

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. All approved material is available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY-A257, Washington, DC 20554, (202) 418-0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(2) International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH-1211 Geneva 20, Switzerland, Email: inmail@iec.ch, www.iec.ch or International Organization for Standardization (ISO), 1, ch. De la Voie-Creuse, CP 56, CH-1211, Geneva 20, Switzerland; www.iso.org; Tel.: + 41 22 749 01 11; Fax: + 41 22 733 34 30; email: central@iso.org. (ISO publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation (www.nssn.org), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642-4900.)

(i) ISO/IEC 17011:2004(E), "Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies," First Edition, 2004-09-01, IBR approved for § 68.160(c).

(ii) ISO/IEC 17065:2012(E), "Conformity assessment—Requirements for bodies certifying products, processes and services," First Edition, 2012-09-15.

[64 FR 4997, Feb. 2, 1999, as amended at 80 FR 33447, June 12, 2015]

§ 68.162 Requirements for Telecommunication Certification Bodies.

(a) Telecommunication certification bodies (TCBs) designated by the Na-

tional Institute of Standards and Technology (NIST), or designated by another authority pursuant to an bilateral or multilateral mutual recognition agreement or arrangement to which the United States is a party, shall comply with the following requirements.

(b) *Certification methodology.* (1) The certification system shall be based on type testing as identified in ISO/IEC 17065.

(2) Certification shall normally be based on testing no more than one unmodified representative sample of each product type for which certification is sought. Additional samples may be requested if clearly warranted, such as when certain tests are likely to render a sample inoperative.

(c) *Criteria for designation.* (1) To be designated as a TCB under this section, an entity shall, by means of accreditation, meet all the appropriate specifications in ISO/IEC 17065 for the scope of equipment it will certify. The accreditation shall specify the group of equipment to be certified and the applicable regulations for product evaluation.

(2) The TCB shall demonstrate expert knowledge of the regulations for each product with respect to which the body seeks designation. Such expertise shall include familiarity with all applicable technical regulations, administrative provisions or requirements, as well as the policies and procedures used in the application thereof.

(3) The TCB shall have the technical expertise and capability to test the equipment it will certify and shall also be accredited in accordance with ISO/IEC 17025 to demonstrate it is competent to perform such tests.

(4) The TCB shall demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel shall demonstrate knowledge of how to obtain current and correct technical regulation interpretations. The competence of the telecommunication certification body shall be demonstrated by assessment. The general competence, efficiency, experience, familiarity with technical regulations and products included in

those technical regulations, as well as compliance with applicable parts of the ISO/IEC 17025 and ISO/IEC 17065 shall be taken into consideration.

(5) A TCB shall participate in any consultative activities, identified by the Commission or NIST, to facilitate a common understanding and interpretation of applicable regulations.

(6) The Commission will provide public notice of specific elements of these qualification criteria that will be used to accredit TCBs.

(d) *External resources.* (1) In accordance with the provisions of ISO/IEC 1706 the evaluation of a product, or a portion thereof, may be performed by bodies that meet the applicable requirements of ISO/IEC 1702 and ISO/IEC 17065, in accordance with the applicable provisions of ISO/IEC 17065, for external resources (outsourcing) and other relevant standards. Evaluation is the selection of applicable requirements and the determination that those requirements are met. Evaluation may be performed by using internal TCB resources or external (outsourced) resources.

(2) A recognized TCB shall not outsource review and certification decision activities.

(3) When external resources are used to provide the evaluation function, including the testing of equipment subject to certification, the TCB shall be responsible for the evaluation and shall maintain appropriate oversight of the external resources used to ensure reliability of the evaluation. Such oversight shall include periodic audits of products that have been tested and other activities as required in ISO/IEC 17065 when a certification body uses external resources for evaluation.

(e) *Recognition of TCBs.* (1)(i) The Commission will recognize as a TCB any organization that meets the qualification criteria and is accredited and designated by NIST or its recognized accreditor as provided in § 68.160(b).

(ii) The Commission will recognize as a TCB any organization outside the United States that meets the qualification criteria and is designated pursuant to an bilateral or multilateral Mutual Recognition Agreement (MRA) as provided in § 68.160(c).

(2) The Commission will withdraw the recognition of a TCB if the TCB's accreditation or designation by NIST or its recognized accreditor is withdrawn, if the Commission determines there is just cause for withdrawing the recognition, or if the TCB requests that it no longer hold the recognition. The Commission will limit the scope of equipment that can be certified by a TCB if its accreditor limits the scope of its accreditation or if the Commission determines there is good cause to do so. The Commission will notify a TCB in writing of its intention to withdraw or limit the scope of the TCB's recognition and provide a TCB with at least 60 day notice of its intention to withdraw the recognition and provide the TCB with an opportunity to respond. In the case of a TCB designated and recognized pursuant to an bilateral or multilateral MRA, the Commission shall consult with the Office of United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with the Telecommunications Trade Act of 1988 (Section 1371–1382 of the Omnibus Trade and Competitiveness Act of 1988).

(3) The Commission may request that a TCB's Designating Authority or accreditation body investigate and take appropriate corrective actions as required, when it has concerns or evidence that the TCB is not certifying equipment in accordance with Commission rules or ACTA requirements, and the Commission may initiate action to limit or withdraw the recognition of the TCB.

(4) If the Commission withdraws the recognition of a TCB, all certifications issued by that TCB will remain valid unless specifically revoked by the Commission.

(5) A list of recognized TCBs will be published by the Commission.

(f) *Scope of responsibility.* (1) TCBs shall certify equipment in accordance with the Commission's rules and policies.

(2) A TCB shall accept test data from any source, subject to the requirements in ISO/IEC 17065 and shall not unnecessarily repeat tests.

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(3) TCBs may establish and assess fees for processing certification applications and other tasks as required by the Commission.

(4) A TCB may rescind a grant of certification within 30 days of grant for administrative errors. After that time, a grant can only be revoked by the Commission. A TCB shall notify both the applicant and the Commission when a grant is rescinded.

(5) A TCB may not:

(i) Grant a waiver of Commission rules or technical criteria published by the Administrative Council, or certify equipment for which Commission rules or requirements, or technical criteria do not exist, or for which the application of the rules or requirements, or technical criteria is unclear.

(ii) Take enforcement actions.

(6) All TCB actions are subject to Commission review.

(g) *Post-certification requirements.* (1) A Telecommunications Certification Body shall supply a copy of each approved application form and grant of certification to the Administrative Council for Terminal Attachments.

(2) In accordance with ISO/IEC 17065 a TCB is required to conduct appropriate surveillance activities. These activities shall be based on type testing a few samples of the total number of product types which the certification body has certified. Other types of surveillance activities of a product that has been certified are permitted provided they are no more onerous than testing type. The Commission may at any time request a list of products certified by the certification body and may request and receive copies of product evaluation reports. The Commission may also request that a TCB perform post-market surveillance, under Commission guidelines, of a specific product it has certified.

(3) The Commission may request that a grantee of equipment certification submit a sample directly to the TCB that performed the original certification for evaluation. Any equipment samples requested by the Commission and tested by a TCB will be counted toward the minimum number of samples that the TCB must test.

(4) A TCBs may request samples of equipment that they have certified di-

rectly from the grantee of certification.

(5) If during, post-market surveillance of a certified product, a certification body determines that a product fails to comply with the applicable technical regulations, the certification body shall immediately notify the grantee and the Commission. The TCB shall provide a follow-up report to the Commission within 30 days of reporting the non-compliance by the grantee to describe the resolution or plan to resolve the situation.

(6) Where concerns arise, the TCB shall provide a copy of the application file to the Commission within 30 calendar days of a request for the file made by the Commission to the TCB and the manufacturer. Where appropriate, the file should be accompanied by a request for confidentiality for any material that may qualify for confidential treatment under the Commission's rules. If the application file is not provided within 30 calendar days, a statement shall be provided to the Commission as to why it cannot be provided.

(h) In the case of a dispute with respect to designation or recognition of a TCB and the testing or certification of products by a TCB, the Commission will be the final arbiter. Manufacturers and recognized TCBs will be afforded at least 60 days to comment before a decision is reached. In the case of a TCB designated or recognized, or a product certified pursuant to an bilateral or multilateral mutual recognition agreement or arrangement (MRA) to which the United States is a party, the Commission may limit or withdraw its recognition of a TCB designated by an MRA party and revoke the Certification of products using testing or certification provided by such a TCB. The Commission shall consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with under the Telecommunications Trade Act of 1988.

(i) *Incorporation by reference:* The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C.

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552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the FEDERAL REGISTER. All approved material is available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY-A257, Washington, DC 20554, (202) 418-0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

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(i) ISO/IEC 17025:2005(E), "General requirements for the competence of testing and calibration laboratories," Second Edition, 2005-05-15.

(ii) ISO/IEC 17065:2012(E), "Conformity assessment—Requirements for bodies certifying products, processes and services," First Edition, 2012-09-15.

(2) [Reserved]

[64 FR 4998, Feb. 2, 1999, as amended at 66 FR 27601, May 18, 2001; 67 FR 57182, Sept. 9, 2002; 80 FR 33448, June 12, 2015]

Subpart C—Terminal Equipment Approval Procedures

§ 68.201 Connection to the public switched telephone network.

Terminal equipment may not be connected to the public switched telephone network unless it has either been cer-

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tified by a Telecommunications Certification Body or the responsible party has followed all the procedures in this subpart for Supplier's Declaration of Conformity.

[66 FR 7583, Jan. 24, 2001]

§ 68.211 Terminal equipment approval revocation procedures.

(a) *Causes for revocation.* The Commission may revoke the interconnection authorization of terminal equipment, whether that authorization was acquired through certification by a Telecommunications Certification Body or through the Supplier's Declaration of Conformity process in §§ 68.320 through 68.350 of this part, where:

(1) The equipment approval is shown to have been obtained by misrepresentation;

(2) The approved equipment is shown to cause harms to the public switched telephone network, as defined in § 68.3;

(3) The responsible party willfully or repeatedly fails to comply with the terms and conditions of its equipment approval; or

(4) The responsible party willfully or repeatedly fails to comply with any rule, regulation or order issued by the Commission under the Communications Act of 1934 relating to terminal equipment.

(b) *Notice of intent to revoke interconnection authority.* Before revoking interconnection authority under the provisions of this section, the Commission, or the Enforcement Bureau under delegated authority, will issue a written Notice of Intent to Revoke Part 68 Interconnection Authority, or a Joint Notice of Apparent Liability for Forfeiture and Notice of Intent to Revoke Part 68 Interconnection Authority pursuant to §§ 1.80 and 1.89 of this chapter.

(c) *Delivery.* The notice will be sent via certified mail to the responsible party for the terminal equipment at issue at the address provided to the Administrative Council for Terminal Attachments.

(d) *Reauthorization.* A product that has had its approval revoked may not be authorized for connection to the public switched telephone network for a period of six months from the date of revocation of the approval.