

- (5) Brakes;
- (6) Muffler;
- (7) Spark or ignition noise suppressors; and
- (8) Safety belts.

(d) No person may operate a motor vehicle on Wake Island if that vehicle is equipped with a straight exhaust or muffler cutoff.

#### Subpart O—Registration and Island Permits

##### § 935.150 Registration.

(a) Each person who has custody of any of the following on Wake Island shall register it with the Commander.

- (1) A privately owned motor vehicle.
- (2) A privately owned boat.
- (3) An indigenous animal, military working dog, or guide dog for the blind or visually-impaired accompanying its owner.

(4) A narcotic or dangerous drug or any poison.

(b) Each person who obtains custody of an article described in paragraph (a) (4) of this section shall register it immediately upon obtaining custody. Each person who obtains custody of any other article described in paragraph (a) of this section shall register it within 10 days after obtaining custody.

##### § 935.151 Island permit for boat and vehicle.

(a) No person may use a privately owned motor vehicle or boat on Wake Island unless he has an island permit for it.

(b) The operator of a motor vehicle shall display its registration number on the vehicle in a place and manner prescribed by the Commander.

##### § 935.152 Activities for which permit is required.

No person may engage in any of the following on Wake Island unless he has an island permit:

(a) Any business, commercial, or recreational activity conducted for profit, including a trade, profession, calling, or occupation, or an establishment where food or beverage is prepared, offered, or sold for human consumption (except for personal or family use).

(b) The practice of any medical profession, including dentistry, surgery, osteopathy, and chiropractic.

(c) The erection of any structure or sign, including a major alteration or enlargement of an existing structure.

(d) The burial of any human or animal remains, except that fish and bait scrap may be buried at beaches where fishing is permitted, without obtaining a permit.

(e) Keeping or maintaining an indigenous animal.

(f) Importing, storing, generating, or disposing of hazardous materials.

(g) Importing of solid wastes and importing, storing, generating, treating, or disposing of hazardous wastes, as they are defined in the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 *et seq.*, and its implementing regulations (40 CFR chapter I).

#### Subpart P—Public Safety

##### § 935.160 Emergency requirements and restrictions.

In the event of any fire, crash, search and rescue, natural disaster, national peril, radiological hazard, or other calamitous emergency—

(a) No person may impede or hamper any officer or employee of the United States or any other person who has emergency authority;

(b) No unauthorized persons may congregate at the scene of the emergency; and

(c) Each person present shall promptly obey the instructions, signals, or alarms of any peace officer, fire or crash crew, or other authorized person, and any orders of the Commander.

##### § 935.161 Fire hazards.

(a) Each person engaged in a business or other activity on Wake Island shall, at his expense, provide and maintain (in an accessible location) fire extinguishers of the type, capacity, and quantity satisfactory for protecting life and property in the areas under that person's control.

(b) To minimize fire hazards, no person may store any waste or flammable fluids or materials except in a manner and at a place prescribed by the Commander.

##### § 935.162 Use of special areas.

The Commander may regulate the use of designated or posted areas on Wake Island, as follows:

(a) Restricted areas—which no person may enter without permission.

(b) Prohibited activities areas—in which no person may engage in any activity that is specifically prohibited.

(c) Special purpose areas—in which no person may engage in any activity other than that for which the area is reserved.

##### § 935.163 Unexploded ordnance material.

Any person who discovers any unexploded ordnance material on Wake Island shall refrain from tampering with it and shall immediately report its site to the Commander.

##### § 935.164 Boat operations.

The operator of each boat used at Wake Island shall conform to the limitations on its operations as the

Commander may prescribe in the public interest.

##### § 935.165 Floating objects.

No person may anchor, moor, or beach any boat, barge, or other floating object on Wake Island in any location or manner other than as prescribed by the Commander.

Pamela D. Fitzgerald,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 02-8303 Filed 4-8-02; 8:45 am]

BILLING CODE 5001-05-U

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KY-200215; FRL-7168-6]

#### Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky: Approval of Revisions to the 1-Hour Ozone Maintenance State Implementation Plan for the Edmonson County and the Owensboro-Daviess County Area; Clarification

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

**ACTION:** Final rule; clarification.

**SUMMARY:** EPA is clarifying its approval of revisions to the 1-hour ozone maintenance plans for the Owensboro area (i.e., Daviess and a portion of Hancock counties), and Edmonson County portions of the Kentucky State Implementation Plan (SIP) submitted on April 16, 1998, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet. Although not explicit in the language of the document for the approval, the Commonwealth's request and EPA's action involved the approval of an update for emission projections that were originally developed with an earlier version of the EPA mobile emissions model. That same approval action also identified the emission projections as the motor vehicle emissions budgets (or "budgets") for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) for use in transportation conformity determinations. However, that action did not specify for what year the "budgets" were being established. This action merely clarifies for which year the "budgets" for NO<sub>x</sub> and VOC were being established.

**EFFECTIVE DATE:** This clarification is effective on May 9, 2002.

**FOR FURTHER INFORMATION CONTACT:** Lynorae Benjamin, Air Quality Modeling and Transportation Section,

Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov*.

**SUPPLEMENTARY INFORMATION:** The following subsections provide a brief overview of EPA's previous approval action and the clarification being provided by this action.

**A. What Is the Background for This Action?**

Through direct final rulemaking, published in the **Federal Register** on September 3, 1998, (63 FR 46894) EPA approved revisions to the 1-hour ozone maintenance plans for the Owensboro area (i.e., Daviess and Hancock counties), and Edmonson County. These revisions to the Kentucky SIP were submitted on April 16, 1998, by the Commonwealth of Kentucky. The purpose of our action was to incorporate revised motor vehicle emissions budgets for NO<sub>x</sub> and VOCs for the Owensboro area and Edmonson County, Kentucky, into the federally-approved SIP. Specifically, that SIP revision updated emission projections previously developed with the MOBILE 4.1 emissions model with emissions projections developed with the MOBILE 5a emissions model. Our approval specified that the emission projections were being considered as "budgets" to be used for demonstration of conformity of transportation plans, programs, and projects with the Kentucky SIP for the Edmonson County and Owensboro ozone maintenance areas. However, Kentucky's SIP for these areas did not explicitly specify for which years the new conformity budgets would apply.

**B. Why Is EPA Taking This Action?**

EPA is taking this action to provide clarity for the transportation and air quality partners in this area that work together to implement the transportation conformity rule. EPA recently reviewed all of the maintenance plans that were submitted by Kentucky in 1994 and any subsequent revisions to these maintenance plans. This review revealed that while Kentucky had included emissions projections for VOCs and NO<sub>x</sub> for several years in each of these submittals, it was only in the case of the Owensboro area and Edmonson County that EPA had approved all of these years as conformity budgets. Based on this review, EPA is taking action to correct

the approval of the maintenance plans for the Owensboro area and Edmonson County. Specifically, EPA is taking this action to explicitly state that 2004 is the year for which the budgets were established by Kentucky, and that the VOC and NO<sub>x</sub> emission projections for 2004, which is the last year of the maintenance plans, are the "budgets" to be used for the purposes of transportation conformity. This action is administrative and does not involve any technical changes to the Commonwealth's previous submittal for which EPA granted approval.

**C. What Are the Motor Vehicle Emissions Budgets for the Edmonson County and Owensboro Areas?**

As mentioned previously, this action is administrative and does not involve any technical changes to the emission projections supplied by the State in the April 16, 1998, Kentucky SIP revision request. The following tables highlight the motor vehicle emissions budgets for NO<sub>x</sub> and VOCs for the Edmonson County and Owensboro maintenance areas in Kentucky.

2004 MOTOR VEHICLE EMISSIONS BUDGETS FOR EDMONSON COUNTY

VOC (tons per day)	NO <sub>x</sub> (tons per day)
0.72 .....	0.78

2004 MOTOR VEHICLE EMISSIONS BUDGETS FOR OWENSBORO

VOC (tons per day)	NO <sub>x</sub> (tons per day)
6.64 .....	5.22

**Final Action**

EPA is clarifying its previous approval for revisions to the 1-hour ozone maintenance plans to the Owensboro area (i.e., Daviess and Hancock counties), and Edmonson County portions of the Kentucky SIP, which were submitted on August 16, 1998 by the Commonwealth of Kentucky. This action specifies 2004 as the "budget" year to be used for the purposes of transportation conformity.

**Administrative 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 (Pub. L. 104-4).

This action 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 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 clarifies EPA's approval of 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 addition, since this action is only correcting a federal citation for a SIP submission that has already been approved by EPA, 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. section 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 June 10, 2002. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: March 21, 2002.

**Michael V. Peyton,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 02-8295 Filed 4-8-02; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1, 61, and 69

[CC Docket No. 96-128; FCC 02-39]

#### Implementation of Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Commission declined to modify its accounting safeguards in the manner requested by the Inmate Calling Services Provider Coalition (ICSPC) in part because the Commission's existing rules already provide for much of the relief that the ICSPC requested. The intended effect of this document is to maintain

the existing Commission rules regarding the accounting safeguards.

**FOR FURTHER INFORMATION CONTACT:** Joi Roberson Nolen, Wireline Competition Bureau, 202-418-1537.

**SUPPLEMENTARY INFORMATION:** Section 276 of the Communications Act of 1934, as amended (the Act), directs the Commission to "establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone." See 47 U.S.C. 276(b)(1)(A). The ICSPC sought reconsideration of certain issues relating to inmate calling services. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Order on Reconsideration, 11 FCC Rcd 21233 (1996), 61 FR 65341 (Dec. 12, 1996)(Order on Reconsideration) *aff'd in part and remanded in part, Illinois Pub. Tel. Ass'n v. FCC*, 117 F.3d 555 (D.C. Cir. 1997), *cert. denied sub nom., Virginia State Corp. Comm'n v. FCC*, 523 U.S. 1046 (1998). ICSPC, along with numerous other parties, initially sought review of the Order on Reconsideration before the United States Court of Appeals for the District of Columbia Circuit and consolidated its appeal under the lead case *Illinois Public Telecommunications Association v. FCC*. The court subsequently severed ICSPC's appeal, and later remanded it at the Commission's request. The Commission issued a Public Notice asking parties to update and refresh the record with respect to the issues raised in ICSPC's appeal.

In this order, the Commission concluded that section 276's fair compensation requirement does not require either preemption of state local collect calling caps or imposition of a federally-tariffed surcharge above state rate caps for local inmate calls. The Commission also concluded that ICSPC's requested nonstructural safeguards are not necessary, in light of those that section 276 and our rules already impose. In addition, the Commission initiated a Notice of Proposed Rulemaking to examine the costs associated with the provision of inmate calling services. See Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128, Notice of Proposed Rulemaking, FCC 02-39 (Feb. 21, 2002) (published elsewhere in this issue).

Accordingly, it is ordered that, pursuant to the authority contained in

sections 1, 4(i)-4(j), and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 276, the Petition for Partial Reconsideration and Clarification of the Inmate Calling Services Providers Coalition is *denied*.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02-8343 Filed 4-8-02; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 26

[WT Docket No. 00-32; FCC 02-47]

#### The 4.9 GHz Band Transferred From Federal Government Use

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission allocates 50 megahertz of spectrum in the 4940-4990 MHz band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designates this band for use in support of public safety. The allocation and designation provide public safety users with additional spectrum to support new broadband applications. This action is pursuant to statutory requirements of the Omnibus Budget Reconciliation Act of 1993. The Commission also continues its ongoing effort to streamline rules and eliminate redundancy by removing part 26.

**DATES:** Effective May 9, 2002.

**ADDRESSES:** Parties who choose to file comments by paper must file an original and four copies to William F. Caton, Acting Secretary, Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Room TW-A325, Washington, DC 20554. Comments may also be filed using the Commission's Electronic Filing System, which can be accessed via the Internet at [www.fcc.gov/e-file/ecfs.html](http://www.fcc.gov/e-file/ecfs.html).

**FOR FURTHER INFORMATION CONTACT:**

Genevieve Augustin, Esq., [gaugusti@fcc.gov](mailto:gaugusti@fcc.gov), or Roberto Mussenden, Esq., [rmussend@fcc.gov](mailto:rmussend@fcc.gov), Policy and Rules Branch, 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 Federal Communications Commission's Second Report and Order, FCC 02-47, adopted on February 14, 2002, and released on February 27, 2002. The full text of this