

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Protecting Against National Security Threats to the Communications Supply Chain
through the Equipment Authorization Program

ET Docket No. 21-232

COMMENTS OF GATEWELL GROUP LLC

Filed in response to the Third Further Notice of Proposed Rulemaking, FCC 26-50, adopted July 22, 2026, released July 23, 2026, published at 91 Fed. Reg. 51139 (Aug. 7, 2026). Comments are due on or before September 8, 2026.

I. Introduction and Statement of Interest

Gatewell Group LLC is a Los Angeles consultancy. It sells advisory services on Covered List exposure and origin evidence to importers, distributors, engineering and construction contractors, project developers, and network operators. If the disclosures proposed here are adopted, Gatewell expects to advise clients on assembling them, and it therefore has a commercial interest in what the rules require. Gatewell is not a manufacturer, holds no equipment authorization, and has no product whose authorization status is at stake in this proceeding.

Gatewell has filed comments in two related Commission proceedings: ECFS 26110071980 and 26110071982 in proceeding 26-184, and ECFS 26110071981 in proceeding 26-189, all disseminated August 18, 2026.

These comments address one subject: what the documents the Commission proposes to require must contain in order to be probative. Gatewell takes no position on importation quantity thresholds, grantee term limits, Equipment Authorization System database modernization, or any other matter outside documentary method.

At paragraph 140 the Commission observes that applying production-location determinations requires "information that has not traditionally been seen as relevant to

equipment authorization: the geographic origin of components, the location of design and development activity, and the composition of a device's supply chain," and that its existing certification record, "which centers on technical compliance and a small set of attestations, was not designed to capture this information." The proposed rules add documents. The six sections below identify places where the proposed text does not specify what those documents must contain to establish the facts the Commission needs, and propose language.

II. Proposed § 2.911(d)(10) prescribes content only for "critical component," a term the proposal does not define

Proposed § 2.911(d)(9)(ii) provides: "The HBOM and SBOM shall identify all components of the device, including hardware, software, and firmware components of the device."

Proposed § 2.911(d)(10) then provides: "Required contents of HBOM and SBOM disclosures. The HBOM and SBOM required by paragraph (d)(9) of this section shall identify, for each critical component: (i) The component name and function; (ii) The producer of the component; (iii) The location or locations where the component was designed, developed, manufactured, assembled, or otherwise produced; and (iv) The percentage of component value attributable to each producer and production location." 91 Fed. Reg. at 51144.

The term "critical component," standing alone and unmodified, is defined nowhere in the item. It is not in current § 2.902, which defines two terms — "Owned by, controlled by, or subject to the direction of" and "Prohibited entities." It is not among the definitions Appendix A adds to § 2.902 in the Third Report and Order, which are "Logic-bearing hardware component" and "Online marketplace." It is not among the five definitions Appendix B proposes to add to § 2.902 — "Covered List sector," "Hardware bill of materials (HBOM)," "Personal use," "Produced in a foreign country," and "Software bill of materials (SBOM)." Every other appearance of the phrase in FCC 26-50 is either the distinct term of art "UAS critical components," a Covered List term the Commission proposes to codify at paragraphs 202-203 without corresponding rule text in Appendix B, or the Commission's open question at paragraph 145 asking whether it should "just list out several critical components, such as modular transmitters and IoT modules, semiconductors, and optical transceivers." The operative rule text keys a

disclosure requirement to a class the same document is still asking whether to constitute.

The consequence is operative. Paragraph (d)(9)(ii) produces a list. Paragraph (d)(10) is the only provision in the proposal that attaches a producer, a production location, and a value share to an individual component. Because (d)(10) reaches only an undefined subset, the rule as drafted yields a complete enumeration of components about which nothing probative need be said, alongside a probative record covering a set of components that no one is empowered to identify. An applicant may satisfy (d)(9)(ii) with a parts list and satisfy (d)(10) with a single line item, because nothing in the rule tells the applicant, the Telecommunication Certification Body, or the Commission which components are critical. Criticality, as drafted, is designated by the party with the strongest interest in designating it narrowly.

The qualifier also does not match the Commission's own description of the requirement. At paragraph 142 the Commission describes the disclosure as identifying "the producer and place of production of the device itself, the producer of each component, the location of each component's production, and the percentage of component value associated with each production location." The Federal Register summary describes the same requirement as an HBOM and SBOM "identifying, for each component, its producer, production location(s), and the percentage of component value attributable to each location." 91 Fed. Reg. at 51140. The operative text says "for each critical component." The record should establish which the Commission intends.

Recommendation. The Commission should not resolve this by enumeration. The one criticality term it has interpreted, "UAS critical components," is addressed at paragraph 202, where the Commission proposes to codify a list of eight categories of components that, in its words, "includes, but is not limited to" those categories, and the enumeration is not doing the work — the operative content is the functional test the Commission quotes at paragraph 203, under which criticality turns on components "designed and intended primarily for use in UAS." An open-ended list reproduces the self-designation problem at greater length.

Gatewell recommends that the Commission define "critical component," for purposes of § 2.911(d)(10), as (a) any logic-bearing hardware component as defined in § 2.902; (b) any component that stores, executes, or is capable of receiving updates to firmware or

software; (c) any component that provides, or is designed, equipped, or configured to accept, an external communications interface, whether wired or wireless; and (d) any component whose value equals or exceeds a stated percentage of total component cost. Prongs (a) through (c) are functional and can be checked against a bill of materials. Prong (d) is arithmetic. Prong (a) uses a definition the Commission has already adopted in Appendix A. None of the four turns on the applicant's judgment about what matters.

III. The proposed disclosure does not produce the denominator the coverage test requires

Whether a device is "produced in a foreign country" turns, under the tentative conclusion at paragraph 198, on whether it qualifies as a domestic end product under 48 CFR 25.101(a)(1). The Commission states in the body of that paragraph that "the article must be manufactured in the United States and the cost of domestic components must exceed a certain percentage of the total cost of the finished product (currently set at 65%)." A footnote to the same paragraph states the tiering: "the domestic-component cost must exceed 60 percent of the cost of all the components, increasing to 65 percent for items delivered in 2024-2028, and 75 percent beginning in 2029, subject to exceptions for certain Commercially Available Off-the-Shelf (COTS) items." FCC 26-50 ¶ 198 & n.353. The 60 percent figure is the base threshold and the 65 percent figure is the tier applicable to items delivered in 2024 through 2028; they are not competing numbers.

Whatever the applicable tier, the test is a ratio and its denominator is the cost of all the components. Proposed § 2.911(d)(10)(iv) — the only provision in the proposal that requires any value data — requires "[t]he percentage of component value attributable to each producer and production location" for each critical component only. A disclosure limited to an undefined subset does not produce the denominator on which the coverage determination depends.

Proposed § 2.911(d)(9)(iv) does not close the gap. It permits the Commission or a Telecommunication Certification Body to "require the applicant to provide supplemental documentation sufficient to verify the accuracy or completeness of the HBOM or SBOM." That authority is discretionary, is directed at the accuracy and completeness of what was submitted rather than at data the rule never called for, and operates case by

case after filing. A test that turns on a ratio should have its inputs specified in the rule that produces the file.

The denominator is not an abstraction. On August 20, 2026, the Public Safety and Homeland Security Bureau modified the power inverter entry on the Covered List. Under the definition adopted there, "foreign-produced power inverters" means power inverters "that are not either— (a) Eligible for the Advanced Manufacturing Tax Credit in 26 U.S. Code § 45X for domestic production or (b) A domestic end product as defined in 48 CFR § 25.101(a) because they are manufactured in the United States and the cost of domestic components exceeds 65% of the total component cost for items delivered in calendar years 2024 through 2028 or 75% for items delivered starting in calendar year 2029." DA 26-870 (rel. Aug. 20, 2026). The two prongs are alternatives, and prong (a) exits the entry without any cost computation. Prong (b) is available only on the ratio, and it uses the same all-components denominator.

Recommendation. § 2.911(d)(10)(iv) should be severed from the criticality qualifier and stated as a whole-device requirement: the applicant reports total component cost and the portion attributable to each production location, for all components, with a stated de minimis threshold below which components may be reported in the aggregate by production location rather than individually. That preserves the burden relief the Commission is seeking at paragraph 145 — no line item for nails and screws — while yielding a computable ratio. Criticality should govern the depth of provenance detail required for a component, not whether its value enters the total.

IV. The proposed definition of "produced in a foreign country" is internally contradictory, and the discussion does not resolve it

Proposed § 2.902 reads: "Produced in a foreign country. A device is produced in a foreign country if it either: (1) Does not qualify as a domestic end product as that term is defined in 48 C.F.R. § 25.101(a); and (2) Is designed or developed in a foreign country."

"Either" introduces a disjunction; the two clauses are joined by "and." Both cannot be operative. The construction appears identically in Appendix B of FCC 26-50 and in the Federal Register text at 91 Fed. Reg. 51143, so it is not an artifact of publication. It also survived correction: on August 13, 2026, the Office of Engineering and Technology issued an Erratum to FCC 26-50 that corrects typographical and paragraph-designation

errors in Appendix A and Appendix B, and the construction stands unaltered. Erratum, ET Docket No. 21-232 (OET Aug. 13, 2026).

The accompanying discussion does not settle which reading is intended. At paragraph 198 the Commission tentatively concludes "that the Commission interpret 'produced in a foreign country' to include any equipment that does not qualify as a 'domestic end product' as defined in 48 CFR 25.101(a)(1)" — prong (1) standing alone. The same paragraph then seeks comment on "whether 'produced in a foreign country' should broadly include devices where design or development occurs foreign country [sic]," and paragraph 199 asks whether the Commission should "add further clarity to the terms 'design' and 'development'" and how they should be interpreted. The design-or-development element is thus an open question in the discussion while appearing in the proposed rule text as a settled element joined by "and."

The readings call for different files. If the cost ratio alone controls, design and development geography need not be documented. If a design-or-development element is retained conjunctively, the applicant must document both the ratio and the geography of design and development activity, and a failure of proof on either is dispositive. If it is retained disjunctively, either showing suffices and the ratio becomes optional wherever foreign design is admitted. An applicant cannot assemble a defensible record until the rule states which. The Bureau's August 20 definition of "foreign-produced power inverters," quoted in Section III above, states a parallel test as an unambiguous disjunction and is available as a drafting model.

Gatewell takes no position on which test is correct as a policy matter. It asks that the final rule state one test, and that the rule state what documentation establishes each element it retains. If a design-or-development element is retained, the rule should also fix the unit of analysis paragraph 199 raises — whether the question is where the activity occurred, where the personnel performing it were located, or both — because those produce different records.

V. A rebuttable presumption without a prescribed traversal depth cannot be applied at any standard of proof

At paragraph 148 the Commission proposes "prohibiting authorization for devices incorporating any components produced by a Covered List entity," and asks whether it

has the "legal authority to adopt such a rule that would include non-RF components like screws or nails." At paragraph 149 it asks whether to adopt instead "a rebuttable presumption against authorizing devices incorporating components produced by a Covered List entity," and asks "what standard should the Commission use for overcoming this presumption? Should we use a clear-and-convincing evidence standard, as we have in other proceedings, or should we use a less stringent preponderance of the evidence standard?"

Gatewell responds to that question. The choice between clear-and-convincing and preponderance sets how convincing the applicant's evidence must be. It does not tell the applicant what search it was obliged to perform, and the presumption asks the applicant to establish an absence — that no Covered List entity produced any component anywhere in the supply chain. An absence showing can be graded only against a defined search. The proposal specifies no traversal depth, no treatment of sub-tier suppliers, no treatment of contract manufacturers that source independently, and no treatment of white-label arrangements. The Commission has identified the last of these as a gap: at paragraph 137 it observes that where a white-label entity obtains its own certification under its own FCC ID, there is "no current means to swiftly identify the remaining electrically identical trade models." The question raised at paragraph 148 about screws and nails is a question about how far down the rule reaches.

Recommendation. Whichever standard the Commission selects, it should pair it with a tiered traversal rule stated in the text of § 2.911:

Tier 1 — direct suppliers. For every component the applicant purchases directly, the applicant identifies the supplier and the producer and certifies on personal knowledge, supported by purchase documentation.

Tier 2 — named sub-tier producers. For every component satisfying the functional criticality definition proposed in Section II above, the applicant traverses to the entity that physically produced the component, regardless of how many intermediaries stand between, and documents the traversal path. Contract manufacturers and original design manufacturers are Tier 2 entities as to every component they source on the applicant's behalf; an applicant may not treat a contract manufacturer as a terminal node.

Tier 3 – commodity floor. For components below the criticality definition and below the de minimis value threshold, the applicant certifies to the supplier level only, and the certification states that it is limited to that level.

Rebuttal. An applicant overcomes the presumption as to any component only by producing Tier 2 documentation for it. Silence, or a Tier 3 certification, does not rebut.

A rule of this shape defines the search whose completion is being certified, which is what makes an absence showing reviewable. It also makes the certification accurate on its face: a Tier 3 certification states what it covers rather than implying knowledge the applicant does not have.

VI. The U.S.-based liable party is an enforcement mechanism; § 2.911(d)(11) should carry a confirmation duty

The liable-party proposal is justified on its own terms. At paragraph 229 the Commission states that it has found the existing U.S.-agent-for-service requirement "to be insufficient to ensure compliance with our rules." At paragraph 231 it describes what the liable party must be able to do: bear joint and several liability with the foreign grantee, have "organizational authority to ensure compliance and cooperation with enforcement investigations," including "the ability to produce documents, relevant witnesses, and financial assets in the United States to support enforcement investigations."

Each attribute in that list concerns the Commission's ability to reach someone after a failure. None concerns whether a claim in an application is tested before a grant issues. Gatewell asks that the final order describe the requirement as enforcement reach rather than as supply-chain verification, because the two do different work and only one of them affects what an application must contain.

On the evidentiary side, the certifications in the proposal are the applicant's own. Proposed § 2.911(d)(8)(ii) provides that the producer-identification certification "shall be signed by an authorized representative of the applicant." Proposed § 2.911(d)(9)(iii) provides that the HBOM and SBOM "shall be certified as true and correct by an authorized representative of the applicant." Proposed § 2.911(d)(9)(iv) provides for supplemental documentation on request, directed to the applicant.

The Commission has already identified what closes that loop, and the proposal already collects part of what closing it would take. At paragraph 141, discussing the show-cause order issued to Odyssey Robot LLC, the Commission states: "The only reason OET learned of Odyssey's alleged false statement was that Odyssey listed a U.S.-based assembler (who claims not to have assembled Odyssey devices), even though such information was not required by FCC rules." Proposed § 2.911(d)(11) would now require, for each producer named in the certification or in any HBOM or SBOM, the producer's legal name, trade names, principal place of business, jurisdiction of incorporation or organization, and "[c]ontact information for an authorized representative of the producer, including mailing address, telephone number, and electronic mail address." 91 Fed. Reg. at 51144. The proposal thus collects the identity and the contact point of every named producer, but requires nothing from that producer.

The Odyssey matter has since been resolved, and the resolution is instructive on both points. On August 11, 2026, in DA 26-839, the Office of Engineering and Technology and the Public Safety and Homeland Security Bureau revoked both authorizations under 47 U.S.C. § 302a and 47 CFR § 2.939(d), determining at paragraph 13 that the applications and supporting materials "contain false statements or representations that the equipment was not covered equipment and was not produced in a foreign country." The order records that the applicant certified on January 12, 2026 under § 2.911(d)(5)(i) that the equipment was not prohibited from authorization under § 2.903; that grants issued on April 20, 2026; and that a February 6, 2026 declaration filed in support of the Remote Controller application represented that the product was developed, designed, and manufactured by the applicant in California and assembled by a named Texas company. DA 26-839 ¶¶ 6-7. The order also records that the test reports submitted with the applications showed testing "conducted in a foreign country by TÜV Rheinland (Shenzhen) Co. Ltd.," and the Bureaus relied on "the fact that testing occurred in a foreign country" and "the lack of any record of Odyssey's domestic production" in reaching their conclusion. DA 26-839 ¶¶ 7, 14. What resolved the origin question, however, came from outside the applicant: the Enforcement Bureau sent a letter of inquiry to the named Texas assembler on June 29, 2026 seeking information on its business relationship with the applicant, device assembly services, and payments; the assembler responded on July 13, 2026 that "eTak has no affiliation, business relationship, contractual relationship, agency relationship, ownership interest, or other connection with Odyssey Robot LLC. . . . eTak has not performed any assembly, and/or

other services for Odyssey Robot LLC." DA 26-839 ¶¶ 10-11. Attestation to revocation ran approximately seven months; grant to revocation, under four.

Two things follow for documentary method. First, an origin signal already present in an application file — here, the testing location — is not reconciled against the applicant's origin representations by any rule, and nothing in the proposal would require that reconciliation. Second, the party able to contradict a false attribution is the party to whom the activity is attributed, and the proposal already collects that party's name and contact information without asking it anything.

Recommendation. The Commission should add a confirmation duty to proposed § 2.911(d)(11) rather than rely on discretionary supplementation. Where an applicant's HBOM, SBOM, or § 2.911(d)(8) certification names a U.S. entity as a producer, assembler, or manufacturer, the application should include a written confirmation from that named entity, signed by its own authorized representative, attesting to the relationship and to the activity attributed to it. Because (d)(11) already requires the applicant to obtain and file that representative's mailing address, telephone number, and electronic mail address, the incremental burden is the confirmation itself. It asks a party the applicant has already named, and whose contact information the applicant must already supply, to confirm what the applicant has already said. Gatewell further recommends that § 2.911 require the applicant to state the location of compliance testing alongside its production-location representations, so that the two appear in the same document and any inconsistency is apparent on the face of the file.

VII. Evidentiary requirements should attach to functional attributes, not category labels

Covered List categories respond to national security determinations, and those determinations are revised. The August 20, 2026 Public Notice is an instance: the Bureau narrowed the power inverter entry to utility-interactive inverters as defined in UL 1741 sections 2.1.23 and 2.1.52, and at the same time extended the connectivity element to reach a device that "[c]ontains, or is designed, equipped, or configured to accept, a component that enables remote communication, control, sensing, data-collection, or monitoring through Ethernet, Wi-Fi, cellular, Bluetooth, or other similar connections, whether wired or wireless." DA 26-870. The Bureau also stated that the updates "will not implicate various rules and programs applicable to entities 'identified'

on the Covered List, because this newly-covered equipment is identified by place of production, not by entity."

The connectivity change illustrates the point. A file built to the label "power inverters" as the entry read before August 20 does not answer the question the entry now asks, because the question is no longer whether a wireless module is installed but whether the device is configured to accept a remote-communication component over any interface, wired or wireless. A file built to functional attributes — for each component, does it execute firmware, does it provide or accept an external communications interface and of what kind, where was it produced, what share of component cost does it represent — already contains the answer, and would have contained it before the definition changed. Functional attributes survive category revisions; labels do not.

The bifurcation the Commission describes at paragraph 129, separating producer/provider-based from production location-based Covered List entries, is a workable organizing principle for prohibitions, which must attach to a category. Gatewell asks that it not become the organizing principle for disclosure, which does not have to.

VIII. Conclusion

Gatewell asks the Commission to specify in rule text, rather than in accompanying discussion, what makes the proposed documents probative:

1. A functional definition of "critical component" for purposes of § 2.911(d)(10), anchored to the "logic-bearing hardware component" definition adopted in Appendix A and supplemented by firmware-bearing, external-interface, and value-share prongs.
2. A whole-device value denominator in § 2.911(d)(10)(iv), with a stated de minimis aggregation threshold, sufficient to compute the domestic end product ratio on which the coverage test depends.
3. A single, unambiguous statement of the "produced in a foreign country" test in § 2.902, paired with a statement of what documentation establishes each element retained.
4. A tiered traversal rule in § 2.911 defining the search an applicant must have performed before certifying an absence, whichever standard of proof the Commission adopts for the rebuttable presumption described at paragraph 149.
5. A confirmation duty added to § 2.911(d)(11), requiring a written confirmation from each named U.S. producer, assembler, or manufacturer, and a requirement that

the applicant state the location of compliance testing alongside its production-location representations. 6. Disclosure obligations keyed to functional attributes of components rather than to Covered List category labels.

Respectfully submitted,

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