



**Federal Communications Commission
Office of Engineering and Technology
Laboratory Division**

June 26, 2015

TCB POST-MARKET SURVEILLANCE

One of the responsibilities of a Telecommunication Certification Body (TCB) is to perform appropriate post-market surveillance activities in accordance with ISO/IEC Guide 65 or ISO/IEC 17065.¹ These activities are based on Section 2.962(g), which requires a TCB to perform post-market surveillance activities based on type testing of products that the TCB has certified.² The following are typical processes that may be used to meet this obligation.

- A. **Sample Test Plan.** TCBs shall have a plan that demonstrates how they intend to ensure that the proper number of samples will be tested. As part of this plan, TCBs shall notify the applicant/grantee in writing of the sampling requirement, advise them that they are required to make provision to have “production” samples available for at least one year after the last production date, and that they may be required to submit the equipment for post-market surveillance testing. These samples may be requested, at any time, by either the TCB or the Commission.³
- B. **Sample Selection.** Samples audited by a TCB are selected from the products certified by that TCB. When selecting the samples to be audited, a TCB shall give consideration to the following:
- (1) New technologies.
 - (2) New applicant.
 - (3) New testing laboratory.
 - (4) Products with a history of non-compliance.
 - (5) Products whose test report may be sufficient for approval, but may raise a question of continued compliance.

¹ ISO/IEC Guide 65:1996 has been replaced by ISO/IEC 17065:2012 *Conformity assessment — Requirements for bodies certifying products, processes, and services*. The Commission has adopted Report and Order FCC 14-208 to update the references in the rules to require that TCBs be accredited to ISO/IEC 17065:2012. TCBs are required to be in compliance with ISO/IEC 17065:2012 by September 15, 2015 to remain recognized by the Commission.

² The requirements for Telecommunication Certification Bodies (TCBs) were specified in the Commission’s Report and Order in GEN Docket No. 98-68 (FCC 98-338), adopted on December 17, 1998, and were updated in FCC 14-208 (ET Docket No. 13-44) adopted on December 17, 2014. Additional guidance on the requirements for TCBs was given in Public Notice DA 99-1640, *FCC Provides Further Information on the Accreditation Requirements for Telecommunication Certification Bodies GEN Docket 98-68*, released on August 17, 1999.

³ See 47 CFR §§ 2.943, 2.945 and 2.946.

- (6) Requests from the FCC for an audit to be performed on specific product or a group of products.⁴
- (7) Potential impact from a non-compliant device on licensed radio services, the public switched telephone network (PSTN), or a user.

C. **Sample Rate.** The number of samples audited by a TCB shall be based on the following:

- (1) The total number of products audited by a TCB shall consist of at least five percent of the total number of products certified by the TCB for the calendar year, under Scope A – Unlicensed Radio Frequency Devices, and Scope B – Licensed Radio Service Equipment. A “product” is considered to be each grant of Certification issued.⁵ Surveillance shall be performed on a proportional basis based on the number of products authorized per TCB Scopes A and B. The number of products audited shall also represent the same proportion of FCC-recognized accredited test laboratory reports versus Section 2.948-listed test laboratory reports as the total number of products certified for a given year.
- (2) The total number of products audited by the TCB under Scope C – Telephone Terminal Equipment, shall consist of at least two percent of the total number of products certified by the TCB for the calendar year under Scope C.
- (3) As part of the TCB’s post-market surveillance responsibility, a TCB is required to submit an annual report of their post-market surveillance activities for the calendar year to the FCC by January 31 of the following year. The post-market surveillance report is for all audits performed by the TCB in the previous calendar year.
- (4) If the TCB has certified products subject to RF Radiation Exposure requirements, then such products shall be included in the total number of samples audited. At least one percent of the products subject to SAR measurements and certified by the TCB for the surveillance year shall be audited. A sample tested for the one percent SAR surveillance can also count as satisfying surveillance under the five percent EMC surveillance requirement, if the TCB also tests the EMC parameters.
- (5) When calculating the number of samples to be audited, the number shall be rounded up to the next whole number.
- (6) A product certified in a prior surveillance year, but tested in the present surveillance year, will be credited as surveillance in the present surveillance year.

⁴ The FCC may request that a product previously approved by a TCB be submitted directly to the TCB for post-market surveillance. Such sample requests may be included in the annual sample count by the TCB for the year in which the sample was tested.

⁵ For a composite device, multiple grants of Certification are issued under one FCC ID, and each portion shall be counted individually when calculating the total number of products granted for determining the number of audits required. When auditing a device with permissive changes associated with the device, each permissive change receives a separate grant of Certification and shall be counted individually when calculating the total number products granted for determining the total number of audits required.

D. **Obtain Sample.** The TCB shall obtain a sample by one of the following methods:

- (1) Request the grantee submit a sample of the product certified.

The FCC shall be notified when a grantee refuses or fails to comply with a request. The grantee is expected to have samples available to respond to a request from the TCB or the FCC. The TCB is expected to notify the grantee of the requirement for having ‘production’ samples available (as noted under A. **Sample Test Plan**).⁶

Stating that a device is no longer manufactured is not a sufficient justification for not providing a sample. Also, stating that the device will not be marketed in the United States does not absolve a grantee of the requirement to provide post-grant production samples upon request by the TCB or the FCC.

An applicant may not be required to maintain a sample on hand if the production run is very limited in quantity (*i.e.*, 10 or fewer), or for some other reason that makes keeping a production sample on hand onerous to the applicant. In this case, the justification to avoid maintaining a sample on hand for surveillance purposes shall be documented in the application records. A determination by the TCB that the justification to not keep a production sample on hand is acceptable shall also be included as part of the application records.

- (2) Request that the grantee provide a voucher or authorization for the sample to be obtained from the marketplace.
- (3) Purchase a sample of the product from the marketplace.

E. **Evaluation.** The sample shall be evaluated by the TCB to determine compliance with the Commission’s Rules.

- (1) The sample shall be tested to qualify as meeting the FCC post-market surveillance requirements. Complete testing to all of the Commission’s requirements is not required; however, sufficient testing shall be performed to allow the TCB to evaluate those requirements most likely to be in non-compliance, and to provide a high level of confidence that the sample complies with the FCC Rules.
- (2) Testing may be performed at either the TCB’s testing facilities or at an outsourced test facility. Use of outsourced test facilities is subject to the conditions in 4.4 of ISO/IEC Guide 65:1996 or 6.2.2 of ISO/IEC 17065:2012. The TCB shall take full responsibility for the work, and is responsible for ensuring that the outsourced body is competent to perform the testing and complies with all applicable requirements.
- (3) The test data and sample shall be compared to the information submitted in the Certification filing. All information shall be consistent. The internal photos of the sample shall also be inspected to ensure that there have been no modifications to the test sample. All radio parameters such as power, frequency, and operational modes shall be consistent. Any substantial

⁶ The TCB must make it clear in the contract terms when accepting an application for review that a sample may be requested for surveillance. This shall be made clear to the applicant and their agents. It may also be advisable to include an additional reminder when the grant is issued to the applicant.

variation shall be reported to the FCC.

- (4) The TCB shall examine the sample to determine compliance with the Commission's labeling and user instruction requirements.
- (5) The test report documenting surveillance shall specify key technical parameters, such as the tests that were conducted, the test instrumentation used, whether the test instrumentation was within calibration, the test methods used, the test site used; also the report shall be signed by the person(s) performing the tests.
- (6) A review and decision by the "certification body personnel" shall be made after completion of the evaluation, as to whether the sample complies with the applicable FCC requirements.

F. **Follow-up Actions.** The following actions are to be taken based on the finding(s) of the surveillance audit:

- (1) If during the audit process the TCB finds that a sample fails to comply with the FCC requirements, the TCB shall immediately notify the grantee and the FCC. The TCB shall provide the details of the product and non-compliance found by submitting an inquiry to www.fcc.gov/labhelp using the "submit an inquiry" link. The TCB should select a first category of "TCB Market Surveillance" and a second category of "non-compliant device." Within 30 days of the notification of non-compliance, a follow-up report on the action taken, or that will be taken, by the grantee to correct the situation shall be provided to the FCC by the TCB. If the issues are not resolved prior to the follow-up report being submitted to the FCC, the TCB shall continue to work with the applicant until the issues are resolved, or until it is determined that they are not resolvable. In these cases, the TCB shall send an additional follow-up summary to the FCC indicating the final resolution or the failure to resolve the issues. The follow-up report shall be submitted to the FCC by responding to the KDB Inquiry created initially.
- (2) The TCB shall file, with the FCC, an annual report of all surveillance audits performed. The data shall be provided along with details on the surveillance performed for each of the TCB Scopes (A, B, and C). The annual report, and any follow-up associated with it, shall be uploaded thru the "Submit Surveillance Report" link. At a minimum, the report shall include the following:
 - i. The dates of the surveillance period.
 - ii. The number of EMC grants for the surveillance period.
 - iii. The number of SAR grants for the surveillance period.
 - iv. The number of EMC audits for the surveillance period.
 - v. The number of SAR audits for the surveillance period.
 - vi. A list of each FCC ID/Form 731 Confirmation number audited and the specific testing performed on the device, including the date of each audit. Indicate if the device was found to be compliant or not, and if not compliant include a summary of the issue(s) found.

- (3) If the TCB finds that the sample submitted for surveillance is different from the product described in the Certification application, the TCB shall immediately notify the grantee and the FCC.
- (4) If the applicant does not respond or fails to submit a sample to the TCB, the TCB should provide details to the FCC at www.fcc.gov/labhelp using the link for “submit an inquiry.” The first category selected shall be “TCB Surveillance” and the second category selected shall be “sample not received.”

Each TCB is required to submit an annual report of their post-market surveillance activities for the calendar year to the FCC by January 31 of the following year.

The TCB shall submit reports of surveillance activities carried out by the TCB, within 30 days of a request by the FCC. In support of a compliance investigation, the TCB may also be required to test a sample of a product certified by the TCB, and report its findings to the FCC within 30 days.

Change Notice

06/26/2015: 610077 D01 TCB Post Market Surveillance v06r01 replaces 610077 D01 TCB Post Market Surveillance v06. Changes were made to update references resulting from Equipment Authorization Order (FCC 14-208).