

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.

**VIII. 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 180**

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

Dated: October 28, 2005.

**Lois Rossi,**

*Director, Registration Division, Office of Pesticide Programs.*

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

**PART 180—[AMENDED]**

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.562 is revised to read as follows:

**§ 180.562 Flucarbazone-sodium; tolerances for residues.**

(a) *General.* (1) Time-limited tolerances are established for combined residues of the herbicide flucarbazone-sodium, 4,5-dihydro-3-methoxy-4-methyl-5-oxo-N-[[2(trifluoromethoxy)phenyl]sulfonyl]-1H-1,2,4-triazole 1-carboxamide, sodium salt) and its N-desmethyl metabolite in or on the following food commodities:

Commodity	Parts per million	Expiration/Revocation Date
Wheat, forage .....	0.30 .....	11/30/06
Wheat, grain .....	0.01 .....	11/30/06
Wheat, hay .....	0.10 .....	11/30/06
Wheat, straw .....	0.05 .....	11/30/06

(2) Time-limited tolerances are established for combined residues of the herbicide flucarbazone-sodium, 4,5-dihydro-3-methoxy-4-methyl-5-oxo-N-[[2(trifluoromethoxy)phenyl]sulfonyl]-1H-1,2,4-triazole 1-carboxamide, sodium salt) and its metabolites converted to 2-(trifluoromethoxy)benzene sulfonamide and calculated as flucarbazone-sodium in or on the following food commodities:

Commodity	Parts per million	Expiration/Revocation Date
Cattle, liver .....	1.50 .....	11/30/06
Cattle, meat .....	0.01 .....	11/30/06
Cattle, meat by-products except liver.	0.01 .....	11/30/06
Goat, liver .....	1.50 .....	11/30/06
Goat, meat .....	0.01 .....	11/30/06
Goat, meat by-products except liver.	0.01 .....	11/30/06
Hog, liver .....	1.50 .....	11/30/06

Commodity	Parts per million	Expiration/Revocation Date
Hog, meat .....	0.01 .....	11/30/06
Hog, meat by-products except liver.	0.01 .....	11/30/06
Horse, liver .....	1.50 .....	11/30/06
Horse, meat .....	0.01 .....	11/30/06
Horse, meat by-products except liver.	0.01 .....	11/30/06
Milk .....	0.005 .....	11/30/06
Sheep, liver .....	1.50 .....	11/30/06
Sheep, meat .....	0.01 .....	11/30/06
Sheep, meat by-products except liver.	0.01 .....	11/30/06

(b) *Section 18 emergency exemptions.*

[Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.*

[Reserved]

[FR Doc. 05-22254 Filed 11-8-05; 8:45 am]

**BILLING CODE 6560-50-S**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 20 and 68**

[WT Docket 01-309, FCC 05-166]

**Hearing Aid Compatibility Requirements for Wireless Carriers Offering Dual-Band GSM Handsets; Request for Waiver of Hearing Aid Compatibility Requirements for Cingular Wireless LLC**

**AGENCY:** Federal Communications Commission.

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

**SUMMARY:** The Federal Communications Commission (FCC or Commission) ruled that, until August 1, 2006, it will base the hearing aid compatibility compliance rating of dual-band GSM handsets on their operation in the 1900 MHz band only. Given its broad applicability, the Commission clarified that its action applies to all handset manufacturers, carriers and service providers that offer dual-band GSM wireless handsets that operate in both the 850 MHz and 1900 MHz bands. Consistent with this action, the Commission granted in part a request from Cingular Wireless LLC (Cingular). Finally, the Commission imposed conditions on Cingular and all other entities that elect to avail themselves of the temporary relief granted by the Memorandum Opinion and Order (MO&O).

**DATES:** Effective September 8, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Angela Giancarlo, Associate Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, DC 20554, (202) 418-0680, TTY (202) 418-7233.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order (MO&O) adopted on September 7, 2005 and released on September 8, 2005. The full text of the MO&O is available for public inspection. In the MO&O and pursuant to its waiver authority, the FCC provided temporary, conditional relief from certain hearing aid compatibility requirements for carriers and manufacturers that offer dual-band digital wireless handsets that use the GSM air interface in both the 850 MHz cellular and 1900 MHz broadband PCS bands. The FCC ruled that, until August 1, 2006, it will base the hearing aid compatibility compliance rating of dual-band GSM handsets on their operation in the 1900 MHz band only. This action applies to all handset manufacturers, wireless carriers and service providers that offer dual-band GSM handsets that operate in both the 850 MHz and 1900 MHz bands. In connection with this action, the FCC also granted, in part and with conditions, a request for waiver from Cingular. Finally, the FCC imposed reporting and outreach conditions on Cingular and any other entity that elects to take advantage of the relief provided in the MO&O.

2. By way of background, since 2003, the Commission has taken a number of actions to further the ability of persons with hearing disabilities to access digital wireless telecommunications, including adopting ANSI C63.19 as the applicable technical standard for achieving hearing aid compatibility of digital wireless handsets. To facilitate deployment of digital wireless handsets compliant with this technical standard, the Commission established phased-in deployment benchmark dates for the offer of hearing aid-compatible digital wireless handsets. In this regard the Commission required manufacturers and carriers to offer hearing aid-compatible digital wireless handsets by September 16, 2005, unless they qualified for a "*de minimis*" exception (*i.e.*, offer two or fewer digital wireless handsets in the U.S.).

3. In April 2005, the Commission clarified that applicants for hearing aid compatibility certification could rely on either the 2001 or draft 2005 version of the technical standard, noting that allowing the use of the new measurement and rating procedures

would assist manufacturers and carriers in meeting their compliance obligations. In June 2005, the Commission established that by September 16, 2005, Tier I wireless carriers must offer four digital wireless handset models per air interface, or twenty-five percent of the total number of digital wireless handset models offered by the carrier nationwide, that meet a U3 rating.

4. Following these actions, the HAC Incubator Working Group 9 (Working Group 9), a technical group focused on hearing aid compatibility in wireless handsets employing the GSM air interface, and Cingular, a Tier I wireless carrier, requested relief from the hearing aid compatibility requirements for dual-band GSM handsets in the 850 MHz and 1900 MHz bands. Working Group 9 recommended that the Commission accept an interim hearing aid compatibility rating of a dual-band handset employing the GSM air interface based on its operation in the 1900 MHz band only, rather than to rate the handset based on its operation in both the 850 MHz and 1900 MHz bands.

5. In addition, Cingular requested waiver of the requirement that it offer at least four handsets meeting a U3 or higher interference rating until such time as the ANSI C63.19 standard has been updated to reflect band differences between 1.9 GHz and 850 MHz. Cingular argued that compliance with the September 16, 2005, deployment benchmark is "technologically infeasible" as it pertains to dual-band GSM handsets. In exchange, Cingular offered to comply with a number of conditions. Representatives of hearing aid manufacturers and consumers with hearing disabilities, the Hearing Industries Association (HIA), and Self Help for Hard of Hearing People (SHHH), respectively, filed comments in support of Cingular's proposal for temporary, conditional relief.

6. In the MO&O, the Commission found that adoption of the Working Group recommendation would not frustrate the underlying purpose of the benchmark requirements for deployment of hearing aid-compatible digital wireless handsets. The Commission determined that temporary acceptance of the hearing aid compatibility rating for 1900 MHz operation as the overall rating for dual-band GSM digital wireless handsets would increase users' choices by ensuring the availability of dual-band GSM handsets and avoids delaying introduction of such devices that could be used by consumers with and without hearing disabilities. Further, the Commission found that grant of the requested relief would allow

manufacturers and carriers to focus on bringing to market fully compliant handsets.

7. The Commission further found that adoption of the Working Group 9 recommendation satisfies the public interest, particularly given the broad support for the recommendation from interested parties. In addition, the Commission determined that Working Group 9's commitment to resolving the current technical challenge within a limited period of time serves the public interest and advances the original intent of the Commission's rules—to expeditiously introduce digital wireless handsets that are compatible with hearing aids—and continue to work collectively and cooperatively to resolve the current challenge.

8. Accordingly, the Commission ruled that it would accept, until August 1, 2006, the hearing aid compatibility compliance rating for operation in the 1900 MHz band as the overall compliance rating for dual-band GSM digital wireless handsets that operate in both the 850 MHz and 1900 MHz bands. Given its broad applicability, the Commission clarified that its action applies to all handset manufacturers, carriers and service providers that offer dual-band GSM wireless handsets that operate in both the 850 MHz and 1900 MHz bands.

9. Consistent with this action, the Commission granted Cingular's waiver request in part, but denied the request to the extent that it seeks broader relief. In adopting the Working Group 9 recommendation, the Commission provided Cingular with a means to comply with the September 16, 2005, preliminary deployment benchmark obligation set forth in section 20.19(c)(3)(i)(A) of the Commission's rules without the need to *per se* exempt any particular dual-band GSM handset. The Commission found Cingular's "open-ended" timetable approach would frustrate the purpose of the rule and create uncertainty and reiterated its expectation that wireless carriers, service providers and handset manufacturers make available dual-band GSM digital wireless handsets with a U3 or higher rating in both the 850 MHz and 1900 MHz bands no later than August 1, 2006. The Commission also found it premature to declare that achieving hearing aid compatibility in GSM digital wireless handsets is "technologically infeasible," given the ongoing efforts to resolve the technical challenges.

10. Finally, with regard to conditions associated with the relief, the Commission found that the conditions proposed by Cingular with some

modifications would serve the public interest. The conditions adopted by the Commission are reprinted below as set forth in the MO&O but without footnotes.

- **Reporting**

A. Cingular and any other entity that avails itself of the relief afforded by this order must so notify the Commission in its upcoming November 17, 2005, hearing aid compatibility compliance report. In addition to providing notice, such entity must include detailed information in its report that describes and discusses with specificity the status of its efforts to offer dual-band GSM handsets that achieve a rating of U3 or higher in the 850 MHz band in addition to the 1900 MHz band. We note that this condition is consistent with the requirement that compliance reports provide information regarding “any activities related to ANSI C63.19 or other standards work intended to promote compliance with” the Commission’s rules and policies.

B. Cingular and any other entity that avails itself of the relief afforded by this order and that so notifies the Commission on or before November 17, 2005, (as referenced in condition 1, above), must include in its May 17, 2006, hearing aid compatibility compliance report detailed information that describes and discusses with specificity the status of its efforts to offer dual-band GSM handsets that achieve a rating of U3 or higher in the 850 MHz band in addition to the 1900 MHz band.

C. Cingular must file an additional report with the Commission no later than February 1, 2006. This report must include detailed information that describes and discusses with specificity the status of its efforts to offer dual-band GSM handsets that achieve a rating of U3 or higher in the 850 MHz band in addition to the 1900 MHz band.

- **Consumer Outreach**

A. Cingular and any other entity that avails itself of the relief afforded by this order must ensure a thirty-day trial period or otherwise adopt an acceptable, flexible return policy for consumers seeking to obtain hearing aid-compatible GSM digital wireless handsets. In addition, such entity must include detailed information in its November 17, 2005, and May 17, 2006, hearing aid compatibility compliance reports that describes and discusses with specificity efforts to ensure a thirty-day trial period or otherwise flexible return policy for consumers seeking to obtain hearing aid-compatible GSM digital wireless handsets. We note that this condition makes mandatory one of the outreach efforts described by the Commission in

the *Hearing Aid Compatibility Order* and further discussed in the *Hearing Aid Compatibility Reconsideration Order*. Also, this condition is consistent with the requirement that compliance reports provide information regarding “outreach efforts.”

B. Cingular and any other entity that avails itself of the relief afforded by this order must take reasonable efforts to make available current technical and anecdotal information for access by the public regarding the hearing aid compatibility of specific GSM digital wireless handsets. In addition, such entity must include detailed information in its November 17, 2005, and May 17, 2006, hearing aid compatibility compliance reports that describes and discusses with specificity efforts to comply with this condition. We note that this condition is consistent with the outreach efforts described by the Commission in the *Hearing Aid Compatibility Order*, as well as the requirement that compliance reports provide information regarding “outreach efforts.”

### I. Procedural Matters

#### A. Paperwork Reduction Act Analysis

11. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13. Therefore, 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 44 U.S.C. 3506(c)(4).

#### B. Congressional Review Act

12. The Commission will not send a copy of this MO&O pursuant to the Congressional Review Act (CRA), see 5 U.S.C. 801(a)(1)(A), because this MO&O does not amend rules as defined in the CRA, 5 U.S.C. 804(3).

### II. Ordering Clauses

13. The Commission, acting pursuant to Sections 1 and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and section 1.925 of the Commission’s rules, 47 CFR 1.925, grants, to the extent set forth in the MO&O, the waiver relief requested in the Letter from Thomas Goode, counsel to the Alliance for Telecommunications Industry Solutions, and in the Presentation of the HAC Incubator Working Group 9, filed on August 1, 2005. Second, the Commission grants, to the extent set forth in the MO&O, the petition for

waiver of section 20.19(c)(3)(i)(A) of the Commission’s rules, 47 CFR 20.19(c)(3)(i)(A), filed by Cingular Wireless LLC on August 5, 2005.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05–22231 Filed 11–8–05; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF DEFENSE

### 48 CFR Part 239

[DFARS Case 2003–D054]

#### Defense Federal Acquisition Regulation Supplement; Information Technology Equipment—Screening of Government Inventory

**AGENCY:** Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to delete obsolete procedures for screening of Government inventory before authorizing a contractor to purchase information technology equipment. This rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

**EFFECTIVE DATE:** November 9, 2005.

**FOR FURTHER INFORMATION CONTACT:** Ms. Gabrielle Ward, Defense Acquisition Regulations System, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–2022; facsimile (703) 602–0350. Please cite DFARS Case 2003–D054.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at <http://www.acq.osd.mil/dpap/dars/dfars/transformation/index.htm>.