

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
Amendment of Parts 0, 1, 2, 15 and 18 of the
Commission's Rules regarding Authorization of
Radiofrequency Equipment
ET Docket No. 15-170

ORDER

Adopted: December 8, 2016

Released: December 8, 2016

By the Chief, Office of Engineering and Technology:

1. For the reasons discussed below, we extend, through June 30, 2017, waivers of Sections 2.1203 and 2.1205 of the Commission's rules that were previously granted by Commission Order in this docket. Our action continues a suspension of information collection requirements associated with FCC Form 740 and the importation of Radio Frequency (RF) devices that was due to expire of December 31, 2016.

2. Section 2.1203 of our rules states that no RF device may be imported unless the importer or ultimate consignee (or their designated customs broker) declares that the device meets the conditions of entry set forth in our importation rules. Section 2.1205 addresses the filing of this declaration. A Notice of Proposed Rulemaking (NPRM) in the instant docket proposes to update the rules that govern the evaluation and approval of RF devices. In the NPRM, the Commission proposed to eliminate the requirement to file FCC Form 740 by amending Section 2.1203 and removing Section 2.1205, observing that most of the relevant information can now be obtained through other sources.

3. Section 2.1205 directs parties to submit FCC-required import information in conjunction with their filings with the U.S. Customs and Border Protection (CBP), and the vast majority of such filings are made electronically through CBP's filing system. The Waiver Order was prompted by CBP's imminent deployment of a new system that would no longer include the capability to accept the FCC-required importation information electronically. The Commission estimated that absent the electronic

1 Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules Regarding Authorization of Radiofrequency Equipment, ET Docket No. 15-170, Order, 30 FCC Rcd 7725 (2015) (Waiver Order).

2 47 C.F.R. §§ 2.1203 and 2.1205.

3 Amendment of Parts 0, 1, 2, 15 and 18 of the Commission's Rules Regarding Authorization of Radiofrequency Equipment, ET Docket No. 15-170, Notice of Proposed Rulemaking, 30 FCC Rcd 7725 (2015) (NPRM).

4 NPRM, 30 FCC Rcd at 7766-67, paras. 117-121 and proposed 47 C.F.R. § 2.1203 (Appx. A).

5 Pursuant to the Section 2.1205 of our rules, at ports of entry where electronic customs filing is available, the importer may submit the FCC-required information electronically as part of its entry documentation submission to CBP. Where electronic filing with CBP is not available, the importer must complete FCC Form 740 and attach a copy to its customs entry papers.

6 Waiver Order. See also Office Of Engineering And Technology Addresses Misconceptions About FCC Form 740 Electronic Filing Requirements, Public Notice, ET Docket 15-170, 31 FCC Rcd 21 (OET, Jan. 6, 2016).

filing capability, approximately 20,000 Form 740 paper filings could be received weekly.⁷ Noting that the pending rulemaking proceeding could ultimately result in the elimination, modification, or retention of the section 2.1203 and 2.1205 requirements, the Commission found good cause to temporarily waive the filing requirements associated with these rules through December 31, 2016.⁸ Moreover, the Commission acknowledged that additional time might be required to resolve the relevant issues in the docket and delegated authority to the OET to extend the waiver period.⁹

4. As it does not appear that the subject rulemaking will be concluded prior to December 31, 2016, and the use of paper filing without an electronic option would cause significant burdens, the basis for grant of the original waivers remains valid. Moreover, as anticipated in the *Waiver Order*, we have been able to work with CBP to draw on other data to satisfy any additional information needs, and we expect this cooperation to continue.¹⁰ As with the *Waiver Order*, this extension only affects the manner in which the Commission collects the information about imported RF equipment that is associated with the requirements of Sections 2.1203 and 2.1205. In the event the Commission decides to require importers to submit some or all of the information currently required by Sections 2.1203 and 2.1205, it can still set forth appropriate revised filing procedures. The general proscription against importation of non-authorized equipment, Section 2.1204,¹¹ continues to remain fully in effect.

5. Accordingly, IT IS ORDERED, pursuant to authority delegated to the Office of Engineering and Technology by the Commission, that the waivers of Sections 2.1203 and 2.1205 of the Commission's Rules and Regulations, 47 C.F.R. Sections 2.1203 and 2.1205, that were originally granted by the Commission on October 16, 2015, ARE HEREBY EXTENDED through June 30, 2017.

FEDERAL COMMUNICATIONS COMMISSION

Julius P. Knapp
Chief, Office of Engineering and Technology

⁷ Filers would also lose the ability to make "hybrid" filings (i.e. partial electronic and partial paper) that had been allowed in certain circumstances, and would instead have to resort to submitting all materials in paper form. *Waiver Order* at 11828, para. 4.

⁸ *Waiver Order* at 11829, para. 6. Section 1.3 of the Commission's rules provides that "[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown." See 47 C.F.R. § 1.3.

⁹ *Id.* Such an extension could extend as far as the effective date of the Commission's decision in the proceeding.

¹⁰ *Waiver Order* at 11829, para. 6.

¹¹ 47 C.F.R. § 2.1204.