significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 917 is amended as set forth herein.

Dated: November 17, 1983.

Dean Hunt,

Acting Director, Office of Surface Mining.

PART 917—KENTUCKY

30 CFR 917.15 is amended by adding paragraph (f) to read as follows:

§ 917.15 Approval of amendments to State regulatory program.

* * * * *

(f) The following amendment is approved effective on November 25, 1983. Revisions submitted on October 31, 1983, to 405 KAR 7:020E and 7:030E.

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

[FR Doc. 83-31506 Filed 11-23-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11-83-105]

Special Local Regulations; Lake Havasu Classic Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Lake Havasu Classic sponsored by the Havasu Sports Federation on the Colorado River. This event will be held within Thompson Bay, Lake Havasu, Arizona on November 23 through 26, 1983.

The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 23 November 1983 and terminate 26 November 1983. Should weather cause a postponement the above regulations will be in effect from 8:00 AM to 5:30 PM on 27 November 1983. Postponement information will be available from the sponsoring organization and the race patrol boats.

FOR FURTHER INFORMATION CONTACT: LTJG J. N. ARROYO, Commander(bb), Eleventh Coast Guard District, 400 Oceangate, Long Beach, California 90822, (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and was impracticable as they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures would have been impracticable. Although the application to hold the event was received on 7 June 1983, the city council of Lake Havasu did not approve the event in its final form until 2 September 1983. There was insufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are LTJG J. N. ARROYO, Chief, Boating Affairs Branch, Eleventh Coast Guard District, and LT JOSEPH R. McFAUL, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulations

The Havasu Sports Federation's "Lake Havasu Classic" will be conducted on the Colorado River beginning 23 November 1983, east of Spectator Point in Thompson Bay, Lake Havasu. This event will have 75 16- to 20-foot tunnel and pleasure/modified V-bottom outboard boats that could pose a hazard to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-11-105 to read as follows:

§ 100.35-11-105 Havasu Sports Federation/Lake Havasu Classic.

(a) *Regulated Area.* That portion of Thompson Bay, Lake Havasu, Arizona starting approximately 100 yards on a bearing of 130°T off Spectator Point, thence due north approximately 1110 yards, thence 140°T approximately 2200 yards, thence due west approximately 2400 yards, then back to the starting point.

(b) *Effective Date.* The controlled traffic area will be in effect during the following times: 8:00 AM to 5:30 PM each day on 23 through 26 November 1983. Should weather cause a postponement the above regulations will be in effect from 8:00 AM to 5:30 PM on 27 November 1983. Postponement information will be available from the sponsoring organization and the race patrol boats.

(c) *Special Local Regulations.* No vessels, other than participants, U.S. Coast Guard operated and employed small craft, public vessels, state and local law enforcement agencies and the sponsor's vessels shall enter the Regulated Area during the above hours unless cleared for such entry by or through a patrolling law enforcement vessel or event committee boat.

(2) When hailed by Coast Guard or Coast Guard Auxiliary vessels patrolling the event area, a vessel shall come to an immediate stop. Vessels shall comply with all directions of the designated Coast Guard Regatta Patrol.

(3) These regulations are temporary in nature and shall cease to be in effect or further enforced at the end of the period set forth. (46 U.S.C. 454; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)); 33 CFR 100.35)

Dated: November 16, 1983.

F. P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 83-31644 Filed 11-23-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD13 83-04]

Drawbridge Operation Regulations; Lake Washington, Wash.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Washington State Department of Transportation, the Coast Guard is changing the regulations governing the Evergreen Point Floating Bridge across Lake Washington, Washington, by permitting the draw to remain closed between the hours of 6:00 a.m. and 10:00 a.m., and between 2:00 p.m. and 7:00 p.m., Monday through Friday, except federal holidays, for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver

that is unable to pass under the fixed spans. This change is being made because the periods of peak vehicular traffic have increased. This action will accommodate the needs of vehicular traffic and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This rule becomes effective on December 27, 1983.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation Branch (Telephone: (206) 442–5864).

SUPPLEMENTARY INFORMATION: On April 28, 1983 the Coast Guard published a proposed rule (48 FR 19184) concerning this change. The Commander, Thirteenth Coast Guard District, also published this proposal as a Public Notice dated July 7, 1983. Interested persons were given until June 13, 1983 and August 8, 1983 respectively to submit comments.

Drafting Information

The drafters of this rule are: John E. Mikesell, project officer, and Lieutenant Commander D. Gary Beck, project attorney.

Discussion of Comments

Two responses were received to the **Federal Register** and Coast Guard Public Notice. One response offered no objection and the other offered no comment to the proposal.

Some minor editorial changes for clarification have been made in this final rule.

Other than the Washington State Department of Transportation and a few navigation interests, there are no known businesses, including small entities, that would be affected by this change. There are only minimal economic impacts on navigation or other interests. Therefore, an economic evaluation has not been prepared for this action. Users of the bridge for vehicular traffic and the Washington State Department of Transportation would benefit because the rule would eliminate a major cause of vehicular traffic delay and still provide for the reasonable needs of navigation.

Economic Assessment and Certification

These final regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be major rules. In addition, these final regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). As explained above, an economic evaluation has not been conducted since its impact is expected to be minimal. In accordance with § 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it is certified that these rules will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising the heading of § 117.801 and § 117.801(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.801 Lake Washington, Wash.; Evergreen Point Floating Bridge.

* * * * *

(f) The draw need not open between the hours of 6:00 a.m. and 10:00 a.m., and between the hours of 2:00 p.m. and 7:00 p.m., Monday through Friday, except federal holidays, for any vessel or other watercraft of less than 2,000 gross tons, unless such vessel has in tow a vessel of 2,000 gross tons or over, or a piledriver that is unable to pass under the fixed spans.

* * * * *

(33 U.S.C. 499; 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 9, 1983.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 83–31645 Filed 11–23–83; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL 2439–4]

Approval and Promulgation of Implementation Plans; Nonattainment Area Plans for the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On February 3, 1983, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking (48 FR 5074) for the motor vehicle inspection and maintenance (I/M) legislation and implementation schedule which were submitted by the State of California on September 17, 1982.

As EPA proposed on February 3, 1983, today's notice takes final action to approve the I/M legal authority submitted on September 17, 1982, and incorporate the legislation into the SIP, and to approve the commitment of resources, the commitment to achieve a minimum level of program effectiveness, and the commitments to implement. Today's notice also takes final action to incorporate the I/M implementation schedule and a July 26, 1983 supplemental revision into the SIP for the South Coast, San Francisco Bay Area, and San Diego Air Basins, the Sacramento Metropolitan Area, and Ventura County, and conditionally approve the 1979 O_3 and CO plans for these areas. This notice takes no final action on plan approval for Fresno County.

This action removes the prohibition on the construction of major new and modified stationary sources of O_3 and CO in these areas, and retains the prohibition of construction of major stationary sources of O_3 and CO in Fresno County is a separate notice.

DATE: This action is effective on November 25, 1983.

ADDRESS: A copy of the September 17, 1982 and July 26, 1983 SIP revisions is located at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Jerry Clifford, Air Programs Branch (A–2), Air Management Division, U.S. Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (415) 974–7655, (FTS) 454–7655.

SUPPLEMENTARY INFORMATION:

Background

The 1977 Clean Air Act Amendments [Act] required states to submit, by January 1, 1979, nonattainment area plans that insured attainment of the National Ambient Air Quality Standards by December 31, 1982. For areas that demonstrated they could not attain the ozone (O_3) or carbon monoxide (CO) standards by the 1982 deadline, even with the implementation of all reasonably available control measures, Section 172(a)(2) of the Act allowed EPA to extend the attainment deadline to no later than December 31, 1987.

States that received an extension of the O_3 or CO deadline were required by Section 172(b)(11)(B) to submit specific measures in the 1979 nonattainment area plan. One such measure is a schedule to implement a vehicle emission control inspection and maintenance (I/M) program. Under Section 172(b), the State was also required to submit evidence of legal authority to implement and enforce that program, commitments of necessary

resources, commitments to implement, and commitments to achieve a minimum level of program effectiveness. This notice addresses the six areas in California which requested and received extensions of the O_3 and/or CO standards beyond December 31, 1982 and were required to satisfy the I/M requirements of the 1979 SIPs. These six areas are the San Diego Air Basin, South Coast Air Basin, San Francisco Bay Area Air Basin, Ventura County portion of the South Central Coast Air Basin, the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin, and the Fresno County portion of the San Joaquin Valley Air Basin.

The 1979 nonattainment area plans for these six areas failed to include evidence, as required under Section 172(b)(10), of legal authority to implement and enforce an I/M program, and failed to include a schedule to implement as required under Section 172(b)(11)(B). These I/M deficiencies prevented EPA from approving or conditionally approving the 1979 O_3 and CO SIPs for these six urban areas.

On July 2, 1979, an automatic prohibition on the construction of major new or modified stationary sources of O_3 and CO became effective in these six areas because the SIPs for these areas were not approved or conditionally approved. Between January, 1981 and July, 1982, EPA published final rulemaking on the 1979 plans for these six areas. EPA deferred final action on the San Diego plan and disapproved the plans for the remaining five areas. The construction moratorium has been in effect since July 2, 1979 because the lack of adequate I/M legal authority and an approvable implementation schedule have prevented EPA from approving or conditionally approving the plans for these six areas.

On September 10, 1982, legislation authorizing I/M implementation was signed into law by the Governor of California. On September 17, 1982, the Executive Officer of the California Air Resources Board (ARB), the Governor's designee, submitted a revision to the SIP consisting of the legal authority to implement an I/M program and an implementation schedule. This revision to the 1979 SIP, Executive Order G–125–15, was intended to satisfy the remaining I/M requirements for approval of the 1979 SIP.

On February 3, 1983, EPA published a notice of proposed rulemaking on the I/M requirements for approval of the 1979 plans for the six urbanized nonattainment areas required to implement I/M. The February 3, 1983 notice described EPA's prior rulemaking actions on the 1979 SIPs, summarized the applicable Clear Air Act and EPA policy requirements for I/M programs and evaluated the September 17, 1982 submittal against the I/M requirements. EPA proposed to approve the legal authority, commitments to implement, resource commitments, and program effectiveness, and proposed to disapprove the schedule to implement.

The February 3, 1983 notice also addressed 1982 supplemental O_3 and/or CO SIP revisions for each of these six nonattainment areas. EPA is not taking any action, today, on any portion of these supplemental plan revisions. EPA will address the I/M requirements for approval of the 1982 SIPs in separate rulemaking actions.

EPA proposed to disapprove the schedule to implement because the start date of March, 1984 was inconsistent with established EPA policy requiring implementation of decentralized I/M programs on or before December 31, 1981. The February 3, 1983 notice and associated Technical Support Document (TSD) should be used as reference in reviewing today's action.

Supplemental Revisions

On July 26, 1983, after publication of proposed rulemaking on the September 17, 1982 submittal, the State submitted another I/M revision to the SIP. The July 26, 1983 revision updated the schedule to implement submitted on September 17, 1982 and included locally adopted resolutions and related documentation requesting the State to implement the I/M program in five of the required six urban areas. EPA's evaluation of the July 26, 1983 supplemental revision is contained in an addendum to the TSD, and is summarized below.

California's I/M legal authority requires the State to implement I/M in federally designated urban nonattainment areas upon the request of local air pollution control districts. The State, therefore, cannot implement I/M in a district unless the district makes such a request of the State.

The six urban areas required to implement I/M fall under the jurisdiction of eight air pollution control districts. Seven districts have requested the State to implement I/M in five of the required six urban areas. They are the South Coast Air Quality Management District (AQMD), San Francisco Bay Area AQMD, San Diego County Air Pollution Control District (APCD), Ventura County APCD, Sacramento County APCD, Placer County APCD, and the Yolo-Solano APCD. The Fresno County APCD is the only district responsible for an urban nonattainment area required to implement I/M, which has failed to request implementation. The requests were submitted to EPA on July 26, 1983 along with the revised implementation schedule.

The revised schedule updates certain interim milestone but retains the start-up date of March, 1984. The changes to those interim milestones more accurately reflect expected dates of completion. Minor delays encountered by the State affected completion of several interim milestones identified in the schedule submitted on September 17, 1982. For example, State relicensing of garages has been delayed from June, 1983 to November, 1983, and award of the quality control contract has been delayed from November, 1983 to December, 1983. Although these interim dates have been revised, the State remains committed to the expeditious March, 1984 start date.

The State has taken concrete steps following passage of authorizing legislation including hiring personnel to implement the program, notifying the garages of the program and schedule for implementation, initiating public information program, and issuing instrument specifications and notification of garages of instrument requirements.

EPA has determined that "good cause" exists (See Administrative Procedure Act, 5 U.S.C. 553(b)) to incorporate all of the above items into the SIP without providing further notice and opportunity to comment. Additional comment would serve no practical purpose since these revisions merely update the original implementation schedule and provide further documentation for local commitments to the I/M program.

Public Comments

During the public comment period, EPA received sixteen comments related to the I/M portion of the proposed rulemaking notice. Detailed summaries of the comments along with EPA's responses are included in the Response to Comments portion of the support document to this notice.

Substantive comments related to the major I/M issues in the 1979 plans are discussed below. Comments on the I/M requirements for approval of the 1982 SIP revisions will be addressed in separate final rulemaking action on the 1982 SIPs. Many of the comments concerned EPA's proposal to disapprove the I/M schedule to implement. In response to these comments, EPA has revised certain proposed actions. The comments and EPA's responses follow.

1. Approval of the I/M Legal Authority

Several comments were received in support of EPA's proposal to approve the I/M legal authority.

2. Disapproval of the Schedule To Implement and Continuation of the Construction Moratorium

Comment: Several commentors objected to EPA's proposal to disapprove the implementation schedule, and argued in favor of approving the schedule and removing the prohibition on construction of major new and modified stationary sources of O_3 and CO in the six urban nonattainment areas. Many of these commentors argued that California could not possibly comply with EPA's December 1981 start-up date for decentralized I/M programs because the legislature did not provide legal authority until September 1982. They requested EPA to revise its policy to provide an exemption for California.

Most commenters argued that EPA was unfairly penalizing California since the state was now making progress to implement a program on an expeditious schedule. The commentors noted that California is doing more to implement I/M than several other states that are not subject to construction bans.

One commentor argued that EPA should approve the SIP conditionally because the State was now in substantial compliance with the Part D requirements for 1979 plans. This commentor reminded EPA that it had previously found that the construction ban would not serve its statutory purposes in such circumstances. *See* 44 FR 38583 (July 2, 1979).

Response: EPA has found no reason to revise its 1981 deadline for start-up of decentralized I/M programs. This deadline was based on EPA's best estimates of the amount of time needed to implement a decentralized program. Moreover, there is no reason to believe that California would have been unable to meet this deadline but for the delay in obtaining legal authority. Accordingly, EPA is not willing to give full approval to the 1979 SIP revisions for these six nonattainment areas.

Despite this problem, EPA recognizes that California is now doing its best to comply with the Act and EPA's policy in five of the six nonattainment areas. EPA agrees that it retaining the construction ban is not likely to induce these areas to do more. Accordingly, EPA believes that the failure to meet the policy in these areas should be considered *de minimis*. In addition, the issue will be moot once California's program begins operating.

EPA, however, is not willing to approve these plans fully prior to full implementation of the program. Consequently, EPA has decided to approve the plans for all five of the areas that are making progress on condition that they meet all milestones in the revised I/M implementation schedule and start I/M testing no later than March 1984. Conditional approval will enable EPA to disapprove plans and impose construction bans immediately if any area falls behind schedule.

Since EPA has not received evidence that Fresno County has taken similar concrete steps, EPA is retaining the overall plan disapproval for Fresno County, and will repropose action in a separate notice.

Comment: Six commentors consider EPA's proposed approval of the Massachusetts' I/M start-up date (April, 1983) and the Idaho I/M start-up date (December, 1983) to be inconsistent with EPA's proposed disapproval of the March, 1984 I/M start-up date for California.

Response: EPA disagrees. The 1979 SIP submittal for Massachusetts, which was approved by EPA on September 16, 1980, included a January 1, 1982 start-up date for I/M. At a later date, Massachusetts elected to include computerized, tamper-resistant analyzers and requested an extension, under established EPA policy, to April 1983. (EPA policy dated September 24, 1980.) Consistent with this policy, the State requested the extension to allow sufficient lead-time necessary to procure the new emission analyzers. EPA did not propose action on the revised schedule until the February 3, 1983 notice. The Massachusetts I/M program became operational in April, 1983.

For Idaho, the Boise-Ada County carbon monoxide nonattainment area was less than 200,000 population and was not specifically required by EPA to implement I/M. Although the SIP for Boise-Ada County includes I/M as a CO control measure, EPA's requirement to implement by a specific deadline does not apply.

Comment: One commentor suggested that EPA should approve the schedule to implement and withhold disapproval action unless the State fails to adhere to the commitments specified in the schedule.

Response: EPA's final rulemaking is consistent with this course of action. Conditionally approving the plan (resulting in removal of the construction moratorium) on the condition the state adheres to the submitted schedule allows EPA to withdraw conditional approval and reimpose the construction moratorium if the State fails to meet the commitments specified in the implementation schedule.

Comment: One commentor suggested that disapproving the schedule to implement for Fresno County and continuing the construction moratorium was not severe enough since the Fresno County Board of Supervisors rejected the proposal of the air pollution control district to adopt the state I/M program. It was further suggested that restrictions on funding for sewage treatment projects and Federal highway construction be imposed.

Response: EPA agrees. The State enabling I/M legislation authorizes the State to implement an I/M program in any federally designated urban nonattainment area where the local air pollution control district has requested the State to implement the program. Each of the eight air pollution control districts, having jurisdiction in the six urban areas required to implement I/M, must make such a request to the State before I/M can be implemented. Seven districts have made requests and the State is proceeding to implement I/M according to the July 26, 1983 SIP submittal. (Copies of each district's request was attached to the July 26, 1983 SIP submittal.) The Fresno County Board of Supervisors voted against adoption of the I/M program on March 15, 1983. EPA is, therefore, taking final action to conditionally approve the plans for only those areas which have requested the State to implement the I/M program.

Since the February 3, 1983 notice did not mention that Fresno County did not request implementation of I/M, EPA will repropose to disapprove the plan on this basis. The construction moratorium will remain in effect since plan approval or conditional approval is required to remove the construction moratorium. EPA will propose to apply federal air program grant and highway construction funding limitations under Section 176(a) of the Clean Air Act at the same time we repropose action on the Fresno County nonattainment area plan. Restrictions on federal funding for sewage treatment projects under Section 316 of the Act may also be proposed at this time.

EPA Actions

Based upon EPA's review of the September 17, 1982 SIP revision, consideration of public comments received on the February 3, 1983 notice of proposed rulemaking, and review of July 26, 1983 supplemental SIP revision, EPA takes final action to:

1. Incorporate the following into the SIP under Section 110 of the Act: (a) the I/M legal authority and Executive Order

G–125–15 submitted on September 17, 1982; and (b) the revised I/M implementation schedule, Executive Order G–125–33, and the requests of seven California air pollution control districts to have the State implement I/M within their jurisdictions as submitted on July 26, 1983.

2. Approve, as meeting the Part D requirements of the Clear Air Act, the I/M legal authority, the commitment of resources and the commitment to achieve a minimum level of program effectiveness for all six urban nonattainment areas required to implement I/M, and the commitments to implement for all areas except Fresno County.

3. Remove the 1979 nonattainment area plan disapprovals for the South Coast Air Basin, San Francisco Bay Area Air Basin, and Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin for O_3 and CO, and the Ventura County portion of the South Central Coast Air Basin for O_3 since these plans now substantially satisfy the Part D requirements for I/M programs. This action removes the prohibition on construction of major new or modified stationary sources of O_3 and CO in these four areas.

4. Conditionally approve the above mentioned plans as well as the O_3 and CO nonattainment area plans for the San Diego Air Basin on the condition that the State adhere to the revised schedule to implement submitted on July 26, 1983 and under Executive Order G–125–33. This action removes the prohibition on construction of major new or modified stationary sources of O_3 and CO in the San Diego Air Basin.

EPA is deferring action on the Fresno County nonattainment area plan based upon consideration of public comment and the July 26, 1983 supplemental submittal. EPA intends to repropose action on the Fresno County plan in the near future. Until final action is published to remove the existing plan disapproval for Fresno County and approve or conditionally approve the plan, the prohibition on the construction of major new or modified stationary sources of O_3 and CO remains in effect.

Conditional Approval Procedure

Conditional approval of the plans requires the State to adhere to the implementation schedule submitted on July 26, 1983. There will be no extensions granted to the interim milestones or the final implementation date of March, 1984.

EPA will periodically evaluate the State's progress in meeting the milestones identified in the schedule. If the State fails to make reasonable progress in implementing the program according to the schedule, EPA will publish a **Federal Register** notice announcing that (1) the conditional approval is withdrawn, (2) the plans are disapproved, and (3) of Section 110 (a)(2)(I) prohibition on stationary source construction is in efffect. In addition, EPA will propose to withhold federal air program grant and federal highway construction funding under Section 176(a) of the Clean Air Act.

Regulatory Process

Since the State has submitted the necessary I/M legal authority, an expeditious schedule to implement, and local requests to have I/M implemented in five nonattainment areas, EPA is taking final action to conditionally approve these plans for the five areas.

In those areas for which the State of California has submitted approvable or conditionally approvable SIPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible to lift the construction moratorium. Since the O_3 and/or CO SIPs for five areas required to implement I/M are conditionally approvable, EPA finds that good cause exists for making this action immediately effective. This action is therefore effective on the date of publication of this notice.

Under the Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 24, 1983. This action may not be challenged later in procedures to enforce its requirements.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1981.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Carbon monoxide, Hydrocarbons, Incorporation by reference.

(Secs. 110, 129, 171–178 and 310(a), Clean Air Act, as amended; 42 U.S.C. 7410, 7429, 7501–7508 and 7601(a))

Dated: November 4, 1983.

William D. Ruckelshaus,

Administrator.

PART 52—[AMENDED]

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

Section 52.220 paragraph (c) is amended by adding paragraphs (133) and (134) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(133) The enabling legislation, Chapter 892, Statutes of 1982, (Senate Bill No. 33) for a California motor vehicle inspection and maintenance program and the California Air Resources Board's Executive Order G–125–15 submitted on September 17, 1982 by the Governor's designee.

(134) A schedule to implement the California motor vehicle inspection and maintenance (I/M) program, the California Air Resources Board's Executive Order G–125–33, and local resolutions and requests from the Bay Area Air Quality Management District, Sacramento County APCD, Placer County APCD, Yolo-Solano APCD, San Diego County APCD, South Coast Air Quality Management District and Ventura County APCD to have the State implement the I/M program, submitted on July 26, 1983 by the Governor's designee.

* * * * *

2. Section 52.223 paragraph (b) is amended by revising paragraphs (3), (4), (6)(ii), and (9), by adding paragraphs (7) (iv) and (v), and by removing and reserving paragraph (c) to read as follows:

§ 52.223 Approval status.

* * * * *

(b) * * *

(3) South Coast Air Basin for O_3, CO, NO_2, and PM.

(4) San Diego Air Basin for O_3, CO, and TSP.

* * * * *

(6) * * *

(ii) Ventura County for O_3, CO and TSP.

(7) * * *

(iv) Sacramento AQMA for O_3.

(v) Sacramento County Metropolitan Area for CO.

* * * * *

(9) San Francisco Bay Area Air Basin for O_3, CO and TSP.

* * * * *

(c) [Reserved].

* * * * *

3. Section 52.232 paragraph (a) is amended by adding paragraph (14)(ii) to read as follows:

§ 52.232 Part D conditional approvals.

(a) * * *

(14) * * *

(ii) For the San Francisco Bay Area Air Basin (O_3 and CO), Sacramento Nonattainment Area (O_3 and CO), San Diego County Nonattainment Area (O_3 and CO), South Coast Air Basin (O_3 and CO) and Ventura County (O_3) Nonattainment area:

(A) The California motor vehicle inspection and maintenance program must be implemented according to the schedule submitted on July 28, 1983.

* * * * *

4. Section 52.237 paragraph (a) is amended by removing and reserving paragraphs (1), (2), (4) and (5) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(1) [Reserved]

(2) [Reserved]

* * * * *

(4) [Reserved]

(5) [Reserved]

* * * * *

[FR Doc. 83-31587 Filed 11-23-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 81

[Docket No. 82-828; FCC 83-534]

Assignments of Narrow-Band Direct-Printing (NB-DP) Frequencies in the Maritime Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting a Report and Order to amend the present method of assignment of narrow-band direct-printing (NB-DP) frequencies in the maritime mobile services. This action was prompted by a petition for reconsideration in Docket 20813 and by the Commission's receipt of applications for these frequencies. It is intended to improve assignment and utilization of these frequencies.

EFFECTIVE DATE: December 22, 1983.

FOR FURTHER INFORMATION CONTACT: Robert P. DeYoung, Private Radio Bureau, (202) 632-7175.

List of Subjects in 47 CFR Part 81

Coast stations, Radio, Telegraph.

Report and Order: Proceeding Terminated

In the matter of licensing and availability of narrow-band direct-printing radioteletypewriter frequencies; PR Docket No. 82-828.

Adopted: November 9, 1983.

Released: November 15, 1983.

By the Commission.

Introduction

1. The Notice of Proposed Rule Making in this proceeding, FCC 82-575, released December 30, 1982, (48 FR 847 January 7, 1983) proposed to change the method of assigning and licensing narrow-band direct-printing (NB-DP) frequencies to public coast radiotelegraph (PCRT) stations in the maritime mobile service.

2. Licensing and operation of land radiocommunications stations in the maritime mobile service is governed by Part 81 of the Commission's rules. There, the Commission separates these stations into two categories: public coast stations and limited coast stations.

3. Public coast stations are licensed to entities which provide common-carrier, ship-to-shore, communication services to third parties on a profit-making basis. Public coast stations are allowed to interconnect with the public switched networks (PSN) and can be authorized to provide international voice and telegraphy communication services. Public coast stations must file tariffs and the Commission must approve the rates charged for the communication services provided.

4. Limited coast stations are licensed to entities which provide radio service for the operational and business needs of U.S. ships. Limited coast stations are licensed for voice communications only. They are permitted radiotelephone communications concerning a specific scope of service. Many of these stations use the PSN for message forwarding. Their communications must be associated with the operational and business needs of the ships they serve. They are not authorized to provide communication services to third parties. Therefore, limited coast stations do not file tariffs.

5. In the International Radio Regulations, frequencies in the 4, 6, 8, 12, 16 and 22 MHz bands are paired and grouped in series and allocated on a global basis for NB-DP communications, a form of radioteletype. Propagation characteristics enable frequencies in these bands to be used for long range communications, from a few tens of miles to world-wide. The same frequencies are available to 155 signatory countries, which are urged by the ITU Radio Regulations to coordinate their use of NB-DP frequencies. Stations using the same frequencies must be separated by distances varying with the band in order to prevent co-channel and adjacent channel interference.

6. In the U.S., the Commission has assigned the available NB-DP frequencies, other than those used by Government stations, for use by PCRT stations providing high-seas telegraphy service. The current method of assigning these frequencies is reflected in § 81.204(c) of the rules which assigns frequencies by series to specific PCRT stations at specific geographical locations. Assigning frequencies in this manner (by rule) has not proved satisfactory because many of the stations listed either did not inaugurate teleprinter operations or have closed and ceased operations altogether. To change frequency assignments, it is necessary to amend or waive the rule. For example, PCRT station KLC has applied for two series listed for station WPA, which has filed a closure application pursuant to Section 214 of the Communications Act. To transfer those series from WPA to KLC would require rule amendment or waiver under the current rule. Mobile Marine Radio (MMR) has sought to have the rule changed.

7. In addition, Brown and Root and other operators of limited coast stations have sought NB-DP frequencies for private, business operations.

The Proposal

8. In the Notice, the Commission proposed to assign NB-DP frequencies by series only to PCRT stations on a first-come, first-served basis with a priority to be given to PCRT stations which have not previously provided the service. The Commission also proposed an eight month period within which licensed frequencies must be placed in operation or they would be forfeited and the station license modified accordingly. The Commission proposed not to permit limited coast NB-DP operations, at least until all PCRT requirements are satisfied. The Commission did, however, expressly invite comment on this point.

The Comments

9. Comments were received from RCA Global Communications, Inc. (RCA Globcom), Rockwell International Corporation (Rockwell), WJG Telephone

Company, Inc. (WJG), TRT Telecommunications Corporation (TRT), Mobile Marine Radio, Inc. (MMR) and Harris Corporation (Harris). MMR filed reply comments. Three of the commenters (MMR, RCA Globcom and TRT) offer common carrier telegraphy service; one (WJG) offers common carrier telephony service on the Mississippi River; and two (Harris and Rockwell) manufacture and supply equipment; Rockwell also operates two substantial limited coast stations.

Deletion of the Current Rule

10. All of the comments, except those of TRT, agreed that the current assignment method is unsatisfactory and should be changed although for differing reasons. WJG supported the proposed change in the context of its application to become a Class I–A (high seas radiotelegraph) station. Rockwell and Harris supported the change to enable NB–DP frequencies to be authorized to limited coast stations. MMR supported changing the existing assignment scheme but suggested modifications to the method proposed in the Notice. Both MMR and RCA opposed any rule amendment which would permit assignment of NB–DP frequencies to limited coast stations.

11. TRT opposed changing the existing rule at this time and objected to the proposed method of assigning these frequencies on a first-come first-served basis out of a "pool" of available frequencies. TRT suggested the Commission study NB–DP operations based on traffic data which the Commission should require carriers to submit under § 43.71 of the rules. In any event, TRT advocated a stronger showing of need before available frequencies were licensed to new or existing NB–DP service providers.

12. Based on our experience with the existing rule and with frequency grants to date, it does not appear that amendment of the rule should await further study. The current rule assigns frequencies to several stations which have closed. To date some series remain unused. These will be pooled and made available to any stations able to use them. However, we agree that a stronger showing of need is warranted, particularly by new providers, and the rule is modified accordingly.

Priority for New Providers

13. Under the existing rules, all series are assigned to stations which existed at the time the rule was adopted. No particular showing of need is required in order for a station to apply for use of its frequencies. Under our proposal, PCRT stations which had not previously provided service would have been given automatic priority over an existing provider in applying for stations from the pool.

14. Besides TRT, MMR strongly opposed the proposal to give an automatic assignment preference to public coast stations which have not previously offered NB–DP service. This was originally proposed in order to maximize the number of service providers to foster competition. MMR argues that the proposed preference is too broad, discriminates against existing PCRT stations and violates the requirement for something more than mere competition to satisfy the public interest, convenience and necessity requirement imposed on the Commission by Section 309 before a license may be granted. *See FCC v. RCA Communications, Inc.*, 346 U.S. 86 (1953). MMR points out that in a given case technical or service variables might outweigh the fact that a given applicant was a new entrant.

15. None of the commenters specifically supported the proposed assignment preference. WJG, a potential new provider, generally supported the rule as proposed but, significantly, it did not address this point. MMR pointed out that the Commission should consider quality versus quantity of a service in making a public interest determination. As an example of such a case, if an existing station were to apply and propose greatly superior equipment, superior numbers of and quality of operators, superior operating hours and superior financial resources than those of a marginal new applicant, the Commission should not automatically prefer the new applicant. We agree that diversity of service ought to be an evaluative factor but not necessarily the sole factor. For these reasons the proposed priority is not adopted in the final rule.

Eight Month Rule

16. The proposed rule would require an existing or new NB–DP service provider to place authorized frequencies in operation within eight months of receipt of authority or forfeit them. As indicated in our notice, this rule was meant to deter speculative application for these frequencies and remedy such if it occurs. This rule would ensure the prompt return of unused frequencies to a pool of frequencies available for licensing. All who commented on this proposal favored it. We are adopting it as proposed.[1]

Limited Coast Use of NB–DP Frequencies

17. Rockwell and Harris argued that limited coast stations should be given reasonable access to NB–DP frequencies. Rockwell argues that in other marine services private operations are not barred until common carrier needs are met. Notwithstanding these arguments, limited coast operation on the NB–DP frequencies listed in Section 81.204 of the rules will not be licensed at this time for two reasons. First, based on the comments of RCA and MMR, it is not clear that there are enough frequencies to satisfy all existing or future demand by public coast stations. While it appears there are enough series to satisfy current and future requests of public coast stations, it is by no means certain. One reason for doubt is, as MMR points out, the fact that considerable interference from and to foreign PCRT stations exists but the full effect of the interference will not be known until additional operations provide more information on the scope of this interference. Secondly, limited coast stations can be accommodated in other bands. In General Docket 80–739, the Final Acts of the World Administrative Radio Conference, Geneva, 1979 (WARC 79) are being implemented. Among other things, the WARC 79 makes available, on a shared basis, certain frequency bands which could accommodate limited coast radioteletype operations.[2] The Commission will be issuing a notice of proposed rule making specifically addressed to this requirement in response to the petitions for rule making filed by Northwest Instrument *et al.* in RM numbers 4534, 4535 and 4536. Accordingly, we decline to open up eligibility to these frequencies to limited coast stations at this time.

Order

18. These rule amendments are designed to make NB–DP frequencies available to PCRT stations in a manner more efficient than that now employed. Consequently, these amendments should not adversely impact these stations. Furthermore, PCRT stations are not, by and large, licensed to small entities. Consequently, in accordance with Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), the Commission hereby certifies that

[1] TRT suggested there would be a rush to get frequencies under the proposed method. Since our Notice of Proposed Rulemaking there has not been a rush for frequencies indicating, perhaps, that speculation is being deterred.

[2] Those frequency bands are: 2107–2170 kHz, 2194–2490 kHz, 3155–3400 kHz, 4438–4650 kHz, 4750–4850 kHz, 5060–5450 kHz, 5730–5950 kHz, 7300–8100 kHz (secondary).

these rules, as promulgated, will not have a significant economic impact on a substantial number of small entities.

19. Regarding questions on matters covered in this document contact Robert DeYoung (202) 632-7175.

20. For the reasons stated above, it is ordered, That under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), § 81.204 of the rules, is amended in accordance with the attached appendix effective December 22, 1983.

21. It is further ordered, That a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

22. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

APPENDIX

Part 81 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICE

In § 81.204, paragraph (c) is revised, and paragraph (d) is added to read as follows:

§ 81.204 Assignable frequencies—Narrow band direct-printing radiotelegraph and data transmission systems.

* * * * *

(c) Subject to the provision of paragraphs (a) and (b) of this section, public coast stations will be licensed NB-DP series on the following basis:

(1) NB-DP series will be assigned to public coast applicants based on the date of the Commission's receipt of such applications.

(2) Series will be assigned to public coast station applicants for new or additional NB-DP frequencies who make a substantial showing of need based on the following factors:

(i) The schedule of service of each currently licensed or proposed series of frequencies;

(ii) The number of minutes each series is in use or is unavailable for use due to interference by other stations or other use; and

(iii) How many of the minutes shown in paragraph (c)(2)(ii) above were used by existing licensees for message set-up time and how many of the minutes were used for message handling; and

(iv) Any other facts supporting a need for the proposed service.

(d) Licensed NB-DP series which are not placed in operation within eight months of authorization cancel automatically. The station license will be modified accordingly.

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