

meaning of Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. This action does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

Under RCRA section 3006(b), EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This final rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 4, 2003.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 98-153; FCC 03-33]

### Ultra-Wideband Transmission Systems

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document responds to fourteen petitions for reconsideration that were filed in response to the regulations for unlicensed ultra-wideband ("UWB") operation. In general, this document does not make any significant changes to the existing UWB parameters.

**DATES:** Effective May 22, 2003 except § 15.525 which contains information collection requirements that have not been approved by OMB. The FCC will publish a document in the **Federal Register** announcing the effective date for that section. Written comments by the public on the new and/or modified information collection(s) are due June 23, 2003.

**ADDRESSES:** A copy of any comments on the information collection(s) contained herein should be submitted to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** John Reed (202) 418-2455, Policy and Rules Division, Office of Engineering and Technology. For additional information concerning the information collection(s) contained in this document, contact Les Smith at (202) 418-0217, or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Memorandum Opinion and Order portion of the Commission's *Memorandum Opinion and Order and Further Notice of Proposed Rule Making*, FCC 03-33, adopted February 13, 2003, and released March 12, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room, CY-B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418-7426 or TTY (202) 418-7365.

### Summary of Memorandum Opinion and Order

1. On February 14, 2002, the Commission adopted a *First Report and Order* implementing regulations to permit the unlicensed operation of ultra-wideband transmission systems. Fourteen petitions for reconsideration were filed in response to that Order. In general, this Memorandum Opinion and Order ("MO&O") does not make any significant changes to the existing UWB technical parameters as the Commission is reluctant to do so until it has more experience with UWB devices. The Commission also believes that any major changes to the rules for existing UWB product categories at this early stage would be disruptive to current industry product development efforts.

2. The Commission reviewed the requests from the petitioners and granted those that will not increase the interference potential of UWB devices. It denied those requests that sought, without factual support, further restrictions on UWB operations. The Commission believes that the next 12 to 18 months should allow the

introduction of UWB devices under its recently adopted rules. It also hopes that additional tests using commercially available UWB devices will have been completed within that time frame. Such tests currently are being contemplated by the National Aeronautics and Space Administration (NASA), the Department of Transportation (DOT), by the Department of Defense, and by commercial entities. As these steps occur, the Commission intends to continue its review of the UWB standards to determine where additional changes warrant consideration.

3. The petitions for reconsideration can be divided into three general categories: those from developers of UWB devices that seek to expand on the UWB standards to permit or facilitate a particular type of operation; those from organizations representing authorized radio services that seek additional attenuation of UWB emissions in the frequency bands used by their devices; and those seeking changes to the Part 15 rules for non-UWB operation. The UWB developers consist of Time Domain, Inc., American Gas Association and American Public Gas Association (AGA and AGPA), Ground Penetrating Radar Industry Coalition (GPRIC), GPR Service Providers Coalition (GPR Providers), and National Utilities Contractors Association (NUCA), Multispectral Solutions, Inc. (MSSI), Siemens VDO, and Kohler Co. The organizations representing authorized radio services consist of Cingular Wireless LLC, Qualcomm, Sprint Corp., Sirius Satellite Radio Inc. and XM Radio Inc., Satellite Industry Association (SIA), and Aeronautical Radio, Inc., and Air Transport Association of America (ARINC and ATA). In addition, MSSI requests that we amend our peak power limits on non-UWB part 15 devices.

4. The UWB rules require through-wall imaging systems to operate with their  $-10$  dB bandwidth located below 960 MHz or between 1.99–10.6 GHz. Imaging systems may not be used in conjunction with tag identifiers used to locate personnel nor may imaging systems be used to transmit voice or data information. Communications systems are required to operate with their  $-10$  dB bandwidth located between 3.1–10.6 GHz. Through-wall systems are required to attenuate emissions in the GPS band by 10 dB below the part 15 general emission limits, *i.e.*, to  $-51.3$  dBm/MHz, in the 1610–1990 MHz band and by 12 dB below the part 15 general emission limits, *i.e.*, to  $-53.3$  dBm/MHz, in the 960–1610 MHz band. Other UWB devices are subject to even greater attenuation of emissions in these bands.

5. In response to the petition from Time Domain, Inc., the Commission amended its rules to permit the operation of a through-wall imaging system with a center frequency above 1990 MHz at the Part 15 general emission limits. This equipment may be used only by law enforcement officers, emergency rescue personnel and firefighters operating under the authority of a local or state government. Further, the operators of these systems must be licensed by the Commission under Part 90 of its regulations. The grant of a Part 90 license for operation of a land mobile station will automatically convey authority to operate this through-wall imaging system. The license may be held by the organization under which the UWB operator is employed. The Commission also required that this equipment be operated only for law enforcement applications, the providing of emergency services, and necessary training operations. Because of the possibility that some training areas may be located near public access areas where receiving equipment may not be under the immediate control of the UWB device public safety operator, at the request of NTIA the Commission requested that during training exercises through-wall imaging systems operating above 1990 MHz be encompassed by a 50 meter perimeter within which public access is restricted. Finally, the Commission required that the UWB public safety communication system transmitter operate with its center frequency, as defined in 47 CFR 15.503(b), between 1990 MHz and 10.6 GHz. The frequency at which the highest radiated emission occurs must be located in the 1.99 GHz to 10.6 GHz band and must not exceed an average root-mean-square (RMS) EIRP of  $-41.3$  dBm/MHz. In addition, broadband emissions between 960 MHz and 1610 MHz must not exceed an average (RMS) EIRP of  $-46.3$  dBm/MHz, when measured using a resolution bandwidth of at least 1 MHz, and narrowband emissions in the GPS bands must be attenuated so that they do not exceed an RMS EIRP of  $-56.3$  dBm, when measured using a resolution bandwidth of no less than 1 kHz. Emissions appearing below 960 MHz may not exceed the part 15 general emission limits and any emissions above 10.6 GHz may not exceed an RMS EIRP of  $-51.3$  dBm/MHz. Coordination is not required prior to operation nor is there any requirement that these devices be equipped with a manual transmission switch.

6. Ground penetrating radars (GPRs) and wall imaging systems must be operated by law enforcement, fire and emergency rescue organizations, by scientific research institutes, by commercial mining companies or by construction companies. The operation of these devices is subject to the requirement that the operator coordinate the operational location with the Commission. A dead man switch is required to ensure that the UWB device ceases to operate within 10 seconds of being released by the operator. These products must operate with their  $-10$  dB bandwidth below 960 MHz or between 3.1–10.6 GHz and may operate within those bands at the part 15 general emission limits. Emissions within the 960–3100 MHz band are required to be attenuated below the part 15 general emission limits by 10 to 24 dB, depending on the frequency.

7. In response to petitions from AGA and APGA, the GPRIC, the GPR Providers, and the NUCA, the Commission eliminated the requirement that GPRs and wall imaging systems operate with their  $-10$  dB bandwidths below 960 MHz or above 3.1 GHz; clarified the limitations on who may operate ground penetrating radar (GPR) systems and wall imaging systems and for what purposes; eliminated the requirement for non-hand held GPRs to employ a dead man switch; and clarified the coordination requirements for imaging devices.

8. UWB consumer devices are required to operate with their  $-10$  dB bandwidth in the 3.1–10.6 GHz band and are limited to indoor-only and hand held systems. These systems must comply with the UWB definition by operating with a minimum fractional bandwidth of 0.20 or with a minimum  $-10$  dB bandwidth of 500 MHz. The Commission denied MSSI requests that any type of UWB device, *e.g.*, a vehicle radar system, be permitted to operate in the 3.1–10.6 GHz band provided it employs a low PRF; and that devices be prohibited from operating under the UWB regulations if they achieve their wide bandwidth due to high data rates, *i.e.*, where the bandwidth is modulation dependent. The Commission agreed with MSSI requests that the emission charts that accompanied the February 14, 2002, News Release announcing the adoption of the UWB regulations did not correctly reflect the emission limits below 960 MHz.

9. The UWB regulations permit the operation of vehicular radar systems in the 22–29 GHz band. In the R&O, the Commission specifically precluded the operation of swept frequency systems and frequency hopping systems under

the UWB rules unless the transmissions comply with the minimum bandwidth requirement when measured with the sweep or hopping sequence stopped. The Commission indicated that this was necessary as no measurement procedure had been established to permit the emission levels from such devices to be determined while sweeping or hopping. The Commission expressed similar concerns in the Notice of Proposed Rule Making in this proceeding, 65 FR 37332 (June 14, 2000), and declined to include transmitters employing swept frequency and similar modulation types from consideration as UWB devices. For these reasons, it denied the petition from Siemens VDO to permit pulsed frequency hopping vehicle radars to be included under the definition of a UWB device by permitting such transmitters to occupy the minimum required bandwidth within any 10 millisecond period rather than at any point in time.

10. The rules permit UWB devices to be operated indoors for any purpose provided the  $-10$  dB bandwidth is within the 3.1–10.6 GHz band. These systems are permitted to operate at the part 15 general emission limits,  $-41.3$  dBm in the subject band, and are required to attenuate their emissions outside of this band. Within the 960–1610 MHz band, the emissions may not exceed  $-75.3$  dBm, a level 34 dB below the part 15 general emission limits. The Commission denied the petition from Kohler to increase the emission limit in the 960–1610 MHz band for indoor devices.

11. The Cellular Radiotelephone Service operates at 824–849 MHz and 869–894 MHz; the PCS operates at 1850–1910 MHz and 1930–1990 MHz. UWB devices do not operate with their  $-10$  dB bandwidths located within the PCS bands. However, like many other radio transmission systems, they may place unwanted emissions within that spectrum. The Commission denied the petitions from Cingular, Qualcomm and Sprint to decrease the emission levels permitted from UWB devices in the cellular, PCS and GPS frequency bands. It added that there was no basis for Sprint's and Cingular's claim that cellular or PCS exclusivity prohibits the Commission from providing for the operation of new radio services, including the operation of UWB devices that could place emissions within these bands. Further, the Commission denied the petitions to modify the transmission acknowledgement requirement for UWB systems, to amend the rules limiting certain UWB devices to indoor-only operation, or to amend the standards for imaging systems.

12. The Satellite Digital Audio Radio Service (SDARS) operates in the frequency bands 2320–2332.5 MHz and 2332.5–2345 MHz. Sirius, which operates under the name Satellite CD Radio Inc., uses the lower band, and XM uses the upper band. Through-wall imaging systems and surveillance systems, the only UWB devices permitted to operate in the SDARS bands, must not exceed an emission level of  $-41.3$  dBm/MHz in the SDARS spectrum. All other UWB devices are required to attenuate any emissions that appear in the SDARS bands, as follows: (1) GPRs, wall imaging systems, low frequency through-wall imaging systems, medical imaging systems, and indoor UWB devices must attenuate emissions in the SDARS bands to at least  $-51.3$  dBm/MHz; (2) vehicular radar systems and hand held UWB devices must attenuate their emissions in the SDARS bands to at least  $-61.3$  dBm/MHz; and (3) the new public safety imaging systems must attenuate their emissions in the SDARS bands to at least  $-41.3$  dBm/MHz. The Commission denied the petitions from Sirius and XM to reduce the limits on emissions in the SDARS bands from UWB devices.

13. The Fixed Satellite Service (FSS) operates in the 3.7–4.2 GHz band. UWB devices are permitted to operate in this band at an emission level not to exceed  $-41.3$  dBm/MHz. The Commission rejected the petition of SIA requesting that the emissions from outdoor UWB devices be reduced in the FSS band. The Commission also supplied additional clarification as to how it performed the interference calculations employed in the First Report and Order.

14. Except for vehicular radar systems, all UWB non-imaging devices operate in the 3.1–10.6 GHz band at an emission level not to exceed  $-41.3$  dBm/MHz. The Commission denied the joint petition from ARINC and ATA requesting that all UWB operations, except for coordinated terrestrial imaging systems, be located above 5.5 GHz; that the average power limits between 3.1–5.5 GHz be reduced to  $-51.3$  dBm for indoor UWB devices and to  $-61.3$  dBm for handheld UWB device; that the coordination information for UWB imaging systems be posted on the Internet to permit quick access by licensees and users of licensed services, including GPS users, to enable enforcement of the non-interference requirements; and that all UWB devices, particularly consumer-oriented indoor and handheld devices, be labelled "Warning: Not for use on aircraft" with similar warnings to be placed in the operating manuals.

15. Multipoint Distribution Service (MDS) and Instructional Television Fixed Services (ITFS) systems are permitted to operate in the 2150–2162 MHz and 2500–2690 MHz bands. UWB through-wall imaging systems and surveillance systems are permitted to operate in these bands at an emission level not to exceed  $-41.3$  dBm/MHz. Emissions from all other UWB devices must be attenuated to  $-51.3$  dBm/MHz or to  $-61.3$  dBm/MHz, depending on the specific UWB equipment. The Commission denied the petition from WCA to reduce the emissions in the 2150–2162 MHz and 2500–2690 MHz bands from UWB devices to the same limits as those adopted for the PCS bands.

16. Under the non-UWB rules, emissions below 1000 MHz from most Part 15 devices are measured using a CISPR quasi-peak detector. When an average emission limit is specified, the rules also specify a limit on the permitted amount of peak power equal to 20 dB more than the average limit. In some cases, a pulse desensitization correction factor (PDCF) must be applied to the measurement of a peak level obtained from a spectrum analyzer in order to compensate for the analyzer's inability to respond fast enough to pulse widths narrower than the inverse of the resolution bandwidth. The PDCF can considerably increase the measured peak emission level. This standard was employed when Part 15 devices used narrowband emissions, and unfairly penalizes transmission systems that use a wide bandwidth. However, the Commission denied as outside the scope of this proceeding the petition from MSSSI to permit peak measurements of non-UWB devices to be performed using a 1 MHz resolution bandwidth and without the use of a PDCF.

17. The Commission also used this *Memorandum Opinion and Order* as a vehicle to present a summary and discussion of comments filed in response to the measurement program, undertaken in April 2002 by the Technical Research Branch (TRB) of the OET Laboratory Division, to examine the existing levels of ambient RF signal energy present in the frequency bands used by GPS and Aeronautical Radionavigation systems. In addition, spurious emissions generated by common electronic/electrical devices were also measured within the GPS frequency bands. This measurement effort represented a "first step" toward collecting the data necessary to perform an objective evaluation of assumptions inherent in the link budget analysis

used to calculate the UWB emissions limit.

18. Because of the filing of an Application for Review of a grant of certification issued to Time Domain for its UWB transmitter along with an associated Request for Declaratory Ruling addressing the regulations regarding emissions from digital circuitry contained within UWB devices, the Commission clarified the regulation regarding limits on emissions produced by digital circuitry used within UWB devices. This clarification more closely comport with the text of the *First Report and Order*.

#### Administrative Provisions

19. *Paperwork Reduction Act*: This Memorandum Opinion and Order (MO&O) contains a modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection(s) contained in this MO&O as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due June 23, 2003.

20. *Final Regulatory Flexibility Certification*: The Regulatory Flexibility Act of 1980, as amended (RFA)<sup>1</sup> requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that "the rule will not have a significant economic impact on a substantial number of small entities."<sup>2</sup> The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>3</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.<sup>4</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>5</sup>

21. In this Memorandum Opinion and Order, we are responding to fourteen petitions for reconsideration regarding new rules adopted to permit the marketing and operation of new products incorporating ultra-wideband ("UWB") technology. UWB devices operate by employing very narrow or short duration pulses that result in very large or wideband transmission bandwidths. With appropriate technical standards, UWB devices can operate on spectrum occupied by existing radio services without causing interference, thereby permitting scarce spectrum resources to be used more efficiently. Further, as noted in the text we have continued to apply conservative limits to the standards applicable for UWB operation, until such time as we gain additional experience, to ensure that harmful interference would not be caused to other radio spectrum users. Further, the changes adopted in this proceeding will not affect any party legally manufacturing or marketing UWB devices. Thus, we expect that our actions do not amount to a significant economic impact. Accordingly, we certify that the rules being adopted in this Memorandum Opinion and Order will not have a significant economic impact on a substantial number of small entities.

22. We will send a copy of the Memorandum Opinion and Order, including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act.<sup>6</sup> In addition, the Memorandum Opinion and Order and this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration, and will be published in the **Federal Register**.<sup>7</sup>

23. *Ordering Clauses*: The Petitions for Reconsideration from MSSI, Siemens VDO, Time Domain, AGA and APGA, GPRIC, GPR Providers, and NUCA are granted to the extent described above. The Petitions for Reconsideration from Kohler, MSSI, Siemens, GPRIC, GPR Providers, Cingular, Qualcomm, Sprint, Sirius and XM, ARINC and ATA, and SIA are denied to the extent described above. Part 15 of the Commission's Rules and Regulations is amended as specified in the rule changes, effective May 22, 2003, except § 15.525 which contains information collection requirements that have not been approved by OMB. The FCC will publish a document in the **Federal**

**Register** announcing the effective date for that section. This action is taken pursuant to Sections 4(i), 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 302, 303(e), 303(f), 303(r), 304 and 307.

24. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Memorandum Opinion and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 15

Communications equipment, Radio, Reporting and recordkeeping requirements, Security measures.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

#### Rule Changes

■ For the reasons discussed in the preamble, title 47 of the Code of Federal Regulations, part 15, is amended as follows:

#### PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for Part 15 continues to read as follows:

**Authority:** 47 U.S.C. 154, 302, 303, 304, 307, 336 and 544A.

■ 2. Section 15.509 is revised to read as follows:

#### § 15.509 Technical requirements for ground penetrating radars and wall imaging systems.

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be below 10.6 GHz.

(b) Operation under the provisions of this section is limited to GPRs and wall imaging systems operated for purposes associated with law enforcement, fire fighting, emergency rescue, scientific research, commercial mining, or construction.

(1) Parties operating this equipment must be eligible for licensing under the provisions of part 90 of this chapter.

(2) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) A GPR that is designed to be operated while being hand held and a wall imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In lieu of a switch located on the imaging system, it is permissible to

<sup>1</sup> The RFA, see 5 U.S.C. § 601 et seq., has been amended by the Contract With America Advancement Act of 1996, Pub. L. 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> 5 U.S.C. 605(b).

<sup>3</sup> 5 U.S.C. 601(6).

<sup>4</sup> 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), 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 term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**."

<sup>5</sup> Small Business Act, 15 U.S.C. 632.

<sup>6</sup> See 5 U.S.C. 801(a)(1)(A).

<sup>7</sup> See 5 U.S.C. 605(b).

operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz  | EIRP in dBm |
|-------------------|-------------|
| 960–1610 .....    | –65.3       |
| 1610–1990 .....   | –53.3       |
| 1990–3100 .....   | –51.3       |
| 3100–10600 .....  | –41.3       |
| Above 10600 ..... | –51.3       |

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|------------------|-------------|
| 1164–1240 .....  | –75.3       |
| 1559–1610 .....  | –75.3       |

(f) For UWB devices where the frequency at which the highest radiated emission occurs,  $f_M$ , is above 960 MHz, there is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on  $f_M$ . That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

■ 3. Section 15.510 is added to read as follows:

**§ 15.510 Technical requirements for through D-wall imaging systems.**

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be below 960 MHz or the center frequency,  $f_C$ , and the frequency at which the highest radiated emission occurs,  $f_M$ , must be contained between 1990 MHz and 10600 MHz.

(b) Operation under the provisions of this section is limited to through-wall imaging systems operated by law enforcement, emergency rescue or firefighting organizations that are under the authority of a local or state government.

(c) For through-wall imaging systems operating with the UWB bandwidth below 960 MHz:

(1) Parties operating this equipment must be eligible for licensing under the provisions of part 90 of this chapter.

(2) The operation of these imaging systems requires coordination, as detailed in § 15.525.

(3) The imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In lieu of a switch located on the imaging system, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(4) The radiated emissions at or below 960 MHz shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz | EIRP in dBm |
|------------------|-------------|
| 960–1610 .....   | –65.3       |
| 1610–1990 .....  | –53.3       |
| Above 1990 ..... | –51.3       |

(5) In addition to the radiated emission limits specified in the table in paragraph (c)(4) of this section, emissions from these imaging systems shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|------------------|-------------|
| 1164–1240 .....  | –75.3       |
| 1559–1610 .....  | –75.3       |

(d) For equipment operating with  $f_C$  and  $f_M$  between 1990 MHz and 10600 MHz:

(1) Parties operating this equipment must hold a license issued by the Federal Communications Commission to operate a transmitter in the Public Safety Radio Pool under part 90 of this chapter. The license may be held by the organization for which the UWB operator works on a paid or volunteer basis.

(2) This equipment may be operated only for law enforcement applications, the providing of emergency services, and necessary training operations.

(3) The radiated emissions at or below 960 MHz shall not exceed the emission levels in § 15.209 of this chapter. The radiated emissions above 960 MHz shall not exceed the following average limits

when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz  | EIRP in dBm |
|-------------------|-------------|
| 960–1610 .....    | –46.3       |
| 1610–10600 .....  | –41.3       |
| Above 10600 ..... | –51.3       |

(4) In addition to the radiated emission limits specified in the paragraph (d)(3) of this section, emissions from these imaging systems shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|------------------|-------------|
| 1164–1240 .....  | –56.3       |
| 1559–1610 .....  | –56.3       |

(5) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs,  $f_M$ . That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(e) Through-wall imaging systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device: “Operation of this device is restricted to law enforcement, emergency rescue and firefighter personnel. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties.”

■ 4. Section 15.511 is revised to read as follows:

**§ 15.511 Technical requirements for surveillance systems.**

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be contained between 1990 MHz and 10,600 MHz.

(b) Operation under the provisions of this section is limited to fixed surveillance systems operated by law enforcement, fire or emergency rescue organizations or by manufacturers licensees, petroleum licensees or power licensees as defined in § 90.7 of this chapter.

(1) Parties operating under the provisions of this section must be eligible for licensing under the provisions of part 90 of this chapter.

(2) The operation of imaging systems under this section requires coordination, as detailed in § 15.525.

(c) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz  | EIRP in dBm |
|-------------------|-------------|
| 960–1610 .....    | –53.3       |
| 1610–1990 .....   | –51.3       |
| 1990–10600 .....  | –41.3       |
| Above 10600 ..... | –51.3       |

(d) In addition to the radiated emission limits specified in the table in paragraph (c) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|------------------|-------------|
| 1164–1240 .....  | –63.3       |
| 1559–1610 .....  | –63.3       |

(e) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs,  $f_M$ . That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

(f) Imaging systems operating under the provisions of this section shall bear the following or similar statement in a conspicuous location on the device: “Operation of this device is restricted to law enforcement, fire and rescue officials, public utilities, and industrial entities. Operation by any other party is a violation of 47 U.S.C. 301 and could subject the operator to serious legal penalties.”

■ 5. Section 15.513 is revised to read as follows:

**§ 15.513 Technical requirements for medical imaging systems.**

(a) The UWB bandwidth of an imaging system operating under the provisions of this section must be contained between 3100 MHz and 10,600 MHz.

(b) Operation under the provisions of this section is limited to medical imaging systems used at the direction of, or under the supervision of, a licensed health care practitioner. The operation of imaging systems under this

section requires coordination, as detailed in § 15.525.

(c) A medical imaging system shall contain a manually operated switch that causes the transmitter to cease operation within 10 seconds of being released by the operator. In lieu of a switch located on the imaging system, it is permissible to operate an imaging system by remote control provided the imaging system ceases transmission within 10 seconds of the remote switch being released by the operator.

(d) The radiated emissions at or below 960 MHz from a device operating under the provisions of this section shall not exceed the emission levels in § 15.209. The radiated emissions above 960 MHz from a device operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of 1 MHz:

| Frequency in MHz  | EIRP in dBm |
|-------------------|-------------|
| 960–1610 .....    | –65.3       |
| 1610–1990 .....   | –53.3       |
| 011990–3100 ..... | –51.3       |
| 3100–10600 .....  | –41.3       |
| Above 10600 ..... | –51.3       |

(e) In addition to the radiated emission limits specified in the table in paragraph (d) of this section, UWB transmitters operating under the provisions of this section shall not exceed the following average limits when measured using a resolution bandwidth of no less than 1 kHz:

| Frequency in MHz | EIRP in dBm |
|------------------|-------------|
| 1164–1240 .....  | –75.3       |
| 1559–1610 .....  | –53.3       |

(f) There is a limit on the peak level of the emissions contained within a 50 MHz bandwidth centered on the frequency at which the highest radiated emission occurs,  $f_M$ . That limit is 0 dBm EIRP. It is acceptable to employ a different resolution bandwidth, and a correspondingly different peak emission limit, following the procedures described in § 15.521.

6. Section 15.521 is amended by revising paragraph (c) to read as follows:

**§ 15.521 Technical requirements applicable to all UWB devices.**

\* \* \* \* \*

(c) Emissions from digital circuitry used to enable the operation of the UWB transmitter shall comply with the limits in § 15.209, rather than the limits specified in this subpart, provided it can be clearly demonstrated that those emissions from the UWB device are due solely to emissions from digital circuitry

contained within the transmitter and that the emissions are not intended to be radiated from the transmitter's antenna. Emissions from associated digital devices, as defined in § 15.3(k), *e.g.*, emissions from digital circuitry used to control additional functions or capabilities other than the UWB transmission, are subject to the limits contained in Subpart B of this part.

\* \* \* \* \*

7. Section 15.525 is amended by revising paragraphs (b) and (e) to read as follows:

**§ 15.525 Coordination requirements.**

\* \* \* \* \*

(b) The users of UWB imaging devices shall supply operational areas to the FCC Office of Engineering and Technology, which shall coordinate this information with the Federal Government through the National Telecommunications and Information Administration. The information provided by the UWB operator shall include the name, address and other pertinent contact information of the user, the desired geographical area(s) of operation, and the FCC ID number and other nomenclature of the UWB device. If the imaging device is intended to be used for mobile applications, the geographical area(s) of operation may be the state(s) or county(ies) in which the equipment will be operated. The operator of an imaging system used for fixed operation shall supply a specific geographical location or the address at which the equipment will be operated. This material shall be submitted to Frequency Coordination Branch, OET, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554, Attn: UWB Coordination.

\* \* \* \* \*

(e) The FCC/NTIA coordination report shall identify those geographical areas within which the operation of an imaging system requires additional coordination or within which the operation of an imaging system is prohibited. If additional coordination is required for operation within specific geographical areas, a local coordination contact will be provided. Except for operation within these designated areas, once the information requested on the UWB imaging system is submitted to the FCC no additional coordination with the FCC is required provided the reported areas of operation do not change. If the area of operation changes, updated information shall be submitted to the

FCC following the procedure in paragraph (b) of this section.

\* \* \* \* \*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-99-5157]

RIN 2127-AH03

#### Federal Motor Vehicle Safety Standards; Bus Emergency Exits and Window Retention and Release

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** On April 19, 2002, NHTSA published a final rule that amended the Federal motor vehicle safety standard on bus emergency exits and window retention and release, and specified an effective date of April 21, 2003 for the amendments made by the rule. Petitions for reconsideration of the rule were submitted to the agency. This document delays the effective date of the final rule one year to allow the agency more time to respond to those petitions.

**DATES:** Effective April 18, 2003 the effective date of the final rule published on April 19, 2002 (67 FR 19343) is delayed until April 21, 2004.

Any petitions for reconsideration of this final rule must be received by NHTSA not later than June 6, 2003

**ADDRESSES:** Petitions for reconsideration should refer to the docket number for this action and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For technical issues you may call: Mr. Charles Hott, Office of Crashworthiness Standards, at (202) 366-0247. Mr. Hott's FAX number is: (202) 493-2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366-2992. Her FAX number is: (202) 366-3820.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** Federal Motor Vehicle Safety Standard No. 217,

*Bus emergency exits and window retention and release*, (49 CFR § 571.217) (FMVSS No. 217), specifies requirements for the retention of windows other than windshields in buses, and for operating forces, opening dimensions, and markings for bus emergency exits. The purpose of FMVSS No. 217 is to minimize the likelihood of occupants being thrown from the bus in a crash and to provide a means of readily accessible emergency egress.

#### Final Rule

On April 19, 2002 (67 FR 19343) (DMS Docket No. NHTSA-99-5157), NHTSA published a final rule amending FMVSS No. 217 to reduce the likelihood that wheelchair securement anchorages in new school buses will be installed in locations that permit wheelchairs to be secured where they would block access to emergency exit doors. For side emergency exit door, the final rule restricts wheelchair securement anchorages from being placed in an area bounded by transverse vertical planes 305 mm (12 inches) forward and rearward of the center of the door aisle. For a rear emergency exit door, the final rule restricts wheelchair securement anchorages from being placed in an area bounded by a horizontal plane 1,145 mm (45 inches) above the bus floor and a transverse vertical plane either 305 mm (12 inches) forward of the bottom edge of the door opening within the bus occupant space (for school buses with a gross vehicle weight rating (GVWR) over 4,536 kg (10,000 lb)) or 150 mm (6 inches) forward of the bottom edge of the door opening within the bus occupant space (for school buses with a GVWR of 4,536 kg or less).

The final rule also provides that emergency exit doors and emergency exit windows currently required to be labeled as an "Emergency Door" or "Emergency Exit" must also bear a label saying "DO NOT BLOCK". The agency said that access to these doors and exits should never be blocked with wheelchairs or other items, such as book bags, knapsacks, sports equipment or band equipment.

The final rule specified an effective date of April 21, 2003 for these amendments.

#### Petitions for Reconsideration

In late May 2002, NHTSA received petitions for reconsideration of the April 19, 2002 final rule from three school bus manufacturers: Thomas Built Buses, American Transportation Corporation (now known as IC Corporation), and Blue Bird Body Company. The three petitioners requested reconsideration of the final rule's use of transverse vertical

and horizontal planes to define the volumes around the side and rear emergency exit doors where wheelchair anchorages may not be located. All three companies stated that the volumes should instead be defined using "the rectangular parallelepiped fixture."

The petitioners also raised other issues for reconsideration. They requested clarification of whether the warning label specified in the final rule is required for both emergency exit doors and emergency exit windows or emergency exit doors only. They asked whether the warning, "DO NOT BLOCK," is intended to refer to wheelchairs only or other items as well, such as child restraint systems. In addition, Thomas Built asked NHTSA to revise Figure 6C to clarify whether emergency exits not required by FMVSS No. 217 must meet FMVSS No. 217 emergency exit requirements.

Finally, Thomas Built also asked about the ellipsoid used for assessing the area of unobstructed openings through windows.<sup>1</sup> With respect to the final rule's reference to the "ellipsoid generated by rotating about its minor axis an ellipse having a major axis of 50 centimeters and a minor axis of 33 centimeters," Thomas Built asked whether *any* major axis of the ellipse could be held in a horizontal position.

#### Request for Delay of Effective Date

In a letter dated January 29, 2003, Blue Bird Body Corporation asked for the agency's interpretation of several requirements adopted in the final rule. Blue Bird also requested NHTSA to delay the effective date of the rule by a year. Blue Bird asked for a one-year delay to give NHTSA an additional six months to respond to the petitions for reconsideration and to provide the school bus industry at least six months lead time to implement the changes.

#### Agency Decision to Delay Effective Date

The agency is in the process of responding to the petitions for reconsideration. If the effective date were not delayed, some school bus manufacturers might have to redesign some of their vehicles to meet the requirements of the April 2002 final rule. If we respond to the petitions for reconsideration by amending that final rule's method of determining the areas on a school bus where wheelchair securement anchorages can be installed, that amendment could again affect the design and manufacture of school buses. Some manufacturers might find,

<sup>1</sup> The final rule did not add, remove or other amend language regarding the use of an ellipsoid for assessing the area of unobstructed openings through windows.