

Federal Communications Commission  
Office of Engineering and Technology  
Laboratory Division Public Draft Review

09/21/2021

## **Draft Laboratory Division Publications Report**

**Title:** Certification Under Waiver

**Short Title:** Certification Under Waiver

**Reason:** New Publication

**Publication:** 502150

**Keyword/Subject:** Waiver, 1.925

**First Category:** Administrative Procedure

**Second Category:** Other

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**Question:**

What are the requirements for an equipment authorization under a waiver?

**Answer:**

The below attachment [502150 D01 Certification Under Waiver v01](#) provides guidance on obtaining a Waiver and completing a Form 731 equipment authorization when a Waiver is applicable.

Note: Grants issued under an FCC Waiver are currently a PAG item (WAIVER) in Publication [388624 D02 Pre-Approval Guidance List](#). Applicants shall currently use this draft procedure (below) starting on page 2 of this draft document: 502150 Certification Under Waiver DR01-44460

**Attachment List:**

502150 D01 Certification Under Waiver

## **EQUIPMENT AUTHORIZATIONS FOR DEVICES WITH ASSOCIATED APPROVED WAIVER(S)**

### **1. INTRODUCTION**

This document is intended to identify equipment authorization related types of waivers of the Commission's rules, provide guidance on obtaining a waiver, and provide guidance on completing a Form 731 equipment authorization application after a waiver is approved.

### **2. WHAT IS A WAIVER:**

A waiver is a decision issued by the FCC that grants relief from compliance with one or more of the Commission's rules (see § 1.925 Waivers of the rules). Waivers can allow an alternative procedure to a requirement identified by the FCC. For example, allowing the grant of an equipment authorization or allowing a licensee operation of a device with equipment that does not comply with the rules as written (i.e., to operate in compliance with the alternative requirement).

### **3. WAIVER CONSIDERATIONS:**

- a) The FCC can waive its rules for "good cause"; see Section 1.3 of the Commission's rules.<sup>1</sup> The FCC may issue a waiver if a persuasive justification is provided that waiving a requirement is in the public interest.
- b) Waivers are not typically issued unless a strong public interest justification establishes a basis for the action.
- c) A waiver is an official FCC action and has an FCC document identification associated with it. FCC Orders are identified in the format FCC YY-### and FCC Public Notices are identified in the format DA-YY-###. FCC waivers are viewable at: <https://www.fcc.gov/edocs>.
- d) Any FCC Bureau or Office may issue a waiver for requirements that the specific Bureau or Office is responsible for.
- e) Parties cannot request a waiver by submitting an inquiry through the OET Knowledge Data Base System. Section 5 below provides guidance on submitting waiver requests. Also refer to Section 1.925 for waiver request information and general procedures.<sup>2</sup>
- f) At the Bureau or Office's discretion, the waiver request may be put on public notice to seek comments from the public or potentially affected parties.
- g) The Bureau or Office that issues the waiver identifies the applicable conditions of each waiver and can specify which parties it is relevant to.

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<sup>1</sup> See 47 CFR § 1.3.

<sup>2</sup> See 47 CFR § 1.925.

- h) A single waiver may be for one or multiple specific FCC requirements, rules, procedures, or processes.
- i) A TCB may not issue a waiver.

#### **4. EXAMPLES OF EQUIPMENT AUTHORIZATION RELATED TYPES OF WAIVERS:**

- a) The Commission may issue a waiver for a specific emission limit or other requirements in a particular rule part and applicable to the equipment authorization for a particular device type and grantee. These are known as certification waivers.
- b) The Commission may issue a waiver to a licensee in a radio service rule part and applicable to all devices operating in that radio service rule and applicable to all grantees obtaining equipment authorization in the specified radio service rule. These are known as Licensing waivers.

#### **5. HOW TO REQUEST A WAIVER:**

- a) To file a waiver request, go to the FCC site <https://www.fcc.gov/ecfs/filings/nodocket>. Use the Non-Docketed Filing tab.
- b) In the field, FCC Inbox select either INBOX-1.3 Petition for Waiver (miscellaneous) or INBOX-Part 15 Petition for Waiver Part 15 (whichever is appropriate).
- c) Complete the form as required.
- d) Submit request for a waiver with supporting documents. Ensure that you carefully address each requirement of Section 1.925(b)(3) to justify why the Commission should grant the request for waiver.<sup>3</sup>

#### **6. HOW TO FILE A FORM 731 AFTER A WAIVER IS ISSUED:**

Before entering a Form 731 the TCB shall submit a PAG request (see KDB Publication 388624 D01).

When the TCB is completing a Form 731:

- a) Select "yes" for the Form 731 question: "Is there an equipment authorization waiver associated with this application?"
- b) Select "yes" for the Form 731 question: "If there is an equipment authorization waiver associated with this application, has the associated waiver been approved and all information uploaded?"
- c) Identify the waiver in the grant comment by the FCC order number or public notice number.
- d) Apply the two-character grant note WV to the technical specification row(s). The note WV says: Grant issued under waiver.
- e) Submit a copy of the waiver as a supporting attachment.

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<sup>3</sup> See 47 CFR §1.925(b)(3).

- f) The copy of the waiver may not be held confidential.
- g) Submit a justification identifying why the waiver is applicable for the grantee and specific Form 731 submission. See Section 7 below for additional equipment authorization waiver related considerations.
- h) The supporting information in the Form 731 application should identify each waiver condition and provide a justification of how all conditions are compliant.

**7. EQUIPMENT AUTHORIZATION WAIVER RELATED CONSIDERATIONS:**

- a) When the waiver does not stipulate specific parties and/or conditions for equipment certification, the Commission may issue an equipment authorization to any grantee if the waiver request provides an acceptable justification to comply with all waiver conditions. For example, this justification can be in the form of a letter of consent from the licensee granted a Licensing waiver and an attestation explaining how the grantee will comply with the Licensing waiver conditions/requirements.
- b) If a waiver condition identifies that equipment authorization may only be issued to a specific grantee, the waiver is only applicable to that grantee. If the specified grantee changes their name or there is a grantee ownership transfer of control, the name change, or transfer of control must be submitted to the FCC and approved before submitting Form 731. For more information on name changes and transfer of control, see Section 2.929 and KDB Publication 204515.<sup>4</sup>

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<sup>4</sup> See 47 CFR § 2.929.