

services specified in subsection (a)(1) do not present an unacceptable risk to the national security of the United States or the security and safety of United States persons—

“(A) that agency shall submit to the appropriate congressional committees a report on their determinations, which shall be submitted in unclassified form but may contain a classified annex; and

“(B) within 180 days following the determination, all other appropriate national security agencies shall review the determination and shall submit to the appropriate congressional committees a report on their determinations, which shall be submitted in unclassified form but may contain a classified annex.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘appropriate national security agency’ has the same meaning as the term in section 9 of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1608)) [sic].

“(2) The term ‘Commission’ means the Federal Communications Commission.

“(3) The term ‘covered list’ means the list of covered communications equipment or services published by the Commission under section 2(a) of the Secure and Trusted Communications Networks Act [of 2019 (47 U.S.C. 1601(a))].

“(4) The term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, and the Select Committee on Intelligence in the Senate; and

“(B) the Committee on Armed Services, the Committee on Homeland Security, the Committee on Energy and Commerce, and the Permanent Select Committee on Intelligence in the House of Representatives.

“(5) The term ‘technology sharing agreement’ means an agreement where a named entity licenses their technology to a company directly or through an intermediary manufacturer.

“(d) SAVINGS CLAUSE.—Nothing herein shall be construed to override or affect the uses permitted by sections 1823 through 1832 of the National Defense Authorization Act for Fiscal Year 2024 (Public Law 118-31) [41 U.S.C. 3901 note prec.] and sections 936 [49 U.S.C. 44801 note] and 1032 [138 Stat. 1406] of the Federal Aviation Administration [FAA] Reauthorization Act of 2024 (Public Law 118-63), including the duration thereof. If the Commission places communications equipment or services on the covered list pursuant to subsection (b)(1)(A) of this section, the appropriate national security agency shall provide the Commission with necessary information on whether enabling those uses is appropriate and how to enable those uses if necessary, and the Commission may promulgate implementing rules or policies accordingly.”

SECURE EQUIPMENT

Pub. L. 117-55, Nov. 11, 2021, 135 Stat. 423, provided that:

“SECTION 1. SHORT TITLE.

“This Act may be cited as the ‘Secure Equipment Act of 2021’.

“SEC. 2. UPDATES TO EQUIPMENT AUTHORIZATION PROCESS OF FEDERAL COMMUNICATIONS COMMISSION.

“(a) RULEMAKING.—

“(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act [Nov. 11, 2021], the Commission shall adopt rules in the proceeding initiated in the Notice of Proposed Rulemaking in the matter of Protecting Against National Security Threats to the Communications Supply Chain through the Equipment Authorization Program (ET Docket No. 21-232; FCC 21-73; adopted June 17, 2021),

in accordance with paragraph (2), to update the equipment authorization procedures of the Commission.

“(2) UPDATES REQUIRED.—In the rules adopted under paragraph (1), the Commission shall clarify that the Commission will no longer review or approve any application for equipment authorization for equipment that is on the list of covered communications equipment or services published by the Commission under section 2(a) of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1601(a)).

“(3) APPLICABILITY.—

“(A) IN GENERAL.—In the rules adopted under paragraph (1), the Commission may not provide for review or revocation of any equipment authorization granted before the date on which such rules are adopted on the basis of the equipment being on the list described in paragraph (2).

“(B) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prohibit the Commission, other than in the rules adopted under paragraph (1), from—

“(i) examining the necessity of review or revocation of any equipment authorization on the basis of the equipment being on the list described in paragraph (2); or

“(ii) adopting rules providing for any such review or revocation.

“(b) DEFINITION.—In this section, the term ‘Commission’ means the Federal Communications Commission.”

§ 1602. Prohibition on use of certain Federal subsidies

(a) In general

(1) Prohibition

A Federal subsidy that is made available through a program administered by the Commission and that provides funds to be used for the capital expenditures necessary for the provision of advanced communications service may not be used to—

(A) purchase, rent, lease, or otherwise obtain any covered communications equipment or service; or

(B) maintain any covered communications equipment or service previously purchased, rented, leased, or otherwise obtained.

(2) Timing

Paragraph (1) shall apply with respect to any covered communications equipment or service beginning on the date that is 60 days after the date on which the Commission places such equipment or service on the list required by section 1601(a) of this title. In the case of any covered communications equipment or service that is on the initial list published under such section, such equipment or service shall be treated as being placed on the list on the date on which such list is published.

(b) Completion of proceeding

Not later than 180 days after March 12, 2020, the Commission shall adopt a Report and Order to implement subsection (a). If the Commission has, before March 12, 2020, taken action that in whole or in part implements subsection (a), the Commission is not required to revisit such action, but only to the extent such action is consistent with this section.

(Pub. L. 116-124, §3, Mar. 12, 2020, 134 Stat. 159.)

§ 1603. Secure and Trusted Communications Networks Reimbursement Program

(a) In general

The Commission shall establish a reimbursement program, to be known as the “Secure and Trusted Communications Networks Reimbursement Program”, to make reimbursements to providers of advanced communications service to replace covered communications equipment or services.

(b) Eligibility

The Commission may not make a reimbursement under the Program to a provider of advanced communications service unless the provider—

- (1) has 10,000,000 or fewer customers; and
- (2) makes all of the certifications required by subsection (d)(4).

(c) Use of funds

(1) In general

A recipient of a reimbursement under the Program shall use reimbursement funds solely for the purposes of—

(A) permanently removing covered communications equipment or services purchased, rented, leased, or otherwise obtained—

- (i) as defined in the Report and Order of the Commission in the matter of Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs (FCC 19-121; WC Docket No. 18-89; adopted November 22, 2019) (in this section referred to as the “Report and Order”); or
- (ii) as determined to be covered by both the process of the Report and Order and the Designation Orders of the Commission on June 30, 2020 (DA 20-690; PS Docket No. 19-351; adopted June 30, 2020) (DA 20-691; PS Docket No. 19-352; adopted June 30, 2020) (in this section collectively referred to as the “Designation Orders”);

(B) replacing the covered communications equipment or services removed as described in subparagraph (A) with communications equipment or services that are not covered communications equipment or services; and

(C) disposing of the covered communications equipment or services removed as described in subparagraph (A) in accordance with the requirements under subsection (d)(7).

(2) Limitations

A recipient of a reimbursement under the Program may not—

(A) use reimbursement funds to remove, replace, or dispose of any covered communications equipment or service purchased, rented, leased, or otherwise obtained on or after—

- (i) publication of the Report and Order; or
- (ii) in the case of covered communications equipment that only became covered pursuant to the Designation Orders, June 30, 2020; or

(B) purchase, rent, lease, or otherwise obtain any covered communications equipment or service, using reimbursement funds or any other funds (including funds derived from private sources).

(d) Implementation

(1) Suggested replacements

(A) Development of list

The Commission shall develop a list of suggested replacements of both physical and virtual communications equipment, application and management software, and services or categories of replacements of both physical and virtual communications equipment, application and management software and services.

(B) Neutrality

The list developed under subparagraph (A) shall be technology neutral and may not advantage the use of reimbursement funds for capital expenditures over operational expenditures, to the extent that the Commission determines that communications services can serve as an adequate substitute for the installation of communications equipment.

(2) Application process

(A) In general

The Commission shall develop an application process and related forms and materials for the Program.

(B) Cost estimate

(i) Initial estimate

The Commission shall require an applicant to provide an initial reimbursement cost estimate at the time of application, with supporting materials substantiating the costs.

(ii) Updates

During and after the application review process, the Commission may require an applicant to—

- (I) update the initial reimbursement cost estimate submitted under clause (i); and
- (II) submit additional supporting materials substantiating an updated cost estimate submitted under subclause (I).

(C) Mitigation of burden

In developing the application process under this paragraph, the Commission shall take reasonable steps to mitigate the administrative burdens and costs associated with the application process, while taking into account the need to avoid waste, fraud, and abuse in the Program.

(3) Application review process

(A) Deadline

(i) In general

Except as provided in clause (ii) and subparagraph (B), the Commission shall approve or deny an application for a reimbursement under the Program not later than 90 days after the date of the submission of the application.