

FCC Proposing to Further Streamline Equipment Authorizations

Chip Yorkgitis

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Last week, the Federal Communications Commission (“Commission”) released a [Notice of Proposed Rulemaking](#) (“NPRM”) seeking comment on several proposals to update and modify the rules governing the procedures Radiofrequency (“RF”) devices must satisfy prior to being marketed. Comments are due September 8, 2015 and reply comments are due September 21, 2015.

The communications industry and the “RF equipment ecosystem” has changed dramatically since the last Commission’s last comprehensive review of its equipment authorization rules in 1998. Recognizing that it is easier than ever to design, manufacture and bring new RF equipment to market, the Commission has attempted to respond to these trends by taking actions aimed at streamlining and simplifying the equipment authorization program. In a recent [blog post](#), we reported that new rules took effect in early July 2015 to expand the role of Telecommunications Certifications Bodies (“TCBs”) in the certification process. In the current NPRM, the Commission issues proposals to further streamline equipment authorization procedures while being mindful of maintaining sufficient safeguards to ensure that these RF devices comply with FCC rules and do not cause harmful interference.

The NPRM includes several key proposals:

- **Unify the self-approval procedures.** The Declaration of Conformity (“DoC”) and verification procedures are currently independent requirements for authorization. The NPRM proposes to combine them into one self-approval program for all equipment currently subject to one of those two procedures. The proposed new process, tentatively called a Suppliers Declaration of Conformity (“SDoC”), would eliminate the current obligation to use accredited laboratories but would clarify that all devices currently subject to the DoC or verification procedures must be tested. The proposed process would incorporate some but not all elements of the SDoC processes used for Telephone Network Terminal Equipment under Part 68.
- **Update Certification Procedures.** The Commission proposes updates to the certification requirements to respond to the trend of authorizing components, including modular transmitters, that will be used as part of more complex designs or in third-party host devices. The proposals focus on the parties responsible for submitting applications. The Commission proposes to amend the basic certification rules to allow for the certification of a group of

related devices under a single FCC ID. Additionally, the Commission proposes to relocate the rules for modular transmitters from Part 15 to Part 2 in light of the increasing use of modular transmitters in RF devices intended for operation within licensed radio services. The NPRM also proposed changes to the software defined radio (“SDR”) rules to increase flexibility in certifying devices where the RF elements are controlled by software.

- **Updated Certification Modification Process.** The NPRM proposes to eliminate the current “electrically identical” framework for determining whether a device requires a new certification. Instead, there would be two categories of changes, those that require a new FCC ID and those that do not. The proposed rule changes would require an evaluation of the modifications, and potentially testing, to determine the change category. Changes that do not substantially alter the overall function of the device will not require a new FCC ID, but in some cases may still require a new application for certification. Where a new FCC ID is required, due to substantial changes to design or layout, or replacement of components, a new certification would be a prerequisite.
- **Clarification of Responsible Party.** The NPRM proposes to clarify who the responsible party is for obtaining certification in a number of scenarios, including when end products incorporate modular transmitters, third parties modify equipment, parties intend to market repaired or refurbished devices, and importers bring products into the U.S.
- **Streamlined Certification Application Requirements.** The NPRM seeks comment on reducing the information that must be provided when applying for certification. The FCC proposes to reduce duplicative information requirements as well as only require applicants to submit specific information based on the type of device to be certified. The NPRM proposes to codify existing short-term confidentiality practices for certain types of information allowing for a standard 45 day period upon request and seeks comment on extending that period to 180 days. Further, long-term confidentiality would be provided automatically for certain information categories (such as exhibits of schematics or operational descriptions) in all certification applications.
- **The E-LABEL ACT.** The NPRM also seeks comment on a series of updates to the equipment labeling obligations to recognize and codify the requirements of the [E-LABEL Act](#). For example, the proposed rules will generally allow an RF device with an integrated electronic display to electronically display the labels required by the FCC rules. However, even where devices have integrated displays, parties would still be required to place warning statements or other information on device packaging, within user manuals, or at the point of sale as otherwise required under FCC regulations.
- **Importation Requirements.** The NPRM questions the usefulness of the information provided on the current FCC Form 740 declaration for imported devices, particularly since much of the information is already collected by the U.S. Customs and Border Patrol and may also be available on the internet. The FCC seeks comment on the continued use of collecting Form 740 information. The NPRM also proposes changes, among other things, to the number of imported devices permitted for demonstrations at trade shows and in other instances prior to satisfaction of the relevant equipment authorization procedure.

The proposed new rules and procedures have the potential to impact how RF devices are designed and/or manufactured and could have an immediate impact on devices that are currently in testing or that will be coming to market in the near term. To alleviate these concerns, the NPRM seeks

comment on a transition period. The Commission anticipates that the proposed rules, if adopted, would be effective immediately but that responsible parties would be permitted to elect to continue to use the existing procedures for up to one year after the effective date of the rules.