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**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).

## Summary of the Order

1. In the *5 GHz U-NII Report and Order*, 69 FR 2677, January 20, 2004, the Commission required that any product with the capability to operate in the new spectrum at the 5.470–5.725 GHz band, including equipment designed to operate in both the 5.250–5.350 GHz and 5.470–5.725 GHz bands, must meet all the rules, including the new dynamic frequency selection (DFS) and transmit power control (TPC) requirements, contained in the *5 GHz U-NII Report and Order* in accordance with the specified measurement procedures to obtain equipment certification. DFS is a feature that dynamically instructs a transmitter to switch to another channel whenever a particular condition (such as, for example, a threshold value of the prevailing ambient interference level on a channel) is met. Prior to initiating and during a transmission, a U-NII device's DFS feature would monitor the available spectrum in which it could operate for a radar signal. If a signal is detected, the channel associated with the radar signal would either be vacated and/or flagged as unavailable for use by the U-NII device. TPC can generally be defined as a mechanism that regulates a device's transmit power in response to an input signal or a condition (e.g., a command signal is issued by a controller when the received signal falls below a predetermined threshold). In addition, the Commission required that products that operate only in the 5.250–5.350 GHz band also comply with these rules.

2. *Transition Period.* For devices operating in the 5.250–5.350 GHz band, the Commission provided for a transition period in order to minimize economic hardships on manufacturers. During the transition period, manufacturers are allowed to continue producing and selling existing equipment while modifying their products to meet the new requirements. The Commission adopted a cut-off date of one year from the date of publication of the *5 GHz U-NII Report and Order* in the **Federal Register** (i.e., January 20, 2005) for applications for equipment certification of products that operate only in the 5.250–5.350 GHz band (i.e., equipment designed to operate in only the 5.250–5.350 GHz band could continue to obtain certification without having DFS and TPC, so long as the application for equipment certification was filed prior to the cut-off date of one year). After that time, all devices for which an initial application for equipment certification are filed for U-NII equipment operating in the 5.250–5.350 GHz band must meet the rules adopted in the *5 GHz U-NII Report and*

*Order*. In addition, to prevent equipment without DFS and TPC requirements from being imported and marketed indefinitely, the Commission adopted a two-year cut-off date (i.e., January 20, 2006) for the marketing and importation of equipment designed to operate in only the 5.250–5.350 GHz band. Finally, the Commission noted that users who obtained equipment prior to any of the cut-off dates would be able to continue to use that equipment indefinitely.

3. In the *Order*, the Commission noted that the cut-off date for applications for equipment certification of products without DFS and TPC that operate in only the 5.250–5.350 GHz band is January 20, 2005, one year from the date of publication of the *5 GHz U-NII Report and Order* in the **Federal Register**. However, the industry and the Federal Government have found the implementation of DFS to be more complex than originally envisioned and, as a result, measurement procedures for certifying U-NII devices containing DFS capabilities have not yet been finalized. Further, the Federal Government agencies will likely conduct tests to validate that the testing procedures respond as intended to protect radar systems. All parties are currently working together to reach an agreement and expect that remaining issues will be resolved shortly. The Commission's Laboratory will issue the updated measurement procedures for the certification of U-NII equipment containing DFS and TPC capabilities as soon as possible.

4. *New Transition Periods.* In order to allow sufficient time for an agreement on DFS implementation between the industry and the Federal Government to be reached and for equipment manufacturers to incorporate DFS into U-NII devices, the Commission extended by one year the cut-off date for applications for certification of U-NII equipment operating without DFS or TPC in the 5.250–5.350 GHz band. Therefore, effective January 20, 2006, all devices for which an initial application for equipment certification is filed for U-NII equipment operating in the 5.250–5.350 GHz band must meet the rules adopted in the *5 GHz U-NII Report and Order*. The Commission also extended by one year the two-year cut-off date for marketing and importation of equipment designed to operate in only the 5.250–5.350 GHz band. Therefore, U-NII equipment operating in the 5.250–5.350 GHz band that are imported or marketed on or after January 20, 2007 must comply with the DFS and TPC requirements adopted in the *5 GHz U-NII Report and Order*. The

Commission noted that users who obtained equipment prior to any of these cut-off dates would be able to continue to use that equipment indefinitely. Finally, because the Commission's action temporarily relieves a restriction, i.e., the cut-off dates for equipment authorizations and the marketing of U-NII equipment in the 5.250–5.350 GHz band, it made the *Order* effective upon release.

## Ordering Clauses

5. The Congressional Review Act (CRA), was addressed in a Report and Order released by the Commission, November 18, 2003, in "*In the Matter of Revision of Parts 2 and 15 of the Commission's Rules to permit Unlicensed National Information Infrastructure (U-NII) devices in the 5 GHz band*" in this proceeding, FCC 03–287, 69 FR 2677, January 20, 2004. This *Order* does not change any rules, it only extends the transition period for unlicensed U-NII devices. Therefore, the CRA requirements have already been fulfilled for this rule.

6. Pursuant to sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 54(i), 303(f), and 303(r), and Section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the *Order* is hereby adopted.

7. Section 15.37(l), 47 CFR is modified, effective upon release of this *Order*.

## List of Subjects in 47 CFR Part 15

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**William F. Caton,**  
Deputy Secretary.

## Rule Change

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 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, 302a, 303, 304, 307, 336 and 544A.

■ 2. Section 15.37 is amended by revising paragraph (l), to read as follows:

### § 15.37 Transition provisions for compliance with the rules.

\* \* \* \* \*

(l) U-NII equipment operating in the 5.25–5.35 GHz band for which applications for certification are filed on

or after January 20, 2006 shall comply with the DFS and TPC requirements specified in § 15.407. U–NII equipment operating in the 5.25–5.35 GHz band that are imported or marketed on or after January 20, 2007 shall comply with the DFS and TPC requirements in § 15.407.

\* \* \* \* \*

[FR Doc. 05–6813 Filed 4–5–05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CC Docket No. 98–67; FCC 05–48]

#### Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** In this document, the Federal Communications Commission (Commission) grants petitions filed by Sprint Corporation (Sprint) and WorldCom, Inc. (MCI) seeking reconsideration of the Commission's March 14, 2003, Order on Reconsideration (*IP Relay Reconsideration Order*). This matter derives from the April 2002 IP Relay Declaratory Ruling and Further Notice of Proposed Rulemaking (*IP Relay Declaratory Ruling & FNPRM*), which recognized IP Relay as a form of telecommunications relay service (TRS), authorized compensation for IP Relay providers from the Interstate TRS Fund, and waived certain mandatory minimum standards as they apply to the provision of IP Relay.

**DATES:** The petitions were granted as of March 9, 2005.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Thomas Chandler, Consumer & Governmental Affairs Bureau at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail: [Thomas.Chandler@fcc.gov](mailto:Thomas.Chandler@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Order on Reconsideration*, CC Docket No. 98–67, FCC 05–48, adopted March 1, 2005, released March 9, 2005. The full text of the *Order on Reconsideration* and copies of any subsequently filed

documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this *Order on Reconsideration* and copies of subsequently filed documents in this matter may also be purchased from the Commission's duplicating contractor, Best Copy and Printing Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI at their Web site: <http://www.bcpweb.com> or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The *Order on Reconsideration* can also be downloaded in Word or Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/dro>. On April 22, 2002, the Commission released the *IP Relay Declaratory Ruling & FNPRM*, CC Docket No. 98–67, FCC 02–121; published at 67 FR 39386, June 11, 2002 and 67 FR 39929, June 11, 2002, finding that IP Relay is a form of TRS and that on an interim basis the cost of providing all IP Relay calls could be compensated from the Interstate TRS Fund. On March 14, 2003, the Commission released the *IP Relay Order on Reconsideration*, CC Docket No. 98–67, FCC 03–46; published at 68 FR 18826, April 16, 2003, which granted an extension of the waivers granted in the *IP Relay Declaratory Ruling & FNPRM* for a period of five years. The Commission also granted the requested waiver of the requirement to provide one-line hearing carry over (HCO) for a period of five years. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain any new or modified “information collection burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* U.S.C. 3506(c)(4).

#### Synopsis

On April 14, 2003, Sprint filed a petition for “limited reconsideration” of the *IP Relay Reconsideration Order*, requesting that the Commission reconsider its decision not to make the waivers granted in the *IP Relay Reconsideration Order* retroactive, and

therefore not to compensate providers of IP Relay (Sprint) during the time period in which they offered the service but may not have been complying with the then non-waived HCO and pay-per-call requirements.

Sprint makes numerous arguments in support of its petition. It argues that there is no legal bar to providing payment for services rendered before the grant of the HCO and pay-per-call waivers, distinguishing the cases cited by the Commission for the proposition that the retroactive application of waivers is not favored. Sprint asserts, for example, that the waivers it seeks are “merely to correct mistakes made by the Commission in the *IP Relay Declaratory Ruling & FNPRM*” as of the date of that ruling.” Sprint also argues that the *IP Relay Declaratory Ruling & FNPRM* was not “final” because of the pendency of the petitions for reconsideration, and that therefore the risk Sprint took was that the Commission might deny its petition for waiver of the 900 pay-per-call and HCO requirements on the merits (which, had that occurred, would have precluded it from reimbursement), but not that the Commission might grant the petition but disallow reimbursement.

Sprint also argues that “rigid adherence to all TRS requirements is inconsistent with other TRS precedent.” Sprint asserts that the Commission has found in other contexts that TRS providers are eligible for compensation even if they do not meet every requirement of the Commission's rules, stating that “absolute compliance with each component of the rules may not always be necessary to fulfill the purposes of the statute and the policy objectives of the implementing rules, and that not every minor deviation would justify withholding funding from a legitimate TRS provider.” In this regard, Sprint emphasizes that the Commission has recognized that HCO and pay-per-call services are infrequently used, and that therefore IP Relay providers, like Sprint, have substantially complied with the TRS mandatory minimum standards.

Sprint also contends that the Commission “cannot lawfully single out Sprint for non-payment” of compensation, asserting that the Commission's conclusion in the *IP Relay Reconsideration Order* that it is not technically feasible to provide HCO and pay-per-call services via IP Relay means that no IP Relay provider could have been providing these services in compliance with the rules during the period between the release of the April 2002 *IP Relay Declaratory Ruling & FNPRM* and the waiver grant in the