

FCC Implements Categorical Prohibition on All Foreign-Produced UAS and UAS Critical Components (UPDATED)

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TAKEAWAYS

- ④ Acting on a National Security Determination, the Federal Communications Commission adopted a first-of-its-kind categorical prohibition on the importation, marketing, and sale of all foreign-produced UAS and UAS critical components, effective December 22, 2025.
- ④ Only foreign-produced UAS and UAS critical components that have previously received FCC equipment authorization (prior to December 22, 2025) are subject to an enumerated exception, or have received a waiver from the U.S. Department of War or the U.S. Department of Homeland Security may be exempted from the restrictions.
- ④ Additional restrictions apply to two entities specifically named in the National Defense Authorization Act for Fiscal Year 2025: DJI and Autel Robotics. These entities are currently seeking reconsideration of the actions taken against them in this proceeding.

12.31.25

In late December 2025, the Federal Communications Commission (FCC), acting on a National Security Determination (NSD), surprised many across the telecommunications, consumer electronics, and national security and defense industries by amending the Covered List to include the first-ever categorical exclusion: foreign-produced aerial drones. As initially adopted, the new Covered List entry effectively prohibited any foreign-made uncrewed aircraft system (UAS) and UAS-critical components, including those made by U.S.-owned businesses abroad, from being imported, marketed or sold in the United States.

The second provision of the new Covered List entry also included the prohibition that industry had been anticipating: the strict prohibition on “all communications and video surveillance equipment and services listed in Section 1709(a)(1) of the FY25 National Defense Authorization Act.” Section 1709(a)(1) specifically identifies Shenzhen Da-Jiang Innovations Sciences and Technologies Company Limited (DJI) and Autel Robotics as named entities (the “Section 1709 Entities”) and prohibits each entity—and any affiliate, subsidiary, or contractual vehicle of each—from selling communications or surveillance equipment or services, in the U.S. market, whether produced domestically or abroad.

Following the initial release of the Covered List Public Notice, the FCC has issued additional notices to (1) clarify the scope and application of the prohibition on foreign-produced UAS and UAS critical components, (2) add certain short-term exemptions to the Covered List entry, and (3) provide guidance on how to seek waivers from the Department of War (DOW) or Department of Homeland Security (DHS) for certain UAS or UAS critical components.

The Covered List

Pursuant to the Secure and Trusted Communications Networks Act of 2019 (Secure Networks Act), the PSHSB is required to keep an up-to-date list of “communications equipment and services produced or provided by any entity” that, based exclusively on the determination by one or more of four exclusive sources, “poses an unacceptable risk to the national security of the United States or the security and safety of United States persons.” The potential sources, as listed in Section 2 of the Secure Networks Act, include “any executive branch interagency body with appropriate national security expertise” and “an appropriate national security agency.” To date, the Covered List has exclusively focused on communications and surveillance products and services from named entities, each tied to either China or Russia.

The effects of the Covered List have been expanding since its inception. Initially, the Secured Networks Act provided that the Covered List prohibits review or approval of equipment authorizations applications of devices for or that incorporate “covered” equipment, as well as the use of Universal Service Fund sources to purchase “covered” equipment and services. More recently, the FCC has expanded the Covered List restrictions into its submarine cable and equipment authorization proceedings, and is adopting associated restrictions on certification bodies (Bad Labs) involved in the certification process.

The Foreign UAS Public Notice

Section 1709(a) of the FY2025 NDAA directed “an appropriate national security agency” to determine if any of the communications or video surveillance equipment or services of the Section 1709(a) Entities “pose an unacceptable risk to the national security of the United States or the security and safety of United States persons” within one year of enactment. Absent timely receipt of such determination, the FCC was instructed to add all of the equipment in the provision to the Covered List.

Just shy of one year following the FY2025 NDAA enactment, the FCC received an NSD from an Executive Branch interagency body, concluding that, in light of several upcoming mass gathering events, such as the World Cup and Olympics, and the general need to protect U.S. national security and cybersecurity, UAS and UAS critical components produced in foreign countries “pose unacceptable risks, given the threats from unauthorized surveillance, sensitive data exfiltration, supply chain vulnerabilities, and other potential threats to the homeland.” The NSD did not make any specific mention of DJI or Autel.

Within a day of receiving the NSD, the FCC’s Public Safety and Homeland Security Bureau (PSHSB) released the Public Notice adding the following “Foreign UAS Entry” to the Covered List:

Uncrewed aircraft systems (UAS) and UAS critical components produced in a foreign country *[incorporating the definitions included in the associated National Security Determination]* and all communications and video surveillance equipment and services listed in Section 1709(a)(1) of the FY25 National Defense Authorization Act (Pub. L. 118-159).

The Foreign UAS Entry places a broad prohibition on all “UAS” and “UAS critical components” “produced in foreign countries.”

UAS. The Public Notice adopted the existing definition of “UAS” under Section 88.5 of its rules, defined as “the uncrewed aircraft (UA) and its associated elements (communication links, uncrewed aircraft stations, and components that are not onboard the UA, but control the UA) that would be required for the safe and efficient operation of the UA in the airspace of the United States.” The FCC’s rules further define the UA to be “an aircraft operated without the possibility of direct human intervention from within or on the aircraft.” Further FCC guidance clarified that the prohibition does not apply to non-aerial drones, but it does apply to both indoor and outdoor UAS.

UAS Critical Components. While both the NSD and FCC recognized that there is no existing definition of “UAS critical components,” later guidance from the FCC clarified that “UAS critical components” are those components “designed and intended primarily for use in UAS.” The FCC provided a broad, non-exhaustive list of components, and are to be treated as inclusive of any associated software that, when “designed and intended primarily” for use in UAS, are presumptively “UAS critical components,” including:

- Data Transmission Devices
- Communications Systems
- Flight Controllers
- Ground Control Stations and UAS Controllers
- Navigation Systems
- Sensors and Cameras
- Batteries and Battery

- Management Systems Motors

However, the FCC has explained that a component with multiple applications that could “theoretically” be integrated into a UAS will not be treated as a critical component and can still receive equipment authorization.

Produced in a Foreign Country. Of significant importance, and aligned with the stated objectives of the Administration, the prohibition is location-based. Under the Foreign UAS Entry, the nationality of the entity producing UAS or UAS critical components is not a relevant consideration when determining whether the product was “produced in a foreign country.” Notably, the Foreign UAS Entry does not distinguish between UAS and UAS critical components made by foreign entities abroad or those produced outside the United States by U.S.-owned, operated or affiliated entities. Nor does the prohibition differentiate between U.S. allies and competitors or adversaries. Rather, the restriction is a blanket prohibition on all foreign production unless covered by one of the limited exemptions (detailed below).

The Section 1709 Entities. Section 1709 of the FY2025 NDAA provides specific prohibitions for the two entities named in its provisions, separate and apart from the broad restrictions being placed on other location-based UAS and UAS critical component producers. The Section 1709 Entities are subject to a more “traditional” restriction under the Covered List. The two entities—DJI and Autel Robotics—as well as their subsidiaries, affiliates or partners, or any joint venture or technology sharing or licensing agreement with such entities, for any communications or surveillance equipment or services are prohibited from selling any products or services in the United States. This means that, with respect to the Section 1709 Entities, the restrictions extend beyond just drone production and would also include any attempts to set up production within the United States, as well.

Following the release of the Public Notice, the FCC notified DJI and Autel that it was revoking the entities’ respective equipment authorizations. The companies have both sought reconsideration of the FCC action, which the FCC quickly placed on public notice.

Implementation

Under FCC rules, equipment on the Covered List is prohibited from receiving or being included as part of an application for equipment authorization. Entities and individuals applying for equipment authorization—a requirement for products that use or incorporate radiofrequencies before being imported, marketed or made commercially available for sale in the United States—are required to certify, in good faith, that the equipment is not and does not include “covered” equipment. This certification will now apply to any entities seeking authorization for UAS or counter-UAS systems in the United States, including those with applications that are currently pending, but not yet granted, before the FCC. Telecommunication

Certification Bodies (TCBs) will also be tasked with reviewing equipment authorization applications to assess compliance with the Covered List. The FCC has authority to take enforcement action in any case involving false certifications.

****UAS applicants are reminded to ensure applications are up to date and contain accurate certifications given the changes to the Covered List.****

The effects of the Foreign UAS Entry are not initially retroactive. The Foreign UAS Entry does not prohibit the import, sale or use of any existing device models that previously received FCC equipment authorization, nor does the action affect the continued use of drones previously purchased or acquired by consumers. However, moving forward, the FCC may place restrictions on previously authorized covered equipment, including an outright prohibition, using additional enforcement mechanisms at its disposal.

The Foreign UAS Entry does not affect sales to DOW, DHS, or any other federal agencies. UAS that are made exclusively for federal government use are not subject to FCC equipment authorization rules. Entities seeking to conclude such transactions should consult the acquisition regulations of the purchasing agency. However, where an entity seeks to conduct testing or operational demonstrations prior to sale, such operations may still be subject to FCC regulatory approvals prior to importing, marketing, or making the product available for sale.

The Exemptions

While the Public Notice effectively blocked most foreign production from the U.S. market by adding the Foreign UAS Entry to the Covered List, it did provide two notable exemptions:

- **Existing Equipment Authorizations.** UAS and UAS critical components that have already received an FCC Part 2 equipment authorization may continue to be imported, marketed, and sold in the United States. No modifications, amendments or other updates can be made to existing authorizations, except as provided in the OET notice (below).
- **U.S. Department of War (DOW) or U.S. Department of Homeland Security (DHS) Waiver.** DOW or DHS can make “a specific determination to the FCC that a given UAS or class of UAS [or given UAS critical component] does not pose such [national security] risks.” The request for such individual exemption is to follow the guidance published on the FCC website (as may be updated from time to time) and submitted to a dedicated email address within the PSHSB.

Following receipt of a subsequent NSD from the DOW in January 2026, the PSHSB amended the Foreign UAS Entry to also include two limited duration exemptions from the prohibition on foreign production until January 1, 2027:

- **The Blue UAS Cleared List.** UAS and UAS critical components that are included on Defense Contract Management Agency’s (DCMA’s) Blue UAS Cleared List.

- **Domestic End Products.** UAS and UAS critical components that are manufactured in the United States and whose cost of domestic components exceed 65% of the total cost of the finished product, thereby qualifying as “domestic end products” under the Buy American Standard (48 C.F.R. § 25.101(a)).

PSHSB also edited the Foreign UAS Entry to incorporate these limited duration exemptions directly into the language of the Covered List.

The Office of Engineering and Technology (OET) also released a public notice clarifying that all UAS and UAS critical components previously authorized for use in the United States may continue to make Class I permissive changes. These changes pertain to software and firmware that ensure the continued functionality of the devices, including vulnerability and compatibility patches. This exemption is also of limited duration, until January 1, 2027.

Takeaways

With immediate effect and without notice, the Foreign UAS Entry substantially expanded the scope and potential impact of what had been expected to be a targeted action regarding the Section 1709 Entities. The consequences of this addition to the Covered List were immediately felt, directly and indirectly, by entities across the UAS and counter-UAS industry and continue to percolate as companies adjust their operations to the new restrictions. Both international and domestic entities within the UAS ecosystem should carefully review the Foreign UAS Entry documentation and assess its potential impacts on operations, supply chain and contracts.

The intervening months between the initial Public Notice have provided additional clarity and direction to enable companies to adjust their operations as needed and maintain performance. However, companies that are currently selling or seeking to sell UAS and UAS critical components produced outside the United States and want to continue their U.S. sales should continue to actively engage with their business partners and the U.S. Government to ensure the requisite authorizations and/or waivers are in place prior to importing, marketing or selling any such products in the U.S. market.

For more information about the above Foreign UAS Entry, the Covered List or compliance with these regulations generally, please contact the authors.

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