

Electronics Manufacturers May Need to Use Different Test Labs

October 13, 2026

The Federal Communications Commission (FCC) will vote on a Third Report and Order and Third Further Notice of Proposed Rulemaking on October 29 that will require device testing, certification and accreditation to occur in the US or countries that have entered into reciprocal agreements with the US. If approved, the measures will take effect on December 1, 2028. This Third Report and Order builds on rules the FCC has already adopted and is actively enforcing: The FCC already prohibits recognition of test labs and telecommunication certification bodies (TCBs) that are owned by, controlled by or subject to the direction of certain federally identified “prohibited entities,” and has already withdrawn recognition from numerous test labs on that basis.

Limiting recognition of test labs and telecommunications certification bodies

The FCC will vote on rules to limit recognition of test labs to those located in the US and reciprocal economies – i.e., the territory of an economy with which the US has entered into reciprocal treatment through a Mutual Recognition Agreement (MRA) or other comparable reciprocal trade agreement. The prohibition on recognizing non-MRA test labs will be applied to applications received on or after December 1, 2028, and will not affect equipment authorizations granted or applications received before that date. The FCC’s Office of Engineering and Technology (OET) will publish and regularly update the list of countries with reciprocal agreements. The FCC has declined to adopt a waiver process or case-by-case exceptions for test labs in nonreciprocal economies, so manufacturers should not expect case-by-case relief from the December 1, 2028, cutoff.

The FCC recognizes that five out of six radio frequency devices are tested in nonreciprocal countries, and that the incremental costs of complying with the rules will significantly outweigh the quantifiable benefits. These rule changes will impose additional costs for manufacturers. Nevertheless, the FCC finds that the national security benefits justify these increased costs.

Extension of limitations to testing and certifying within nonreciprocal economies

The new rules would not only prohibit test labs, TCBs and laboratory accreditation bodies from being located in a nonreciprocal economy, but also prohibit conducting any “covered activity” in such locations. For TCBs, covered activities include application evaluation, technical review, certification decisions, grant or dismissal, and FCC-required post-market surveillance. For a test lab, covered activities include test setup and operation, required measurements, technical analysis of results, and preparation or approval of the test report. For accreditation bodies, covered activities include the assessment, technical evaluation and decision to accredit a laboratory for a scope used to obtain FCC recognition.

The rules would not extend to pre-compliance or research and development testing that is not FCC-recognized testing and is not relied on in a certification application. An entity that has employees working remotely from a nonreciprocal economy may not perform the substantive covered tasks, but the entity would not lose recognition for simply having unrelated business in the nonreciprocal economy.

Third Further Notice of Proposed Rulemaking

The FCC proposes rules on whether it should also adopt a requirement to utilize the Legal Entity Identifier (LEI)

to properly identify test labs, TCBs and laboratory accreditation bodies in its equipment authorization program. The FCC also seeks comment on other proposals to strengthen the integrity of its equipment authorization program, including extending the new rules to prohibit recognition of any entity owned by, controlled by or subject to the jurisdiction or direction of a nonreciprocal economy – a proposal that, if adopted, could reach US-based or reciprocal-economy test labs with foreign ownership or investment ties, not just labs located abroad. The FCC also asks whether equipment authorized through the Supplier's Declaration of Conformity process should be tested by recognized or accredited laboratories. This last issue could significantly increase the costs of testing these products.

Comments on the Third Further Notice of Proposed Rulemaking will be due 30 days after Federal Register publication, with reply comments due 60 days after publication.

If you are interested in learning more about the new rules or participating in the comment process, please reach out to one of the Cooley lawyers listed below.

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