) The Chief of the Office of Engineering and Technology is delegated authority, together with the Chief of the Wireless Telecommunications Bureau, to adopt certain technical standards applicable to hearing aid compatibility under § 20.19 of this chapter, as specified in § 20.19(k).

(ii) The Chief of the Office of Engineering and Technology is delegated authority, by notice-and-comment rulemaking if required by statute or otherwise in the public interest, to issue an order amending rules in parts 2, 5, 15, or 18 of this chapter that reference industry standards to specify revised versions of the standards. This delegation is limited to modifying rules to reference revisions to standards that are already in the rules and not to incorporate a new standard into the rules, and is limited to the approval of changes to the technical standards that do not raise major compliance issues.

* * * * *

(f) The Chief of the Office of Engineering and Technology is authorized to enter into agreements with the National Institute of Standards and Technology and other accreditation bodies to perform accreditation of test laboratories pursuant to § 2.948(e) of this chapter. In addition, the Chief is authorized

to make determinations regarding the continued acceptability of individual accrediting organizations and accredited laboratories.

* * * * *

3. Section 0.408 is amended by revising the entry for “3060-0636” in paragraph (b) to read as follows.

§0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction

Act of 1995.

* * * * *

(b) Display.

| OMB Control No. | FCC form number or 47 CFR section or part, docket number or title identifying the collection | OMB expiration date |
|--------------------|---|------------------------|
| * * * * * * | * * * * * | * * * * * |
| 3060- 0636 | Secs. 2.906, 2.909, 2.1071, 2.1075, 2.1077, and 15.37 | 05/31/15 |
| * * * * * * | * * * * * | * * * * * |

PART 1— PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 et seq.; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452 and 1455.

5. Section 1.1103 is revised to read as follows:

§ 1.1103 Schedule of charges for equipment approval, experimental radio services (or service).

Payment can be made electronically using the Commission's electronic filing and payment system “Fee Filer” (www.fcc.gov/feefiler). Remit manual filings and/or payments for these services to: Federal Communications Commission, OET Services, P. O. Box 979095, St. Louis, MO 63197-9000.

| Service | FCC Form No. | Fee amount | Payment type code |
|--|---|------------|-------------------|
| Equipment Approval Service(s) | | | |
| 1. Advance Approval of Subscription TV Systems | Corres & 159 | \$4,180.00 | EIS |
| a. Request for Confidentiality For Advance Approval of Subscription TV Systems | Corres & 159 | \$195.00 | EBS |
| 2. Assignment of Grantee Code: | | | |
| a. For all Application Types, except Subscription TV (Electronic Filing Only—Optional Electronic Payment) | Electronic Assignment & Form 159 or Optional Electronic Payment | \$65.00 | EAG |
| 3. Experimental Radio Service(s): | | | |
| a. New Station Authorization | 442 & 159 | \$65.00 | EAE |
| b. Modification of Authorization | 442 & 159 | \$65.00 | EAE |
| c. Renewal of Station Authorization | 405 & 159 | \$65.00 | EAE |
| d. Assignment of License or Transfer of Control | 702 & 159 or | \$65.00 | EAE |
| | 703 & 159 | \$65.00 | EAE |
| e. Special Temporary Authority | Corres & 159 | \$65.00 | EAE |
| f. Additional fee required for any of the above applications that request withholding from public inspection | Corres & 159 | \$65.00 | EAE |

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS;

GENERAL RULES AND REGULATIONS

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

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

7. Section 2.901 is revised to read as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be verified by the manufacturer or importer, be authorized under a Declaration of Conformity, or receive a grant of Certification from a Telecommunication Certification Body.

(b) Sections 2.902 through 2.1077 describe the verification procedure, the procedure for a Declaration of Conformity, and the procedures to be followed in obtaining certification and the conditions attendant to such a grant.

8. Section 2.906 is amended by revising paragraph (a) to read as follows:

§ 2.906 Declaration of Conformity.

(a) A Declaration of Conformity is a procedure where the responsible party, as defined in §2.909, makes measurements or takes other necessary steps to ensure that the equipment complies with the appropriate technical standards. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested pursuant to §2.945.

* * * * *

9. Section 2.907 is amended by revising paragraph (a) to read as follows:

§ 2.907 Certification.

(a) Certification is an equipment authorization approved by the Commission or issued by a Telecommunication Certification Body (TCB) and authorized under the authority of the Commission, based on representations and test data submitted by the applicant.

* * * * *

10. Section 2.909 is amended by revising paragraph (a) to read as follows:

§ 2.909 Responsible party.

* * * * *

(a) In the case of equipment which requires the issuance of a grant of certification, the party to whom that grant of certification is issued (the grantee). If the radio frequency equipment is modified by any party other than the grantee and that party is not working under the authorization of the grantee pursuant to §2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

* * * * *

11. Section 2.910 is added before the undesignated center heading “Application Procedures for Equipment Authorizations” to read as follows:

§ 2.910 Incorporation by reference.

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the Federal Register. All approved material is available for inspection at the Federal Communications Commission, 445 12th St., SW., Reference Information Center, Room CY–A257, Washington, DC 20554, (202) 418–0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH-1211 Geneva 20, Switzerland, Email: inmail@iec.ch, www.iec.ch

(1) CISPR 16-1-4:2010-04: “Specification for radio disturbance and immunity measuring apparatus and methods – Part 1-4: Radio disturbance and immunity measuring apparatus – Antennas and test sites for radiated disturbance measurements”, Edition 3.0, 2010-04, IBR approved for §§ 2.948(d) and 2.950(f).

(2) [Reserved]

(c) Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108, 1-800-699-9277, <http://www.techstreet.com/ieee>; (ISO publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York NY 10036, telephone (212) 642–4900.)

(1) ANSI C63.4-2014: “American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,” ANSI approved June 13, 2014, IBR approved for § 2.950(h) and:

(i) Sections 5.4.4 through 5.5, IBR approved for §§ 2.948(d) and 2.950(f); and

(ii) [Reserved]

(2) ANSI C63.10-2013, “American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,” ANSI approved June 27, 2013, IBR approved for §2.950(g).

(d) International Organization for Standardization (ISO), 1, ch. De la Voie-Creuse, CP 56, CH–1211, Geneva 20, Switzerland; www.iso.org ; Tel.: +41 22 749 01 11; Fax: +41 22 733 34 30; email: central@iso.org . (ISO publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York NY 10036, telephone (212) 642–4900.)

(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), 2.950(c) and (d), and 2.960(c).

(2) ISO/IEC 17025:2005(E), “General requirements for the competence of testing and calibration laboratories,” Section Edition, 2005-05-15, IBR approved for §§2.948(e), 2.949(b), 2.962(c) and (d).

(3) ISO/IEC 17065:2012(E), “Conformity assessment - Requirements for bodies certifying products, processes and services,” First Edition, 2012-09-15, IBR approved for §§ 2.950(b), 2.960(b), 2.962(b), (c), (d), (f), and (g).

(4) ISO/IEC Guide 58:1993(E), “Calibration and testing laboratory accreditation systems – General requirements for operation and recognition”, First Edition 1993, IBR approved for § 2.950(d).

(5) ISO/IEC Guide 61:1996(E), “General requirements for assessment and accreditation of certification/registration bodies”, First Edition 1996, IBR approved for § 2.950(c).

(6) ISO/IEC Guide 65:1996(E), “General requirements for bodies operating product certification systems,” First Edition 1996, IBR approved for § 2.950(b).

12. Section 2.911 is revised to read as follows:

§ 2.911 Application requirements.

(a) All requests for equipment authorization shall be submitted in writing to a Telecommunication Certification Body (TCB) in a manner prescribed by the TCB.

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

(c) Each application that a TCB submits to the Commission shall be accompanied by all information required by this subpart and by those parts of the rules governing operation of the equipment, the applicant’s certifications required by paragraphs (d)(1) and (2) of this section, and by requisite test data, diagrams, photographs, etc., as specified in this subpart and in those sections of rules under which the equipment is to be operated.

(d) The applicant shall provide to the TCB all information that the TCB requests to process the equipment authorization request and to submit the application form prescribed by the Commission and all exhibits required with this form.

(1) The applicant shall provide a written and signed certification to the TCB that all statements it makes in its request for equipment authorization are true and correct to the best of its knowledge and belief.

(2) The applicant shall provide a written and signed certification to the TCB that the applicant complies with the requirements in § 1.2002 of this chapter concerning the Anti-Drug Abuse Act of 1988.

(3) Each request for equipment authorization submitted to a TCB, including amendments thereto, and related statements of fact and authorizations required by the Commission, shall be signed by the applicant if the applicant is an individual; by one of the partners if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association: Provided, however, that the application may be signed by the applicant's authorized representative who shall indicate his title, such as plant manager, project engineer, etc.

(4) Information on the Commission's equipment authorization requirements can be obtained from the Internet at <https://www.fcc.gov/eas>.

(e) Technical test data submitted to the TCB and to the Commission shall be signed by the person who performed or supervised the tests. The person signing the test data shall attest to the accuracy of such data. The Commission or TCB may require the person signing the test data to submit a statement showing that they are qualified to make or supervise the required measurements.

(f) Signed, as used in this section, means an original handwritten signature; however, the Office of Engineering and Technology may allow signature by any symbol executed or adopted by the applicant or TCB with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

§ 2.913 [Removed]

13. Section 2.913 is removed.

14. Section 2.915 is amended by revising paragraph (a) introductory text and adding paragraphs (d), (e) and (f) to read as follows:

§ 2.915 Grant of application.

(a) A Commission recognized TCB will grant an application for certification if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

* * * * *

(d) Grants will be effective from the date of publication on the Commission website and shall show any special condition(s) attaching to the grant. The official copy of the grant shall be maintained on the Commission website.

(e) The grant shall identify the approving TCB and the Commission as the issuing authority.

(f) In cases of a dispute the Commission will be the final arbiter.

15. Section 2.917 is amended by revising paragraph (c) to read as follows:

§2.917 Dismissal of application.

* * * * *

(c) If an applicant is requested to file additional documents or information and fails to submit the requested material within the specified time period, the application may be dismissed.

16. Section 2.924 is revised to read as follows:

§ 2.924 Marketing of electrically identical equipment having multiple trade names and models or type numbers under the same FCC Identifier.

The grantee of an equipment authorization may market devices having different model/type numbers or trade names without additional authorization, provided that such devices are electrically identical and the equipment bears an FCC Identifier validated by a grant of certification. A device will be considered to be electrically identical if no changes are made to the authorized device, or if the changes made to the device would be treated as class I permissive changes within the scope of §2.1043(b)(1).

Changes to the model number or trade name by anyone other than the grantee, or under the authorization of the grantee, shall be performed following the procedures in §2.933.

§ 2.925 [Amended]

17. Section 2.925 is amended by removing paragraph (b)(3) and redesignating paragraph (b)(4) as paragraph (b)(3).

18. Section 2.926 is amended by revising paragraphs (a), (c)(1), and (e) to read as follows:

§ 2.926 FCC identifier.

(a) A grant of certification will list the validated FCC Identifier consisting of the grantee code assigned by the FCC pursuant to paragraph (b) of this section, and the equipment product code assigned by the grantee pursuant to paragraph (c) of this section. See § 2.925.

* * * * *

(c) * * *

(1) After assignment of a grantee code each grantee will continue to use the same grantee code for subsequent equipment authorization applications. In the event the grantee name is changed or ownership is transferred, the circumstances shall be reported to the Commission so that a new grantee code can be assigned, if appropriate. See § 2.929(c) and (d) for additional information.

* * * * *

(e) No FCC Identifier may be used on equipment to be marketed unless that specific identifier has been validated by a grant of equipment certification. This shall not prohibit placement of an FCC identifier on a transceiver which includes a verified receiver subject to § 15.101 of this chapter, provided that the transmitter portion of such transceiver is covered by a valid grant of type acceptance or certification. The FCC Identifier is uniquely assigned to the grantee and may not be placed on the equipment without authorization by the grantee. See § 2.803 for conditions applicable to the display at trade shows of equipment which has not been granted equipment authorization where such grant is required prior to

marketing. Labelling of such equipment may include model or type numbers, but shall not include a purported FCC Identifier.

19. Section 2.927 is revised to read as follows:

§ 2.927 Limitations on grants.

(a) A grant of certification is valid only when the FCC Identifier is permanently affixed on the device and remains effective until set aside, revoked, withdrawn, surrendered, or terminated.

(b) A grant of certification recognizes the determination that the equipment has been shown to be capable of compliance with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. The issuance of a grant of equipment certification shall not be construed as a finding with respect to matters not encompassed by the Commission's rules, especially with respect to compliance with 18 U.S.C. 2512.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to an equipment authorization in a deceptive or misleading manner or convey the impression that such certification reflects more than a Commission-authorized determination that the device or product has been shown to be capable of compliance with the applicable technical standards of the Commission's rules.

20. Section 2.929 is amended by revising paragraphs (a), (c), and (d) to read as follows:

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

(a) An equipment authorization may not be assigned, exchanged or in any other way transferred to a second party, except as provided in this section.

* * * * *

(c) Whenever there is a change in the name and/or address of the grantee of certification, notice of such change(s) shall be submitted to the Commission via the Internet at <https://apps.fcc.gov/eas> within 30 days after the grantee starts using the new name and/or address.

(d) In the case of transactions affecting the grantee, such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights, notice must be given to the Commission via the

Internet at <https://apps.fcc.gov/eas> within 60 days after the consummation of the transaction. Depending on the circumstances in each case, the Commission may require new applications for certification. In reaching a decision the Commission will consider whether the acquiring party can adequately ensure and accept responsibility for continued compliance with the regulations. In general, new applications for each device will not be required. A single application for certification may be filed covering all the affected equipment.

21. Section 2.932 is amended by revising paragraph (d) to read as follows:

§ 2.932 Modification of equipment.

* * * * *

(d) All requests for permissive changes must be accompanied by the anti-drug abuse certification required under § 1.2002 of this chapter.

22. Section 2.933 is amended by revising paragraphs (a), (b) introductory text, and (b)(5) to read as follows:

§ 2.933 Change in identification of equipment.

(a) A new application for certification shall be filed whenever there is a change in the FCC Identifier for the equipment with or without a change in design, circuitry or construction. However, a change in the model/type number or trade name performed in accordance with the provisions in § 2.924 of this chapter is not considered to be a change in identification and does not require additional authorization.

(b) An application filed pursuant to paragraph (a) of this section where no change in design, circuitry or construction is involved, need not be accompanied by a resubmission of equipment or measurement or test data customarily required with a new application, unless specifically requested. In lieu thereof, the applicant shall attach a statement setting out:

* * * * *

(5) The photographs required by § 2.1033(b)(7) or (c)(12) showing the exterior appearance of the equipment, including the operating controls available to the user and the identification label. Photographs

of the construction, the component placement on the chassis, and the chassis assembly are not required to be submitted unless specifically requested.

* * * * *

§ 2.936 [Removed]

23. Section 2.936 is removed.

§ 2.943 [Removed]

24. Section 2.943 is removed.

25. Section 2.945 is revised to read as follows:

§ 2.945 Submission of equipment for testing and equipment records.

(a) Prior to certification. (1) The Commission or a Telecommunication Certification Body (TCB) may require an applicant for certification to submit one or more sample units for measurement at the Commission's laboratory or the TCB.

(2) If the applicant fails to provide a sample of the equipment, the TCB may dismiss the application without prejudice.

(3) In the event the applicant believes that shipment of the sample to the Commission's laboratory or the TCB is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, the applicant may submit a written explanation why such shipment is impractical and should not be required.

(4) The Commission may take administrative sanctions against a grantee of certification that fails to respond within 21 days to a Commission or TCB request for an equipment sample, such as suspending action on applications for equipment authorization submitted by that party while the matter is being resolved. The Commission may consider extensions of time upon submission of a showing of good cause.

(b) Subsequent to equipment authorization. (1) The Commission may request that the responsible party or any other party marketing equipment subject to this chapter submit a sample of the equipment, or provide a voucher for the equipment to be obtained from the marketplace, to determine the extent to which

production of such equipment continues to comply with the data filed by the applicant or on file with the responsible party for equipment subject to verification or Declaration of Conformity. The Commission may request that a sample or voucher to obtain a product from the marketplace be submitted to the Commission, or in the case of equipment subject to certification, to the TCB that certified the equipment.

(2) A TCB may request samples of equipment that it has certified from the grantee of certification, or request a voucher to obtain a product from the marketplace, for the purpose of performing post-market surveillance as described in § 2.962. TCBs must document their sample requests to show the date they were sent and provide this documentation to the Commission upon request.

(3) The cost of shipping the equipment to the Commission's laboratory and back to the party submitting the equipment shall be borne by the party from which the Commission requested the equipment.

(4) In the event a party believes that shipment of the sample to the Commission's laboratory or the TCB is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, that party may submit a written explanation why such shipment is impractical and should not be required.

(5) Failure of a responsible party or other party marketing equipment subject to this chapter to comply with a request from the Commission or TCB for equipment samples or vouchers within 21 days may be cause for actions such as such as suspending action on applications for certification submitted by a grantee or forfeitures pursuant to § 1.80 of this chapter. The Commission or TCB requesting the sample may consider extensions of time upon submission of a showing of good cause.

(c) Submission of records. Upon request by the Commission, each responsible party shall submit copies of the records required by §§ 2.938, 2.955, and 2.1075 to the Commission. Failure of a responsible party or other party marketing equipment subject to this chapter to comply with a request from the Commission for records within 21 days may be cause for forfeiture, pursuant to § 1.80 of this chapter. The Commission may consider extensions of time upon submission of a showing of good cause.

(d) Inspection by the Commission. Upon request by the Commission, each responsible party shall make its manufacturing plant and facilities available for inspection.

§ 2.946 [Removed]

26. Section 2.946 is removed.

27. Section 2.947 is amended by revising paragraphs (a) and (e) to read as follows:

§ 2.947 Measurement procedure.

(a) Test data must be measured in accordance with the following standards or measurement procedures:

* * * * *

(e) If deemed necessary, additional information may be required concerning the measurement procedures employed in obtaining the data submitted for equipment authorization purposes.

28. Section 2.948 is revised to read as follows:

§ 2.948 Measurement facilities.

(a) Equipment authorized under the certification or Declaration of Conformity (DoC) procedure shall be tested at a laboratory that is accredited in accordance with paragraph (e) of this section.

(b) A laboratory that makes measurements of equipment subject to an equipment authorization under the certification, DoC or verification procedure shall compile a description of the measurement facilities employed.

(1) The description of the measurement facilities shall contain the following information:

(i) Location of the test site.

(ii) Physical description of the test site accompanied by photographs that clearly show the details of the test site.

(iii) A drawing showing the dimensions of the site, physical layout of all supporting structures, and all structures within 5 times the distance between the measuring antenna and the device being measured.

(iv) Description of structures used to support the device being measured and the test instrumentation.

(v) List of measuring equipment used.

(vi) Information concerning the calibration of the measuring equipment, i.e., the date the equipment was last calibrated and how often the equipment is calibrated.

(vii) For a measurement facility that will be used for testing radiated emissions, a plot of site attenuation data taken pursuant to paragraph (d) of this section.

(2) The description of the measurement facilities shall be provided to a laboratory accreditation body upon request.

(3) The description of the measurement facilities shall be retained by the party responsible for verification of equipment and provided to the Commission upon request.

(i) The party responsible for verification of equipment may rely upon the description of the measurement facilities retained by an independent laboratory that performed the tests. In this situation, the party responsible for verification of the equipment is not required to retain a duplicate copy of the description of the measurement facilities.

(ii) No specific site calibration data is required for equipment that is verified for compliance based on measurements performed at the installation site of the equipment. The description of the measurement facilities may be retained at the site at which the measurements were performed.

(c) The Commission will maintain a list of accredited laboratories that it has recognized. The Commission will make publicly available a list of those laboratories that have indicated a willingness to perform testing for the general public. Inclusion of a facility on the Commission's list does not constitute Commission endorsement of that facility. In order to be included on this list, the accrediting organization (or Designating Authority in the case of foreign laboratories) must submit the information listed below to the Commission's laboratory:

(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 or not 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.
- (d) When the measurement method used requires the testing of radiated emissions on a validated test site, the site attenuation must comply with the requirements of Sections 5.4.4 through 5.5 of the following procedure: ANSI C63.4-2014 (incorporated by reference, see § 2.910). Measurement facilities used to make radiated emission measurements from 30 MHz to 1 GHz shall comply with the site validation requirements in ANSI C63.4-2014 (clause 5.4.4) and for radiated emission measurements from 1 GHz to 40 GHz shall comply with the site validation requirement of ANSI C63.4-2014 (clause 5.5.1 a) 1)), such that the site validation criteria called out in CISPR 16-1-4:2010-04 (incorporated by reference, see § 2.910) is met. Test site revalidation shall occur on an interval not to exceed three years.
- (e) A laboratory that has been accredited with a scope covering the measurements required for the types of equipment that it will test shall be deemed competent to test and submit test data for equipment subject to verification, Declaration of Conformity, and certification. Such a laboratory shall be accredited by a Commission recognized accreditation organization based on the International Organization for Standardization/International Electrotechnical Commission International Standard ISO/IEC 17025, (incorporated by reference, see § 2.910). The organization accrediting the laboratory must be recognized by the Commission's Office of Engineering and Technology, as indicated in §0.241 of this chapter, to perform such accreditation based on International Standard ISO/IEC 17011 (incorporated by reference, see § 2.910). The frequency for reassessment of the test facility and the information that is required to be filed or retained by the testing party shall comply with the requirements established by the accrediting organization, but shall occur on an interval not to exceed two years.

(f) The accreditation of a laboratory located outside of the United States, or its possessions, will be acceptable only under one of the following conditions:

(1) If the accredited laboratory has been designated by a foreign Designating Authority and recognized by the Commission under the terms of a government-to-government Mutual Recognition

Agreement/Arrangement (MRA); or

(2) If the laboratory is located in a country that does not have an MRA with the United States, then it must be accredited by an organization recognized by the Commission under the provisions of § 2.949 for performing accreditations in the country where the laboratory is located.

29. Section 2.949 is added before the undesignated center heading “Verification” to read as follows:

§ 2.949 Recognition of laboratory accreditation bodies.

(a) A party wishing to become a laboratory accreditation body recognized by OET must submit a written request to the Chief of OET requesting such recognition. OET will make a determination based on the information provided in support of the request for recognition.

(b) Applicants shall provide the following information as evidence of their credentials and qualifications to perform accreditation of laboratories that test equipment to Commission requirements, consistent with the requirements of § 2.948(e). OET may request additional information, or showings, as needed, to determine the applicant’s credentials and qualifications.

(1) Successful completion of an ISO/IEC 17011 (incorporated by reference, see § 2.910) peer review, such as being a signatory to an accreditation agreement that is acceptable to the Commission.

(2) Experience with the accreditation of electromagnetic compatibility (EMC), radio and telecommunications testing laboratories to ISO/IEC 17025 (incorporated by reference, see § 2.910).

(3) Accreditation personnel/assessors with specific technical experience on the Commission equipment authorization rules and requirements.

(4) Procedures and policies developed for the accreditation of testing laboratories for FCC equipment authorization programs.

30. Section 2.950 is added before the undesignated center heading “Verification” to read as follows:

§ 2.950 Transition periods.

(a) As of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** the Commission will no longer accept applications for Commission issued grants of equipment certification.

(b) Prior to September 15, 2015 a TCB shall be accredited to either ISO/IEC Guide 65 or ISO/IEC 17065 (incorporated by reference, see § 2.910). On or after September 15, 2015 a TCB shall be accredited to ISO/IEC 17065.

(c) Prior to September 15, 2015 an organization accrediting the prospective telecommunication certification body shall be capable of meeting the requirements and conditions of ISO/IEC Guide 61 or ISO/IEC 17011 (incorporated by reference, see § 2.910). On or after September 15, 2015 an organization accrediting the prospective telecommunication certification body shall be capable of meeting the requirements and conditions of ISO/IEC 17011.

(d) Prior to September 15, 2015 an organization accrediting the prospective accredited testing laboratory shall be capable of meeting the requirements and conditions of ISO/IEC Guide 58 or ISO/IEC 17011. On or after September 15, 2015 an organization accrediting the prospective accredited testing laboratory shall be capable of meeting the requirements and conditions of ISO/IEC 17011.

(e) The Commission will no longer accept applications for § 2.948 test site listing as of **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Laboratories that are listed by the Commission under the § 2.948 process will remain listed until the sooner of their expiration date or July 13, 2016 and may continue to submit test data in support of certification

applications for October 13, 2016. Laboratories with an expiration date before July 13, 2016 may request the Commission to extend their expiration date to July 13, 2016.

(f) Measurement facilities used to make radiated emission measurements from 1 GHz to 40 GHz shall comply with the site validation option of ANSI C63.4-2014, (clause 5.5.1a)1)) which references CISPR 16-1-4:2010-04 (incorporated by reference, see § 2.910) by July 13, 2018.

(g) Measurements for intentional radiators subject to part 15 of this chapter are to be made using the procedures in ANSI C63.10-2013 (incorporated by reference, see § 2.910) by July 13, 2016.

(h) Measurements for unintentional radiators are to be made using the procedures in ANSI C63.4, except clauses 4.5.3, 4.6, 6.2.13, 8.2.2, 9, and 13 (incorporated by reference, see § 2.910), by July 13, 2016.

31. Section 2.953 is amended by revising paragraph (b) to read as follows.

§ 2.953 Responsibility for compliance.

* * * * *

(b) The importer of equipment subject to verification may, upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards, rely on the manufacturer or independent testing agency to verify compliance. The test records required by § 2.955 however should be in the English language and made available to the Commission upon a reasonable request, in accordance with § 2.945.

* * * * *

§ 2.956 [Removed]

32. Section 2.956 is removed.

33. Section 2.960 is by amending by revising the section heading and paragraphs (a), (b) and (c)(1) to read as follows:

§ 2.960 Recognition of Telecommunication Certification Bodies (TCBs).

(a) The Commission may recognize Telecommunication Certification Bodies (TCBs) which have been designated according to requirements of paragraph (b) or (c) of this section to issue grants of certification

as required under this part. Certification of equipment by a TCB shall be based on an application with all the information specified in this part. The TCB shall review the application to determine compliance with the Commission's requirements and shall issue a grant of equipment certification in accordance with § 2.911.

(b) In the United States, TCBs shall 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. TCBs shall comply with the requirements in § 2.962 of this part.

(c) * * *

(1) The organization accrediting the prospective telecommunication certification body shall be capable of meeting the requirements and conditions of ISO/IEC 17011 (incorporated by reference, see § 2.910).

* * * * *

34. Section 2.962 is revised to read as follows:

§ 2.962 Requirements for Telecommunication Certification Bodies.

(a) Telecommunication certification bodies (TCBs) designated by NIST, or designated by another authority pursuant to an effective bilateral or multilateral mutual recognition agreement or arrangement to which the United States is a party, shall comply with the requirements of this section.

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

(2) Certification shall normally be based on testing no more than one unmodified representative sample of each product type for which certification is sought. Additional samples may be requested if clearly warranted, such as when certain tests are likely to render a sample inoperative.

(c) Criteria for designation. (1) To be designated as a TCB under this section, an entity shall, by means of accreditation, meet all the appropriate specifications in ISO/IEC 17065 for the scope of equipment it will certify. The accreditation shall specify the group of equipment to be certified and the applicable regulations for product evaluation.

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

(3) The TCB shall have the technical expertise and capability to test the equipment it will certify and shall also be accredited in accordance with ISO/IEC 17025 (incorporated by reference, see § 2.910) to demonstrate it is competent to perform such tests.

(4) The TCB shall demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel shall demonstrate knowledge of how to obtain current and correct technical regulation interpretations. The competence of the TCB shall 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 shall be taken into consideration during assessment.

(5) A TCB shall participate in any consultative activities, identified by the Commission or NIST, to facilitate a common understanding and interpretation of applicable regulations.

(6) The Commission will provide public notice of the specific methods that will be used to accredit TCBs, consistent with these qualification criteria.

(7) A TCB shall be reassessed for continued accreditation on intervals not exceeding two years.

(d) External resources. (1) In accordance with the provisions of ISO/IEC 17065 the evaluation of a product, or a portion thereof, may be performed by bodies that meet the applicable requirements of

ISO/IEC 17025 in accordance with the applicable provisions of ISO/IEC 17065 for external resources (outsourcing) and other relevant standards. Evaluation is the selection of applicable requirements and the determination that those requirements are met. Evaluation may be performed using internal TCB resources or external (outsourced) resources.

(2) A TCB shall not outsource review and certification decision activities.

(3) When external resources are used to provide the evaluation function, including the testing of equipment subject to certification, the TCB shall be responsible for the evaluation and shall maintain appropriate oversight of the external resources used to ensure reliability of the evaluation. Such oversight shall include periodic audits of products that have been tested and other activities as required in ISO/IEC 17065 when a certification body uses external resources for evaluation.

(e) Recognition of a TCB. (1)(i)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 as provided in § 2.960(b).

(ii)The Commission will recognize as a TCB any organization outside the United States that meets the qualification criteria and is designated pursuant to an effective bilateral or multilateral MRA as provided in § 2.960(c).

(2) The Commission will withdraw its recognition of a TCB if the TCB's designation or accreditation is withdrawn, if the Commission determines there is just cause for withdrawing the recognition, or if the TCB requests that it no longer hold its designation or recognition. 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 withdraw or limit the scope of the TCB's recognition and provide at least 60 days for the TCB to respond. In the case of a TCB designated and recognized pursuant to an effective bilateral or multilateral mutual recognition agreement or arrangement (MRA), the Commission shall 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).

(3) 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 and policies and request that it explain and correct any apparent deficiencies. 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. 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 as described in § 2.962(e)(2).

(4) 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 under paragraph (f)(5) of this section.

(5) A list of recognized TCBs will be published by the Commission.

(f) Scope of responsibility. (1) A TCB shall certify equipment in accordance with the Commission's rules and policies.

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

(3) A TCB may establish and assess fees for processing certification applications and other Commission-required tasks.

(4) A TCB may only act on applications that it has received or which it has issued a grant of certification.

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

(6) 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 requirements or upon the request of the applicant. A TCB shall 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.

(7) A TCB shall follow the procedures in §2.964 of this part for equipment on the pre-approval guidance list.

(8) A TCB shall 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.

(9) A TCB shall grant or dismiss each certification application through the Commission's electronic filing system.

(10) A TCB may not:

(i) Grant a waiver of the rules;

(ii) Take enforcement actions; or

(iii) Authorize a transfer of control of a grantee.

(11) All TCB actions are subject to Commission review.

(g) Post-market surveillance requirements. (1) In accordance with ISO/IEC 17065 a TCB shall perform appropriate post-market surveillance activities. These activities shall be based on type testing a certain number of samples of the total number of product types which the certification body has certified.

(2) 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, and this document will provide specific information such as the number and types of samples that a TCB must test.

(3) OET may request that a grantee of equipment certification submit a sample directly to the TCB that performed the original certification for evaluation. Any equipment samples requested by the Commission and tested by a TCB will be counted toward the minimum number of samples that the TCB must test.

(4) TCBs may request samples of equipment that they have certified directly from the grantee of certification in accordance with § 2.945.

(5) 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 shall immediately notify the grantee and the Commission in writing of its findings. The grantee shall provide a report to the TCB describing the actions taken to correct the situation, and the TCB shall provide a report of these actions to the Commission within 30 days.

(6) TCBs shall submit periodic reports to OET of their post-market surveillance activities and findings in the format and by the date specified by OET.

35. Section 2.964 is added to read as follows:

§ 2.964 Pre-approval guidance procedure for Telecommunication Certification Bodies.

(a) The Commission will publish a “Pre-approval Guidance List” identifying the categories of equipment or types of testing for which Telecommunication Certification Bodies (TCBs) must request guidance from the Commission before approving equipment on the list.

(b) TCBs shall use the following procedure for approving equipment on the Commission's pre-approval guidance list.

(1) A TCB shall perform an initial review of the application and determine the issues that require guidance from the Commission. The TCB shall electronically submit the relevant exhibits to the Commission along with a specific description of the pertinent issues.

(2) The TCB shall complete the review of the application in accordance with the Commission's guidance.

(3) The Commission may request and test a sample of the equipment before the application can be granted.

(4) The TCB shall electronically submit the application and all exhibits to the Commission along with a request to grant the application.

(5) The Commission will give its concurrence for the TCB to grant the application if it determines that the equipment complies with the rules. The Commission will advise the TCB if additional information or equipment testing is required, or if the equipment cannot be certified because it does not comply with the Commission's rules.

36. Section 2.1033 is amended by adding paragraph (b)(14), revising paragraph (c) introductory text and adding paragraph (c)(21) to read as follows:

§ 2.1033 Application for certification.

* * * * *

(b) * * *

(14) Contain at least one drawing or photograph showing the test set-up for each of the required types of tests applicable to the device for which certification is requested. These drawings or photographs must show enough detail to confirm other information contained in the test report. Any photographs used must be focused originals without glare or dark spots and must clearly show the test configuration used.

(c) Applications for equipment other than that operating under parts 15, 11 and 18 of this chapter shall be accompanied by a technical report containing the following information:

* * * * *

(21) Contain at least one drawing or photograph showing the test set-up for each of the required types of tests applicable to the device for which certification is requested. These drawings or photographs must show enough detail to confirm other information contained in the test report. Any photographs used must be focused originals without glare or dark spots and must clearly show the test configuration used.

* * * * *

37. Section 2.1043 is amended by revising paragraphs (a), (b), (c), and (f) to read as follows:

§ 2.1043 Changes in certificated equipment.

(a) Except as provided in paragraph (b)(3) of this section, changes to the basic frequency determining and stabilizing circuitry (including clock or data rates), frequency multiplication stages, basic modulator circuit or maximum power or field strength ratings shall not be performed without application for and authorization of a new grant of certification. Variations in electrical or mechanical construction, other than these indicated items, are permitted provided the variations either do not affect the characteristics required to be reported to the Commission or the variations are made in compliance with the other provisions of this section. Changes to the software installed in a transmitter that do not affect the radio frequency emissions do not require any additional filings and may be made by parties other than the holder of the grant of certification.

(b) Three classes of permissive changes may be made in certificated equipment without requiring a new application for and grant of certification. None of the classes of changes shall result in a change in identification.

(1) A Class I permissive change includes those modifications in the equipment which do not degrade the characteristics reported by the manufacturer and accepted by the Commission when certification is granted. No filing is required for a Class I permissive change.

(2) A Class II permissive change includes those modifications which degrade the performance characteristics as reported to the Commission at the time of the initial certification. Such degraded

performance must still meet the minimum requirements of the applicable rules. When a Class II permissive change is made by the grantee, the grantee shall provide complete information and the results of tests of the characteristics affected by such change. The modified equipment shall not be marketed under the existing grant of certification prior to acknowledgement that the change is acceptable.

(3) A Class III permissive change includes modifications to the software of a software defined radio transmitter that change the frequency range, modulation type or maximum output power (either radiated or conducted) outside the parameters previously approved, or that change the circumstances under which the transmitter operates in accordance with Commission rules. When a Class III permissive change is made, the grantee shall provide a description of the changes and test results showing that the equipment complies with the applicable rules with the new software loaded, including compliance with the applicable RF exposure requirements. The modified software shall not be loaded into the equipment, and the equipment shall not be marketed with the modified software under the existing grant of certification, prior to acknowledgement that the change is acceptable. Class III changes are permitted only for equipment in which no Class II changes have been made from the originally approved device.

Note to paragraph (b)(3): Any software change that degrades spurious and out-of-band emissions previously reported at the time of initial certification would be considered a change in frequency or modulation and would require a Class III permissive change or new equipment authorization application.

(4) Class I and Class II permissive changes may only be made by the holder of the grant of certification, except as specified.

(c) A grantee desiring to make a change other than a permissive change shall file a new application for certification accompanied by the required information as specified in this part and shall not market the modified device until the grant of certification has been issued. The grantee shall attach a description of the change(s) to be made and a statement indicating whether the change(s) will be made in all units (including previous production) or will be made only in those units produced after the change is authorized.

* * * * *

(f) For equipment other than that operating under parts 15 or 18 of this chapter, when a Class II permissive change is made by other than the grantee of certification, the information and data specified in paragraph (b)(2) of this section shall be supplied by the person making the change. The modified equipment shall not be operated under an authorization prior to acknowledgement that the change is acceptable.

* * * * *

38. Section 2.1073 is amended by revising paragraph (b) to read as follows:

§ 2.1073 Responsibilities.

* * * * *

(b) The responsible party, if different from the manufacturer, may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards, relies on the manufacturer or independent testing agency to determine compliance. However, the test records required by § 2.1075 shall be in the English language and shall be made available to the Commission upon a reasonable request in accordance with the provisions of § 2.945.

* * * * *

39. Section 2.1075 is amended by revising paragraph (c) to read as follows:

§ 2.1075 Retention of records.

* * * * *

(c) The records listed in paragraphs (a) and (b) of this section shall be retained for two years after the manufacture or assembly, as appropriate, of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted. Requests for the records described in this section and for sample units also are covered under the provisions of § 2.945.

§ 2.1076 [Removed]

40. Section 2.1076 is removed.

PART 15—RADIO FREQUENCY DEVICES

41. 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.

42. Section 15.31 is amended by revising paragraph (a)(3), removing the Note to paragraph (a)(3), and adding paragraph (a)(4) to read as follows:

§ 15.31 Measurement standards.

(a) * * *

(3) Other intentional radiators are to be measured for compliance using the following procedure: ANSI C63.10-2013 (incorporated by reference, see § 15.38).

(4) Unintentional radiators are to be measured for compliance using the following procedure excluding clauses 4.5.3, 4.6, 6.2.13, 8.2.2, 9, and 13: ANSI C63.4-2014 (incorporated by reference, see § 15.38).

* * * * *

43. Section 15.38 is amended by revising paragraph (b), by redesignating paragraph (f) as paragraph (g), and by adding new paragraph (f) to read as follows:

§ 15.38 Incorporation by reference.

* * * * *

(b) The following documents are available from the following address: American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036, (212) 642-4900, or at <http://webstore.ansi.org/ansidocstore/default.asp>;

(1) ANSI C63.17-2013: "American National Standard for Methods of Measurement of the Electromagnetic and Operational Compatibility of Unlicensed Personal Communications Services (UPCS) Devices," approved August 12, 2013, IBR approved for § 15.31.

(2) Third Edition of the International Special Committee on Radio Interference (CISPR), Pub. 22, Information Technology Equipment-Radio Disturbance Characteristics-Limits and Methods of Measurement,” 1997, IBR approved for § 15.09.

* * * * *

(f) Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108, 1-800-699-9277, <http://www.techstreet.com/ieee>

(1) ANSI C63.4-2014: “American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,” ANSI approved June 13, 2014, IBR approved for § 15.31(a)(4), except clauses 4.5.3, 4.6, 6.2.13, 8.2.2, 9, and 13.

(2) ANSI C63.10-2013, “American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,” ANSI approved June 27, 2013, IBR approved for § 15.31(a)(3).

* * * * *

§ 15.109 [Amended]

44. Section 15.109 is amended by removing paragraph (g)(4).

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

45. The authority citation for part 68 continues to read as follows:

Authority: Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).

46. Section 68.160 is amended by revising paragraphs (a), (b), and (c)(1) and adding paragraph (d) to read as follows:

§ 68.160 Designation of Telecommunication Certification Bodies (TCBs).

(a) The Commission may recognize designated Telecommunication Certification Bodies (TCBs) which have been designated according to the requirements of paragraphs (b) or (c) of this section to certify equipment as required under this part. Certification of equipment by a TCB shall be based on an application with all the information specified in this part. The TCB shall process the application to

determine compliance with the Commission's requirements and shall issue a written grant of equipment authorization. The grant shall identify the approving TCB and the Commission as the issuing authority.

(b) In the United States, TCBs shall 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 17065:2012, 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. TCBs shall comply with the requirements in §68.162 of this part.

(c) * * *

(1) The organization accrediting the prospective telecommunication certification body shall be capable of meeting the requirements and conditions of ISO/IEC 17011:2004.

* * * * *

(d) Incorporation by reference. (1) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the Federal Register. All approved material is available for inspection at the Federal Communications Commission, 445 12th St., SW., Reference Information Center, Room CY-A257, Washington, DC 20554, (202) 418-0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(2) International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH-1211 Geneva 20, Switzerland, Email: inmail@iec.ch, www.iec.ch or International Organization for Standardization (ISO), 1, ch. De la Voie-Creuse, CP 56, CH-1211, Geneva 20, Switzerland;

www.iso.org; Tel.: +41 22 749 01 11; Fax: +41 22 733 34 30; email: central@iso.org . (ISO publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York NY 10036, telephone (212) 642-4900.)

(i) ISO/IEC 17011:2004(E), “Conformity assessment – General requirements for accreditation bodies accrediting conformity assessment bodies,” First Edition, 2004-09-01, IBR approved for § 68.160(c).

(ii) ISO/IEC 17065:2012(E), “Conformity assessment - Requirements for bodies certifying products, processes and services,” First Edition, 2012-09-15.

47. Section 68.162 is amended by revising paragraphs (a), (b)(1), (c)(1), (c)(3), (c)(4), (d), (e), (f)(2), (g)(2) through (g)(4), and (h) and by adding paragraphs (g)(5), (g)(6) and (i) to read as follows:

§ 68.162 Requirements for Telecommunication Certification Bodies.

(a) Telecommunication certification bodies (TCBs) designated by the National Institute of Standards and Technology (NIST), or designated by another authority pursuant to an effective bilateral or multilateral mutual recognition agreement or arrangement to which the United States is a party, shall comply with the following requirements.

(b) Certification methodology. (1) The certification system shall be based on type testing as identified in ISO/IEC 17065.

* * * * *

(c) Criteria for designation. (1) To be designated as a TCB under this section, an entity shall, by means of accreditation, meet all the appropriate specifications in ISO/IEC 17065 for the scope of equipment it will certify. The accreditation shall specify the group of equipment to be certified and the applicable regulations for product evaluation.

* * * * *

(3) The TCB shall have the technical expertise and capability to test the equipment it will certify and shall also be accredited in accordance with ISO/IEC 17025 to demonstrate it is competent to perform such tests.

(4) The TCB shall demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel shall demonstrate knowledge of how to obtain current and correct technical regulation interpretations. The competence of the telecommunication certification body shall be demonstrated by assessment. The general competence, efficiency, experience, familiarity with technical regulations and products included in those technical regulations, as well as compliance with applicable parts of the ISO/IEC 17025 and ISO/IEC 17065 shall be taken into consideration.

* * * * *

(d) External resources. (1) In accordance with the provisions of ISO/IEC 1706 the evaluation of a product, or a portion thereof, may be performed by bodies that meet the applicable requirements of ISO/IEC 1702 and ISO/IEC 17065, in accordance with the applicable provisions of ISO/IEC 17065, for external resources (outsourcing) and other relevant standards. Evaluation is the selection of applicable requirements and the determination that those requirements are met. Evaluation may be performed by using internal TCB resources or external (outsourced) resources.

(2) A recognized TCB shall not outsource review and certification decision activities.

(3) When external resources are used to provide the evaluation function, including the testing of equipment subject to certification, the TCB shall be responsible for the evaluation and shall maintain appropriate oversight of the external resources used to ensure reliability of the evaluation. Such oversight shall include periodic audits of products that have been tested and other activities as required in ISO/IEC 17065 when a certification body uses external resources for evaluation.

(e) Recognition of TCBs. (1)(i) The Commission will recognize as a TCB any organization that meets the qualification criteria and is accredited and designated by NIST or its recognized accreditor as provided in § 68.160(b).

(ii) The Commission will recognize as a TCB any organization outside the United States that meets the qualification criteria and is designated pursuant to an effective bilateral or multilateral Mutual Recognition Agreement (MRA) as provided in § 68.160(c).

(2) The Commission will withdraw the recognition of a TCB if the TCB's accreditation or designation by NIST or its recognized accreditor is withdrawn, if the Commission determines there is just cause for withdrawing the recognition, or if the TCB requests that it no longer hold the recognition. 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 withdraw or limit the scope of the TCB's recognition and provide a TCB with at least 60 day notice of its intention to withdraw the recognition and provide the TCB with an opportunity to respond. In the case of a TCB designated and recognized pursuant to an effective bilateral or multilateral MRA, the Commission shall consult with the Office of 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).

(3) The Commission may request that a TCB's Designating Authority or accreditation body investigate and take appropriate corrective actions as required, when it has concerns or evidence that the TCB is not certifying equipment in accordance with Commission rules or ACTA requirements, and the Commission may initiate action to limit or withdraw the recognition of the TCB.

(4) If the Commission withdraws the recognition of a TCB, all certifications issued by that TCB will remain valid unless specifically revoked by the Commission.

(5) A list of recognized TCBs will be published by the Commission.

(f) * * *

(2) A TCB shall accept test data from any source, subject to the requirements in ISO/IEC 17065 and shall not unnecessarily repeat tests.

* * * * *

(g) * * *

(2) In accordance with ISO/IEC 17065 a TCB is required to conduct appropriate surveillance activities. These activities shall be based on type testing a few samples of the total number of product types which the certification body has certified. Other types of surveillance activities of a product that has been certified are permitted provided they are no more onerous than testing type. The Commission may at any time request a list of products certified by the certification body and may request and receive copies of product evaluation reports. The Commission may also request that a TCB perform post-market surveillance, under Commission guidelines, of a specific product it has certified.

(3) The Commission may request that a grantee of equipment certification submit a sample directly to the TCB that performed the original certification for evaluation. Any equipment samples requested by the Commission and tested by a TCB will be counted toward the minimum number of samples that the TCB must test.

(4) A TCBs may request samples of equipment that they have certified directly from the grantee of certification.

(5) If during, post-market surveillance of a certified product, a certification body determines that a product fails to comply with the applicable technical regulations, the certification body shall immediately notify the grantee and the Commission. The TCB shall provide a follow-up report to the Commission within 30 days of reporting the non-compliance by the grantee to describe the resolution or plan to resolve the situation.

(6) Where concerns arise, the TCB shall provide a copy of the application file to the Commission within 30 calendar days of a request for the file made by the Commission to the TCB and the manufacturer.

Where appropriate, the file should be accompanied by a request for confidentiality for any material that may qualify for confidential treatment under the Commission's rules. If the application file is not provided within 30 calendar days, a statement shall be provided to the Commission as to why it cannot be provided.

(h) In the case of a dispute with respect to designation or recognition of a TCB and the testing or certification of products by a TCB, the Commission will be the final arbiter. Manufacturers and recognized TCBs will be afforded at least 60 days to comment before a decision is reached. In the case of a TCB designated or recognized, or a product certified pursuant to an effective bilateral or multilateral mutual recognition agreement or arrangement (MRA) to which the United States is a party, the Commission may limit or withdraw its recognition of a TCB designated by an MRA party and revoke the Certification of products using testing or certification provided by such a TCB. The Commission shall consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with under the Telecommunications Trade Act of 1988.

(i) Incorporation by reference: The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the Federal Register. All approved material is available for inspection at the Federal Communications Commission, 445 12th St., SW., Reference Information Center, Room CY-A257, Washington, DC 20554, (202) 418-0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(1) International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH-1211 Geneva 20, Switzerland, Email: inmail@iec.ch, www.iec.ch or International Organization for

Standardization (ISO), 1, ch. De la Voie-Creuse, CP 56, CH-1211, Geneva 20, Switzerland;
www.iso.org; Tel.: +41 22 749 01 11; Fax: +41 22 733 34 30; email: central@iso.org . (ISO publications
can also be purchased from the American National Standards Institute (ANSI) through its NSSN
operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd
Street, New York NY 10036, telephone (212) 642-4900.)

(i) ISO/IEC 17025:2005(E), “General requirements for the competence of testing and calibration
laboratories,” Second Edition, 2005-05-15.

(ii) ISO/IEC 17065:2012(E), “Conformity assessment - Requirements for bodies certifying products,
processes and services,” First Edition, 2012-09-15.

(2) {Reserved}

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