

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Sections 2.925 and 2.926 of the Rules Regarding)
Grantee Codes for Certified Radiofrequency)
Equipment)
)

ORDER

Adopted: June 13, 2012

Released: June 13, 2012

By the Commission: Chairman Genachowski and Commissioners McDowell, Clyburn, Rosenworcel and
Pai issuing separate statements.

I. INTRODUCTION

1. The Commission operates an equipment authorization program for radiofrequency (RF) devices under Part 2 of its rules.¹ This program is one of the primary means that the Commission uses to ensure that the multitude of RF devices used in the United States operates effectively without causing harmful interference and otherwise complies with the rules. RF devices that are subject to the “certification” procedure of the equipment authorization program must be labeled with an FCC identifier (“FCC ID”) that is unique to the device. This FCC ID includes a Commission-issued code identifying the grantee of the certification (“grantee code”). By this action, we modify Sections 2.925 and 2.926 of the rules to remove the restriction that grantee codes must consist of only three characters. This action will permit the Commission to issue longer grantee codes, thus greatly increasing the supply of available codes and ensuring that we will continue to have new ones to assign to parties that wish to certify new equipment.

II. BACKGROUND

2. Section 302 of the Communications Act of 1934, as amended, states that the Commission may, consistent with the public interest, convenience, and necessity, make reasonable regulations governing the interference potential of devices which in their operation are capable of emitting RF energy by radiation, conduction, or other means in sufficient degree to cause harmful interference to radio communications.² It further states that no person shall manufacture, import, sell, offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated under this section.³ This provision of the law is intended to prevent devices that could cause harmful interference to radio communications from reaching the marketplace.

3. The Commission carries out its responsibilities under the Communications Act with respect to RF equipment through two principal means. First, the Commission establishes technical rules for RF equipment to address specific regulatory objectives, *e.g.*, to prevent harmful interference. Second,

¹ See 47 C.F.R. Part 2 Subpart J.

² See 47 U.S.C. § 302a(a).

³ See 47 U.S.C. § 302a(b).

to ensure compliance with the technical requirements, the rules generally require RF equipment to be authorized in accordance with one of three procedures specified in Subpart J of Part 2 of the rules.⁴ These procedures are certification, Declaration of Conformity (DoC), and verification. The certification procedure requires that equipment be approved by the Commission or a designated Telecommunication Certification Body (TCB).⁵ The DoC and verification procedures require that equipment be tested to demonstrate that it complies with the rules, but do not require approval of equipment by the Commission or a TCB.⁶

4. Authorized equipment must be labeled to show that it complies with the rules prior to being imported into or marketed within the United States. The label for a device subject to certification must include an FCC ID that conforms to a format defined in the rules. The FCC ID consists of two parts: a three-character alphanumeric grantee code assigned by the Commission to the party that applies for equipment authorization, and a one- to 14- character product code selected by the applicant.⁷ Once a party obtains a grantee code from the Commission, the party may use the same grantee code, but must use a different product code, each time it applies for a new equipment certification from the Commission or a TCB. The Commission adopted a three-character format for grantee codes in 1979 and codified that format in the rules.⁸

III. DISCUSSION

5. Due to the large number of grantee codes that have already been assigned to manufacturers and other parties responsible for equipment compliance, the Office of Engineering and Technology anticipates that the Commission may run out of unassigned grantee codes in the near future.⁹ If that were to occur, parties that did not already have a grantee code would not be able to apply for certification of RF equipment. The Commission therefore finds it necessary to modify the rules to increase the supply of grantee codes to accommodate all parties that wish to obtain a grantee code and apply for equipment certification in the future.

6. Specifically, we are eliminating the requirement in Section 2.926(c) that grantee codes must consist of three alphanumeric characters, and we are replacing it with a requirement that grantee codes will consist of alphanumeric or other characters in a format specified by the Commission's Office of Engineering and Technology. We are not codifying a particular grantee code format in the rules in order to allow the Office of Engineering and Technology the flexibility to modify the format in the future if necessitated by changing technology or other factors. We are also eliminating the text in Section 2.925(a)(1) that shows an example of a three character grantee code.

7. While three characters was an adequate code length for grantee codes when the rules were originally adopted and for many years thereafter, we find that it is now necessary to permit longer

⁴ See 47 C.F.R. Part 2, Subpart J, § 2.901, *et seq.*

⁵ See 47 C.F.R. §§ 2.907 and 2.962.

⁶ See 47 C.F.R. §§ 2.906 and 2.902.

⁷ See 47 C.F.R. §§ 2.925-2.926.

⁸ See *Revisions of Parts 2, 15, 18, and 83 of the Rules and Regulations to set up a single system of identification for all devices covered under the equipment authorization program, Report and Order*, Docket No. 20790, 70 FCC 2d 2346 (1979). The three-character format is codified in Section 2.926(c) and shown in an example in Section 2.925(a)(1).

⁹ The Commission currently issues an average of 1000 grantee codes per year, and there are fewer than 2000 three-character codes remaining. While the rate of code assignment fluctuates, the general recent trend is upward. For example, the Commission assigned 635 grantee codes in 2001, 954 grantee codes in 2006, and 1275 grantee codes in 2011.

codes to allow for a significantly greater number of possible combinations. In particular, we note the Office of Engineering and Technology is planning to issue new five-character grantee codes in the format described in Appendix B. Using this code length and format, we calculate that there will be approximately 8 million additional grantee codes. The Commission currently assigns approximately 1000 grantee codes per year, so even if the rate of assignment increases substantially in the future, the supply of five-character codes will last for many years. Parties that have been assigned three-character grantee codes may continue to use those codes indefinitely for future applications and for equipment that is already approved. The five-character codes will be assigned only to future applicants for grantee codes once the new rules are effective. We are not changing the requirements for the product code format.

8. The changes we are adopting in this Order do not require prior notice and an opportunity for comment under the Administrative Procedure Act (APA).¹⁰ Section 553(b) of the APA establishes exceptions to the notice-and-comment requirement, and one of those exceptions is for cases in which the Commission finds good cause for concluding that notice and comment are unnecessary.¹¹ The rule changes we are adopting in this Order are minor in nature in that we are changing the format of grantee codes that will be assigned in the future to prospective applicants for equipment certification, but we are not changing any other requirements for equipment certification. Further, these changes will not have any effect on parties that have already been assigned three-character codes because they may continue to use them indefinitely. Thus, we conclude that notice and comment are not necessary before changing the rules on grantee code format.

9. We find that the benefits of the rule changes are significant because the changes will enable the Commission to continue to certify equipment from new parties, thus expanding the range of devices available to consumers. We also find that the costs of these rule changes are insignificant because it is not appreciably more burdensome for a party to apply for and use a five-character code than a three-character code. As discussed above, there will be no additional burden on parties that already have three-character codes assigned because they may continue to use them indefinitely. Thus, we conclude that the benefits of the rule changes are greater than the costs.

10. We are making the rule changes effective 30 days after publication of this Order in the Federal Register. The change in grantee code length necessitates a non-substantive change in the electronic FCC Form 731 that is used to apply for equipment certification. This change to the form does not require prior Office of Management and Budget (OMB) approval, but we will provide OMB with a copy of the revised form for their records. We plan to begin assigning grantee codes with the new format no earlier than 30 days after the revised Form 731 is available, and we will issue a public notice announcing the date on which the Commission will begin issuing five-character grantee codes.

IV. PROCEDURAL MATTERS

A. Final Paperwork Reduction Act of 1995 Analysis

11. This document makes non-substantive changes to previously approved information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It

¹⁰ See 5 U.S.C. § 553.

¹¹ See 5 U.S.C. § 553(b) (stating that notice and comment procedures do not apply “when the agency for good cause finds (and incorporates the finding and a brief statement for reasons therefore in the rules issued) that notice and public procedures thereon are . . . unnecessary . . .”). The “unnecessary” exception to the notice requirement is “confined to those situations in which the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.” *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (D.C. Cir., 2001) citing *Texaco v. FPC*, 412 F.2d 740, 743 (3d Cir., 1969). “‘Unnecessary’ refers to the issuance of a minor rule or amendment in which the public is not particularly interested.” *Texaco*, 412 F.2d at 743 n.3.

will be submitted to the Office of Management and Budget (OMB) for information purposes.

B. Congressional Review Act

12. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

C. Contact Persons

13. For additional information concerning this Order, please contact Mr. Hugh L. Van Tuyl at (202) 418-7506 or via the Internet at Hugh.VanTuyl@fcc.gov.

V. ORDERING CLAUSES

14. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Sections 4(i), 302, 303(e), 303(f), and 307 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 302a, 303(e), 303(f), and 307 this Order IS HEREBY ADOPTED.

15. IT IS FURTHER ORDERED that Part 2 of the Commission's rules IS AMENDED as specified in Appendix A, and such rule amendments SHALL BE EFFECTIVE 30 days after the date of publication in the Federal Register.

16. IT IS FURTHER ORDERED, that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center SHALL SEND a copy of the Order to the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. § 801(a)(1)(A). A copy of the Order (or a summary thereof) will also be published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A**Final Rules**

Part 2 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

2. Section 2.925 is amended by revising paragraph (a)(1) as follows:

§ 2.925 Identification of equipment.

(a) * * *

(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.

* * * * *

3. Section 2.926 is amended by revising paragraph (c) to read as follows:

§ 2.926 FCC Identifier.

* * * * *

(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.

* * * * *

APPENDIX B**New Grantee Code Format**

The following is a description of the new grantee code format that the Office of Engineering and Technology plans to use once the modified rules are effective. (The Office of Engineering and Technology may modify this format in the future if necessitated by changing technology or other factors, and may do so without advance notice and comment to the extent provided by the Administrative Procedure Act.) We will be able to distinguish between the old three-character codes and the new five-character codes because the new codes will start with a number, whereas the old codes start with a letter. There are no changes to the format for product codes.

The new grantee code format:

1. Will be five characters in length.
2. Will begin with an Arabic numeral; zeroes and ones will not be used.
3. The last four characters may be either capital letters or Arabic numerals; zeroes and ones will not be used.

Example grantee codes: 23A4B, 95QZ3, 7BEC2.

**STATEMENT OF
CHAIRMAN JULIUS GENACHOWSKI**

*Re: Sections 2.925 and 2.926 of the Rules Regarding Grantee Codes for Certified
Radiofrequency Equipment*

Everyone in this room probably has at least one mobile device on them right now that you can't imagine living without. Of course, we rely on these devices to do our jobs, stay informed, stay in touch with friends and family, and much, much more.

Many of you probably have a second device, maybe a tablet. And if you were to turn any of those devices over, you'd probably see the FCC logo. You'd see the FCC logo because Congress has given the agency the responsibility to ensure that devices that use spectrum comply with all requirements.

The Commission's equipment authorization program is an important element in getting devices to market. Equally, it's a key part of the supply chain of innovation.

And so handled correctly – as we are committed to doing – it's part of how we can encourage innovation and investment in new technologies and products. It's part of how we drive U.S. global competitiveness.

Handling this correctly means ensuring that our processes and procedures are efficient, cognizant on the needs of innovators, while meeting our important responsibilities.

With this item, the Commission takes another step forward in ensuring an equipment authorization program that works, and that meets those goals, and that drives innovation.

Thanks to Julie Knapp, Rashmi Doshi, Geri Matisse and their terrific team, we're not dealing with fixing a program that's broken. We're focusing on taking a program that works and making it better.

You don't have to take my word for it that OET is doing a great job. Last year, I received a letter from a senior executive at Apple, which said – quote – “OET has consistently worked hard to ensure careful authorization of equipment while striving to administer a process that allows innovation.”

The letter pointed out something else, of which we're well aware: the massive increase in the number of devices coming onto the market, and the increasing complexity of those devices, creates new challenges.

And as Julie Knapp and his team reported in its presentation, OET is focused on meeting each of the challenges.

As you heard during the bureau's presentation, in 1999 we issued approximately 450 grantee codes. In 2011 we issued nearly 1,300 codes, three times as many.

The growth of this particular metric reflects an increased number of companies participating in our equipment authorization process, including many non-traditional companies such as Gibson Guitars, Adidas, and Ford Motor Company. Five or ten years ago, who would have imagined Amazon would sell spectrum-based devices? OET recognizes that it needs to change to keep up with this demand.

And already, OET has been taking steps to further review and improve our existing equipment authorization program to enable deployment of products to the market as part of our continued hard look at regulatory reform.

Today's item will greatly increase the number of grantee identifier codes available for new parties applying for equipment authorizations. As we review our equipment authorization process, this is an important first and necessary step to ensure that there is an adequate number of available codes.

Today, we also are announcing plans for two future rulemaking proceedings to further review and improve our equipment authorization program. The first will examine third party Telecommunications Certification Body (TCB) obligations. The second will focus on streamlining and clarifying our administrative procedures.

Both of these rulemakings are additional steps forward in ensuring that our equipment authorization process is current, efficient, and pro-innovation, while ensuring that all FCC-certified products meet all requirements.

In addition, OET will continue to conduct outreach with all stakeholders, so that no good idea goes undiscovered.

I look forward to providing more information about these two rulemakings over the coming months.

Thank you to Rashmi Doshi, Geri Matise, and OET's Laboratory Division for your work on this item, and, more important, for your work on the equipment authorization process.

**STATEMENT OF
COMMISSIONER ROBERT M. MCDOWELL**

*Re: Sections 2.925 and 2.926 of the Rules Regarding Grantee Codes for Certified
Radiofrequency Equipment*

Thank you to Julie Knapp and your entire team for all of your work in this important area. I am voting to approve today's order, which will permit the Commission to issue longer grantee codes, thus increasing the supply of codes by over eight million. This is an area of FCC responsibility of which many folks may not be aware. As we've learned from this morning's presentation, however, it is important work, not to mention time-consuming, and we thank you for diligence. Given that we are faced with greater challenges in this area, I look forward to staying engaged as we move toward the forthcoming rulemakings.

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN**

*Re: Sections 2.925 and 2.926 of the Rules Regarding Grantee Codes for Certified
Radiofrequency Equipment*

Mr. Knapp, Ms. Matise, and Mr. Doshi: thank you for an excellent presentation. In comparison to many of the items the Commission adopts or presents, actions that streamline authorization procedures, on the surface, may seem non-controversial and hold less press appeal. But, OET's efforts to improve the equipment authorization program are significant because these moves will ultimately make it easier for innovators to bring their products to market. Clarifying the permit-but-ask procedures and modifying the rules for software defined radios, for example, should result in fewer regulatory hurdles and lower administrative costs for equipment manufacturers.

Today's order on grantee codes is also a necessary step towards facilitating innovation. Devices that are subject to the FCC's "certification" procedure must receive an FCC ID that is unique to the device. This ID also includes a code that is unique to the grantee, or manufacturer, producing the device. In 1979, as you mentioned, the FCC adopted a rule that limited the grantee codes to three alphanumeric characters.

But it's been more than thirty years since the adoption of that rule and the FCC is now running out of unique grantee codes. This is due, in large part, to the fact that the number of assigned grantee codes has been increasing each year. For example, in 2001, the number of grantee codes assigned was 635. In 2011, that number was 1,275. Staff informs us that based on the number of grantee codes that have been requested, that number of grantee codes assigned in 2012 will exceed 1,300.

All of this is good news for American consumers. It means that technology companies are attracting sufficient capital to develop innovative products for this market. With today's action, we enable a minimum of eight million grantee codes to be assigned in the future. This move, today, will help to ensure that this aspect of our equipment authorization process will not impede ingenuity and I am pleased to join my colleagues in commending the staff of the Office of Engineering and Technology, for presenting us with this timely item.

**STATEMENT OF
COMMISSIONER JESSICA ROSENWORCEL**

*Re: Sections 2.925 and 2.926 of the Rules Regarding Grantee Codes for Certified
Radiofrequency Equipment*

This Order is the first of several steps that the Commission will be taking to update the way that it certifies equipment. Today's action revises the agency's Part 2 rules by increasing the number of codes available for new parties applying for certification of radiofrequency equipment. It is a small decision but a great parable for the dynamic power of the larger Internet and wireless economy.

If we look around us, we will notice that so many of the electronic devices we use every day quite literally carry the FCC's seal of approval. These devices range from consumer products like garage door openers to digital audio players to medical scanners and equipment to smart grid services and public safety technology. The Commission's longstanding equipment authorization program is the gateway through which new radiofrequency equipment must pass before it can be introduced into markets—and into our homes, businesses, and daily lives.

The Commission processes these equipment authorizations by establishing technical rules. It then typically works with private Telecommunications Certification Bodies to ensure that new devices and services comply with these rules. But recent years have seen an explosion of new devices and spectacular growth in the number of companies seeking authorization for their radiofrequency equipment. So we are running out of grantee codes.

To accommodate this growth, today's Order revises the agency's rules to increase the number of alphanumeric codes available for new parties applying for certification. This means 8 million more grantee codes. And over the great arc of time, it can mean 8 million more opportunities for businesses to develop new and innovative products. It can mean 8 million more companies will have the ability to offer devices that change the way we live and work.

**STATEMENT OF
COMMISSIONER AJIT V. PAI**

*Re: Sections 2.925 and 2.926 of the Rules Regarding Grantee Codes for Certified
Radiofrequency Equipment*

I support this housekeeping item to expand the size of grantee codes from three characters to five characters. And let me assure the American public that if it ever becomes necessary to take the bold step of moving to six- or seven-character grantee codes, the Office of Engineering and Technology will have my full backing.

On a more serious note, equipment authorization is a vital but underappreciated Commission function. For the sake of all consumers, it is important that devices and equipment sold in the United States comply with the Commission's technical standards. For example, if one consumer's device does not comply with our emission limits, it can hamper other consumers' ability to use their devices.

It is also imperative, however, to have an efficient authorization process so that innovative products can reach the market in a timely manner. I look forward to reviewing the proposals previewed by OET this morning for further improving the equipment authorization process and stand ready to implement further reforms to the process that will allow technically compliant devices to reach the marketplace more quickly.