

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart F—California**

■ 2. Section 52.220 is amended by adding paragraphs (c)(307)(i)(C)(2) and (c)(312) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(307) \* \* \*  
(i) \* \* \*  
(C) \* \* \*

(2) Rule 67.11.1, adopted on September 25, 2002.

\* \* \* \* \*

(312) New and amended rules for the following districts were submitted on January 21, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Bay Area Air Quality Management District.

(1) Rules 8.5 and 8.18, amended on November 27, 2002, and adopted on January 1, 1978 and October 1, 1980, respectively.

\* \* \* \* \*

[FR Doc. 03-13883 Filed 6-4-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[DC042-2031a; FRL-7507-4]

**Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Determining Conformity of Federal Actions to State or Federal Implementation Plans**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on a State Implementation Plan (SIP) revision submitted by the District of Columbia. The revision includes the District's regulation for conformity, which sets forth policy, criteria and procedures for demonstrating and assuring conformity of transportation and non-transportation related Federal actions to state or Federal implementation plans. EPA is approving these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on August 4, 2003 without further notice, unless EPA receives adverse written comment

by July 7, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be addressed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Anderson, (215) 814-2173, or by e-mail at [anderson.kathleen@epa.gov](mailto:anderson.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On December 16, 1998, the District of Columbia Department of Health (DCDH) submitted a revision consisting of the District's regulation for determining conformity of Federal actions to state or Federal implementation plans (DCMR Chapter 4, section 403.1). The purpose of this SIP revision is to meet the requirements of 40 CFR part 51, subpart W, which requires states to submit a plan revision containing criteria and procedures for assessing the conformity of Federal actions to the applicable implementation plan. Subpart W is also known as the General Conformity Rule. It pertains to non-transportation related Federal actions.

**II. Summary of SIP Revision**

The District's regulation at 20 DCMR Chapter 4, section 403.1 incorporates by reference the Federal regulations at 40 CFR part 93, in effect as of September 30, 1997, which establishes requirements for determining conformity of both general and transportation related Federal actions to state or Federal implementation plans. Under 40 CFR part 51, subpart W, states are only required to have SIP-approved general conformity regulations. By incorporating by reference all of 40 CFR part 93, the District has adopted and submitted as a SIP revision a rule that includes regulations for determining conformity of general as well as transportation-related Federal actions.

40 CFR part 51, subpart W and 40 CFR part 93 were promulgated to implement section 176(a) of the Clean

Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), which requires that all Federal actions conform to applicable air quality implementation plans. The Federal conformity rule in 40 CFR part 93 establishes standards and procedures to follow when evaluating the conformity of Federal projects to all applicable implementation plans developed pursuant to section 110 and part D of the CAA. This rule only applies to areas designated as nonattainment or maintenance under the CAA. By adopting a rule that incorporates by reference 40 CFR part 93, and submitting this rule to EPA as a SIP revision, the District has satisfied the requirement to submit a plan revision containing criteria and procedures for assessing the conformity of Federal actions to the applicable implementation plan.

**III. Final Action**

EPA is approving as a SIP revision the District's regulation at Title 20, DCMR Chapter 4, Section 403.1, Determining Conformity of Federal Actions to State or Federal Implementation Plans, submitted as a SIP revision on December 16, 1998.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on August 4, 2003 without further notice unless EPA receives adverse comment by July 7, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**IV. Statutory and Executive Order Reviews****A. General Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May

22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule 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 economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*B. Submission to Congress and the Comptroller General*

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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action to approve the District's conformity regulations must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the District of Columbia's general conformity rule, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: May 23, 2003.

**William C. Early,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart J—District of Columbia**

■ 2. In § 52.470, the table in paragraph (c) is amended by revising the entry for Chapter 4 and adding an entry to Chapter 4 after the second existing entry to read as follows:

**§ 52.470 Identification of plan.**

\* \* \* \* \*

(c) EPA approved regulations.

**EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS**

State citation	Title/subject	State effective date	EPA approval date	Comments
* * * * *				
Chapter 4 .....	Ambient Monitoring, Emergency Procedures, Chemical Accident Prevention and Conformity			
* * * * *				
Section 403 .....	Determining Conformity of Federal Actions to State or Federal Implementation Plans.	11/6/98	6/5/03 68 FR 33639.	
* * * * *				

[FR Doc. 03-14033 Filed 6-4-03; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 25

[IB Docket No. 01-185; FCC 03-15]

#### Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document is a summary of the Report and Order adopted by the Commission in this proceeding. The Commission permitted certain mobile-satellite service (MSS) providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands to integrate ancillary terrestrial components (ATCs) into their MSS networks. Specifically, MSS operators are allowed to seek authority to integrate ATCs into their networks for the purpose of enhancing their ability to offer high-quality, affordable mobile services on land, in the air and over oceans without using any additional spectrum resources beyond spectrum already allocated and authorized by the Commission for MSS in these bands. The Commission found that permitting MSS ATC in the manner prescribed in the Report and Order should increase the efficiency of spectrum use through MSS network integration and terrestrial reuse and permit better coverage in areas that MSS providers could not otherwise serve; provide additional communications that may enhance public protection; and provide new services in the markets served by MSS. Thus, it concluded that making ATC available to licensed MSS operators serves the public interest.

**DATES:** Effective July 7, 2003, except for §§ 25.149, 25.252, 25.253, 25.254, which contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The FCC will publish a document in the **Federal Register** announcing the effective date for those sections. The incorporation by reference of certain publications listed in § 25.254 will be approved by the Director of the Federal Register as of the effective date announced in the **Federal Register**. OMB, the general public, and other Federal agencies are invited to comment on the information collection requirements on or before August 4, 2003.

**FOR FURTHER INFORMATION:** Trey Hanbury, Breck Blalock, or James Ball, Policy Division, International Bureau, (202) 418-1460. For information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202-418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in IB Docket No. 01-185, FCC No. 03-15, adopted January 29, 2003, and released on February 3, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The document is also available for download over the Internet at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-03-15A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-03-15A1.pdf). The complete text may also be purchased from the Commission's copy contractor, Qualex International, in person at 445 12th Street, SW., Room CY-B402, Washington, DC 20554, via telephone at (202) 863-2893, via facsimile at (202) 863-2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

This Report and Order contains new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-3. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collections contained in this proceeding.

#### Summary of Report and Order

On August 9, 2001, the Commission adopted a notice of proposed rulemaking in this proceeding (66 FR 47621, September 13, 2001) to obtain comment on proposals to bring flexibility to the delivery of communications by mobile satellite service (MSS) providers. On February 3, 2003, the Commission released a Report and Order and notice of proposed rulemaking in this proceeding. The notice of proposed rulemaking relating to this proceeding is published elsewhere in this issue of the **Federal Register**. In the Report and Order, the Commission permitted flexibility in the delivery of communications by MSS providers that operate in three sets of radio frequency bands: the 2 GHz MSS band, the L-band and the Big LEO bands. Specifically, we permit MSS licensees to integrate ATCs into their MSS networks. The Commission permits MSS operators to seek authority to integrate ATCs into their networks for

the purpose of enhancing their ability to offer high-quality, affordable mobile services on land, in the air and over the oceans without using any additional spectrum resources beyond spectrum already allocated and authorized by the Commission for MSS in these bands. The Commission will authorize MSS ATC subject to conditions that ensure that the added terrestrial component remains ancillary to the principal MSS offering. The Commission does not intend, nor will it permit, the terrestrial component to become a stand-alone service. Permitting MSS ATCs in this manner should: (1) Increase the efficiency of spectrum use through MSS network integration and terrestrial reuse and permit better coverage in areas that MSS providers could not otherwise serve; (2) reduce costs, eliminate inefficiencies and enhance operational ability in MSS systems; (3) provide additional communications that may enhance public protection; and (4) strengthen competition in the markets served by MSS. An Errata was issued on March 7, 2003, to correct minor errors in the text and appendices of the Report and Order. The summary and rules that appear herein reflect the corrected text.

#### Procedural Matters

##### *Paperwork Reduction Act*

This Report and Order contains a new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collection contained in this Report and Order as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13. Public and agency comments are due August 4, 2003. A copy of any comments on the information collection contained herein should be submitted to Judy Boley, Federal Communications Commission, In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [jboley@fcc.gov](mailto:jboley@fcc.gov), and to Kim A. Johnson, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to [Kim\\_A\\_Johnson@omb.eop.gov](mailto:Kim_A_Johnson@omb.eop.gov).

##### *Final Regulatory Flexibility Act Certification*

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rule