

SUPPORTING STATEMENT

Sections 2.803, Marketing of RF Devices Prior to Equipment Authorization

A. Justification:

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitates the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Federal Communications Commission is requesting that the Office of Management and Budget (OMB) approve a revision of the information collections contained in Section 2.803(c)(2), which permits marketing activities prior to equipment authorization.

The Commission has established rules for the marketing of radio frequency (RF) devices prior to equipment authorization under guidelines in 47 CFR Section 2.803. The general guidelines in Section 2.803 prohibit the marketing or sale of such equipment prior to a demonstration of compliance with the applicable equipment authorization and technical requirements in the case of a device subject to verification or Declaration of Conformity without special notification. Section 2.803(c)(2) permits limited marketing activities prior to equipment authorization, 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 be not operated unless permitted by section 2.805.

The following general guidelines apply for third party notifications:

(a) A RF device may be advertised and displayed at a trade show or exhibition prior to a demonstration of compliance with the applicable technical standards and compliance with the applicable equipment authorization procedure provided the advertising and display is accompanied by a conspicuous notice specified in [Section 2.803\(c\)\(2\)\(iii\)\(A\)](#) or [Section 2.803\(c\)\(2\)\(iii\)\(B\)](#).

(b) An offer for sale solely to business, commercial, industrial, scientific, or medical users of an RF device in the conceptual, developmental, design or pre-production stage prior to demonstration of compliance with the equipment authorization regulations may be permitted provided that the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or centers of distribution.

(c) Equipment sold as evaluation kit may be sold to specific users with notice specified in Section 2.803(c)(2)(iv)(B).

On January 31, 2013, the Commission adopted a Report and Order, ET Docket No. 10-236 and 06-155, FCC 13-15, which revised the rules in Section 2.803(c)(2) to include limited marketing activities prior to equipment authorization. The following marketing activities are permitted prior to equipment authorization:

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.

In order to obtain the full three-year clearance from OMB, the Commission is now seeking OMB approval for a revision of this currently approved information collection. There is a change in burden, see item 15 of this supporting statement.

This information collection does not affect individuals nor do respondents have to provide any personally identifiable information (PII). Thus, a Privacy Impact Assessment is not required.

The Commission has authority for this information collection pursuant to Sections 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 302, 303, 303(r), and 307.

2. Indicate how, by whom and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

(a) The FCC Rules in 47 CFR Part 2, Section 2.803 that require information be disclosed about marketing of the RF device, are intended:

- (1) To ensure the compliance of the proposed equipment with Commission's Rules, and
- (2) To assist industry efforts to introduce new products to the marketplace more promptly.

(b) The information disclosure applies to a variety of RF equipment that:

- (1) is pending equipment authorization or verification of compliance,
- (2) may be manufactured in the future, and
- (3) may be sold as kits, and
- (4) operates under varying technical standards.

(c) The information disclosed is essential to ensuring that interference to radio communications is controlled.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

This information collection does not involve the use of any automated, electronic, mechanical, or other technological collection techniques.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in item 2 above.

The Commission believes that no other agency or entity requires this type of disclosure.

5. If the collection of information impacts small businesses or other small entities (item 5 of OMB Form 83-I), describe any methods used to minimize burden.

Small businesses that manufacture radio communications devices generally request authorization for marketing of devices regulated under 47 CFR Part 15 of the Commission's Rules. The Commission believes that disclosure of information required under these rules represents a minimal burden to both large and small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

This is a one-time reporting requirement. The information that respondents disclose is necessary to ensure an understanding by the public that the subject RF equipment must comply with Commission regulations prior to sale and/or operation.

7. Explain any special circumstances that cause an information collection to be conducted in a manner: requiring respondents to report information to the agency more often than quarterly; requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it; requiring respondents to submit more than an original and two copies of any document; requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

No special circumstances exist for the collection of the information.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information prior to submission to OMB.

-Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The Commission published a notice in the *Federal Register* on February xx, 2014 (79 FR xxxx). No comments were received in response to the notification.

9. Explain any decision to provide any payment or gift to respondents, other than reenumeration of contractors or grantees.

No payments or gifts are given to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation or agency policy.

The Commission is not making any request that respondents provide information that would require an assurance of confidentiality, nor are there any instances where confidentiality is requested due to patents, trade secrets, etc.

11. Provide additional justification for any questions of a sensitive nature.

There are no issues of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should: indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance.

The estimated burden is calculated for 10,000 respondents, at an average 0.5 hours per response. This burden is imposed only once in the life of the equipment. Should the device be modified a new application submittal is required, and the requirement would exist for the display or advertisement of the device prior to authorization.

Total Number of Respondents: 10,000 RF manufacturers.

Total Number of Responses Annually: 10,000 devices from RF manufacturers.

10,000 respondents X one (“one time”) reporting requirement per device from RF manufacturer = 10,000 responses.

Total Annual Hourly Burden: 10,000 X 0.5 hours/response = **5,000 hours**. This burden is for disclosure to a third party that equipment displayed or advertised is not available for sale or operation or that it is a kit used for limited purposes.

Furthermore, the Commission believes that because this is a “one-time” reporting requirement, RF equipment manufacturers (respondents) consider this disclosure requirement a regular part of their business costs.

13. Provide estimate for the total annual cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden shown in items 12 and 14).

Annual reporting and recordkeeping costs:

- (a) Total annual capital/startup costs: **None.**
- (b) Total annual costs (O&M): **None.**
- (c) Total annualized cost requested: **None.**

14. Provide estimates of annualized costs to the Federal government. Also provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), any other expenses that would not have been incurred without this collection of information.

There are no costs to the Federal Government because this collection involves labeling or notification requirements performed by RF manufacturers.

15. Explain the reasons for any program changes or adjustments reported in items 13 or 14 of the OMB Form 83-I.

With the adoption of FCC 13-15, we are reporting a program change by adding the kit manufacturers and an increase in the manufacturers. The program change increases the number of respondents from 6,000 to 10,000 (increase of 4,000 respondents) and the total annual hours are increased from 3,000 to 5,000 hours (increase of 2,000 hours). The revised rules apply to both the manufacturers of pre-authorized devices as well as kit manufacturers.

16. For collections of information whose results will be published, outline plans for tabulation and publication.

The information disclosed is intended to ensure compliance of equipment with applicable Commission technical standards and rules. The data is not compiled, published, or otherwise reported to the public.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Since this information collection does not include any FCC forms, we are not seeking approval to not display the OMB expiration date for this information collection. The Commission publishes a list of OMB-approved information collections in 47 CFR 0.408 of the Commission's rules. Thereby, satisfying OMB's requirement to "display" the OMB control number and expiration date.

18. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

There are no exceptions to the Certification Statement.

B. Collection of Information Employing Statistical Methods:

This information collection does not employ statistical methods.