April 4, 2000, through April 6, 2000; April 11, 2000, through April 13, 2000; April 18, 2000, through April 20, 2000.

These repairs are being performed during the time period that there have been few requests to open the bridge. Vessels that can pass under the bridge without an opening may do so at all times.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 22, 2000.

G.N. Naccara

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

[FR Doc. 00–8139 Filed 3–31–00; 8:45 am]

BILLING CODE 4915–15–U–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–6566–5]

Finding of Failure To Submit a Required State Implementation Plan for Carbon Monoxide; Fairbanks, Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Finding of Failure to Submit.

SUMMARY: EPA is taking final action in making a finding, under the Clean Air Act (CAA or Act), that Alaska failed to make a carbon monoxide (CO) nonattainment area State Implementation Plan (SIP) submittal required for Fairbanks 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 Fairbanks was October 1, 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 April 3, 2000.

ADDRESSES: Written comments should be addressed to: Ms. Debra Suzuki, Office of Air Quality (OAQ–107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: John Pavitt, U.S. EPA, Region 10, Alaska Operations Office, 222 W. 7th Avenue, #19, Anchorage, Alaska, 99513–7588, Telephone (907) 271–5083.

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 Fairbanks 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 operations 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 Fairbanks area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56846 (November 6, 1991).

(1) The CO nonattainment area is the ''Fairbanks Area, Fairbanks Election District (part), Fairbanks nonattainment area boundary.'' 40 CFR 81.302.

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) 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 Fairbanks area has a design value below 12.7 ppm. 40 CFR 81.302.

On February 27, 1998 EPA made a final finding that the Fairbanks CO nonattainment area did not attain the CO NAAQS under the CAA mandated attainment date of December 31, 1995 for moderate nonattainment. As a result of that finding, which went into effect on March 30, 1998, (63 FR 9945 February 27, 1998) the Fairbanks, Alaska CO nonattainment area was reclassified as serious. The State had 18 months or until October 1, 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 Fairbanks area continues to exceed the CO standard with three exceedances in 1997, three in 1998, two in 1999 and, based upon preliminary review of the data, at least one in 2000. Notwithstanding significant efforts by the Alaska Department of Environmental Conservation to complete their CO SIP, the state has failed to meet the October 1, 1999 deadline for the required SIP submission. EPA is therefore compelled to find that the State of Alaska has failed to make the required SIP submission for Fairbanks. The CAA established 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 provisions. Sections 179(a) sets forth four findings that form the basis for applications 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 Alaska has not made the required complete submittal by October 3, 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 April 3, 2002, then the highway funding sanction will apply in the affected area, in accordance with 40 CFR 52.31. In addition, CAA section 110(c) provides that EPA must promulgate a Federal Implementation Plan (FIP).

(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.''

The sanctions will not take effect if, before October 3, 2001, EPA finds that the State has made a complete submittal of a plan addressing the serious area CO requirements for Fairbanks. 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 April 3, 2002, (section 110(c)(1) of the Act). EPA encourages the responsible parties in Alaska to continue working together on the CO Plan which can eliminate the need for potential sanctions and FIP.

II. Final Action

A. Finding of Failure to Submit

Today, EPA is making a finding of failure to submit for the Fairbanks 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 is effective as of April 3, 2000. 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 document 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 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).

III. Administrative Requirements

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this notice, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the action in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

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 therefore 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 therefore, and established an effective date of April 3, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule is effective as of April 3, 2000.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 2, 2000. 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: March 20, 2000.

Jane Moore,

Acting Regional Administrator, Region 10.

[FR Doc. 00–7628 Filed 3–31–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22 and 101

[WT Docket No. 97–81; FCC 99–415]

Multiple Address Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules to maximize the use of spectrum designated for Multiple Address Systems (MAS) in the Fixed Microwave Services. Specifically, the Commission lifts the application freeze for the 928/952/956 MHz bands and twenty channels in the 932/941 MHz bands; designates the 928/952/956 MHz bands and twenty channels in the 932/941 MHz bands for public safety and/or private internal services, indicating that these channels will be licensed on a first-come, first-served site-by-site basis; designates five of the twenty channel pairs for public safety/ Federal Government use; will license the 928/959 MHz bands and the remaining twenty of the forty paired channels in the 932/941 MHz bands on a geographic-area basis; increases the licensees' technical and operational flexibility in order to allow licensees to provide services that are responsive to market demands; and provides incumbents with sufficient protection to avoid disruption of the marketplace or any undue unfairness.

DATES: Effective June 2, 2000 (except for § 101.1327 which contains an information collection that has not been