

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this Final Rule will not result in such an expenditure, we do discuss the effects of this Rule elsewhere in this preamble.

### Taking of Private Property

This Final Rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Reform of Civil Justice

This Final Rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this Final Rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This Rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Environment

We have considered the environmental impact of this Final Rule and concluded that, under figure 2–1, paragraph (34)(a), of Commandant Instruction M16475.IC, this Rule is categorically excluded from further environmental documentation. The Rule would merely raise the threshold of property damage for reports of accidents involving recreational vessels. A Determination of Categorical Exclusion is available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 173

Marine safety, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 173 as follows:

#### Subpart C—Casualty and Accident Reporting

1. The citation of authority for part 173 continues to read as follows:

**Authority:** 31 U.S.C. 9701; 46 U.S.C. 2110, 6101, 12301, 12302; OMB Circular A–25; 49 CFR 1.46.

2. Revise § 173.55(a)(3) to read as follows:

#### § 173.55 Report of casualty or accident.

(a) \* \* \*

(3) Damage to vessels and other property totals \$2,000 or more or there is a complete loss of any vessel; or a collision occurs involving two or more vessels, regardless of the amount of damage to property; or

\* \* \* \* \*

3. Revise the heading of § 173.57 to read as follows:

#### § 173.57 Contents of report.

4. Revise the heading of § 173.59 to read as follows:

#### § 173.59 Where to submit report.

Dated: March 15, 2001.

**Terry M. Cross,**

*Rear Admiral, U. S. Coast Guard, Assistant Commandant for Operations.*

[FR Doc. 01–10839 Filed 4–30–01; 8:45 am]

**BILLING CODE 4910–15–U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 099–0032a; FRL–6967–8]

#### Revisions to the Arizona State Implementation Plan, Pinal-Gila Counties Air Quality Control District and Pinal County Air Quality Control District

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Pinal-Gila Counties Air Quality Control District (PGCAQCD) and Pinal County Air Quality Control District (PCAQCD) portions of the Arizona State Implementation Plan (SIP). These revisions concern the rescision of all of the remaining SIP rules from the

defunct PGCAQCD and the rescision of certain PCAQCD SIP Rules. We are approving the rescision of local rules that no longer regulate permitting procedures for various emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on July 2, 2001 without further notice, unless EPA receives adverse comments by May 31, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andrew Steckel, Rulemaking Office Chief (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may inspect the submittal documents and our technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, AZ 85012

Pinal County Air Quality Control District, Building F, 31 North Pinal Street, Florence, AZ 85232

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1135.

#### SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we”, “us”, or “our” are used, we mean EPA.

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**I. The State's Submittal**

*A. What Rules Did the State Submit for Recision?*

On August 4, 2000, ADEQ submitted certain PGCAQCD SIP rules listed in Tables 1, 2, 3, 4, 5, 6, and 7 for recision with respect to Gila County only. The replacement ADEQ SIP rules are listed where applicable. Other justifications or demonstrations for recision are provided in the notes below Table 7.

On December 20, 2000 (65 FR 79742) EPA clarified that certain PCAQCD rules are SIP-approved by an action on April 9, 1996 (61 FR 15717). We intended that some of these SIP-approved PCAQCD rules shown in Tables 1, 2, and 3

replace or rescind corresponding PGCAQCD SIP rules still in effect in PCAQCD. Therefore, all rules listed in Tables 1, 2, and 3 are rescinded both with respect to Gila County (by the ADEQ submittal) and with respect to PCAQCD (by the EPA approval of replacement PCAQCD SIP rules.)

Certain of the PGCAQCD SIP rules are determined by EPA to not be appropriate for inclusion in the SIP, but were originally erroneously SIP-approved. We are removing these rules from the PGCAQCD portion of the Arizona SIP under section 110(k)(6) as inconsistent with the requirements of section 110(a) and part D of the CAA. These PGCAQCD SIP rules

inappropriate for the SIP are also included in Tables 1, 2, and 3. The two recision submittals and the removals in combination rescind all of the rules in Tables 1, 2, and 3 with respect to both Gila County and PCAQCD.

The PGCAQCD SIP rules in Tables 4, 5, and 6 are rescinded with respect to Gila County only, because there is not yet an approved SIP rule replacement for PCAQCD.

The PGCAQCD SIP rules in Table 7 were submitted by ADEQ for recision but are already rescinded in other actions with respect to both Gila County and PCAQCD. These rules are listed in Table 7 for clarity only, and we will take no further action on them.

**TABLE 1.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RECISION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD**

PGCAQCD SIP rule	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-1-1.1	Policy and Legal Authority .....	(Note 1)	(Note 1)
7-1-1.3	Air Pollution Prohibited .....	(Note 1)	(Note 1)
7-1-2.5(A)	Permits: Transfer .....	R9-3-317	32932
7-1-2.5(B)	Permits: Expiration .....	R9-3-306	32567
7-1-2.5(C)	Permits: Posting .....	R9-3-315	(Note 1)
7-1-2.6	Recordkeeping and Reporting .....	R9-3-308, 314	29645
7-2-1.1	Non-Specific Particulate .....	R9-3-201	43861
7-2-1.2	Sulfur Dioxide .....	R9-3-202 (Note 2)	47514
7-2-1.4	Photochemical Oxidants .....	R9-3-204	51166
7-2-1.5	Carbon Monoxide .....	R9-3-205	54819
7-2-1.6	Nitrogen Dioxide .....	R9-3-205	21946
7-2-1.7	Evaluation .....	R9-3-216	2-3-110
7-3-1.6	Reduction of Animal or Vegetable Matter .....	(Note 1)	(Note 1)

**TABLE 2.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON DECEMBER 17, 1979, 44 FR 73033) FOR RECISION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD**

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-2-1.8	Anti-Degradation .....	(Note 1)	(Note 1)

**TABLE 3.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RECISION WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD**

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-1-1.2	Definitions .....	R9-3-101	1-3-140
7-1-1.3(C)	Air Pollution Prohibited .....	(Note 1)	(Note 1)

**TABLE 4.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RECISION WITH RESPECT TO GILA COUNTY ONLY**

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-3-1.2(A)	Fugitive Dust .....	R9-3-404	None
7-3-1.2(B)	Fugitive Dust .....	R9-3-405	None
7-3-1.2(C)	Fugitive Dust .....	R9-3-405	None
7-3-1.2(D)	Fugitive Dust .....	R9-3-406	None
7-3-1.2(E)	Fugitive Dust .....	R9-3-409	None

TABLE 4.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON NOVEMBER 15, 1978, 43 FR 53031) FOR RESCISSION WITH RESPECT TO GILA COUNTY ONLY—Continued

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-3-1.3	Open Burning .....	(Note 2)	None
7-3-1.4	Incineration .....	(Note 2)	None
7-3-1.5	Wood Waste Burners .....	R9-3-504	None
7-3-1.7	Particulate Emissions—Fuel Burning Equipment .....	R9-3-503	None
7-3-1.8	Process Industries .....	R9-3-502	None
7-3-2.2	Fuel Burning Installations .....	R9-3-503	None
7-3-2.3	Sulfite Pulp Mills .....	(Note 2)	None
7-3-2.4	Sulfuric Acid Plants .....	R9-3-507	None
7-3-3.1	Storage of Volatile Organic Compounds .....	R9-3-510	None
7-3-3.2	Loading of Volatile Organic Compounds .....	R9-3-510	None
7-3-3.3	Pumps and Compressors .....	R9-3-510	None
7-3-4.1	Emission Standards—Carbon Monoxide from Stationary Sources: Industrial .....	R9-3-502	None
7-3-5.1	Emission Standards—Nitrogen Oxides: Fuel Burning Equipment .....	R9-3-503	None
7-3-5.2	Nitric Acid Plants .....	R9-3-506	None

TABLE 5.—PGCAQCD RULE (PREVIOUSLY SUBMITTED ON JULY 1, 1975, APPROVED ON DECEMBER 17, 1979, 44 FR 73033) FOR RESCISSION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-3-2.5	Other Industries .....	(Note 2)	None

TABLE 6.—PGCAQCD RULES (PREVIOUSLY SUBMITTED ON AUGUST 7, 1980, APPROVED ON APRIL 12, 1982, 47 FR 15580) FOR RESCISSION WITH RESPECT TO GILA COUNTY ONLY

PGCAQCD SIP rule number	Rule title	Replacement ADEQ SIP rule number	Replacement PCAQCD SIP rule number
7-3-1.1	Visible Emissions: General .....	R9-3-501	None
7-3-1.4(C)	Incineration .....	(Note 2)	None
7-3-1.7(F)	Particulate Emissions—Fuel Burning Equipment .....	R9-3-503	None
7-3-3.4(A)	Organic Solvents .....	R9-3-101	None
7-3-3.4(B)	Organic Solvents .....	R9-3-502	None
7-3-3.4(C)	Organic Solvents .....	R9-3-525	None
7-3-3.4(D)	Organic Solvents .....	R9-3-527	None
7-3-3.4(E)	Organic Solvents .....	R9-3-502	None
7-3-3.4(F)	Organic Solvents .....	R9-3-502	None
7-3-3.4(G)	Organic Solvents .....	R9-3-502	None
7-3-3.4(H)	Organic Solvents .....	(Note 1)	(Note 1)
7-3-3.4(I)	Organic Solvents .....	R9-3-101	None
7-3-3.4(J)	Organic Solvents .....	R9-3-502	None

TABLE 7.—PGCAQCD RULES SUBMITTED FOR RESCISSION BUT ALREADY RESCINDED WITH RESPECT TO BOTH GILA COUNTY AND PCAQCD

PGCAQCD SIP rule number	Rule title	Rescission reference
7-1-2.2	Permit Unit Description and Fees .....	(Note 3)
7-1-2.4	Appeals to Hearing Board .....	(Note 3)
7-1-2.7	Enforcement .....	(Note 3)
7-1-4.1	Violations: Orders of Abatement .....	(Note 4)
7-1-4.2	Hearings on Orders of Abatement .....	(Note 4)
7-1-5.1	Classification and Reporting; Production of Records; Confidentiality of Records; Violation; Penalty .....	(Note 4)
7-1-5.2	Special Inspection Warrant .....	(Note 4)
7-1-5.3	Decisions of Hearing Board; Subpoenas; Effective Date .....	(Note 4)
7-1-5.4	Judicial Review; Grounds; Procedures .....	(Note 4)
7-1-5.5	Notice of Hearing; Publication; Service .....	(Note 4)
7-1-5.6	Injunctive Relief .....	(Note 4)
7-2-1.3	Non-Methane Hydrocarbons .....	(Note 3)
7-3-6.1	Major Sources: Policy and Legal Authority .....	(Note 3)

**Note 1:** Designates a rule determined by EPA to be not appropriate for inclusion in the SIP, because it is unenforceable, or replaced by a federal standard, or refers to a non-criteria pollutant, or refers to local procedural matters, such as those concerning assessment of fees, enforcement, and local hearing board procedures.

**Note 2:** Designates a rule without an exact parallel ADEQ SIP rule or PCAQCD SIP rule, for which information was provided by the ADEQ to show that rescinding the PGCAQCD rule would not conflict with section 110(l) of the CAA.

**Note 3:** 40 CFR 52.120(c)(18)(iv)(B).

**Note 4:** 40 CFR 52.120(c)(18)(iv)(A).

On December 29, 2000, we found that the submittal of August 4, 2000 met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

#### *B. Are There Other Versions of the Recision Submittals?*

There are no previous recision submittals for PGCAQCD on which we have not acted.

#### *C. What Is the Purpose of the Recision Submittals?*

The PGCAQCD originally adopted a set of air pollution control rules that we approved into the Arizona SIP. Gila County and Pinal County later dissolved the PGCAQCD.<sup>1</sup> Gila County elected to have the ADEQ administer Arizona state rules in Gila County. The remaining PGCAQCD SIP rules in Gila County are defunct and not used to enforce air regulations in Gila County. This action rescinds all remaining PGCAQCD rules from the SIP with respect to Gila County. This action also rescinds part of the remaining PGCAQCD SIP rules that have been replaced with SIP Rules with respect to PCAQCD.

## II. EPA's Evaluation and Action

### *A. How Is EPA Evaluating the Recision Submittals?*

Generally, section 110(l) and 193 of the CAA require that the recision of SIP rules must not relax existing requirements of the SIP. If requirements are relaxed, the ADEQ must demonstrate that the modifications do

<sup>1</sup> The Pinal-Gila Counties Air Pollution District originally had jurisdiction in Pinal County and Gila County. On April 1, 1988, Gila County gave jurisdiction for air quality control to ADEQ. On April 4, 1988, Gila County dissolved the PGCAQCD on behalf of Gila County. On August 15, 1988, Pinal County renamed the PGCAQCD the Pinal County Air Quality Control District, but continued to enforce the PGCAQCD rules. On November 23, 1992, Pinal County formally dissolved the PGCAQCD on behalf of Pinal County. In 1993 and later, PCAQCD adopted PCAQCD replacement rules, many of which subsequently became SIP-approved PCAQCD rules.

not interfere with attainment of the NAAQS or otherwise violate sections 110(l) or 193.

### *B. Do the Recision Submittals Meet the Evaluation Criteria?*

We believe the recision submittals are consistent with the CAA and relevant policy and guidance regarding SIP relaxations. The TSD has more information on our evaluation.

### *C. Public Comment and Final Action*

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, we are approving the recision submittals, because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same recision submittal. If we receive adverse comments by May 31, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final recision will be effective without further notice on July 2, 2001. This will remove the rules from the federally enforceable SIP.

## III. Background Information

### *A. Why Were These Rules Originally Approved Into the SIP?*

The rules were intended to regulate some of the seven criteria pollutants, which harm human health and the environment, and regulate permitting procedures for control of these pollutants. Section 110(a) of the CAA required states to submit regulations that control the emission of these pollutants.

## IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required

by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, 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 rule 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency

promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 2, 2001. 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, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compound.

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

Dated: March 20, 2001.

**Michael Schulz,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(18)(iv)(D), (c)(18)(iv)(E), (c)(18)(iv)(F), (c)(18)(iv)(G), (c)(46)(i)(B), and (c)(46)(i)(C) to read as follows:

#### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(18) \* \* \*  
(iv) \* \* \*

(D) Previously approved on November 15, 1978 in paragraph (c)(18)(iv) of this

section and now deleted without replacement Rules 7-1-1.1, 7-1-1.3, 7-1-2.5, 7-1-2.6, 7-2-1.1, 7-2-1.2, 7-2-1.4, 7-2-1.5, 7-2-1.6, 7-2-1.7, and 7-3-1.6.

(E) Previously approved on December 17, 1979 in paragraph (c)(18)(iv) of this section and now deleted without replacement Rule 7-2-1.8.

(F) Previously approved on November 15, 1978 in paragraph (c)(18)(iv) of this section and now deleted without replacement with respect to Gila County only Rules 7-3-1.2, 7-3-1.3, 7-3-1.4, 7-3-1.5, 7-3-1.7, 7-3-1.8, 7-3-2.2, 7-3-2.3, 7-3-2.4, 7-3-3.1, 7-3-3.2, 7-3-3.3, 7-3-4.1, 7-3-5.1, and 7-3-5.2.

(G) Previously approved on December 17, 1979 in paragraph (c)(18)(iv) of this section and now deleted without replacement with respect to Gila County only Rule 7-3-2.5.

\* \* \* \* \*

(46) \* \* \*

(i) \* \* \*

(B) Previously approved on April 12, 1982 in paragraph (c)(46)(i)(A) of this section and now deleted without replacement Rules 7-1-1.2 and 7-1-1.3(C).

(C) Previously approved on April 12, 1982 in paragraph (c)(46)(i)(A) of this section and now deleted without replacement with respect to Gila County only Rules 7-3-1.1, 7-3-1.4(C), 7-3-1.7(F), and 7-3-3.4.

\* \* \* \* \*

[FR Doc. 01-10651 Filed 4-30-01; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 01-928; MM Docket No. 00-13, RM-9679]

### Radio Broadcasting Services; Aberdeen, Elma and Montesano, WA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at joint request of KAYO Broadcasting and Marrow, Inc., substitutes Channel 271C2 for Channel 271C3 at Elma, reallots Channel 271C2 from Elma to Montesano, Washington, and modifies Station KSWW(FM)'s license accordingly. We also reallot Channel 257C1 from Aberdeen to Elma, as a replacement service, and modify Station KAYO-FM's license accordingly. See 65 FR 7816, February 16, 2000. Channel 271C2 can be reallotted to Montesano in

compliance with the Commission's minimum distance separation requirements with a site restriction of 14.5 kilometers (9.0 miles) northwest to avoid a short-spacing to the licensed site of Station KINK-FM, Channel 270C, Portland, Oregon. The coordinates for Channel 271C2 at Montesano are 47-03-44 North Latitude and 123-44-44 West Longitude. See Supplementary Information, *infra*.

**DATES:** Effective May 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 00-13, adopted April 4, 2001, and released April 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

In addition, Channel 257C1 can be reallotted to Elma in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.5 kilometers (9.0 miles) west to avoid a short-spacing to the licensed site of Station KWJJ-FM, Channel 258C1, Portland Oregon. The coordinates for Channel 257C1 at Elma are 46-57-31 North Latitude and 123-35-18 West Longitude. The allotment of Channel 257C1 at Elma is short-spaced to the licensed site of Station CFOX(FM), Channel 257C, Vancouver, British Columbia, and to the proposed allotment of Channel 258A at Metchosin/Sooke, British Columbia. Also, the allotment of Channel 271C2 at Montesano is short-spaced to the licensed site of Station CFUV-FM, Channel 270B, Victoria, British Columbia, and to the proposed allotment of Channel 269A at Nanaimo, British Columbia. Since Elma and Montesano are located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence for Channel 271C2 at Montesano, and for Channel 257C1 at Elma, as specially-negotiated, short-spaced allotments, were requested, but have not yet been received. Therefore, if a construction permit is granted prior to the receipt of formal concurrence by the Canadian government for these allotments, the construction permit will include the following condition: "Operation with