

July 2017 FCC Meeting Recap: FCC Adopts Major Changes to Approval Procedures for Many RF Devices, E-Labeling, Importation Regulations, and Other Equipment Authorization Rules

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The Federal Communications Commission (“FCC” or “Commission”), at its July 13, 2017, Open Meeting updated its equipment authorization procedures and rules in a number of ways that will be of great interest to everyone in the supply chain for both licensed and unlicensed radio frequency (“RF”) equipment, including manufacturers, importers, wholesalers, distributors, and retailers. The [First Report and Order](#) changes the regulatory landscape applicable to the approval, labeling, and other compliance matters for RF equipment in a variety of ways that will take place immediately upon publication of the First Report and Order in the Federal Register except that some will be delayed to the extent they implicate Office of Management and Budget, OMB, review of new or modified information collection requirements.

We examine the First Report and Order and the principal changes in more detail in the [referenced advisory](#).

Briefly, the FCC eliminated the verification and Declaration of Conformity (“DoC”) self-approval procedures from its rules, subject to a one-year transition. In their place, there will be a new procedure covering the same categories of devices now subject to one or the other of the existing procedures. The Supplier’s Declaration of Conformity (“SDoc”) process amalgamates certain pieces of the two existing procedures and implements some entirely new requirements. Among other things, testing by accredited laboratories will not be required for devices qualifying for SDoC treatment, although the Commission may ask for test records. And the FCC also makes clear that users must be apprised of the party responsible for compliance, be provided appropriate contact information, and the responsible party must have a U.S. presence. Any equipment self-approved using the verification or DoC process prior to the end of the one-year transition period will enjoy a valid authorization for marketing and operation purposes in perpetuity, provided the equipment is not modified so as to require a new authorization

In addition, the Commission codified and refined when e-labeling will be permitted to meet certain labeling and compliance statement requirement for RF devices that have integrated digital displays. This action implements certain portions of the Enhance Labeling, Accessing, and Branding of

Electronic Licenses Act (“E-LABEL Act”). The FCC adopted a maximum “three step” access requirement when electronic labeling is permissible and utilized, noting that the FCC’s Office of Engineering and Technology (“OET”) will provide guidance in response to specific questions regarding compliance via the KDB inquiry process. (Electronic labeling is never mandatory.) Step one would be a user accessing the device settings menu on the digital display. As an example of one “characteristic sequence,” accessing a submenu of legal information in step two and then a further submenu of FCC compliance information in step three would qualify. However, recognizing that there may be a lack of clarity in specific situations, the FCC directed the Office of Engineering and Technology (“OET”) to continue to provide guidance in response to specific questions regarding compliance via the KDB inquiry process. The e-labeling rules address certain specific and general scenarios exceptions where e-labeling will not be permitted, caution that temporary labels must still be used where a manufacturer exercises the e-labeling option, and require that appropriate instruction be provided separately for accessing the electronic labeling and compliance information. E-labeling is never mandatory.

Further, the Commission streamlined some aspects its importation rules, including the elimination of the requirement to file FCC Form 740 customs declarations. Yet, certain obligations of the Commission’s importation rules remain, and the FCC clarified the obligations of the responsible party, for imported devices, to determine and to be able to demonstrate compliance. The FCC observed that it is not changing any regulations of Customs and Border Patrol (“CBP”) and will not be seeking any changes from CBP. The agency also modified its rules to increase the number of devices that could be imported for trade show purposes and retained (and clarified) an importation exemption that applies to unintentional radiators that operate *only* on low level battery power, such as greeting cards, calculators, and quartz watches.

Finally, the Commission modified its rules on measurement procedures to include more direct cross-references to guidance from the FCC Laboratory’s Knowledge Database (“KDB”) and made other rules changes to clean up and clarify rules regarding the applicability of and certain alternatives to certain measurement procedures referenced in the rules, including ANSI C63.4-2014, ANSI C63.10-2013, and ANSI C63.26-2015.