

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, "Federalism" (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act.

Executive Order 13045 Protection of Children from Environmental Health and Safety Risks

This proposed approval also is not subject to Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not a significant regulatory action under executive order 12866.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Civil Justice Reform

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.

Governmental Interference With Constitutionally Protected Property Rights

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, and has determined that the rule's requirements do not constitute a taking.

Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 the rule 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 9, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 18

[ET Docket No. 98-42; FCC 03-123]

RF Lighting Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; termination.

SUMMARY: This document terminates this proceeding. We find that with the passage of time, the record in this proceeding has become outdated. There does not appear to be a need for further

Commission action at this time, we are terminating this proceeding without prejudice to its substantive merits.

FOR FURTHER INFORMATION CONTACT:

Hugh Van Tuyl, Office of Engineering and Technology, (202) 418-7506.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order*, ET Docket No. 98-42, FCC 03-123, adopted May 27, 2003 and released May 30, 2003. 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, Qualex International, Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 863-2893; fax (202) 863-2898; e-mail qualexint@aol.com.

Summary of the Order

1. On April 1, 1998, the Commission adopted a *Notice of Proposed Rule Making* ("NPRM") in this proceeding, 63 FR 20362, April 24, 1998. The *NPRM* proposed changes to part 18 of the Commission's rules to update the regulations for radio frequency (RF) lighting devices operating in the 2.2-2.8 MHz and 2400-2500 MHz ("2450 MHz") bands. On June 9, 1999, the Commission adopted a *First Report and Order*, 64 FR 37417, July 12, 1999, that relaxed the emission limits for RF lighting devices operating in the 2.51-3.0 MHz band, but deferred action on changes to the rules for RF lighting devices operating in the 2450 MHz band to a future date.

2. We find that with the passage of time, the *NPRM* and record in this proceeding have become outdated. The proposal for changes to the rules for 2450 MHz RF lighting devices was made in 1998. The only party that expressed interest in producing such RF lighting devices has informed the Commission that it will no longer pursue development of RF lighting devices in the 2450 MHz band. There does not appear to be a need for further Commission action at this time, we are terminating this proceeding without prejudice to its substantive merits. If any party wishes to pursue the issues in this proceeding in the future, nothing precludes us from evaluating them in the context of a new proceeding.

Ordering Clauses

3. Pursuant to sections 4(i) and 4(j) of the Communications Act, 47 U.S.C.

154(i) and 154(j), ET Docket No. 98–42
is terminated, effective upon issuance of
this order.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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