

## SUPPORTING STATEMENT

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

Radio frequency (RF) devices are frequently imported into the United States from other countries. RF devices are capable of causing harmful interference to radio systems in the United States. Examples of RF devices include:

- microwave ovens,
- virtually any product containing a computer microprocessor,
- computers and computer peripherals,
- cellular telephones, smartphones, and receivers including television receivers,
- electronic musical instruments, video games and radio remote control toys.

(a) Under 47 CFR §§ 2.1203, 2.1204, and 2.1205 of FCC rules, the Commission is responsible for the regulation of both authorized radio services and RF devices that can interfere with such services.

(b) Respondents that are importing radio frequency (RF) devices into the United States, must file a “statement of declaration” by completing FCC Form 740, Statement Regarding the Importation of Radio Frequency Devices Capable of Harmful Interference, and submitting this form to U.S. Customs and Border Protection (CBP).

(c) The information that respondents must provide on FCC Form 740:

- (1) Describes the characteristics of the imported RF devices;
- (2) Ensures that no RF devices are imported that may be harmful to authorized US radio uses; and
- (3) Assists the FCC and the CBP with their responsibilities to oversee the regulation of RF devices and to prevent radio signal interference issues.

The information collection does not affect individuals or household. Respondents in this information collection are equipment manufacturers. Thus, there are no impacts under the Privacy Act and a Privacy Impact Assessment is not required.

The statutory authority for this information collection is authorized pursuant to Sections 4(i), 4(j), 7(a), 302, 303(b), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 302a, 303(b), 303(f), 303(g), 303(r).

**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.**

Respondents do not file the Form 740 directly with the Commission. Instead, respondents must submit FCC Form 740 to U.S. Customs with any of the RF goods, examples of which are listed above, that are imported into the United States.

- (a) CBP makes the information obtained from the FCC Form 740 filings available to the FCC, so that the Commission can ensure that radio frequency devices imported into the United States and its customs territory comply with applicable FCC Rules and Regulations.
- (b) This information is used in FCC Office of Engineering and Technology, Laboratory Division/Enforcement Bureau investigations, in conjunction with CBP, to insure that:
  - (1) Non-compliant RF devices are not distributed to the public, thereby reducing the potential that those who purchase and use the RF devices may cause harmful interference to authorized communications; and
  - (2) When a violation is discovered, the FCC has the necessary information to issue a fine or take other appropriate enforcement action. If a product is suspected of illegal entry, the FCC works with CBP to resolve the issue.

**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.**

The FCC allows respondents to file their declaration information on FCC Form 740 electronically via CBP's Automated Commercial System.

- (a) Nearly ninety-nine percent (99%) of those filing use the declaration information via the ACS filing system. Extensive use of electronic filing capabilities reduces the burden on both industry and the government.
- (b) The remaining one percent (1%) files their declaration information using the paper version of FCC Form 740.

**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.**

With the adoption by the Commission of the *2<sup>nd</sup> Report and Order*, CI Docket No. 98-69, FCC 99-326, we have eliminated the duplicate filing requirement of the form to both the Commission and CBP. Now, RF importers (respondents) must file their declaratory statements using FCC Form 740 with CBP through electronic filing.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

This collection has no impact on small business or other 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.**

Absent import information data, such as that collected by FCC Form 740, there would likely be an increase in radio frequency devices not meeting technical specifications entering and being distributed throughout the United States. This would likely result in an increase in radio frequency interference to authorized communication systems.

**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.**

The FCC and U.S. Customs have determined that requiring RF importers (respondents) to file their "declaratory statements" on FCC Form 740 only when they intend to import these devices, *e.g.*, "on occasion," provides adequate assurance to the FCC that the Commission can maintain its regulatory oversight responsibilities and avoid potential interference to communications while minimizing the burden on respondents.

**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.**

When the views of industry and the general public were solicited in conjunction with the last review of FCC Form 740, two comments were received from the public. The commenting parties individually and collectively suggested a variety of modifications to FCC Form 740 and the underlying rules that the form supports. The Commission indicated that it had planned to initiate a rulemaking to review the rules for responsible parties and the overall rules on importing devices which have not received approval, and determined it will be more appropriate to address the issues raised by parties within that context. On July 17, 2015, the FCC adopted a Notice of Proposed Rulemaking in ET Docket 15-170 that addressed these matters (80 FR 46900).

The Notice of Proposed Rulemaking explores alternate means for obtaining information about the importation of radio frequency equipment and offers proposals that would modify or even eliminate FCC Form 740. However, because this rulemaking is an open proceeding and there is no guarantee that a decision will be made before April 30, 2016, we find it necessary to extend the information collection associated with FCC Form 740.

The Commission published a notice in the *Federal Register* on December 8, 2015 (80 FR 76284) to solicit the views of the industry and the general public. The Commission has received no comments in response to the Notice in the *Federal Register*. The notice is referenced in the submission to OMB.

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

No gift or payment will be given to respondent for this collection.

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

There is no reason to ensure confidentiality, and no assurances of confidentiality are provided to respondents.

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

This information collection does not address any issues of a sensitive nature or other matters that are normally considered private. Thus, there is no need for the Commission to provide any assurance of confidentiality.

**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 Commission estimates that there are **10,000 RF importers (respondents)**:

- (a) There are approximately 2,000,000 Form 740s filed annually. Therefore, on average each respondent files 200 Form 740s annually. The Commission estimates that each response filed takes an average of 30 seconds:

10,000 respondents: 2,000,000 responses x 0.0084 hours = 16,800 hours.

- (b) The Commission also estimates that all respondents will spend approximately 30 seconds (0.5 minutes or 0.0084 hours) to comply with the third party notification requirement:

10,000 respondents: 2,000,000 responses x 0.0084 hours = 16,800 hours.

- (c) The Total Annual Hourly Burden for filing the FCC Form 740 (electronic filings + paper copies) is therefore approximately:

16,800 hours + 16,800 hours = **33,600 hours.**

The Commission estimates that respondents will use in-house staff equivalent to a GS-11/Step 5 employee in the Federal Government, earning \$35.11 per hour:

**Total “In House” Cost:**

33,600 hours/filing FCC Form 740 x \$ 35.11/hr = \$1,179,696

**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).**

Estimated annual costs to respondents:

- (a) Total annualized 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.**

Annual Cost for the Federal Government: **None.**

**15. Explain the reasons for any program changes or adjustments reported.**

There are no program changes or adjustments.

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

The Commission does not intend to publish the information contained on FCC Form 740.

**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.**

The Commission is seeking approval not to display the expiration date for OMB approval of the information collection on FCC Form 740.

- (a) This would allow the Commission to forgo the burden of printing new versions of Form 740, which are only used for 1% of the filings.
- (b) Updated forms with new expiration dates would present an unnecessary printing burden in the event that this form does not undergo revisions prior to the next OMB clearance.

**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.

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**B. Collection of Information Employing Statistical Methods:**

This collection does not use any statistical methods.