



PUBLIC NOTICE

Federal Communications Commission
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December 5, 2005

**OFFICE OF ENGINEERING AND TECHNOLOGY SEEKS COMMENT ON
RESPIRONICS, INC PETITION FOR WAIVER OF PART 15 OF THE COMMISSION'S
RULES FOR UNLICENSED DEVICES**

ET Docket No. 05-331

Comment Date: January 4, 2006

Reply Comment Date: January 19, 2006

On October 28, 2005 Respiroics, Inc. (Respiroics) filed a request for waiver of Section 15.205(a) of the FCC's Radio Frequency Devices rules (Part 15) in order to permit the continued marketing and operation of its ActiReader devices until those devices are redesigned to comply with the Commission's rules.

Respiroics manufactures a biomedical measuring device designed to be worn on the wrist by a patient/subject. The device collects activity data used to study sleep/wake patterns, sleep disorders, circadian rhythm disorders, basic activity levels, etc. The collected data is wirelessly downloaded to a device, known as the ActiReader, using a low-power, short-range wireless link. Respiroics states that currently the ActiReader does not comply with the technical requirements of Section 15.205(a) because its fundamental frequency of operation at 104 kHz is within the restricted 90-110 kHz band. Although the ActiReader does not comply with technical requirements in 15.205(a), Respiroics contends that the devices are used in controlled settings (such as hospitals, sleep clinics, and research labs) for very short periods of time and radiate energy that is far below the limits for spurious emissions by intentional radiators, thus creating no threat of interference to licensed or primary services in the 90-110 kHz band. For these reasons Respiroics seeks a waiver of Section 15.205(a) to allow for the continued use of existing ActiReaders, as well as the production and sale of additional ActiReaders over the next 18 months, during which time the ActiReaders will be redesigned for compliance.

The FCC's Office of Engineering and Technology (OET) seeks comment on this waiver request in order to develop a complete record on the issues presented by the request. For *ex parte* purposes, this proceeding will be treated as a "permit-but-disclose" proceeding, in

accordance with Section 1.1200(a) of the Commission's rules, and is subject to the requirements under Section 1.1206(b) of the rules.

Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties may file comments on or before January 4, 2006 and reply comments on or before January 19, 2006. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceeding, 63 FR 24121, May 1, 1998.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and reference ET Docket No. 05-331. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail or Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

The full text of the waiver request is available for inspection and copying during normal business hour sin Room CY-A257, 445 12th Street, SW, Washington, DC., and may also be purchased from the Commission's duplication contractor, Best Copy and Printing, Inc., (800) 378-3160.

By the Acting Chief, Office of Engineering and Technology.
Office of Engineering and Technology contact: Shameeka Hunt at (202) 418-2062.