

13132, if it has a substantial direct effect on State or Local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian tribal governments, because it would 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.

#### Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(g) of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are not required for this proposed rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to revise 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

2. Revise paragraph (a)(1) of § 165.916 to read as follows:

##### § 165.916 Security Zones; Captain of the Port Milwaukee Zone, Lake Michigan.

(a) *Location.* \* \* \*

(1) *Kewaunee Nuclear Power Plant*—All navigable waters of Western Lake Michigan encompassed by a line commencing from a point on the shoreline at 44°20.715' N, 087°32.080'

W; then easterly to 44°20.720' N, 087°31.630' W; then southerly to 44°20.480' N, 087°31.630' W; then westerly to 44°20.480' N, 087°31.970' W, then northerly following the shoreline back to the point of origin. (NAD 83).

\* \* \* \* \*

Dated: 24 September 2003.

**H.M. Hamilton,**

*Commander, U.S. Coast Guard, Captain of the Port Milwaukee.*

[FR Doc. 03–26305 Filed 10–16–03; 8:45 am]

BILLING CODE 4910–15–P

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[PA203–4209b; FRL–7570–6]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Five Individual Sources

**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 to establish and require reasonably available control technology (RACT) related requirements to limit volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) from five individual sources. 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. **DATES:** Comments must be received in writing by November 17, 2003.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental

Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in the Supplementary Information section. 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:** Rose Quinto at (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, Pennsylvania's Approval of VOC and NO<sub>x</sub> RACT Requirements for Five Individual Sources, that is located in the "Rules and Regulations" section of this *Federal Register* publication.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA203-4209 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic

public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov), attention: PA203-4209. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

ii. *Regulations.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available

at the Regional Office for public inspection.

### Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

### Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

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.

Dated: September 29, 2003.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

[FR Doc. 03-26194 Filed 10-16-03; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Chapter I

[CC Docket No. 96-128; FCC 03-220]

#### Implementation of Section 273 of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** This document terminates the pending Notice of Proposed Rulemaking to implement provisions of section 273 of the Telecommunications Act of 1996 (the Act) that pertain to manufacturing by the Bell Operating Companies (BOCs). (*In the Matter of Implementation of Section 273 of the Communications Act of 1934, as Amended in the Telecommunications Act of 1996*, Notice of Proposed Rulemaking, CC Docket No. 96-254, 62 FR 3638, January 24, 1997 (*BOC Manufacturing NPRM*)). The statute, as written, is sufficiently detailed and clear as to cover most circumstances at this time. Adopting rules to implement the provisions of section 273 would not serve the public interest and would impose unnecessary regulatory burdens inconsistent with the pro-competitive, deregulatory goals of the Act. Accordingly, for the reasons indicated below, the Commission concludes that it is unnecessary to adopt rules to implement section 273 at this juncture and terminates this proceeding.

**DATES:** This proposed rule is withdrawn as of October 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** Henry L. Thaggert, Attorney-Advisor, Competition Policy Division, Wireline Competition Bureau, at (202) 418-7941, or via the Internet at [hthaggert@fcc.gov](mailto:hthaggert@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Memorandum Opinion and Order in CC Docket No. 96-254, FCC 03-220, adopted September 15, 2003, and released September 16, 2003. The complete text of this Memorandum

Opinion and Order 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](mailto:qualexint@aol.com). It is also available on the Commission's Web site at <http://www.fcc.gov>.

#### Synopsis of the Memorandum Opinion and Order

1. *Background.* Section 273 permits a BOC to manufacture telecommunications equipment and customer premises equipment through a structurally separate corporate affiliate once the Commission authorizes the BOC to provide in-region, interLATA services pursuant to section 271(d) of the Act. Section 273 provides for two important exceptions to the requirement that a BOC refrain from all manufacturing activity until after it receives section 271 approval. First, section 273(b)(1) permits a BOC at any time to engage in "close collaboration" with manufacturers on product design and development. Second, section 273 (b)(2) permits a BOC at any time to enter into "royalty agreements" with manufacturers.

2. The *BOC Manufacturing NPRM* invited comment and proposed numerous tentative conclusions to implement rules governing section 273. The *BOC Manufacturing NPRM* generated comment from BOCs, competitive LECs, manufacturers, and others. Since the issuance of the *BOC Manufacturing NPRM*, each BOC has obtained section 271 authority to provide in-region interLATA service in at least one of its states, and Verizon and BellSouth have received section 271 authority throughout their regions. Yet to our knowledge, no BOC has created a manufacturing affiliate, nor has the Commission received complaints that BOCs have violated section 273.

3. The Commission concludes that the provisions of section 273 are sufficiently detailed as to be self-executing and sufficiently clear as to cover most circumstances. Thus, section 273 requires no further elaboration at this time. More than seven years have passed since the passage of the Act, and the Commission has granted section 271 authorization to provide in-region interLATA service in forty-two states and the District of Columbia. Our experience over this time frame

persuades us, with the benefit of hindsight, that the concerns the Commission articulated in the *BOC Manufacturing NPRM* were unwarranted because the competitive harms the Commission envisioned simply have not materialized.

4. Whenever the Commission adopts rules, it must consider whether the benefit of such rules outweighs the burden on regulated entities. As written, section 273 provides detailed requirements that should facilitate quick review and disposal of alleged violations on a case-by-case basis. Moreover, if a party believes that section 273 does not clearly indicate the proper course of conduct, the Commission has in place adequate mechanisms for addressing the party's concerns. Accordingly, we believe a case-by-case approach would serve the public interest more efficiently than imposing a new rules regime.

#### Regulatory Flexibility Act

5. The Commission concludes that, because it does not adopt rules in this Memorandum Opinion & Order to implement section 273, our resolution of this matter raises no Regulatory Flexibility Act issues. Although section 273 focuses primarily on BOC manufacturing activity, in the *BOC Manufacturing NPRM* the Commission questioned whether development of rules would "have a significant economic impact on a substantial number of small businesses insofar as they apply to entities that develop standards, develop generic requirements and conduct certification activity." However, in this Memorandum Opinion & Order, the Commission neither promulgates new rules nor revises existing rules, thus the action does not require any change in the current practices of any standard setting entities, large or small. Accordingly, because the Commission implements no rules, it takes no action that would require entities to modify their practices. Thus, the Commission finds that the action will not have a "significant economic impact on a substantial number of small entities."

#### Paperwork Reduction Act of 1995

6. The Commission finds that this Memorandum Opinion and Order does not contain information collection provisions and therefore does not implicate the Paperwork Reduction Act of 1995.

#### Ordering Clauses

1. Accordingly, pursuant to sections 1, 3, 4(i)-(j), 7, 201-209, 218-220, 251, 271-273 and 403 of the