mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Statutory and Executive Order Reviews

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in 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 FIFRA section 18 petition under section 408 of the FFDCA, such as the tolerance 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 FFDCA. 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.

V. 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: April 8, 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.

§ 180.434 [Amended]

■ 2. In § 180.434, amend the item for ''blueberry'' in the table in paragraph (b) by revising the date ''12/31/2003'' to read ''12/31/2007.''

[FR Doc. 05–7736 Filed 4–19–05; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[FCC 04–271, Auction 52]

Auction of Direct Broadcast Satellite Licenses

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission restricts eligibility for the Direct Broadcast Satellite license authorizing use of channels 23 and 24 at the 61.5º W.L. orbit location. Specifically, licensees currently operating satellites at orbit locations capable of providing DBS service to the 50 U.S. states will be prohibited from acquiring, owning, or controlling this license until four years after the award of the initial license.

DATES: Effective December 3, 2004.

FOR FURTHER INFORMATION CONTACT: Diane Conley, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, (202) 418–0786; Selina Khan, Satellite Division, International Bureau, (202) 418–7282.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Auction of Direct Broadcast Satellite Licenses Order (''*DBS Order*''), released on December 3, 2004. The complete text of the *DBS Order* as well as related Commission documents are 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 *DBS Order* and related Commission documents may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*. When ordering documents from Qualex, you must provide the appropriate FCC document number (for example, FCC 04–271 for the *DBS Order*). The *DBS Order* and related documents are also available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/52/*.

I. Introduction

1. In the *DBS Order*, the Commission concludes that eligibility for the Direct Broadcast Satellite (''DBS'') license for channels 23 and 24 at the 61.5º W.L. orbit location, which authorizes use of the last two available channels at an eastern DBS orbit location, should be restricted. Specifically, licensees currently operating satellites at orbit locations capable of providing DBS service to the 50 U.S. states will be prohibited from acquiring, owning, or controlling this license until four years after the award of the initial license. The Commission concludes that such a restriction on eligibility for this license will serve the public interest by helping to promote the development of an additional provider of DBS services.

II. Background

2. The Commission first adopted competitive bidding rules for the DBS service in 1995. Revision of Rules and Policies for the Direct Broadcast Satellite Service, *Report and Order*, 60 FR 65587, December 20, 1995. In 2002, the Commission released Policies and Rules for the Direct Broadcast Satellite Service, *Report and Order*, 67 FR 51110, August 7, 2002, in which it streamlined the regulation of DBS and moved the DBS rules from part 100 to part 25.

3. On March 3, 2003, the Commission issued a public notice announcing an auction of DBS licenses (the *Auction No. 52 Comment Public Notice*, 68 FR 12906, March 18, 2003), in which it sought comment on, *inter alia*, a number of questions regarding whether eligibility restrictions were warranted for any of the four licenses slated to be offered in Auction No. 52.

4. In an Order released on January 15, 2004, the Commission declined to adopt any eligibility restrictions for the three available licenses at the 175° W.L., 166° W.L., and 157° W.L. orbit locations. The Commission deferred the matter of eligibility for the fourth license—the 61.5° W.L. license—to a separate order. Auction of Direct Broadcast Satellite Licenses, *Order*, 69 FR 8965, February 26, 2004. Following the release of that Order, the 61.5° W.L. license was removed from the inventory of Auction No. 52, which was held on July 14, 2004. Pursuant to its delegated authority, the Wireless Telecommunications Bureau will schedule an auction of the 61.5° W.L. license.

III. Discussion

A. Eligibility of DBS Incumbents

5. The Commission concludes that it is appropriate to restrict the eligibility of entities currently operating satellites at orbit locations capable of providing DBS service to the 50 U.S. states, their wholly owned subsidiaries, and entities they control, to acquire, own, or control the license for the two channels at 61.5° W.L. until four years after the award of the initial license. The two channels at 61.5° W.L. are unique because they are the only remaining unassigned DBS channels in the 12 GHz band that are assigned to the United States under the International Telecommunication Union Region 2 Band Plan that can provide service to the eastern continental United States with a sufficiently high look angle that the signal is not blocked by terrestrial obstacles. Because the 61.5° channels are the last two available that can serve all of the eastern United States plus most of the rest of the country, they could be important to increasing the number of options or choices available to subscribers of DBS or multichannel video programming distribution services. Increased choices in the DBS marketplace could yield important public interest benefits, including greater price competition, the development of additional new services, and technological innovation. Enhanced DBS competition has the potential to bring such benefits to consumers both in markets in which DBS operators compete with cable systems and in markets in which they do not. Whether an additional DBS competitor provides a choice of similar programs at a lower price or provides a different group of program options, or other kinds of DBS, broadband and other types of services, consumers will benefit from those increased options.

6. The Commission concludes that it is reasonable to specify four years as the period during which it will not allow any entity operating satellites at DBS orbit locations capable of serving the 50 states to acquire the 61.5° W.L. license because DBS licensees are required to complete construction of their first satellite within four years of authorization. The purpose of the eligibility restriction is to promote the development of an additional DBS provider, and the Commission wishes to assign the 61.5° W.L. license to an entity that will use the license to provide DBS service, not to an entity that will resell the license to a previously ineligible party soon after acquiring it. The best way to ensure that entities do not acquire the license with the intention of reselling it to a previously ineligible party is to prohibit such resale before the construction of the first satellite authorized under the license is completed. Thus, the Commission will require compliance with the four-year milestone before the 61.5° W.L. license may be transferred to a company that is operating at orbit locations capable of providing DBS service to the 50 states.

7. Entities prohibited from acquiring, owning, or controlling the license for the two channels at 61.5° W.L. until four years after the award of the initial license are also prohibited from leasing the subject spectrum during the same time period. Those parties that will be considered to have a controlling interest will be individuals and entities with either *de jure* or *de facto* control of an applicant for this license. *De jure* control is evidenced by holdings of greater than 50 percent of the voting stock of a corporation, or in the case of a partnership, general partnership interests. *De facto* control is determined on a case-by-case basis. Further, for

purposes of the eligibility restriction adopted the Commission will apply the definitions of ''controlling interests'' and ''affiliate'' currently set forth in 47 CFR 1.2110(c)(2) and 47 CFR 1.2110(c)(5).

B. Cable/DBS Cross-Ownership

8. The Commission does not anticipate any significant competitive problems from cable system ownership of the 61.5° W.L. license, and therefore it concludes that it is not appropriate or necessary to restrict cable operators from acquiring this license.

C. Other Issues

9. The Commission finds that it is not in the public interest to avoid mutual exclusivity entirely with respect to the 61.5° W.L. license and therefore 47 U.S.C. 309(j)(6)(E) does not require it to do so.

10. Because the Commission has no evidence before it to suggest that Dominion Video Satellite, Inc. (''Dominion''), would be required to turn over the 61.5° W.L. channels to EchoStar Satellite L.L.C. (''EchoStar'') if it were to win the license for them, Dominion's current lease arrangement with EchoStar should not by itself disqualify Dominion from acquiring the license for the 61.5° W.L. channels. The Commission will review specific allegations that leasing has led to a de facto transfer of control on a case-by-case basis.

IV. Conclusion

11. For the reasons stated above, the Commission concludes that it will further the public interest to prohibit firms currently operating satellites at orbit locations capable of providing DBS service to the 50 U.S. states, as well as their wholly owned subsidiaries and entities they control, from acquiring, owning, or controlling the license for the two channels currently available at the 61.5° W.L. orbit location until four years after the award of the initial license. In addition, the Commission concludes that such entities should be prohibited from leasing these channels during the same period.

V. Report To Congress

12. The Commission has sent a copy of this Order in a report sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

VI. Ordering Clauses

13. Accordingly, *it is ordered* that, pursuant to sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r), and 309(j), entities currently operating satellites at orbit locations capable of providing DBS service to the 50 U.S. states, their wholly owned subsidiaries, and entities they control shall be ineligible to acquire, own, or control the license for Direct Broadcast Satellite channels 23 and 24 at the 61.5° W.L. orbit location for a period beginning with the release date of this Order and ending four years after the date of the issuance of the initial license. Such entities are prohibited from leasing these two channels during the same period.

14. *It is further ordered* that the International Bureau, in awarding the license for Direct Broadcast Satellite channels 23 and 24 at the 61.5° W.L. orbit location, shall place upon it the condition that it may not be transferred or assigned to any entity described in the preceding clause, and this condition shall automatically expire four years after issuance of the license unless it is extended by the Commission.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05–7716 Filed 4–19–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2005–20462]

RIN 2127–AJ52

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 2006 High-Theft Vehicle Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination for model year (MY) 2006 high-theft vehicle lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft MY 2006 lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria pursuant to the statute relating to motor vehicle theft prevention.

DATES: *Effective Date:* The amendment made by this final rule is effective April 20, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Consumer Standards Division, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2290.

SUPPLEMENTARY INFORMATION: The Anti Car Theft Act of 1992, Pub. L. 102–519, amended the law relating to the partsmarking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of ''passenger motor vehicle'' in 49 U.S.C. 33101(10) to include a ''multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' Since ''passenger motor vehicle'' was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of ''passenger motor vehicles (other than light duty trucks) in not more than one-half of the lines not designated under 49 U.S.C. 33104 as high-theft lines.'' NHTSA lists each of the selected lines not designated under 49 U.S.C. 33104 as high-theft lines in Appendix B to Part 541. Since section 33103 did not specify marking of replacement parts for below-median lines, the agency does not require marking of replacement parts for these lines. NHTSA published a final rule amending 49 CFR Part 541 to include the definitions of MPV and LDT, and