TABLE 3.—EPA APPROVED MECKLENBURG COUNTY REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanation
	* * * * * * *			
	Section 1.5200 Air Quality Permits			
	* * * * * * *			
1.5212	Applications	07/01/96	06/30/03	
1.5213	Action on Application; Issuance of Permit	07/01/96	06/30/03	
1.5214	Commencement of Operation	07/01/96	06/30/03	
1.5215	Application Processing Schedule	07/01/96	06/30/03	
1.5231	Permit Fees	07/01/96	06/30/03	
1.5232	Issuance, Revocation, and Enforcement of Permits	07/01/96	06/30/03	
	Section 1.5300 Enforcement; Variances; Judicial Review			
1.5305	Variances	07/01/96	06/30/03	
1.5306	Hearings	07/01/96	06/30/03	
	Section 1.5600 Transportation Facility Procedures			
1.5604	Public Participation	07/01/96	06/30/03	
1.5607	Application Processing Schedule	07/01/96	06/30/03	
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[FR Doc. 03–172 Filed 6–27–03; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NO. CO–001–0075a; FRL–7512–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Credible Evidence

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a State Implementation Plan (SIP) revision submitted by the Governor of Colorado on July 31, 2002. The July 31, 2002, submittal revises Colorado Air Quality Control Commission (AQCC) Common Provisions Regulation by adding a credible evidence rule. The intended effect of this action is to make the credible evidence rule Federally enforceable. Also, the Governor's July 31, 2002, submittal contains other SIP revisions which will be addressed separately. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on August 29, 2003, without further notice, unless EPA receives adverse comment by July 30, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used means EPA.

I. Summary of SIP Revision

Colorado has adopted a credible evidence rule (Colorado AQCC Common Provisions Regulation, section II.I) to comply with the EPA's final rule concerning credible evidence. On February 24, 1997, EPA promulgated regulations under section 113(a) and 113(e)(1) of the CAA that gave EPA authority to use all available data to prove CAA violations (*see* 62 FR 6314–8328, February 24, 1997). The final rule requires states to include provisions in their SIPs to allow for the use of credible evidence for the purposes of submitting compliance certifications and for establishing whether or not a person has violated a standard in a SIP.

In accordance with section 110(k)(5) of the CAA, a SIP call was issued to the State of Colorado on July 7, 1994, which was later superceded by another SIP call on October 20, 1999. In the October 20, 1999, letter, from William P. Yellowtail, EPA Regional Administrator, to Bill Owens, Governor of Colorado, EPA notified the State of Colorado that their SIP was inadequate to comply with sections 110(a)(2)(A) and (C) of the CAA because the SIP could be interpreted to limit the types of credible evidence or information that may be used for determining compliance and establishing violations. In response to the SIP call, the State of Colorado adopted and submitted a new credible evidence rule, Colorado AQCC Common Provisions Regulation, section II.I, titled Compliance Certifications. EPA believes that section II.I of Colorado AQCC Common Provisions Regulation meets the requirements of 40 CFR 51.212(c) and is approving it into the SIP.

II. Final Action

EPA is approving a SIP revision submitted by the Governor of Colorado on July 31, 2002, concerning the use of credible evidence for determining compliance and establishing violations. The July 31, 2002, submittal revises Colorado AQCC Common Provisions Regulation by adding section II.I, titled Compliance Certifications. EPA believes that section II.I of Colorado's Common Provisions Regulation meets the requirements of 40 CFR 51.212(c) and is approving it into the SIP.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Colorado SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because the State of Colorado's new credible evidence rule meets the Federal requirements in 40 CFR 51.212(c) and this rule will enhance the State's efforts in implementing the Clean Air Act. Therefore, section 110(l) requirements are satisfied.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments be filed. This rule will be effective August 29, 2003, without further notice unless the Agency receives adverse comments by July 30, 2003. If the EPA receives adverse comments, 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. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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 (Pub. L. 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.*).

The Congressional Review Act, 5 U.S.C. section 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 29, 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 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 2, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 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 G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(100) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(100) EPA is approving a SIP revision submitted by the Governor of Colorado on July 31, 2002, concerning the use of credible evidence for determining compliance and establishing violations. The July 31, 2002 submittal revises Colorado Air Quality Control Commission (AQCC) Common Provisions Regulation by adding Section II.I, Compliance Certifications. Section II.I of Colorado AQCC Common Provisions Regulation is approved into the SIP.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission Common Provisions Regulation, Section II.I, effective September 30, 2001.

[FR Doc. 03–16026 Filed 6–27–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[WT Docket No. 00–32; FCC 03–99]

The 4.9 GHz Band Transferred from Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission (FCC) denies petitions for reconsideration of the FCC's decision to prohibit aeronautical mobile operations in the 4940–4990 MHz (4.9 GHz) band. While the FCC believes that it could fashion no general rule that would adequately protect radio astronomy operations without being so restrictive as to limit the utility of pursuing aeronautical mobile operations in the 4.9 GHz band, the FCC nonetheless recognizes the public safety community's interest in utilizing the 4.9 GHz band for aeronautical mobile operations. Thus, the FCC provides a mechanism whereby such operations could be allowed on a case-by-case basis provided that there is a sufficient technical showing made that the proposed operations would not interfere with in-band and adjacent band radio astronomy operations.

FOR FURTHER INFORMATION CONTACT: Tim Maguire, *tmaguire@fcc.gov*, or Genevieve Augustin, *gaugusti@fcc.gov*, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Memorandum Opinion and Order, FCC 03–99, adopted on April 23, 2003, and released on May 2, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC–03–99A1.pdf*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov*.

1. In the Second Report and Order (Second Report and Order), 67 FR 17308, April 9, 2002, in this proceeding, the FCC allocated the fifty megahertz of spectrum in the 4.9 GHz band for fixed and mobile services (except aeronautical mobile service) and designated the band for use in support of public safety. In this Memorandum Opinion and Order (MO&O), the FCC addresses petitions for reconsideration of the Second R&O.

2. In the *MO&O*, the FCC denies petitions for reconsideration of the FCC's decision to prohibit aeronautical mobile operations in the 4.9 GHz band. The FCC believes that there is insufficient information demonstrating that it could fashion a general rule that would adequately protect radio astronomy operations in all scenarios. The FCC is also concerned that any general rule would be so restrictive as to limit the utility of pursuing aeronautical mobile operations in the 4.9 GHz band. The FCC nonetheless recognizes the public safety community's interest in utilizing the 4.9 GHz band for aeronautical mobile operations and provides a mechanism whereby such operations could be allowed on a case-by-case basis provided that there is a sufficient technical showing made that the proposed operations would not interfere with in-band and adjacent band radio astronomy operations. This action strikes the appropriate balance between the FCC's goals of protecting radio astronomy operations and promoting effective public safety communications and innovation in wireless broadband services in support of public safety.

I. Ordering Clauses

3. The Chief, Wireless Telecommunications Bureau and the Chief, Office of Engineering and Technology, *are granted delegated authority* to adjudicate waiver requests to utilize the 4.9 GHz band for aeronautical mobile operations.

Federal Communications Commission

Marlene H. Dortch,

Secretary.

[FR Doc. 03–16376 Filed 6–27–03; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[WT Docket No. 00–32; FCC 03–99]

The 4.9 GHz Band Transferred From Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC) establishes licensing and service rules for the 4940–4990 MHz band (4.9 GHz band). By this action, the FCC seeks to promote effective public safety communications and innovation in wireless broadband services in support of public safety. The FCC further endeavors to provide 4.9 GHz band licensees with the maximum operational flexibility practicable and to encourage effective and efficient utilization of the spectrum. The actions herein make significant strides towards ensuring that agencies involved in the protection of life and property possess the communications resources needed to successfully carry out their mission.

DATES: Effective July 30, 2003. Public and agency comments regarding information collection are due August 29, 2003.

ADDRESSES: 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tim Maguire, *tmaguire@fcc.gov*, or Genevieve Augustin, *gaugusti@fcc.gov*, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680, or TTY (202) 418–7233