proposed rulemaking. 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, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 20, 2009.

Walter W. Kovalick, Jr.,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of 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 P—Indiana

■ 2. Section 52.770 is amended by adding and reserving paragraph (c)(189) and adding paragraph (c)(190) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(189) [Reserved]

(190) On December 19, 2007, Indiana submitted modifications to its Federally Enforceable State Operating Permits rules as a revision to the state implementation plan. The revision extends the maximum permit term for renewals of Federally Enforceable State Operating Permits from five years to ten years. EPA has determined that this revision is approvable under the Clean Air Act.

(i) *Incorporation by reference.*

(A) Indiana Administrative Code Title 326, Article 2: Permit Review Rules, sections 2–1.1–9.5, ''General provisions; term of permit'', and 2–8–4, ''Permit content'', are incorporated by reference. Filed with the Publisher of the Indiana Register on November 16, 2007, and became effective on December 16, 2007. Published in the Indiana Register on December 13, 2007 (20071212–IR–326060487FRA).

[FR Doc. E9–10335 Filed 5–4–09; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2007–1186–200821(w); FRL–8900–4]

Approval and Promulgation of Implementation Plans; Kentucky; Section 110(a)(1) Maintenance Plans for the 1997 8-Hour Ozone Standard for the Huntington-Ashland Area, Lexington Area and Edmonson County; Withdrawal of Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to an adverse comment, EPA is withdrawing the direct final rule, published March 25, 2009, approving a revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision was provided in accordance with Kentucky's obligations to meet the statutory and regulatory requirements related to the 1997 8-hour ozone standard and section 110(a)(1) of the Clean Air Act for the Huntington-Ashland Area, Lexington Area and Edmonson County. As stated in the direct final rule, if EPA received an adverse comment by April 24, 2009, the rule would be withdrawn and not take effect. EPA subsequently received an adverse comment on April 17, 2009. EPA will address the comment in a subsequent final action based upon the proposed action also published on March 25, 2009. EPA will not institute a second comment period on this action.

DATES: The direct final rule published March 25, 2009, at 74 FR 12567, is withdrawn effective May 5, 2009.

FOR FURTHER INFORMATION CONTACT: Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 24, 2009.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

Accordingly, the amendments to 40 CFR 52.920 (which were published in the **Federal Register** on March 25, 2009, at 74 FR 12567) are withdrawn effective May 5, 2009.

[FR Doc. E9–10333 Filed 5–4–09; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 09–834; MB Docket No. 08–217; RM–11434]

Radio Broadcasting Services; Kihei, Hawaii.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The staff grants a rulemaking petition filed by Shirk-Mays, LLC to allot Channel 264C2 to Kihei, Hawaii, as a third local aural service. The reference coordinates for Channel 264C2 at Kihei, Hawaii, are 20–39–36 NL and 156–21–50 WL.

DATES: Effective June 1, 2009.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 08–217, adopted April 15, 2009, and released April 17, 2009. The full text of this *Report and Order* 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 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

The *Notice of Proposed Rule Making* in this proceeding proposed the allotment of Channel 264C2 at Kihei, Hawaii. *See* 73 FR 67828 (November 17, 2008). The *Report and Order* does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not

contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). The Commission will send a copy of the Report and Order in this proceeding in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by adding Channel 264C2 at Kihei.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. E9–10322 Filed 5–4–09; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02–55; DA 09–442]

Public Safety and Homeland Security Bureau Establishes Post-Reconfiguration 800 MHz Band Plan for the U.S.-Canada Border Regions

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission's Public Safety and Homeland Security Bureau (PSHSB or Bureau), on delegated authority, addresses a petition for reconsideration of the reconfigured 800 MHz band plan established for the U.S.-Canada border in the Second Report and Order and, on its own motion, clarifies and corrects certain rules established in the Second Report and Order.

DATES: Effective July 6, 2009.

ADDRESSES: Federal Communications Commission, 445–12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Brian Marenco, Policy Division, Public Safety and Homeland Security Bureau, (202) 418–0838.

SUPPLEMENTARY INFORMATION: This is a summary of the Fourth Memorandum Opinion and Order, DA 09–442, released on February 25, 2009. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

1. In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band, 69 FR 67823, November 22, 2004. However, the Commission deferred consideration of band reconfiguration plans for the border areas, noting that ''implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas.'' The Commission stated that ''the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments.''

2. In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission delegated authority to PSHSB to propose and adopt border area band plans once agreements are reached with Canada and Mexico, 72 FR 39756, July 20, 2007.

3. In July 2007, the U.S. and Canada reached an agreement on a process that will enable the U.S. to proceed with band reconfiguration in the border region. Consequently, on November 1, 2007, PSHSB issued a Further Notice of Proposed Rulemaking (FNPRM) seeking comment on specific proposals for reconfiguring the eight U.S.-Canada border regions, 72 FR 63869, November 13, 2007. The Commission received ten comments and eight reply comments in response to the FNPRM.

4. On May 9, 2008, PSHSB issued a Second Report and Order (Second R&O) establishing reconfigured band plans in the U.S.-Canada border regions, 73 FR 33728, June 13, 2008. The band plans adopted in the Second R&O are designed to separate—to the greatest extent possible—public safety and other non-cellular licensees from licensees that employ cellular technology in the band.

5. On July 14, 2008, Sprint filed a Petition for Clarification seeking reconsideration of certain portions of the 800 MHz Second R&O.

6. Consequently, on February 25, 2009, PSHSB issued a Fourth Memorandum Opinion and Order (Fourth MO&O) addressing Sprint's petition. In this Fourth MO&O, PSHSB also clarifies and corrects certain rules established in the 800 MHz Second R&O.

Procedural Matters

A. Final Regulatory Flexibility Certification

7. A Final Regulatory Flexibility Certification required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, is included in Appendix A of the Fourth MO&O.

B. Final Paperwork Reduction Act of 1995 Analysis

8. The Fourth MO&O does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore it does not contain any new or modified ''information burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

Final Regulatory Flexibility Certification

9. The Regulatory Flexibility Act of 1980, as amended (RFA) requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). In sum, we certify that the rule changes and actions in the Fourth MO&O will have no significant economic impact on a substantial number of small entities.