

Mind the Gap: FCC Moves to Close Covered List Loophole

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TAKEAWAYS

- ④ The Federal Communications Commission is seeking comment on a proposal to prohibit the continued importation and marketing of “covered” communications equipment authorized prior to 2022 but added to the Covered List in 2024 or earlier.
- ④ The prohibition would not apply to the continued use or operation of already-deployed equipment or equipment designated as “covered” in 2025 or later.
- ④ The Public Notice reaffirms the FCC’s commitment to strengthening its supply chain security framework by closing longstanding gaps in its regulations pertaining to previously authorized equipment.

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The Federal Communications Commission’s (FCC) Public Safety and Homeland Security Bureau (PSHSB) and Office of Engineering and Technology (OET) have released a Public Notice seeking comment on whether the agency should take steps to prohibit the continued importation and marketing of certain communications equipment that, while previously-authorized, has subsequently been found to pose an unacceptable risk to U.S. national security. The proceeding looks to begin adopting procedures to resolve a longstanding and acknowledged gap in Covered List regulations.

Since the adoption of the Covered List, the FCC has enacted rules that prospectively restrict “covered” entities and equipment from receiving equipment authorization through its various certification methodologies. During this time, the FCC has left open the question of whether the agency should revoke previously granted equipment authorizations obtained prior to the entity or equipment being placed on the Covered List. In 2025, however, the FCC adopted rules establishing a process that would prohibit the

continued importation or marketing of covered equipment without revoking existing authorizations and directed PSHSB and OET to “institute proceedings to determine whether to apply the prohibitions to some or all of the equipment currently on the Covered List.”

The Public Notice proposes to apply the prohibitions to “covered” equipment that received equipment authorization prior to 2022, but was placed on the Covered List some time before the end of 2024. In particular, PSHSB and OET seek input on the national security considerations, economic and supply chain impacts, and the scope of the proposed implementation. The Public Notice reiterates that such changes, if adopted, would not affect the continued use or operation of equipment already deployed or in the possession of end users, nor would it (currently) apply to equipment added to the Covered List after 2024.

Comments on the Public Notice are due May 6, 2026.

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For more information about the Public Notice, the Covered List, or for assistance in preparing and submitting comments, please contact the authors.

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