separated from active duty, the transfer shall be null and void.

(Authority: 10 U.S.C. 2147(a), 2148; Pub. L. 99–145)

* * * * *

[FR Doc. 88–1165 Filed 1–21–88; 8:45 am]

BILLING CODE 8320–01–M

POSTAL SERVICE

39 CFR Part 233

Mail Withheld From Delivery

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule supplements the Postal Inspection Service procedures dealing with mail withheld from delivery because it bears a fictitious name or address. The rule adds a procedure to govern mail withheld because it is addressed to a place not the residence or regular business address of the person for whom it is intended to enable such person to escape identification. A procedure is also added to require the Chief Postal Inspector to notify persons whose mail has been withheld from delivery and to advise them what steps must be taken to secure return of their mail. This rule brings these procedures into harmony with recently changed procedures of the Postal Service's Judicial Officer on this subject.

EFFECTIVE DATE: January 22, 1988.

FOR FURTHER INFORMATION CONTACT: George C. Davis, (202) 268–3076.

SUPPLEMENTARY INFORMATION:

List of Subjects in 39 CFR Part 233

Crime, Postal Service.

PART 233—[AMENDED]

1. The authority citation for Part 233 continues to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401–3422; 18 U.S.C. 2254.

§ 233.4 [Amended]

2. Paragraph (b) of § 233.4 is revised to read as follows:

* * * * *

(b) *Fictitious name or address and not residents of the place of address orders*—(1) *Issuance.* Pursuant to 39 U.S.C. 3003, 3004, when there is satisfactory evidence that mail is addressed to a fictitious name, title, or address used for any unlawful business, and no one has established a right to have the mail delivered to him, or that mail is addressed to places not the residence or regular business address of the person for whom they are intended to enable the person to escape identification, the Judicial Officer may, pursuant to Part 964, order that the mail be returned to the sender.

(2) *Notice.* (i) The Chief Postal Inspector or his delegate must give notice to the addressee of mail withheld from delivery pursuant to 39 U.S.C. 3003, 3004 that such action has been taken and advise him that he may:

(A) Obtain such mail upon presenting proof of his identity and right to receive such mail, or

(B) Petition the Judicial Officer for the return of such mail. (ii) The notice must be in writing and served by personal service upon the addressee or by Certified Mail (Return Receipt Requested) and by First Class Mail.

(3) *Enforcement.* Notice of any order issued pursuant to 39 U.S.C. 3003, 3004, and any necessary implementing instructions, are published in the Postal Bulletin.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 88–1265 Filed 1–21–88; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3317–9]

Approval and Promulgation of Implementation Plans; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice announces EPA's final disapproval of the California State Implementation Plan (SIP) for ozone and carbon monoxide (CO) in the South Coast Air Basin (SCAB) which includes Orange County and portions of the counties of Los Angeles, Riverside, and San Bernardino. This final action is being taken under court order because the SIP for the SCAB does not provide for attainment of the ozone and CO national ambient air quality standards (NAAQS) by the statutory deadline of December 31, 1987, or even by any other fixed date in the near term, as required by section 172(a) the Clean Air Act ("the Act") (42 U.S.C. 7502(a)). Pursuant to section 110(a)(2)(I) of the Act and EPA's implementing regulations, this approval results in the imposition of a moratorium on the construction and modification of major stationary sources of CO and volatile organic compounds (VOC) in the SCAB. (See 40 CFR 52.24 and 42 U.S.C. 7410(a)(2)(I).) Pursuant to Pub. L. 100–202, signed into law December 22, 1987, EPA is designating August 31, 1988, as the effective date for the ban on construction or modification of such major stationary sources.

DATES: EPA's disapproval of the South Coast SIP is effective February 22, 1988. The ban on construction or modification of major sources is effective August 31, 1988.

FOR FURTHER INFORMATION CONTACT: Wallace D. Woo, Chief, State Liaison Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, California 94105, Telephone: (415) 974–7634; (FTS) 454–7634.

SUPPLEMENTARY INFORMATION:

A. Background

A brief background of the Act and the history of the SCAB SIP is provided here. For a more comprehensive description of the relevant requirements of the Act and EPA's regulatory actions on the SIP for the SCAB, see the proposed disapproval of the SIP for the South Coast and three other areas in California (52 FR 26431, July 14, 1987) and the General Preamble accompanying that notice (52 FR 26404).

The Clean Air Act mandates a system of state implementation plans as the chief mechanism for meeting the NAAQS. Section 110(a)(1) directs the state to submit, within nine months from the promulgation of primary NAAQS, a plan for implementing those NAAQS. Section 110 lays out the criteria for the plan and provides a mechanism for revision of the plan where the Administrator finds that the plan is substantially inadequate to achieve the NAAQS by the relevant deadline.

Recognizing that numerous areas had not been able to attain the NAAQS within the initial timeframe, Congress added Part D to the Act in 1977 which allowed certain "nonattainment" areas to apply for time extensions to December 31, 1982, with the exception that certain areas, in which it was "not possible" to meet that deadline for ozone and CO, could apply for a further extension to December 31, 1987.

California requested, and EPA approved, extensions of the statutory attainment date for the relevant pollutants in SCAB to December 31, 1987. The state then submitted 1982 Plan updates for the ozone and CO SIPS in the SCAB. In 1983, EPA proposed to disapprove these revisions and impose a construction ban. 48 FR 5074 (Feb. 3, 1983). On July 30, 1984, after the state

had submitted further revisions, EPA took final action to approve the CO and ozone control measures submitted by the state, but held open the question of whether to approve the attainment demonstration in the SIP submittal. 49 FR 30300, 30305 (July 30, 1984).

In September 1984, a citizen filed a petition in the Ninth Circuit Court of Appeals for review of EPA's July 30, 1984 decision, contending that EPA violated the Act by approving the SCAB control measures without determining whether those measures would attain the NAAQS by the statutory deadline (*Mark Abramowitz v. United States Environmental Protection Agency*, No. 84–7642 (9th Cir. Nov. 3, 1987)). In July 1987, prior to a decision in that case, EPA reproposed to disapprove the ozone and CO SIP for the SCAB. 52 FR 26408–26409 (July 14, 1987). In that notice, EPA stated that it lacked authority to continue to defer action on the plans for those areas that had not yet submitted a plan demonstrating attainment by the deadline, and that it had no choice but to disapprove the plans for those areas and impose a construction ban under section 110(a)(2)(I).

On November 3, 1987, the Ninth Circuit Court of Appeals issued its opinion in *Abramowitz*, holding that EPA lacked authority to defer action on whether the SCAB plan meets all of the Part D requirements of the act when the agency approved the individual control measures. The Court vacated EPA's approval of the control measures and ordered EPA to "disapprove the relevant SIP provisions." Slip op. at 19.

B. Discussion

Pursuant to the Ninth Circuit Court's instructions in *Mark Abramowitz v. United States Environmental Protection Agency*, EPA is hereby taking final action to disapprove the SIP for the SCAB. As in the case of EPA's July 14, 1987, proposal, the ground for EPA's final disapproval is that it does not demonstrate attainment of the ozone and CO NAAQS by December 31, 1987, or even by any other fixed date in the near term. Under the terms of the Act and EPA's regulations, such final plan disapproval results in the imposition of the construction ban in the South Coast Air Basin for major new sources and major modifications of existing sources of CO and VOC.

Today's action is mandated by the Court's order, and is not an independent Agency final action based on EPA's July 14, 1987, proposal. The Court's decision establishes that EPA has no discretion under the law to postpone the final disapproval. Thus, EPA is not responding directly to public comments on the EPA's July 14, 1987, proposal. EPA may respond to some of the comments in the future, perhaps in connection with EPA's final policy on how areas like the South Coast should correct their SIPS after December 31, 1987.

Under EPA's interpretation of the Clean Air Act 110(a)(2)(I) and 40 CFR 52.24(a), EPA's disapproval of a Part D SIP triggers a ban on construction or modification of major sources in the area concerned. However, Pub. L. 100–202, signed into law December 22, 1987, prohibits EPA from imposing certain sanctions under the Clean Air Act, including the construction ban, during a moratorium extending through August 30, 1988. Accordingly, while EPA is today taking final action to comply with the Court's order, it is designating August 31, 1988 as the effective date for the construction ban.[1]

C. Final Action

In response to the Court's order, EPA is today taking final action to disapprove the ozone and CO SIP for the SCAB. Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d), this disapproval is effective February 22, 1988. Pursuant to Pub. L. 100–202, the effective date for the construction ban is August 31, 1988.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget for review.

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA must assess the impact of proposed or final rules on small entities. EPA does not have sufficient information to determine the impacts that the construction moratorium announced in today's notice may have on small entities, because it is difficult to obtain reliable information on future plans for business growth. Even if this action were to have a significant impact, however, the Agency could not modify its action. Under the Act, the imposition of a construction moratorium is mandatory whenever the Agency determines that an implementation plan for a nonattainment area fails to meet the requirements of Part D of the Act, and that determination, in turn, is required by the Ninth Circuit's decision.

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 March 22, 1988. 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

Air pollutin control, Ozone, Carbon monoxide, Intergovernmental relations.

Dated January 13, 1988.

Lee M. Thomas,

Administrator.

40 CFR Part 52, Subpart F, is amended as follows:

PART 52—[AMENDED]

Subpart F—California

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.237 is amended by adding paragraph (a)(1) to read as follows:

§ 52.237 Part D disapproval.

(a) * * *

(1) The ozone and CO attainment demonstrations for the South Coast Air Basin. No major stationary source, or major modification of a stationary source, of carbon monoxide or volatile organic compounds may be constructed in the South Coast Air Basin unless the construction permit application is complete on or before August 30, 1988.

[FR Doc. 88–1305 Filed 1–21–88; 8:45 am]

BILLING CODE 6560–50–M

[1] Any major source for which the construction permit application is complete (as explained in 52 FR 26404, 26409 n. 18 (July 14, 1987)) on or before August 30, 1988 will not be subject to the section 110(a)(2)(I) construction ban.

EPA has historically read section 110(a)(2)(I) as exempting from the construction ban a source whose "complete" application predates the effective date of the disapproval triggering the construction ban. *See id.* and 40 CFR 52.24(a). Under this practice, EPA's disapproval of the South Coast Part D SIP would ordinarily result in a ban on construction of any source whose permit application is not "complete" as of [thirty days from publication], the effective date for the disapproval. However, Pub. L. 100–202 directs that no Clean Air Act 110(a)(2)(I) sanction shall be "imposed or take effect" during the period prior to August 31, 1988 in any of three circumstances, including a state's failure to attain the ozone or CO NAAQS or to submit a SIP meeting the requirements of Part D. Accordingly, EPA's disapproval of the South Coast SIP does not constitute a prohibition on permitting of any source whose permit application is completed prior to August 31, 1988.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

An Indefinite Extension of the Part 15 Interim Provisions for Cordless Telephones

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action will permit continued manufacture, importation, and marketing of cordless telephones that operate near frequencies at 46 and 49 MHz beyond the dates indicated in the rules. Current rules require the manufacturing and importation of cordless telephones to end by February 15, 1989, while, marketing is to end by February 15, 1990. Hence, this action is intended to allow cordless telephones continued operation at frequencies near 46 and 49 MHz. Furthermore, in order to lessen he chances of interference between cordless telephones, the rules are revised to ease the channeling requirements.

EFFECTIVE DATE: March 1, 1988.

ADDRESS: Federal Communications Commission; Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joseph P. Husnay. Office of Engineering and Technology. (202) 653–8106.

SUPPLEMENTARY INFORMATION: Cordless telephones have been operating under interim provisions that are soon to expire. The cordless telephone industry, therefore, asked the Commission to extend the rules and to increase the number of channels they could communicate on. The Commission agreed to extending the current rules but could not provide additional channels. Instead of providing additional channels the Commission relaxed the rules so that the industry may use advanced technology to split the channels currently available. Although the industry is not forced to divide the channels, they may do so to increase the number of channels cordless telephones use.

Ordering Clauses

1. This action is taken pursuant to 47 U.S.C. sections 154(i), 302, 303(r), and section 553 of the Administrative Procedure Act, 5 USC 553.

2. Accordingly, *It is ordered,* that Part 15 of the Commission's Rules is amended as specified below.

3. *It is further ordered* that this proceeding *is terminated.*

List of Subjects in 47 CFR Part 15

Telephone.

Rule Changes

Part 15 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for Part 15 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply sec. 301, 48 Stat. 1081; 47 U.S.C. 301.

2. Section 15.231 is amended by revising the title and removing the last sentence.

§ 15.231 Provisions for cordless telephones.

* * * * *

3. The title and first sentence of § 15.232 are revised to read:

§ 15.232 Frequencies for cordless telephones.

A cordless telephone shall be operated on any frequency within 10 kHz of the following frequences.

* * * * *

4. Section 15.233 is amended as follows: Paragraph (a) is amended by revising the first sentence. Paragraph (b) is amended by revising the first and second sentences. Paragraph (d) is amended by revising the first sentence up to the colon. Revisions are as follows:

§ 15.233 Technical specifications.

* * * * *

(a) Frequency tolerance of the carrier shall not be greater than ± 0.01%.

* * * * *

(b) The fundamental emission shall be confined within a 20 kHz band centered on the frequencies listed in § 15.232. Modulation products outside of this 20 kHz band shall be attenuated at least 26 dB below the level of the unmodulated carrier.

* * * * *

(d) Harmonics and other out-of-band emissions, on any frequency more than 20 kHz removed from the frequencies listed in § 15.232 shall comply with the field strength limitations in the following table:

* * * * *

Federal Communications Commission.

H. Walker Feaster III,

Acting Secretary.

[FR Doc. 88–1209 Filed 1–21–88; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86–27; RM–5364]

Radio Broadcasting Services; Wilmington, NC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document grants the request of Woolfson Broadcasting Corporation of Wilmington, Inc. to substitute Channel 266C2 for Channel 265A at Wilmington, North Carolina, and the modification of its license for Station WWQQ–FM to specify the higher powered channel. Channel 266C2 can be allocated to Wilmington with a site restriction of 28.7 kilometers south to accommodate petitioner's desired site. The Commission found that grant of the mutually exclusive application of Winfas of Belhaven specifying Channel 266C2 for Station WJKA at Belhaven, North Carolina, not to be in the public interest. Rather, it found that WJKA could specify a site which would not conflict with the requested upgrade at Wilmington, thus permitting a more efficient use of the spectrum by allowing increased service to be provided to the residents of both the Belhaven and Wilmington areas. With this action, this proceeding is terminated.

EFFECTIVE DATE: February 29, 1988.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, MM Docket No. 86–27, adopted December 10, 1987, and released January 14, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments for Wilmington, North Carolina, is amended by adding Channel 266C2 and deleting Channel 265A.

Federal Communications Commission.

Bradley P. Holmes,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88–1221 Filed 1–21–88; 8:45 am]

BILLING CODE 6712-01-M