

*Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCFA, such as the temporary exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive order to include regulations that 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". This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCFA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal

implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

#### X. Congressional Review Act

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 rule 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 of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 174

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: March 23, 2005.

**James Jones,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR chapter I is amended as follows:

#### PART 174—[AMENDED]

■ 1. The authority citation for part 174 continues to read as follows:

**Authority:** 7 U.S.C. 136-136y; 21 U.S.C. 346a and 371.

■ 2. Section 174.456 is added to subpart W to read as follows:

#### § 174.456 *Bacillus thuringiensis* Modified Cry3A Protein (mCry3A) and the Genetic Material Necessary for its Production in Corn.

*Bacillus thuringiensis* modified Cry3A protein (mCry3A) and the genetic material necessary for its production in

corn is exempt from the requirement of a tolerance when used as plant-incorporated protectant in the food and feed commodities of field corn, sweet corn and popcorn. Genetic material necessary for its production means the genetic material which comprise genetic material encoding the mCry3A protein and its regulatory regions. Regulatory regions are the genetic material, such as promoters, terminators, and enhancers, that control the expression of the genetic material encoding the mCry3A protein. This temporary exemption from the requirement of a tolerance will permit the use of the food commodities in this paragraph when treated in accordance with the provisions of the experimental use permit 67979-EUP-4 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136). This temporary exemption from the requirement of a tolerance expires and is revoked October 15, 2006; however, if the experimental use permit is revoked, or if any experience with or scientific data on this pesticide indicate that the tolerance is not safe, this temporary exemption from the requirement of a tolerance may be revoked at any time. [FR Doc. 05-6499 Filed 4-5-05; 8:45 am]

BILLING CODE 6560-50-S

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2, 22, 24, 74, 78 and 90

[WT Docket No. 02-55; ET Docket No. 00-258; ET Docket No. 95-18; RM-9498; RM-10024; FCC 04-168]

### Improving Public Safety Communications in the 800 MHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petitions for reconsideration.

**SUMMARY:** This document lists Petitions for Reconsideration filed on or shortly before December 22, 2004, in the 800 MHz Public Safety Interference Proceeding, and establishes deadlines for the filing of Oppositions to the Petitions for Reconsideration and Replies to the Oppositions.

**DATES:** Submit Oppositions to the Petitions for Reconsideration listed below April 21, 2005. Submit Replies to Oppositions to the Petitions for Reconsideration May 2, 2005.

**ADDRESSES:** All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications

Commission, 445 12th Street, SW., Suite TW-A325, Washington, DC 20554. One (1) courtesy copy must be delivered to Ramona Melson, Esq. at the Federal Communications Commission, Wireless Telecommunications Bureau, Public Safety and Critical Infrastructure Division, 445 12th Street, SW., Suite 3-A465, Washington, DC 20554, or via e-mail, [ramona.melson@fcc.gov](mailto:ramona.melson@fcc.gov), and one (1) copy must be sent to Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160, or via e-mail <http://www.bcpweb.com>.

**FOR FURTHER INFORMATION CONTACT:** Ramona Melson, Esq., Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0680 or via the Internet at [ramona.melson@fcc.gov](mailto:ramona.melson@fcc.gov).

**SUPPLEMENTARY INFORMATION:** In the *800 MHz Report and Order*, the Commission adopted technical and procedural rules designed to address the ongoing and growing problem of interference to public safety communications in the 800 MHz band. A summary of the *800 MHz Report and Order* and final rules were published in the **Federal Register** on November 22, 2004 (69 FR 67823). Petitions for Reconsideration of the *800 MHz Report and Order* were due by December 22, 2004. A Notice announcing the receipt of Petitions for Reconsideration was published in the **Federal Register** on February 2, 2005 (70 FR 5449). This document lists Petitions for Reconsideration filed on or shortly before December 22, 2004, in the 800 MHz Public Safety Interference Proceeding.

On December 22, 2004, the Commission adopted a *Supplemental Order and Order on Reconsideration* in which it clarified and changed certain provisions of the *800 MHz Report and Order*. A summary of the *Supplemental Order and Order on Reconsideration* was published in the **Federal Register** on February 8, 2005 (70 FR 6758). On February 14, 2005, the Public Safety and Critical Infrastructure Division deferred the dates for the filing of oppositions and replies to the petitions for reconsideration of the *800 MHz Report and Order* in order to make these dates consistent with the dates for filing similar pleadings relative to the *Supplemental Order and Order on Reconsideration*. The Division deferred the dates to enhance the Commission's consideration of the issues in this proceeding by permitting receipt of a cohesive, informed record for the Commission's review and to promote efficiency.

Specifically, the Division deferred the date for filing oppositions to the petitions for reconsideration of the *800 MHz Report and Order* until fifteen days after **Federal Register** publication of notice of receipt of petitions for reconsideration of the *800 MHz Supplemental Order and Order on Reconsideration*, in this proceeding. The date for filing replies to an opposition to the petitions for reconsideration of the *800 MHz Report and Order* shall be within ten days after the time for filing oppositions has expired. In a companion document published in this issue, the Commission announces the receipt of Petitions for Reconsideration to the *800 MHz Supplemental Order and Order on Reconsideration*.

The following parties have filed Petitions for Reconsideration of the *800 MHz Report and Order*:

1. Thomas J. Keller, Attorney for Association of American Railroads on 12/17/04.
2. David B. Trego and Jason D. Griffith for American Electric Power Company, Inc. on 12/21/04.
3. Julian L. Shepard, Attorney for Coastal SMR Network, L.L.C./A.R.C., Inc. and Scott C. Macintyre on 12/22/04.
4. Shirley S. Fujimoto, Attorney for Entergy Corporation and Entergy Services, Inc. on 12/22/04.
5. Robert S. Foosaner for Nextel Communications, Inc. on 12/22/04.
6. William K. Keane for the National Association of Manufacturers and MRFAC, Inc. on 12/22/04.
7. Harold Mordkofsky, Attorney for Consolidated Edison Company of New York, Inc. on 12/22/04.
8. Gregory C. Staple, Attorney for TMI Communications and Company, Limited Partnership and Terrestrial Networks Inc. on 12/22/04.
9. Christine M. Gill, Attorney for Southern LINC on 12/22/04.
10. Michael K. Kurtis, Attorney for Anderson Communications on 12/22/04.
11. William J. Donohue for Exelon Corporation on 12/22/04.
12. Charles D. Guskey on 12/22/04.
13. Robert J. Keller for James A. Kay, Jr. on 12/22/04.
14. Christopher Guttman-McCabe, Attorney for CTIA—The Wireless Association on 12/22/04.
15. Charles M. Austin for Preferred Communication Systems, Inc., and Kent S. Foster for Silver Palm Communications, Inc. on 12/22/04.

The Commission will not send a copy of this document pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because no adopted rules

are attached. This document concerns the applicable dates for filing replies and oppositions to the petitions for reconsideration in the 800 MHz proceeding.

Federal Communications Commission.

**Ramona Melson,**

*Chief of Staff, Public Safety and Critical Infrastructure Division, WTB.*

[FR Doc. 05-6806 Filed 4-5-05; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 15

[ET Docket No. 03-122; FCC 05-43]

### Unlicensed Devices in the 5 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document extends for one year the transition periods for unlicensed National Information Infrastructure (U-NII) equipment operating in the 5.250-5.350 GHz band. This action will allow devices to continue to obtain equipment authorizations and to be marketed under the rules in effect prior to the adoption of the *5 GHz U-NII Report and Order* pending the development of measurement procedures for evaluating such devices for compliance with the new rules.

**DATES:** Effective February 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** Priya Shrinivasan, 418-7005 or Karen Rackley, 418-2431, Policy and Rules Division, Office of Engineering & Technology.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order*, ET Docket No. 03-122, FCC 05-43, adopted February 18, 2005, and released February 23, 2005. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also 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 full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM).