

SUPPORTING STATEMENT

A. Justification:

Information Collection Requirements:

1. On October 26, 2014, the Federal Communications Commission released a *Report and Order*, FCC 14-172, PS Docket 13-87, that modified Sections 2.1033 and 90.548 of the rules and effectively required equipment manufacturers to demonstrate compliance with the Interoperability Technical Standards contained in Section 90.548 of the Commission's rules as a condition for FCC certification of equipment designed to operate on the 700 MHz narrowband interoperability channels. One method of demonstrating this requirement is documenting compliance with the Project 25 Compliance Assessment Program (P25 CAP). CAP is a program that establishes an independent compliance assessment process to ensure that communications equipment conforms to Project 25 standards and is interoperable across vendors. Alternatively, a manufacturer may submit a document describing how it determined compliance with Section 90.548 and that its equipment is interoperable across vendors.

On August, 22, 2016, the Federal Communications Commission released an *Order on Reconsideration*, FCC 16-111, PS Docket No. 13-87 (see attached) that modified Part 2 and Part 90 of the Rules for equipment approval and Private Land Mobile Radio Services. See 81 FR 66830 (Sept. 29, 2016). The amended rule requires all Wireless Communications Equipment Manufacturers who manufacture 700 MHz narrowband equipment capable of operating on the interoperability channels to demonstrate compliance with the Commission's Interoperability Technical Standards in Section 90.548. The *Order on Reconsideration* prescribes two methods for showing compliance with Section 90.548 after equipment authorization application approval and before the marketing and sale of equipment capable of operating on the 700 MHz narrowband interoperability channels. Specifically, the Commission modified Section 2.1033(c)(20) to provide that:

Before equipment operating under part 90 of this chapter and capable of operating on the 700 MHz interoperability channels (See § 90.531(b)(1) of this chapter) may be marketed or sold, the manufacturer thereof shall have a Compliance Assessment Program Supplier's Declaration of Conformity and Summary Test Report or, alternatively, a document detailing how the manufacturer determined that its equipment complies with § 90.548 of this chapter and that the equipment is interoperable across vendors. Submission of a 700 MHz narrowband radio for certification will constitute a representation by the manufacturer that the radio will be shown, by testing, to be interoperable across vendors before it is marketed or sold.

The Commission also modified Section 90.548(c) of the Commission's rules to provide:

Transceivers capable of operating on the interoperability channels listed in § 90.531(b)(1) shall not be marketed or sold unless the transceiver has previously been certified for interoperability by the Compliance Assessment Program (CAP) administered by the U.S. Department of Homeland Security; provided, however, that this requirement is suspended if the CAP is discontinued. Submission of a 700 MHz narrowband radio for certification will constitute a representation by the manufacturer that the radio will be shown, by testing, to be interoperable across vendors

before it is marketed or sold. In the alternative, manufacturers may employ their own protocol for verifying compliance with Project 25 standards and determining that their product is interoperable among vendors. In the event that field experience reveals that a transceiver is not interoperable, the Commission may require the manufacturer thereof to provide evidence of compliance with this § 90.548.

To effectively implement the provisions of the new Rules, no modifications to the existing FCC Form 731 Application for Equipment Authorization are required. The changes are intended to simplify the filing process, ensure equipment complies with Project 25 standards and is interoperable across vendors. The following specific methods are proposed to ensure compliance with Section 90.548 and simplify filing processes for equipment manufacturers:

- 1) The *Order on Reconsideration* establishes that before the marketing or sale of equipment designed to operate on the 700 MHz narrowband interoperability channels, manufacturers shall have a Compliance Assessment Program Supplier's Declaration of Conformity and Summary Test Report or, alternatively, a document detailing how the manufacturer determined that its equipment complies with § 90.548 and that the equipment is interoperable across vendors. OMB has approved the information collections associated with P25 CAP compliance under OMB Control No. 1640-0015.¹
- 2) In the event that field experience reveals that a transceiver is not interoperable, the Commission may require the manufacturer thereof to provide evidence of compliance with § 90.548.

The modified rules provide a benefit to public safety licensees by ensuring that only equipment that has been tested for interoperability in a vendor-neutral environment before equipment can be marketed or sold to public safety. This will provide the additional benefit of engendering competition in the public safety equipment marketplace by eliminating system compatibility as a gating factor when evaluating equipment purchases. The *Order on Reconsideration* reduces the burden on equipment manufacturers by allowing them to meet this standard by demonstrating compliance with the P25 CAP or manufacturers' interoperability testing protocol. Compliance with the P25 CAP program is already a requisite for grant eligibility and agency purchasing standards, consequently any new burden imposed by this requirement would be minimal.

The following information was submitted with the previous OMB approval of the Form 731, and is offered as background:

1. Commission rules require that manufacturers of certain radio frequency (RF) equipment² file FCC Form 731 to obtain approval prior to marketing their equipment. Manufacturers may then market their RF

¹ Congressional direction for a P25 compliance assessment program can be found in the *COPS Law Enforcement Technologies and Interoperable Communications Program* section of the Conference Report to Public Law 109-148, as well as the *Science & Technology Management and Administration* section of Division E of the Conference Report to Public Law 110-161.

² See Section 2.1033 (47 CFR 2.1033). The kinds of equipment that are being marketed include devices such as cellular telephones, tablets, remote control devices and scanning devices. However, the types of equipment that are manufactured may change in response to changing technologies and new spectrum allocations made by the Commission.

equipment based on a showing of compliance with technical standards established in the FCC Rules for each type of equipment or device operated under the applicable FCC Rule part. The following types of equipment are regulated:

- (a) The RF equipment is regulated under certain rule sections of 47 CFR Part 15 and Part 18.
- (b) In addition, rules governing certain RF equipment operating in the licensed services³ also require equipment authorization as established in the procedural rules in 47 CFR Part 2.

The RF equipment manufacturers comply with the information collection requirements (noted above) by:

- (a) Filing FCC Form 731 electronically with the Commission, or
- (b) Submitting the information to a Telecommunications Certification Body (TCB), which acts on behalf of the FCC to issue grants of certification and may issue grants more expeditiously than the FCC. The TCBs have flexibility in the format in which they require the collection of information:
 - (i) TCBs may require applicants to submit the required information in FCC Form 731 format or in another format selected by the TCB, but
 - (ii) Whatever the information collection method, the information required is governed by the procedural rules in 47 CFR Part 2 and a showing of compliance with the FCC technical standards for the specific type of equipment.

The TCB processes the RF equipment manufacturer's application as follows:

- (i) The TCB receives and reviews the RF manufacturer's information in the submission/application.
- (ii) The TCB enters the information into the FCC Equipment Authorization System database using an interface that provides the TCB with the tools to issue a standardized Grant of Equipment Authorization.

Whichever method the RF manufacturers choose to submit their information—via either the FCC on FCC Form 731 or the TCB, FCC Rules require that applicants supply the following data:

- Demographic information including Grantee name and address, contact information, etc.
- Information specific to the equipment including FCC Identifier, equipment class, technical specifications, etc.
- Attachments that demonstrate compliance with FCC Rules may include any combination of the following based on the applicable FCC Rule parts for the equipment for which authorization is requested:

³ The "licensed services" include Parts 20, 21, 22, 24, 25, 27, 68, 74, 80, 87, 90, 95 and 101.

- o Identification of equipment (47 CFR § 2.925);
- o Attestation statements that may be required for specific equipments;
- o External photos of the equipment for which authorization is requested;
- o Block diagram of the device;
- o Schematics;
- o Test Report;
- o Test Setup Photos;
- o Users Manual;
- o Internal Photos;
- o Parts List / Tune Up Information;
- o RF Exposure Information;
- o Operational Description;
- o Cover Letters;
- o Software Defined Radio / Cognitive Radio Files

In general, an applicant's submission is as follows:

- (a) FCC Form 731 includes approximately two pages covering the demographic and equipment identification information.
- (b) Applicants must supply additional documentation and other information, as described above, demonstrating conformance with FCC Rules, which may range from 100 – 1000 pages. The supplemental information is essential to control potential interference to radio communications, which the FCC may use, as necessary, to investigate complaints of harmful interference.

In response to new technologies and in allocating spectrum, the Commission may establish new technical operating standards:

- (a) RF equipment manufacturers must meet the new standards to receive an equipment authorization, and
- (b) RF equipment manufacturers must still comply with the Commission's requirements in FCC Form 731 and demonstrate compliance as required by 47 CFR Part 2 of FCC Rules.

Thus, this information collection applies to a variety of RF equipment:

- (a) that is currently manufactured,
- (b) that may be manufactured in the future, and/or
- (c) that operates under varying technical standards.

Applicants seeking authorization to market RF equipment as required under 47 CFR Sections 2.913, 2.926(c), 2.929(c), 2.929(d) and 2.1043 of FCC Rules, must file electronically via the Internet on FCC

Form 731 at <https://apps.fcc.gov/eas>.

Applicants may also submit authorization requests to TCBs, who are then required to submit the information electronically via the Internet to the Commission, prior to granting authorization to market equipment on behalf of the Commission.

Information on the procedures for electronically filing equipment authorization applications can be obtained from the Internet at: http://transition.fcc.gov/oet/ea/ea_app_info.html.

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

This information collection does not affect individuals or households—respondents are limited to RF equipment and device manufacturers. Thus, there are no impacts under the Privacy Act and a Privacy Impact Assessment is not required.

2. The Commission will use the information gathered on the FCC Form 731 to determine compliance of the proposed equipment with the Commission's Rules. Following authorization of the equipment for marketing by either the FCC or the TCB on behalf of the FCC, the information may also be used to determine:

- (a) Whether the operation of the equipment is consistent with the information supplied at the time of authorization, and
- (b) Whether the equipment marketed complies with the terms of the equipment authorization.

3. Since April 1998, the Commission has offered electronic submittal to the Commission of the FCC Form 731 and attachments, and by rulemaking on July 8, 2004,⁴ the Commission has required electronic filing of all FCC Form 731 information. The FCC has determined that electronic submission of applications is the most efficient means of facilitating application entry, corresponding with an applicant, providing information on application status, and providing information on authorized equipment to the general public.

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. Thus, we believe that electronic filing does not impose an undue burden on such applicants.

As previously noted, applicants may, at their discretion, submit requests for equipment authorization to a Telecommunications Certification Body (TCB), which acts on behalf of the Commission in issuing grants

⁴*Report and Order (R&O)*, Modification of Parts 2 and 15 of the Commission's Rules for Unlicensed Devices and Equipment Approval, ET Docket No. 03-201, FCC 04-165.

of authorization to market certain types of equipment.

4. No other entity is believed to require or to possess the subject information.
5. Small businesses that become involved in the manufacture of radio communications devices generally request authorization for marketing devices regulated under Part 15 of the FCC's Rules. Many devices regulated under Part 15 are subject either to verification or to a "Declaration of Conformity" (DOC). Such authorizations are not required to file information on Form 731. These equipment authorizations are the least burdensome of all of the equipment authorization procedures. The burden on small businesses has therefore been minimized.
6. Applicants must file FCC Form 731 with the FCC or submit the FCC Form 731 or their information to the TCB only once, *e.g.*, a "one-time filing requirement," unless the applicant makes changes to the RF equipment/device. Any such change(s) would require the applicant to resubmit the equipment/device for approval.

The information collected is necessary to determine the interference potential of equipment prior to marketing. By minimizing the detrimental effects of interfering devices on the radio spectrum, use of the radio spectrum can be maximized.

7. No special circumstances exist.
8. The FCC published a 60 day *Federal Register* Notice (81 FR 73398) on October 25, 2016 to solicit public comment on this information collection. A copy is included with this submission. The Notice generated no public comments.

In addition, the Commission maintains dialogue with manufacturers and other members of the telecommunications industry, including NIST and other Federal agencies that oversee technological issues to ensure that the Commission staff remains abreast of new technologies and practices that might affect this information collection.

9. No payments or gifts are given to respondents.
10. Minimal exemption from the Freedom of Information Act (5 U.S.C. 552(b)(4) and FCC Rules under 47 CFR Section 0.457(d)) is granted for trade secrets which may be submitted as attachments to the application Form 731. No other assurances of confidentiality are provided to respondents.
11. No questions of a sensitive nature are included on the Form 731.
12. The Commission has calculated the estimated burden for 22,250 responses from 3,740 respondents annually as follows:
 - (a) 200 RF equipment and device manufacturers or importers that file FCC Form 731 electronically with the FCC or with the TCBs for approval of their RF equipment, including 12 manufacturers subject to CAP Compliance.

- (b) 40 TCBs to review the RF equipment authorization requests on behalf of the FCC
- (c) 3500 RF equipment and device manufacturers or importer who submit applications only to the TCBs for review and approval

Total Number of Respondents: $200+40+3500 = 3,740$.

RF equipment/device manufacturers or importers and TCBs may file multiple responses annually.

- (a) 250 applications filed directly to the Commission, including 12 manufacturers subject to CAP Compliance.
- (b) 22,000 applications processed and reviewed by the TCBs on behalf of the applicants.

Total Number of Responses: $250+ 22,000 = 22,250$.

The Commission estimates the total annual hourly burden ranges from 15 to 100 hours, due to the range of complexity of the required measurement test reports, with the average time being 35 hours, including submission of documents demonstrating CAP Compliance.

The Commission bases its estimate on:

- (a) The amount of time that the RF equipment manufacturers and importers (respondents) require to complete the Form 731 and to submit it to the Commission based on:
 - (i) the type of equipment that is being marketed, and
 - (ii) the type of authorization the RF equipment manufacturer or importer (respondent) requests.
- (b) The amount of time that the TCBs require to evaluate the submissions and to grant authorization on behalf of the Commission.

The Commission bases its estimate on the total annual hourly burden as follows:

- (d) 3,700 RF equipment manufacturers and importers, including 12 manufacturers subject to CAP Compliance, and 40 TCBs may make multiple submissions annually;
- (e) The Commission estimates that approximately 22,500 submissions are made annually:
 - (i) by the RF equipment manufacturers and importers directly to the FCC, or
 - (ii) by the TCBs on behalf of the FCC.
- (f) In this instance, the Commission has calculated the annual burden based on the number of

responses annually rather than the number of respondents.

Total Annual Hour Burden: 778,750 hours

22,250 responses (RF submissions and TCB submissions) x 35 hours/application = 778,750 hrs.

13. (a) Capital and start-up costs include the cost for hardware and software for providing the information to the Commission:

(i) The Commission estimates these costs to be \$5,000 per respondent who submits information directly to the Commission.

(ii) These respondents include those applicants filing directly with the FCC, and approved TCBs filing applicant information prior to issue a grant of authorization on behalf of the Commission.

Number of respondents filing FCC Form 731 directly with the FCC	200
Number of TCB respondents filing 22,000 applications with the FCC	<u>40</u>
Total Respondents filing with the Commission	240

Capital and Start –up costs:

240 respondents filing with the Commission x \$5,000/respondent = **\$1,200,000**

(b) Overhead and maintenance costs include the cost for preparation of a test report demonstrating compliance of equipment proposed for marketing with the Commission's technical standards:

(i) Testing the equipment to determine its performance and compliance with Commission standards is typically done by the independent testing laboratories that have been reviewed by the Commission.

(ii) TCBs may also incur costs related to maintaining and upgrading software.

(iii) The total average overhead and maintenance cost is approximately \$5,000; however the majority of the cost is for performance testing or is recovered in fees charged by TCBs.

(iv) The Commission estimates that approximately 10% of the \$5,000 overhead and maintenance cost, or \$ 500 per respondent, can be attributed to the information collection requirements.

(v) Therefore, the total annual cost for overhead and maintenance is estimated at:

22,500 responses x \$ 500/per response = \$ 11,125,000

(vi) Additional overhead costs to an applicant include the cost of filing the application with the Commission, which averages \$ 700; or the cost of filing with a TCB, which averages \$ 1,000:

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FCC filed applications	200 x \$ 700 =	\$ 140,000
TCB filed applications	22,000 x \$ 1,000 =	<u>\$ 22,000,000</u>
		\$ 22,140,000

Total Operating and Maintenance costs: \$ 11,125,000 + \$ 22,140,000 = \$ 33,265,000

(c) **Total Annual Cost:** \$ 1,200,000 + \$ 33,265,000 = \$ 34,465,000

14. The Commission expects that of the 22,250 RF equipment applications filed:

- (a) Approximately 250 applications will be filed with the Commission, and
- (b) Approximately 22,000 applications will be filed with the 40 TCBs, acting on behalf of the Commission.

The Commission estimates that two groups of Commission staff will process these applications:

- (a) GS-7, Step 8 - Applications Examiners, who earn \$26.56 per hour, and
- (b) GS-14, Step 7 - Electronics Engineer, who earn \$ 64.41 per hour.

It requires the FCC's staff about 2 hours/application for administrative review and 16 hours/application for technical review of each FCC Form 731:

250 applications x 2 hour/application x \$26.56/hour/application examiner	= \$ 13,280
250 applications x 16 hours/application x \$64.41/hour/electronics engineer	= <u>\$ 257,640</u>
	\$ 270,920
Overhead and support costs at 30% =	<u>\$ 81,276</u>
Total Commission Staff Processing Costs:	\$ 352,196

The Cost to the Federal Government for its particular processing expenses is off-set through the collection of applicant fees, which range at present from \$60 – \$1,265, depending on the application process requested and if confidentiality is requested for any portion of the application.

The average application fee collected is currently estimated to be \$ 700. The costs recovered for the 250 applications filed with the Commission are therefore estimated to be:

250 applications x \$ 700 = \$ 175,000:

Furthermore, the additional cost to the Federal Government for maintaining the database of all equipment authorized, including equipment approved by TCBs is as follows:

- (a) 22,000 applications submitted by RF equipment and device manufacturers and importers to the 40

TCBs, which are authorized to review and process FCC Form 731 applications on behalf of the FCC.

- (b) 40 TCBs submit the application information to the FCC, which maintains the national database of FCC authorized equipment.
- (c) The Commission estimates that the cost to the Federal Government for software and hardware to maintain these records is approximately \$100 per application:

22,000 applications x \$100/application =	\$ 2,200,000
30% Overhead =	<u>\$ 660,000</u>
Total TCB Application Submittal Costs:	\$ 2,860,000

Staff and processing costs:	\$ 352,196
TCB Application Submittal Costs:	\$ 2,860,000
Application Fees (off-set):	<u>- \$ 175,000</u>
Total Cost to Federal Government:	\$ 3,037,196

- 15. As the Commission notes above, Form 731, the total number of respondents, total number of responses annually, the total annual hourly burden, and the total annual costs have been updated because of the following actions:

- (a) With release of the Commission’s *Order on Reconsideration* on August 22, 2016, as noted above, the FCC has implemented new rules for demonstrating compliance with FCC interoperability technical rules as they relate to the 700 MHz public safety narrowband spectrum. The new rules do not require modification of the Form 731. However, to simplify the collection of information related to these devices, the Commission provides manufacturers flexibility in demonstrating compliance with Section 90.548 of the Commission’s rules. Manufacturers that comply with the P25 CAP program, including the information collections that OMB approved under OMB Control No. 1640-0015, are presumed to be in compliance with Section 90.548. Alternatively a manufacturer may employ its own protocol demonstrating compliance with Section 90.548 and that its device is interoperable across vendors. The Commission may request documentation of compliance with Section 90.548 and that the device is interoperable across vendors. The rule change eliminates the requirement of demonstrating compliance with the interoperability standard at the time manufacturers file Form 731. Thus no change in hours burden is anticipated based on the rule modifications of this collection.

- 16. The information that is submitted on FCC Form 731 is used to determine the compliance of equipment with applicable Commission technical standards and rules.

- (a) Some of the information submitted in the filings is held confidential and not published.
- (b) The application information is available on the FCC Internet website through various generic search mechanisms.

(c) The searches may be viewed by accessing <https://apps.fcc.gov/eas>.

17. The Commission is requesting continued OMB approval to waive the requirement that we display the OMB expiration date on FCC Form 731. Granting this waiver will allow the Commission to continue using the electronic version of the form without update, upon re-approval of the form. An edition date will be used in lieu of the OMB expiration date. Finally, the Commission publishes a list of all OMB-approved information collections in 47 CFR 0.408 of the Commission's rules.

18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methods.