

TABLE 6.—TOTAL NO_x-EQUIVALENT INCREASE FROM VET PROGRAM CLOSURE—Continued

%	2005w/2004 NO _x /VOC ratio	2005w/2005 NO _x /VOC ratio	2008w/2008 NO _x /VOC ratio	2012w/2012 NO _x /VOC ratio
Total increase NO _x + VOC as NO _x (tpsd)	4.34	4.32	4.24	4.10
Total increase NO _x + VOC as NO _x (ppsd)	8,671	8,643	8,482	8,205

V. What Is EPA's Proposed Action?

EPA is proposing to move Regulation 8.01, "Mobile Source Emissions Control Requirements," Regulation 8.02, "Vehicle Emissions Testing Procedure," and Regulation 8.03, "Commuter Vehicle Testing Requirements," from the active control measure portion of the Jefferson County portion of the Kentucky SIP. These regulations will be moved to the contingency measures section of the Kentucky portion of the Louisville 1-Hour Ozone Maintenance Plan. EPA is also proposing to approve a source-specific SIP revision amending the NO_x emission rate for Kosmos' cement kiln as adopted into the May 3, 2004, Board Order with the Kosmos Cement Company.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does 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). This action merely proposes to approve 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 proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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. This proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: December 21, 2004.

J.I. Palmer Jr.,

Regional Administrator, Region 4.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02-278; DA 04-3835]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Petition for declaratory ruling; comments requested.

SUMMARY: This document seeks comment on a *Petition for Declaratory Ruling* filed by the Consumer Bankers Association (CBA), asking the Commission to preempt certain sections of the Indiana Revised Statutes and Indiana Administrative Code as it relates to interstate telephone calls.

DATES: Comments are due on or before February 2, 2005, and reply comments are due on or before February 17, 2005.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418-2512 (voice), Kelli.Farmer@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, CG Docket No. 02-278, DA 04-3835, released December 7, 2004. On July 3, 2003, the Commission released a *Report and Order (2003 TCPA Order)*, 68 FR 44144, July 25, 2003. In the 2003 TCPA Order, the Commission stated its belief that any state regulation of interstate telemarketing calls that differed from our rules under section 227 almost certainly would conflict with and frustrate the federal scheme and would be preempted. The Commission will consider any alleged conflicts between state and federal

requirements and the need for preemption on a case-by-case basis. Accordingly, any party that believes a state law is inconsistent with section 227 or our rules may seek a *Declaratory Ruling* from the Commission. When filing comments, please reference CG Docket No. 02–278. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, “get form <your e-mail address>.” A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission’s contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission’s Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission’s Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–B204, Washington, DC 20554.

This proceeding shall be treated as a “permit but disclose” proceeding in accordance with the Commission’s ex

parte rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclosed proceedings are set forth in section 1.1206(b) of the Commission’s rules, 47 CFR 1.1206(b).

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554, (202) 418–0270. This document may be purchased from the Commission’s duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: <http://www.bcpiweb.com> or by calling 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). This document can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb/policy>.

Synopsis

On November 19, 2004, Consumer Bankers Association (CBA) filed a *Petition for Declaratory Ruling* asking the Commission to preempt certain sections of the Indiana Revised Statutes and Indiana Administrative Code as it relates to interstate telephone calls. Specifically, CBA requests that the Commission preempt the Indiana laws to the extent they prohibit telemarketing calls to persons and entities with which the caller has an established business relationship as defined in the Commission’s rules. CBA indicates that the Indiana laws provide that a telephone solicitor may not make a telephone sales call to a telephone number if that number appears on the state’s do-not-call list. According to CBA, Indiana’s prohibition on calls to numbers on the Indiana do-not-call list is subject to exceptions that partially overlap with, but are substantially narrower than the “established business relationship” (“EBR”) of the

Commission’s telemarketing rules. CBA contends that, unlike the Commission’s EBR definition, the Indiana exceptions: (1) Do not include relationships based upon a consumer’s past inquiry or application, during the three months preceding the call, regarding the party’s products or services; (2) do not include calls to persons with whom the caller has engaged, within 18 months prior to the call, in a purchase or transaction as to which payment has been made or performance completed; and (3) do not expressly permit an EBR to extend to any affiliated entities that the consumer reasonably would expect to be included within that category.

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 02–278; DA 04–3836]

Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Petition for declaratory ruling; comments requested.

SUMMARY: This document seeks comment on a *Petition for Declaratory Ruling* filed by the Consumer Bankers Association asking the Commission to preempt certain sections of the Wisconsin Statutes and Wisconsin Administrative Code as applied to interstate telephone calls.

DATES: Comments are due on or before February 2, 2005, and reply comments are due on or before February 17, 2005.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See supplementary information for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418–2512 (voice), Kelli.Farmer@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s document, CG Docket No. 02–278, DA 04–3836, released December 7, 2004. On July 3, 2003, the Commission released a *Report and Order (2003 TCPA Order)*, 68 FR 44144, July 25, 2003. In the 2003