

SUPPORTING STATEMENT

A. Justification:

The Commission is requesting an extension of this information collection (no change in reporting and/or third party disclosure requirements) in order to obtain the full three year clearance from the Office of Management and Budget (OMB).

1. The Federal Communications Commission (“Commission”) equipment authorization program currently certifies scanning receivers,¹ including those that can monitor frequencies allocated to the Cellular Radiotelephone Service:²
 - (a) These scanning receivers threaten the privacy of cellular telephone customers.
 - (b) The Telephone Disclosure and Dispute Resolution Act (TDDRA), enacted by the Congress on October 28, 1992, requires in part that the Commission deny equipment authorization to scanning receivers that can receive or can be readily altered by the user to receive cellular frequencies.
 - (c) The rules also prohibit scanning receivers and frequency converters used with scanning receivers from tuning to cellular frequencies or being readily altered to tune to those frequencies.

In order to ensure continued compliance with the requirements and intent of the TDDRA, the Commission adopted a labeling requirement to be permanently affixed to the cabinet of the scanning receivers.³

The labeling requirement reads as follows:

WARNING: MODIFICATION OF THIS DEVICE TO RECEIVE CELLULAR RADIO TELEPHONE SERVICE SIGNALS IS PROHIBITED UNDER FCC RULES AND FEDERAL LAW.

2. The Commission uses the information required in this equipment authorization process to determine whether the equipment that is being marketed complies with the Congressional mandate in the TDDRA and applicable Commission Rules.
 - (a) Experience with scanning equipment indicates that such equipment may sometimes be altered to receive cellular frequencies.
 - (b) It is difficult to identify the potential for such alterations during the equipment evaluation process.
 - (c) Therefore, in 47 CFR 2.1033(b)(10) and 15.121, the Commission requires that the manufacturer submit information with any application for certification that:

¹ Scanning receivers are receivers that automatically switch among two or more frequencies in the 30-960 MHz range, and are capable of stopping at and receiving a radio signal detected on a frequency.

² Cellular Radio Services are communication systems that use a combination of radio transmission and conventional telephone switching to permit telephone communication to and from radio users within a specified area.

³ On March 31, 1999, the Commission adopted a *Report and Order*, Amendment of Parts 2 and 15 of the Commission’s Rules to Further Ensure That Scanning Receivers Do Not Receive Cellular Radio Signals, ET Docket No. 98-76, 64 FR 22559, April 27, 1999.

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- (1) Describes the testing methods used to determine compliance with the 38 dB image rejection ratio,
- (2) Contains a statement assessing:
 - (i) the vulnerability of the scanning receiver to modification, and
 - (ii) describes the design features that prevent modification of the scanning receiver to receive Cellular Service transmissions;
- (3) Describes the design steps taken to make tuning, control, and filtering circuitry inaccessible;
- (4) Requires that a label be affixed to the scanning receiver warning that modification of the equipment to receive Cellular Service transmissions is a violation of Federal Law and Commission rules; and
- (5) Allows applicants to request “assurance of confidentiality” for certain portions of the scanning receiver application for certification, after the effective date of the grant of the application (see Question #10 below).

Confidential treatment may include:

- (i) schematic diagrams,
- (ii) technical narratives describing equipment operation, and
- (iii) design details taken to prevent modification of scanning receivers to receive Cellular Service transmissions.

This collection of information is authorized under Section 4(i), 301, 302, 303(e), 303(f), 303(g), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Section 154(i), 301, 302, 303(e), 303(f), 303(g), 303(r), 304 and 307.

As noted on the OMB 83-I, this information collection does not affect individuals or households. Respondents in this information collection are limited to equipment manufacturers and entrepreneurs. Thus, there are no impacts under the Privacy Act and a Privacy Impact Assessment is not required.

3. The required information is included as part of an application for equipment authorization. The Commission has determined that electronic submission of such an application is the most efficient means to transmit the information.
 - (a) The Commission believes that because equipment authorization applicants are generally companies that are on the cutting edge of technology, these applicants are well equipped to make maximum use of electronic media and the Internet to file an application with the Commission.
 - (b) Thus, we believe that electronic filing does not impose an undue burden on such applicants. We estimate that 100% of the responses will be collected electronically.
4. No other organization or federal agency is believed to require or possess the subject information.
5. Small businesses that manufacture radio communications devices such as scanning receivers, generally request authorization for marketing under Part 15 of the Commission’s rules. These

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equipment authorizations are the least burdensome of all of the equipment authorization procedures; as a consequence, the Commission believes that any burdens on small businesses have been minimized.

6. Collection of this information is considered essential to the implementation of the Telephone Disclosure and Dispute Resolution Act as described above.
7. This is a “one time” labeling requirement unless modified electronically.

In addition, any modifications to this equipment that degrades the performance of the equipment as originally documented in an application for equipment authorization requires “re-submission” to the Commission for review and approval.

8. The views of industry and the public were solicited when the Commission published the Notice in the *Federal Register* on July 16, 2008 (73 FR 40873). The Commission has received no comments in response to publication of the Notice in the *Federal Register*. The notice is referenced in the submission to the OMB.

(a) In addition, the Commission maintains dialogue with manufacturers and other members of the telecommunications industry, to ensure that Commission staff remains abreast of new technologies and practices that might affect this information collection.

(b) The Commission regularly meets with Telecommunications Certification Bodies who act on behalf of the Commission in issuing equipment authorizations, including authorizations for scanning receiver.

(c) Furthermore, the Commission meets with other entities such as the Telecommunications Industry Association (TIA) to determine the current state of manufacture of new technology devices.

9. No payments or gifts are given to respondents.
10. Minimal exemption from the Freedom of Information Act (Title 5, USC 552(b)(4)), FCC Rules 47 CFR § 0.457 (d) is granted for trade secrets, which may be submitted as attachments to the application for equipment authorization.

The Commission’s rules require that certain portions of the scanning receiver application for certification remains confidential after the effective date of the grant of the application. No other assurances of confidentiality are provided to respondents.

11. Except as noted in paragraphs 2(c)(5) and 10 above, information of a sensitive nature is not required for this collection.

12. The Commission has calculated the estimated burden for 25 respondents as follows:

The range of burden hours is estimated to require between 45 and 75 minutes, with an average time requirement of 60 minutes (1 hour) per respondent.

This burden is imposed only once in the life of the equipment, unless it is modified electronically, at which time the manufacturer is required to submit an updated exhibit to establish compliance with the

FCC Rules:

Total Number of Respondents: 25.

Total Number of Responses: 25 (includes both reporting and labeling requirements)

Total Annual Burden Hours: 25 respondents x 1 hour (average response time)⁴ = 25 hours

13. (a) Total annualized capital/startup costs: None.

(b) Total annual costs (O&M): \$1,250.00

Overhead and maintenance is generally included as part of the test report that accompanies an application for equipment authorization.

The Commission estimates that the preparation cost for this information is at least \$50 per submission. \$50 per submission x 25 respondents = \$1,250.

(a) Total annualized cost requested: \$1,250.00

14. Cost to the Federal Government: None.

15. The Commission is reporting a +\$250 increase in the annual cost burden. This adjusted increase is due to a recalculation of the annual cost burden for this submission to the OMB.

16. The information, which is gathered and recorded, is used to determine the compliance of equipment with applicable Commission technical standards and rules. The data are not compiled, published, or otherwise reported to the public.

17. There is no form associated with this collection; therefore, the expiration date requirement is not applicable. The data collected is in addition to information collected with the FCC Form 731 (OMB Control No. 3060-0057), and is submitted as an additional attachment to the FCC Form 731.

18. There are no exceptions to the certification statement identified in Item 19 of the OMB Form 83-I:

B. Collection of Information Employing Statistical Methods:

This collection of information does not employ statistical methods.

⁴ The FCC believes that the “recordkeeping requirement:” (a) for two years following submission of this two years after manufacture of the product ceases, or (b) for two years after completion of an investigation of violation, is included in the Commission’s estimate of this annual hourly burden requirement.