

shall be accompanied by remittance of a \$177 filing fee.

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By the Commission.

**Joseph C. Polking,**  
Secretary.

[FR Doc. 98-17451 Filed 6-30-98; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 2

[CI Docket No. 98-69; FCC 98-97]

#### Importation of Radio Frequency Devices Capable of Causing Harmful Interference

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission has issued an *Order and Notice of Proposed Rule Making*. The Notice of Proposed Rulemaking (NPRM) proposes that entities submit FCC Form 740 directly to the U.S. Customs Service (Customs) rather than be required to file duplicate declarations with the FCC and Customs and to modify the marketing rules affecting devices imported solely for export. Under the first proposal, only the few remaining entities that do not file the Form 740 electronically with Customs will be affected. These entities will be required to file Form 740 with Customs only. Eliminating the requirement to file duplicative information with the FCC reduces the administrative burden on filers, particularly small businesses, and eliminates an FCC record process that is no longer necessary. The modification under the second proposal will improve our ability to enforce the equipment authorization rules by eliminating a loophole that has resulted in the marketing and selling of devices that could not be authorized in the U.S.

**DATES:** Comments are due July 31, 1998, reply comments are due August 17, 1998.

**FOR FURTHER INFORMATION CONTACT:** Dan Emrick of the Compliance and Information Bureau at (202) 418-1175.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rule Making*, CI Docket No. 98-69, FCC 98-97, adopted May 18, 1998, and released June 5, 1998. The full text of this *Order and Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) 1919 M Street, NW,

Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street NW, Washington, DC 20037, telephone (202) 857-3800 (phone), (202) 857-3805 (facsimile), 1231 20th St., N.W., Washington, D.C. 20036.

#### Summary of Proposed Rule Making

1. In this *Notice of Proposed Rulemaking*, we seek comment on two proposals involving the importation of radio frequency devices. First, we propose that entities submit FCC Form 740 directly to the U.S. Customs Service (Customs) rather than be required to file duplicate declarations with the FCC and Customs. Under this proposal, only the few remaining entities that do not file the Form 740 electronically with Customs will be affected. These entities will be required to file Form 740 with Customs only. Any compliance information needed by the FCC is infrequently needed on a case by case basis and would be readily available from Customs. Eliminating the requirement to file duplicative information with the FCC reduces the administrative burden on filers, particularly small businesses, and eliminates an FCC record process that is no longer necessary.

2. Next, we seek comment on our proposal to modify the marketing rules affecting devices imported solely for export. This modification will improve our ability to enforce the equipment authorization rules by eliminating a loophole that has resulted in the marketing and selling of devices that could not be authorized in the U.S.

#### Initial Regulatory Flexibility Analysis

3. As required by the Regulatory Flexibility Act (RFA),<sup>1</sup> the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and rules proposed in this Order and Notice of Proposed Rule Making (Notice). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments in the Notice. The Office of Public Affairs, Reference Operations Division will send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.<sup>2</sup>

<sup>1</sup> See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et seq., has been amended by the Contract with America Advancement Act of 1996 Public Law No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

<sup>2</sup> See 5 U.S.C. 604.

#### I. Need For and Purpose of This Action

4. This Notice reexamines the rules specifying procedures for importation of radio frequency devices. It seeks information that will assist the Commission in determining whether current rules can be simplified and made more easy to enforce. It will also reduce the administrative burden on both the Commission and the public.

#### II. Description and Estimate of Number of Small Businesses to Which Rules Will Apply

5. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.<sup>3</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organizations," and "small governmental jurisdiction".<sup>4</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>5</sup> A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).<sup>6</sup> The Commission will need to receive more data regarding the brokers who currently file Forms 740 with the Commission, rather than filing them electronically through the U.S. Customs Service (Customs). We estimate that 800 of these forms are filed per month, presumably by smaller firms that do not subscribe to the Customs electronic filing system due to the relatively small number of FCC declarations that they handle. While there is no readily apparent link between the number of paper filings per month and the number of entities submitting the declarations, we presume most of the entities involved are small businesses or individuals. These entities will continue to be subject to the requirement to submit FCC Form 740 documents, but only to one government agency, not two. They will address and mail only one

<sup>3</sup> 5 U.S.C. 603(b)(3).

<sup>4</sup> *Id.*; 5 U.S.C. 601(6).

<sup>5</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such terms which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

<sup>6</sup> Small Business Act, 15 U.S.C. 632 (1996).

form per declaration, not two, thereby reducing at least their mailing cost by half. Other administrative costs, such as staff time required to complete the form, will also be significantly reduced.

#### **IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements**

6. There will be no new requirements. The Notice proposes to eliminate the requirement to file a copy of Form 740 with the Commission for entities that do not use the Customs electronic filing procedures. Those entities will provide an original Form 740 to Customs with the shipment, but will not be required to file a second copy with the FCC.

#### **V. Significant Alternatives and Steps Taken by Agency To Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives**

7. The impact of this Notice will be, by its nature, a reduction of the burden on small entities. For example, eliminating the duplicative filing of the Form 740 should reduce administrative overhead, such as processing and mailing costs for small businesses.

#### **VI. Commission's Outreach Efforts To Learn of and Respond to the Views of Small Entities Pursuant to SBREFA 5 U.S.C. 609**

##### *Report to Congress*

The Commission will send a copy of this Order and Notice of Proposed

Rulemaking, including this Final Regulatory Flexibility Analysis, to Congress pursuant to the Small Business Regulatory Enforcement Act of 1996, 5 U.S.C. 801(a)(1)(A). A summary of the Order and Notice of Proposed Rulemaking and this FRFA will also be published in the **Federal Register** pursuant to 5 U.S.C. 604(b), and it will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

#### **List of Subjects in 47 CFR Part 2**

Imports.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98-17491 Filed 6-30-98; 8:45 am]

BILLING CODE 6712-01-P