

November 12, 2019

**VIA ELECTRONIC FILING (ECFS)**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Re: Ex Parte Notice: Amendments of Parts 0, 1, 2, 15, and 18 of the  
Commission's Rules regarding Authorization of Radiofrequency  
Equipment – WT Docket No. 15-170

---

Dear Ms. Dortch,

This letter, which follows up on issues already identified in this docket, is written on behalf of Garmin International, Inc. ("Garmin") to urge prompt action on the Commission's pending proposal in the above-referenced proceeding to adopt a process for provisional certification of radiofrequency ("RF") devices subject to equipment certification requirements.

In its July 2015 Notice of Proposed Rulemaking ("NPRM"), the FCC proposed various means to preserve the confidentiality of certain portions of equipment certification applications until the commencement of deliveries to end users.<sup>1</sup> One proposal was to issue a "provisional" certification grant for a device that otherwise is deemed to meet all the certification requirements.<sup>2</sup> Such provisional certification would preserve the commercial and competitive reasons for the FCC's current confidentiality process but "could be used for legal importation and distribution through the supply chain of devices prior to sale."<sup>3</sup> Under the NPRM's proposal, when the device is first sold to the public, "the final certification grant would be made public."<sup>4</sup>

---

<sup>1</sup> *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules Regarding Authorization of Radiofrequency Equipment*, Notice of Proposed Rulemaking, 30 FCC Rcd 7725, 7754-57 ¶¶ 80-89 (2015).

<sup>2</sup> *Id.* ¶ 92.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*



Marlene H. Dortch  
November 12, 2019  
Page 2

While the FCC acted on many of the NPRM's proposals in its First Report and Order adopted in July 2017,<sup>5</sup> it did not act on the proposal for provisional certification.<sup>6</sup> The marketplace for imported devices subject to equipment certification requirements continues to expand, and the Commission should act on this aspect of its NPRM.

As other commenters in the docket have stated, confidentiality about product design and parameters is key to preserving innovation and competition.<sup>7</sup> Under the FCC's current rules, however, a significant amount of information must be made public in order to begin importing units for eventual sale, thereby making it difficult for a company to preserve the confidentiality of its product before launch in the U.S. Specifically, FCC rules require that a grant of equipment certification be issued prior to importation of any product,<sup>8</sup> even if the product will not be sold or marketed in the U.S. until a later date. The grant of equipment certification is not effective until published on the FCC's Equipment Authorization website; the published grant document includes a product description, technical information about the frequencies and power levels authorized, as well as "grant notes" that may include additional information about the device. Additionally, the FCC's current rules require the posting of all test reports underlying the certification, as well as product labels. Armed with this publicly available information, the trade press can publish information about a company's new product prematurely, while competitors can gain technical insight before the product's scheduled launch date.

The FCC's pending provisional certification proposal would provide U.S. companies with greatly improved ability to import their products at much lower risk of business harm from pre-launch disclosure of product information, without compromising the FCC compliance of the products being imported. Companies manufacturing RF products in the U.S. would be able to take advantage of the same confidentiality benefits because they would be able to obtain the certainty of completing equipment certification well in advance of product launch while still maintaining confidentiality over product details until deliveries to end users commence.

In the interest of moving the pending rulemaking process forward and expediting implementation, Garmin recommends that provisional certification initially be designed to track current FCC procedures as much as possible with a primary purpose of facilitating importation of devices prior to public disclosure of product details while providing public access to the same certification documentation as under current procedures when the device is first sold to the public and the final certification grant is made public. Under Garmin's proposal, a Telecommunications Certification Body ("TCB") would evaluate an application for provisional equipment certification no differently than it does today. Provisional certification would provide

---

<sup>5</sup> *Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules regarding Authorization of Radiofrequency Equipment*, First Report and Order, 32 FCC Rcd 8746 (2017).

<sup>6</sup> *Id.* at 8747 n.2.

<sup>7</sup> *See, e.g.*, Comments of Google Inc., ET Docket No. 15-170, at 14 (filed Oct. 9, 2015).

<sup>8</sup> 47 C.F.R. § 2.1204(a)(1).



Marlene H. Dortch  
November 12, 2019  
Page 3

no shortcuts from the current rigorous testing and certification process. The difference would be that, if provisional certification is requested, the TCB would publish only limited information – specifically, identifying the approving TCB and the Commission as the issuing authority, the date of issuance, the applicant’s name, and the FCC ID of the model. No technical information or the like would be disclosed at the time of provisional certification, just enough information to facilitate legal importation and initial distribution of the product through the supply chain up to the point of delivery to customers. If the TCB chose, it could charge device manufacturers an additional fee for the provisional certification.

The specifics of the Garmin proposal are as follows:

- The manufacturer would ask the TCB for provisional certification of a consumer product yet provide all the test data and exhibits needed for a standard certification application. The TCB would follow standard evaluation procedures under 47 C.F.R. §§ 2.962 – 2.964. Thus, the provisional certification process would not constitute a shortcut from the current rigorous certification process.
- Once the TCB reviewed the application for provisional certification and becomes ready to grant it, the TCB would post on the FCC Web site a “Provisional Certification” with five pieces of information identifying the approving TCB and the Commission as the issuing authority, the date of issuance, the applicant’s name, and the FCC ID of the model. At that time, other information typically published with a standard certification grant would not be made public, such as frequencies and power levels, relevant FCC rule parts, product description, label information, grant notes, user manuals, test reports, and photos.
- The provisional certification would be listed immediately on the FCC’s website for U.S. Customs and Border Protection and anyone else to view this information. The provisional certification would allow importation as well as initial distribution through the supply chain of devices prior to sale, such as shipments to warehouses and wholesalers, and “pre-sales” but not delivery to end users.
- The provisional certification would expire either in 90 days from the date of the provisional certification grant or the date of the product’s first delivery to end users (which the applicant is required to provide the TCB), whichever is sooner.
- If the provisional certification expired at the time of the required notification to the TCB of first delivery to end users, the TCB would immediately post the final certification (including the dates of provisional certification and final certification, as well as the details usually posted in the current standard certification process, such as frequencies, power levels, FCC rule parts, and FCC grant notes) plus all the exhibits except those exhibits eligible for Long-Term (“LT”) Confidentiality.



Marlene H. Dortch  
November 12, 2019  
Page 4

- If the provisional certification expired first, not because of the required notification of first delivery to end users but, because of the passage of 90 days, the TCB would immediately post the final certification (including the dates of provisional certification and final certification, as well as the details usually listed on a standard certification, such as frequencies, power levels, FCC rule parts, and FCC grant notes) plus all exhibits except those exhibits eligible for Short-Term (“ST”) or LT Confidentiality. ST Confidentiality could continue for a maximum of an additional 90 days (that is, a total of 180 days after grant, same as under current procedures) or until the commencement of deliveries to end users, after which time the exhibits subject to ST Confidentiality would be posted.
- The posting of the final certification grant would start the 30-day period during which a party could seek to have the grant of certification rescinded or modified. Under the proposal, the FCC or a TCB would be authorized to set aside a provisional certification within 30 days of the date of grant, consistent with 47 C.F.R. § 2.962(f), after which time the Commission could revoke the grant of certification through the procedures in 47 C.F.R. § 2.939. (Garmin’s review did not indicate a need to modify the Part 0 rules delegating authority to the Office of Engineering and Technology to administer the Part 2 equipment certification program.)

Under the Garmin approach, the TCB needs to create only one new electronic document, the provisional certification, to implement the proposal; otherwise, the TCB follows standard procedures for reviewing applications.

A draft of proposed rule revisions to implement the NPRM proposal for provisional certification is attached, with additions shown in red. Please contact the undersigned if you have any questions.

Sincerely,

/s/ Timothy J. Cooney

M. Anne Swanson

Timothy J. Cooney

Enclosure

cc: Julius Knapp, FCC Office of Engineering and Technology  
Rashmi Doshi, FCC Office of Engineering and Technology  
Jamison Prime, FCC Office of Engineering and Technology



**PROPOSED FCC RULE CHANGES**  
**(additions shown in red)**

**Subpart I—Marketing of Radio-frequency Devices**

**§2.801 Radiofrequency device defined.**

As used in this part, a radiofrequency device is any device which in its operation is capable of emitting radiofrequency energy by radiation, conduction, or other means. Radiofrequency devices include, but are not limited to:

- (a) The various types of radio communication transmitting devices described throughout this chapter.
- (b) The incidental, unintentional and intentional radiators defined in part 15 of this chapter.
- (c) The industrial, scientific, and medical equipment described in part 18 of this chapter.
- (d) Any part or component thereof which in use emits radiofrequency energy by radiation, conduction, or other means.

**§2.803 Marketing of radio frequency devices prior to equipment authorization.**

(a) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(b) *General rule.* No person may market a radio frequency device unless:

(1) For devices subject to authorization under certification, the device has been authorized in accordance with the rules in subpart J of this chapter and is properly identified and labeled as required by §2.925 and other relevant sections in this chapter; **devices subject to Provisional Certification under § 2.915(g) may be imported and shipped within the U.S., but may not be delivered to end users;** or

(2) For devices subject to authorization under Supplier's Declaration of Conformity in accordance with the rules in subpart J of this part, the device complies with all applicable technical, labeling, identification and administrative requirements; or

(3) For devices that do not require a grant of equipment authorization under subpart J of this chapter but must comply with the specified technical standards prior to use, the device complies with all applicable, technical, labeling, identification and administrative requirements.

(c) *Exceptions.* The following marketing activities are permitted prior to equipment authorization:



(1) Activities conducted under market trials pursuant to subpart H of part 5 of this chapter or in accordance with a Spectrum Horizons experimental radio license issued pursuant to subpart I of part 5.

(2) Limited marketing is permitted, as described in the following text, for devices that could be authorized under the current rules; could be authorized under waivers of such rules that are in effect at the time of marketing; or could be authorized under rules that have been adopted by the Commission but that have not yet become effective. These devices may not be operated unless permitted by §2.805.

(i) Conditional sales contracts (including agreements to produce new devices manufactured in accordance with designated specifications) are permitted between manufacturers and wholesalers or retailers provided that delivery is made contingent upon compliance with the applicable equipment authorization and technical requirements.

(ii) A radio frequency device that is in the conceptual, developmental, design or pre-production stage may be offered for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) if the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution.

(iii) (A) A radio frequency device may be advertised or displayed, (e.g., at a trade show or exhibition) if accompanied by a conspicuous notice containing this language:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(B) If the device being displayed is a prototype of a device that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized device, this language may be used instead: Prototype. Not for Sale.

(iv) An evaluation kit as defined in §2.1 may be sold provided that:

(A) Sales are limited to product developers, software developers, and system integrators;

(B) The following notice is included with the kit:

FCC NOTICE: This kit is designed to allow:

(1) Product developers to evaluate electronic components, circuitry, or software associated with the kit to determine whether to incorporate such items in a finished product and

(2) Software developers to write software applications for use with the end product. This kit is not a finished product and when assembled may not be resold or otherwise marketed unless all required FCC equipment authorizations are first obtained. Operation is subject to the condition that this product not cause harmful interference to licensed radio stations and that this



product accept harmful interference. Unless the assembled kit is designed to operate under part 15, part 18 or part 95 of this chapter, the operator of the kit must operate under the authority of an FCC license holder or must secure an experimental authorization under part 5 of this chapter.

(C) The kit is labeled with the following legend: For evaluation only; not FCC approved for resale; and

(D) Any radiofrequency transmitter employed as part of an evaluation kit shall be designed to comply with all applicable FCC technical rules, including frequency use, spurious and out-of-band emission limits, and maximum power or field strength ratings applicable to final products that would employ the components or circuitry to be evaluated.

(d) *Importation.* The provisions of subpart K of this part continue to apply to imported radio frequency devices.

### **§2.805 Operation of radio frequency devices prior to equipment authorization.**

(a) *General rule.* A radio frequency device may not be operated prior to equipment authorization unless the conditions set forth in paragraphs (b), (c), (d) or (e), of this section are met. Radio frequency devices operated under these provisions may not be marketed (as defined in §2.803(a)) except as provided elsewhere in this chapter. In addition, the provisions of subpart K continue to apply to imported radio frequency devices.

(b) Operation of a radio frequency device prior to equipment authorization is permitted under the authority of an experimental radio service authorization issued under part 5 of this chapter.

(c) Operation of a radio frequency device prior to equipment authorization is permitted for experimentation or compliance testing of a device that is fully contained within an anechoic chamber or a Faraday cage.

(d) For devices designed to operate solely under parts 15, 18, or 95 of this chapter without a station license, operation of a radio frequency device prior to equipment authorization is permitted under the following conditions, so long as devices are either rendered inoperable or retrieved at the conclusion of such operation:

(1) The radio frequency device shall be operated in compliance with existing Commission rules, waivers of such rules that are in effect at the time of operation, or rules that have been adopted by the Commission but that have not yet become effective; and

(2) The radio frequency device shall be operated for at least one of these purposes:

(i) Demonstrations at a trade show or an exhibition, provided a notice containing the wording specified in §2.803(c)(2)(iii) is displayed in a conspicuous location on, or immediately adjacent to, the device; or all prospective buyers at the trade show or exhibition are advised in writing that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution; or



(ii) Evaluation of performance and determination of customer acceptability, during developmental, design, or pre-production states. If the device is not operated at the manufacturer's facilities, it must be labeled with the wording specified in §2.803(c)(2)(iii), and in the case of an evaluation kit, the wording specified in §2.803(c)(2)(iv)(C).

(e) Operation of a radio frequency device prior to equipment authorization is permitted under either paragraph (e)(1) or (e)(2) of this section so long as devices are either rendered inoperable or retrieved at the conclusion of such operation:

(1) The radio frequency device shall be operated in compliance with existing Commission rules, waivers of such rules that are in effect at the time of operation, or rules that have been adopted by the Commission but that have not yet become effective; and

(i) Under the authority of a service license (only in the bands for which that service licensee holds a license) provided that the licensee grants permission and the licensee continues to remain responsible for complying with all of the operating conditions and requirements associated with its license; or

(ii) Under a grant of special temporary authorization.

(2) The radio frequency device shall be operated at or below the maximum level specified in the table in §15.209(a) of this chapter for at least one of these purposes:

(i) Demonstrations at a trade show or an exhibition, provided a notice containing the wording specified in §2.803(c)(2)(iii) is displayed in a conspicuous location on, or immediately adjacent to, the device; or all prospective buyers at the trade show or exhibition are advised in writing that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution; or

(ii) Evaluation of performance and determination of customer acceptability, during developmental, design, or pre-production states. If the device is not operated at the manufacturer's facilities, it must be labeled with the wording specified in §2.803(c)(2)(iii), and in the case of an evaluation kit, the wording specified in §2.803(c)(2)(iv)(C).

#### **§2.807 Statutory exceptions.**

As provided by Section 302(c) of the Communications Act of 1934, as amended, §2.803 shall not be applicable to:

(a) Carriers transporting radiofrequency devices without trading in them.

(b) Radiofrequency devices manufactured solely for export.

(c) The manufacture, assembly, or installation of radiofrequency devices for its own use by a public utility engaged in providing electric service: *Provided, however,* That no such device shall be operated if it causes harmful interference to radio communications.



(d) Radiofrequency devices for use by the Government of the United States or any agency thereof: *Provided, however,* That this exception shall not be applicable to any device after it has been disposed of by such Government or agency.

**§2.811 Transmitters operated under part 73 of this chapter.**

Section 2.803(a) through (c) shall not be applicable to a transmitter operated in any of the Radio Broadcast Services regulated under part 73 of this chapter, provided the conditions set out in part 73 of this chapter for the acceptability of such transmitter for use under licensing are met.

**§2.813 Transmitters operated in the Instructional Television Fixed Service.**

Section 2.803 (a) through (d) shall not be applicable to a transmitter operated in the Instructional Television Fixed Service regulated under part 74 of this chapter, provided the conditions in §74.952 of this chapter for the acceptability of such transmitter for licensing are met.

**§2.815 External radio frequency power amplifiers.**

(a) As used in this part, an external radio frequency power amplifier is any device which, (1) when used in conjunction with a radio transmitter as a signal source is capable of amplification of that signal, and (2) is not an integral part of a radio transmitter as manufactured.

(b) No person shall manufacture, sell or lease, offer for sale or lease (including advertising for sale or lease) or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any external radio frequency power amplifier capable of operation on any frequency or frequencies below 144 MHz unless the amplifier has received a grant of certification in accordance with subpart J of this part and other relevant parts of this chapter. These amplifiers shall comply with the following:

(1) The external radio frequency power amplifier shall not be capable of amplification in the frequency band 26-28 MHz.

(2) The amplifier shall not be capable of easy modification to permit its use as an amplifier in the frequency band 26-28 MHz.

(3) No more than 10 external radio frequency power amplifiers may be constructed for evaluation purposes in preparation for the submission of an application for a grant of certification.

(4) If the external radio frequency power amplifier is intended for operation in the Amateur Radio Service under part 97 of this chapter, the requirements of §§97.315 and 97.317 of this chapter shall be met.



## **Subpart J—Equipment Authorization Procedures**

### **General Provisions**

#### **§2.901 Basis and purpose.**

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be authorized under Supplier's Declaration of Conformity or receive a grant of certification from a Telecommunication Certification Body.

(b) Sections 2.906 through 2.1077 describe the procedure for a Supplier's Declaration of Conformity and the procedures to be followed in obtaining certification and the conditions attendant to such a grant.

#### **§2.906 Supplier's Declaration of Conformity.**

(a) Supplier's Declaration of Conformity (SDoC) is a procedure where the responsible party, as defined in §2.909, makes measurements or completes other procedures found acceptable to the Commission to ensure that the equipment complies with the appropriate technical standards. Submittal to the Commission of a sample unit or representative data demonstrating compliance is not required unless specifically requested pursuant to §2.945.

(b) Supplier's Declaration of Conformity is applicable to all items subsequently marketed by the manufacturer, importer, or the responsible party that are identical, as defined in §2.908, to the sample tested and found acceptable by the manufacturer.

(c) The responsible party may, if it desires, apply for Certification of a device subject to the Supplier's Declaration of Conformity. In such cases, all rules governing certification will apply to that device.

#### **§2.907 Certification.**

(a) Certification is an equipment authorization approved by the Commission or issued by a Telecommunication Certification Body (TCB) and authorized under the authority of the Commission, based on representations and test data submitted by the applicant.

(b) Certification attaches to all units subsequently marketed by the grantee which are identical (see §2.908) to the sample tested except for permissive changes or other variations authorized by the Commission pursuant to §2.1043.

(c) Provisional Certification is an equipment authorization issued pursuant to §2.915(g) of this chapter that permits the equipment to be imported and shipped within the U.S., but not



delivered to end users, prior to the publication of related information in accordance with §2.941 of this chapter.

#### **§2.908 Identical defined.**

As used in this subpart, the term *identical* means identical within the variation that can be expected to arise as a result of quantity production techniques.

#### **§2.909 Responsible party.**

(a) In the case of equipment that requires the issuance of a grant of certification, the party to whom that grant of certification is issued is responsible for the compliance of the equipment with the applicable standards. If the radio frequency equipment is modified by any party other than the grantee and that party is not working under the authorization of the grantee pursuant to §2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(b) For equipment subject to Supplier's Declaration of Conformity the party responsible for the compliance of the equipment with the applicable standards, who must be located in the United States (see §2.1077), is set forth as follows:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under Supplier's Declaration of Conformity, the assembler.

(2) If the equipment by itself, or, a system is assembled from individual parts and the resulting system is subject to Supplier's Declaration of Conformity and that equipment or system is imported, the importer.

(3) Retailers or original equipment manufacturers may enter into an agreement with the responsible party designated in paragraph (b)(1) or (b)(2) of this section to assume the responsibilities to ensure compliance of equipment and become the new responsible party.

(4) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(c) If the end product or equipment is subject to both certification and Supplier's Declaration of Conformity (*i.e.*, composite system), all the requirements of paragraphs (a) and (b) of this section apply.

(d) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labeled, following the specifications in §2.925(d), with the following: "This product has been modified by [insert name, address and telephone number or internet contact information of the party performing the modifications]."



(e) In the case of transfer of control of equipment, as in the case of sale or merger of the responsible party, the new entity shall bear the responsibility of continued compliance of the equipment.

## **§2.910 Incorporation by reference.**

(a) The materials listed in this section are incorporated by reference in this part. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of the approval, and notice of any change in these materials will be published in the Federal Register. All approved material is available for inspection at the Federal Communications Commission, 445 12th St. SW., Reference Information Center, Room CY-A257, Washington, DC 20554, (202) 418-0270 and is available from the sources below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to:

[http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) International Electrotechnical Commission (IEC), IEC Central Office, 3, rue de Varembe, CH-1211 Geneva 20, Switzerland, Email: [inmail@iec.ch](mailto:inmail@iec.ch), [www.iec.ch](http://www.iec.ch).

(1) CISPR 16-1-4:2010-04: “Specification for radio disturbance and immunity measuring apparatus and methods—Part 1-4: Radio disturbance and immunity measuring apparatus—Antennas and test sites for radiated disturbance measurements”, Edition 3.0, 2010-04, IBR approved for §§2.948(d) and 2.950(f).

(2) [Reserved]

(c) Institute of Electrical and Electronic Engineers (IEEE), 3916 Ranchero Drive, Ann Arbor, MI 48108, 1-800-699-9277, <http://www.techstreet.com/ieee>; (IEEE publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation ([www.nssn.org](http://www.nssn.org)), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642-4900.)

(1) ANSI C63.4-2014: “American National Standard for Methods of Measurement of Radio-Noise Emissions from Low-Voltage Electrical and Electronic Equipment in the Range of 9 kHz to 40 GHz,” ANSI approved June 13, 2014, IBR approved for §2.950(h) and:

(i) Sections 5.4.4 through 5.5, IBR approved for §§2.948(d) and 2.950(f);

(ii) [Reserved]

(2) ANSI C63.10-2013, “American National Standard of Procedures for Compliance Testing of Unlicensed Wireless Devices,” ANSI approved June 27, 2013, IBR approved for §2.950(g).

(3) ANSI C63.26-2015, “American National Standard of Procedures for Compliance Testing of Transmitters Used in Licensed Radio Services,” ANSI approved December 11, 2015, IBR approved for §2.1041(b).



(d) International Organization for Standardization (ISO), 1, ch. De la Voie-Creuse, CP 56, CH-1211, Geneva 20, Switzerland; *www.iso.org* ; Tel.: + 41 22 749 01 11; Fax: + 41 22 733 34 30; email: *central@iso.org*. (ISO publications can also be purchased from the American National Standards Institute (ANSI) through its NSSN operation (*www.nssn.org*), at Customer Service, American National Standards Institute, 25 West 43rd Street, New York, NY 10036, telephone (212) 642-4900.)

(1) ISO/IEC 17011:2004(E), “Conformity assessment—General requirements for accreditation bodies accrediting conformity assessment bodies,” First Edition, 2004-09-01, IBR approved for §§2.948(e), 2.949(b), 2.950(c) and (d), and 2.960(c).

(2) ISO/IEC 17025:2005(E), “General requirements for the competence of testing and calibration laboratories,” Section Edition, 2005-05-15, IBR approved for §§2.948(e), 2.949(b), 2.962(c) and (d).

(3) ISO/IEC 17065:2012(E), “Conformity assessment—Requirements for bodies certifying products, processes and services,” First Edition, 2012-09-15, IBR approved for §§2.950(b), 2.960(b), 2.962(b), (c), (d), (f), and (g).

(4) ISO/IEC Guide 58:1993(E), “Calibration and testing laboratory accreditation systems—General requirements for operation and recognition”, First Edition 1993, IBR approved for §2.950(d).

(5) ISO/IEC Guide 61:1996(E), “General requirements for assessment and accreditation of certification/registration bodies”, First Edition 1996, IBR approved for §2.950(c).

(6) ISO/IEC Guide 65:1996(E), “General requirements for bodies operating product certification systems,” First Edition 1996, IBR approved for §2.950(b).

## **Application Procedures for Equipment Authorizations**

### **§2.911 Application requirements.**

(a) All requests for equipment authorization shall be submitted in writing to a Telecommunication Certification Body (TCB) in a manner prescribed by the TCB.

(b) A TCB shall submit an electronic copy of each equipment authorization application to the Commission pursuant to §2.962(f)(6) on a form prescribed by the Commission at <https://www.fcc.gov/eas>.

(c) Each application that a TCB submits to the Commission shall be accompanied by all information required by this subpart and by those parts of the rules governing operation of the equipment, the applicant's certifications required by paragraphs (d)(1) and (2) of this section, and by requisite test data, diagrams, photographs, etc., as specified in this subpart and in those sections of rules under which the equipment is to be operated.

(d) The applicant shall provide to the TCB all information that the TCB requests to process the equipment authorization request and to submit the application form prescribed by the



Commission and all exhibits required with this form. The applicant shall state expressly whether it seeks Provisional Certification under § 2.915(g) and, if so, must certify that it will inform the relevant TCB the date that it will commence delivering units subject to Provisional Certification to end users.

(1) The applicant shall provide a written and signed certification to the TCB that all statements it makes in its request for equipment authorization are true and correct to the best of its knowledge and belief.

(2) The applicant shall provide a written and signed certification to the TCB that the applicant complies with the requirements in §1.2002 of this chapter concerning the Anti-Drug Abuse Act of 1988.

(3) Each request for equipment authorization submitted to a TCB, including amendments thereto, and related statements of fact and authorizations required by the Commission, shall be signed by the applicant if the applicant is an individual; by one of the partners if the applicant is a partnership; by an officer, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association: Provided, however, that the application may be signed by the applicant's authorized representative who shall indicate his title, such as plant manager, project engineer, etc.

(4) Information on the Commission's equipment authorization requirements can be obtained from the Internet at <https://www.fcc.gov/eas>.

(e) Technical test data submitted to the TCB and to the Commission shall be signed by the person who performed or supervised the tests. The person signing the test data shall attest to the accuracy of such data. The Commission or TCB may require the person signing the test data to submit a statement showing that they are qualified to make or supervise the required measurements.

(f) Signed, as used in this section, means an original handwritten signature; however, the Office of Engineering and Technology may allow signature by any symbol executed or adopted by the applicant or TCB with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

### **§2.915 Grant of application.**

(a) A Commission recognized TCB will grant an application for certification if it finds from an examination of the application and supporting data, or other matter which it may officially notice, that:

(1) The equipment is capable of complying with pertinent technical standards of the rule part(s) under which it is to be operated; and,

(2) A grant of the application would serve the public interest, convenience and necessity.

(b) Grants will be made in writing showing the effective date of the grant and any special condition(s) attaching to the grant.



(c) Certification shall not attach to any equipment, nor shall any equipment authorization be deemed effective, until the application has been granted.

(d) Grants will be from the date of publication on the Commission Web site and shall show any special condition(s) attaching to the grant. The official copy of the grant shall be maintained on the Commission Web site.

(e) The grant shall identify the approving TCB and the Commission as the issuing authority.

(f) In cases of a dispute the Commission will be the final arbiter.

(g) Notwithstanding any of the provisions above, upon the request of an applicant, the approving TCB may issue a Provisional Certification that shall reference the fact that it is provisional and shall identify only the approving TCB, the Commission as the issuing authority, the name of the applicant, the FCC Identifier of the equipment consistent with § 2.926 of this chapter, and the date the Provisional Certification is issued. When the application is for a host device that incorporates a certified modular transmitter subject to § 15.212 of this chapter, the provisional Certification shall list only the host FCC ID. The Provisional Certification shall be effective from the date of its publication on the Commission Web site. Provisional Certification permits the importation and shipment within the U.S. of the approved equipment, but delivery of such equipment to end users is prohibited until the final grant of certification is published as set forth below. The applicant for a Provisional Certification must inform the approving TCB of the date it will commence delivery of units to end users so that the final grant of certification will be posted on that date. Provisional Certification expires on the earlier of: i) 90 days after grant of Provisional Certification, or ii) the date of the first delivery of the relevant equipment to end users. Upon expiration of Provisional Certification, the TCB shall publish, consistent with §§ 0.441 through 0.470, the final grant of certification and application materials pursuant to § 2.941 of this chapter, subject to currently effective procedures for Short Term and Long Term confidentiality. The grantee of a Provisional Certification may not commence delivery of equipment to end users prior to the posting of the final grant of certification.

#### **§2.917 Dismissal of application.**

(a) An application which is not in accordance with the provisions of this subpart may be dismissed.

(b) Any application, upon written request signed by the applicant or his attorney, may be dismissed prior to a determination granting or denying the authorization requested.

(c) If an applicant is requested to file additional documents or information and fails to submit the requested material within the specified time period, the application may be dismissed.

#### **§2.919 Denial of application.**

If the Commission is unable to make the findings specified in §2.915(a), it will deny the application. Notification to the applicant will include a statement of the reasons for the denial.



### **§2.921 Hearing on application.**

Whenever it is determined that an application for equipment authorization presents substantial factual questions relating to the qualifications of the applicant or the equipment (or the effects of the use thereof), the Commission may designate the application for hearing. A hearing on an application for an equipment authorization shall be conducted in the same manner as a hearing on a radio station application as set out in subpart B of part 1 of this chapter.

### **§2.923 Petition for reconsideration; application for review.**

Persons aggrieved by virtue of an equipment authorization action may file with the Commission a petition for reconsideration or an application for review. Rules governing the filing of petitions for reconsideration and applications for review are set forth in §§1.106 and 1.115, respectively, of this chapter. With respect to Provisional Certifications issued pursuant to 2.915(g), the 30-day period for petitions for reconsideration and applications for review commences upon posting on the Commission Web site of the final certification grant (that is, the grant of certification that includes application information such as frequencies, power levels, FCC rule parts, and FCC grant notes).

### **§2.924 Marketing of electrically identical equipment having multiple trade names and models or type numbers under the same FCC Identifier.**

The grantee of an equipment authorization may market devices having different model/type numbers or trade names without additional authorization, provided that such devices are electrically identical and the equipment bears an FCC Identifier validated by a grant of certification. A device will be considered to be electrically identical if no changes are made to the authorized device, or if the changes made to the device would be treated as class I permissive changes within the scope of §2.1043(b)(1). Changes to the model number or trade name by anyone other than the grantee, or under the authorization of the grantee, shall be performed following the procedures in §2.933.

### **§2.925 Identification of equipment.**

(a) Each equipment covered in an application for equipment authorization shall bear a label listing the following:

(1) FCC Identifier consisting of the two elements in the exact order specified in §2.926. The FCC Identifier shall be preceded by the term FCC ID in capital letters on a single line, and shall be of a type size large enough to be legible without the aid of magnification.

(2) Any other statements or labeling requirements imposed by the rules governing the operation of the specific class of equipment, except that such statement(s) of compliance may appear on a separate label at the option of the applicant/grantee.

(3) The information required may be provided electronically pursuant to §2.935.

(b) Any device subject to more than one equipment authorization procedure may be assigned a single FCC Identifier. However, a single FCC Identifier is required to be assigned to



any device consisting of two or more sections assembled in a common enclosure, on a common chassis or circuit board, and with common frequency controlling circuits. Devices to which a single FCC Identifier has been assigned shall be identified pursuant to paragraph (a) of this section.

(1) Separate FCC Identifiers may be assigned to a device consisting of two or more sections assembled in a common enclosure, but constructed on separate sub-units or circuit boards with independent frequency controlling circuits. The FCC Identifier assigned to any transmitter section shall be preceded by the term *TX FCC ID*, the FCC Identifier assigned to any receiver section shall be preceded by the term *RX FCC ID* and the identifier assigned to any remaining section(s) shall be preceded by the term *FCC ID*.

(2) Where terminal equipment subject to part 68 of this chapter, and a radiofrequency device subject to equipment authorization requirements are assembled in a common enclosure, the device shall be labeled in accordance with the Hearing Aid Compatibility-related requirements in part 68 of this chapter and the requirements published by the Administrative Council for Terminal Attachments, and shall also display the FCC Identifier in the format specified in paragraph (a) of this section.

(3) For a transceiver, the receiver portion of which is subject to Supplier's Declaration of Conformity pursuant to §15.101 of this chapter, and the transmitter portion is subject to certification, the FCC Identifier required for the transmitter portion shall be preceded by the term *FCC ID*.

(c) [Reserved]

(d) In order to validate the grant of equipment authorization, the nameplate or label shall be permanently affixed to the equipment and shall be readily visible to the purchaser at the time of purchase.

(1) As used here, *permanently affixed* means that the required nameplate data is etched, engraved, stamped, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment enclosure. Alternatively, the required information may be permanently marked on a nameplate of metal, plastic, or other material fastened to the equipment enclosure by welding, riveting, etc., or with a permanent adhesive. Such a nameplate must be able to last the expected lifetime of the equipment in the environment in which the equipment will be operated and must not be readily detachable.

(2) As used here, *readily visible* means that the nameplate or nameplate data must be visible from the outside of the equipment enclosure. It is preferable that it be visible at all times during normal installation or use, but this is not a prerequisite for grant of equipment authorization.

(e) A software defined radio may be equipped with a means such as a user display screen to display the FCC identification number normally contained in the nameplate or label. The information must be readily accessible, and the user manual must describe how to access the electronic display.



(f) The FCC Identifier including the term “*FCC ID*” shall be in a size of type large enough to be readily legible, consistent with the dimensions of the equipment and its label. However, the type size for the FCC Identifier is not required to be larger than eight-point. If a device is so small that it is impractical to label it with the FCC Identifier in a font that is four-point or larger, and the device does not have a display that can show electronic labeling, then the FCC Identifier shall be placed in the user manual and must also either be placed on the device packaging or on a removable label attached to the device.

Note to paragraph (f): As an example, a device intended to be implanted within the body of a test animal or person would probably require an alternate method of identification.

#### **§2.926 FCC identifier.**

(a) A grant of certification will list the validated FCC Identifier consisting of the grantee code assigned by the FCC pursuant to paragraph (b) of this section, and the equipment product code assigned by the grantee pursuant to paragraph (c) of this section. *See* §2.925.

(b) The grantee code assigned pursuant to paragraph (c) of this section is assigned permanently to applicants/grantees and is valid only for the party specified as the applicant/grantee in the code assignment(s).

(c) A grantee code may consist of Arabic numerals, capital letters, or other characters. The format for this code will be specified by the Commission's Office of Engineering and Technology. A prospective grantee or its authorized representative may receive a grantee code electronically via the Internet at <http://www.fcc.gov/eas>. The code may be obtained at any time prior to submittal of the application for equipment authorization. However, the fee required by §1.1103 of this chapter must be submitted and validated within 30 days of the issuance of the grantee code, or the code will be removed from the Commission's records and a new grantee code will have to be obtained.

(1) After assignment of a grantee code each grantee will continue to use the same grantee code for subsequent equipment authorization applications. In the event the grantee name is changed or ownership is transferred, the circumstances shall be reported to the Commission so that a new grantee code can be assigned, if appropriate. *See* §2.929(c) and (d) for additional information.

In the event the grantee name is changed or ownership is transferred, the circumstances shall be reported to the Commission so that a new grantee code can be assigned, if appropriate. *See* §§2.934 and 2.935 for additional information.

(2) [Reserved]

(d) The equipment product code assigned by the grantee shall consist of a series of Arabic numerals, capital letters or a combination thereof, and may include the dash or hyphen (-). The total of Arabic numerals, capital letters and dashes or hyphens shall not exceed 14 and shall be one which has not been previously used in conjunction with:

(1) The same grantee code, or



(2) An application denied pursuant to §2.919 of this chapter.

(e) No FCC Identifier may be used on equipment to be marketed unless that specific identifier has been validated by a grant of equipment certification. This shall not prohibit placement of an FCC identifier on a transceiver which includes a receiver subject to Suppliers Declaration of Conformity pursuant to §15.101 of this chapter, provided that the transmitter portion of such transceiver is covered by a valid grant of certification. The FCC Identifier is uniquely assigned to the grantee and may not be placed on the equipment without authorization by the grantee. See §2.803 for conditions applicable to the display at trade shows of equipment which has not been granted equipment authorization where such grant is required prior to marketing. Labeling of such equipment may include model or type numbers, but shall not include a purported FCC Identifier.

### **Conditions Attendant to an Equipment Authorization**

#### **§2.927 Limitations on grants.**

(a) A grant of certification is valid only when the device is labeled in accordance with §2.925 and remains effective until set aside, revoked or withdrawn, rescinded, surrendered, or a termination date is otherwise established by the Commission.

(b) A grant of certification recognizes the determination that the equipment has been shown to be capable of compliance with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. The issuance of a grant of equipment certification shall not be construed as a finding with respect to matters not encompassed by the Commission's rules, especially with respect to compliance with 18 U.S.C. 2512.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to an equipment authorization in a deceptive or misleading manner or convey the impression that such certification reflects more than a Commission-authorized determination that the device or product has been shown to be capable of compliance with the applicable technical standards of the Commission's rules.

#### **§2.929 Changes in name, address, ownership or control of grantee.**

(a) An equipment authorization may not be assigned, exchanged or in any other way transferred to a second party, except as provided in this section.

(b) The grantee of an equipment authorization may license or otherwise authorize a second party to manufacture the equipment covered by the grant of the equipment authorization provided:

(1) The equipment manufactured by such second party bears the FCC Identifier as is set out in the grant of the equipment authorization.



Note to paragraph (b)(1): Any change in the FCC Identifier desired as a result of such production or marketing agreement will require the filing of a new application for an equipment authorization as specified in §2.933.

(2) The grantee of the equipment authorization shall continue to be responsible to the Commission for the equipment produced pursuant to such an agreement.

(c) Whenever there is a change in the name and/or address of the grantee of certification, notice of such change(s) shall be submitted to the Commission via the Internet at <https://apps.fcc.gov/eas> within 30 days after the grantee starts using the new name and/or address.

(d) In the case of transactions affecting the grantee, such as a transfer of control or sale to another company, mergers, or transfer of manufacturing rights, notice must be given to the Commission via the Internet at <https://apps.fcc.gov/eas> within 60 days after the consummation of the transaction. Depending on the circumstances in each case, the Commission may require new applications for certification. In reaching a decision the Commission will consider whether the acquiring party can adequately ensure and accept responsibility for continued compliance with the regulations. In general, new applications for each device will not be required. A single application for certification may be filed covering all the affected equipment.

#### **§2.931 Responsibilities.**

(a) The responsible party warrants that each unit of equipment marketed under its grant of certification and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) filed with the application for certification continues to be representative of the equipment being produced under such grant within the variation that can be expected due to quantity production and testing on a statistical basis.

(b)-(c) [Reserved]

(d) In determining compliance for devices subject to Supplier's Declaration of Conformity, the responsible party warrants that each unit of equipment marketed under Supplier's Declaration of Conformity will be identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party continue to reflect the equipment being produced under such Supplier's Declaration of Conformity within the variation that can be expected due to quantity production and testing on a statistical basis.

(e) For equipment subject to Supplier's Declaration of Conformity, the responsible party must reevaluate the equipment if any modification or change adversely affects the emanation characteristics of the modified equipment. The responsible party bears responsibility for continued compliance of subsequently produced equipment.



### **§2.932 Modification of equipment.**

(a) A new application for an equipment authorization shall be filed whenever there is a change in the design, circuitry or construction of an equipment or device for which an equipment authorization has been issued, except as provided in paragraphs (b) through (d) of this section.

(b) Permissive changes may be made in certificated equipment, and equipment that was authorized under the former type acceptance procedure, pursuant to §2.1043.

(c) Permissive changes may be made in equipment that was authorized under the former notification procedure without submittal of information to the Commission, unless the equipment is currently subject to authorization under the certification procedure. However, the grantee shall submit information documenting continued compliance with the pertinent requirements upon request.

(d) All requests for permissive changes must be accompanied by the anti-drug abuse certification required under §1.2002 of this chapter.

### **§2.933 Change in identification of equipment.**

(a) A new application for certification shall be filed whenever there is a change in the FCC Identifier for the equipment with or without a change in design, circuitry or construction. However, a change in the model/type number or trade name performed in accordance with the provisions in §2.924 of this chapter is not considered to be a change in identification and does not require additional authorization.

(b) An application filed pursuant to paragraph (a) of this section where no change in design, circuitry or construction is involved, need not be accompanied by a resubmission of equipment or measurement or test data customarily required with a new application, unless specifically requested. In lieu thereof, the applicant shall attach a statement setting out:

(1) The original identification used on the equipment prior to the change in identification.

(2) The date of the original grant of the equipment authorization.

(3) How the equipment bearing the modified identification differs from the original equipment.

(4) Whether the original test results continue to be representative of and applicable to the equipment bearing the changed identification.

(5) The photographs required by §2.1033(b)(7) or (c)(12) showing the exterior appearance of the equipment, including the operating controls available to the user and the identification label. Photographs of the construction, the component placement on the chassis, and the chassis assembly are not required to be submitted unless specifically requested.



(c) If the change in the FCC Identifier also involves a change in design or circuitry which falls outside the purview of a permissive change described in §2.1043, a complete application shall be filed pursuant to §2.911.

### **§2.935 Electronic labeling of radiofrequency devices.**

(a) Any radiofrequency device equipped with an integrated electronic display screen, or a radiofrequency device without an integrated screen that can only operate in conjunction with a device that has an electronic display screen, may display on the electronic display the FCC Identifier, any warning statements, or other information that the Commission's rules would otherwise require to be shown on a physical label attached to the device.

(b) Devices displaying their FCC Identifier, warning statements, or other information electronically must make this information readily accessible on the electronic display. Users must be provided with prominent instructions on how to access the information in the operating instructions, inserts in packaging material, or other easily accessible format at the time of purchase. The access instructions may also be provided via the product-related Web site, if such a Web site exists; the packaging material must provide specific instructions on how to locate the Web site information, and a copy of these instructions must be included in the application for equipment certification.

(c) Devices displaying their FCC Identifier, warning statements, or other information electronically must permit access to the information without requiring special codes, accessories or permissions and the access to this information must not require more than three steps from the device setting menu. The number of steps does not include those steps for use of screen locks, passcodes or similar security protection designed to control overall device access.

(d) The electronically displayed FCC Identifier, warning statements, or other information must be displayed electronically in a manner that is clearly legible without the aid of magnification;

(e) The necessary label information must be programmed by the responsible party and must be secured in such a manner that third-parties cannot modify it.

(f) Devices displaying their FCC Identifier, warning statements, or other information electronically must also be labeled, either on the device or its packaging, with the FCC Identifier or other information (such as a model number and identification of a Web page that hosts the relevant regulatory information) that permits the devices to be identified at the time of importation, marketing, and sales as complying with the FCC's equipment authorization requirements. Devices can be labeled with a stick-on label, printing on the packaging, a label on a protective bag, or by similar means. Any removable label shall be of a type intended to survive normal shipping and handling and must only be removed by the customer after purchase.

### **§2.937 Equipment defect and/or design change.**

When a complaint is filed with the Commission concerning the failure of equipment subject to this chapter to comply with pertinent requirements of the Commission's rules, and the Commission determines that the complaint is justified and arises out of an equipment fault



attributable to the responsible party, the Commission may require the responsible party to investigate such complaint and report the results of such investigation to the Commission. The report shall also indicate what action if any has been taken or is proposed to be taken by the responsible party to correct the defect, both in terms of future production and with reference to articles in the possession of users, sellers and distributors.

**§2.938 Retention of records.**

(a) For equipment subject to the equipment authorization procedures in this part, the responsible party shall maintain the records listed as follows:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the standards and the requirements of §2.931.

(2) A record of the procedures used for production inspection and testing to ensure conformance with the standards and the requirements of §2.931.

(3) A record of the test results that demonstrate compliance with the appropriate regulations in this chapter.

(b) For equipment subject to Supplier's Declaration of Conformity, the responsible party shall, in addition to the requirements in paragraph (a) of this section, maintain a record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations in this chapter. The record shall:

(1) Indicate the actual date all testing was performed;

(2) State the name of the test laboratory, company, or individual performing the testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the tests;

(3) Contain a description of how the device was actually tested, identifying the measurement procedure and test equipment that was used;

(4) Contain a description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT;

(5) Identify the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number;

(6) Indicate the types and lengths of connecting cables used and how they were arranged or moved during testing;

(7) Contain at least two drawings or photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These drawings or photographs must show enough detail to confirm other information contained in the test report. Any photographs used must clearly show the test configuration used;



(8) List all modifications, if any, made to the EUT by the testing company or individual to achieve compliance with the regulations in this chapter;

(9) Include all of the data required to show compliance with the appropriate regulations in this chapter;

(10) Contain, on the test report, the signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in §2.909; and

(11) A copy of the compliance information, as described in §2.1077, required to be provided with the equipment.

(c) The provisions of paragraph (a) of this section shall also apply to a manufacturer of equipment produced under an agreement with the original responsible party. The retention of the records by the manufacturer under these circumstances shall satisfy the grantee's responsibility under paragraph (a) of this section.

(d) For equipment subject to more than one equipment authorization procedure, the responsible party must retain the records required under all applicable provisions of this section.

(e) For equipment subject to rules that include a transition period, the records must indicate the particular transition provisions that were in effect when the equipment was determined to be compliant.

(f) For equipment subject to certification, records shall be retained for a one year period after the marketing of the associated equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party (or, under paragraph (c) of this section, the manufacturer) is officially notified that an investigation or any other administrative proceeding involving its equipment has been instituted. For all other records kept pursuant to this section, a two-year period shall apply.

(g) If radio frequency equipment is modified by any party other than the original responsible party, and that party is not working under the authorization of the original responsible party, the party performing the modifications is not required to obtain the original design drawings specified in paragraph (a)(1) of this section. However, the party performing the modifications must maintain records showing the changes made to the equipment along with the records required in paragraph (a)(3) of this section. A new equipment authorization may also be required.

#### **§2.939 Revocation or withdrawal of equipment authorization.**

(a) The Commission may revoke any equipment authorization:

(1) For false statements or representations made either in the application or in materials or response submitted in connection therewith or in records required to be kept by §2.938.



(2) If upon subsequent inspection or operation it is determined that the equipment does not conform to the pertinent technical requirements or to the representations made in the original application.

(3) If it is determined that changes have been made in the equipment other than those authorized by the rules or otherwise expressly authorized by the Commission.

(4) Because of conditions coming to the attention of the Commission which would warrant it in refusing to grant an original application.

(b) Revocation of an equipment authorization shall be made in the same manner as revocation of radio station licenses.

(c) The Commission may withdraw any equipment authorization in the event of changes in its technical standards. The procedure to be followed will be set forth in the order promulgating such new technical standards (after appropriate rulemaking proceedings) and will provide a suitable amortization period for equipment in hands of users and in the manufacturing process.

#### **§2.941 Availability of information relating to grants.**

(a) Grants of equipment authorization, other than for receivers and equipment authorized for use under parts 15 or 18 of this chapter, will be publicly announced in a timely manner by the Commission. Information about the authorization of a device using a particular FCC Identifier may be obtained by contacting the Commission's Office of Engineering and Technology Laboratory.

(b) Information relating to equipment authorizations, such as data submitted by the applicant in connection with an authorization application, laboratory tests of the device, etc., shall be available in accordance with §§0.441 through 0.470 of this chapter.

(c) Grants of Provisional Certification pursuant to § 2.915(g) will be posted on the Commission Web site. The underlying application information relating to a Provisional Certification, such as data submitted by the applicant in connection with an authorization application, laboratory tests of the device, etc., shall be made publicly available in accordance with §§ 0.441 through 0.470 upon expiration of Provisional Certification in accordance with § 2.915(g).

#### **§2.962 Requirements for Telecommunication Certification Bodies.**

(a) Telecommunication certification bodies (TCBs) designated by NIST, or designated by another authority pursuant to an bilateral or multilateral mutual recognition agreement or arrangement to which the United States is a party, shall comply with the requirements of this section.

(b) *Certification methodology.* (1) The certification system shall be based on type testing as identified in ISO/IEC 17065 (incorporated by reference, see §2.910).



(2) Certification shall normally be based on testing no more than one unmodified representative sample of each product type for which certification is sought. Additional samples may be requested if clearly warranted, such as when certain tests are likely to render a sample inoperative.

(c) *Criteria for designation.* (1) To be designated as a TCB under this section, an entity shall, by means of accreditation, meet all the appropriate specifications in ISO/IEC 17065 for the scope of equipment it will certify. The accreditation shall specify the group of equipment to be certified and the applicable regulations for product evaluation.

(2) The TCB shall demonstrate expert knowledge of the regulations for each product with respect to which the body seeks designation. Such expertise shall include familiarity with all applicable technical regulations, administrative provisions or requirements, as well as the policies and procedures used in the application thereof.

(3) The TCB shall have the technical expertise and capability to test the equipment it will certify and shall also be accredited in accordance with ISO/IEC 17025 (incorporated by reference, see §2.910) to demonstrate it is competent to perform such tests.

(4) The TCB shall demonstrate an ability to recognize situations where interpretations of the regulations or test procedures may be necessary. The appropriate key certification and laboratory personnel shall demonstrate knowledge of how to obtain current and correct technical regulation interpretations. The competence of the TCB shall be demonstrated by assessment. The general competence, efficiency, experience, familiarity with technical regulations and products covered by those technical regulations, as well as compliance with applicable parts of ISO/IEC 17025 and ISO/IEC 17065 shall be taken into consideration during assessment.

(5) A TCB shall participate in any consultative activities, identified by the Commission or NIST, to facilitate a common understanding and interpretation of applicable regulations.

(6) The Commission will provide public notice of the specific methods that will be used to accredit TCBs, consistent with these qualification criteria.

(7) A TCB shall be reassessed for continued accreditation on intervals not exceeding two years.

(d) *External resources.* (1) In accordance with the provisions of ISO/IEC 17065 the evaluation of a product, or a portion thereof, may be performed by bodies that meet the applicable requirements of ISO/IEC 17025 in accordance with the applicable provisions of ISO/IEC 17065 for external resources (outsourcing) and other relevant standards. Evaluation is the selection of applicable requirements and the determination that those requirements are met. Evaluation may be performed using internal TCB resources or external (outsourced) resources.

(2) A TCB shall not outsource review and certification decision activities.

(3) When external resources are used to provide the evaluation function, including the testing of equipment subject to certification, the TCB shall be responsible for the evaluation and shall maintain appropriate oversight of the external resources used to ensure reliability of the



evaluation. Such oversight shall include periodic audits of products that have been tested and other activities as required in ISO/IEC 17065 when a certification body uses external resources for evaluation.

(e) *Recognition of a TCB.* (1)(i) The Commission will recognize as a TCB any organization in the United States that meets the qualification criteria and is accredited and designated by NIST or NIST's recognized accreditor as provided in §2.960(b).

(ii) The Commission will recognize as a TCB any organization outside the United States that meets the qualification criteria and is designated pursuant to an bilateral or multilateral MRA as provided in §2.960(c).

(2) The Commission will withdraw its recognition of a TCB if the TCB's designation or accreditation is withdrawn, if the Commission determines there is just cause for withdrawing the recognition, or if the TCB requests that it no longer hold its designation or recognition. The Commission will limit the scope of equipment that can be certified by a TCB if its accreditor limits the scope of its accreditation or if the Commission determines there is good cause to do so. The Commission will notify a TCB in writing of its intention to withdraw or limit the scope of the TCB's recognition and provide at least 60 days for the TCB to respond. In the case of a TCB designated and recognized pursuant to an bilateral or multilateral mutual recognition agreement or arrangement (MRA), the Commission shall consult with the Office of the United States Trade Representative (USTR), as necessary, concerning any disputes arising under an MRA for compliance with the Telecommunications Trade Act of 1988 (Section 1371-1382 of the Omnibus Trade and Competitiveness Act of 1988).

(3) The Commission will notify a TCB in writing when it has concerns or evidence that the TCB is not certifying equipment in accordance with the Commission's rules and policies and request that it explain and correct any apparent deficiencies. The Commission may require that all applications for the TCB be processed under the pre-approval guidance procedure in §2.964 for at least 30 days, and will provide a TCB with 30 days' notice of its intent to do so unless good cause exists for providing shorter notice. The Commission may request that a TCB's Designating Authority or accreditation body investigate and take appropriate corrective actions as required, and the Commission may initiate action to limit or withdraw the recognition of the TCB as described in §2.962(e)(2).

(4) If the Commission withdraws its recognition of a TCB, all certifications issued by that TCB will remain valid unless specifically set aside or revoked by the Commission under paragraph (f)(5) of this section.

(5) A list of recognized TCBs will be published by the Commission.

(f) *Scope of responsibility.* (1) A TCB shall certify equipment in accordance with the Commission's rules and policies.

(2) A TCB shall accept test data from any Commission-recognized accredited test laboratory, subject to the requirements in ISO/IEC 17065 and shall not unnecessarily repeat tests.



(3) A TCB may establish and assess fees for processing certification applications and other Commission-required tasks.

(4) A TCB may only act on applications that it has received or which it has issued a grant of certification.

(5) A TCB shall dismiss an application which is not in accordance with the provisions of this subpart or when the applicant requests dismissal, and may dismiss an application if the applicant does not submit additional information or test samples requested by the TCB.

(6) Within 30 days of the date of grant of certification (or **Provisional Certification under § 2.915(g), if used**) the Commission or TCB issuing the grant may set aside a grant of certification that does not comply with the requirements or upon the request of the applicant. A TCB shall notify the applicant and the Commission when a grant is set aside. After 30 days, the Commission may revoke a grant of certification through the procedures in §2.939.

(7) A TCB shall follow the procedures in §2.964 of this part for equipment on the pre-approval guidance list.

(8) A TCB shall supply an electronic copy of each certification application and all necessary exhibits to the Commission prior to grant or dismissal of the application. Where appropriate, the application must be accompanied by a request for confidentiality of any material that may qualify for confidential treatment under the Commission's rules.

(9) A TCB shall grant or dismiss each certification application through the Commission's electronic filing system.

(10) A TCB may not:

(i) Grant a waiver of the rules;

(ii) Take enforcement actions; or

(iii) Authorize a transfer of control of a grantee.

(11) All TCB actions are subject to Commission review.

(g) *Post-market surveillance requirements.* (1) In accordance with ISO/IEC 17065 a TCB shall perform appropriate post-market surveillance activities. These activities shall be based on type testing a certain number of samples of the total number of product types which the certification body has certified.

(2) The Chief of the Office of Engineering and Technology (OET) has delegated authority under §0.241(g) of this chapter to develop procedures that TCBs will use for performing post-market surveillance. OET will publish a document on TCB post-market surveillance requirements, and this document will provide specific information such as the number and types of samples that a TCB must test.



(3) OET may request that a grantee of equipment certification submit a sample directly to the TCB that performed the original certification for evaluation. Any equipment samples requested by the Commission and tested by a TCB will be counted toward the minimum number of samples that the TCB must test.

(4) TCBs may request samples of equipment that they have certified directly from the grantee of certification in accordance with §2.945.

(5) If during post market surveillance of a certified product, a TCB determines that a product fails to comply with the technical regulations for that product, the TCB shall immediately notify the grantee and the Commission in writing of its findings. The grantee shall provide a report to the TCB describing the actions taken to correct the situation, and the TCB shall provide a report of these actions to the Commission within 30 days.

(6) TCBs shall submit periodic reports to OET of their post-market surveillance activities and findings in the format and by the date specified by OET.

## **Subpart K—Importation of Devices Capable of Causing Harmful Interference**

### **§2.1201 Purpose.**

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards, the rules governing the service may require that such equipment receive an equipment authorization from the Commission as a prerequisite for marketing and importing this equipment into the U.S.A. The marketing rules, §2.801 *et seq.*, were adopted pursuant to the authority in section 302 of the Communications Act of 1934, as amended (47 U.S.C. 302).

(b) The rules in this subpart set out the conditions under which radio frequency devices as defined in §2.801 that are capable of causing harmful interference to radio communications may be imported into the U.S.A.

(c) Nothing in this section prevents importers from shipping goods into foreign trade zones or Customs bonded warehouses, such as is the prescribed procedure under §2.1204(a)(5). Radio frequency devices capable of causing harmful interference, however, cannot be withdrawn from these areas except in accordance with the provisions of this section.

### **§2.1202 Exclusions.**

The provisions of this subpart do not apply to the importation of:

(a) Unintentional radiators that are exempted from technical standards and other requirements as specified in §15.103 of this chapter or utilize low level battery power and that do not contain provisions for operation while connected to AC power lines.



(b) Radio frequency devices manufactured and assembled in the U.S.A. that meet applicable FCC technical standards and that have not been modified or received further assembly.

(c) Radio frequency devices previously properly imported that have been exported for repair and re-imported for use.

(d) Subassemblies, parts, or components of radio frequency devices unless they constitute an essentially completed device which requires only the addition of cabinets, knobs, speakers, or similar minor attachments before marketing or use. This exclusion does not apply to computer circuit boards that are actually peripheral devices as defined in §15.3(r) of this chapter and all devices that, by themselves, are subject to FCC marketing rules.

### **§2.1203 General requirement for entry into the U.S.A.**

(a) No radio frequency device may be imported into the Customs territory of the United States unless the importer or ultimate consignee, or their designated customs broker, determines that the device meets one of the conditions for entry set out in §2.1204.

(b) Failure to satisfy at least one of the entry conditions for importation of radio frequency devices may result in refused entry, refused withdrawal for consumption, required redelivery to the Customs port, and other administrative, civil and criminal remedies provided by law.

(c) Whoever makes a determination pursuant to §2.1203(a) must provide, upon request made within one year of the date of entry, documentation on how an imported radio frequency device was determined to be in compliance with Commission requirements.

### **§2.1204 Import conditions.**

(a) Radio frequency devices may be imported only if one or more of these conditions are met:

(1) The radio frequency device has been issued an equipment authorization by the FCC, including a Provisional Certification pursuant to § 2.915(g).

(2) The radio frequency device is not required to have an equipment authorization and the device complies with FCC technical administrative regulations.

(3) The radio frequency device is being imported in quantities of 4,000 or fewer units for testing and evaluation to determine compliance with the FCC Rules and Regulations, product development, or suitability for marketing. The devices will not be offered for sale or marketed.

(i) Prior to importation of a greater number of units than shown in paragraph (a)(3) of this section, written approval must be obtained from the Chief, Office of Engineering and Technology, FCC; and



(ii) Distinctly different models of a device and separate generations of a particular model under development are considered to be separate devices.

(4) The radio frequency device is being imported in limited quantities for demonstration at industry trade shows and the device will not be offered for sale or marketed. The phrase “limited quantities,” in this context means:

(i) 400 or fewer devices.

(ii) Prior to importation of a greater number of units than shown above, written approval must be obtained from the Chief, Office of Engineering and Technology, FCC.

(iii) Distinctly different models of a product and separate generations of a particular model under development are considered to be separate devices.

(iv) Distinctly different models of a product and separate generations of a particular model under development are considered to be separate devices.

(5) The radio frequency device is being imported solely for export. The device will not be marketed or offered for sale in the U.S., except:

(i) If the device is a foreign standard cellular phone solely capable of functioning outside the U.S.

(ii) If the device is a multi-mode wireless handset that has been certified under the Commission's rules and a component (or components) of the handset is a foreign standard cellular phone solely capable of functioning outside the U.S.

(6) The radio frequency device is being imported for use exclusively by the U.S. Government.

(7) Three or fewer radio frequency devices are being imported for the individual's personal use and are not intended for sale. Unless exempted otherwise in this chapter, the permitted devices must be from one or more of the following categories:

(i) Unintentional radiator as defined in part 15 of this chapter which may include radio receivers, computers or other Class B digital devices in part 15 of this chapter.

(ii) Consumer ISM equipment as defined in part 18 of this chapter.

(iii) Intentional radiators subject to part 15 rules only if they can be used in client modes as specified in §15.202 of this chapter.

(iv) Transmitters operating under rules which require a station license as subscribers permitted under §1.903 of this chapter and operated under the authority of an operator license issued by the Commission.



(8) The radio frequency device is being imported for repair and will not be offered for sale or marketed.

(9) The radio frequency device is a medical implant transmitter inserted in a person or a medical body-worn transmitter as defined in part 95, granted entry into the United States or is a control transmitter associated with such an implanted or body-worn transmitter, provided, however that the transmitters covered by this provision otherwise comply with the technical requirements applicable to transmitters authorized to operate in the Medical Device Radiocommunication Service (MedRadio) under part 95 of this chapter. Such transmitters are permitted to be imported without the issuance of a grant of equipment authorization only for the personal use of the person in whom the medical implant transmitter has been inserted or on whom the medical body-worn transmitter is applied.

(10) Three or fewer portable earth-station transceivers, as defined in §25.129 of this chapter, are being imported by a traveler as personal effects and will not be offered for sale or lease in the United States.

(b) The ultimate consignee must be able to document compliance with the selected import condition and the basis for determining the import condition applied.

#### **§2.1207 Examination of imported equipment.**

In order to determine compliance with its regulations, Commission representatives may examine or test any radio frequency device that is imported. If such radio frequency device has already entered the U.S., the ultimate consignee or subsequent owners of that device must, upon request, made within one year of the date of entry, make that device available for examination or testing by the Commission.