

Signed in Washington, DC, on September 12, 1996.

Phyllis W. Honor,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 96-23993 Filed 9-23-96; 8:45 am]

BILLING CODE 3410-FA-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL-5614-2]

Standards of Performance for New Stationary Sources Rescission of Alternate Opacity Standard for Omaha Public Power District—Nebraska City Power Station, Nebraska City, Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rule would rescind the alternate opacity emission limit established for the Nebraska City Power Station in Nebraska City, Nebraska, owned and operated by Omaha Public Power District (OPPD), pursuant to the New Source Performance Standards (NSPS) under the Clean Air Act. In the final rules section of the Federal Register, the EPA is promulgating this revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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.

Commenters should also indicate whether they wish to request a public hearing on this action, including the reasons for the request and the nature of the comments which would be presented at any public hearing. If a hearing is requested, the EPA will determine whether to hold a public hearing, and will announce the time and location of any hearing in a subsequent Federal Register document.

DATES: Comments and requests for public hearing must be submitted on or before October 24, 1996.

ADDRESSES: Written comments on this action should be addressed to Angela Ludwig, Air Permits and Compliance Branch, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. Comments should be strictly limited to the subject matter of this proposal, the scope of which is discussed below.

Docket: Pursuant to sections 307(d)(1)(C) of the CAA, 42 U.S.C. sections 7607(d)(1)(C), this action is subject to the procedural requirements of section 307(d). Therefore, the EPA has established a public docket for this action, Docket # A-96-31. Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Permits and Compliance Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 10460.

FOR FURTHER INFORMATION CONTACT: Angela Ludwig, Air Permits and Compliance Branch, Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7411.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule, which is located in the rules section of the Federal Register.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Fossil-fuel-fired steam generating units, Intergovernmental relations.

Authority: Sections 111 and 301(a) of the CAA, 42 U.S.C. sections 7411 and 7601(a).

Dated: September 16, 1996.

Carol Browner,
Administrator.

For the reasons set forth in the preamble, subpart D of part 60 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 60—[Amended]

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601

Subpart D—[AMENDED]

§ 60.42 [Amended]

2. Section 60.42 is amended by removing paragraph (b)(3).

§ 60.45 [Amended]

3. Section 60.45 is amended by removing paragraph (g)(1)(iii).

[FR Doc. 96-24282 Filed 9-23-96; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 96-187 ; FCC 96-367]

Implementation of Section 402(b)(1)(a) of the Telecommunications Act of 1996 (Tariff Streamlining Provisions for Local Exchange Carriers)

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In light of the passage of the Telecommunications Act of 1996 (1996 Act), which provides for streamlining tariff filings by local exchange carriers (LECs), the Commission is issuing this Notice of Proposed Rulemaking (NPRM) to implement the specific streamlining requirements of the Act. Specifically, the NPRM seeks comment on the statutory effect of LEC tariffs subject to streamlined regulation being "deemed lawful." In addition, the NPRM seeks comment on the types of tariffs eligible for filing on a streamlined basis and measures to streamlining the administration of LEC tariff process.

DATES: Comments must be submitted on or before October 9, 1996. Reply comments must be submitted on or before October 24, 1996. Written comments on the Initial Regulatory Flexibility Analysis must be filed in accordance with the same filing deadlines set for comments on the other issues in the NPRM. Written comments by the public on the proposed and/or modified information collections are also due at the same time as other comments on this NPRM. Written comments must be submitted by OMB on the proposed and/or modified information collections within 60 days of publication of this NPRM in the Federal Register.

ADDRESSES: Comments and Reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Jerry McKoy of the Common Carrier Bureau, 1919 M Street, N.W., Room 518, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's commercial copy contractor,

International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 1919 M Street, N.W., Room 239, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patrick Donovan or Dan Abeyta at (202) 418-1520, Common Carrier Bureau, Competitive Pricing Division. For additional information concerning the information collections contained in this NPRM, contact Dorothy Conway at (202) 418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's NPRM of Proposed Rulemaking (FCC 96-367) adopted on August 30, 1996 and released on September 6, 1996. The full text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, D.C. 20037.

Background

The NPRM tentatively concludes that these provisions to streamline LEC tariff filings do not preclude the Commission from exercising its forbearance authority under Section 10(a) of the Act to establish permissive or mandatory detariffing of LEC tariffs should the Commission choose to do so. The NPRM solicits comments on this tentative conclusion.

Paperwork Reduction Act

This NPRM contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due at the same time as comments on the other issues in the NPRM; OMB notification of action is due 60 days from the date of publication in the Federal Register. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the

respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None.

Title: Implementation of Section 402(b)(1)(A) of the Telecommunications Act of 1996 (Tariff Streamlining Provisions for Local Exchange Carriers) CC Docket No. 96-187.

Form No: N/A.

Type of Review: New Collection

Respondents: Business or other for-profit, including small businesses.

Proposed requirement	Number of respondents	Annual hour burden per response
Electronic filing	50	72
Tariff summaries	50	36
Analysis of lawfulness ...	50	72
Separate filing for rate decreases	10	4
Identification/labelling of streamlined tariffs	50	9
Filing of proposed orders	10	8

Total Annual Burden: 9,570.

Estimated Costs Per Respondents: \$2,800.

Needs and Uses: The information collections proposed in this NPRM would be used to ensure that affected telecommunications carriers fulfill their obligations under the Communications Act, as amended.

SYNOPSIS OF NPRM OF PROPOSED RULEMAKING

I. Introduction

1. On February 8, 1996, the Telecommunications Act of 1996 (1996 Act) became law. The 1996 Act seeks "to provide for a pro-competitive, deregulatory national political framework" designed to make available to all Americans advanced telecommunications and information technologies and services "by opening all telecommunications markets to competition." Section 402(b)(1)(A)(iii) of the 1996 Act adds Section 204(a)(3) to the Communications Act, which provides for streamlined tariff filings by local exchange carriers (LECs). In this NPRM, the Commission proposes measures to implement the specific streamlining requirements of Section 204(a)(3) as well as additional steps for streamlining the tariff process, consistent with the goals of the 1996 Act.

II. The 1996 Act

2. Section 402(b)(1)(A)(iii) of the 1996 Act adds new subsection 3 to Section 204(a) of the Communications Act of 1934 (the Act):

(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period as appropriate.

Section 402 of the 1996 Act also amends Section 204(a) of the Act to provide that the Commission shall conclude any hearings initiated under this section within five months after the date the charge, classification, regulation, or practice subject to the hearing becomes effective. Section 402(b)(4) of the 1996 Act provides that these amendments shall apply to any charge classification, regulation, or practice filed on or after one year after the date of enactment of the Act (i.e., February 8, 1997).

3. Under the 1996 Act, a local exchange carrier (LEC) is defined as "any person that is engaged in the provision of telephone exchange service or exchange access." A LEC "does not include a person insofar as such person is engaged in the provision of commercial mobile radio service under section 332(c), except to the extent that the Commission finds that such service should be included in the definition of such term."

III. Streamlined LEC Tariff Filings Under the 1996 Act

4. We believe that by adopting the provisions in Section 204(a)(3), Congress did not intend for the Commission to defer tariffs eligible for streamlined filing. Accordingly, we tentatively conclude that Congress intended to foreclose Commission exercise of its general authority under Section 203(b)(2) to defer up to 120 days tariffs that LECs may file on seven and 15 days' notice. We solicit comment on this tentative conclusion. Section 204(a)(3) of the Act also provides that LEC tariffs filed on a streamlined basis shall be "deemed lawful." The 1996 Act and the legislative history are silent regarding the specific legal consequences of this provision. We tentatively conclude that, by specifying that LEC tariffs shall be "deemed lawful," Congress intended to change the current regulatory treatment of LEC tariff filings.

5. We have identified at least two possible interpretations of "deemed lawful" that would alter the current regulatory treatment of LEC tariff filings. First, this language could be interpreted to change the legal status of LEC tariffs

that become effective without suspension and investigation. This interpretation of the statutory language would treat tariffs that have been "deemed lawful" similar to the way that we currently treat tariffs found lawful by the Commission after investigation. This interpretation, however, absent a suspension and investigation within 7/15 days, would limit the remedies available to LEC customers for rates, terms, and conditions that violate Section 201–202 of the Act in that damages could not be awarded for the period prior to the time the Commission determined in a Section 205 or 208 proceeding that a different rate, charge, classification, or practice would be lawful in the future. We solicit comment on this interpretation of "deemed lawful" and whether Congress intended "deemed lawful" to have the effect of limiting customers' remedies.

6. As an alternative approach, "deemed lawful" could be interpreted not to change the status of tariffs that become effective without suspension and investigation, but only to establish higher burdens for suspensions and investigation, such as by "presuming" LEC tariffs "lawful." Under this interpretation, the statutory language "unless the Commission [suspends and investigates] before the end of that 7-day or 15-day period," would not apply to the "deemed lawful" phrase, but only to the "shall be effective" phrase. A tariff that is reviewed under these presumptions of lawfulness is still subject to complaints and investigations under Sections 208 and 205. Damages may also be awarded for any period the tariff was in effect. We solicit comment on whether we should interpret "deemed lawful" to create a presumption of lawfulness in the pre-effective tariff review process.

7. Any interpretation of "deemed lawful," of course, must be consistent with other provisions of the Communications Act. Section 402(b)(1)(A)(iii) of the 1996 Act adds new Section 204(a)(3) concerning LEC tariff streamlining, but does not otherwise amend the statutory scheme for tariffing of interstate common carrier communications services. Thus, LECs and other carriers continue to be required to file tariffs pursuant to Section 203, and the rates, terms, and conditions of service must be just and reasonable under Section 201(b) of the Act, and not unreasonably discriminatory under Section 202(a) of the Act. Pursuant to Section 204(a) of the Act, the Commission may suspend and investigate proposed tariffs if they raise substantial questions of law and fact and there is substantial risk that

ratepayers or competitors would be harmed if the proposed tariff revisions were allowed to take effect. The 1996 Act also does not alter the Commission's authority to reject tariff filings, which derives from Section 201 of the Act.

8. We believe that both of our possible interpretations are consistent with this statutory scheme. Thus, our interpretations would not appear to conflict with any of the statutory provisions left in place by the 1996 Act. We additionally solicit comment on other possible interpretations of "deemed lawful." We will adopt the interpretation that will best meet the text and intent of the 1996 Act's tariff streamlining provisions.

IV. LEC Tariffs Eligible for Filing on a Streamlined Basis

9. The NPRM next considers the types of LEC tariff filings that are eligible for streamlined treatment. We tentatively conclude that all LEC tariff filings that involve changes to the rates, terms and conditions of existing service offerings are eligible for streamlined treatment. We believe that this interpretation would be most consistent with the purposes of Section 204(a)(3), and would simplify the administration of the LEC tariffing process. We solicit comment on this tentative conclusion. We solicit comment on the appropriate treatment of tariffs for new services. In addition, Section 204(a)(3) states that LECs "may" file under streamlined provision. We tentatively conclude that LECs may elect to file on longer notice periods, but that if they choose to do so, such tariffs would not be "deemed lawful." We also tentatively conclude that Section 204(a)(3) does not preclude the Commission from exercising its forbearance authority under Section 10(a) of the Act to establish permissive or mandatory detariffing of LEC tariffs. We solicit comments on these tentative conclusions.

V. Streamlined Administration of LEC Tariffs

10. We also discuss additional measures to more fully achieve a more streamlined and deregulatory environment for the administration of LEC tariffs without undermining existing statutory requirements.

11. *Electronic Filing.* We propose to require that carriers file tariffs and associated documents electronically. We solicit comment on whether the Commission should be responsible for organizing, posting, and supervising the tariff electronic filing system, or whether each carrier should be given the responsibility for posting, managing, and maintaining its electronic file of

tariffs, subject to Commission requirements. We tentatively conclude that carrier administration of the electronic filing system, subject to Commission oversight, would lead to a more streamlined administration of tariffs. We also propose to require that tariffs be submitted electronically in a specified database software program. We invite parties to submit detailed proposals for implementing an electronic system for tariff filings.

12. *Exclusive Reliance of Post-Effective Tariff Review.* We solicit comment on whether the Commission can, and should, adopt a policy of relying exclusively on post-effective tariff review, at least for certain types of tariffs. If parties conclude that we should adopt this practice for certain types of tariff transmittals, they should identify the classes and explain why post-effective review would service the public interest. We also seek comment on whether under such a general policy, the Commission should retain the discretion to conduct a pre-effective tariff review in individual cases. We solicit comment on the extent to which Section 204(a) limits our ability to rely on post-effective tariff review, and whether we should establish specific rules and procedures governing requests to review effective tariffs if we decide to place greater emphasis on such reviews in administering LEC tariffs.

13. *Pre-effective Tariff Review of Streamlined Tariff Filings.* Assuming that we continue to undertake pre-effective review of LEC tariffs filed on a streamlined basis under Section 204(a)(3), we solicit comment on what measures, if any, the Commission should establish in order to decide whether to suspend and investigate a transmittal within seven and 15 days. Specifically, we propose that LECs file summaries of the proposed tariff revisions with their tariff filings and an analysis showing that the tariffs are lawful under applicable rules. We solicit comments on whether the benefits of such requirements outweigh the burdens that it would impose on the filing carriers. In addition, we solicit comment on whether we may establish presumptions of unlawfulness for narrow categories of tariffs, such as tariffs facially not in compliance with our price cap rules, that would permit suspension and designation of issues for investigation through abbreviated orders or public notices. We solicit comment on what kinds of tariffs could be accorded this presumption.

14. We also request comment on the appropriate treatment of tariff transmittals that contain rate increases and decreases. We tentatively conclude

that the 15-day notice period should apply to these. Furthermore, carriers wishing to take advantage of the 7-day notice period should file rate decreases in separate transmittals. Moreover, because of the short notice periods, to identify transmittals filed pursuant to Section 204(a)(2), we propose to require LECs to include a label in front of the tariff or a statement in the tariff transmittal indicating whether the tariff contains rate increases, rate decreases, or both. We also request comment on the best method for alerting the staff and interested parties about the contents of tariff transmittals. We additionally solicit comment on whether we should, as a convenience to interested parties, maintain a list of interested parties and provide affirmative notice to them by e-mail when a LEC tariff is filed. We would envision that this affirmative notice would not constitute legal notice of filing and that failure to provide notice for any reason would not extend the notice periods. Nevertheless, this would provide a convenient way for interested parties to learn about the tariffs. Finally, we tentatively conclude that the statutory notice period of seven and 15 refers to calendar days, not working or week days.

15. To the extent that we rely on pre-effective review, we will need to establish new filing periods to suspend and reject LEC transmittals filed on 7/15 days' notice. We propose to require that petitions against LEC tariffs that are effective within 7 or 15 days must be filed within 3 days after the date of the tariff filing and replies 2 days after service of the petition. We propose that determinations of due dates will be made under Section 1.4(j) of the rules, which provides that when a due date falls on a holiday or weekend, the document will be filed on the next business day. We also propose to require that all such petitions and replies will be hand-delivered to all affected parties, at least where the party is a commercial entity. In addition, we propose that in computing time periods, parties should be required to include intermediate holidays and weekends. We solicit comments on these proposals. We also seek comment on whether we should not provide for a public comment period during the 7/15 days' notice period. Instead, we would provide for comment only where a LEC tariff is suspended and investigated. We solicit comment on whether Section 204(a) establishes a right for interested persons to request suspension and investigation that may not be foreclosed.

16. The NPRM points out that the Commission regularly receives requests for confidential treatment of cost data

filed with tariff transmittals and also requests under the Freedom of Information Act for cost data for which the carrier has requested confidential treatment. Given the 7/15 day notice period established by the 1996 Act, we believe that the Commission will be unable to resolve these controversies on a case-by-case basis within the 7/15 day period established by the 1996 Act. We thus solicit comment on whether we should routinely impose a standard protective order whenever a carrier claims in good faith that information qualifies as confidential under relevant Commission precedent. We solicit comment on what the terms of a standard protective order should be, whether we should identify in the rules the types of data that would be eligible for confidential treatment, and what those types of data would be.

17. *Annual Access Tariff Filings.* Section 69.3(a) of the Commission's rules requires LECs and the National Exchange Carrier Association (NECA) to submit revisions to their annual access tariff on 90 days' notice to be effective July 1. These revisions are limited to changes in rate levels and therefore are eligible for filing on a streamlined basis. LECs and NECA are also encouraged to file tariff review plans (TRPs) to support the revisions to their rates in the access tariff. With respect to carriers subject to price cap regulation, we propose to require carriers to file a TRP prior to the filing of the annual tariff revisions absent any information on proposed rates. Because the TRP would not include information regarding a LEC's tariffed rates, charges, classification, we tentatively conclude that we may require LECs' TRP filings prior to the filing of the annual access tariff. We seek comment on this approach. We also solicit comment on the filing date that we should establish for the TRP if we adopt this approach. With respect to carriers subject to rate-of-return regulation, we propose to require them to file their TRPs and annual access tariffs that propose rates 15 days prior to their scheduled effective date of July 1.

18. *Investigations.* As noted, Section 402 of the 1996 Act amends Section 294(a) of the Act, effective February 8, 1997, to provide that the Commission shall conclude all hearings initiated under this section within five months after the date the charge, classification, regulation or practice subject to the hearing becomes effective. We solicit comment on whether we should establish procedural rules to expedite the hearing process in light of the shortened period in which the Commission must complete tariff

investigations. We also solicit suggestions for reforms that will permit expeditious termination of tariff investigations, such as requiring the filing of form orders, using abbreviated orders without extensive findings, and terminating investigations by a pro forma order that adopts a decisional memoranda of the Common Carrier Bureau. We solicit comment on these approaches to terminating investigations. We also solicit comment on whether we should establish procedures for informal mediation of tariff investigation issues and what those procedures would be.

19. *NPRM Requirements.* The existing rules specifying notice periods for LEC tariffs must be amended to conform to the streamlined notice periods for LEC tariffs established in Section 204(a)(3). Currently Section 61.58 of the Commission's rules, which specifies the notice requirements that dominant carriers must afford the Commission and the public before tariff revisions can go into effect, provide for a notice period ranging from 14 to 120 days, depending on the type of carriers and the type of tariffs at issue. We propose to change Section 61.58 of the Commission's existing rules governing notice periods for LEC tariff filings to make this section consistent with the streamlined notice periods of seven and 15 days required by the 1996 Act. We solicit comment on this proposal. We also propose to permit LECs to file tariffs eligible for streamlined filing on any notice period greater than that permitted under the statute. We solicit comment on this proposal.

VI. Procedural Requirements

A. *Ex Parte* Presentations

20. This is a non-restricted notice and comment proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda Period, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a). Written submission, however, will be limited as discussed below.

B. *Initial Regulatory Flexibility Analysis*

21. As required by Section 603 of the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities of the policies and rules proposed in this NPRM of Proposed Rulemaking (NPRM) to implement Section 402(b)(1)(a) of the Telecommunications Act of 1996, which provides for streamlined tariff filings by local exchange carriers. Written public

comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments on the NPRM provided below in Section VI(D).

22. Need for and Objectives of the Proposed Rule: The Commission, in compliance with Section 402 of the Telecommunications Act of 1996, proposes to implement streamlined tariff filing requirements for local exchange carriers (LECs) with the minimum regulatory and administrative burden on telecommunications carriers.

23. Legal Basis: The Commission's objective in issuing this NPRM is to propose and seek comment on rules streamlining the LEC tariff filing process, consistent with the overriding goals of the 1996 Act. The legal basis for action as proposed in the Further NPRM is contained in sections 1, 4(i), 4(j), 201–205, 218, 251(b), 251(e), and 332 of the Communications Act of 1934, as amended. 47 U.S.C. 151, 154(i), 154(j), 201–205, 218, 251(b), 251(d), 251(e), 332.

24. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply: For purposes of this NPRM, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act (SBA), 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the SBA, 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 SBA. SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1500 employees.

25. Total Number of Telephone Companies Affected. Many of the decisions and rules adopted herein may have a significant economic impact on a substantial number of small telephone companies identified by SBA. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone service, as defined therein, for at least one year. This number contains a variety of different category of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497

telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." Our rules governing the streamlining of the LEC tariff process apply to LECs. We believe, however, that incumbent LECs are not small businesses for IRFA purposes because they are dominant in their field of operation. In this regard, we have found incumbent LECs to be "dominant in their field of operation" since the early 1980's, and we consistently have certified under the RFA that incumbent LECs are not subject to regulatory flexibility analysis because they are not small businesses. In order to remove any possible issue of RFA compliance, we nevertheless tentatively conclude that small incumbent LECs should be included in this IRFA. We seek comment on this tentative conclusion.

Under the new competitive provisions of the 1996 Act, however, there could be a number of new LECs entering the local exchange market that would be considered small businesses. To the extent that such carriers file tariffs and would be considered non-dominant, we do not believe that our rules would create any additional burdens because under section 63.23(c), 47 CFR 63.23(c), non-dominant carriers are permitted to file tariffs on one day's notice. We solicit comment on this analysis. Further, our other proposals that would apply to such carriers, such as streamlined filings, would reduce administrative burdens, to the extent they file tariffs.

26. Local Exchange Carriers. Neither the Commission nor SBA has developed a definition of small providers of local exchange service (LECs). 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 LECs nationwide of which we are aware appears to be the data that we collect annually in connection with Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange service. Although it seems certain that some of these carriers are not independently owned and operated, or have fewer than 1500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Tentatively, we conclude that there are fewer than 1,347 small incumbent LECs that may be affected by

the proposals in this NPRM. We seek comment on this conclusion.

27. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements: In Section V of this NPRM, we request comment on whether LECs should be required to file with their tariffs a summary of the proposed tariff revisions and an analysis showing that the revisions are lawful under applicable rules. These obligations would arise any time a LEC files a tariff revision. We are unable to estimate the number of times LECs would file tariffs annually, but it could vary from none to 20 or more, for a limited number of carriers. We estimate, however, that, on average, it would take approximately three hours for the LECs to prepare the tariff summary and the analysis at a cost of \$80 per hour in professional level and support staff salaries. In addition, LECs subject to price cap regulation would be required to file their tariff review plans (TRP) prior to the filing of their annual tariff revisions. This proposal would not impose a significant burden on the LECs because they currently file TRPs, although at the time they file their annual access tariff. Adoption of this proposal would require that the carriers allocate the resources needed to complete the TRPs prior to their filing of the annual access tariffs. In order to comply with these proposed requirements, carriers would need to utilize tariff analysts and legal and accounting personnel. We believe that entities subject to these requirements have the personnel necessary to meet these requirements since LECs are already required to utilize staff with skills necessary to establish tariffs that comply with Sections 201–205 of the Communications Act. If adopted, these proposals would constitute new reporting requirements, but we believe they are justified in order to assure compliance with Sections 201–205 of the Communications Act. We seek comment on the impact of these proposals on small entities.

28. Steps Taken to Minimize Significant Economic Impact on Small Entities and Small Entities and Small Incumbent LECs, and Alternatives Considered. We believe that our proposed actions to implement the specific streamlining requirements of Section 204(a)(3) of the Communications Act as well as additional steps for streamlining the tariff process minimizes the economic impact on all LEC carriers that are eligible for streamline regulation. For example, our proposal to establish a program for the electronic filing of tariffs will reduce the existing economic

burden on carriers who are now required to file paper tariffs with the Commission.

29. We have considered the alternative of not requiring the LECs to submit the information noted above. We believe, however, that these proposals would not impose a significant burden on price cap carriers and that the minimal burden resulting from these proposals is outweighed by the Commission's need to fulfill its statutory duties. We seek comment on this tentative conclusion and any other potential impact of these proposals on small business entities.

30. *Federal Rules which Overlap, Duplicate or Conflict with these Rules:* None.

C. Initial Paperwork Reduction Act of 1995 Analysis

This NPRM contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

D. Comment Filing Procedures

In order to facilitate review of comments and reply comments, by both parties and Commission staff, we require that comments be no longer than 40 pages for comments and 20 pages for replies. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with Section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. Comments and reply comments also must clearly identify the specific portion of this NPRM to which a particular comment or set of comments is responsive. If a portion of a party's comments does not fall under a particular topic listed in the NPRM, such comments must be included in a clearly labelled section at the beginning or end of the filing. Parties may not file more than a total of ten (10) pages of *ex parte* submissions, excluding cover letters. This 10 page limit does not include: (1) Written *ex parte* filings made solely to disclose an oral *ex parte* contact; (2) written material submitted at the time of an oral presentation to Commission staff that provides a brief

outline of the presentation; (3) written material filed in response to direct requests from commission staff, or (4) any proposed rule language. *Ex parte* filings in excess of this limit will not be considered as part of the record in this proceeding.

Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Jerry McKoy of the Common Carrier Bureau, 1919 M Street, N.W., Room 518, Washington, D.C. 20554. Such a submissions should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode and should be clearly labelled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to dconway@fcc.gov and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

VII. Ordering Clauses

31. Accordingly, it is ordered that, pursuant to Sections 1 and 4 of the Communications Act of 1934, as amended, 47 U.S.C. 151 and 154, a notice of proposed rulemaking is hereby adopted and that comment is sought on the issues contained therein. Interested parties may file comments on or before October 9, 1996, and reply comments on or before October 24, 1996.

32. It is further ordered that, the Secretary shall send a copy of this NPRM of Proposed Rulemaking, including the regulatory certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 605(b) and Paragraph 603(a) of the Regulatory Flexibility Act, Public Law 96-354, 94 Stat. 114, 5 U.S.C. 601 *et seq* (1981).

List of Subjects in 47 CFR Part 69

Telephone.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 96-24464 Filed 9-23-96; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 572

[Docket No. 96-098, Notice 01]

RIN 2127-AG37

Side Impact Protection Side Impact Dummy

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes two amendments to the specifications for the side impact test dummy and to the procedure in NHTSA's side impact protection standard for positioning the dummy in a vehicle for compliance testing purposes. The first amendment would add plastic inserts-spacers to the dummy's lumbar spine. This change is intended to prevent a cable within the spine from snapping, which some manufacturers believe can generate large spikes in the data obtained from the dummy. The second amendment would specify that the ribcage damper piston of the dummy is set during the dummy positioning procedure to the fully extended position prior to the side impact dynamic test. These changes are intended to improve the consistency of the data obtained from the dummy in a side impact crash test.

DATES: Comments on this proposed rule must be received by the agency no later than November 25, 1996.

Proposed effective date: 45 days after publication of a final rule in the Federal Register.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, D.C., 20590. Telephone: (202) 366-5267. Docket hours are 9:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Mr. Stan Backaitis, Office of Vehicle Safety Standards, (telephone 202-366-4912). For legal issues: Ms. Deirdre Fujita, Office of the Chief Counsel (202-366-2992). Both can be reached at the National Highway