

Air Quality Planning and Information Services Branch, Mail code 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 Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Michael Ioff at (215) 814-2166, the EPA Region III address above or by e-mail at [ioff.mike@epa.gov](mailto:ioff.mike@epa.gov). Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

**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.

Dated: August 1, 2001.

**Thomas C. Voltaggio,**

*Deputy Regional Administrator, Region III.*  
[FR Doc. 01-20040 Filed 8-8-01; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-4123b; FRL-7027-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Two Individual Sources in the Pittsburgh-Beaver Valley Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania for the purpose of establishing and requiring reasonably available control technology (RACT) for two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the Final Rules

section of this **Federal Register**, EPA is approving the Commonwealth's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal 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. 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 proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**DATES:** Comments must be received in writing by September 10, 2001.

**ADDRESSES:** Written comments should be addressed to David L. Arnold, Chief, Air Quality Planning and Information Services 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 Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Janice Lewis at (215) 814-2185 or Betty Harris at (215) 814-2168, the EPA Region III address above or by e-mail at [lewis.janice@epa.gov](mailto:lewis.janice@epa.gov) or [harris.betty@epa.gov](mailto:harris.betty@epa.gov). Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

**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.

Dated: July 31, 2001.

**Thomas C. Voltaggio,**

*Deputy Regional Administrator, Region III.*  
[FR Doc. 01-20044 Filed 8-8-01; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 63

[CC Docket No. 01-150; FCC 01-205]

#### Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations

**AGENCY:** Federal Communications Commission

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes further streamlining of applications under section 214 of the Communications Act of 1934, as amended (Act), to acquire domestic transmission lines through acquisitions of corporate control where, based on predetermined criteria, it would require little scrutiny for the Commission to determine that they would serve the public interest.

**DATES:** Comments are due September 10, 2001. Reply Comments are due October 9, 2001.

**FOR FURTHER INFORMATION CONTACT:** Henry Thaggert, Attorney-Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-7941.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Notice of Proposed Rulemaking*, CC Docket No. 01-150, FCC 01-205, adopted July 12, 2001 and released July 20, 2001. The complete text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (ITS, Inc.), CY-B400, 445 12th Street, SW., Washington, DC.

#### Synopsis of Notice of Proposed Rulemaking

1. The Commission seeks comment on its proposal to streamline its rules with respect to domestic section 214 authorizations involving acquisitions of corporate control. In particular, it proposes streamlined treatment of

applications under section 214 of the Act for transfer of domestic interstate transmission lines through acquisition of corporate control where it would require little scrutiny in order for the Commission to determine that the transaction would serve the public interest.

2. Specifically, the Commission seeks comment on whether to shorten the review period for a predetermined class of domestic section 214 applications so that absent written notice to the contrary from the Commission, transfers involving a predetermined class of non-dominant carriers would automatically be granted after 31 days, and transfers involving a predetermined class of dominant carriers would automatically be granted after 60 days. Additionally, the Commission seeks comment on: (1) What criteria to employ to determine eligibility for streamlined review; (2) how to treat a streamlined domestic section 214 application that is accompanied by a request for waiver of Commission rules; (3) whether the Commission should have the discretion to remove an application from streamlined processing; (4) how the Common Carrier Bureau should treat a streamlined application when the applicants file related applications in other bureaus; and (5) whether the Commission should continue to require resellers and other non-dominant carriers to file applications for transfers of control.

#### Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making*. 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 *Notice of Proposed Rule Making* provided in section IV(C) of the *Notice of Proposed Rule Making*. The Commission will send a copy of the *Notice of Proposed Rule Making*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

#### Need for, and Objectives of, the Proposed Rules

2. The Commission has initiated this proceeding to seek comment on how it might improve and streamline applications under section 214 to

acquire domestic transmission lines through acquisitions of corporate control that require little scrutiny in order for the Commission to determine that they serve the public interest. The Commission also proposes to shorten the review periods for transfers of control.

#### Legal Basis

3. The legal basis for any action that may be taken pursuant to the *Notice of Proposed Rulemaking* is contained in sections 2, 4, 201, 214, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303 and 403, and §§ 1.1, 1.411 and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411 and 1.412.

#### Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

4. The Regulatory Flexibility Act directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rulemaking, if adopted. See 5 U.S.C. 603(b)(3). The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." See 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. See 5 U.S.C. 601(3). 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 SBA. See 15 U.S.C. 632.

5. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission has indicated that there are 4,144 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

6. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and

"Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees. See 13 CFR 121.201; Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987). Further, this analysis discusses the total estimated number of telephone companies falling within the two categories and the number of small businesses in each. This analysis also attempts to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

7. The Commission includes small incumbent local exchange carriers (LECs) in this present Regulatory Flexibility Act analysis. As noted above, a "small business" under the Regulatory Flexibility Act is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." See 15 U.S.C. 632(a)(1). The SBA's Office of Advocacy contends that, for Regulatory Flexibility Act purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999); 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3); 13 CFR 121.102(b). The Commission, therefore, included small incumbent LECs in this Regulatory Flexibility Act analysis, although the Commission emphasizes that this Regulatory Flexibility Act action has no effect on FCC analyses and determinations in other, non-Regulatory Flexibility Act contexts.

8. *Total Number of Telephone Companies Affected*. The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. See U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) ("1992 Census"). This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small

incumbent LECs because they are not "independently owned and operated." See 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the proposed rules, herein adopted.

9. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. See 1992 Census, at Firm Size 1-123. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. See 13 CFR 121.201, SIC Code 4813; 1997 NAICS 51331. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. The Commission does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs that may be affected by the proposed rulemaking. The Commission further notes that some of these small entities may be "connecting carriers," as defined in section 3(11) of the Act, 47 U.S.C. 153(11), and would not be subject to section 214 or § 63.01 when engaging in an acquisition of corporate control and thus would not require prior Commission approval to consummate a transaction involving an acquisition of corporate control.

10. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.

See 13 CFR 121.201, SIC Code 4813. According to the most recent *Trends in Telephone Service* data, 1,348 incumbent carriers reported that they were engaged in the provision of local exchange services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 1,348 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rulemaking.

11. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXC that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 171 small entity IXCs that may be affected by the proposed rulemaking.

12. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 212 CAP/competitive LECs carriers and 10 other

LECs reported that they were engaged in the provision of competitive local exchange services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 212 small entity CAPs and 10 other LECs that may be affected by the proposed rulemaking.

13. *Operator Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 24 carriers reported that they were engaged in the provision of operator services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 24 small entity operator service providers that may be affected by the proposed rulemaking.

14. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 615 carriers reported that they were engaged in the provision of pay telephone services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data

specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 615 small entity pay telephone operators that may be affected by the proposed rulemaking.

15. *Resellers (including debit card providers)*. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 388 toll and 54 local entities reported that they were engaged in the resale of telephone service. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 388 small toll entity resellers and 54 small local entity resellers that may be affected by the proposed rulemaking.

16. *Toll-Free 800 and 800-Like Service Subscribers*. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service ("toll free") subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. See FCC, CCB Industry Analysis Division, *FCC Releases Study on Telephone Trends*, Tbls. 21.2, 21.3 and 21.4 (February 19, 1999). According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at

this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 7,692,955 small entity 800 subscribers, fewer than 7,706,393 small entity 888 subscribers, and fewer than 1,946,538 small entity 877 subscribers may be affected by the proposed rulemaking.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

17. In this *Notice of Proposed Rulemaking*, the Commission proposes a number of steps to reduce the regulatory burden on carriers filing section 214 authorization under the Communications Act. The Commission does not believe that small entities would be disproportionately affected by the implementation of the measures under consideration. In this *Notice of Proposed Rulemaking*, the Commission proposes to clarify existing rules and shorten the review period for a predetermined class of domestic section 214 applications. The Commission expects these changes would save carriers time and labor in the pre-filing stage, by reducing the amount of research required and documentation to be submitted when it is apparent that the transaction would require little scrutiny in order for the Commission to determine that it serves the public interest. The Commission also expects these changes would save carriers time and labor during the review period by reducing costs associated with uncertainty surrounding the current process. Accordingly, any costs associated with the proposed measures in this *Notice of Proposed Rulemaking* would not be greater for small carriers.

#### *Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

18. The Regulatory Flexibility Act requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from

coverage of the rule, or any part thereof, for small entities. See 5 U.S.C. 603(c).

19. In section II(B) of the *Notice of Proposed Rulemaking*, the Commission seeks comment on whether the established Commission review periods for transfers of control should be 31 days for non-dominant carriers. In considering alternatives to a 31-day review, the Commission weighed the need for Commission time to review the application and public record (including adequate time for competitors and other interested parties to file a petition to deny a proposed application), versus the costs faced by the applicants associated with filing, as well as the business and legal uncertainty that accompanies an extended waiting period. Accordingly, it is possible that a 31-day review period would minimize application-related costs and uncertainties while preserving the Commission's ability to review the proposed transaction. The item also seeks comment whether longer or shorter review periods should apply. The review period would apply to all non-dominant carriers including small entities. The Commission staff has come to no conclusion as to what length review period should apply. However, one argument in favor of a 31-day review period is that a shorter review period would have the unintended result of impacting small entities negatively rather than beneficially. Small entities commenting on the appropriate review period may wish to address whether small entities would be negatively impacted by a shorter review period because they would not be able to effectively comment on the public interest benefits or harms of competitors' proposed consolidations.

20. The *Notice of Proposed Rulemaking*, in section II(B), also seeks comment on whether to accord streamlined treatment to applications that are accompanied by requests for waivers of other Commission rules. The Commission has come to no conclusion whether such a rule should apply. However, one consideration in favor of considering waiver requests on a case by case basis is that small entities seeking to comment on issues raised by the waiver may lack the resources to adequately or timely respond otherwise. Therefore, the Commission believes it should maintain the flexibility to consider whether commenters representing the interests of small entities have had adequate opportunity to comment.

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

21. None.

*Procedural Matters*

1. Pursuant to the authority contained in sections 2, 4(i)–(j), 201, 214, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r), that the *Notice of Proposed Rulemaking* in CC Docket No. 01–150 is adopted.

2. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

3. Pursuant to sections 2, 4(i)–(j), 201, 214, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r), that the *Notice of Proposed Rulemaking* in CC Docket No. 01–150 is adopted.

Comments are due September 10, 2001. Reply Comments are due October 9, 2001.

**List of Subjects in 47 CFR Part 63**

Communications common carriers, Telecommunications, Transfers of control, Mergers.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

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