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Not All Drones After All: FCC Exempts Certain Foreign- Made Drones and Critical Components from Covered List and Issues Guidance for DoW and DHS Conditional Approvals

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ALERTS

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On January 7, 2026, the U.S. Department of Defense, also referred to as the U.S. Department of War (DoW), and the Federal Communications Commission (FCC) issued several follow-on items to the FCC's December 2025 [action](#) that had added all new models of foreign-made uncrewed aircraft systems (UAS) and their critical components to the FCC's [Covered List](#) (Drone Action). If left intact, that action would have functionally banned all new models of foreign-produced drones and their critical components from being imported or sold in the U.S. Instead, these new items substantially update—and clarify—the scope of the Drone Action.

This follow-on client alert should be read in conjunction with our [recent alert](#), which provides additional detail on the FCC's Covered List and the Drone Action.

In this alert, we discuss the key updates and clarifications from the follow-on items issued by the FCC and DoW with a focus on how these developments create potential pathways to U.S. market entry through Covered List exemptions and Conditional Approvals, and related guidance for producers of foreign-made UAS and UAS critical components.

Key Updates

- ***The FCC Exempted Two Categories of Foreign-Made Drones and Their Critical Components from its Covered List—But Only Until January 1, 2027.*** In response to a subsequent [National Security Determination](#) (Second Determination) made by the DoW, the FCC exempted, until January 1, 2027, two types of UAS and UAS critical components from its Covered List:
 1. UAS and UAS critical components included on the Defense Contract Management Agency's (DCMA's) "Blue UAS List," which consists of UAS platforms included on the "[Blue UAS Cleared List](#)" and UAS components and software deemed compliant under the "[Blue UAS Framework](#)," and which the FCC collectively refers to as the "Blue UAS Cleared List"; and
 2. UAS and UAS critical components that qualify as "domestic end products" under the Buy American Standard, which requires that a product (a) be manufactured in the U.S., and (b) the cost of domestic components exceed 65 percent of the total cost of the finished product.¹
- ***The FCC Released Guidance on the Process for Obtaining Individual "Conditional Approvals" from the DoW or the U.S. Department of Homeland Security (DHS) (Conditional Approval Guidance).*** Non-exempt entities may apply for an individual exemption—referred to by the DoW and DHS as a "Conditional Approval"—that would exempt that entity from the restrictions imposed by inclusion on the Covered List.

What Else Should Stakeholders Know About the Two Exemptions?

- **Industry Stakeholders Should Prepare for the Exemptions to Expire on January 1, 2027.** The Second Determination stresses that in the long term, it is a national security imperative that the U.S. build an independent, robust, and resilient domestic drone industrial base and supply chain that does not rely on any foreign country for UAS or critical UAS components. The Second Determination further encourages industry to use the Buy American Standard as a baseline, and plan for the domestic content requirement to increase in the coming years. Absent further agency action, entities should treat January 1, 2027, as the deadline for compliance planning.

What Else Should Companies Know About the Conditional Approval?

- **Entities Seeking a Conditional Approval Must Provide Detailed Ownership Information and Manufacturing and Supply Chain Disclosures.** The Conditional Approval Guidance requires entities to submit information and disclosures in the following categories: (a) corporate structure, (b) manufacturing and supply chain details, and (c) detailed plans for U.S. manufacturing and onshoring. The DoW and DHS may also request additional information as necessary based on the facts of a particular application.
- **Conditional Approvals Are Granted at the Discretion of the DoW and DHS for Periods of up to 12 Months.** Entities are not guaranteed to receive a Conditional Approval, which is determined based on an “individualized assessment” of the “unacceptable risks” posed by the UAS or UAS critical component as well as the applicant’s commitment to establishing trusted manufacturing capacity in the U.S. All decisions are final and can only be adjusted at the discretion of the DoW and DHS.

How Else Did the FCC Clarify the Scope of the Drone Action?

- **The FCC Understands “UAS Critical Components” to Mean Components Designed and Intended Primarily for Use in UAS.** A foreign-made device—say, a camera—with many potential functions and uses that could theoretically be attached to a drone but is not specifically designed for a drone, is not considered a UAS critical component, and can still receive an FCC equipment authorization. However, a camera that is designed and primarily intended to be used as a drone camera is considered a UAS critical component.
- **UAS Critical Components That Traditionally Do Not Require an FCC Equipment Authorization—for Instance, Most Batteries—Still Do Not Require an FCC Equipment Authorization for Independent Sale.** However, such components may be assessed as part of the overall analysis of any UAS incorporating such devices (e.g., under the Buy American Standard). In addition, the Conditional Approval Guidance requires that all entities seeking a waiver establish a plan for onshoring the manufacturing of all UAS critical components, including components that do not require FCC authorization.
- **The FCC Action Does Not Affect Drones Made Exclusively for Federal Government Use.** Such drones generally do not require an FCC equipment authorization, so the Covered List does not affect sales of such drones to the DoW, DHS, or any other federal agencies. Federal agencies have their own regulations regarding acquisition.
- **The FCC Action Does Not Directly Impact the Ability of Entities to Obtain FCC Experimental Authorizations or Special Temporary Authority (STA).** The FCC does not categorically prohibit experimental licenses or STAs for “covered equipment.” However, the FCC must find that the public interest will be served in granting an experimental license application or STA. The FCC’s experimental licensing rules also include prohibitions on eligibility by foreign governments or their representatives and require supplemental disclosures for certain uses under the jurisdiction of a foreign government.

Looking Ahead

Although the follow-on actions provide limited and temporary relief for certain categories of foreign-made UAS and UAS critical components, the underlying framework established by the Drone Action remains in place. Entities that may benefit from the exemptions or a Conditional Approval should carefully assess the implications of the information and disclosure requirements, timing, and compliance obligations.

In addition, as discussed in our prior alert, entities seeking access to the U.S. market should, to the extent practicable, continue to reduce dependencies on foreign supply chains and prioritize U.S. manufacturing and onshoring, particularly in light of the January 1, 2027 expiration of the categorical exemptions and the requirement in the Conditional Approval Guidance that applicants for Conditional Approval submit a detailed, time-bound plan to establish or expand manufacturing in the U.S. for UAS or UAS critical components.

Stakeholders should continue to monitor further guidance from the FCC, DoW, and DHS, and consider how evolving national security and domestic manufacturing priorities may affect product

development, supply chain planning, and market access in the U.S.

Please reach out to [Joshua Gruenspecht](#), [Sophia Galleher](#), [Stephen Heifetz](#), or another member of Wilson Sonsini's [National Security and Trade](#) practice or [Communications](#) practice with questions regarding any of the matters discussed above.

[1] Starting in 2029, the cost of the domestic components will need to exceed 75 percent of the total cost of the finished product. *See* 48 CFR § 25.101(a).