

**FCC FACT SHEET\***  
**Updating the Equipment Authorization Program**  
First Report and Order - ET Docket 15-170

**Background:** The Commission's Equipment Authorization (EA) program ensures that radiofrequency (RF) devices, everything from smartphones and tablets to cellular base stations to car door openers and anti-theft tags, comply with our technical requirements before they are imported, marketed or operated within the United States. This First Report and Order would reduce the burden associated with certain equipment authorization rules, provide flexibility to use electronic labelling, and eliminate the requirement to file a form with U.S. Customs and Border Protection (CBP) for RF devices imported into the United States.

**What the First Report and Order Would Do:**

- *Streamline the Self-Approval Process.* The Commission currently requires manufacturers to self-approve certain devices under one of two processes. The Order would combine those processes into one, called the Supplier's Declaration of Conformity. This will both simplify and reduce burdens associated with the equipment authorization process.
- *Allow Electronic Labeling.* The Commission would provide for the use of electronic labeling for the information required under our rules to be displayed on products or otherwise provided with products, such as the FCC identification number and compliance statement. Doing so codifies many of the Commission's existing practices and satisfies specific legislative requirements. The use of electronic labelling rather than permanent physical labels reduces costs for manufacturers.
- *Ease Burdensome Importation Requirements.* The Order would eliminate the requirement to file the import declaration for RF devices brought into the United States with CBP. This requirement has become increasingly outdated and burdensome in light of current importation and marketing practices, the information otherwise collected by CBP itself, and the wealth of information available online. The Order would also modify Commission rules to clarify the compliance requirements related to imported devices and to provide additional flexibility in certain cases.
- *Update Measurement Procedures and Clarify Standards.* The Order would revise Commission measurement procedures to streamline and consolidate requirements for devices used in different services. This will increase our agility to respond to changes in technology and in industry standards, and enhance the general understanding of Commission measurement requirements.

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\* This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in ET Docket No. 15-170, which may be accessed via the Electronic Comment Filing System (<https://www.fcc.gov/ecfs/>). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR § 1.200 *et seq.*

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

In the Matter of )
)
Amendment of Parts 0, 1, 2, 15 and 18 of the ) ET Docket No. 15-170
Commission's Rules regarding Authorization of )
Radiofrequency Equipment )

FIRST REPORT AND ORDER\*

Adopted: []

Released: []

By the Commission:

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\* This document has been circulated for tentative consideration by the Commission at its July open meeting. The issues referenced in this document and the Commission's ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration by the Commission, the public interest would be served by making this document publicly available. The FCC's ex parte rules apply and presentations are subject to "permit-but-disclose" ex parte rules. See, e.g., 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

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**I. INTRODUCTION**

1. A wide variety of radiofrequency (RF) devices are subject to FCC technical and equipment authorization requirements in order to minimize the risk of harmful interference to radio services and to meet other statutory and policy objectives. In 2015, we issued a *Notice of Proposed Rulemaking (NPRM)* that included a comprehensive set of proposals to update our equipment authorization processes.<sup>1</sup> With this First Report and Order, we are generally adopting our proposals related to combining the two existing self-approval procedures and simplifying the authorization protocol for many of the devices authorized under these rules, and we are codifying and expanding existing guidance permitting electronic labeling to virtually eliminate the requirement for permanent physical labeling of any FCC-authorized equipment that has display capability except in rare cases. We are also modifying certain of our importation requirements to readily ascertain parties responsible for the compliance of imported devices and to permit additional importations prior to authorization in certain cases, and discontinuing the requirement to file the import declaration FCC Form 740. Finally, we are revising our measurement procedures to streamline and consolidate requirements for devices used in different services, to increase our agility to respond to changes in technology and in industry standards, and to enhance understanding generally of our measurement requirements. The actions we take and the implementing rules we adopt herein will better align our equipment authorization processes with the current state of RF device technology and the global marketplace, permit more efficient labeling practices, and streamline our importation procedures. We will address at a later time other proposals from the NPRM.<sup>2</sup>

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<sup>1</sup> *Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Notice of Proposed Rulemaking*, ET Docket No. 15-170, 30 FCC Rcd 7725 (2015) (NPRM).

<sup>2</sup> Issues yet to be addressed include proposals to update the certification requirements for devices assembled from modular components, to specify the requirements that apply to parties that are “responsible” for different types of certified equipment, to add provisions to prevent the unauthorized modification of the software and firmware that ensure that and RF device complies with FCC rules that prevent harmful interference, and to address the number of devices that can be imported for personal use.

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## II. BACKGROUND

2. Section 302 of the Communications Act of 1934, as amended (the Act), authorizes the Commission to make reasonable regulations governing the interference potential of devices that emit RF energy and can cause harmful interference to radio communications.<sup>3</sup> The Commission generally implements this authority by establishing technical rules for RF devices.<sup>4</sup> One of the primary ways in which the Commission ensures compliance with the technical rules is through the equipment authorization program for RF devices, which is codified in Part 2 of our rules.<sup>5</sup> Pursuant to this program, RF devices must comply with the Commission's technical and equipment authorization requirements before they can be imported to or marketed in the United States.<sup>6</sup> The Office of Engineering and Technology (OET) administers the day-to-day operation of the equipment authorization program.<sup>7</sup> As part of its administration of the equipment authorization rules, OET has developed a substantial body of supplemental guidance that is available via public notices and in our online Knowledge Database (KDB).<sup>8</sup>

## III. DISCUSSION

### A. Unifying self-approval procedures

3. Currently, there are two different procedures for effecting equipment authorization by what amounts to self-approval by the responsible party. "Verification" is the process used for RF equipment that has a well understood testing methodology, poses a low interference risk, and has a high compliance rate.<sup>9</sup> The party responsible for verification must take the necessary steps (testing or analysis) to ensure that the equipment complies with the appropriate technical standards.<sup>10</sup> Declaration of Conformity (DoC) was later instituted primarily for personal computer equipment at a time when test procedures were not fully established, testing required heightened technical expertise, and the equipment could pose an elevated risk of causing harmful interference if it was not tested properly.<sup>11</sup> Accordingly, DoC has added requirements to have compliance testing performed by an accredited testing laboratory,<sup>12</sup> as well as inclusion of a written compliance statement from the manufacturer, (i.e., a "Declaration of

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<sup>3</sup> 47 U.S.C. § 302a(a).

<sup>4</sup> For example, Part 15 of the Commission's rules sets forth the technical requirements for unlicensed devices; Parts 22, 24, and 27 set forth the technical requirements for transmitters used in various commercial mobile radio services; and Part 90 specifies the technical requirements for transmitters used in the private land mobile radio services. *See* 47 CFR Parts 15, 22, 24, 27 and 90, respectively.

<sup>5</sup> *See* 47 CFR Part 2 Subpart J.

<sup>6</sup> *See* 47 CFR § 2.803; *see also* 47 U.S.C. § 302a(b) (stating that "[n]o person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated under pursuant to this section").

<sup>7</sup> *See* 47 CFR § 0.241(b) (delegating such authority to OET).

<sup>8</sup> Links to all of these can be found at the OET Laboratory Division's Equipment Authorization Page, <https://www.fcc.gov/engineering-technology/laboratory-division/general/equipment-authorization>; and the Knowledge Database webpage: <http://www.fcc.gov/labhelp>.

<sup>9</sup> Examples of devices subject to verification include non-consumer ISM equipment, TV and FM receivers, and business computer equipment.

<sup>10</sup> 47 CFR § 2.902

<sup>11</sup> *See Amendment of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment*, ET Docket No. 97-94, Report and Order, 13 FCC Rcd 11415 at 11420, para. 12 (1998).

<sup>12</sup> *See* 47 CFR §§ 2.902 and 2.948(e).

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Conformity”) with the literature furnished to the user<sup>13</sup> and use of a specific FCC logo on the equipment identification label that signifies that the equipment meets the Commission’s regulations.<sup>14</sup> These self-approval processes are distinguished from the more rigorous certification process, our third type of equipment authorization procedure, which generally is used for equipment that employs new technologies, involves complex testing procedures, or has a high risk of causing harmful interference.<sup>15</sup>

4. We adopt our proposal to replace the two existing self-approval procedures (DoC and verification) with a single process – “Supplier’s Declaration of Conformity” (SDoC). We observe that the test procedures for personal computer equipment and other devices currently subject to the DoC procedure have long been finalized and are well understood, such that there is no longer a need to require accreditation of test laboratories. Without the requirement for laboratory accreditation, the DoC and verification procedures are quite similar. Replacing these two processes with one will provide a unified process for the authorization of those RF devices that are well-suited for self-approval – i.e., equipment that has a strong record of compliance and for which there is minimal risk of harmful interference.<sup>16</sup> In this action, we will reduce the burden of self-approval authorizations by applying the less rigorous verification testing requirements to all devices under the SDoC. We will also eliminate the requirement for displaying the FCC logo for *all* equipment approved under SDoC, currently imposed only on DoC devices. We will maintain the requirement for displaying a compliance statement and the identity of the responsible party and apply it to all self-approved devices, but permit it to be included with other information provided to the user instead of being displayed on the device itself. This compliance statement will represent a new requirement for verified devices, but should not increase burden as it replaces the requirement for a verified device to display a label on the device itself as testament to the device’s compliance, discussed below. These changes represent not only a reduction in burden warranted by current circumstances, but also provide a welcome simplification of our rules.

### 1. Supplier’s Declaration of Conformity

5. In the *NPRM*, we noted that significant changes in the design of RF devices had occurred since the adoption of the current DoC and verification processes, including since we last considered combining the DoC and verification procedures in 1998.<sup>17</sup> In particular, we noted that the development of highly integrated circuits to implement functions which were previously performed by discrete components has resulted in lower typical RF emissions from such devices.<sup>18</sup> Even as this development has reduced the potential for such devices to cause harmful interference, a wider variety and a larger

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<sup>13</sup> See 47 CFR §§ 2.1077(a), (c).

<sup>14</sup> See 47 CFR § 15.19(b) and 18.209. DoC applies only to specific Part 15 and 18 equipment. Section 15.19(a) requires that devices subject to verification and certification bear a particular statement as to the device’s compliance with Part 15 and its condition of operation. 47 CFR § 15.19(a). The DoC and verification rules also contain minor differences in the wording of essentially similar provisions regarding records retention and compliance responsibility which are reconciled in the new rules. Compare, e.g., 47 CFR §§ 2.955 (a)(3)(vii) with 47 CFR §§ 2.1077 (a)(3)(vii) (requiring “drawings or photographs” versus “photographs”).

<sup>15</sup> For example, verification and DoC do not require that the equipment testing be evaluated and approved by a Commission-recognized accredited independent certification body, known as a Telecommunication Certification Body (TCB), and do not require an explicit grant of certification. Also, unlike a certified device, self-approved equipment does not have an FCC ID and is not listed in an FCC database. *NPRM*, 30 FCC Rcd at 7728, paras 6 & 8.

<sup>16</sup> *NPRM*, 30 FCC Rcd at 7733, para. 24.

<sup>17</sup> *Id.*, 30 FCC Rcd at 7734, para. 25.

<sup>18</sup> *Id.*

(continued....)

number of devices are falling under the DoC process as time progresses.<sup>19</sup> In addition, significant developments in test standards over the years now provide greater confidence in the test procedures and results.<sup>20</sup> We questioned whether the additional effort and expense associated with the more onerous DoC process is now warranted for all self-certified devices, and tentatively concluded that a single self-approval process would simplify the equipment authorization requirements and reduce confusion as to which process may apply to any given device, while continuing to adequately ensure compliance with our rules.<sup>21</sup> We proposed a Supplier's Declaration of Conformity to be the single process for use in cases where the self-approval process is warranted – that is, when the type of equipment has a strong record of compliance and the associated risk of harmful interference is minimal.

6. We proposed to draw on the general structural elements of an existing SDoC process codified in Part 68 of the rules that we use for Telephone Network Terminal Equipment, and also pointed to the process used in the European Union (EU) where a responsible party must prepare a European Commission SDoC when introducing an RF product to that market.<sup>22</sup> Accordingly, we proposed that the responsible party for equipment would test equipment for compliance to specified standards or requirements and certify to the public by way of a statement supplied with the product that the equipment complies with our rules.<sup>23</sup> As with current practice, the responsible party would not have to secure an independent third-party review or approval of compliance.<sup>24</sup> We also sought comment on whether use of the term “Supplier's Declaration of Conformity” and “SDoC” as short reference would be appropriate to describe the procedure in our rules.<sup>25</sup>

7. Our proposal to consolidate our RF equipment self-approval procedures and reduce the overall burden (particularly with respect to DoC devices) was generally supported by those filing comments,<sup>26</sup> although many commenters suggested that we modify specific aspects, which we discuss in greater detail, below.<sup>27</sup> However, several commenters were against the proposal outright. ARRL, the National Association for Amateur Radio (ARRL) considers the proposal to be an unwarranted loosening of requirements and, instead, advocates “tighten[ing] the procedural controls over the testing and affirmative conformations of compliance by manufacturers.”<sup>28</sup> It claims “very few” harmful interference reports are associated with devices authorized under a DoC, but that it has “received and investigated

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<sup>19</sup> *Id.* For instance, there has been an evolution in the design of personal computers from desktop computers to the introduction of much smaller laptop, notebook and tablet computers. Also, there has been an increase in the number of devices with USB connectors, e.g. USB memory sticks, watches, cameras, and similar devices (requiring testing by an accredited laboratory as computer peripherals) even though they have very little capability to cause interference.

<sup>20</sup> *Id.*, 30 FCC Rcd at 7734, fn. 49.

<sup>21</sup> *See id.*, 30 FCC Rcd at 7734, para. 25..

<sup>22</sup> *Id.*, 30 FCC Rcd at 7734-35, para. 27.

<sup>23</sup> *Id.*, 30 FCC Rcd at 7735, para. 27. Unlike our Part 68 SDoC rules, we did not propose to require that the RF devices be registered in any database. *Id.* We did propose that certain information would be required to be included in the equipment's accompanying literature.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*, 30 FCC Rcd at 7735, para. 28.

<sup>26</sup> *See generally* Boeing Comments, Consumer Electronics Association Comments, Google Comments, and Garmin Comments.

<sup>27</sup> *See, e.g.*, Alcatel-Lucent Comments at 2-3; Cisco Systems, Inc. Comments at 4-6; TCB Council Comments at 2-3.

<sup>28</sup> ARRL Comments at 4.

(continued....)

numerous reports of interference from devices that are required to be verified.”<sup>29</sup> The American Council of Independent Laboratories (ACIL) claims that because modern and valid test procedures are not currently available for devices that operate under our Part 18 rules, we should continue to use the existing DoC procedures to ensure that these products are tested correctly and that the risk of harmful interference is minimized.<sup>30</sup> Finally, Sporton International, Inc. (Sporton) believes that our proposed single self-approval process would weaken both the laboratory accreditation and Mutual Recognition Agreement programs<sup>31</sup> by allowing unscrupulous unaccredited laboratories to perform a wider range of testing services with little or no oversight.<sup>32</sup>

8. None of the arguments against merging the current DoC and verification diminish our overall confidence in the proposed self-approval process or our belief in the benefits of streamlining the procedures by eliminating selected elements without appreciably raising the risk of harmful interference from devices so approved. The paucity of noncompliance over the years, and significant improvements in and standardization of test standards and procedures (and the equipment used) argue persuasively for expanding the utilization of the less onerous verification rules to all self-declarations. We note that ARRL does not provide in the record any specific instances where a failure to comply with the current verification rules directly resulted in harmful interference from the operation of a non-compliant device.<sup>33</sup> Likewise, we do not agree with ACIL’s assertion that the current DoC process should remain in effect for those Part 18 devices currently subject to DoC. While industry has not yet established a definitive set of test procedures for these devices, the agency has provided guidance in the form of the existing OET MP-5 test procedure, which is and will continue to apply to all Part 18 devices. To ensure that our adoption at this time of the proposed SDoC approach does not increase the risk that improper testing of products will cause harmful interference, we are directing OET to provide additional guidance as may become necessary to explain and supplement its existing test procedure document, as warranted by evolving technology and in response to applicants’ questions. Moreover, as ACIL has noted, efforts are underway to develop and publish a specific set of test standards that builds on the existing OET MP-5 test procedure.<sup>34</sup> Finally, we do not agree that our proposal would weaken the laboratory accreditation or MRA programs, as Sporton suggests. The use of accredited testing laboratories has recently become a vital component of the equipment authorization process in the arena where it is most warranted – the

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<sup>29</sup> *Id.*

<sup>30</sup> ACIL Comments at 1-2; *see also* Echostar and Hughes Comments at 4 (raising similar concerns while still supporting other elements of our proposals).

<sup>31</sup> Mutual Recognition Agreements (MRAs) are government-to-government trade facilitating measures aimed at a global approach to conformity assessment. In these agreements, the regulatory authorities in the participating countries mutually agree to accept the test results and/or product approvals performed by recognized Conformity Assessment Bodies (CABs) located in the other country.

<sup>32</sup> Sporton International, Inc. Comments at 2-3; *see also* Alcatel-Lucent Comments at 2 (asserting that allowing laboratories to perform tests without accreditation and an MRA in place places US accredited test laboratories at a disadvantage to other laboratories that have not shown the necessary expertise to test such equipment).

<sup>33</sup> We are aware that ARRL has made complaints to staff regarding individual RF lighting installations that seem to cause interference to its members’ radios, but does not substantiate its contention that these are improperly authorized devices. Staff has been reviewing these complaints to determine whether the offending devices are in fact authorized or are being illegally sold in the U.S without authorization. Sales of devices without authorization, or at variance from their authorization, while illegal, would not implicate the rule changes considered in this docket.

<sup>34</sup> The ASC-C63 standards committee has started work on ANSI C63.31, *American National Standard for compliance testing of Industrial, Scientific and Medical (ISM) Equipment*. *See* [http://www.c63.org/documents/misc/matrix/c63\\_standards.htm](http://www.c63.org/documents/misc/matrix/c63_standards.htm).

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testing of those devices subject to certification.<sup>35</sup> Moreover, even though the use of accredited laboratories will not be required for self-certification under SDoC (as discussed below), our rules impose strict responsibilities for ensuring that RF devices comply with our technical requirements, and we can demand for review the testing upon which self-certification relies.<sup>36</sup> Furthermore, because the SDoC rules will now specify that any party responsible for compliance (whether the manufacturer, importer, or import broker) must have a U.S. presence, we will have a clear and ready means to investigate complaints and the ability to take necessary actions, including imposing sanctions when appropriate.<sup>37</sup> Thus, manufacturers and any other responsible parties will have a strong incentive to ensure the continued use of demonstrably capable laboratories or take similar measures to give them confidence that self-certified products meet our requirements in order to maintain access to U.S. markets..

9. As proposed, we will refer to this new procedure as “Supplier’s Declaration of Conformity.”<sup>38</sup> As noted by Cradlepoint, Inc., this term is consistent with other global approval schemes.<sup>39</sup> Also, the use of the new term allows for a clear demarcation between the new and old procedures and would indicate which requirements were relied upon when determining a device’s compliance with our rules. The Consumer Electronics Association (CEA),<sup>40</sup> expresses concern that this usage would lead to confusion with the term used by the EU or in Part 68 of the Commission’s rules.<sup>41</sup> We do not believe that this is likely to happen in practice, given that our guidance and rules will provide a clear contextual reference to the Commission’s equipment authorization program as defined in Part 2, Subpart J of our rules.

## 2. Process Elements

10. *Testing and laboratory accreditation.* In the *NPRM*, we outlined SDoC as a streamlined procedure through which we proposed to eliminate elements of the current DoC rules that increase compliance costs and provide benefits of marginal utility.<sup>42</sup> As such, we proposed to not require that an accredited testing laboratory be used for performing the testing for any device that is subject to SDoC.<sup>43</sup>

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<sup>35</sup> *Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Notice of Proposed Rulemaking, Report and Order*, ET Docket No. 13-44, RM-11652, 29 FCC Rcd 16335 (2014); *Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment, Notice of Proposed Rulemaking Memorandum Opinion and Order and Order on Reconsideration*, ET Docket No. 13-44, RM-11652, 31 FCC Rcd 9 (2016).

<sup>36</sup> See 47 CFR § 2.938(c) in Appendix A.

<sup>37</sup> See para. 57 below.

<sup>38</sup> Accordingly, we will make the necessary conforming edits to the Commission Rule sections that currently refer to “Declaration of Conformity.” See *NPRM*, 30 FCC Rcd at 7769-70, para. 126.

<sup>39</sup> Cradlepoint, Inc. Comments at 2.

<sup>40</sup> In November 2016, CEA announced its name change to the Consumer Technology Association (CTA). We use “CEA” in this document for consistency with the record in this proceeding.

<sup>41</sup> CEA Comments at 9. Garmin International, Inc. (Garmin) also supports use of the current “DoC” term, but provides no reason beyond noting that it is its “preference” to do so. Garmin Comments at 2.

<sup>42</sup> *NPRM*, 30 FCC Rcd at 7734, para 26.

<sup>43</sup> *Id.*

(continued....)



This proposal was the subject of numerous comments, both those in favor<sup>44</sup> and opposed.<sup>45</sup> Commenters supporting not requiring use of accredited testing laboratories generally cite cost savings and gains in overall efficiency in the design process,<sup>46</sup> while many opposing commenters believe that the lack of accreditation will adversely affect the compliance of RF devices and result in more noncompliant devices and increased interference.<sup>47</sup> Additionally, Cisco points to the recent Commission decision to require accredited laboratories for certification testing and suggests that the requirement should be retained in the self-approval context, particularly in light of the increased number of RF devices that are manufactured and tested overseas,<sup>48</sup> and the American Association for Laboratory Accreditation (A2LA) notes that the EU has recognized the importance of accreditation.<sup>49</sup>

11. We adopt our proposal to permit testing under the SDoC process to be performed by laboratories that have not obtained accreditation. Adopting an accreditation requirement for our new self-approval process would result in new and substantial burdens for many manufacturers since the existing verification process does not require the use of an accredited laboratory.<sup>50</sup> As stated elsewhere herein, testing of equipment that falls into the self-approval category, including DoC devices, has become increasingly routine and our experience with the compliance of verification devices suggests that there is negligible risk in relieving current DoC devices of this burden. Neither the record here nor our experience would justify the continuation of the burden for DoC devices nor the imposition of such a burden for verification devices. In contrast, we observe that there is not the kind of objective data in this record or elsewhere that would support the opposite assertion that accreditation is necessary for testing equipment subject to self-certification in order to prevent the proliferation of devices that will cause harmful interference. Should we later determine that there are particular types of RF devices authorized via SDoC that are more likely to cause harmful interference due to difficulties in the design, manufacturing, or testing processes, we retain the option to remove such devices from our self-approval procedure and place them within our more stringent equipment authorization process—certification—which continues to require, among other provisions, the use of accredited laboratories.

12. Our current verification and DoC rules permit responsible parties to “take other necessary steps” instead of testing in order to ensure compliance,<sup>51</sup> which we proposed to eliminate in the NPRM.<sup>52</sup> Several commenters urge us to leave the language in its current form or modify the adopted rules to

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<sup>44</sup> See, e.g., Boeing Comments at 2-3; CEA Comments at 10; Google Comments at 2-3; Hewlett-Packard Comments at 2-3.

<sup>45</sup> See e.g., TCB Council Comments at 2; Alcatel-Lucent Comments at 2-3; Echostar and Hughes Comments at 4; Telecommunications Industry Association (TIA) Comments at 7.

<sup>46</sup> CEA Comments at 10; Garmin Comments at 2.

<sup>47</sup> See, e.g., TIA Comments at 7; Evan Chen Comments at 1; Alcatel-Lucent Comments at 2-3; TCB Council Comments at 2; see also ANSI C63 Comments at 6-7 (contending that the accreditation requirement has made cases of harmful interference “rare” and suggests that the Commission clearly require that testing laboratories comply with ANSI standards for testing unlicensed transmitters).

<sup>48</sup> Cisco Comments at 4-5; see also Sporton International Comments at 2-3.

<sup>49</sup> A2LA Comments at 2.

<sup>50</sup> The verification process applies to devices regulated under Parts 15, 18, 73, 74, 80 and 101, among others. See, e.g., 47 CFR §§ 15.101, 18.203, 73.53, 74.550, 80.203, 101.39.

<sup>51</sup> See 47 CFR § 2.906 (a); accord *id.* § 2.902(a) (stating that the manufacturer may “make[] measurements or take[] the necessary steps to insure that the equipment complies with the appropriate technical standards”).

<sup>52</sup> NPRM, 30 FCC Rcd at 7734, para. 26.

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clearly indicate that numerical modeling is permitted as a means to demonstrate compliance.<sup>53</sup> CEA asserts that removing the language contradicts our underlying intent to streamline our rules and procedures.<sup>54</sup>

13. We will adopt a modification of our proposal. In order to resolve commenter's concerns, we will continue to set forth specific acceptable testing procedures that draw upon the types of standardized procedures and voluntary standards that we have incorporated by reference and endorsed in our guidance documents and to specify in our rules that other "measures" would be acceptable to validate the compliance of a device. This approach provides the flexibility that commenters appear to associate with the "take necessary steps" language, but allows for a more consistent and predictable way to keep our procedures up to date.

14. *Compliance information and logo.* We proposed to require that all equipment include a compliance statement with the product literature that assures consumers that equipment has been determined to be compliant for use in the United States according to FCC regulations and identifies for consumers (and enforcement authorities) who is responsible for the device's compliance with the Commission's technical regulations.<sup>55</sup> Furthermore, we proposed not to require a specific logo be placed on the device (an element of the existing DoC requirements), but instead to expand use of the compliance statement required by Section 15.19(a) of our rules to include its use as part of the new procedure.<sup>56</sup> In this context, we sought comment addressing the impact that removal of the logo requirement would have on buyers, consumers, and other parties and whether the absence of the logo would make it more difficult to identify unauthorized devices.<sup>57</sup> We also asked whether we should allow the use of such a mark on a voluntary basis and, if so, whether there should be particular guidelines in our rules.<sup>58</sup>

15. As an initial matter, we adopt our proposal to require for *all* SDoC devices that a compliance statement be included with the product literature that identifies for consumers who is responsible for the device's compliance with the Commission's technical regulations, and that the party must be located in the United States. Such a statement will allow the FCC to associate the equipment with the party responsible for compliance, and, as the TCB Council notes, will meet the public's need for information about manufacturers and origins of products.<sup>59</sup> No parties opposed this proposal, which draws on a requirement already in place under the DoC.

16. Commenters provided few specific suggestions regarding what constitutes "compliance information." Two filers, HP and ITIC, ask that we do not require a contact phone number with the compliance information. HP indicates that the phone number is not usually used for information related to FCC issues, but is often used for service calls and other general inquiries.<sup>60</sup> ITIC echoes HP's concerns and further points out that the phone contact requirement was left out of the proposed rule for Part 18

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<sup>53</sup> Information Technology Industry Council (ITIC) Comments at 3, CEA Comments at 10, and Intel Corporation Comments at 2.

<sup>54</sup> CEA Comments at 10.

<sup>55</sup> *NPRM*, 30 FCC Rcd at 7736, para. 30. Section 15.19(a) sets forth language with which devices subject to certification or verification must be labelled. 47 CFR § 15.19(a).

<sup>56</sup> *NPRM*, 30 FCC Rcd at 7736, para. 31.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> TCB Council Comments at 2. *See also* IBM Comments at 4 (encouraging the use of a manufacturer's representative located in the United States as the responsible party for equipment subject to SDoC that is imported).

<sup>60</sup> HP Comments at 2-3.

devices.<sup>61</sup> We believe that providing users with a means to contact knowledgeable personnel is useful for addressing possible non-compliant device operation. At the same time, we appreciate the frustration for consumers and disruption as well as frustration for businesses at the misdirected usage of a phone contact number for calls that have nothing to do with our equipment authorization requirements, cited by commenters. Given the widespread and effective use of direct internet contact for dialogue between consumers and businesses, we therefore will allow responsible parties the option of providing an internet-based means of contact in lieu of a telephone contact number.<sup>62</sup> Any such website to which consumers are directed must be a URL that takes them directly to the page on which this information is included. In addition to requiring an internet contact or telephone number to be contained within the compliance statement, we will also allow the compliance statement to include other information as required by the particular rule part under which the device operates, including the non-interference statement required by Section 15.19(a) of our rules. Additionally, we see no reason for there to be a different practice for Part 18 devices, and adopt a requirement that applies uniformly to all devices.

17. Numerous commenters suggested that we allow the option of using the FCC logo in lieu of the compliance statement that is currently required to be included on a device label.<sup>63</sup> The FCC logo and compliance statement are two separate requirements.<sup>64</sup> While we proposed to provide additional flexibility with respect to placement of the compliance statement information (e.g., allowing it to be in the product literature instead of on the device),<sup>65</sup> we did not propose to allow the FCC logo to substitute for the compliance statement. Because the compliance statement conveys specific information about a product that a consumer cannot independently ascertain from the FCC logo, we do not believe it is appropriate to view the FCC logo as a substitute for the compliance statement. Accordingly, we are not adopting the commenters' suggestion.

18. Because the compliance statement will provide more relevant information than the FCC logo, we find that continuing to *require* the FCC logo would create an unnecessary burden on device manufacturers.<sup>66</sup> Nevertheless, commenters persuasively argue why we should allow the FCC logo to continue to be placed on devices voluntarily, as related above. These include assertions that its status as a symbol of compliance is recognized worldwide and its presence can assist customs officers, entities in foreign countries, and others who may want to know whether a device complies with our rules.<sup>67</sup> While these considerations are not sufficient reasons to continue to mandate a logo requirement as part of our rules, they provide good reason for us to allow use of the FCC logo on a voluntary basis. Accordingly, we adopt a rule that allows for the use of the FCC logo consistent with those currently specified in Sections 15.19 and 18.209 to be physically placed on a device, at the discretion of the responsible party. A device manufacturer is permitted to use such a logo only if its device complies with the applicable equipment authorization rules. We emphasize that, while the use of such a logo may be intended as an easily identifiable indicator that the device complies with our SDoC rules, its presence would not obviate

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<sup>61</sup> ITIC Comments at 3.

<sup>62</sup> As with any contact information, we would expect that inquiries initiated through such internet-based means be responded to in a reasonable timeframe.

<sup>63</sup> See, e.g., Google Comments at 3; Sony Comments at 1; HP Reply Comments at 1.

<sup>64</sup> 47 CFR § 15.19(a), (b).

<sup>65</sup> *NPRM*, 30 FCC Rcd at 7736, para. 31.

<sup>66</sup> Because we will no longer require use of the FCC logo, several comments that pertain to its placement are now moot. See, e.g., ITIC Comments at 4-5 (suggesting that we permit the FCC logo to be placed in the instruction manual for Part 15 devices that are too small to display the logo).

<sup>67</sup> See, TCB Council Comments at 2.

(continued....)

the need to provide required compliance information or maintain pertinent records related to device testing.

19. *Other requirements.* We proposed to consolidate the rules pertaining to responsible parties and records retention into single rules that apply to the SDoC and certification procedures.<sup>68</sup> We expressed our intention to retain the other DoC rules that will apply to the new approval procedure in their current location.<sup>69</sup> No commenters argued against or provided revisions to these proposals, and we believe that maintaining longstanding rule section numbers where possible and combining similar (and somewhat redundant) sections in a logical manner will help ease that the transition to the new SDoC process.<sup>70</sup> Accordingly, we adopt the rules as shown in Appendix A.<sup>71</sup>

20. We also inquired whether it would be useful to require a statement to include additional information when equipment has been modified, but is nevertheless still subject to the self-approval process.<sup>72</sup> We proposed no specific rule and no commenters addressed the question. We will not adopt such a requirement. When considered as a whole, our rules will require the responsible party to provide up-to-date compliance information with each device. This information should be sufficient and we see no need to require that the modification history of the device be also provided.

21. We note that Cisco suggested that, when adopting the single SDoC process, we retain the distinctions between and the unique requirements for Class A (commercial/industrial) and Class B (residential/home) digital devices.<sup>73</sup> Beyond the new SDoC process - which will include both classes of devices - the *NPRM* did not include any proposal to modify the definitions or requirements for these devices nor did we receive any such proposals. The existing technical standards pertaining to Class A and Class B devices will remain otherwise unchanged.

### 3. Scope

22. We proposed to apply the new SDoC process to all equipment currently subject to our DoC and verification procedures and asked if we should re-visit which equipment authorization process is

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<sup>68</sup> *NPRM*, 30 FCC Rcd at 7735, para. 29.

<sup>69</sup> *NPRM*, 30 FCC Rcd at 7735-36, para. 30.

<sup>70</sup> In this context, the *NPRM* proposed to modify the existing rule that addresses the responsible parties requirements for certification, 47 C.F.R § 2.909, into a unified rule addressing the requirements that apply to responsible parties for both the certification and SDoC processes. *Id.* at 7735, para. 29. We are not acting on our specific certification process proposals at this time. *See* para. 1, *supra*. Accordingly, new rule 2.909 will retain the existing requirements that apply to parties responsible for certification. We intend to revisit and further revise this rule when we act on the certification-related proposals.

<sup>71</sup> The rules largely track those proposed in the *NPRM*, although we have made modifications when necessary to conform to our decisions herein, correct errors in the proposed rules as published, or provide additional clarity. *See, e.g.*, new rule section 2.925(b)(2) (adding a cross-reference to existing Part 68 requirements).

<sup>72</sup> *NPRM*, 30 FCC Rcd at 7736, para 30.

<sup>73</sup> Cisco Comments at 5. Class A digital devices are marketed for use in a commercial, industrial or business environment, exclusive of a device which is marketed for use by the general public or is intended to be used in the home. *See* 47 CFR § 15.3(h). Class B digital devices are marketed for use in a residential environment notwithstanding use in commercial, business and industrial environments. 47 CFR § 15.3(i). Examples of such devices include, but are not limited to, personal computers, calculators, and similar electronic devices that are marketed for use by the general public. *See* 47 CFR § 15.3(i). Both Class A and Class B (other than personal computers and peripherals) digital devices are currently required to be authorized under the verification process. *See* 47 CFR § 15.101(a).

(continued....)

most appropriate for certain specific categories of devices.<sup>74</sup> No party objected to the proposal to apply the new SDoC procedure to all devices that are currently subject to the verification and DoC procedure and we continue to see no reason for changes; we modify our rules accordingly.

23. We also noted that, under Parts 15 and 18 of our rules, a responsible party can choose to use the certification process in lieu of DoC for the approval of certain unintentional radiators and asked whether we should maintain this option.<sup>75</sup> Cisco expressed support for eliminating the certification option for certain unintentional radiators subject to SDoC, while it suggested maintaining the option for certain types of receivers.<sup>76</sup> Cisco did not suggest the potential benefits in eliminating this option and no other commenter made a similar suggestion. In contrast, there are certain reasons that justify retaining the option. For example, FCC certification can facilitate the importation and marketing of equipment in other countries by allowing compliance officers in other countries to reference the publicly-available FCC equipment authorization information. Moreover, retaining this regulatory option places no burdens on a responsible party, as it is only an option; if, in the party's assessment, the cost of invoking the option outweighs its benefits, that party simply follows the SDoC procedures. Accordingly, we explicitly provide in our consolidated SDoC rules that parties may opt to undergo the more rigorous certification process for the equipment authorization for any device.

24. Two commenters suggested ways we could expand the scope of devices that are eligible for self-approval. Cisco suggests that the process would be more flexible if there is a default preference for allowing all devices to be authorized under SDoC, with testing performed by accredited laboratories, unless later specifically identified in a KDB publication to require certification.<sup>77</sup> TIA similarly asks us to permit OET to specify the types of equipment that may use the SDoC process via KDB guidance, which would make it easier to extend the SDoC approach to "additional classes of trusted equipment on a recurring basis as classes of equipment develop established records of compliance with Commission rules."<sup>78</sup> While we understand the desire to further streamline our processes, we are hesitant to establish a presumption that all devices should qualify for self-certification or promote a method that too readily invokes the self-approval process. Before it can qualify for the SDoC process, a device (or category of devices) must have demonstrated a strong record of compliance and minimal risk of harmful interference. The decision on the appropriate authorization process is rightfully made by the Commission as part of the service rules and all the considerations that go into it. To allow otherwise would risk imperiling the integrity of our equipment authorization procedures. Therefore, although we stand ready to initiate the appropriate processes to modify our service rules or take other appropriate action, we will only do so after giving full and fair consideration to such changes.<sup>79</sup>

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<sup>74</sup> *NPRM*, 30 FCC Red at 7736, para. 32.

<sup>75</sup> *Id.* (identifying 47 CFR §§ 15.101 and 18.203).

<sup>76</sup> Cisco Comments at 6.

<sup>77</sup> *Id.*

<sup>78</sup> TIA Comments at 7-8.

<sup>79</sup> Similarly, Intel and the Mobile Manufacturers Forum filed *ex parte* comments suggesting (among other proposals) that low power "internet of things" devices be processed under the new SDoC process in lieu of certification. Mobile Manufacturers Forum *ex parte* dated December 7, 2016; Intel *ex parte* Comments filed March 6, 2017 at 2. Neither comment provides sufficient justification to warrant such a broad change in our authorization processes. Both simply rely on a general assumption that all low-power devices have less risk interference and noncompliance with our RF exposure requirements. This ignores consideration of the environments in which such devices might operate. Further, neither provides specific equipment types beyond those related to the "internet of things," which is a generic term without specific definition within our rules, and we decline to define such a regulatory classification at this point in this proceeding.

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#### 4. Transition Period

25. In the *NPRM*, we acknowledged that the adoption of our SDoC proposal could cause some manufacturers to reassess their design and production processes.<sup>80</sup> Accordingly, while we proposed to make all of the rule changes proposed in the *NPRM* effective immediately upon their publication in the Federal Register (unless subject to approval by the Office of Management and Budget), we further proposed to permit manufacturers to continue to self-approve products using the existing DoC or verification procedures for up to one year from the effective date of the rules if they so choose.<sup>81</sup> We received no comment on this and for the reasons originally stated will adopt our transition proposal for new equipment authorizations.

26. Several commenters suggest that we allow existing equipment to be “grandfathered” under the older procedures until the end of its useful life.<sup>82</sup> Equipment authorizations have generally been valid until the end of the life of the equipment unless specifically required otherwise by changes in our technical rules, and we did not propose otherwise here. There is no reason that changes in our classifications or testing rules would reduce the reliability of authorized equipment in continuing to comply with our rules. To remove any uncertainty, we clarify here that we will consider any equipment authorized under either the verification or DoC procedures prior to the end of the transition period to remain a valid authorization without any further action, provided that such equipment is not modified in a manner that would have required a new authorization under those rules.<sup>83</sup>

#### B. Labeling

27. In furtherance of the Enhance Labeling, Accessing, and Branding of Electronic Licenses Act (E-LABEL Act),<sup>84</sup> we proposed to add a new section to our rules that would codify our electronic labeling procedures.<sup>85</sup> The E-LABEL Act, which applies to all radiofrequency devices authorized by the Commission that have the “capability to digitally display labeling and regulatory information,”<sup>86</sup> directs us “to promulgate regulations or take other appropriate action, as necessary, to allow manufacturers of radiofrequency devices with display the option to use electronic labeling for the equipment in place of affixing physical labels to the equipment.”<sup>87</sup> We sought comment on our proposed electronic labeling rule and associated tentative conclusions.<sup>88</sup> In addition, we sought comment on proposed amendments to

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<sup>80</sup> *NPRM*, 30 FCC Rcd at 7770, para. 127.

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

<sup>82</sup> Intel Comments at 2, ITIC Comments at 6, CEA Comments at 9, and Sony Comments at 1.

<sup>83</sup> In the *NPRM*, the Commission acknowledged that adopting SDoC would necessitate revisions to several parts of our rules. *NPRM*, 30 FCC Rcd at 7769-70, para. 126. Such rules, along with numerous unrelated rule corrections that were related to equipment authorization in general, were included in Appendix B of the *NPRM*. While the final rules we adopt include those listed in Appendix B of the *NPRM* that specifically relate to the adoption of the SDoC procedure, we plan to address the other rules listed in Appendix B in a subsequent order.

<sup>84</sup> Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014, Pub. L. No. 113-197, 128 Stat. 2055 (codified at 47 U.S.C. § 622) (E-LABEL Act).

<sup>85</sup> *NPRM*, 30 FCC Rcd at 7757, para. 97.

<sup>86</sup> 47 U.S.C. § 622(a)(2)(B).

<sup>87</sup> *Id.* § 622(b).

<sup>88</sup> *NPRM*, 30 FCC Rcd at 7760, para. 101.

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our labeling regulations to address devices that are too small to be legibly labeled with an FCC ID.<sup>89</sup>

28. The rules we proposed generally would allow a radiofrequency device to electronically display any labels required by our rules, including the FCC ID required for certified devices, as well as any warning statements or other information that our rules require to be placed on a physical label on the device.<sup>90</sup> Our proposal was designed to build on existing rules and guidance that have allowed the electronic labeling of devices in certain circumstances.<sup>91</sup> We stated that our proposed rule was designed to meet the requirements of the E-LABEL Act and that it would provide flexibility to manufacturers while enabling consumers to continue to receive the information required by our rules.<sup>92</sup> Commenters supported the general premise of our electronic labeling proposal.<sup>93</sup>

29. In adopting a final rule that provides for the electronic labeling of RF devices,<sup>94</sup> we address the characteristics necessary for a device to be capable of displaying information under the terms of the E-LABEL Act. We then describe when a device manufacturer would be able to use an electronic label, including situations where temporary external labels would need to accompany the use of electronic labeling. Lastly, we discuss the particular situation where a device is too small to legibly display its associated FCC ID and the device does not have a display for electronic labeling. Because the E-LABEL Act does not require us to mandate the use of electronic labels, we did not propose to do so, and no commenter advocated such an approach. Accordingly, we do not impose any such requirement. We emphasize that our electronic labeling rules are permissive; parties may continue to employ physical labeling techniques consistent with existing rules and guidance if they so desire.

### 1. Capability of a device to digitally display information

30. In this section, we discuss *how* a device would be capable of displaying required labels electronically pursuant to the E-LABEL Act. The E-LABEL Act applies to “radiofrequency device[s] with display,” which are defined as equipment or devices that require Commission authorization prior to marketing and sale, and that “ha[ve] the capability to digitally display” required information.<sup>95</sup> In the *NPRM*, we stated that if a device cannot display the labeling and regulatory information to the intended recipient “in a manner that effects its purpose,” we did not believe that the device can be considered to be capable of digitally displaying the required information as required by the E-LABEL Act.<sup>96</sup> Thus, our proposed rule included provisions designed to ensure that devices satisfy the “capability” element of the E-LABEL Act.<sup>97</sup> Although no commenters disagreed with our overall approach, several parties addressed particular aspects of our proposed rule. Those comments are addressed below, as we describe the specific provisions that we conclude are necessary to ensure that the required labeling and regulatory

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<sup>89</sup> *Id.* at 7758, 7761, paras. 93, 104. The FCC ID, which is assigned to all devices subject to certification, consists of two elements: a grantee code and an equipment product code.

<sup>90</sup> *Id.* at 7759, para. 97.

<sup>91</sup> *Id.* at 7758-59, paras. 95-96.

<sup>92</sup> *Id.* at 7760, para. 101. We believe that codification of the electronic labeling procedures would further the FCC process reform goals identified in GN Docket 14-25 – specifically, Recommendation 5.41 (“Update Labeling and Identification of Approved Products”). Report on FCC Process Reform, GN Docket 14-25, 29 FCC Rcd 1341, 1418 (2014).

<sup>93</sup> *See, e.g.*, HP Comments at 7, Garmin Comments at 4-5, and Cisco Comments at 20.

<sup>94</sup> *See* 47 CFR § 2.935 in Appendix A.

<sup>95</sup> E-LABEL Act, 47 U.S.C. § 622(a).

<sup>96</sup> *NPRM*, 30 FCC Rcd at 7759-60, para. 98.

<sup>97</sup> *Id.* at 7760, para 99. *See also* proposed rule 2.935(e).

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information is provided in an effective manner to the intended recipient.

**a. “Three step” access**

31. We proposed to require that labeling and regulatory information, when digitally displayed, should be accessible in no more than three steps.<sup>98</sup> This proposal is consonant with the suggestion of an industry group,<sup>99</sup> is similar to other international regulations,<sup>100</sup> and mirrors staff guidance currently provided in our KDB.<sup>101</sup> ITIC suggests that instead we require the product instructions to state “clearly defined steps” for accessing the required information.<sup>102</sup> It calls our proposal “constraining” and states that it is unclear because it does not specify where to start counting the three steps.<sup>103</sup> We adopt the proposed “three step” access requirement, clarifying that step one would be a user accessing the device settings menu. As an example of one characteristic sequence, accessing a submenu of legal information would represent step two and accessing a further submenu of FCC compliance information would represent step three. ITIC’s suggestion that there be no limit on the number of steps is problematic in that it would leave open the possibility that compliance information could be difficult to find if it is accessed only through numerous sequential menus. We do recognize that our adopted rule will apply to a wide variety of equipment and we direct OET to provide guidance in response to any specific questions on how to determine a particular device’s compliance with this requirement via the KDB inquiry process.

**b. Access instructions**

32. We proposed to require that the user be provided with prominent instructions on how to access the required labeling and regulatory information that is being made available electronically.<sup>104</sup> These instructions would be available in either the packaging material or another easily accessible format at the time of purchase, and be available on the product-related website, if one exists.<sup>105</sup> CTIA suggests that in order to reduce the size and weight of packaging materials, the access instructions should not be required both in the package materials and on the product website and that it should be the manufacturer’s option to provide the instructions in either manner.<sup>106</sup> We find merit in this comment. Given the relative ease of accessing website information – *e.g.* through a smartphone or other mobile device – we can adopt a rule that is less burdensome on manufacturers than our initial proposal with confidence that users will be able to readily determine how to access required labeling information. Accordingly, the rule we adopt requires that specific instructions on how to access the information be included with the device (packaging material, operating instruction booklet, etc.) *or* on a product-related website so long as the packaging material includes a statement that information on accessing this information is available on the Internet, along with effective instructions on how to access the direct website containing the required

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<sup>98</sup> *NPRM*, 30 FCC Rcd at 7760, para. 98.

<sup>99</sup> Specifically, the Telecommunications Industry Association. See *NPRM*, 30 FCC Rcd at 7760 & n. 160.

<sup>100</sup> See, *e.g.*, The Guidance of the Certification and Engineering Bureau of Innovation, Science and Economic Development Canada, Notice 2014-DRS1003 (Nov. 13, 2014) <https://www.ic.gc.ca/eic/site/ceb-bhst.nsf/eng/tt00099.html>.

<sup>101</sup> See KDB 784748 at II.B.1.

<sup>102</sup> ITIC Comments at 11-12.

<sup>103</sup> *Id.* at 11.

<sup>104</sup> *NPRM*, 30 FCC Rcd at 7759-60, para. 98.

<sup>105</sup> *Id.*

<sup>106</sup> CTIA Comments at 10-11.

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information.<sup>107</sup> Recognizing ITIC's concerns that devices often appear on multiple webpages, including those for retailers and resellers, and it would be "unnecessarily burdensome" to require the information on every site,<sup>108</sup> we specify that the responsible party must ensure that the website access instructions provided with the packaging material does not lead to a dead link or otherwise fail to provide information necessary for access to the required labeling and regulatory information online. In the event that the party responsible for the marketing of the device changes over time, maintaining this information shall become the responsibility of the party that most recently packaged the specific version of the device and made it available for sale.<sup>109</sup>

33. Finally, Boeing suggests that the online information requirement be expanded to include the label information, asserting that consumers often expect to find such information online.<sup>110</sup> We find that this is beyond the scope of our E-LABEL Act inquiry. For the same reason, we also will not consider Boeing's proposal that a specific standardized format for materials be provided online.<sup>111</sup>

**c. Codes, permissions, and accessories**

34. We also proposed that accessing the labeling and regulatory information not require any special codes or permissions.<sup>112</sup> We specifically proposed to prohibit other forms of electronic labeling such as Radio Frequency Identification (RFID) tags or Quick Response (QR) codes to substitute for the on-screen information display, or otherwise permit displays that require the use of special accessories, supplemental software, or similar plug-ins.<sup>113</sup>

35. ITIC was the only commenter that directly addressed the basic requirement, asking that we clarify that "passwords, PINs, or other mechanisms configured by a user to secure access to a device (e.g., a smartphone) do not qualify as 'special codes' or 'permissions.'"<sup>114</sup> We agree. Such mechanisms are integral to securing personal access to a device and its information, and are broad in application, and they do not inappropriately restrict access to labeling-related information. We therefore specify that the prohibition on special codes does not prevent the use of screen locks, passcodes, or similar security protections that are designed to control overall device access and use and implemented by the owner(s)/user(s) of a device. Instead, we are prohibiting features that are specifically designed to control access to FCC-related information, such as requiring a special key to activate access to the required regulatory information display.<sup>115</sup>

36. Several commenters ask us to allow the use of QR codes or RFID tags as electronic

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<sup>107</sup> This is similar to existing guidance. *See* KDB 784748 D02 II.B.3.

<sup>108</sup> ITIC Comments at 10-11.

<sup>109</sup> This substantially addresses the concerns expressed by Jacob Lemmons about the availability and longevity of any on-line resources. *See* Comments of Jacob Lemmons. While we cannot, as a practical matter, effect any requirements that would cover situations where the responsible party ceases to exist and there is no direct successor-in-interest, we are confident that third-party resources – such as users' groups, search engine caches, and online Internet archives – will serve as useful resources in such situations.

<sup>110</sup> Boeing Reply Comments at 5.

<sup>111</sup> *See* Boeing Comments at 4-5.

<sup>112</sup> *NPRM*, 30 FCC Rcd at 7760, para. 98.

<sup>113</sup> *Id.* at 7760, para. 100.

<sup>114</sup> ITIC Comments at 11.

<sup>115</sup> *See* 47 CFR § 2.935(b).

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labeling, asserting ubiquity and an ability to convey more information,<sup>116</sup> and noting their acceptance and usefulness in other governmental contexts.<sup>117</sup> We will not allow the use of QR codes or RFID tags in lieu of on-screen display of information of such features because doing so would be inconsistent with the objectives of the labeling information requirement. To read a QR code on a device, one would have to use a second device with the appropriate software downloaded on it, which may or may not be available at the time that it is important for the information to be accessed. Thus, it is potentially unlikely and generally more burdensome than directly viewing FCC-required information on the subject device, and would run counter to our underlying goal of assuring that our essential regulatory and safety information is provided in a readily accessible – and timely - manner.<sup>118</sup> The examples of QR codes and RFID tags in use by other agencies cited by ITIC and Intel are not apposite. FDA’s UDI program, cited by ITIC requires labeling “in *both* easily readable plain-text and Automatic Identification and Data Capture technology – usually a bar code.”<sup>119</sup> Moreover, the bar code is not intended to provide users with visual information but instead is designed to facilitate the uploading of device identification information into an electronic patient record or other computer system via an automated process.<sup>120</sup> While RFID tags, advanced by Intel, might be appropriate for CBP use, they are not sufficient in other contexts, for the reasons discussed above.

**d. Devices that require connection to a second device to function.**

37. We proposed to retain our existing requirement that devices that rely on a wireless or remote connection and have no display must have a physical label, but we also asked whether devices that are controlled through software applications running on a smartphone, a web interface, or via network connection should be allowed to use an electronic label.<sup>121</sup> Several commenters asked us to permit the electronic labeling of devices that do not have an integrated screen if they could only be used in conjunction with a device that does have a screen.<sup>122</sup> In addition, Google notes that Canadian equipment authorization procedures permit such use.<sup>123</sup> Sony asserts that such use would be permitted under the E-LABEL Act and would be consistent with the Commission’s rules on video accessibility.<sup>124</sup>

38. We find merit in these suggestions, and will allow electronic labeling for devices that do not include an integrated screen but that can only operate in conjunction with a device that has a screen. Because such devices only operate when associated with a device with an electronic display, we believe

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<sup>116</sup> IBM Comments at 6.

<sup>117</sup> ITIC Comments at 12-13 (citing the Food and Drug Administration’s (FDA) Unique Device Identification (UDI) program); Intel Comments at 5 (discussing how codes could help Customs and Border Protection agents during the importation process).

<sup>118</sup> See *NPRM*, 30 FCC Rcd at 7760, para. 100.

<sup>119</sup> See FDA, Unique Device Identification System: Small Entity Compliance Guide (Aug. 13, 2014) at 5-6 (emphasis added), <http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/UCM409401.pdf>.

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

<sup>121</sup> *NPRM*, 30 FCC Rcd at 7761, para. 102. Examples include wireless DVD players, game controllers, and keyboards.

<sup>122</sup> CEA Comments at 6; Google Comments at 18-20; Intel Comments at 5; TCB Council at 9; Garmin Comments at 4; TIA Comments at 25-26.

<sup>123</sup> Google Comments at 18-20.

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

(continued....)

that they should be considered to be capable of digitally displaying required information and therefore are analogous to the E-LABEL Act's definition of a "radiofrequency device with display."<sup>125</sup> We emphasize that this provision only applies to devices that have no operation or functionality as a radiofrequency device unless connected to an electronic display; merely being capable of such an association would not qualify a display-free device to use electronic labeling if the device retains any utility in a stand-alone configuration. Such devices will be subject to the same requirements as any other RF device that is eligible to use our electronic labeling rules.<sup>126</sup>

**e. Electronic labeling legibility and permanence.**

39. In the *NPRM*, we proposed to require that electronic labeling information be electronically displayed in a manner that is "clearly legible without the aid of magnification."<sup>127</sup> No commenter addressed this proposal. We conclude that it is essential to include a legibility requirement in our final rules. Regardless of the method of display – electronic or physical – if the required information is not displayed in a legible manner, then the basic purpose of having a labeling requirement is undermined.<sup>128</sup> In a similar vein, a display that is too dim or displayed for too short a duration to be easily read would fail to be clearly legible under the rules we adopt. In the *NPRM*, we also proposed that electronic labeling information be secured to prevent its modification by third parties.<sup>129</sup> No party directly addressed this issue. We find that not having an assurance that a label will remain available to convey its information to the device user would undermine the basic purpose of the labeling requirement. Thus, just as physical labels must be "permanently affixed" under our rules, we conclude that electronic labels must not be easily removed or replaced if they are to be effective. Accordingly, we will require that if a manufacturer chooses to display required labeling information electronically, then it must ensure that the information may not be removed or modified by anyone other than the responsible party.

**2. When electronic labels may be used**

40. In this section, we discuss *when* e-labels can be used, consistent with our implementation of the E-LABEL Act.<sup>130</sup> In the *NPRM*, we discussed Section 2.925 of our rules, which requires each device subject to certification to have a label permanently affixed to the equipment, and readily visible to the purchaser at the time of purchase, that displays the FCC ID number and any other statements or labeling required by the rules governing the operation of the specific class of equipment.<sup>131</sup> We also noted

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<sup>125</sup> See 47 U.S.C. § 622(a).

<sup>126</sup> For example, connecting the device to an associated device should not be considered as one of the three steps required to access the e-labeled information. Additionally, any information that is routinely entered in order to initiate operation of the device or unlock any personal security protections will not be considered as special permission or access codes. We expect OET, as part of its routine administration of the equipment authorization program, to address any remaining process-related questions – including those raised in the record by Google (suggesting an application for certification would include a screenshot of the electronic label).

<sup>127</sup> *NPRM*, 30 FCC Rcd at 7760, para. 98.

<sup>128</sup> As a practical matter, many devices with an electronic display provide the user with the capability to reduce or enlarge views as desired in order to suit the individual's preference. In such instances, a minimum type size requirement would not be relevant. However, for devices that do not permit the FCC-required information to be manipulated in this manner, we direct our OET to extend its guidance for physically attached FCC ID and compliance labels, which specifies 4-point type as the minimum reasonable expected to be clearly legible. This appropriately extends our guidance for physically attached FCC ID and compliance labels. See KDB 784748.

<sup>129</sup> *NPRM*, 30 FCC Rcd at 7759, para. 97.

<sup>130</sup> 47 U.S.C. § 622(b).

<sup>131</sup> *NPRM*, 30 FCC Rcd at 7758, para. 94 (citing 47 CFR § 2.925).

(continued....)

that Part 15 devices are subject to additional labeling requirements related to the equipment authorization process.<sup>132</sup> We further acknowledged that several other rules require warning labels or other information to be attached to particular types of devices.<sup>133</sup> We asked which of these sections should be eligible for compliance via electronic labeling.<sup>134</sup> The *NPRM* asked questions related to labeling rules that are intended to ensure that important safety-of-life information or warnings about illegal use of equipment are made prominently available to users of equipment.<sup>135</sup> Specifically, it asked for comment on whether electronic displays could effectively deliver these types of warning statements and whether it would be appropriate to apply our adopted e-labeling procedures in such circumstances.<sup>136</sup> Further, if e-labeling were found to be ineffective for such requirements, it sought comment on whether the E-LABEL Act permits us to continue to require physical labels for these warnings, and which labeling requirements would be affected.<sup>137</sup> Commenters did not dwell on specific rules, but instead broadly supported the concept of electronic labeling for all labeling/warning requirements, and identified situations where e-labels should be permitted.<sup>138</sup>

41. As a general matter, we find that the terms of the E-LABEL Act can be widely applied to our rules and requirements. In defining “electronic labeling,” the statute does not limit itself to just the basic equipment labels that the Commission requires (e.g., FCC IDs), but references “labeling and regulatory information” generally to cover any labeling that the Commission may require, without regard to the subject matter.<sup>139</sup> If the Commission imposes (under current or future regulations) a requirement that a device physically bear a label with regulatory information, and if the device “has the capability to digitally display required labeling and regulatory information,”<sup>140</sup> then our general rule provides for the labeling requirement to be satisfied by presenting the labeling information on the device’s electronic display, subject to the specific e-labeling requirements we adopt. We note that where a rule has a variety

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<sup>132</sup> *Id.* (citing 47 CFR § 15.19).

<sup>133</sup> *Id.*, 30 FCC Rcd at 7768 & n. 169. These sections include 47 CFR § 15.19 (intentional, unintentional, or incidental radiator operation without individual licenses), 47 CFR § 15.121 (scanning receivers), 47 CFR § 15.212 (modular transmitters), 47 CFR § 15.214 (cordless telephones), 47 CFR § 18.209(b) (industrial, scientific, and medical (ISM) equipment), 47 CFR § 20.18 (911-only handsets), 47 CFR § 20.21(f) (consumer and industrial signal boosters), 47 CFR § 80.231(b) (automatic identification system (AIS) equipment), 47 CFR § 80.271 (portable survival craft radios), 47 CFR § 80.1061(f) (406-406.1 MHz emergency position indicating radiobeacon (EPIRB) stations), 47 CFR § 80.1103 (global maritime distress and safety systems (GMDSS)), 47 CFR §§ 87.147(b), 87.199(f) (emergency locator transmitters), 47 CFR § 90.219 (private land mobile radio service signal boosters), 47 CFR § 95.1017 (low power radio service (LPRS) transmitting device), 47 CFR § 95.1217 (MedRadio devices), and 47 CFR § 95.1402(f) (personal locator beacons).

<sup>134</sup> *NPRM*, 30 FCC Rcd at 7758, para. 94.

<sup>135</sup> *Id.* at 7761, para. 103. For example, labels with safety and registration advisories are prescribed to ensure the effectiveness of emergency locator beacons in sections 87.147 and 95.1402 of our rules. 47 CFR §§ 87.147 and 95.1402. Additionally, Section 15.121 of our rules requires a label for scanning receivers warning that modification of those receivers is illegal. *Id.* § 15.121.

<sup>136</sup> *NPRM*, 30 FCC Rcd at 7761, para. 103.

<sup>137</sup> *Id.*

<sup>138</sup> *See, e.g.*, CEA Comments at 5-6 and Google Comments at 18-20 (requesting that e-labeling be allowed for the warning labels required for prototype and test devices); TIA Comments at 27 (suggesting that the E-LABEL Act does not preclude the use of e-labeling to provide safety-of-life related warnings).

<sup>139</sup> 47 U.S.C. § 622(a)(1) (stating that “the term ‘electronic labeling’ means displaying required labeling and regulatory information electronically”).

<sup>140</sup> 47 U.S.C. § 622(a)(2)(B).

(continued....)

of information disclosure requirements (e.g., where information must be placed in the instruction manual, on product packaging, and on the device), only those elements that relate to labeling the device itself will be eligible for electronic labeling.<sup>141</sup>

42. E-labeling is premised on the capability of a device to display information, which must be available when needed.<sup>142</sup> Thus, we conclude that there are limited situations where the use of an electronic label would undermine the reason for requiring the information in the first place. For example, when a message provides vital information about the use or deployment of RF equipment that a user would need to know before activating the device to look at a screen and it is not practical to expect the user to have ready access to the instruction manual or product website, then an electronic label will not be appropriate. Therefore, while we agree with TIA that the E-LABEL Act does not preclude us from allowing the electronic labeling of “safety-of-life” warnings as a general matter,<sup>143</sup> we nevertheless find that some warnings, given the context of their purpose, cannot be effectively conveyed electronically in a timely manner. In these types of situations, the use of physical labels will still be necessary. Consequently, we have identified three places in the recently revised Part 95 Personal Radio Service rules for which the electronic labeling option is not appropriate and will not be available: 95.2993 (mandatory labeling requirements and warnings for 406 MHz personal locator beacons), 95.2393 (notice of prior coordination requirement for wireless medical telemetry devices), and 95.2593 (non-interference warnings and serial number identification for MedRadio equipment), as well as rule sections 80.1061 (labeling requirements for Emergency Position Indicating Radiobeacons) and 87.199 (labeling requirements for Emergency Locator Transmitters).<sup>144</sup> In addition, in instances where documents incorporated by reference in our rules contain a physical labeling requirement, parties should continue to follow the standard set forth in those documents unless the Commission has adopted a specific exception to the labeling provision. All other device labeling requirements are presumptively eligible to be met through electronic labeling.<sup>145</sup>

43. Accordingly, the rule we are adopting permits, with limited exceptions, e-labeling for “any . . . information that the Commission’s rules would otherwise require to be shown on a physical label attached to the device,” as proposed in the NPRM.<sup>146</sup> We intend this rule to have broad applicability, encompassing, for example, the rules for prototype and test device labels,<sup>147</sup> as noted in the CEA and Google comments.<sup>148</sup> Only in those limited cases where an electronic label would be incapable of conveying the information in a timely manner, such that it would undermine the purpose of providing

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<sup>141</sup> See, e.g., 47 CFR § 20.21(f)(1) (requiring, for signal boosters, the advisories be provided in on-line, point of sale marketing materials, in print or on-line owner’s manual and installation instructions, on the outside packaging of the device, and on a label affixed to the device).

<sup>142</sup> NPRM, 30 FCC Rcd at 7759, para. 98.

<sup>143</sup> TIA Comments at 27.

<sup>144</sup> We realize that because equipment designed to operate under these rules may not even able to display information electronically (for example, lacking a display screen), these exclusions may be superfluous at present and have no practical effect on the design and deployment of devices for these services.

<sup>145</sup> As we review and update our service rules, we will endeavor to broaden the individual rule language to explicitly account for the electronic labeling option.

<sup>146</sup> NPRM, 30 FCC Rcd at 7780 (proposed § 2.935); see also *id.* at 7760, para. 99.

<sup>147</sup> See 47 CFR § 2.803(b)(2).

<sup>148</sup> See CEA Comments at 7; Google Comments at 20.

(continued....)

that information in the first place, will we still require the use of physical labels.<sup>149</sup>

44. Finally, several commenters make suggestions that are beyond the scope of the actions we contemplated in this proceeding. ARRL suggests new labelling requirements for certain Part 15 and Part 18 devices, particularly for RF lighting devices intended for use in residential areas.<sup>150</sup> Lariat proposes that Part 15 devices should include operating frequencies on their labels.<sup>151</sup> In the *NPRM* we did not specifically focus on the applicability of e-labeling to our existing rules, and it was not our intention to initiate any new information display requirements, and we are not persuaded to include these issues now.<sup>152</sup> Similarly, numerous commenters suggested that we expand the scope of e-labeling to include Commission requirements for material to be included with, but not labeled on, various devices.<sup>153</sup> We continue to believe, as we tentatively concluded in the *NPRM*,<sup>154</sup> that rules requiring the placement of warning statements or other information on device packaging or in user manuals or make information available at the point of sale are outside the scope of the E-LABEL Act. Any potential modification to such requirements is more appropriately considered in the context of specific service rule proposals where we would be able to fully consider the issues associated with fulfilling each requirement by electronically-based methods.

### 3. Temporary external labels

45. The *NPRM* noted that labels required by our various rules provide consumers with important information about RF devices and inform government officials, including, for example, those with Customs and Border Protection (CBP), and our own Enforcement Bureau, that the devices meet the technical requirements of our rules.<sup>155</sup> Based on concerns that these abilities are limited when access to the electronic display is precluded, we proposed that devices that use an electronic label instead of a permanent physical label must also include the pertinent regulatory information on the product packaging or on a physical label placed on the device at the time of importation, marketing, and sales.<sup>156</sup> Few commenters addressed this proposal. While TIA supports “the use of physical labels . . . to sufficiently implement device labeling requirements,”<sup>157</sup> CEA and Google assert that requiring the removable labels would reduce many of the benefits of e-labeling and that such a requirement was not part of Congress’ direction in the E-LABEL Act.<sup>158</sup>

46. We recognize that there is potential tension between the benefits that device manufacturers can realize though implementation of the E-LABEL Act and the burdens associated with our proposal. Nevertheless, we believe that temporary labels or packaging markings are significantly less burdensome than permanent labels, which are much more expensive to implement and which occupy

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<sup>149</sup> In the event that a responsible party is unsure whether its device and/or display methodology satisfies our e-labeling rule, it may submit a KDB inquiry to the OET Lab or seek guidance from the Bureau responsible for the rule in question. KDB inquiries are routinely answered within two business days.

<sup>150</sup> ARRL Comments at 8-11.

<sup>151</sup> LARIAT Comments at 3, 5.

<sup>152</sup> *NPRM*, 30 FCC Rcd at 7760, para. 100.

<sup>153</sup> See, e.g., Cisco Comments at 20; CTIA Comments at 10; Samsung Comments at 3.

<sup>154</sup> *NPRM*, 30 FCC Rcd at 7760, para. 100.

<sup>155</sup> *Id.*, 30 FCC Rcd at 7760, para. 99.

<sup>156</sup> *Id.* This would effectively require the temporary label to remain in place until receipt by a U.S. consumer.

<sup>157</sup> TIA Comments at 26.

<sup>158</sup> CEA Comments at 7; CEA Reply Comments at 3-4; Google Comments at 20.

(continued....)

space permanently on the exterior of a device.<sup>159</sup> Electronic label information cannot reasonably be expected to be viewable when devices are packaged and encased in shipping materials and are uncharged or powered down.<sup>160</sup> A temporary physical label will support ongoing oversight and importantly provides everyone in the supply chain, including wholesalers, distributors, and retailers, as well as initial purchasers, an obvious assertion that a device comports with our technical requirements and is legal to import/sell/purchase in the U.S. Moreover, on frequent occasions at the time of importation, particularly with the elimination of the specific importation reporting requirement of FCC Form 740,<sup>161</sup> this is a useful tool to readily determine whether the device has been certified as required. Without this provision, a Customs agent would need to open the packaging, turn on the device—assuming the battery is installed and charged—and sift through the menus to find the compliance information—both a burden and potentially a deterrent for effective customs interdiction of unauthorized devices. For these reasons, we adopt a limited version of our proposal. Specifically, we will require that a device or its packaging be labeled such that the device can be identified as complying with the FCC’s equipment authorization requirements, whether with a stick-on label or printing on the packaging or other similar means. In many cases, this might simply be the FCC ID.<sup>162</sup> However, it can also be sufficient to identify the device by model or name if the webpage with the relevant regulatory information is readily identifiable.

47. Our requirement affords parties with considerably more flexibility than our existing rules—many of which require external labeling to be readily visible<sup>163</sup>—as well as the existing KDB guidance.<sup>164</sup> It also significantly reduces the potential burdens with our proposed rule that parties had identified. Moreover, we disagree with the contention that this requirement is not part of the “direction” of the E-LABEL Act. While the E-LABEL Act did not specifically prescribe the use of temporary external labels, it did not directly proscribe them either. Notably the Act’s legislative history discussed the benefits of replacing *permanent* labels with electronic information, spoke of the challenges of the FCC’s “etching requirements,” and stated that the purpose of the bill was “to promote the *non-exclusive* use of electronic labeling for certain [RF] devices.”<sup>165</sup> Moreover, while the statutory language generically refers to physical labels, the legislative history makes it clear that Congress did not intend to frustrate or disrupt the underlying purpose of the equipment authorization program.<sup>166</sup> Because temporary labels are necessary for the program to work as intended, we will continue to require their use. The physical

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<sup>159</sup> “[P]ermanently affixed means that the required nameplate data is etched, engraved, stamped, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment enclosure. Alternatively, the required information may be permanently marked on a nameplate of metal, plastic, or other material fastened to the equipment enclosure by welding, riveting, etc., or with a permanent adhesive. Such a nameplate must be able to last the expected lifetime of the equipment in the environment in which the equipment will be operated and must not be readily detachable.” 47 CFR § 2.925(d)(1).

<sup>160</sup> In other words, they lack “the capability to digitally display required labeling and regulatory information.” 47 U.S.C. § 622(a)(2)(B); *NPRM*, 30 FCC Rcd at 7760, para. 99.

<sup>161</sup> See Paras. 50-54, *infra*.

<sup>162</sup> See CTIA Comments at 11-12 and ITIC Comments at 13 (asking us to clarify that the external label requirement only applies to the FCC ID information required by Section 2.925).

<sup>163</sup> See 47 CFR § 2.925(d); see also 47 CFR § 15.19; 47 CFR § 15.233.

<sup>164</sup> See KDB 784748 D02 II.C.

<sup>165</sup> S. Rep. No. 113-280 (2014) (emphasis added) The report further stated that, absent the law “there may still be uncertainty about the circumstances where it is appropriate for a manufacturer to use electronic labeling in place of a *permanent* label on the surface of a device”) *Id.* (emphasis added).

<sup>166</sup> See H. Rep. No. 113-575 at 1 (2014) (acknowledging that “[o]ne of the FCC’s duties is the certification and labeling of radiofrequency devices, verifying compliance with the Commission’s interference rules.”)

(continued....)

labeling information we are requiring here is much less extensive and demanding, and the requirement can be met several different ways. As such, it provides a reasonable means for us to meet our objectives in maintaining the ready identification of devices while supporting the overall streamlining and cost-saving objectives embodied in the E-LABEL Act.

#### 4. Labeling for small devices

48. While our current rules require that the identifying information on the label of a certified device be large enough to be readily legible, they do not specify what the manufacturer should do if the device is too small to display a legible label,<sup>167</sup> and the OET lab frequently receives inquiries in this regard. In the *NPRM* we sought comment on a proposal addressing how the identifying information may be communicated for small devices, proposing that if the device is so small that it is impractical to label it with the required information in a font that is four-point or larger, and the device does not have a display for electronic labeling, then the required information would be permitted to be placed in the user manual.<sup>168</sup> We also proposed to require in such instances that the information be placed either on the device packaging or on a removable label attached to the device.<sup>169</sup> CEA supported the proposal and no negative comments were received in this regard.<sup>170</sup> Accordingly, supported by comments, we here specify in our rules, as proposed, that a device's identifying information may be placed in its user manual if it cannot be displayed on the device in four-point type or larger and the device does not have a capability for electronic display.

#### C. Importation rules

49. Our rules set out specific conditions under which RF devices that are capable of causing harmful interference to radio communications may be imported into the United States.<sup>171</sup> In the *NPRM*, we examined certain aspects of these rules and asked whether they continued to represent the most appropriate way to ensure that RF devices brought into the United States comply with the Commission's technical standards.<sup>172</sup> Accordingly, we are here eliminating the FCC-specific customs declarations requirement (effected by FCC Form 740) and modifying our rules specifying responsibility for the compliance of imported RF products pursuant to the elimination of the existing declaration

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<sup>167</sup> 47 CFR § 2.925(g). However, Section 2.925(f) provides that if "a permanently affixed nameplate is not desirable or is not feasible, an alternative method of positively identifying the equipment may be used if approved by the Commission"). The OET Lab previously provided guidance to help determine when a device is too small for the FCC ID to be readable. See KDB Publication 784748 (stating that the FCC ID may be placed in the user manual if the device is too small for the FCC ID to be readable (i.e., smaller than 4-6 point font).

<sup>168</sup> *NPRM*, 30 FCC Rcd at 7761, para. 104. We also sought comment on how the rules governing modular transmitters would affect our labeling requirements. *NPRM*, 30 FCC Rcd at 7762, para. 106. This proposal will not be discussed further at this time. It will be considered in the context of other modular transmitter-related certification process proposals that will be addressed in a subsequent order in this proceeding. See para. 4, *supra*

<sup>169</sup> *Id.*

<sup>170</sup> See CEA Comments at 8. See also Intel Comments at 5 (suggesting an expansion of the proposal to include unauthorized devices).

<sup>171</sup> See Part 2, subpart K of our rules. 47 CFR §§ 2.1201-1207.

<sup>172</sup> *NPRM*, 30 FCC Rcd at 7765-67, 7768-69, paras. 116-21, 122-25. We also asked whether we should eliminate the rule that permits the use of customs bonded warehouses (47 CFR § 2.1201(c)) for imported equipment that has not yet been authorized. *NPRM*, 30 FCC Rcd at 7767-68, para. 122. As it is related to other issues not resolved herein, we do not address it here.

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requirement.<sup>173</sup>

### 1. Importation declaration / FCC Form 740

50. Section 2.1203 of our rules states that “[n]o [RF] device may be imported . . . unless the importer or ultimate consignee, or their designated customs broker, declares that the device meets one of the conditions of entry” set forth in our importation rules subpart.<sup>174</sup> To effectuate this, our rules require that, at ports of entry where electronic filing with U.S. Customs and Border Protection (CBP) is available, an electronic FCC declaration (essentially FCC Form 740) must be submitted to CBP, in addition to the electronic entry summary required by CBP.<sup>175</sup>

51. In the *NPRM*, we proposed to eliminate FCC Form 740 and its associated rule provisions.<sup>176</sup> We recognized that this requirement has traditionally been intended to aid the FCC and CBP in preventing improperly authorized RF devices from being marketed to the public (where the devices might cause harmful interference to authorized communications), but also noted the significant changes that have taken place since the Form was adopted in the 1970s.<sup>177</sup> These include the proliferation of consumer devices with RF components that has driven the volume of FCC Form 740 filings from less than 1200 to approximately 2 million records annually; the emergence of the Internet as a source for equipment supplier information; and the overlap of information required on FCC Form 740 with what is currently included in the CBP’s routine information collection for all imported goods.<sup>178</sup> Accordingly, we questioned whether the large amount of data generated by the Form 740-related submissions remains useful and usable; asked whether there are any benefits to continuing to collect the Form 740 information in the current or modified form; and sought comment on whether the elimination of the data collection requirement might adversely affect any of the underlying objectives of our equipment authorization program.<sup>179</sup> Subsequent to the *NPRM*, CBP instituted enhancements to its new electronic filing system, the Automated Commercial Environment (ACE), that have eliminated the capability for importers to submit the FCC-required Form 740 information electronically.<sup>180</sup> In light of these developments, we temporarily suspended collection of the Form 740 information, pending the outcome of this proceeding.<sup>181</sup>

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<sup>173</sup> We also adopt herewith non-substantive edits to Section 2.1204 that reflect the shifting of grants of certification from the Commission to Telecommunications Certification Bodies (TCBs).

<sup>174</sup> 47 CFR § 2.1203(a), “General requirements for entry into the U.S.A.” Section 2.1204 lists the particular conditions of import 47 CFR § 2.1204. The vast majority of devices require an equipment authorization; exceptions are provided, for example: for equipment used for demonstration at industry trade shows, imported solely for export, used by the U.S. federal government, imported for personal use in limited quantities for certain purposes, imported for repair and not to be offered for sale or marketed, and used as an implanted medical device. *Id.* 2.1204(a).

<sup>175</sup> *See* 47 CFR § 2.1205(b). While nearly all this information is filed electronically, at ports of entry where electronic filing with CBP is not available, the party must complete a paper copy of FCC Form 740 and attach it to the CBP-required entry papers. 47 CFR § 2.1205(a). A copy of FCC Form 740 may be found at <http://transition.fcc.gov/Forms/Form740/740.pdf>.

<sup>176</sup> *NPRM*, 30 FCC Rcd at 7767, para. 120.

<sup>177</sup> *Id.*, 30 FCC Rcd at 7766-67, paras. 118-19.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.*, 30 FCC Rcd at 7767, para. 119.

<sup>180</sup> The ability to file FCC-related importation filings electronically via the previous CBP processing system, the Automated Commercial System (ACS), ceased July 1, 2016. CPB, ACE Mandatory Use Dates (Feb. 7, 2017), <http://www.cbp.gov/trade/automated/ace-mandatory-use-dates>.

<sup>181</sup> *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission’s Rules Regarding Authorization of Radiofrequency Equipment*, ET Docket No. 15-170, Order, 30 FCC Rcd 11827, 11829, para. 7 (2015) (waiving the requirements of

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52. All commenters that addressed this issue supported eliminating the requirement to file FCC Form 740 when importing RF devices into the United States.<sup>182</sup> Many parties also discussed the current practice in which the FCC and CBP have individual information collection roles. For example, Boeing asserts that, in the event that CBP would cease its (then-current) data collection, it would be important to ensure that a Federal agency assumes the responsibility to collect it.<sup>183</sup> One area of apparent confusion involved the statement in the *NPRM* that CBP collects much of the information found on FCC Form 740. Thus, some commenters suggest that the Commission should clarify the specific elements to be collected by CBP.<sup>184</sup> Similarly, several commenters assert that the CBP does not independently ask for things like the device model number, FCC ID, or description of the equipment, and they request that we not require CBP to collect this data once the Form 740 is discontinued.<sup>185</sup> Along these lines, other filers suggest that we work with CBP to further reduce and streamline the information collection requirements.<sup>186</sup> Finally, some commenters suggest that we adopt procedures similar to specific CBP filing practices and provisions such as programs that are related to the importation of low value items<sup>187</sup> and self-assessment or “trusted trader programs.”<sup>188</sup>

53. No party refuted our observation that modifying our importation rules and procedures to eliminate the Form 740 filing requirements will serve the public by substantially reducing administrative burdens without diminishing our ability to access the information we need to enforce our importation rules. Moreover, there is nothing in the record to indicate that the existing Form 740 filing process provides a substantial deterrent to illegal importation of RF devices. We conclude that we can discontinue use of FCC Form 740 and adopt our proposal to eliminate Section 2.1205 and delete Section 2.1203(b), thus removing the Form 740 filing requirements.<sup>189</sup>

54. We emphasize that by discontinuing FCC Form 740, we are not seeking to alter or expand CBP’s information collection requirements. Our proposal was not premised upon CBP collection data having a one-to-one correspondence with that included in our current filing requirement.<sup>190</sup>

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Sections 2.1203 and 2.1205 from July 1, 2016, through December 31, 2016). The waiver was subsequently extended through June 30, 2017, and again until September 30, 2017. *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission’s Rules Regarding Authorization of Radiofrequency Equipment*, ET Docket No. 15-170, Order, 31 FCC Rcd 12916, 12917, para. 5 (OET 2016) (*Waiver Extension Order*); and *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment*, ET Docket No. 15-170, Order, DA 17-541, (OET June 2, 2017) (*Waiver Further Extension Order*).

<sup>182</sup> See, e.g. Hewlett-Packard Comments at 3; Garmin Comments at 5-6; CTIA Comments at 12.

<sup>183</sup> Boeing Comments at 2-3.

<sup>184</sup> CompTIA Comments at 1-3; ITIC Comments at 16; TIA Comments at 29-32.

<sup>185</sup> Echostar/Hughes Comments at 6; Express Association of America Comments at 1.

<sup>186</sup> CEA Comments at 17; CompTIA Comments at 1-3; Google Comments at 20-21.

<sup>187</sup> Wi-Fi Alliance Comments at 11-12; Intel Comments at 7-8.

<sup>188</sup> Intel Reply Comments at 2-3.

<sup>189</sup> As noted above, we have temporarily suspended the collection of Form 740 data. See Para. 51, *supra*. This temporary suspension ends on September 30, 2017. See *Waiver Further Extension Order*. In the event that the actions taken herein to permanently eliminate this collection requirement will not be effective by September 30, 2017, we will extend the temporary waiver of 47 C.F.R §§ 2.1205 and 2.1203(b) until the deletion of these rules is effective.

<sup>190</sup> “Additionally, *much* of the information that was required on FCC Form 740 is currently collected by CBP in its routine information collection for all imported goods.” *NPRM*, 30 FCC Rcd at 7766-67, para. 119 (emphasis added). “Since compliance with our importation rules is implicitly addressed by the information already required by

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Likewise we did not mean to suggest that it was our intention to ask CBP to modify its filing requirements to “make up” for the cessation of our data collection. CBP requires parties responsible for importation of goods to file entry documentation which includes identifying information about the ultimate consignee, importer of record, description of merchandise and manufacturer number among other information.<sup>191</sup> The only additional information collected on the Form 740 is the declaration related to the device’s FCC ID or that the device complies with our authorization requirements. This additional information is now readily available elsewhere, and the filing burden for manufacturers, for importers, for FCC staff, and for CBPs by the Form 740 is no longer warranted. For these reasons as well as those discussed below and under the conditions set forth below, we continue to believe that the data currently collected by CBP, when considered along with other publicly available material, will satisfy our compliance objectives and continue to support appropriate enforcement actions.<sup>192</sup> Regardless, should future experience indicate that changes in CBP data collection would aid—or hinder—our ongoing compliance activities, we would raise the issue with CBP in an appropriate manner or take other action to address those contingencies at that time. Finally, commenters should pursue any CBP filing process issues directly with that agency.

## 2. Compliance Responsibilities

55. To reconcile our rules with the elimination of FCC Form 740, we are revising Section 2.1203 “General requirement for entry into the U.S.A.,” to remove existing subsection (b), which requires a declaration of compliance for each imported device. Eliminating the FCC Form 740 requirement removes the requirement to report each unique device shipment. Doing so is also consistent with objectives identified by commenters. For example, TIA, which suggests moving away from transactional reporting requirements by collecting information from industry only upon Commission request, states that removing the requirement to report the import condition of each RF device would substantially reduce the administrative burdens associated with the rule.<sup>193</sup> Intel identifies ways to minimize the reporting requirement, such as only requiring submission of the device model number and the manufacturer name.<sup>194</sup>

56. While we are eliminating this extensive paperwork requirement, we are not eliminating the requirement that there is an entity that assumes responsibility for the compliance of the device. Section 2.1203 requires a responsible party to attest to imported devices’ compliance with our importation regulations<sup>195</sup> and provides explicit administrative, civil, and criminal remedies<sup>196</sup> for importation of non-compliant equipment. This rule also calls for the submission of supporting documentation of compliance upon request by the Commission.<sup>197</sup> Some commenters have suggested the elimination of Section 2.1203

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CBP, we propose to eliminate the explicit importation declaration requirement from our rules.” See *NPRM*, 30 FCC Rcd at 7767, para. 120.

<sup>191</sup> 47 CFR §§ 142.3, 142.16, 142.22 and 142.24

<sup>192</sup> CBP has agreed to provide the Commission, upon request, information about products (e.g., quantity, model numbers, and origin) that are subject to our rules. example, there is nothing in the record to indicate that the existing Form 740 filing process provides a substantial deterrent to illegal importation of RF device.

<sup>193</sup> TIA Comments at 30-31.

<sup>194</sup> Intel Comments at 7.

<sup>195</sup> 47 CFR § 2.1203(a).

<sup>196</sup> 47 CFR § 2.1203(c).

<sup>197</sup> 47 CFR § 2.1203(d).

(continued....)

in its entirety.<sup>198</sup> We decline to do so. Section 2.1203 provides assurance that a party involved in the importation process has considered whether an RF device meets the qualifications for entry and that it can document how it made that determination upon request by the Commission. CompTIA's assertion that the Section 2.1203 requirements place a significant burden on imported products that is not similarly borne by products that are manufactured domestically,<sup>199</sup> are mistaken. Our decision eliminates the existing reporting burden for importers for which there is no equivalent for domestic manufacturers. The remaining rules providing for the identification of responsible parties and requiring the retention of documentation supporting the determination of device compliance are similar to the requirements for domestically-produced devices.<sup>200</sup>

57. To ensure that some party has affirmatively assessed the compliance of an imported device prior to importation and that we can hold such party responsible for that compliance after the elimination of the FCC Form 740, we adopt our proposal to replace the requirement in Section 2.1203(a) - that the importer or ultimate consignee, or their designated customs broker "declares" compliance with our import conditions - which will disappear with the elimination of that rule - with a requirement that one of the parties "determines" this compliance prior to importation. Comments from the customs brokerage and shipping communities assert that this modification imposes new compliance responsibilities on the customs broker.<sup>201</sup> For example, the National Customs Brokers and Forwarders Association of America (NCBFAA) expresses concern that the rule does not clearly place the responsibility for compliance on a single entity, and asserts that the customs brokers are simply information filers that lack the necessary knowledge of a products design or manufacture to determine whether the product meets FCC requirements.<sup>202</sup> This concern is not persuasive. For SDoC devices, our rules now require a U.S. contact,<sup>203</sup> which will be the party responsible for compliance. For certified devices, the importer or the consignee can assume this responsibility for the devices they wish to import. While customs brokers may not have the expertise to determine the compliance of devices with FCC technical compliance rules, they can decline to broker shipments for which no other party will take responsibility, and they can take measures to ensure that their clients follow our rules for shipments they do broker by, for example, requiring a compliance statement by their client, relying on their business relationship with their client, by specific indemnification agreement, or with bonding measures to protect themselves from loss.<sup>204</sup> We note that such measures will not shield any party from the liability it assumes for the compliance with the Communications Act and our rules for devices for which it takes on the responsibility of compliance in making the subject declaration. We further note that this provision does not relieve from liability any other party within our jurisdiction who is liable for a violation of our rules.

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<sup>198</sup> CompTIA Comments at 1-2; *see also* TIA Comments at 29 (suggesting the rule be deleted, but offering alternative options as discussed in the preceding paragraph).

<sup>199</sup> CompTIA Comments at 1-2.

<sup>200</sup> *See, e.g.*, §§ 2.909, 2.931 and 2.938.

<sup>201</sup> UPS Supply Chain Solutions Comments at 1-2; Express Association of America Comments at 2-3; National Customs Brokers & Forwarders Association of America, Inc. Comments at 2-3.

<sup>202</sup> NCBFAA Comments at 2-3; *see also* TIA Comments at 29-32, ITIC Comments at 16, and Intel Comments at 6-7 (suggesting that the importer is not always the appropriate party to hold responsible).

<sup>203</sup> *See* 47 CFR § 2.1077(a)(3), Appendix A.

<sup>204</sup> Because Customs Bonds (a type of surety bond) are required by CBP in many importation situations and because the broker/importer relationship is already contractual, customs brokers should have the wherewithal to identify and take appropriate measures to protect their interests.

(continued....)

58. In light of the concerns raised by the customs brokers, we will also continue to publish information that they can use to help evaluate whether a particular shipment is likely to implicate our Section 2.1203 requirements. The Commission has been identifying particular Harmonized Tariff Schedule (HTS) Numbers<sup>205</sup> to flag the likelihood that it will be necessary to submit FCC Form 740-related importation information.<sup>206</sup> Going forward, OET will continue to provide this information as a nonbinding guidance document listing HTS Numbers that are likely to be associated with RF devices. With this information, customs brokers can continue existing practices by which they consult the list of HTS Numbers to identify goods that may contain RF devices that are likely to be subject to FCC regulations. They will then be able to take whatever steps that they feel are necessary to ensure that there is a responsible party who has complied with our Section 2.1203 requirements.<sup>207</sup> Finally, we note that the issue of whether and how to require a U.S. presence in conjunction with certified devices remains subject to resolution in the rulemaking and we can revisit the issue of broker responsibility in conjunction with that determination.<sup>208</sup>

### 3. Increasing the number of trade show devices

59. In the *NPRM*, we proposed to modify Section 2.1204(a)(4), which allows for the importation of RF devices for demonstration purposes at a trade show, provided that those devices will not be sold or marketed, to permit the importation of up to 400 devices of any type.<sup>209</sup> The current rule allows for 200 units for devices used in licensed services (including the “licensed by rule” services) and 10 units for all other products, but also allows for the importation of a greater number of devices upon written approval from OET.<sup>210</sup> We observed that modern trade shows and conventions typically generate requests to bring in 200-300 devices for demonstration and evaluation purposes (which, in our experience, have not resulted in reports of harmful interference).<sup>211</sup> We anticipated that codifying a revised limit that better reflected current practices would reduce the administrative burden on both manufacturers and importers by eliminating requests for written approval to exceed the import limits in virtually all instances, and that eliminating the distinction by device type would be appropriate because many devices now incorporate a mix of licensed and unlicensed transmitters.<sup>212</sup> We further noted that,

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<sup>205</sup> The HTS provides the applicable tariff rates and statistical categories for all merchandise imported into the United States. <https://www.usitc.gov/tata/hts/index.htm>.

<sup>206</sup> See KDB guidance document 997198 D01 Guide Form 740 v01. It should be noted that, as electronic technology is incorporated in a variety of products (including those associated with the Internet of Things), the guidance may not identify all the products that may be subject to the Commission rules.

<sup>207</sup> Because the OET publication will be best-effort guidance and some RF devices could be associated with HTS Numbers that are not listed, brokers will still have to obtain sufficient information from their clients to ensure that they receive goods that are compliant with our rules. Reliance on the OET publication, by itself, would not guarantee that an importer or ultimate consignee, or their designated customs broker, is in compliance with the Section 2.1203 requirements and would not preclude potential enforcement action from the Commission, if such action is warranted.

<sup>208</sup> *NPRM*, 30 FCC Rcd at 7747-53, paras. 58-76.

<sup>209</sup> *Id.*, 30 FCC Rcd at 7768, para. 123.

<sup>210</sup> 47 CFR § 2.1204(a)(4)(i)-(iii).

<sup>211</sup> *NPRM*, 30 FCC Rcd at 7768, para. 123.

<sup>212</sup> *Id.* We also noted that the change would be similar to recent rule modifications that increased the number of devices that can be imported for testing and evaluation purposes prior to equipment authorization from 2000 to 4000 for devices operating in licensed services and from 200 to 4000 for devices operating in unlicensed bands. *Id.* (citing *Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission’s Rules and Streamlining Other Related Rules and 2006 Biennial Review of Telecommunications Regulations – Part 2*

(continued....)

given the use restrictions and prohibitions on sales and marketing of the trade show devices, it was unlikely that codifying the increased limit would result in an appreciable risk of these devices causing harm.<sup>213</sup>

60. All commenters addressing this proposal supported increasing the number of devices that could be imported for trade shows or other demonstration purposes.<sup>214</sup> In order to reduce the administrative burden on importers, CompTIA, TIA, and Wi-Fi Alliance agreed with our proposal to adopt a single limit for both licensed and unlicensed devices.<sup>215</sup> Still other commenters, in addition to combining the licensed and unlicensed rule provisions, suggested that we increase the permitted total to 800.<sup>216</sup>

61. We adopt the rule as proposed in the *NPRM* and will permit importation of up to 400 devices of any type for demonstration purposes at trade shows.<sup>217</sup> This increased number will reduce the administrative burdens associated with the existing rule, and is appropriate, based on our experiences with trade shows in which parties have imported and demonstrated more devices than are permitted under the existing limits. Moreover, it appears that this number will accommodate virtually all needs<sup>218</sup> while maintaining a check on the potential that too many imported trade show devices could lead to interference concerns. The option to seek written approval to import more than 400 devices will remain available under new Section 2.1204(a)(4)(ii) for any such cases that might occur.

#### 4. Excluded devices

62. Section 2.1202(a) of our rules excludes certain unintentional radiators “which utilize low level battery power and which do not contain provisions for operation while connected to AC power lines” from complying with our Subpart K importation conditions, listing several examples.<sup>219</sup> The *NPRM* proposed to remove this exclusion because many of the listed devices – which include cameras, musical greeting cards, clocks and watches, and hand-held calculators and video games – have become significantly more sophisticated since the rule was adopted in 1991.<sup>220</sup> CEA disagrees with the proposal, indicating that they found the exclusion list “helpful,” and noting that it is unaware of interference being

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*Administered by the Office of Engineering and Technology (OET), ET Docket Nos. 10-236 and 06-155, Report and Order, 28 FCC Rcd 758 (2013) (Experimental Licensing Order).*

<sup>213</sup> *NPRM*, 30 FCC Rcd at 7768, para. 123.

<sup>214</sup> See, e.g., HP Comments at 3; IBM comments at 7; CTIA Comments at 13.

<sup>215</sup> CTIA Comments at 13; TIA Comments at 33-34; Wi-Fi Alliance Comments at 13-14.

<sup>216</sup> See, e.g., CompTIA Comments at 4; Intel Comments at 11; CEA Comments at 18-19.

<sup>217</sup> Several commenters pointed out a discrepancy between the proposed rule, Section 2.1204(a)(4)(i), and the proposal as discussed in the text of the *NPRM*. *NPRM*, 30 FCC Rcd at 7768, para. 123. Specifically, the proposed rule provided for 400 “licensed” devices. *NPRM*, 30 FCC Rcd at 7794. However, the Proposed Rules Appendix did not include any edits to Section 2.1204(a)(4)(ii). That section limits “all other devices” to 20. Thus, on its face, the adopted rule change would keep separate limits for licensed and unlicensed devices. Section 2.1204 as adopted will reflect the single limit discussed above.

<sup>218</sup> In the last three years, we have received several requests for waivers of the import limitation, none of which exceeded 400 units.

<sup>219</sup> 47 CFR § 2.1202(a).

<sup>220</sup> *NPRM*, 30 FCC Rcd at 7769, para. 124.

(continued....)

caused by such devices.<sup>221</sup>

63. As a practical matter, the removal of the importation declaration requirement (FCC Form 740) relieves a significant burden, leaving this exemption with little additional benefit for importers. Still, in response to CEA's comments, we will retain the rule, but we will eliminate the list of examples from the rules. The list of examples is no longer accurately illustrative and may lead to both undue restrictions and to inappropriate exclusions. While we agree that effectively innocuous devices should be readily imported, we note that the RF device ecosystem continues to become more complex and interconnected, and today's "camera" or "watch" bears little resemblance to its simple and likely single-purpose 1991 counterpart, often including components with an interference potential greater than that which the rule anticipated when written. For example, a device that is connected to a computer, such as a "connected watch"<sup>222</sup> or camera with Bluetooth connectivity<sup>223</sup> —atypical then but commonplace today — qualifies as a computer peripheral or intentional radiator, respectively, and is not exempt.<sup>224</sup> In addition, battery technology has advanced to potentially provide much more power in the small batteries used in such devices. At the same time, we realize that importers would like to continue to import basic varieties of musical greeting cards, quartz watches, calculators, and similar devices with very low, battery-only power as easily as they have under the existing rule. Accordingly, the rule will continue to specify that the exemption applies to unintentional radiators that operate only on low level battery power. However, we will eliminate the illustrative list, as it is obsolete and potentially misleading. Inappropriate examples potentially lead to the inadvertent importation of unauthorized devices that should have equipment authorization and the unnecessary authorization of equipment for which it was not necessary. We will continue to describe the characteristics of such devices, and for guidance the OET laboratory will retain a public illustrative list of device types as non-categorical examples.<sup>225</sup>

## 5. Devices imported for personal use

64. Section 2.1204(a)(7) permits an individual to import up to three radio receivers, computers, or other RF devices defined in Part 15 as unintentional radiators, provided that the devices are intended for personal use only.<sup>226</sup> In the *NPRM*, we proposed to expand the scope of this rule to include all devices, whether or not used in conjunction with licensed service.<sup>227</sup> Commenters generally supported expanding the personal use exception and suggested that the scope of use covered by the exception be expanded to apply to devices imported for business or professional use by individuals or on

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<sup>221</sup> CEA Comments at 19. *But see* TIA Comments at 33 (while not directly asserting its support, suggesting a rule identical to the one proposed by the Commission in the *NPRM*).

<sup>222</sup> LVMH, TAG Heuer Connected Watch, the first luxury connected watch (Nov. 10, 2015), <https://www.lvmh.com/news-documents/news/tag-heuer-connected-watch-the-first-luxury-connected-watch>.

<sup>223</sup> Best Buy, <http://www.bestbuy.com/site/nikon-d3400-dslr-camera-with-af-p-dx-18-55mm-g-vr-and-70-300mm-g-ed-lenses-red/5580130.p?skuId=5580130&ref=199&loc=zhehdLHc0f8&acampID=1&siteID=zhehdLHc0f8-KjqXucr91PHEU6sfFxa5cQ> (last visited May 24, 2017).

<sup>224</sup> 47 CFR § 2.1202(e).

<sup>225</sup> Because, under this revised rule, importers will need to consider a device's RF characteristics and potential to cause interference instead of simply assuming it is categorically exempt, we direct the OET Lab to issue further guidance, as necessary, through the KDB.

<sup>226</sup> 47 CFR § 2.1204(a)(7).

<sup>227</sup> *NPRM*, 30 FCC Rcd at 7769, para. 125. The *NPRM* also asked if the three-device limit would still be appropriate. *Id.* We are not addressing this proposal within this decision.

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behalf of a corporation and not intended for transfer or sale.<sup>228</sup>

65. We revise Section 2.1204(a)(7) to allow an individual to import up to three devices, including those covered under the current exemption as well as intentional RF transmitters identified under our rules as client or subscriber devices,<sup>229</sup> for the individual's own<sup>230</sup> use. By limiting the expansion of the rule to encompass client or subscriber devices, we can account for modern use scenarios while still ensuring that our importation rules continue to offer adequate protection against the types of devices that are likely to lead to cases of harmful interference.<sup>231</sup>

66. We emphasize that although we are relaxing our import conditions associated with such devices, parties still bear the responsibility to ensure that subject devices are designed to, and do, operate in a manner generally consistent with our rules and that they do not cause harmful interference to other users.

#### **D. Measurement procedures**

67. We here adopt several rule modifications proposed in the NPRM that will make it easier for the Commission to keep up with changes in technology and in industry measurement standards by increasing the visibility of our Knowledge Database (KDB) which provides current guidance on accepted practice by direct reference on our rules, that will respond to the recent adoption of certain measurement procedures by ANSI ASC C63, that will streamline test procedures for manufacturers to show compliance with our technical requirements, and that will move the rules regarding measurements for composite systems from Part 15 to Part 2 of our rules to better indicate their more general applicability. Collectively, these modifications will make it easier to ensure that the devices subject to our rules are tested properly and address the evolution of how new technologies are adopted in the latest generation of devices.

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<sup>228</sup> See, e.g., CompTIA Comments at 4; see also CEA Comments at 18; ITIC Comments at 18; Intel Comments at 11; Wi-Fi Alliance Comments at 13-14; Boeing Reply Comments at 6-7.

<sup>229</sup> For devices subject to our Part 15 rules, client devices are defined in Section 15.202 as those devices "operating in a mode in which the transmissions of the device are under control of the master." 47 CFR § 15.202. Further "a device in client mode is not able to initiate a network." *Id.* For devices operating under our rules for licensed or licensed-by-rule devices, the subscriber devices would be operating under the authority of an operator who manages the network to which such a device would connect. The OET laboratory may, from time to time as required by circumstances, identify types of devices specifically included in or excluded from this exemption.

<sup>230</sup> This use of "'own' use" is intentional. The Commission has previously characterized this exemption as applying to "the importer's or consignee's own use, personal or not" of devices. *Amendment of Part 2 of the Rules Concerning the Importation of Radio Frequency Devices Capable of Causing Harmful Interference*, GN Docket No. 89-349, Notice of Proposed Rulemaking, 4 FCC Rcd 6146, 6149, para. 33 (1989). Given this clear intention, we are not inclined to begin distinguishing "personal" from "professional" use. Additionally, this rule is not to be construed to permit businesses to import or have their employees import for them unauthorized devices that would otherwise be excluded from import. *Amendment of Part 2 of the Rules Concerning the Importation of Radio Frequency Devices Capable of Causing Harmful Interference*, GN Docket No. 89-349, Report and Order, 6 FCC Rcd 3296, 3298, para. 17 (1989). To the extent that manufacturers or other businesses wish to import devices for testing or developmental purposes, Section 2.1204(a)(4) already provides an exemption and waivers can be granted where warranted. Commenters have not suggested situations, compelling or otherwise, that would warrant consideration of any other rules related to business use of unapproved devices.

<sup>231</sup> Master devices which connect and control client/subscriber devices typically operate at much higher power levels with a consequent greater potential to cause harmful interference, whereas client/subscriber devices are low-powered devices intended to operate only over very short distances.

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## 1. Streamlining and consolidating references

### a. KDB guidance

68. *Section 2.947.* As we have noted, the supplemental guidance that OET has compiled with the KDB plays an important role in fostering compliance with our equipment authorization processes.<sup>232</sup> In order to further utilize this guidance and increase our ability to keep up with the latest measurement procedures and techniques, the *NPRM* included several proposals to modify our rules to include more direct references to the KDB.<sup>233</sup> Section 2.947 of our rules sets forth the standards or measurement procedures that the Commission considers acceptable for use when compiling required compliance data.<sup>234</sup> In the *NPRM*, we proposed to modify Section 2.947(a)(3), which currently refers to “any measurement procedure acceptable to the Commission,” to specifically include a reference to the advisory information that is available in the Commission’s online KDB publications.<sup>235</sup> We also noted that devices are often required to comply with service-specific procedures described in other parts of our rules and we asked whether we should further modify Section 2.947 to acknowledge that other rule parts may specify additional measurement procedures.<sup>236</sup>

69. ASC C63 “enthusiastically supports” a specific reference to the KDB in Section 2.947 and further suggests that we provide specific KDB numbers in the rules or at “a special location on the Commission’s web site that identifies KDBs related to ASC C63 standards.”<sup>237</sup> Although it did not specifically cite the proposal to amend Section 2.947, Cisco supports utilizing the KDB for procedures wherever possible.<sup>238</sup> In the context of this proposal, while not directly mentioning KDB usage, Wi-Fi Alliance and TIA both assert that industry standards should be referenced wherever possible.<sup>239</sup> While it was not against the proposal, ITIC states “that modifying Section 2.947 to state that other rule parts may specify additional measurement procedures is not necessary but would not cause any harm.”<sup>240</sup> The TCB Council supports the reference to KDB guidance and proposed that Section 2.947 be modified to require that test reports include adequate test data to demonstrate compliance or justification acceptable to the Commission as to why test data is not required to show compliance.<sup>241</sup>

70. We are amending Section 2.947 of the rules to include references to the advisory information in the Commission’s Knowledge Database. Doing so will assist manufacturers and the public by providing a clear reference to an existing resource that provides technical guidance. We are

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<sup>232</sup> See *supra* note 8 and accompanying text. The staff guidance provided in the KDB is intended to assist the public in following Commission requirements. The guidance is not binding on the Commission and will not preclude the Commission from making a different decision in any matter that comes to its attention for resolution.

<sup>233</sup> See *NPRM*, 30 FCC Rcd at 7762-63, paras. 107-110.

<sup>234</sup> Section 2.947 provides for the acceptance of data measured in accordance with standards or measurement procedures, specifically: 1) those in bulletins or reports issued by OET; 2) those acceptable to the Commission and published by national engineering societies; or 3) any measurement procedure acceptable to the Commission. 47 CFR § 2.947(a).

<sup>235</sup> *NPRM*, 30 FCC Rcd at 7762, para. 107.

<sup>236</sup> *Id.*

<sup>237</sup> ASC C63 Comments at 2-3.

<sup>238</sup> Cisco Comments at 2-4.

<sup>239</sup> Wi-Fi Alliance Comments at 14-15 and TIA Comments at 27.

<sup>240</sup> ITIC Comments at 14-15.

<sup>241</sup> TCB Council Comments at 4.

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also adding a new provision (subsection (g)) at the suggestion of Nokia that requires test reports to contain adequate test data or sufficient justification as to why test data was not required.<sup>242</sup> We agree that this provision will help ensure consistency among submissions, particularly when a party is not submitting all possible testing data that could be performed.

71. *Parts 15 and 18.* In the *NPRM*, we also proposed to revise the sections that set forth measurement procedures for RF devices operating under the Part 15 rules<sup>243</sup> and Industrial, Scientific, and Medical (ISM) Equipment operating under the Part 18 rules<sup>244</sup> to reference advisory procedures that will be published by OET as KDB Publications, to aid parties seeking to obtain equipment authorizations employ a process they can demonstrate is suitable for the tested device.<sup>245</sup> We expressed our belief that this change would allow us to clarify such procedures that may not be adequately addressed in referenced measurement standards but do not need to be specifically detailed in our rules.<sup>246</sup> We sought comment on the proposal and asked whether further consolidating these rules to simply cross-reference Section 2.947 would be appropriate.<sup>247</sup>

72. No commenters directly addressed our proposals to substitute KDB references for the specific measurement procedures set forth in our Part 15 and Part 18 rules. We continue to believe that modifying our rules in this manner will help provide clarity about the application of measurement standards in order to enable parties to successfully demonstrate compliance with our rules and will make it easier for staff to provide advisory guidance when appropriate situations arise. Further, as we have discussed above, commenters have been generally supportive of using the rules to direct increased attention to the guidance that the KDB can provide.<sup>248</sup> Accordingly, we are modifying section 15.32 and section 18.311 as discussed in the *NPRM* proposal.

#### **b. References to Industry standards**

73. We also proposed to revise the specific measurement procedures in Sections 15.31-15.35 in order to remove any redundancy with the ANSI C63.4-2014 and ANSI C63.10-2013 procedures that are specified by reference in Sections 15.31(a)(3) and (a)(4).<sup>249</sup> Additionally, we sought comment on whether compliance testing for devices subject to the Part 15 requirements would still be adequately addressed in the rules given these revisions and asked whether there are other ways we can further clarify and streamline the measurement procedures in our rules.

74. There was general support for our overall proposal to modify various measurement related rules found in Sections 15.31 through 15.35.<sup>250</sup> However, many commenters stated that Section 15.33(a), which specifies the frequency range over which radiated emissions measurement are to be

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<sup>242</sup> Nokia Comments at 4.

<sup>243</sup> See 47 CFR § 15.32 Test procedures for CPU boards and computer power supplies.

<sup>244</sup> See 47 CFR §§ 18.309-311. In particular, Section 18.311 provides that FCC Measurement Procedure, MP-5, “Methods of Measurement of Radio Noise Emissions from ISM Equipment,” sets forth the measurement techniques the FCC uses to determine compliance with the Part 18 technical requirements.

<sup>245</sup> *NPRM*, 30 FCC Rcd at 7763, para. 108.

<sup>246</sup> *Id.*

<sup>247</sup> *Id.*, 30 FCC Rcd at 7762-63, para.108.

<sup>248</sup> See para. 70, *supra*.

<sup>249</sup> *NPRM*, 30 FCC Rcd at 7763, para. 109. See 47 CFR § 15.31 Measurement standards, § 15.33 Frequency range of radiated measurements, and § 15.35 Measurement detector functions and bandwidth.

<sup>250</sup> See Cisco Comments at 17, TIA Comments at 27, and Wi-Fi Alliance Comments at 14.

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performed, should not be amended.<sup>251</sup> These commenters are specifically concerned that removing the specified frequency range for measurements from the rules in favor of a reference to ANSI C63.10-2013 would create ambiguity, particularly in instances where someone is relying on, as is allowed by the rules, an alternate measurement procedure or in the event that a future revision of ANSI C63.10-2013 does not include the frequency range.<sup>252</sup>

75. Persuaded by commenters, we also amend section 15.35(a) to reference ANSI C63.4-2014, clause 4, for specifications on measuring instrumentation using a CISPR-quasi peak detector function and related measurement bandwidths.<sup>253</sup> We will not make the changes to sections 2.1057 and 15.33(a) to remove the frequency range of measurement that was proposed in the *NPRM*, so that clear requirements on the specified range for frequency measurements will remain in the rules instead of relying on references in ANSI C63.10-2013.

### c. Composite systems

76. Many products now include devices that operate under multiple rules sections that have distinct authorization requirements.<sup>254</sup> The measurement procedures for the certification of these so-called “composite systems” are included in Sections 15.31(h) and 15.31(k) of the rules.<sup>255</sup> In the *NPRM* we proposed to move the provisions for composite systems to Part 2, except to retain certain specific requirements for Part 15 devices in Sections 15.31(h) and 15.31(k).<sup>256</sup> In the absence of comments, we continue to believe that shifting the provisions for composite devices to the Part 2 rules that apply to all types of devices, not just to Part 15 unlicensed devices, is appropriate, and we are modifying our rules accordingly.<sup>257</sup>

## 2. ANSI C63.26 (Compliance Testing for Licensed Radio Services)

77. In the *NPRM*, the Commission acknowledged the then-pending ANSI C63.26 standard, “American National Standard for Compliance Testing of Transmitters Used in Licensed Radio Services” and asked parties to “take the ANSI C63.26 standards development into account when drafting their comments” related to our measurement procedure proposals.<sup>258</sup> In particular, we observed that

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<sup>251</sup> TIA Comments at 27-28; Cisco Comments at 17; and ANSI ASC63 Comments at 3-4.

<sup>252</sup> *See id.*

<sup>253</sup> ITIC asked us to re-visit a previous decision in which the Commission decided not to incorporate references to CISPR 22 or CISPR 32 into our rules. *See* ITIC Comments at 15. This suggestion is beyond the scope of this proceeding and, as acknowledged by ITI, the Commission previously rejected it in a prior, now-closed, proceeding *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, *Report and Order*, ET Docket No. 13-44, 29 FCC Rcd 16335 at 16366 (2014).

<sup>254</sup> *NPRM*, 30 FCC Rcd at 7763, para. 110.

<sup>255</sup> 47 CFR § 15.31(h).

<sup>256</sup> *NPRM*, 30 FCC Rcd at 7763, para. 110.

<sup>257</sup> 47 CFR §§ 2.947(f), 15.31(h).

<sup>258</sup> *NPRM*, 30 FCC Rcd at 7763-64, para. 111. ANSI ASC C63 is a standards development organization that includes participants from wireless industry, test laboratories and regulators. *See* C63, C63® Main Committee Roster (May 20, 2017), [http://www.c63.org/documents/rosters\\_public/c63\\_members.htm](http://www.c63.org/documents/rosters_public/c63_members.htm). ANSI C63.26 was developed by ANSI ASC C63 to provide manufacturers and test laboratories with the reliable and consistent measurement procedures necessary to demonstrate that transmitters used in licensed radio services comply with the Commission’s technical requirements. It is intended to cover the procedures for testing a wide variety of licensed transmitters; including but not limited to transmitters operating under Parts 22, 24, 25, 27, 90, 95 and 101 of the FCC Rules, transmitters subject to the general procedures in Part 2 of the FCC Rules and procedures for transmitters

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references to the applicable measurement procedures in ANSI C63.26 could replace measurement procedures set forth in both the Part 2 equipment authorization rules and many of the specific licensed service rule parts.<sup>259</sup> Further, we noted that many products now incorporate both licensed and unlicensed transmitters and there could be value in providing for the same test method to be used for a device that is subject to technical requirements in different rule parts.<sup>260</sup>

78. Subsequent to the *NPRM*, OET released a Public Notice acknowledging the publication of the finally-approved standard (“ANSI C63.26-2015”) and seeking comment on modifying Section 2.910 of our rules (47 C.F.R. § 2.910) to incorporate ANSI C63.26 by reference.<sup>261</sup> In addition, the Public Notice asked commenters to address how the Commission would incorporate the standard into our existing rules, as discussed in the *NPRM*.<sup>262</sup> For example, what specific Part 2 measurement procedures would ANSI C63.26 replace, and which specific licensed service rules should be replaced with cross-references to Part 2 (and, by extension, ANSI C63.26).<sup>263</sup> In sum, the *NPRM* and Public Notice sought comment on whether there are alternatives to our proposed rules for measurement procedures that would better promote clarity and accommodate future technological developments.

79. All commenters supported incorporating ANSI C63.26 in our rules for measurements made on transmitters used in licensed services.<sup>264</sup> However, while supportive, these commenters pointed out that the current version of the standard does not cover all licensed services. Specifically, as Cisco points out, “the current version is geared to the mobile and broadband radios used in Part 22, 24, 25, 27, 90, and 95. TV broadcast systems under Part 74, high power analog land mobile services under Part 90 and other similar technologies are not addressed in the first version of the standard.”<sup>265</sup> Accordingly, commenters suggest that it would be premature to remove the measurement procedures in Part 2 and

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not covered in the FCC Rules. The standard also addresses specific topics; e.g., ERP/EIRP, average power measurements and instrumentation requirements. *See generally* See IEEE Standards Association, <https://standards.ieee.org/findstds/standard/C63.26-2015.html> (last visited May 24, 2017); C63, Status of C63@ Standards (May 23, 2017), [http://www.c63.org/documents/misc/matrix/c63\\_standards.htm#C63\\_26](http://www.c63.org/documents/misc/matrix/c63_standards.htm#C63_26).

<sup>259</sup> *NPRM*, 30 FCC Rcd at 7763-64, para. 111. We specifically noted that references to the applicable measurement procedures in ANSI C63.26 could potentially replace measurement procedures in Part 2 for RF power output, modulation characteristics, occupied bandwidth, spurious emissions at antenna terminals, field strength of spurious radiation, frequency stability, and frequency spectrum. *See id.* (citing 47 CFR §§ 2.1041, 2.1046, 2.1047, 2.1049, 2.1051, 2.1053, 2.1055, and 2.1057. Similarly, we also suggested that references to Part 2 (and, by extension, ANSI C63.26) could replace the specific measurement procedures and details that are presently contained in many of the individual service rules. *Id.*

<sup>260</sup> *Id.*

<sup>261</sup> *Comments Sought on Newly Published ANSI C63.26-2015 Standard in Conjunction With Ongoing Equipment Authorization Rulemaking Proceeding*, DA 16-348, Public Notice, 31 FCC Rcd 2314, 81 FR 23267 (OET 2016) (*ANSI C63.26-2015 Public Notice*). ANSI C63.26 was recently published and is now an “active standard” – that is, the standards association considers it to be valid, current, and approved. *See* IEEE Standards Association, <https://standards.ieee.org/findstds/standard/C63.26-2015.html> (last visited May 24, 2017).

<sup>262</sup> *ANSI C63.26-2015 Public Notice*. If the Commission were to adopt ANSI C63.26, it would replace many of the current Knowledge Database (KDB) publications that have addressed numerous device measurement issues in more of a case-by-case fashion.

<sup>263</sup> *Id.*

<sup>264</sup> TCB Council Public Notice Comments at 2-3; Nokia Public Notice Comments at 2; Cisco Public Notice Comments at 3-4; Wi-Fi Alliance Comments at 1-2; ANSI ASC C-63 Comments at 5.

<sup>265</sup> Cisco Public Notice Comments at 3-4. *See also* TCB Council Public Notice Comments at 3-2 and Nokia Public Notice Comments at 3-6.

(continued....)

elsewhere before these other services are addressed by the standard.<sup>266</sup> Additionally ANSI ASC C63 suggests that we implement an 18-month transition period for the new standard in order to allow test labs to incorporate the standard into the scope of their accreditation.<sup>267</sup> Finally, Cohen Dippel and Everist expressed concerns about the availability of the standard and whether the Commission would be relying on a standard that is not in the public domain and available only at a cost to the user.<sup>268</sup>

80. We will amend section 2.910(c) and section 2.1041 to include ANSI C63.26-2015 as an acceptable measurement procedure for equipment that operates in authorized radio services covered by the measurement standard, where measurements are required in sections 2.1046, 2.1047, 2.1049, 2.1051, 2.1053, 2.1055, and 2.1057.<sup>269</sup> This standard is in the public domain; although available at a cost, use of ANSI standards is long-standing Commission practice. We observe that Section 2.947 provides a number of options that can be considered in selecting a measurement procedure to be used for demonstrating compliance. We agree with the comments that the ANSI standard does not cover all of the license services and will retain the additional procedures in the current rules as well. While Cisco proposed an 18-month transition period to permit test laboratories to expand the scope of their accreditation,<sup>270</sup> we have consistently used a two-year transition for expanding scope for accredited testing laboratories pursuant to new rules, as this parallels the reexamination cycle of the accrediting bodies.<sup>271</sup> We provide here that accredited laboratories may test to the ANSI C63.26 standards for up to two years from the date of adoption of this Order without an explicit expansion of their scope by an accrediting body.<sup>272</sup>

#### IV. PROCEDURAL MATTERS

##### A. Final Regulatory Flexibility Analysis

81. As required by section 604 of the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 604, the Commission has prepared a Final Regulatory Flexibility Analysis of the possible economic impact on small entities of the policies and rules adopted in this Report and Order. This Final Regulatory Flexibility Analysis is set forth in Appendix B.

##### B. Paperwork Reduction Act

82. This Report and Order contains new information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. The Commission will publish a separate notice in the Federal Register inviting comment on the new information collection requirements adopted herein. The requirements will not go into effect until OMB has approved it and the Commission has published a notice announcing the effective date of the information collection requirements.

83. In this present document, we have assessed the effects of our existing equipment authorization procedures (certification, verification, and Declaration of Conformity (DoC)). The

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<sup>266</sup> See, e.g., Cisco Public Notice Comments at 3-4, Apple Reply Comments at 4.

<sup>267</sup> ANSI ASC C63 Comments at 6.

<sup>268</sup> Cohen, Dippel and Everist Comments at 2-3.

<sup>269</sup> We will, of course, continue to accept measurement procedures identified in the KDB.

<sup>270</sup> Cisco Comments at 18.

<sup>271</sup> 47 CFR § 2.947(a).

<sup>272</sup> While Nokia and the TCB Council suggested revisions to multiple rule parts, the modifications adopted here effectively accommodate their concerns by revising sections 2.910 and 2.1041.

Commission establishes a new device approval process, Supplier's Declaration of Conformity (SDoC). SDoC combines elements of verification and DoC into a single approval process that can be used for equipment that has a strong record of compliance and for which there is minimal risk of causing harmful interference. We recognize our increased comfort with the approval procedures for such devices by streamlining these procedures. In doing so, we eliminate elements of our rules that serve to increase compliance costs and that provide benefits that are of only marginal utility. Finally, we find that, our actions will minimize the compliance costs borne by small entities by, for example, eliminating the mandate to use accredited laboratories that is currently associated with the DoC rules and removing the requirement to display the FCC logo on the equipment identification label. By not requiring parties to engage in such practices, we will not unnecessarily burden small entities that no longer wish to retain such practices. However, we will continue to permit parties to continue to engage if these practices if they find it useful to do so.

### C. Congressional Review Act

84. The Commission will send a copy of the *Equipment Authorization First R&O*, to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

### V. ORDERING CLAUSES

85. IT IS ORDERED that pursuant to Sections 1, 4(i), 7(a), 301, 303(f), 303(g), 303(r), 307(e), 332, and 720 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 157(a), 301, 303(f), 303(g), 303(r), 307(e), 332, 622, and Sections 0.31(g), 0.31(i), and 0.31(j) of the Commission's rules, 47 C.F.R. §§ 0.31(g), 0.31(i), 0.31(j), this Report and Order IS ADOPTED.

86. IT IS FURTHER ORDERED that the rules and requirements adopted herein WILL BECOME EFFECTIVE upon publication in the Federal Register with the exception of those rules that contain new or modified information collection requirements that require review by the OMB under the PRA, which WILL BECOME EFFECTIVE after OMB review and approval, on the effective date specified in a notice that the Commission will publish in the Federal Register announcing such approval and effective date.

87. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this First Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

**APPENDIX A****Final Rules**

Parts 2, 15, 18, 73, 74, 78, 80, 87, 90, and 101 of Title 47 of the Code of Federal Regulations are amended as follows:

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

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

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

2. Section 2.803 is revised by amending paragraph (b)(2) to read as follows:

**§ 2.803 Marketing of radio frequency devices prior to equipment authorization.**

\* \* \*

(b)(2) For devices subject to authorization under Supplier's Declaration of Conformity in accordance with the rules in subpart J of this chapter, the device complies with all applicable technical, labeling, identification and administrative requirements; or

\* \* \*

3. 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 authorized under Supplier's Declaration of Conformity or receive a grant of certification from a Telecommunication Certification Body.

(b) Sections 2.906 through 2.1077 describe the procedure for a Supplier's Declaration of Conformity and the procedures to be followed in obtaining certification and the conditions attendant to such a grant.

4. Section 2.902 is removed.

**§ 2.902 Verification.**

[Removed.]

5. Section 2.906 is revised to read as follows:

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

(a) Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in

§ 2.909, makes measurements or completes other procedures found acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards. Submittal to the Commission of a sample unit or representative data demonstrating compliance is not required unless specifically requested pursuant to § 2.945.

(b) Supplier's Declaration of Conformity is applicable to all items subsequently marketed by the manufacturer, importer, or the responsible party that are identical, as defined in § 2.908, to the sample tested and found acceptable by the manufacturer.

(c) The responsible party may, if it desires, apply for Certification of a device subject to the Supplier's Declaration of Conformity. In such cases, all rules governing certification will apply to that device.

6. Section 2.909 is revised to read as follows:

**§ 2.909 Responsible Party.**

(a) In the case of equipment that requires the issuance of a grant of certification, the party to whom that grant of certification is issued is responsible for the compliance of the equipment with the applicable standards. 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.

(b) For equipment subject to Supplier's Declaration of Conformity the party responsible for the compliance of the equipment with the applicable standards, who must be located in the United States (see § 2.1077), is set forth as follows:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under Supplier's Declaration of Conformity, the assembler.

(2) If the equipment by itself, or, a system is assembled from individual parts and the resulting system is subject to Supplier's Declaration of Conformity and that equipment or system is imported, the importer.

(3) Retailers or original equipment manufacturers may enter into an agreement with the responsible party designated in paragraph (b)(1) or (b)(2) of this section to assume the responsibilities to ensure compliance of equipment and become the new responsible party.

(4) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(c) If the end product or equipment is subject to both certification and Supplier's Declaration of Conformity (*i.e.*, composite system), all the requirements of paragraphs (a) and (b) apply.

(d) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labeled, following the specifications in § 2.925(d), with the following: "This product has been modified by [insert name, address and telephone number or internet contact information of the party performing the modifications]."

7. Section 2.910 is amended by revising paragraphs (c) to read as follows:

**§ 2.910 Incorporation by reference.**



\* \* \* \* \*

(c) Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108, 1-800-699-9277, <http://www.techstreet.com/ieee>; (IEEE publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation ([www.nssn.org](http://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).

(3) ANSI C63.26-2015, “American National Standard of Procedures for Compliance Testing of Transmitters Used in Licensed Radio Services”, ANSI approved December 11, 2015, IBR approved for § 2.1041.

8. Section 2.925 is revised by amending paragraphs (a) , (b), (f) and deleting paragraph (g) to read as follows:

**§ 2.925 Identification of equipment.**

(a) Each equipment covered in an application for equipment authorization shall bear a label listing the following:

\* \* \*

(3) The information required may be provided electronically pursuant to § 2.935

(b) Any device subject to more than one equipment authorization procedure may be assigned a single FCC Identifier. However, a single FCC Identifier is required to be assigned to any device consisting of two or more sections assembled in a common enclosure, on a common chassis or circuit board, and with common frequency controlling circuits. Devices to which a single FCC Identifier has been assigned shall be identified pursuant to paragraph (a) of this section.

(1) Separate FCC Identifiers may be assigned to a device consisting of two or more sections assembled in a common enclosure, but constructed on separate sub-units or circuit boards with independent frequency controlling circuits. The FCC Identifier assigned to any transmitter section shall be preceded by the term *TX FCC ID*, the FCC Identifier assigned to any receiver section shall be preceded by the term *RX FCC ID* and the identifier assigned to any remaining section(s) shall be preceded by the term *FCC ID*.

(2) Where terminal equipment subject to part 68 of this chapter, and a radiofrequency device subject to equipment authorization requirements are assembled in a common enclosure, the device shall be labeled in accordance with the Hearing Aid Compatibility-related requirements in part 68 of this chapter and the

requirements published by the Administrative Council for Terminal Attachments, and shall also display the FCC Identifier in the format specified in paragraph (a) of this section.

(3) For a transceiver, the receiver portion of which is subject to Supplier's Declaration of Conformity pursuant to § 15.101 of this chapter, and the transmitter portion is subject to certification, the FCC Identifier required for the transmitter portion shall be preceded by the term FCC ID.

\* \* \*

(f) The FCC Identifier including the term "*FCC ID*" shall be in a size of type large enough to be readily legible, consistent with the dimensions of the equipment and its label. However, the type size for the FCC Identifier is not required to be larger than eight-point. If a device is so small that it is impractical to label it with the FCC Identifier in a font that is four-point or larger, and the device does not have a display that can show electronic labeling, then the FCC Identifier shall be placed in the user manual and must also either be placed on the device packaging or on a removable label attached to the device.

(g) [Removed.]

9. Section 2.926 is amended by revising paragraph (e) to read as follows:

**§ 2.926 FCC identifier**

\* \* \* \* \*

(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 receiver subject to Suppliers Declaration of Conformity pursuant to § 15.101 of this chapter, provided that the transmitter portion of such transceiver is covered by a valid grant of 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. Labeling of such equipment may include model or type numbers, but shall not include a purported FCC Identifier.

10. The heading preceding Section 2.927 is removed:

**Conditions Attendant to an Equipment Certification**

[Removed.]

11. Section 2.927 is amended by revising paragraph (a) to read as follows:

**§ 2.927 Limitations on grants.**

(a) A grant of certification is valid only when the device is labeled in accordance with § 2.925 of this subpart and remains effective until set aside, revoked or withdrawn, rescinded, surrendered, or a termination date is otherwise established by the Commission.

\* \* \* \* \*

12. Section 2.931 is revised to read as follows:

**§ 2.931 Responsibilities.**

(a) The responsible party warrants that each unit of equipment marketed under its grant of certification and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) filed with the application for certification continues to be representative of the equipment being produced under such grant within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) [Reserved.]

(c) [Reserved.]

(d) In determining compliance for devices subject to Supplier's Declaration of Conformity, the responsible party warrants that each unit of equipment marketed under Supplier's Declaration of Conformity will be identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party continue to reflect the equipment being produced under such Supplier's Declaration of Conformity within the variation that can be expected due to quantity production and testing on a statistical basis.

(e) For equipment subject to Supplier's Declaration of Conformity, the responsible party must reevaluate the equipment if any modification or change adversely affects the emanation characteristics of the modified equipment. The responsible party bears responsibility for continued compliance of subsequently produced equipment.

13. A new Section 2.935 is added as follows:

**§ 2.935 Electronic labeling of radiofrequency devices.**

(a) Any radiofrequency device equipped with an integrated electronic display screen, or a radiofrequency device without an integrated screen that can only operate in conjunction with a device that has an electronic display screen, may display on the electronic display the FCC Identifier, any warning statements, or other information that the Commission's rules would otherwise require to be shown on a physical label attached to the device.

(b) Devices displaying their FCC Identifier, warning statements, or other information electronically must make this information readily accessible on the electronic display. Users must be provided with prominent instructions on how to access the information in the operating instructions, inserts in packaging material, or other easily accessible format at the time of purchase. The access instructions may also be provided via the product-related website, the packaging material provides specific instructions on how to locate the information, and a copy of these instructions must be included in the application for equipment certification.

(c) Devices displaying their FCC Identifier, warning statements, or other information electronically must permit access to the information without requiring special codes, accessories or permissions and the access to this information must not require more than three steps from the device setting menu. The number of steps does not include those steps for use of screen locks, passcodes or similar security protection designed to control overall device access.

(d) The electronically displayed FCC Identifier, warning statements, or other information must be

displayed electronically in a manner that is clearly legible without the aid of magnification;

(e) The necessary label information must be programmed by the responsible party and must be secured in such a manner that third-parties cannot modify it.

(f) Devices displaying their FCC Identifier, warning statements, or other information electronically must also be labeled, either on the device or its packaging, with the FCC Identifier or other information (such as a model number and identification of a webpage that hosts the relevant regulatory information) that permits the devices to be identified at the time of importation, marketing, and sales as complying with the FCC's equipment authorization requirements. Devices can be labeled with a stick-on label, printing on the packaging, a label on a protective bag, or by similar means. Any removable label shall be of a type intended to survive normal shipping and handling and must only be removed by the customer after purchase.

14. Section 2.938 is revised to read as follows:

**§ 2.938 Retention of records.**

(a) For equipment subject to the equipment authorization procedures in this part, the responsible party shall maintain the records listed as follows:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the standards and the requirements of § 2.931.

(2) A record of the procedures used for production inspection and testing to ensure conformance with the standards and the requirements of § 2.931.

(3) A record of the test results that demonstrate compliance with the appropriate regulations in this chapter.

(b) For equipment subject to Supplier's Declaration of Conformity, the responsible party shall, in addition to the requirements in paragraph (a), maintain a record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations in this chapter. The record shall:

(1) Indicate the actual date all testing was performed;

(2) State the name of the test laboratory, company, or individual performing the testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the tests;

(3) Contain a description of how the device was actually tested, identifying the measurement procedure and test equipment that was used;

(4) Contain a description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT;

(5) Identify the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number;

(6) Indicate the types and lengths of connecting cables used and how they were arranged or moved during testing;

(7) Contain at least two drawings or photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These drawings or photographs must show enough detail to confirm other information contained in the test report. Any photographs used must clearly show the test configuration used;

(8) List all modifications, if any, made to the EUT by the testing company or individual to achieve compliance with the regulations in this chapter;

(9) Include all of the data required to show compliance with the appropriate regulations in this chapter;

(10) Contain, on the test report, the signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in § 2.909; and

(11) A copy of the compliance information, as described in § 2.1077, required to be provided with the equipment.

(c) The provisions of paragraph (a) of this section shall also apply to a manufacturer of equipment produced under an agreement with the original responsible party. The retention of the records by the manufacturer under these circumstances shall satisfy the grantee's responsibility under paragraph (a) of this section.

(d) For equipment subject to more than one equipment authorization procedure, the responsible party must retain the records required under all applicable provisions of this section.

(e) For equipment subject to rules that include a transition period, the records must indicate the particular transition provisions that were in effect when the equipment was determined to be compliant.

(f) For equipment subject to certification, records shall be retained for a one year period after the marketing of the associated equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party (or, under paragraph (c) of this section, the manufacturer) is officially notified that an investigation or any other administrative proceeding involving its equipment has been instituted. For all other records kept pursuant to this section, a two-year period shall apply.

(g) If radio frequency equipment is modified by any party other than the original responsible party, and that party is not working under the authorization of the original responsible party, the party performing the modifications is not required to obtain the original design drawings specified in paragraph (a)(1) of this section. However, the party performing the modifications must maintain records showing the changes made to the equipment along with the records required in paragraphs (a)(3) of this section. A new equipment authorization may also be required.

15. Section 2.945 is revised by amending paragraphs (b)(1) and (c) to read as follows:

**§ 2.945 Submission of equipment for testing and equipment records.**

\* \* \*

(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 Supplier's 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.

\* \* \* \*

(c) *Submission of records.* Upon request by the Commission, each responsible party shall submit copies of the records required by §2.938 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.

\* \* \* \* \*

16. Section 2.947 is amended to read as follows:

**§ 2.947 Measurement procedure.**

(a) \* \* \*

(3) Any measurement procedure acceptable to the Commission may be used to prepare data demonstrating compliance with the requirements of this chapter. Advisory information regarding measurement procedures can be found in the Commission's Knowledge Database, which is available at [www.fcc.gov/labhelp](http://www.fcc.gov/labhelp).

\* \* \* \* \*

(c) In the case of equipment requiring measurement procedures not specified in the references set forth in paragraphs (a) (1), (2) and (3) of this section, the applicant shall submit a detailed description of the measurement procedures actually used.

\* \* \* \* \*

(f) A composite system is a system that incorporates different devices contained either in a single enclosure or in separate enclosures connected by wire or cable. If the individual devices in a composite system are subject to different technical standards, each such device must comply with its specific standards. In no event may the measured emissions of the composite system exceed the highest level permitted for an individual component. Testing for compliance with the different standards shall be performed with all of the devices in the system functioning. If the composite system incorporates more than one antenna or other radiating source and these radiating sources are designed to emit at the same time, measurements of conducted and radiated emissions shall be performed with all radiating sources that are to be employed emitting.

(g) For each technical requirement in this Chapter, the test report shall provide adequate test data to demonstrate compliance for the requirement, or in absence of test data, justification acceptable to the Commission as to why test data is not required.

17. Section 2.948 is revised by amending paragraphs (a), (b) and (e) to read as follows:

**§ 2.948 Measurement facilities.**

(a) Equipment authorized under the certification 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 procedure Supplier’s Declaration of Conformity shall compile a description of the measurement facilities employed.

\* \* \*

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

(i) The party responsible for authorization of the 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 authorization 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 authorized 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.

\* \* \* \* \*

(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 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.

\* \* \* \* \*

18. Section 2.950 is amended by adding paragraphs (i) and (j) as follows

**§ 2.950 Transition Periods**

\* \* \* \* \*

(i) Radio frequency devices that would have been considered eligible for authorization under either the verification or Declaration of Conformity procedures that were in effect prior to [effective date of order] may continue to be authorized until [one year from the effective date of the order] under the appropriate procedure in accordance with the requirements that were in effect immediately prior to [effective date of order].

(j) All radio frequency devices that were authorized under the verification or Declaration of Conformity

procedures prior to [effective date of order] must continue to meet all requirements associated with the applicable procedure that were in effect immediately prior to [effective date of order]. If any changes are made to such devices after [one year from effective date of order], the requirements associated with the Supplier's Declaration of Conformity will apply.

19. The heading preceding Section 2.951 is removed.

#### **Verification**

[Removed.]

20. Section 2.951 is removed.

#### **§ 2.951 Cross reference.**

[Removed.]

21. Section 2.952 is removed.

#### **§ 2.952 Limitation on verification.**

[Removed.]

22. Section 2.953 is removed.

#### **§ 2.953 Responsibility for compliance.**

[Removed.]

23. Section 2.954 is removed.

#### **§ 2.954 Identification.**

[Removed.]

24. Section 2.955 is removed.

#### **§ 2.955 Retention of records.**

[Removed.]

25. Section 2.1041 is amended to read as follows:

#### **§ 2.1041 Measurement procedure.**

(a) For equipment operating under parts 15 and 18, the measurement procedures are specified in the rules governing the particular device for which certification is requested.

(b) For equipment operating in the authorized radio services, measurements are required as specified in §§ 2.1046, 2.1047, 2.1049, 2.1051, 2.1053, 2.1055 and 2.1057. The measurement procedures in ANSI C63.26-2015 (incorporated by reference, see § 2.910) are acceptable for performing compliance measurements for equipment types covered by the measurement standard. See also § 2.947 for acceptable measurement procedures.

26. The heading preceding Section 2.1071 is revised to read as follows:

#### **Supplier's Declaration of Conformity**



27. Section 2.1071 is revised to read as follows:

**§ 2.1071 Cross reference.**

The general provisions of this subpart shall apply to equipment subject to Supplier's Declaration of Conformity.

28. Section 2.1072 is revised to read as follows:

**§ 2.1072 Limitation on Supplier's Declaration of Conformity.**

(a) Supplier's Declaration of Conformity signifies that the responsible party, as defined in § 2.909, has determined that the equipment has been shown to comply with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards shall not be construed to be a finding by the responsible party with respect to matters not encompassed by the Commission's rules.

(b) Supplier's Declaration of Conformity by responsible party, as defined in § 2.909, is effective until a termination date is otherwise established by the Commission.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to Supplier's Declaration of Conformity in a deceptive or misleading manner or convey the impression that such Supplier's Declaration of Conformity reflects more than a determination by the manufacturer, importer, integrator, or responsible party, as defined in § 2.909, that the device or product has been shown to be capable of complying with the applicable technical standards of the Commission's rules.

29. Section 2.1073 is removed

**§ 2.1073 Responsibilities.**

[Removed.]

30. Section 2.1074 is revised to read as follows:

**§ 2.1074 Identification.**

(a) Devices subject only to Supplier's Declaration of Conformity shall be uniquely identified by the party responsible for marketing or importing the equipment within the United States. However, the identification shall not be of a format which could be confused with the FCC Identifier required on certified equipment. The responsible party shall maintain adequate identification records to facilitate positive identification for each device.

(b) Devices subject to authorization under Supplier's Declaration of Conformity may be labeled with the following logo on a voluntary basis as a visual indication that the product complies with the applicable FCC requirements. The use of the logo on the device does not alleviate the requirement to provide the compliance information required by § 2.1077 of this subpart.



31. Section 2.1075 is removed.

**§ 2.1075 Retention of records.**

[Removed.]

32. Section 2.1077 is revised to read as follows:

**§ 2.1077 Compliance information.**

(a) If a product must be tested and authorized under Supplier's Declaration of Conformity, a compliance information statement shall be supplied with the product at the time of marketing or importation, containing the following information:

(1) Identification of the product, *e.g.*, name and model number;

(2) A compliance statement as applicable, *e.g.*, for devices subject to part 15 of this chapter as specified in § 15.19(a)(3), that the product complies with the rules; and

(3) The identification, by name, address and telephone number or internet contact information, of the responsible party, as defined in § 2.909. The responsible party for Supplier's Declaration of Conformity must be located within the United States.

(b) If a product is assembled from modular components (*e.g.*, enclosures, power supplies and CPU boards) that, by themselves, are authorized under a Supplier's Declaration of Conformity and/or a grant of certification, and the assembled product is also subject to authorization under Supplier's Declaration of Conformity but, in accordance with the applicable regulations, does not require additional testing, the product shall be supplied, at the time of marketing or importation, with a compliance information statement containing the following information:

(1) Identification of the assembled product, *e.g.*, name and model number.

(2) Identification of the modular components used in the assembly. A modular component authorized under Supplier's Declaration of Conformity shall be identified as specified in paragraph (a)(1) of this section. A modular component authorized under a grant of certification shall be identified by name and model number (if applicable) along with the FCC Identifier number.

(3) A statement that the product complies with part 15 of this chapter.

(4) The identification, by name, address and telephone number or internet contact information, of the responsible party who assembled the product from modular components, as defined in § 2.909. The responsible party for Supplier's Declaration of Conformity must be located within the United States.

(5) Copies of the compliance information statements for each modular component used in the system that is authorized under Supplier's Declaration of Conformity.

(c) The compliance information statement shall be included in the user's manual or as a separate sheet. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form. The information may be provided electronically as permitted in § 2.935.

33. Section 2.1201 is amended by revising paragraph (b) to read as follows:

**§ 2.1201 Purpose.**

\* \* \* \* \*

(b) The rules in this subpart set out the conditions under which radio frequency devices as defined in § 2.801 that are capable of causing harmful interference to radio communications may be imported into the U.S.A.

\* \* \* \* \*

34. Section 2.1202 is revised to read as follows:

**§ 2.1202 Exclusions.**

The provisions of this subpart do not apply to the importation of:

- (a) Unintentional radiators that are exempted from technical standards and other requirements as specified in § 15.103 of this chapter or utilize low level battery power and that do not contain provisions for operation while connected to AC power lines.
- (b) Radio frequency devices manufactured and assembled in the U.S.A. that meet applicable FCC technical standards and that have not been modified or received further assembly.
- (c) Radio frequency devices previously properly imported that have been exported for repair and re-imported for use.
- (d) Subassemblies, parts, or components of radio frequency devices unless they constitute an essentially completed device which requires only the addition of cabinets, knobs, speakers, or similar minor attachments before marketing or use. This exclusion does not apply to computer circuit boards that are actually peripheral devices as defined in § 15.3(r) of this chapter and all devices that, by themselves, are subject to FCC marketing rules.

35. Section 2.1203 is revised to read as follows:

**§ 2.1203 General requirement for entry into the U.S.A.**

- (a) No radio frequency device may be imported into the Customs territory of the United States unless the importer or ultimate consignee, or their designated customs broker, determines that the device meets one of the conditions for entry set out in this section.
- (b) Failure to satisfy at least one of the entry conditions for importation of radio frequency devices may result in refused entry, refused withdrawal for consumption, required redelivery to the Customs port, and other administrative, civil and criminal remedies provided by law.
- (c) Whoever makes a determination pursuant to § 2.1203(a) must provide, upon request made within one year of the date of entry, documentation on how an imported radio frequency device was determined to be in compliance with Commission requirements.

36. Section 2.1204 is amended by revising paragraph (a)(4) and (a)(7) to read as follows:

**§ 2.1204 Import conditions.**

(a) \* \* \*

\* \* \* \* \*

(4) \* \* \*

(i) 400 or fewer devices.

(ii) Prior to importation of a greater number of units than shown above, written approval must be obtained from the Chief, Office of Engineering and Technology, FCC.

(iii) Distinctly different models of a product and separate generations of a particular model under development are considered to be separate devices.

\* \* \* \* \*

(7) Three or fewer radio frequency devices are being imported for the individual's personal use and are not intended for sale. Unless exempted otherwise in this chapter, the permitted devices must be from one or more of the following categories:

(i) Unintentional radiator as defined in part 15 which may include radio receivers, computers or other Class B digital devices in part 15.

(ii) Consumer ISM equipment as defined in part 18.

(iii) Intentional radiators subject to part 15 rules only if they can be used in client modes as specified in § 15.202.

(iv) Transmitters operating under rules which require a station license as subscribers permitted under § 1.903 and operated under the authority of an operator license issued by the Commission.

\* \* \* \* \*

37. Section 2.1205 is removed.

**§ 2.1205 Filing of required declaration.**

[Removed.]

**PART 15—RADIO FREQUENCY DEVICES**

38. 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.

39. Section 15.1 is amended by revising paragraph (c) to read as follows:

**§ 15.1 Scope of this part.**

\* \* \* \* \*

(c) Unless specifically exempted, the operation or marketing of an intentional or unintentional radiator that is not in compliance with the administrative and technical provisions in this part, including prior equipment authorization, as appropriate, is prohibited under section 302 of the Communications Act of 1934, as amended, and subpart I of part 2 of this chapter. The equipment authorization procedures are detailed in subpart J of part 2 of this chapter.

40. Section 15.19 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 15.19 Labeling requirements.**

(a) In addition to the requirements in part 2 of this chapter, a device subject to certification, or Supplier's Declaration of Conformity shall be labeled as follows:

(1) Receivers associated with the operation of a licensed radio service, *e.g.*, FM broadcast under part 73 of this chapter, land mobile operation under part 90, etc., shall bear the following statement in a conspicuous location on the device:

*This device complies with part 15 of the FCC Rules. Operation is subject to the condition that this device does not cause harmful interference.*

(2) A stand-alone cable input selector switch, shall bear the following statement in a conspicuous location on the device:

*This device complies with part 15 of the FCC Rules for use with cable television service.*

(3) All other devices shall bear the following statement in a conspicuous location on the device:

*This device complies with part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation.*

(4) Where a device is constructed in two or more sections connected by wires and marketed together, the statement specified under paragraph (a) of this section is required to be affixed only to the main control unit.

(5) When the device is so small or for such use that it is impracticable to label it with the statement specified under paragraph (a) of this section in a font that is four-point or larger, and the device does not have a display that can show electronic labeling, then the information required by this paragraph shall be placed in the user manual and must also either be placed on the device packaging or on a removable label attached to the device.

(b) [Reserved.]

41. Section 15.25 is amended by revising paragraphs (b) and (c) to read as follows:

**§ 15.25 Kits.**

\* \* \* \* \*

(b) At least two units of the kit shall be assembled in exact accordance with the instructions supplied with the product to be marketed. If all components required to fully complete the kit (other than those specified in paragraph (a) of this section that are needed for compliance with the technical provisions and must be included with the kit) are not normally furnished with the kit, assembly shall be made using the recommended components. The assembled units shall be certified or authorized under Supplier's Declaration of Conformity, as appropriate, pursuant to the requirements of this part.

- (1) The measurement data required for a TV interface device subject to certification shall be obtained for each of the two units and submitted with an application for certification pursuant to subpart J of part 2 of this chapter.
- (2) The measurement data required for a TV interface device subject to Supplier's Declaration of Conformity shall be obtained for the units tested and retained on file pursuant to the provisions of subpart J of part 2 of this chapter.
- (c) A copy of the exact instructions that will be provided for assembly of the device shall be submitted with an application for certification. Those parts that are not normally furnished shall be detailed in the application for certification.

\* \* \* \*

42. Section 15.27 is amended by revising paragraph (a) to read as follows:

**§ 15.27 Special accessories.**

(a) Equipment marketed to a consumer must be capable of complying with the necessary regulations in the configuration in which the equipment is marketed. Where special accessories, such as shielded cables and/or special connectors, are required to enable an unintentional or intentional radiator to comply with the emission limits in this part, the equipment must be marketed with, *i.e.*, shipped and sold with, those special accessories. However, in lieu of shipping or packaging the special accessories with the unintentional or intentional radiator, the responsible party may employ other methods of ensuring that the special accessories are provided to the consumer, without additional charge, at the time of purchase. Information detailing any alternative method used to supply the special accessories shall be included in the application for a grant of equipment authorization or retained in the Supplier's Declaration of Conformity records, as appropriate. The party responsible for the equipment, as detailed in §2.909 of this chapter, shall ensure that these special accessories are provided with the equipment. The instruction manual for such devices shall include appropriate instructions on the first page of the text concerned with the installation of the device that these special accessories must be used with the device. It is the responsibility of the user to use the needed special accessories supplied with the equipment. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

\* \* \* \* \*

43. Section 15.29 (d) is amended as follows:

**§ 15.29 Inspection by the Commission.**

(d) The Commission, from time to time, may request the party responsible for compliance, including an importer, to submit to the FCC Laboratory in Columbia, Maryland, various equipment to determine that the equipment continues to comply with the applicable standards. Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party. Testing by the Commission will be performed using the measurement procedure(s) that was in effect at the time the equipment was authorized.

44. Section 15.31 is amended by adding a note to paragraph (a)(4) and revising paragraphs (b), (d), (f)(4), (h), and (k) to read as follows:

**§ 15.31 Measurement standards.**

\* \* \* \* \*

(a) \* \* \*

(4) \* \* \*

NOTE TO PARAGRAPH (a)(4): Digital devices tested to show compliance with the provisions of § 15.109(g) must be tested following the ANSI C63.4-2014 procedure described in paragraph (a)(4) of this section.

(b) All parties making compliance measurements on equipment subject to the requirements of this part are urged to use these measurement procedures. Any party using other procedures should ensure that such other procedures can be relied on to produce measurement results compatible with the FCC measurement procedures. The description of the measurement procedure used in testing the equipment for compliance and a list of the test equipment actually employed shall be made part of an application for certification or included with the data required to be retained by the party responsible for devices authorized pursuant to Supplier's Declaration of Conformity.

\* \* \* \* \*

(d) Field strength measurements shall be made, to the extent possible, on an open area test site. Test sites other than open area test sites may be employed if they are properly calibrated so that the measurement results correspond to what would be obtained from an open area test site. In the case of equipment for which measurements can be performed only at the installation site, such as perimeter protection systems, carrier current systems, and systems employing a "leaky" coaxial cable as an antenna, measurements for Supplier's Declaration of Conformity or for obtaining a grant of equipment authorization shall be performed at a minimum of three installations that can be demonstrated to be representative of typical installation sites.

\* \* \* \* \*

(f) \* \* \*

(4) The applicant for a grant of certification shall specify the extrapolation method used in the application filed with the Commission. For equipment subject to Supplier's Declaration of Conformity, this information shall be retained with the measurement data.

\* \* \* \* \*

(h) A composite system, as defined in § 2.947(f) of this chapter, that incorporates a carrier current system shall be tested as if the carrier current system were incorporated in a separate device; that is, the device shall be tested for compliance with whatever rules would apply to the device were the carrier current system not incorporated, and the carrier current system shall be tested for compliance with the rules applicable to carrier current systems.

\* \* \* \* \*

(k) Composite systems (*i.e.*, systems that incorporate different devices contained in a single enclosure or in separate enclosures connected by wire or cable) shall be measured for compliance with the technical standards of this part in accordance with the procedures in § 2.947(f) of this chapter. For digital devices that consist of a combination of Class A and Class B devices, the total combination of which results in a Class A digital device, it is only necessary to demonstrate that the equipment combination complies with the limits for a Class A device. This equipment combination may not be employed for obtaining a grant of equipment authorization or declaring compliance of a Class B digital device. However, if the digital device combination consists of a Class B central control unit, *e.g.*, a personal computer, and a Class A internal peripheral(s), it must be demonstrated that the Class B central control unit continues to comply with the limits for a Class B digital device with the Class A internal peripheral(s) installed but not active.

\* \* \* \* \*

45. Section 15.32 is amended to read as follows:

**§ 15.32 Test Procedures for CPU boards and computer power supplies.**

Power supplies and CPU boards used with personal computers and for which separate authorizations are required to be obtained shall be tested in accordance with the specific procedures published or otherwise authorized by the Commission.

46. Section 15.35 is amended to read as follows:

**§ 15.35 Measurement detector functions and bandwidths.**

The conducted and radiated emission limits shown in this part are based on the following, unless otherwise specified in this part:

(a) On any frequency or frequencies below or equal to 1000 MHz, the limits shown are based on measuring equipment employing a CISPR quasi-peak detector function and related measurement bandwidths, unless otherwise specified. The specifications for the measuring instrumentation using the CISPR quasi-peak detector can be found in ANSI C63.4-2014, clause 4. As an alternative to CISPR quasi-peak measurements, the responsible party, at its option, may demonstrate compliance with the emission limits using measuring equipment employing a peak detector function as long as the same bandwidth as indicated for CISPR quasi-peak measurements are employed.

(b) Unless otherwise specified, on any frequency or frequencies above 1000 MHz, the radiated emission limits are based on the use of measurement instrumentation employing an average detector function. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. When average radiated emission measurements are specified in this part, including average emission measurements below 1000 MHz, there also is a limit on the peak level of the radio frequency emissions. Unless otherwise specified, *e.g.*, see §§ 15.250, 15.252, 15.253(d), 15.255, 15.256, and 15.509 through 15.519 of this part, the limit on peak radio frequency emissions is 20 dB above the maximum permitted average emission limit applicable to the equipment under test. This peak limit applies to the total peak emission level radiated by the device, *e.g.*, the total peak power level. Note that the use of a pulse desensitization correction factor may be needed to determine the total peak emission level. The



instruction manual or application note for the measurement instrument should be consulted for determining pulse desensitization factors, as necessary.

(c) Unless otherwise specified, e.g., §§ 15.255(b), and 15.256(l)(5), when the radiated emission limits are expressed in terms of the average value of the emission, and pulsed operation is employed, the measurement field strength shall be determined by averaging over one complete pulse train, including blanking intervals, as long as the pulse train does not exceed 0.1 seconds. As an alternative (provided the transmitter operates for longer than 0.1 seconds) or in cases where the pulse train exceeds 0.1 seconds, the measured field strength shall be determined from the average absolute voltage during a 0.1 second interval during which the field strength is at its maximum value. The exact method of calculating the average field strength shall be submitted with any application for certification or shall be retained in the measurement data file for equipment subject to Supplier's Declaration of Conformity.

47. Section 15.37 is revised by amending paragraph (c) to read as follows:

**§ 15.37 Transition provisions for compliance with the rules.**

\* \* \* \* \*

(c) All radio frequency devices that are authorized on or after July 12, 2004 under the certification, or Supplier's Declaration of Conformity procedures (or the prior verification or declaration of conformity procedures, as applicable) shall comply with the conducted limits specified in § 15.107 or § 15.207 as appropriate. All radio frequency devices that are manufactured or imported on or after July 11, 2005 shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate. Equipment authorized, imported or manufactured prior to these dates shall comply with the conducted limits specified in § 15.107 or § 15.207, as appropriate, or with the conducted limits that were in effect immediately prior to September 9, 2002.

\* \* \* \* \*

48. Section 15.101 is amended to read as follows:

**§ 15.101 Equipment authorization of unintentional radiators.**

(a) Except as otherwise exempted in §§ 15.23, 15.103, and 15.113, unintentional radiators shall be authorized prior to the initiation of marketing, pursuant to the procedures for certification or Supplier's Declaration of Conformity (SDoC) given in Subpart J of part 2 of this chapter, as follows:

| <b>Type of Device</b>                   | <b>Equipment Authorization Required</b> |
|---|---|
| TV Broadcast Receiver                   | SDoC or Certification                   |
| FM Broadcast Receiver                   | SDoC or Certification                   |
| CB Receiver                             | SDoC or Certification                   |
| Superregenerative Receiver              | SDoC or Certification                   |
| Scanning Receiver                       | Certification                           |
| Radar Detector                          | Certification                           |
| All other receivers subject to Part 15  | SDoC or Certification                   |
| TV Interface Device                     | SDoC or Certification                   |
| Cable System Terminal Device            | SDoC or Certification                   |
| Stand-alone Cable input selector switch | SDoC or Certification                   |

|  |                       |
|--|-----------------------|
| Class B personal computers and peripherals   | SDoC or Certification |
| CPU boards and internal power supplies used with Class B personal computers        | SDoC or Certification |
| Class B personal computers assembled using authorized CPU boards or power supplies | SDoC or Certification |
| Class B external switching power supplies  | SDoC or Certification |
| Other Class B digital devices & peripherals  | SDoC or Certification |
| Class A digital devices, peripherals & external switching power supplies           | SDoC or Certification |
| Access Broadband over Power Line (Access BPL)                                      | Certification         |
| All other devices  | SDoC or Certification |

(b) Only those receivers that operate (tune) within the frequency range of 30-960 MHz, CB receivers and radar detectors are subject to the authorizations shown in paragraph (a) of this section. Receivers operating above 960 MHz or below 30 MHz, except for radar detectors and CB receivers, are exempt from complying with the technical provisions of this part but are subject to § 15.5.

(c) Personal computers shall be authorized in accordance with one of the following methods:

(1) The specific combination of CPU board, power supply and enclosure is tested together and authorized under Supplier's Declaration of Conformity or a grant of certification;

(2) The personal computer is authorized under Supplier's Declaration of Conformity or a grant of certification, and the CPU board or power supply in that computer is replaced with a CPU board or power supply that has been separately authorized under Supplier's Declaration of Conformity or a grant of certification; or

(3) The CPU board and power supply used in the assembly of a personal computer have been separately authorized under Supplier's Declaration of Conformity or a grant of certification; and

(4) Personal computers assembled using either of the methods specified in paragraphs (c)(2) or (c)(3) of this section must, by themselves, also be authorized under Supplier's Declaration of Conformity if they are marketed. However, additional testing is not required for this Supplier's Declaration of Conformity, provided the procedures in § 15.102(b) are followed.

(d) Peripheral devices, as defined in § 15.3(r), shall be authorized under Supplier's Declaration of Conformity, or a grant of certification, as appropriate, prior to marketing. Regardless of the provisions of paragraphs (a) or (c) of this section, if a CPU board, power supply, or peripheral device will always be marketed with a specific personal computer, it is not necessary to obtain a separate authorization for that product provided the specific combination of personal computer, peripheral device, CPU board and power supply has been authorized under Supplier's Declaration of Conformity or a grant of certification as a personal computer.

(1) No authorization is required for a peripheral device or a subassembly that is sold to an equipment manufacturer for further fabrication; that manufacturer is responsible for obtaining the necessary authorization prior to further marketing to a vendor or to a user.

(2) Power supplies and CPU boards that have not been separately authorized and are designed for use with personal computers may be imported and marketed only to a personal computer equipment manufacturer that has indicated, in writing, to the seller or importer that they will obtain Supplier's

Declaration of Conformity or a grant of certification for the personal computer employing these components.

(e) Subassemblies to digital devices are not subject to the technical standards in this part unless they are marketed as part of a system in which case the resulting system must comply with the applicable regulations. Subassemblies include:

(1) Devices that are enclosed solely within the enclosure housing the digital device, except for: power supplies used in personal computers; devices included under the definition of a peripheral device in § 15.3(r); and personal computer CPU boards, as defined in § 15.3(bb);

(2) CPU boards, as defined in § 15.3(bb), other than those used in personal computers, that are marketed without an enclosure or power supply; and

(3) Switching power supplies that are separately marketed and are solely for use internal to a device other than a personal computer.

49. Section 15.102 is amended by revising paragraph (b)(4) to read as follows:

**§ 15.102 CPU boards and power supplies used in personal computers**

\* \* \* \* \*

(b)(4) If the system is marketed, the resulting equipment combination is authorized under Supplier's Declaration of Conformity pursuant to § 15.101(c)(4) and a compliance information statement, as described in § 2.1077(b), is supplied with the system. Marketed systems shall also comply with the labelling requirements in §15.19 and must be supplied with the information required under §§ 15.21, 15.27 and 15.105; and

\* \* \* \* \*

50. Section 15.123 is revised by amending paragraphs (c)(3) and (c)(5)(iii) to read as follows:

**§ 15.123 Labeling of digital cable ready products.**

\* \* \*

(c)(3) Subsequent to the testing of its initial unidirectional digital cable product model, a manufacturer or importer is not required to have other models of unidirectional digital cable products tested at a qualified test facility for compliance with the procedures of Uni-Dir-PICS-I01-030903: "Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma," September 03, 2003 (incorporated by reference, see §15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in § 15.123(c)(1). The manufacturer or importer shall ensure that all subsequent models of unidirectional digital cable products comply with the procedures in the Uni-Dir-PICS-I01-030903: "Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma," September 03, 2003 (incorporated by reference, see §15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with Supplier's Declaration of Conformity requirements in part 2, subpart J of this chapter. The manufacturer or importer shall further submit documentation demonstrating compliance with the procedures in the Uni-Dir-PICS-I01-030903: "Uni-Directional Receiving Device: Conformance Checklist: PICS Proforma," September 03, 2003 (incorporated by reference, see § 15.38) to the qualified test facility.

\* \* \*

(c)(5)(iii)

(iii) Subsequent to the successful testing of its initial M-UDCP, a manufacturer or importer is not required to have other M-UDCP models tested at a qualified test facility for compliance with M-UDCP-PICS-I04-080225, "Uni-Directional Cable Product Supporting M-Card: Multiple Profiles; Conformance Checklist: PICS," February 25, 2008 (incorporated by reference, see § 15.38) unless the first model tested was not a television, in which event the first television shall be tested as provided in §15.123(c)(5)(i). The manufacturer or importer shall ensure that all subsequent models of M-UDCPs comply with M-UDCP-PICS-I04-080225, "Uni-Directional Cable Product Supporting M-Card: Multiple Profiles; Conformance Checklist: PICS," February 25, 2008 (incorporated by reference, see § 15.38) and all other applicable rules and standards. The manufacturer or importer shall maintain records indicating such compliance in accordance with Supplier's Declaration of Conformity requirements in part 2, subpart J of this chapter. For each M-UDCP model, the manufacturer or importer shall further submit documentation demonstrating compliance with M-UDCP-PICS-I04-080225, "Uni-Directional Cable Product Supporting M-Card: Multiple Profiles; Conformance Checklist: PICS," February 25, 2008 (incorporated by reference, see §15.38) to the qualified test facility.

\* \* \*

51. Section 15.201 is amended by revising paragraphs (a), (b), and (c) to read as follows:

**§ 15.201 Equipment authorization requirement.**

(a) Intentional radiators operated as carrier current systems, devices operated under the provisions of §§ 15.211, 15.213, and 15.221, and devices operating below 490 kHz in which all emissions are at least 40 dB below the limits in § 15.209 are subject to Suppliers Declaration of Conformity pursuant to the procedures in Subpart J of part 2 of this chapter prior to marketing.

(b) Except as otherwise exempted in paragraph (c) of this section and in § 15.23 of this part, all intentional radiators operating under the provisions of this part shall be certified by the Telecommunication Certification Bodies pursuant to the procedures in subpart J of part 2 of this chapter prior to marketing.

(c) For devices such as perimeter protection systems which, in accordance with § 15.31(d), are required to be measured at the installation site, each application for certification must be accompanied by a statement indicating that the system has been tested at three installations and found to comply at each installation. Until such time as certification is granted, a given installation of a system that was measured for the submission for certification will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in subpart I of part 2 of this chapter, if tests at that installation show the system to be in compliance with the relevant technical requirements. Similarly, where measurements must be performed on site for equipment subject to Supplier's Declaration of Conformity, a given installation that has been found compliant with the applicable standards will be considered to be in compliance with the provisions of this chapter, including the marketing regulations in subpart I of part 2 of this chapter.

\* \* \* \* \*

52. Section 15.615 is amended by revising paragraph (a)(4) to read as follows:

**§ 15.615 General administrative requirements.**

\* \* \* \* \*

(4) The manufacturer and type of Access BPL equipment and its associated FCC ID number, or, in the case of Access BPL equipment that has not been subject to certification in the past, the Trade Name and Model Number, as specified on the equipment label.

\* \* \* \* \*

**PART 18—INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT**

53. The authority citation for Part 18 continues to read as follows:

**Authority:** 47 U.S.C. 4, 301, 302, 303, 304, 307.

54. Section 18.203 is revised to read as follows:

**§ 18.203 Equipment Authorization.**

(a) Consumer ISM equipment, unless otherwise specified, must be authorized under either the Supplier's Declaration of Conformity or the certification procedure prior to use or marketing. An application for certification shall be filed with a Telecommunication Certification Body (TCB), pursuant to the relevant sections in part 2, subpart J of this chapter.

(b) Consumer ultrasonic equipment generating less than 500 watts and operating below 90 kHz, and non-consumer ISM equipment shall be subject to Supplier's Declaration of Conformity, in accordance with the relevant sections of part 2, subpart J of this chapter.

(c) Grants of equipment authorization issued, as well as on-site certifications performed, before March 1, 1986, remain in effect and no further action is required.

55. Section 18.209 is revised as follows:

**§ 18.209 Identification of authorized equipment.**

Each device for which a grant of equipment authorization is issued under this part shall be identified pursuant to the applicable provisions of subpart J of part 2 of this chapter.

56. Section 18.212 is revised as follows:

**§ 18.212 Compliance information.**

(a) Equipment authorized under Supplier's Declaration of Conformity procedure shall include a compliance statement that contains the information set forth in §2.1077 and a statement identical or similar to the following: *"This device complies with Part 18 of the FCC Rules."*

(b) The compliance information may be placed in the instruction manual, on a separate sheet, on the packaging, or electronically as permitted under § 2.935. There is no specific format for this information.

57. Section 18.311 is revised to read as follows:

**§ 18.311 Methods of measurement.**

The measurement techniques used to determine compliance with the technical requirements of this part are set out in FCC MP-5, "FCC Methods of Measurements of Radio Noise Emissions from Industrial, Scientific, and Medical equipment", or compliance measurements made in accordance with the specific procedures otherwise authorized by the Commission.

58. Section 73.53 is amended by revising paragraphs (a) and (b)(10) to read as follows:

**§ 73.53 Requirements for authorization of antenna monitors.**

(a) Antenna monitors shall be approved with Supplier's Declaration of Conformity that demonstrates compliance with the technical requirements in this section. The procedure for Supplier's Declaration of Conformity is specified in subpart J of part 2 of this chapter. Note: The verification procedure has been replaced by Supplier's Declaration of Conformity. Antenna monitors previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

(b) \* \* \*

(10) Complete and correct schematic diagrams and operating instructions shall be retained by the party responsible for Supplier's Declaration of Conformity of the equipment and submitted to the FCC upon request. For the purpose of equipment authorization, these diagrams and instructions shall be considered as part of the monitor.

\* \* \* \* \*

59. Section 73.1660 is amended by revising paragraphs (a), (b) and (e) to read as follows:

**§ 73.1660 Acceptability of broadcast transmitters.**

(a)(1) An AM, FM, or TV transmitter shall be approved for compliance with the requirements of this part following the Supplier's Declaration of Conformity procedures described in subpart J of part 2 of this chapter. Note: the verification procedure has been replaced by Supplier's Declaration of Conformity. AM, FM, and TV transmitters previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950(j).

(2) An LPFM transmitter shall be certified for compliance with the requirements of this part following the procedures described in part 2 of this chapter.

(b) A permittee or licensee planning to modify a transmitter which has been certified or approved with Supplier's Declaration of Conformity must follow the requirements contained in § 73.1690.

\* \* \* \* \*

(e) Additional rules covering certification and Supplier's Declaration of Conformity, modification of authorized transmitters, and withdrawal of a grant of authorization are contained in part 2 of the FCC

rules.

60. Section 73.1665 is amended by revising paragraphs (c) to read as follows:

**§ 73.1665 Main Transmitters**

\* \* \* \* \*

(c) A licensee may, without further authority or notification to the FCC, replace an existing main transmitter or install additional main transmitter(s) for use with the authorized antenna if the replacement or additional transmitter(s) has been approved with Supplier's Declaration of Conformity. Within 10 days after commencement of regular use of the replacement or additional transmitter(s), equipment performance measurements, as prescribed for the type of station are to be completed. Note: The verification procedure has been replaced by Supplier's Declaration of Conformity. Transmitters previously authorized under subpart J of the Commission's rules may remain in use. See § 2.950.

NOTE TO PARAGRAPH (c): Pending the availability of AM broadcast transmitters that are authorized for use in the 1605-1705 kHz band, transmitters that are approved or verified for use in the 535-1605 kHz band may be utilized in the 1605-1705 kHz band if it is shown that the requirements of § 73.44 have been met. Equipment authorization for the transmitter will supersede the applicability of this note.

61. Section 74.535 is amended by revising paragraphs (d) to read as follows:

**§ 74.535 Emissions and bandwidth (aural broadcast auxiliary stations)**

\* \* \* \* \*

(D) \* \* \*

(4) Stations licensed pursuant to an application filed before March 17, 2005, using equipment not conforming with the emission limitations specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal. existing equipment and equipment of product lines in production before April 16, 2003, authorized via certification or Declaration of Conformity before March 17, 2005, for equipment not conforming to the emission limitations requirements specified above, may continue to be manufactured and/or marketed, but may not be authorized for use under a station license except at stations licensed pursuant to an application filed before March 17, 2005. Any non-conforming equipment authorized under a station license, and replaced on or after March 17, 2005, must be replaced by conforming equipment. Note: the Declaration of Conformity procedure has been replaced by the Supplier's Declaration of Conformity procedure. See § 2.950.

\* \* \* \* \*

62. Section 74.550 is amended by revising paragraphs (d) to read as follows:

**§ 74.550 Equipment authorization (aural broadcast auxiliary stations)**

Each authorization for aural broadcast STL, ICR, and booster stations shall require the use of equipment which has received a grant of certification or authorized under a Supplier's Declaration of Conformity.

Equipment which has not been approved under the equipment authorization program and which was in service prior to July 1, 1993, may be retained solely for temporary uses necessary to restore or maintain regular service provided by approved equipment, because the main or primary unit has failed or requires servicing. Such temporary uses may not interfere with or impede the establishment of other aural broadcast auxiliary links and may not occur during more than 720 cumulative hours per year. Should interference occur, the licensee must take all steps necessary to eliminate it, up to and including cessation of operation of the auxiliary transmitter. All unapproved equipment retained for temporary use must have been in the possession of the licensee prior to July 1, 1993, and may not be obtained from other sources. Equipment designed exclusively for fixed operation shall be authorized under Supplier's Declaration of Conformity procedure. The equipment authorization procedures are contained in subpart J of part 2 of the rules. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

Note to § 74.550: Consistent with the note to § 74.502(a), grandfathered equipment in the 942-944 MHz band and STL/ICR users of these frequencies in Puerto Rico are also required to come into compliance by July 1, 1993. The backup provisions described above apply to these stations also.

63. Section 74.637 is amended by revising paragraphs (c)(4) to read as follows:

**§ 74.637 Emissions and emission limitations (television broadcast auxiliary stations)**

\* \* \* \* \*

(c) \* \* \*

(4) Stations licensed pursuant to an application filed before March 17, 2005, using equipment not conforming with the emission limitations specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal. Existing equipment and equipment of product lines in production before April 16, 2003, authorized via certification or Declaration of Conformity before March 17, 2005, for equipment not conforming to the emission limitations requirements specified above, may continue to be manufactured and/or marketed, but may not be authorized for use under a station license except at stations licensed pursuant to an application filed before March 17, 2005. Any non-conforming equipment authorized under a station license, and replaced on or after March 17, 2005, must be replaced by conforming equipment. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. See § 2.950.

\* \* \* \* \*

64. Section 74.655 is amended by revising paragraphs (a), (b), (d) and (f) to read as follows:

**§ 74.655 Authorization of equipment (television broadcast auxiliary stations).**

(a) Except as provided in paragraph (b) of this section, all transmitting equipment first marketed for use under this subpart or placed into service after October 1, 1981, must be authorized under the certification procedure or Declaration of Conformity procedure, as detailed in paragraph (f) of this section. Equipment which is used at a station licensed prior to October 1, 1985, which has not been authorized as detailed in paragraph (f) of this section, may continue to be used by the licensee or its successors or assignees, provided that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference. However, such equipment may not be



further marketed or reused under part 74 after October 1, 1985. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under Subpart J of Part 2 of the Commission's rules may remain in use. See § 2.950.

(b) Certification or Supplier's Declaration of Conformity is not required for transmitters used in conjunction with TV pickup stations operating with a peak output power not greater than 250 mW. Pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1980 may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

\* \* \* \* \*

(d) Any manufacturer of a transmitter to be used in this service may authorize the equipment under the certification or Supplier's Declaration of Conformity procedures, as appropriate, following the procedures set forth in subpart J of part 2 of the FCC rules.

\* \* \* \* \*

(f) Transmitters designed to be used exclusively for a TV STL station, a TV intercity relay station, a TV translator relay station, or a TV microwave booster station, shall be authorized under Supplier's Declaration of Conformity. All other transmitters will be authorized under the certification procedure.

65. Section 74.661 is amended by revising footnote 2 to read as follows:

**§ 74.661 Frequency tolerance.**

\* \* \* \* \*

*(Table Excluded)*

\* \* \*

fn2 Stations licensed pursuant to an application filed before March 17, 2005, for tolerance values exceeding those specified above, may continue to operate indefinitely in accordance with the terms of their current authorizations, subject to periodic renewal. Existing equipment and equipment of product lines in production before April 16, 2003, authorized via certification or Declaration of Conformity before March 17, 2005, for tolerance values exceeding those specified above, may continue to be manufactured and/or marketed, but may not be authorized for use under station license except at stations licensed pursuant to an application filed before March 17, 2005. Any non-conforming equipment authorized under a station license, and replaced on or after March 17, 2005, must be replaced by conforming equipment. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. See § 2.950.

66. Section 74.1250 is amended by revising paragraphs (a), and (c) to read as follows:

**§ 74.1250 Transmitters and associated equipment.**

(a) FM translator and booster transmitting apparatus, and exciters employed to provide a locally generated and modulated input signal to translator and booster equipment, used by stations authorized under the provisions of this subpart must be certified upon the request of any manufacturer of transmitters in

accordance with this section and subpart J of part 2 of this chapter. In addition, FM translator and booster stations may use FM broadcast transmitting apparatus authorized via Supplier's Declaration of Conformity or approved under the provisions of part 73 of this chapter. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.)

\* \* \* \* \*

(c) The following requirements must be met before translator, booster or exciter equipment will be certified in accordance with this section:

\* \* \* \* \*

67. Section 78.107 is amended by revising paragraphs (a) and (a)(2), to read as follows:

**§ 78.107 Equipment and installation (cable television relay service, technical regulations).**

(a) Applications for new cable television relay stations, other than fixed stations, will not be accepted unless the equipment specified therein has been certified in accordance with subpart J of part 2 of this chapter. In the case of fixed stations, the equipment must be authorized under Supplier's Declaration of Conformity for use pursuant to the provisions of this subpart. Transmitters designed for use in the 31.0 to 31.3 GHz band shall be authorized under Supplier's Declaration of Conformity. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

\* \* \*

(2) Neither certification nor Supplier's Declaration of Conformity is required for the following transmitters:

\* \* \* \* \*

68. Section 80.203 is amended by revising paragraphs (a), (f), (g), (l), and (m)(2) to read as follows:

**§ 80.203 Authorization of transmitters for licensing.**

(a) Each transmitter authorized in a station in the maritime services after September 30, 1986, except as indicated in paragraphs (g), (h) and (i) of this section, must be certified by the Commission for part 80 operations. The procedures for certification are contained in part 2 of this chapter. Transmitters of a model that have received equipment authorization before October 1, 1986 will be considered acceptable for use in ship or coast stations as appropriate.

\* \* \* \* \*

(f) Transmitters certified for single sideband suppressed carrier radiotelephone transmissions may be used for facsimile transmissions without filing for a certification modification provided the transmitters retain certification and comply with the applicable standards in this part.

(g) Manufacturers of ship earth station transmitters intended for use in the INMARSAT space segment

are subject to Supplier's Declaration of Conformity pursuant to the procedures given in subpart J of part 2 of this chapter. Such equipment must be approved in accordance with the technical requirements provided by INMARSAT and must be type approved by INMARSAT for use in the INMARSAT space segment. The ship earth station input/output parameters, the data obtained when the equipment is integrated in system configuration and the pertinent method of test procedures that are used for type approval of the station model which are essential for the compatible operation of that station in the INMARSAT space segment must be disclosed by the manufacturer upon request of the FCC. Witnessing of the type approval tests and the disclosure of the ship earth station equipment design or any other information of a proprietary nature will be at the discretion of the ship earth station manufacturer. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

\* \* \* \* \*

(l) Ship station transmitters may be certified for emissions not shown in § 80.205 of this part. However, such emissions are not authorized for use in the United States or for communications with U.S. coast stations.

(m) \* \* \*

(2) A transmitter and any internal device capable of transmitting a synthesized voice message must be certified as an integral unit.

\* \* \* \* \*

69. Section 80.1103 is amended by revising paragraphs (a, and (c) to read as follows:

**§ 80.1103 Equipment authorization (global maritime distress and safety system [GMDSS], equipment requirements for ship stations)**

(a) All equipment specified in § 80.1101 must be certified in accordance with 47 CFR part 2 specifically for GMDSS use, except for equipment used in the INMARSAT space segment which must be type-approved by INMARSAT and are subject to Supplier's Declaration of Conformity pursuant to the procedures in accordance with 47 CFR part 2 specifically for GMDSS use. The technical parameters of the equipment must conform to the performance standards as specified in § 80.1101. For emergency position-indicating radiobeacons operating on 406.0-406.1 MHz (406.0-406.1 MHz EPIRBs) that were authorized prior to April 15, 1992, and meet the requirements of § 80.1101, the manufacturer may attest by letter that the equipment (indicate FCC ID#) meets the requirements of § 80.1101 and request that it be denoted as approved for GMDSS use.

\* \* \* \* \*

(c) Applicants using Supplier's Declaration of Conformity must attest that the equipment complies with performance standards as specified in § 80.1101 and, where applicable, that measurements have been made that demonstrate the necessary compliance. Submission of representative data demonstrating compliance is not required unless requested by the Commission. An application must include the items listed in §§ 2.953 and 2.955 of this chapter and a copy of the type-approval certification indicating that equipment meets GMDSS standards and includes all peripheral equipment associated with the specific unit under review. Note: The Declaration of Conformity procedure has been replaced by Supplier's

Declaration of Conformity. See § 2.950 of this chapter. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

\* \* \* \* \*

70. Section 87.147 is amended by revising paragraph (e) to read as follows:

**§ 87.147 Authorization of equipment (aviation services, technical requirements).**

\* \* \* \* \*

(e) Supplier's Declaration of Conformity for ELTs capable of operating on the frequency 406.0-406.1 MHz must include sufficient documentation to show that the ELT meets the requirements of § 87.199(a). A letter notifying the FAA of the ELT Supplier's Declaration of Conformity must be mailed to: FAA, Office of Spectrum Policy and Management, ASR-1, 800 Independence Avenue SW., Washington, DC 20591. Note: The verification procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

\* \* \* \* \*

71. Section 87.199 is amended by revising paragraphs (c) and (d) to read as follows:

**§ 87.199 Special requirements for 406.025 MHz ELTs (aircraft stations, emergency locator transmitters).**

\* \* \* \* \*

(c) As part of its Supplier's Declaration of Conformity a 406.0-406.1 MHz ELT, the ELT must be certified by a test facility recognized by one of the COSPAS/SARSAT Partners that the equipment satisfies the design characteristics associated with the COSPAS/SARSAT document COSPAS/SARSAT 406 MHz Distress Beacon Type Approval Standard (C/S T.007). Additionally, an independent test facility must certify that the ELT complies with the electrical and environmental standards associated with the RTCA Recommended Standards. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

(d) The procedures for Supplier's Declaration of Conformity are contained in subpart J of part 2 of this chapter.

\* \* \* \* \*

72. Section 90.203 is amended by revising paragraphs (a), (e), (g)(2), (j)(7), and (l) to read as follows:

**§ 90.203 Certification required (private land mobile radio services, general technical standards).**

(a) Except as specified in paragraphs (b) and (l) of this section, each transmitter utilized for operation

under this part and each transmitter marketed as set forth in § 2.803 of this chapter must be of a type which has been certified for use under this part.

\* \* \* \* \*

(e) Except as provided in paragraph (g) of this section, transmitters designed to operate above 25 MHz shall not be certified for use under this part if the operator can program and transmit on frequencies, other than those programmed by the manufacturer, service or maintenance personnel, using the equipment's external operation controls.

\* \* \* \* \*

(g) \* \* \*

(2) Requires the transmitter to be programmed for frequencies through controls normally inaccessible to the operator; or

\* \* \* \* \*

(j) \* \* \*

(7) Transmitters designed only for one-way paging operations may be certified with up to a 25 kHz bandwidth and are exempt from the spectrum efficiency requirements of paragraphs (j)(3) and (j)(5) of this section.

\* \* \* \* \*

(l) Ocean buoy and wildlife tracking transmitters operating in the band 40.66-40.70 MHz or 216-220 MHz under the provisions of § 90.248 of this part shall be authorized under Supplier's Declaration of Conformity procedure pursuant to subpart J of part 2 of this chapter. Note: The Declaration of Conformity procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of Part 2 of the Commission's rules may remain in use. See § 2.950.

\* \* \* \* \*

73. Section 101.139 is amended by revising paragraphs (a), (b), (d), (e), and (g)(1) to read as follows:

**§ 101.139 Authorization of transmitters (fixed microwave services, technical standards).**

(a) Unless specified otherwise, transmitters used in the private operational fixed and common carrier fixed point-to-point microwave and point-to-multipoint services under this part must be a type that has been approved for compliance under Supplier's Declaration of Conformity. Note: The verification procedure has been replaced by Supplier's Declaration of Conformity. Equipment previously authorized under subpart J of part 2 of the Commission's rules may remain in use. See § 2.950.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may be approved under the equipment authorization procedures set forth in part 2 of this chapter.

\* \* \* \* \*

(d) A transmitter presently shown on an instrument of authorization, which operates on an assigned frequency in the 890-940 MHz band and has not received a grant of certification, may continue to be used by the licensee without certification provided such transmitter continues otherwise to comply with the applicable rules and regulations of the Commission.

(e) Certification or Supplier's Declaration of Conformity is not required for portable transmitters operating with peak output power not greater than 250 mW. If operation of such equipment causes harmful interference the FCC may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

\* \* \* \* \*

(g) \* \* \*

(1) The 0.001% frequency tolerance requirement for digital systems in § 101.107(a) or the 0.03-0.003% frequency tolerance for analog systems; and

\* \* \* \* \*

## APPENDIX C

## FINAL REGULATORY FLEXIBILITY ANALYSIS

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),<sup>1</sup> an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (NPRM)*.<sup>2</sup> The Commission sought written public comment on the proposals in the *NPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.<sup>3</sup>

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

2. In the *Equipment Authorization First R&O*, we adopt the rules that govern the evaluation and approval of radiofrequency (RF) devices. The Commission ensures compliance with its technical rules through the equipment authorization program for RF devices; the technical rules are the means by which the Commission carries out its responsibilities under Section 302 of the Communications Act of 1934, as amended, which permits the Commission to make reasonable regulations governing the interference potential of devices that emit RF energy and can cause harmful interference to radio communications.

3. The Commission last comprehensively reviewed its equipment authorization procedures more than fifteen years ago. The changes in the way today's equipment is designed, manufactured, and marketed, as well as the sheer number of such devices that need to be authorized warrant modifications to the rules that specify the equipment subject to our equipment authorization procedures. By updating our rules, we can enable innovation and growth in the development and use of RF devices by providing a clear path for products to demonstrate compliance with the FCC rules so that they may be brought to the market expeditiously. At the same time, we continue to ensure that hundreds of millions of radio transmitters, consumer products, and other electronic devices will continue to share the airwaves successfully.

4. The *Equipment Authorization First R&O* addresses the types of authorization procedures used to approve equipment, the ability of equipment to provide information via electronic display, the importation of radio devices, and the procedures related to compliance measurements. Our decisions complement the recent actions taken by the Commission to modify the equipment authorization rules that address the obligations of Telecommunication Certification Bodies (TCBs) that certify RF equipment and the laboratories that test equipment subject to the certification process.<sup>4</sup>

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<sup>1</sup> 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), Pub. L. No. 104-121, Title II, 110 Stat. 857 (1996).

<sup>2</sup> See *Amendment of Part 0, 1, 2, 15 and 18 of the Commission's Rules regarding Authorization of Radiofrequency Equipment*, ET Docket No. 15-170, RM-11673, Notice of Proposed Rulemaking, 30 FCC Rcd 7725, 7806-11 (2015) (*EA NPRM* or *Equipment Authorization NPRM*).

<sup>3</sup> See 5 U.S.C. § 604.

<sup>4</sup> 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*, Report and Order, ET Docket No. 13-44, FCC 14-208 (2014) (*TCB Order*). The *TCB Order* largely addressed the processes by which certification applications are to be evaluated.

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

5. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

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

6. Pursuant to the Small Business Jobs Act of 2010, which amended the IRFA, the Commission is 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.<sup>5</sup> The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

7. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein<sup>6</sup> The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”<sup>7</sup> In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.<sup>8</sup> A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>9</sup> The Commission has not developed a definition of small entities applicable to RF Equipment manufacturers. The most analogous definition of small entity is that which is contained in the rules applicable to manufacturers of “Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.” This notice also addresses the repair of devices that are subject to the Commission’s equipment authorization rules. For this reason, we also include small entities associated with an additional category, “Communication Equipment Repair and Maintenance,” in our analysis.

8. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. 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

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<sup>5</sup> 5 U.S.C. § 604(a)(3).

<sup>6</sup> See 5 U.S.C. § 604(a)(3).

<sup>7</sup> 5 U.S.C. § 601(6).

<sup>8</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register.”

<sup>9</sup> 15 U.S.C. § 632.



broadcasting equipment.<sup>10</sup> The Small Business Administration has established a size standard for this industry of 750 employees or less.<sup>11</sup> U.S. Census data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees.<sup>12</sup> Based on this data, we conclude that a majority of manufacturers in this industry is small.

9. *Communication Equipment Repair and Maintenance.* This U.S. industry comprises establishments primarily engaged in repairing and maintaining communications equipment without retailing new communication equipment, such as telephones, fax machines, communications transmission equipment, and two-way radios.<sup>13</sup> The SBA has developed a size standard for this industry which is that any firm whose annual receipts are \$11 million or less is defined as a small business.<sup>14</sup> Census Bureau data for 2012 indicate that in this industry, 1,185 firms operated for the entire year. Of these firms, 1,148 operated with annual receipts of less than \$10 million dollars. Based on this data, the Commission concludes that the majority of firms operating in this industry are small.<sup>15</sup>

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

10. The Commission ensures that RF equipment complies with its technical requirements by specifying that devices must be authorized in accordance with one of three procedures specified in Subpart J of Part 2 of the rules – certification, Declaration of Conformity (DoC), and verification. The *Equipment Authorization First R&O* replaces the DoC and verification processes with a single process, provides an electronic option for the provision of required compliance labeling of RF devices, streamlines the requirements for the importation of RF devices, and updates the testing procedures related to device compliance measurements.

11. Certification is typically applied to RF equipment employing new technology for which the testing methodology is relatively complex or not well defined, or that otherwise is considered to have the highest risk of interference.<sup>16</sup> TCBs approve equipment under the certification procedure based on review of an application that provides test reports and all of the other information specified in the Commission's rules. Certified devices are uniquely identified by an FCC Identifier (FCC ID), which

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<sup>10</sup> The NAICS Code for this service is 334220. 13 C.F.R. 121/201. *See also* [http://factfinder.census.gov/servlet/IBQTable?\\_bm=y&-fds\\_name=EC0700A1&-geo\\_id=&-skip=300&-ds\\_name=EC0731SG2&-lang=en](http://factfinder.census.gov/servlet/IBQTable?_bm=y&-fds_name=EC0700A1&-geo_id=&-skip=300&-ds_name=EC0731SG2&-lang=en).

<sup>11</sup> 13 CFR § 121.201, NAICS Code 334220.

<sup>12</sup>

[http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_31SG2&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_31SG2&prodType=table)

<sup>13</sup> <https://www.census.gov/cgi-bin/sssd/naics/naicsrch?input=811213&search=2012+NAICS+Search&search=2012>

<sup>14</sup> 13 C.F.R. 121.201, NAICS Code 811213

<sup>15</sup> [https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2012\\_US\\_81SSSZ4&prodType=table](https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2012_US_81SSSZ4&prodType=table)

<sup>16</sup> *See* 47 C.F.R. § 2.907.

must be included on the device label.<sup>17</sup> All certified equipment is listed in a Commission database that includes the application for certification, test report and other material.<sup>18</sup>

12. DoC and verification are self-approval procedures in which the responsible party is required to take specific actions to ensure that its equipment complies with our rules. DoC and verification procedures are permitted for certain types RF devices that operate under Part 15 or Part 18 of our rules. DoC requires the responsible party, in addition to taking the necessary steps to ensure that the equipment complies with the appropriate technical standards, to use a recognized accredited test laboratory when testing devices.<sup>19</sup> The responsible party also must include a compliance information statement with the product that identifies the product and a responsible party within the United States.<sup>20</sup> Under verification, the responsible party must also take the necessary steps to ensure that the equipment complies with the appropriate technical standards, but there are no requirements to use recognized test laboratories and supply a compliance information statement with the product.<sup>21</sup> Unlike certification, the DoC and verification procedures do not require submittal of an application to the FCC or a TCB, the explicit grant of approval, or submission of a test device (unless specifically requested by the Commission). Also, unlike certified devices, this equipment does not have an FCC ID, and is not listed in an FCC database.

13. In the *Equipment Authorization First R&O*, the Commission establishes a new device self-approval process, "Supplier's Declaration of Conformity" or "SDoC." SDoC, which combines elements of DoC and verification, into a single self-approval process for equipment that has a strong record of compliance and for which there is minimal risk of causing harmful interference. We recognize our increased comfort with self-approval procedures by streamlining the procedures and eliminating those elements that serve to increase the costs of complying with our rules and that provide benefits that are of only marginal utility.

14. We believe that our actions will minimize the compliance costs borne by small entities by, for example, eliminating the mandate to use accredited laboratories that is currently associated with the DoC rules and removing the requirement to display the FCC logo on the equipment identification label. We recognize that manufacturers of devices currently subject to verification may be subject to some minimal additional requirements under SDoC, most notably that the manufacturer include a written compliance statement with the literature furnished to the user that serves to identify the party responsible for the device's compliance with the Commission's regulations. We nevertheless believe that, on the whole, the use of the SDoC process will also make it easier for manufacturers to comply with recordkeeping and reporting requirements because we will for the first time adopt a single, streamlined self-approval process that is easy to understand, simple to apply, and that is better aligned with existing international processes. We anticipate minimal costs associated with modifying existing processes and

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<sup>17</sup> See 47 C.F.R. §§ 2.925 and 2.926. The FCC ID consists of two elements – a grantee code and an equipment product code.

<sup>18</sup> The Commission's Equipment Authorization System (EAS) can be accessed at <https://apps.fcc.gov/oetcf/eas/reports/GenericSearch.cfm>.

<sup>19</sup> See 47 C.F.R. § 2.906. The party responsible for compliance is defined in 47 C.F.R. § 2.909.

<sup>20</sup> See 47 C.F.R. §§ 2.1077, 15.19(a)(3), and 18.209(b). Only Part 15 and 18 equipment is currently covered by DoC. For example, Part 15 devices subject to the DoC rules must be labeled with the following statement: "This device complies with part 15 of the FCC Rules. Operation is subject to the following two conditions: (1) This device may not cause harmful interference, and (2) this device must accept any interference received, including interference that may cause undesired operation." See also 47 C.F.R. §§ 2.1075 and 2.946 (describing circumstances in which the responsible party must submit to the Commission records of the original design drawings and specifications, the procedures used for production inspection and testing, a report of RF emission measurements, the compliance information statement, and a sample of the device).

<sup>21</sup> See 47 C.F.R. §§ 2.909(b), 2.946, 2.953, 2.955 and 2.956.

procedures to comply with the rule, and that any such costs will be quickly recouped by the savings realized under use of the new SDoC procedures.

15. With the *Equipment Authorization First R&O*, the Commission also implements the E-LABEL Act requirement that it “promulgate regulations or take other appropriate action, as necessary, to allow manufacturers of radiofrequency devices with display the option to use electronic labeling for the equipment in place of affixing physical labels to the equipment.”<sup>22</sup> We amended our regulations to comply with the provisions of this legislation. In addition, we amended our labeling regulations to address devices that are too small to be legibly labeled with an FCC ID.

16. Finally, the *Equipment Authorization First R&O* permanently eliminates the need to file FCC Form 740 information with U.S. Customs and Border Protection when importing RF devices into the United States. This action, along with other steps taken to provide additional relief from certain importation related compliance requirements, substantially reduces burdens on entities seeking to import RF devices into the United States.

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

17. 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 and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”<sup>23</sup>

18. As discussed above, the overall approach we have taken is to clarify, consolidate, and simplify the compliance and reporting requirements associated with our equipment authorization program where possible. This includes steps taken in the Report and Order such as not requiring the use of accredited labs under the SDoC procedure, providing for electronic labeling instead of permanent physical labeling of RF devices capable of displaying the electronic labeling, and streamlining importation requirements by, for example, eliminating the use of FCC Form 740. Given our interest in evaluating the interference potential of devices that emit RF energy and can cause harmful interference to radio communications, we believe that these steps should apply to all device manufacturers, including small entities. In crafting this regulatory relief, we have not identified any additional steps that we could take with respect to small entities that could not also be applied to all device manufacturers.

19. The *Equipment Authorization First R&O* also recognizes that we are eliminating existing requirements that certain device manufacturers may nevertheless still find beneficial. These include, for example, filing for certification of devices that are eligible to be approved under the simpler SDoC procedures, and placing the FCC logo on devices that would no longer require such marking. Because these requirements may have value for some entities, we retain the option for parties to follow such more rigorous practice. By allowing but not requiring parties to engage in such practices if they find them useful, we will not unnecessarily burden small entities that no longer wish to retain such practices.

20. As directed by the E-LABEL Act, we adopted to add a new section to our rules to codify electronic labeling procedures.<sup>24</sup> The new rule will generally allow a radiofrequency device with an

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<sup>22</sup> Enhance Labeling, Accessing, and Branding of Electronic Licenses Act of 2014, Pub. L. No. 113-197, 128 Stat. 2055 (codified at 47 U.S.C. § 622) (E-LABEL Act).

<sup>23</sup> 5 U.S.C. § 603(c)(1) - (c)(4).

<sup>24</sup> See proposed amendment of 47 C.F.R. § 2.935 in Appendix A.

integrated electronic display to electronically display any labels required by our rules. This will include the FCC ID required by our certification rules as well as any warning statements or other information that our rules require to be placed on a physical label on the device. The rule will require that this electronic labeling information is secured in order to prevent modification by a third party. While the E-LABEL Act is not directed at small entities, we recognize that the use of electronic labeling can potentially decrease costs for all device manufacturers because it will provide a means by which manufacturers will no longer have to affix permanent labels to devices. We nevertheless recognize that small entities may not wish to incur the costs associated with changing their processes to produce electronic label displays. As such, we are not requiring parties to display any information as part of an electronic label not already required by our rules, nor are we eliminating the ability of manufacturers to continue to physically label devices if they wish to do so.

Report to Congress: The Commission will send a copy of the *Equipment Authorization First R&O*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act.<sup>25</sup> In addition, the Commission will send a copy of the *Equipment Authorization First R&O*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Equipment Authorization First R&O* and FRFA (or summaries thereof) will also be published in the Federal Register.<sup>26</sup>

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<sup>25</sup> See 5 U.S.C. § 801(a)(1)(A).

<sup>26</sup> See 5 U.S.C. § 604(b).