

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12988

The Department of the Interior conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards don't apply to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementation Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

This rule doesn't require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions aren't major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule doesn't contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior determined that this rule won't have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based on counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect on a substantial number of small entities. Therefore, this rule will ensure that the State will implement existing requirements that OSM previously published. In determining whether this

rule would have a significant economic impact, the Department relied on the data and assumptions for the corresponding Federal regulations.

6. Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule won't impose a cost of \$100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: January 6, 2000.

Brent Wahlquest,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 00-970 Filed 1-13-00; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD090-3041; FRL-6507-1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOCs From Paper, Fabric, Vinyl, and Other Plastic Parts Coating

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of Maryland for the purpose of amending its regulation to control volatile organic compounds (VOC) from Paper, Fabric, Vinyl, and Other Plastic Parts Coating. The regulation was revised to include Reasonable Available Control Technology (RACT) standards for sources that use flexographic printing presses to print on plastic (non-vinyl) and to limit the VOC content of the decorative coating of plastic bottles. EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views them as noncontroversial SIP revisions and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated in

relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 14, 2000.

ADDRESSES: Written comments on this action should be addressed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Janice M. Lewis, (215) 814-2185, at the EPA Region III office address listed above, or via e-mail at lewis.janice@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 00-617 Filed 1-13-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[CC Docket No. 96-98; FCC 99-238]

Revision of the Commission's Rules Specifying the Portions of the Nation's Local Telephone Networks that Incumbent Local Telephone Companies Must Make Available to Competitors

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document seeks comment from interested parties on issues surrounding the ability of competitive carriers to use combinations of unbundled network elements as a

substitute for the incumbent LECs' special access services. It also seeks comment on the policy implications, if any, of a significant reduction in special access revenues for the Commission's universal service program. It also requests additional comment on the Third Reconsideration Order and Further Notice of Proposed Rulemaking regarding the use of shared transport to originate or terminate interstate toll traffic to customers to whom the requesting carrier does not provide local exchange service.

DATES: Comments are due on January 19, 2000 and reply comments are due on February 18, 2000.

FOR FURTHER INFORMATION CONTACT:

Jodie Donovan, Attorney, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1580 or via the Internet at JDonovan@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rulemaking* (FNPRM) in Docket No. 96-98, (62 FR 45611, August 28, 1997), and FCC 99-238, adopted on September 15, 1999, and released on November 5, 1999.

Specifically, it seeks comment on the argument that the "just and reasonable" terms of section 251(c) or section 251(g) of the 1996 Act permit the Commission to establish a usage restriction on combinations of unbundled loops and transport network elements and entrance facilities. It also seeks comment on whether there is any other statutory basis for limiting an incumbent LEC's obligation to provide combinations of loops and transport facilities or entrance facilities as unbundled network elements. The Commission acknowledges in the Fourth FNPRM that resolution of this issue potentially could have a large financial impact on incumbent local exchange carriers, and seeks comment on the extent to which any such impact should be considered in reaching a decision on this issue. The complete text of this FNPRM is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY-B400, 445 12th Street, S.W., Washington, D.C.

1. Synopsis of the Fourth Further Notice of Proposed Rulemaking

2. The Commission's First Report and Order in CC Docket No. 96-98 (61 FR 45476, August 29, 1996) found that for all unbundled network elements, including combinations of network

elements, incumbent LECs may not impose any usage restriction on the use of such elements, or combinations thereof. In the Third Reconsideration Order and Further Notice of Proposed Rulemaking the Commission required incumbent LECs to provide access to shared transport as an unbundled network element in conjunction with local and tandem switching. The Commission limited the obligation of incumbent LECs to provision shared transport to end users to whom the requesting carrier was providing local exchange service. The Commission sought comment on whether requesting carriers may use unbundled dedicated or shared transport facilities, in conjunction with unbundled switching, to originate or terminate interstate toll traffic to customers to whom the requesting carrier does not provide local exchange service.

3. The Fourth FNPRM, as modified in the Supplemental Order, seeks comment on the argument that the "just and reasonable" terms of section 251(c) or section 251(g) of the 1996 Act permit the Commission to establish a usage restriction on combinations of unbundled loops and transport network element and entrance facilities. It also seeks comment on whether there is any other statutory basis for limiting an incumbent LEC's obligation to provide combinations of loops and transport facilities or entrance facilities as unbundled network elements. The Commission acknowledges in the Fourth FNPRM that resolution of this issue potentially could have a large financial impact on incumbent local exchange carriers. It seeks comment on this issue, and on the extent to which any such impact should be considered in reaching a decision on this issue. It also seeks comment on the policy implications, if any, of a significant reduction in special access revenues for the Commission's universal service program, and urges parties to address what long term solutions may be necessary to avoid adverse effects on special access revenues that support universal service in light of the fact that it is not clear that the 1996 Act permits any restrictions to be placed on the use of unbundled network elements.

4. Because the record developed in the Third Reconsideration Order and Further Notice of Proposed Rulemaking is two years old, the Commission, in the Fourth FNPRM also invites parties to refresh the record on whether requesting carriers may use unbundled dedicated or shared transport facilities in conjunction with unbundled switching to originate or terminate interstate toll traffic to customers to whom the

requesting carrier does not provide local exchange service.

Supplemental Initial Regulatory Flexibility Analysis; Supplemental Order Regarding Use of Unbundled Network Elements; To Provide Exchange Access Services; Initial Regulatory Flexibility Analysis (IRFA)

5. As required by the Regulatory Flexibility Act, the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Supplemental Order. This IRFA supplements the IRFA in the Fourth Further Notice of Proposed Rulemaking, *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, FCC 99-238, paras. 510 through 519 (rel. Nov. 5, 1999) (*Local Competition Third R&O and Fourth FNPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Fourth Further Notice of Proposed Rulemaking. The Commission will send a copy of the Supplemental Order, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, the Supplemental Order and IRFA, or summaries thereof, will be published in the **Federal Register**. *Id.*

(1) Need for, and Objectives of, the Proposed Rules

6. In the Third R&O, commenters have argued that allowing requesting carriers to obtain combinations of loop and transport unbundled network elements based on forward-looking cost would provide opportunities for arbitrage of special access services. We recognize that special access has historically been provided by incumbent local exchange carriers at prices that are higher than the unbundled network element pricing scheme of section 252(d)(1) in the Telecommunications Act of 1996. Accordingly, in the Fourth Further Notice of Proposed Rulemaking, as modified by the Supplemental Order, the Commission seeks comment on the legal and policy bases for precluding requesting carriers from substituting combinations of unbundled network elements for special access services. We ask whether there is any basis in the statute or our rules under which incumbent LECs could decline to provide combinations of loops and

transport network elements at unbundled network element prices.

(2) *Legal Basis*

7. Sections 1 through 4, 10, 201, 202, 251 through 254, 271, and 303(r) of the Communications Act, as amended, 47 U.S.C. 151 through 154, 160, 201, 202, 251 through 254, 271, and 303(r).

(3) *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply*

8. In the FRFA in the Third R&O and in the IRFA in the Fourth Further Notice of Proposed Rulemaking, we described in detail the entities possibly affected by those items. These entities consist of incumbent local exchange carriers and small incumbent local exchange carriers, competitive local exchange carriers and competitive access providers. We anticipate that the same entities, as well as those described below, could be affected by any action taken in response to the Fourth Further Notice of Proposed Rulemaking, as modified by the Supplemental Order. We therefore incorporate the description and estimates used in the FRFA and IRFA in the Third R&O and Fourth FNPRM, and add the following descriptions.

9. *Interexchange carriers (IXCs).* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 130 companies reported that they were engaged in the provision of interexchange services. See Federal Communications Commission, Carrier Locator: Interstate Service Providers,

Fig. 1 (Jan. 1999). Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 130 small entity IXCs that may be affected by the decisions and rules adopted in response to the Fourth Further Notice of Proposed Rulemaking.

(4) *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

10. If the Commission does not establish any restrictions on the use of unbundled network elements or combinations of network elements, no additional compliance requirements are anticipated from further consideration of this issue. If, however, restrictions on access to network elements are imposed, and depending on how the restrictions are imposed, interexchange carriers, competitive LECs, CAPs and other purchasers of unbundled network elements, including small entities, may be subject to additional reporting, recordkeeping and other compliance requirements. Incumbent LECs, including small incumbent LECs, would also be impacted because they would have to keep track of competitive LEC filings and whether the use of the unbundled network element changed in such a way that a restriction would attach. If restrictions are placed on the use of unbundled network elements or combinations of such elements, compliance with these requests may require the use of engineering, technical, operational, accounting, billing, and legal skills.

(5) *Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

11. If requesting carriers can substitute combinations of unbundled

network elements for special access service, incumbent LECs, including small entities, may be significantly economically impacted. On the other hand, substituting combinations of unbundled network elements for special access services could benefit competitive LECs, CAPs, and other purchasers of unbundled network elements. The Commission will evaluate in this proceeding whether there are legal grounds for restricting such access. If no such grounds exist, and instead if the statute requires unrestricted access to these unbundled network elements or combinations, then the Commission will have no alternative other than implementation of the statutory requirements for unrestricted access.

(6) *Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

12. None.

Ordering Clauses

13. The Commission will send a copy of this *Fourth Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

14. *It is ordered* that the Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of the *Supplemental Order*, including the Final Regulatory Flexibility Certification and the Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00-460 Filed 1-13-00; 8:45 am]

BILLING CODE 6712-01-P