



FCC Voted To Adopt New Items on Foreign Ownership Requirements and Spectrum Use in the 12.7 GHz and 42 GHz bands at Its May 22 Open Meeting

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The Federal Communications Commission (FCC) held its May Open Meeting on Thursday, May 22, during which it voted to adopt three items: (1) a Notice of Proposed Rulemaking (NPRM) that proposes to require holders of certain Commission-issued licenses, authorizations or approvals to certify whether they are owned by, controlled by or subject to the jurisdiction or direction of a foreign adversary; (2) a Report and Order and Further Notice of Proposed Rulemaking (R&O/FNPRM) that aims to strengthen requirements and oversight relating to telecommunications certification bodies (TCBs), measurement facilities (test labs) and accreditation bodies; and (3) a FNPRM seeking comment on ways that the 12.7-13.25 gigahertz (GHz) and 42.0-42.5 GHz bands could be used more intensively for satellite communications.

- **Identifying Foreign Adversary Ownership Stakes (GN Docket No. 25-166)**. The NPRM proposes to require entities holding certain licenses or authorizations to certify whether or not they are owned by, controlled by or subject to the jurisdiction or direction of a country identified as a foreign adversary. The FCC proposes to define “foreign adversaries” consistent with the definition in 15 C.F.R. § 791.4, which currently identifies six foreign non-government persons as “foreign adversaries”:
 - The People’s Republic of China (including Hong Kong and Macau)
 - The Republic of Cuba
 - The Islamic Republic of Iran
 - The Democratic People’s Republic of Korea (North Korea)
 - The Russian Federation

- Venezuelan politician Nicolas Maduro (the Maduro Regime).

A more detailed analysis of the specific proposals discussed in the NPRM, including the types of licenses and authorizations that would be subject to these new proposed requirements, is provided in our client alert, available [here](#).

- **Promoting the Integrity and Security of Telecommunications Certification Bodies, Measurement Facilities and the Equipment Authorization Program (ET Docket No. 24-136)**. The R&O adopts new rules prohibiting participation in the FCC's equipment authorization program by any TCB, test lab or laboratory accreditation body owned by (10% or more equity or voting interest), controlled by or subject to the direction of a "Prohibited Entity." "Prohibited Entity" is defined as any entity identified on various government "lists" of national security threats, such as the FCC Covered List, the Defense Department Chinese Military Company List and the executive branch's list of "foreign adversaries." The R&O also includes new reporting and certification requirements designed to enable the Commission to determine ownership, control and direction of prohibited entities, and clarifies that every entity specifically named on the Covered List must provide the Commission with information regarding all of its subsidiaries and affiliates, not merely those that produce "covered" equipment.

The FNPRM proposes and seeks comment on further measures to safeguard the integrity of the Commission's equipment authorization program and explores ways in which it can better align the rules governing TCBs and test labs with the Secure Equipment Act, which prohibits the authorization of equipment on the Covered List. In particular, the Commission seeks comment on whether to extend the prohibitions adopted in the R&O to entities subject to the **jurisdiction** of a country identified as a foreign adversary, and to extend the group of Prohibited Entities to include entities on several additional lists from federal agencies or statutes. The Commission also seeks further comment on ways it can facilitate and encourage more equipment authorization testing to occur at test labs located in the United States or United States-allied countries. Finally, the Commission proposes to revise the TCB post-market surveillance procedures, restrict relationships between TCBs and the test labs for which the TCB reviews applications, and require the use of FCC-recognized accredited test labs for authorization pursuant to Supplier's Declaration of Conformity.

- **Opening Up Spectrum for Satellite Broadband (GN Docket No. 22-352, WT Docket No. 23-158, GN Docket No. 14-177)**. In this NPRM, the Commission explores opportunities to make more spectrum available for satellite operations in the 12.7-13.25

GHz band (12.7 GHz Band) and the 42.0-42.5 GHz band (42 GHz Band). The Commission notes that both of these bands are adjacent to spectrum already being used for satellite communications and seeks comment on ways they could be more intensively used for satellite communications, as an alternative or a complement to the previous proposals for mobile broadband and other terrestrial wireless communications in the 7 GHz and 42 GHz bands.

The NPRM also examines ways to eliminate regulatory restrictions that prevent intensive satellite use of the 12.7 GHz band, both by geostationary orbit and non-geostationary orbit systems, and whether it should expand the use of the 12.7 GHz band by Earth Stations in Motion (ESIM) and blanket-licensed earth stations. In addition, the Commission seeks comment on whether it should create an allocation for fixed-satellite service in the “greenfield” 42 GHz band. Finally, the NPRM considers the feasibility of allowing satellite communications in the 12.7 GHz and 42 GHz bands in both the Earth-to-space and space-to-Earth directions, and on ways to protect incumbent spectrum users in the 12.7 GHz band, as well as ways to protect spectrum users, particularly Federal operators, in adjacent bands.

Comments and reply comments will be due 30 days and 60 days, respectively, from the date of each item’s publication in the *Federal Register*.

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