



Federal Communications Commission
Washington, D.C. 20554

March 14, 2003

Mr. Mitchell Lazarus
Fletcher, Heald & Hildreth
1300 North 17th Street, 11th Floor
Arlington, Virginia 22209

Dear Mr. Lazarus:

This is in response to your letter of March 13, 2003, requesting an interpretation of Section 15.509(c) of the Commission's regulations on behalf of the Ground Penetrating Radio Industry Coalition.

You note that recently the Commission, in its *Memorandum Opinion and Order and Further Notice of Proposed Rule Making* in ET Docket No. 98-153, FCC 03-33, released March 12, 2003, partially repealed the provision of Section 15.509(c), 47 C.F.R. § 15.509(c), which requires that imaging systems, including ground penetrating radars (GPRs), be equipped with a dead man's switch. However, the Administrative Procedures Act bars this rule change from taking effect until 30 days after publication in the Federal Register. You contend that it makes no sense to require manufacturers to expend resources to temporarily incorporate a dead man switch when the Commission already has decided it is unneeded. For that reason, you request that we interpret Section 15.509(c) in light of its forthcoming repeal and permit non-hand held GPRs without a dead man switch to be certified immediately.

We agree that GPR manufacturers should not have to go through the expense of producing a product incorporating a dead man switch which will not be needed upon the effective date of the new regulations. Further, the Commission has already determined that the incorporation of this switch is not necessary to prevent harmful interference to other users of the radio spectrum. For these reasons, I have advised the laboratory staff to issue conditional grants of certification to non-hand held GPRs that do not incorporate a dead man switch, provided the equipment complies with all other relevant technical standards. Be advised that any such grants will be conditioned on the revised Section 15.509(c) actually becoming effective. If for any reason the revised Section 15.509(c) does not become effective, any certifications so granted will become null and void unless the grantees of these GPRs retrofit the units with a dead man switch.

If you have any further questions, please contact John Reed at (202) 418-2455.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed Thomas", written over a circular stamp.

Ed Thomas

Chief,

Office of Engineering and Technology