PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Paragraph 1. The authority citation for part 200 continues to read as follows:

Authority: 26 U.S.C. 7805, 27 U.S.C. 204.

PART 200—[AMENDED]

Par. 2. Section 200.5 is amended as follows:

(a) By revising in alphabetical order, the terms, Attorney for the Government, Director of Industry Operations and Initial Decision.

(b) By removing the term ''District director'' and by adding in alphabetical order, the term ''Director of Industry Operations''.

The additional revision reads as follows:

§ 200.5 Meaning of terms.

* * * * *

Attorney for the Government. The attorney in the appropriate office of Chief Counsel authorized to represent the Director of Industry Operations in the proceeding.

* * * * *

Director of Industry Operations. The principal ATF official in a field operations division responsible for administering the regulations in this part.

* * * * *

Initial decision. The decision of the Director of Industry Operations or administrative law judge in a proceeding on the suspension, revocation or annulment of a permit.

* * * * *

§ 200.25 [Amended]

Par. 3. Section 200.25 is amended by removing the words ''Regional Director (compliance)'' and by adding the words ''Director of Industry Operations (DIO)'' in place thereof. Section 200.25 is also amended by removing the words ''district director'' and by adding the words ''director of industry operations'' in place thereof.

* * * * *

Par. 4. The following sections of part 200 are amended by removing the words ''district director'' each place they appear and adding, in place thereof, the words ''director of industry operations'':

(a) Section 200.27;
(b) Section 200.29;
(c) Section 200.31;
(d) Section 200.35;
(e) Section 200.36;
(f) Section 200.37;
(g) Section 200.38;
(h) Section 200.45;
(i) Section 200.46;
(j) Section 200.48, introductory text;
(k) Section 200.49;
(l) Section 200.49a, introductory text;
(m) Section 200.49b, introductory text and paragraph (b);
(n) Section 200.55(a), introductory text;
(o) Section 200.57;
(p) Section 200.59;
(q) Section 200.60, paragraphs (a), (b), and (c);
(r) Section 200.61;
(s) Section 200.62;
(t) Section 200.64;
(u) Section 200.65;
(v) Section 200.70;
(w) Section 200.71;
(x) Section 200.72;
(y) Section 200.73;
(z) Section 200.75;
(aa) Section 200.78;
(bb) Section 200.79, paragraph (b);
(cc) Section 200.80;
(dd) Section 200.85, introductory text;
(ee) Section 200.105;
(ff) Section 200.106, paragraph (a);
(gg) Section 200.107;
(hh) Section 200.109;
(ii) Section 200.110;
(jj) Section 200.115;
(kk) Section 200.116;
(ll) Section 200.117;
(mm) Section 200.126;
(nn) Section 200.129.

§ 200.95 [Amended]

Par. 5. In § 200.95 remove the words ''district directors'' each place they appear and add, in place thereof, the words ''directors of industry operations''.

§§ 200.107 and 200.108 [Amended]

Par. 6. Sections 200.107a(a)(3) and 200.108 are amended by removing the words ''district director's'' each place they appear and adding the words ''director of industry operations' ''.

§ 200.27 [Amended]

Par. 7. The section heading for § 200.27 is amended by removing the words ''district director'' and adding the words ''director of industry operations'' in place thereof.

§ 200.107 [Amended]

Par. 8. The undesignated heading that precedes § 200.107 is amended by removing the words ''District Director'' and adding the words ''Director of Industry Operations'' in place thereof.

§ 200.107a [Amended]

Par. 9. The section heading for § 200.107a is amended by removing the words ''District Director's'' and adding the words ''Director of Industry Operations' '' in place thereof.

Signed: July 29, 1999.

John W. Magaw,

Director.

Approved: August 17, 1999.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 99–23387 Filed 9–9–99; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6434–4]

Finding of Failure To Submit a Required State Implementation Plan for Carbon Monoxide; Nevada—Las Vegas Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action in making a finding, under the Clean Air Act (CAA or Act), that Nevada failed to make a carbon monoxide (CO) nonattainment area state implementation plan (SIP) submittal required for the Las Vegas Valley under the Act. Under certain provisions of the Act, states are required to submit SIPs providing for, among other things, reasonable further progress and attainment of the CO national ambient air quality standards (NAAQS) in areas classified as serious. The deadline for submittal of this plan for the Las Vegas Valley was May 3, 1999.

This action triggers the 18-month time clock for mandatory application of sanctions and 2-year time clock for a federal implementation plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

EFFECTIVE DATE: This action is effective as of August 31, 1999.

FOR FURTHER INFORMATION CONTACT: Larry A. Biland, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California, 94105–3901, Telephone (415) 744–1227.

SUPPLEMENTARY INFORMATION:

I. Background

The CAA Amendments of 1990 were enacted on November 15, 1990. Under section 107(d)(1)(C) of the amended CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Las Vegas Valley area, was designated nonattainment by operation of law upon

enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Las Vegas Valley area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81.[1] See 56 FR 56694 (November 6, 1991).

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit SIPs designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995.[2] Under section 186(a)(4), Nevada requested and EPA granted a one year extension of the December 31, 1995 attainment deadline (61 FR 57331, November 6, 1996). However, in the first quarter of 1996, Clark County recorded three exceedances of the CO standard at the East Charleston monitoring station. Clark County challenged the validity of the CO data collected at this site. EPA stated it would not disqualify the January to March winter 1996 CO season monitoring data from the East Charleston station without conclusive evidence that it was inaccurate. Therefore Region 9 worked with Clark County and the State of Nevada to properly site and approve a new monitoring site at Sunrise Acres, and worked collaboratively with the State and Clark County to examine whether East Charleston levels correlated with Sunrise Acres (the East Charleston replacement site) levels. Data received for the new Sunrise Acres monitor tracked closely with historical data from East Charleston.

On October 2, 1997 EPA made a final finding that the Las Vegas Valley, CO nonattainment area did not attain the CO NAAQS under the CAA after having received a one year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. As a result of that finding, which went into effect on November 3, 1997, (62 FR 51604 October 2, 1997) the Las Vegas Valley, Nevada CO nonattainment area was reclassified as serious. The State had 18 months or until May 3, 1999 to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas. The Las Vegas Valley continues to exceed the CO standard with 1 exceedance in 1997 and two in 1998.

Notwithstanding significant efforts by the Clark County Department of Comprehensive Planning to complete their CO SIP, the State has failed to meet the May 3, 1999 deadline for the required SIP submission. EPA is therefore compelled to find that the State of Nevada has failed to make the required SIP submission for the Las Vegas Valley.

The CAA establishes specific consequences if EPA finds that a State has failed to meet certain requirements of the CAA. Of particular relevance here is CAA section 179(a)(1), the mandatory sanctions provision. Section 179(a) sets forth four findings that form the basis for application of a sanction. The first finding, that a State has failed to submit a plan required under the CAA, is the finding relevant to this rulemaking.

If Nevada has not made the required complete submittal by March 2, 2001, pursuant to CAA section 179(a) and 40 CFR 52.31, the offset sanction identified in CAA section 179(b) will be applied in the affected area. If the State has still not made a complete submission by August 31, 2001, then the highway funding sanction will apply in the affected area, in accordance with 40 CFR 52.31.[3] In addition, CAA section 110(c) provides that EPA must promulgate a federal implementation plan (FIP).

The sanctions will not take effect if, before March 2, 2001, EPA finds that the State has made a complete submittal of a plan addressing the serious area CO requirements for Las Vegas Valley. In addition, EPA will not promulgate a FIP if the State makes the required SIP submittal and EPA takes final action to approve the submittal before August 31, 2001, (section 110(c)(1) of the Act). EPA encourages the responsible parties in Clark County to continue working together on the CO Plan which can eliminate the need for potential sanctions and FIP.

II. Final Action

A. Rule

Today, EPA is making a finding of failure to submit for the Las Vegas Valley CO nonattainment area, due to failure of the State to submit a SIP revision addressing the serious area CO requirements of the CAA.

B. Effective Date Under the Administrative Procedures Act

EPA has issued this action as a rulemaking because the Agency has treated this type of action as rulemaking in the past. However, EPA believes that it would have the authority to issue this action in an informal adjudication, and is considering which administrative process—rulemaking or informal adjudication—is appropriate for future actions of this kind.

Because EPA is issuing this action as a rulemaking, the Administrative Procedures Act (APA) applies.

Today's action will be effective on August 31, 1999. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if an agency has good cause to mandate an earlier effective date. Today's action concerns a SIP submission that is already overdue and the State is aware of applicable provisions of the CAA relating to overdue SIPs. In addition, today's action simply starts a ''clock'' that will not result in sanctions for 18 months, and that the State may ''turn off'' through the submission of a complete SIP submittal. These reasons support an effective date prior to 30 days after the date of publication.

C. Notice-and-Comment Under the Administrative Procedures Act

This notice is a final agency action, but is not subject to the notice-and-comment requirements of the APA, 5 U.S.C. 533(b). EPA believes that because of the limited time provided to make findings of failure to submit regarding SIP submissions, Congress did not intend such findings to be subject to notice-and-comment rulemaking. However, to the extent such findings are subject to notice-and-comment rulemaking, EPA invokes the good cause exception pursuant to the APA, 5 U.S.C. 553(d)(3). Notice and comment are unnecessary because no EPA judgment is involved in making a nonsubstantive finding of failure to submit SIPs required by the CAA. Furthermore, providing notice and comment would

[1] The CO nonattainment area is the ''Las Vegas Valley Hydrographic Area 212'' within Clark County. 40 CFR 81.329.

[2] The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is below or above 12.7 ppm. The Las Vegas Valley area has a design value above 12.7 ppm. 40 CFR 81.329.

[3] In a 1994 rulemaking, EPA established the Agency's selection of the sequence of these two sanctions: the offset sanction under section 179(b)(2) shall apply at 18 months, followed 6 months later by the highway sanction under section 179(b)(1) of the Act. EPA does not choose to deviate from this presumptive sequence in this instance. For more details on the timing and implementation of the sanctions, see 59 FR 39832 (August 4, 1994), promulgating 40 CFR 52.31, ''Selection of sequence of mandatory sanctions for findings made pursuant to section 179 of the Clean Air Act.''

be impracticable because of the limited time provided under the statute for making such determinations. Finally, notice and comment would be contrary to the public interest because it would divert Agency resources from the critical substantive review of submitted SIPs. See 58 FR 51270, 51272, note 17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

D. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

E. Executive Order 12875

Under Executive Order 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule is required by the Clean Air Act. Moreover, it does not create a mandate on State, local or tribal governments nor does the rule impose any enforceable duties on these entities. It simply makes an objective finding that the State of Nevada has failed to carry out a duty required by the Clean Air Act. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

F. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

G. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule is required by the Clean Air Act. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule. Moreover, because it finds a failure only by the state government of Nevada, it does not apply to or significantly or uniquely affect the communities of Indian tribal governments.

H. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule is not subject to notice and comment rulemaking; therefore, neither a regulatory flexibility analysis nor certification is required under the RFA.

I. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's action is not a Federal mandate. The Clean Air Act provisions discussed in this rule requires states to submit implementation plans. This notice merely provides a finding that Nevada has not met that requirement. This document does not, by itself, require any particular action by any State, local, or tribal government, or by the private sector. The consequences of the State's failure are mandated by the Clean Air Act and are not at EPA's discretion.

For the same reasons, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

J. 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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and

established an effective date of August 31, 1999. 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).

K. Petitions for Judicial Review

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 November 9, 1999. 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, Intergovernmental relations.

Dated: August 31, 1999.

David P. Howekamp,

Acting Regional Administrator, Region IX.

[FR Doc. 99–23412 Filed 9–9–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1706; MM Docket No. 99–148; RM–9556]

Radio Broadcasting Services; Del Norte, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 242A to Del Norte, Colorado, as that community's first local aural transmission service in response to a petition for rulemaking filed by Mountain West Broadcasting. *See* 64 FR 26718, May 17, 1999. Coordinates used for Channel 242A at Del Norte are 37–40–36 NL and 106–21–12 WL. With this action, the proceeding is terminated.

DATES: Effective October 12, 1999. A filing window for Channel 242A at Del Norte, Colorado, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–148, adopted August 18, 1999, and released August 27, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Del Norte, Channel 242A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–23458 Filed 9–9–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1706; MM Docket No. 99–149; RM–9557]

Radio Broadcasting Services; Dinosaur, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 247C1 to Dinosaur, Colorado, as that community's first local aural transmission service in response to a petition for rulemaking filed by Mountain West Broadcasting. *See* 64 FR 26718, May 17, 1999. Coordinates used for Channel 247C1 at Dinosaur are 40–14–42 NL and 109–00–30 WL. With this action, the proceeding is terminated.

DATES: Effective October 12, 1999. A filing window for Channel 247C1 at Dinosaur, Colorado, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent Order.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–149, adopted August 18, 1999, and released August 27, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Dinosaur, Channel 247C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–23457 Filed 9–9–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1706; MM Docket No. 99–150; RM–9558]

Radio Broadcasting Services; Poncha Springs, CO

AGENCY: Federal Communications Commission.

ACTION: Final rule.