or lease burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's decision includes no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program, except in certain cases where a ''Federal intergovernmental mandate'' affects an annual Federal entitlement program of $500 million or more which are not applicable here. Arizona's request for approval of its biosolids management program is voluntary and imposes no Federal mandate within the meaning of the Act. Rather, by having its biosolids management program approved, the State will gain the authority to implement the program within its jurisdiction, in lieu of EPA, thereby eliminating duplicative State and Federal requirements. If a State chooses not to seek authorization for administration of a biosolids management program, regulation is left to EPA. EPA's approval of state programs generally may reduce compliance costs for the private sector, since the State, by virtue of the approval, may now administer the program in lieu of EPA and exercise primary enforcement. Hence, owners and operators of biosolids management facilities or businesses generally no longer face dual Federal and State compliance requirements, thereby reducing overall compliance costs. Thus, today's decision is not subject to the requirements of sections 202 and 205 of the UMRA. The Agency recognizes that small governments may own and/or operate biosolids management facilities that will become subject to the requirements of an approved State biosolids management program. However, small governments that own and/or operate biosolids management facilities are already subject to the requirements in 40 CFR parts 123 and 503 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own biosolids management program and any revisions to that program, these same small governments will be able to own and operate their biosolids management facilities or businesses under the approved State program, in lieu of the Federal program. Therefore, EPA has determined that this document contains no regulatory requirements that might significantly or uniquely affect small governments.

Dated: November 10, 2003.

Alexis Strauss,

Acting Regional Administrator, Region 9.

[FR Doc. 03–29177 Filed 11–20–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 53

[WC Docket No. 03–228; FCC 03–272]

Section 272(b)(1)'s ''Operate Independently'' Requirement for Section 272 Affiliates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document initiates an inquiry regarding the Commission's rules implementing section 272(b)(1) of the Communications Act of 1934, as amended, (the Act) seeking comment on whether the Commission should modify the rules adopted to implement section 272(b)(1)'s ''operate independently'' requirement. Specifically, the Commission seeks comment on whether the operating, installation, and maintenance (OI&M) sharing prohibition is an overbroad means of preventing cost misallocation or discrimination by Bell operating companies (BOCs) against unaffiliated rivals. It also seeks comment on whether the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located, should be modified or eliminated.

DATES: Comments are due December 8, 2003, and Reply Comments are due December 16, 2003.

FOR FURTHER INFORMATION CONTACT: Christi Shewman, Attorney-Advisor, Wireline Competition Bureau, at (202) 418–1686 or via the Internet at *christi.shewman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 03–228, FCC 03–272, adopted November 3, 2003, and released November 4, 2003. The complete text of this NPRM 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 Web site at *http://www.fcc.gov.*

Synopsis of the Notice of Proposed Rulemaking (NPRM)

1. In this proceeding, the Commission seeks comment on whether the Commission should modify or eliminate its rules implementing the ''operate independently'' requirement of section 272(b)(1) of the Act. The Commission's seven years of experience in implementing the Telecommunications Act of 1996 leads it to re-examine the rules designed to ensure that section 272 affiliates ''operate independently'' as required by the statute. The Commission seeks to determine whether these rules continue to strike an appropriate balance between allowing the BOCs to achieve efficiencies within their corporate structures and protecting ratepayers against improper cost allocation and competitors against discrimination.

2. *Background.* Sections 271 and 272 establish a comprehensive framework governing BOC provision of ''interLATA service.'' Pursuant to section 271, neither a BOC nor a BOC affiliate may provide in-region, interLATA service prior to receiving section 271(d) authorization from the Commission. Section 272 requires BOCs, once authorized to provide in-region, interLATA services in a state under section 271, to provide those services through a separate affiliate until the section 272 separate affiliate requirement sunsets for that particular state. Section 272 imposes structural and transactional requirements on section 272 separate affiliates, including the requirement under section 272(b)(1) to ''operate independently'' from the BOC.

3. In the *Non-Accounting Safeguards Order,* (62 FR 2927, January 21, 1997), the Commission concluded that the ''operate independently'' language of section 272(b)(1) imposes requirements

on section 272 separate affiliates beyond those detailed in section 272(b)(2) through (b)(5). As a result, the Commission adopted rules to implement the ''operate independently'' requirement that prohibits a BOC and its section 272 affiliate from (1) jointly owning switching and transmission facilities or the land and buildings on which such facilities are located; and (2) providing OI&M services associated with each other's facilities. Specifically with regard to sharing OI&M functions, the Commission's rules prohibit a section 272 affiliate from performing OI&M functions associated with the BOC's facilities. Likewise, they bar a BOC or any BOC affiliate, other than the section 272 affiliate itself, from performing OI&M functions associated with the facilities that its section 272 affiliate owns or leases from a provider other than the BOC with which it is affiliated. At the time of the *Non-Accounting Safeguards Order,* the Commission reasoned that allowing joint ownership of facilities and sharing of OI&M functions between BOCs and their 272 affiliates would create opportunities for improper cost allocation and discrimination that the separate affiliate requirement was intended to prevent. At the same time, the Commission recognized that restrictions on sharing of facilities and services impose costs, including inefficiencies within the BOCs' corporate structures, and that the economies of scale and scope inherent to integration produce economic benefits to consumers. The Commission explained that it was ''strik[ing] an appropriate balance between allowing the BOCs to achieve efficiencies within their corporate structures and protecting ratepayers against improper cost allocation and competitors against discrimination.''

4. *Operating, Installation, and Maintenance Functions.* The Commission seeks comment on whether the cost data suggest that the costs of the OI&M sharing prohibition outweigh the benefits. It seeks comment on whether eliminating the prohibition on sharing OI&M functions would materially increase the BOCs' ability or incentive to discriminate against unaffiliated rivals in the long distance market. The Commission also seeks comment on whether it would diminish the ability of the Commission to monitor and enforce compliance with the Act.

5. The Commission seeks comment on whether the potential savings to be gained by BOC operations and the potential for increased interLATA competition outweigh any benefits from continuing to apply the OI&M sharing prohibition. It seeks comment on whether the OI&M sharing prohibition imposes inefficiencies and what the extent of those inefficiencies is. The Commission also seeks comment on the benefits to consumers of allowing more integrated OI&M operations between BOCs and their section 272 affiliates and on the magnitude of the risks and adverse consequences of possible anti-competitive conduct facilitated by OI&M sharing. Parties are asked to address in their comments the effectiveness of non-structural safeguards alone, rather than maintaining the OI&M sharing prohibition, to prevent and detect cost misallocation and discrimination.

6. *Joint Facilities Ownership.* In addition to the OI&M sharing prohibition, the Commission adopted a rule to implement section 272(b)(1) that prohibits joint ownership of switching and transmission facilities or the land and buildings on which such facilities are located. Although the Commission reaches no tentative conclusion with regard to this restriction, it seeks comment on whether it is needed to prevent cost misallocation and discrimination. Parties are asked to identify both the costs and benefits of maintaining or eliminating the joint facilities ownership restriction. The Commission seeks comment on whether existing non-structural safeguards are adequate to serve the purpose that the joint facilities ownership restriction was intended to serve. Parties are also asked to discuss whether any new safeguards may be needed in the event that the joint facilities ownership restriction is eliminated. Finally, commenters should address how a conclusion by the Commission to eliminate both the joint facilities ownership restriction and the OI&M sharing prohibition would relate to the Commission's conclusion in the *Non-Accounting Safeguards Order* that the ''operate independently'' language of section 272(b)(1) imposes separate and independent requirements on section 272 separate affiliates beyond those detailed in section 272(b)(2) through (b)(5).

Initial Paperwork Reduction Act Certification

7. This NPRM may contain a new or modify an existing information collection. As part of our continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the possible changes in information collection contained in the NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due 60 days from the date of publication of this NPRM in the **Federal Register**. Comments should address: (1) Whether the possible changes in the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of any information collected; and (4) ways to minimize the burden of any collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Initial Regulatory Flexibility Certification

8. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 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 Small Business Administration (SBA).

9. In this NPRM, the Commission seeks comment on whether it should modify or eliminate the rules adopted to implement the ''operate independently'' requirement of section 272(b)(1) of the Act. Specifically, it seeks comment on whether the OI&M sharing prohibition is an overbroad means of preventing cost misallocation or discrimination by BOCs against unaffiliated rivals. The Commission also seeks comment on whether the prohibition against joint ownership by BOCs and their section 272 affiliates of switching and transmission facilities, or the land and buildings on which such facilities are located, should be modified or eliminated. The rules under consideration in this NPRM apply only to BOCs and their section 272 affiliates. Neither the Commission nor the SBA has developed a small business size standard specifically applicable to providers of incumbent local exchange service and interexchange services. The

closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. This provides that such a carrier is small entity if it employs no more than 1,500 employees. None of the four BOCs that would be affected by amendment of these rules meets this standard. The Commission next turns to whether any of the section 272 affiliates may be deemed a small entity. Under SBA regulation 121.103(a)(4), ''SBA counts the * * * employees of the concern whose size is at issue and those of all its domestic and foreign affiliates * * * in determining the concern's size.'' In that regard, although section 272 affiliates operate independently from their affiliated BOCs, many are 50 percent or more owned by their respective BOCs, and thus would not qualify as small entities under the applicable SBA regulation. Moreover, even if the section 272 affiliates were not ''affiliates'' of BOCs, as defined by SBA, as many are, the Commission estimates that fewer than fifteen section 272 affiliates would fall below the size threshold of 1,500 employees. Particularly in light of the fact that Commission data indicate that a total of 261 companies have reported that their primary telecommunications service activity is the provision of interexchange services, the fifteen section 272 affiliates that may be small entities do not constitute a ''substantial number.'' Because the proposed rule amendments directly affect only BOCs and section 272 affiliates, based on the foregoing, the Commission concludes that a substantial number of small entities will not be affected by our proposal.

10. Accordingly, for the reasons set forth above, the Commission certifies that the proposals in this NPRM, if adopted, will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of the Notice, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register**.

Ordering Clauses

11. Accordingly, pursuant to the authority contained in sections 2, 4(i)–(j), 272, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–(j), 272, 303(r), this *Notice of Proposed Rulemaking* is Adopted.

12. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall Send a copy of this *Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–29054 Filed 11–20–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[DOT Docket No. NHTSA–03–15073]

RIN 2127–AI67

Federal Motor Vehicle Safety Standards; Motorcycle Controls and Displays

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, we (NHTSA) propose two regulatory alternatives to amend the motorcycle controls and displays standard. Each alternative would require that for certain motorcycles without a clutch control lever, the rear brakes be controlled by a lever located on the left handlebar. We also request comment on industry practices and plans regarding controls for motorcycles with integrated brakes. Finally, we propose minor changes to a table in the motorcycle controls and displays standard. This rulemaking responds to a petition from Vectrix Corporation.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than January 20, 2004.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at (202) 366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday, except for Federal holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Michael Pyne, Office of Crash Avoidance Standards at (202) 366–4171. His FAX number is (202) 493–2739. For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel, at (202) 366–2992. Her FAX number is (202) 366–3820. You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. What Does FMVSS No. 123 State at Present?

Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle controls and displays,* specifies requirements for the location, operation, identification, and illumination of motorcycle controls and displays. The