record in case of judicial review. EPA will consider any comments received in writing by November 1, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (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. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This 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, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it 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, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government 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) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. 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 State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program 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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative Practice and Procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 17, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–24596 Filed 10–1–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 00–175; FCC 01–261]

2000 Biennial Regulatory Review Separate Affiliate Requirements of Independent Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document institutes a broad-based reexamination of part 64, subpart T of the Commission's rules, which establishes safeguards for the provision of in-region interexchange services by incumbent independent local exchange carriers. In this document the Commission invites comment on whether the benefits of the separate affiliate requirement for facilities-based providers continue to outweigh the costs and whether there are alternative safeguards that are as effective but impose fewer regulatory costs.

DATES: Comments due on or before November 1, 2001 and Reply Comments due on or before November 23, 2001.

FOR FURTHER INFORMATION CONTACT: Jessica Rosenworcel, Attorney Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418–1580.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in CC Docket No. 01–175, FCC 01–261, adopted September 13, 2001, and released September 14, 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, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* It is also available on the Commission's website at *http://www.fcc.gov.*

Synopsis of the Notice of Proposed Rulemaking

1. Under § 64.1903 of the Commission's rules, incumbent independent local exchange carriers (LECs) providing facilities-based, in-region, interexchange service must do so through a separate corporate affiliate. In this document the Commission invites interested parties to comment on whether application of the separate affiliate requirement for incumbent independent LECs continues to serve the public interest. The Commission first asks a series of questions intended to elicit information regarding the number of incumbent independent LECs providing in-region, interexchange service on either a facilities or resale basis. In addition, the Commission asks for comment on whether or not the benefits of this separate affiliate requirement outweigh the regulatory and economic costs involved. Finally, the Commission seeks comment on possible alternative safeguards, including proposals for applying the

separate affiliate requirement to a more limited category of incumbent independent LECs.

Initial Regulatory Flexibility Analysis

2. As required by the Regulatory Flexibility Act (RFA), as amended,[1] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the expected economic impact on small entities by the policies and rules proposed in this NPRM. 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 NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Need for, and Objectives of, the Proposed Rules

3. In this NPRM, the Commission seeks comment on whether or not the benefits of its separate affiliate requirement for in-region interexchange service provided by incumbent independent LECs continues to outweigh the costs and whether or not there are alternative safeguards that are as effective but impose fewer regulatory costs.[2]

Legal Basis

4. The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 4, 201–202, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303, and 403, and sections 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

5. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by any rules.[3] The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.''[4] For the purposes of this order, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[5] Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[6] Consistent with the SBA's Office of Advocacy's view, the Commission has included small incumbent LECs in this RFA analysis. The Commission emphasizes, however, that this RFA action has no effect on the its analyses and determinations in other, non-RFA contexts.

6. *Local Exchange Carriers.* The most reliable source of information regarding the number of LECs nationwide appears to be the data that the Commission collects annually in connection with the Telecommunications Relay Service (TRS).[7] According to our most recent data, there are 1,335 incumbent LECs.[8] Although some of these carriers may not be 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 LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 1,335 small entity incumbent LECs that may be affected by the proposals in the NPRM.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

7. The Commission expects that any proposal it may adopt pursuant this NPRM will decrease existing reporting, recordkeeping or other compliance requirements.

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

8. The overall objective of this proceeding is to reduce existing regulatory burdens on small carriers to the extent consistent with the public interest.

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

9. None.

Ordering Paragraphs

10. Pursuant to the authority contained in sections 2, 4(i)–4(j), 201, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–4(j), 201, 303(r), this NPRM is adopted.

11. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–24569 Filed 10–1–01; 8:45 am]

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[1] 5 U.S.C. 603. The RFA, see 5 U.S.C. 601 et seq., has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[2] 47 U.S.C. 64.1901–03.

[3] 5 U.S.C. 603(b)(3), 604(a)(3).

[4] 5 U.S.C. 601(6).

[5] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 5 U.S.C. 632).

[6] 15 U.S.C. 632.

[7] 47 CFR 64.601 et seq.; Carrier Locator: Interstate Service Providers, FCC Common Carrier Bureau, Industry Analysis Division (rel. Oct. 2000) (Carrier Locator).

[8] Carrier Locator at Figure 1. The total for competitive LECs includes competitive access providers and competitive LECs.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–115; CC Docket No. 96–149; FCC 01–247]

Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as Amended

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on what methods of customer consent would serve the governmental interests at issue and afford informed consent in accordance with the First Amendment. The Commission also seeks comment on the interplay between section 222 and 272 of the Act in response to a voluntary remand granted by the United States Circuit Court of Appeals for the District of Columbia. The Commission seeks to obtain a more complete record on ways in which customers can consent to a carrier's use of their CPNI.

DATES: Comments due on or before November 1, 2001 and Reply Comments due on or before November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Marcy Greene, Attorney Advisor, Policy and Program Planning Division, Common Carrier Division, (202) 418–2410.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking