



5.3 KDB 986446 FCC 22-83 Covered Equipment Publication Summary

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Note: The views expressed in this presentation are those of the author and may not necessarily represent the views of the Federal Communications Commission

April 2023

TCB Workshop



Overview

- FCC 22-84 Summary
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- Covered List Prohibitions
- Frequent Questions/Answers
- FCC 22-84 Second Erratum
- FCC 22-84 Further Notice of Proposed Rulemaking
- Information Sources



FCC 22-84 Overview

- FCC [22-84](#) Protecting Against National Security Threats the Communications Supply Chain through the Equipment Authorization Program
 - Adopted November 11, 2022
 - Released November 25, 2022
 - Freeze portion of order on named equipment producers effective immediately until new rules effective
 - Report and Order effective date February 6, 2023
 - Equipment identified as covered is prohibited from equipment authorization
 - Further Notice of Proposed Rulemaking FNPRM
 - Published in Federal Register March 8, 2023
 - Comment period ended April 7, 2023
 - Reply comment period ends May 8, 2023



KDB 986446 Overview

● KDB 986446

- **Question:** The FCC recently adopted FCC 22-84 [1] on Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program. How does that affect the FCC equipment authorization process?
 - [1] : <https://www.fcc.gov/document/fcc-amends-equipment-authorization-program>
- **Answer:** The attachment below, 986446 D01 Covered Equipment v02, provides staff-level equipment authorization guidance on how FCC 22-84 affects the equipment authorization process.
- Version 01 published January 24, 2023
 - General Overview and questions/answer 1-11
- Version 02 published April 10, 2023
 - Corrected template, minor text updates to original version and added questions/answers 12-43



Covered List Prohibitions

- The current Covered List identifies the following as “covered” equipment:
 - “Telecommunications equipment” and “video surveillance equipment” produced by Huawei Technologies Company (Huawei) or ZTE Corporation (ZTE), or by any subsidiaries or affiliates of such entities;
 - “Telecommunications equipment” and “video surveillance equipment” produced by Hytera Communications Corporation (Hytera), Hangzhou Hikvision Digital Technology Company (Hikvision), or Dahua Technology Company (Dahua), or by any subsidiaries or affiliates of such entities, “for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purpose.”



Frequent Questions/Answer

Form 731 Content Issues

- The new rules require the following information to be submitted for each application received on or after February 6, 2023:
 - 2.911(d)(5)(i)-Certification/Attestation that equipment is not covered
 - 2.911(d)(5)(ii)-Certification/Attestation that Applicant/Grantee is identified or is not identified on [covered list](#)
 - 2.911(d)(7)- US Agent for service of process
- The new information is required for all application types: Original equipment, Class II Permissive Changes, Class III Permissive Changes and Change in Identifications
- The new information/certifications should be submitted into the Form 731 exhibit type “Attestation Statements”
- The 2.911(d) information may not be held confidential
- The applicant/grantee cannot delegate the certifications or designation for agent for service of process to an individual or entity that isn't the grantee
 - The applicant/grantee must sign the certifications. The applicant/grantee contact of record or any authorized officers or employees of the applicant/grantee is permitted to sign



FCC 22-84 Second Erratum

- Effective April 21, 2023 upon Federal Register Publication
- Modifies 2.929 Grantee Transfer of Control Rules to modify/add requirement to 2.929(d)(1) to require transfer of control notice to include:
 - A written and signed certification that, as of the date of the filing of the notice, the equipment to which the change applies is not prohibited from receiving an equipment authorization pursuant to § 2.903;
 - (ii) An affirmative or negative statement as to whether the applicant is identified on the Covered List, established pursuant to § 1.50002 of this chapter, as an entity producing covered communications equipment; and
 - (iii) The written and signed certifications required under § 2.911(d)(7).



Frequent Questions/Answer

Agent for Service of Process Issues

- What is an Agent for Service of Process?
 - Agents for Service of process are responsible for:
 - Accepting documents from FCC on behalf of the applicant/grantee
 - Delivering the documents to the applicant/grantee expediently
 - Agent for Service of Process must be located in the U.S.
 - Applicants/Grantees located in the U.S. can be their own Agent for Service of Process
 - Applicants/Grantees must continuously maintain an agent for service of process for one year past the termination of marketing
 - The agent for service of process may change during this period
 - Grantees are required to notify the FCC of changes via the TCB that originally granted the authorization



Frequent Questions/Answer TCB Agent for Service of Process

- Can TCBs be Agents for Service of Process?
 - TCBs must be impartial in issuing of grant
 - TCBs may not provide consultancy
 - TCBs are not prohibited from being an agent for service of process if:
 - TCB performs a risk analysis
 - Concludes that the risk can be mitigated and
 - Has documented agent for service of process impartiality procedures to ensure impartiality in the granting of the application
 - TCB Key Employees that perform the review, evaluation, or decision on certification are not permitted to be the agent for service of process



Frequent Questions/Answer

FCC Registration Numbers

- FCC Registration Number (FRN) for Agents for Service of Process
 - If the agent for service of process does no business with the FCC other than being designated an agent for service of process, they are not required to have an FRN
 - If the agent does not have an FRN, the agent for service of process certification should state that they don't do any other business with the FCC and don't have an FRN.
 - If the agent for service of process does other business with the FCC, they are required to have an FRN and it is required to be included on the agent designation letter
 - If the applicant/grantee is acting as their own agent for service of process, the applicant/grantee's FRN is required to be on the designation letter
 - The certification designating the agent for service of process is not permitted to have an expiration date



Frequent Questions/Answer Covered List

● Covered List issues

- <https://www.fcc.gov/supplychain/coveredlist>
 - Last updated September 20, 2022
- The FCC will issue a public notice whenever the FCC covered list is updated
- TCBs are responsible for complying with the most recent covered list



Frequent Questions/Answer

Affiliates and Subsidiaries

● Affiliates and Subsidiaries

- Entities named on the covered list were required to provide a list of their affiliates and subsidiaries to the FCC by March 8, 2023
 - The entity submissions are available on the FCC [Electronic Comment Filing System \(ECFS\)](#):
 - » ZTE: <https://www.fcc.gov/ecfs/document/10308954518088/1>
 - » Huawei: <https://www.fcc.gov/ecfs/search/search-filings/filing/10308705510957>
 - » Dahua: <https://www.fcc.gov/ecfs/document/1030892809868/1>
 - » Hytera: <https://www.fcc.gov/ecfs/document/103080280313939/1>
 - » Hikvision: <https://www.fcc.gov/ecfs/document/103090355904338/1>
 - The FCC is reviewing the information and upon completion of the review will post the information on the FCC OET Equipment Authorization website
- TCBs should not rely solely on these filings to determine if an applicant/grantee is a named entity and/or a device is covered equipment



Frequent Questions/Answer

Non-covered equipment/SDoC/Exempt/Components

- Currently TCBs may not authorize telecommunications or video surveillance equipment from named entities including their subsidiaries and affiliates
- Equipment produced by named entities that is normally subject to Suppliers Declaration of Conformity (SDoC) is required to be authorized through the certification process
- Equipment produced by named entities that is normally exempted from the equipment authorization process is required to be authorized through the certification process
- The current rules do not require applicants/grantees to certify whether individual component parts are covered equipment
 - The FNPRM does raise questions on components



FCC 22-84 Further Notice of Proposed Rulemaking (FNPRM)

● FNPRM Topics:

- Component Parts
- Revocation of existing equipment authorization
- Supply chain considerations
- US Point of Presence for certified equipment
- Other issues:
 - Additional 2.1033 info to determine if covered?
 - New procedures to determine if equipment is covered?
 - Post market surveillance changes?
 - Changes to the SDoC Procedures?
 - Covered equipment enforcement action



Covered Equipment Information Sources

- KDB [986446](#)
- FCC OET [Covered Equipment Website](#)
- [Covered list](#)
 - Last updated September 20, 2022
- FCC [22-84](#)



Questions and Answers

Thanks

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