that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 30, 2005.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1240 is amended by redesignating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.1240 Thymol; exemption from the requirement of a tolerance.

* * * * *

(b) An exemption from the requirement of tolerance is established for residues of Thymol (5-methyl-2-isopropyl-1-phenol in or on honey, honeycomb, and honeycomb with honey when used in accordance with good agricultural practices.

[FR Doc. 06–436 Filed 1–17–06; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94–129; DA 05–1618]

Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: A Petition for Declaratory Ruling regarding the Commission's carrier change verification rules was filed by a coalition of rural local exchange carriers (LEC Petitioners). Specifically, the LEC Petitioners asked the Commission to declare that certain carrier change verification actions do not violate the Commission's rules, which prohibits executing carriers from verifying the submission of a change request by a submitting carrier or causing an unreasonable delay in the execution of a change. In this document, the Commission denies the LEC Petitioners' request.

DATES: Effective January 18, 2006.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Marks, Consumer & Governmental Affairs Bureau, (202) 418–2512 (voice), *David.Marks@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Declaratory Ruling* (Order) DA 05–1618, CC Docket No. 94–129, adopted June 8, 2005 and released June 9, 2005. The Order denies a Petition for Declaratory Ruling regarding the Commission's carrier change verification rules filed by a coalition of rural local exchange carriers (LEC Petitioners) on February 1, 2005.

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. In addition, it does not contain new or modified ''information collection burdens for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, Room CY–A257, 445 12th Street, SW., Washington, DC 20054. The complete text of this decision may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's contractor at their Web site: *http://www.bcpiweb.com* or call 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). The *Order* can also be downloaded in Word and Portable Document Format (PDF) at *http://www.fcc.gov/cgb/policy*.

Synopsis

On February 1, 2005, a coalition of rural local exchange carriers (LEC Petitioners) filed a Petition for Declaratory Ruling regarding the Commission's carrier change verification rules. In their Petition, LEC Petitioners set forth three main arguments that their practices do not violate the Commission's rules. First, they argue that there is no basis in law, including agency law, for the proposition that a third party (such as an executing LEC) should rely on a claim of authority of a person who the executing carrier believes to be without authorization. *See* Petition for Declaratory Ruling, CC Docket No. 94–129, filed February 1, 2005 (Petition), by 3 Rivers Telephone Cooperative, Inc., Armstrong Telephone Company Maryland, Armstrong Telephone Company New York, Armstrong, Telephone Company North, Armstrong Telephone Company Northern Division, Armstrong Telephone Company Pennsylvania, Armstrong Telephone Company West Virginia, Calaveras Telephone Company, Inc., Chester Telephone Company, Chibardun Telephone Cooperative, Inc., Chickasaw Telephone Company, Citizens Telephone Company of Higginsville, Concord Telephone Company, CTC Telcom, Inc., Darien Telephone Company, DTC Communications, Egyptian Telephone Cooperative, Five Area Telephone, Hardy Telephone Company, Horry Telephone Cooperative, Inc., HTC Communications, Lackawaxen Telecommunications Services, Inc., Lockhart Telephone Co., Margaratville

Telephone Company, Mid-Century Telephone Company, Mid-Rivers Telephone Cooperative, Nicholville Telephone Company, Inc., North Central Telephone Cooperative, Inc., North-Eastern Pennsylvania Telephone Company, Peoples Telephone Company, Poka Lambro Telephone Cooperative, Public Service Telephone Company, Ridgeway Telephone Co., Siskiyou Telephone Company, Smart City Telecom, Smithville Telephone Company, Stayton Cooperative Telephone Company, TEC Services, Inc., Trumansburg Telephone Company, Inc., United Telephone Company, Washington County Rural Telephone Cooperative, West Plains Telephone. Second, LEC Petitioners contend that their actions do not constitute reverification in violation of § 64.1120(a)(2) of the Commission's rules. Third, the LEC Petitioners argue that carrier change rejections under these circumstances do not cause ''unreasonable delay'' in violation of § 64.1120(a)(2) of the Commission's rules. The LEC Petitioners filed the Petition to clarify issues related to those complaints.

Section 64.1120(a)(2) of the Commission's rules provides that ''[a]n executing carrier shall not verify the submission of a change in the subscriber's selection of a telecommunications service received from a submitting carrier.'' *See* 47 CFR 64.1120(a)(2) of the Commission's rules. Based on this rule, the Commission concluded that an executing carrier's rejection of carrier change submissions by a submitting carrier, based on the executing carrier's own conclusion that the customer contacted by the submitting carrier was not authorized to make a long distance carrier change, violates § 64.1120(a)(2) of the Commission's rules.

The LEC Petitioners argue that there is no basis in law, including agency law, to hold that the executing LEC ''has any right to rely on the claim of authority of a person without authorization from the subscriber and thus no obligation to its subscriber to make changes to the subscriber's account.'' This argument fails. The executing carrier may not make an independent determination regarding whether the person authorizing the switch was an authorized agent of the party identified on the executing carrier's account. The Commission has already defined the role of both the submitting and executing carrier in a carrier change request. The submitting carrier, in the course of verifying the intention to change long distance service, is already required to elicit confirmation that the person contacted was authorized to make the change (that is, an agent of the party identified on the account). That the name(s) contained in the executing carrier's local account information differs from that of the contact person listed on the submitting carrier's change is not necessarily indicative of a lack of authority or agency on the part of the person requesting the long distance change. The Commission's rules require that executing carries engage in ''prompt execution of changes verified by a submitting carrier.'' Moreover, executing carriers are only allowed to use submitted carrier change information to effectuate the provision of service by the submitting carrier to its customer. An independent determination by an executing carrier of whether the person initiating a switch is an agent of the party listed on the account goes beyond this limited role. LEC Petitioners also state that the Commission, in its *Third Report and Order*, noted without disapproval that carriers maintain lists of customers authorized to make changes. *See* Petition at 15–16, citing the *Third Report and Order*, 15 FCC Record at 16021, paragraph 50 note 148. In this vein, the LEC Petitioners cite several other situations that can result in their return of a carrier change request to the submitting carrier, such as when a customer is already presubscribed to the submitting carrier, when a customer has a PIC freeze in place, or when PIC changes are not permitted. The Commission recognizes that carriers may access account information in the course of effectuating carrier changes, and does not believe that an executing carrier's return of a carrier change to the submitting carrier, under the limited circumstances described above, constitutes reverification in violation of our rules. The Commission's objection to the LEC actions at issue is not related to their consulting account information per se during the course of executing a carrier change. Rather, executing carriers may not make an independent determination with respect to the ability of a person to authorize a carrier change.

It is noted that the Commission's preferred carrier change provisions give consumers the option to ''freeze'' their choice of telecommunications carrier such that they must then contact their LEC to lift the freeze before any carrier changes can be effectuated. The LEC Petitioners argue that it is unreasonable to ask subscribers that wish additional carrier change protections to utilize a preferred carrier freeze. LEC Petitioners state that their method of simply rejecting submitting carrier changes that contain name(s) that differ from what is in the LEC's account information ''poses less of an impediment to consumers own desire to change carriers.'' The Commission disagrees. The Commission's preferred carrier freeze procedures are not ''complex'' for subscribers. Unlike the ''de facto'' freeze actions of the LEC Petitioners, the Commission's preferred carrier change provisions give consumers extra protections without raising anti-competitive concerns. In addition, because the Commission finds that LEC Petitioners' actions violate the prohibition on verification by executing carriers established in § 64.1120(a)(2) of the Commission's rules, the Commission finds it unnecessary to reach a conclusion as to whether these actions also result in unreasonable delay by an executing carrier in violation of its rules.

Finally, the LEC Petitioners requested that the Commission consider their petition in conjunction with a petition filed by MCI (MCI Petition) regarding preemption of a state rule. *See* Petition for Declaratory Ruling filed by MCI on March 12, 2004. *See also* Motion to Hold Proceeding in Abeyance filed by the Public Service Commission of West Virginia on June 17, 2004. The MCI Petition concerned the question of permissible actions by a state regulatory agency. This Petition, in contrast, concerned the actions of private companies. The Commission, therefore, declines the LEC Petitioner's request to combine consideration of their Petition with the MCI Petition.

The Commission will not send a copy of this Order pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(a), because the adopted rules are rules of particular applicability.

Ordering Clauses

Pursuant to the authority contained in section 258 of the Communications Act, of 1934, as amended, 47 U.S.C. 258, and §§ 0.141, 0.361, 1.3, 64.1120(a)(2) of the Commission's rules, 47 CFR 0.141, 0.361, 1.2, 64.1120(a)(2), the Rural LECs' Petition for Declaratory Ruling is denied.

Pursuant to the authority contained in section 258 of the Communications Act of 1934, as amended, 47 U.S.C. 258, and §§ 0.141, 0.361, 1.3, 64.1120(a)(2) of the Commission's rules, 47 CFR 0.141, 0.361, 1.2, 64.1120(a)(2), this Declaratory Ruling is adopted.

Federal Communications Commission.

Jay Keithley,

Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 06–322 Filed 1–17–06; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 384

[Docket No. FMCSA–2005–21603]

RIN 2126–AA94

Commercial Driver's License Standards; School Bus Endorsement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA adopts as final and without change its interim regulations which implement section 4140 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The regulations specify that: A driver who passed FMCSA-approved knowledge and skills tests for a Commercial Driver's License (CDL) school bus endorsement before September 30, 2002, has met the requirements for a school bus endorsement; the compliance date for States to administer knowledge and skills tests to all school bus drivers is extended to September 30, 2006; and the expiration date for allowing States to waive the driving skills test is also extended to September 30, 2006.

DATES: Effective Date: February 17, 2006.

FOR FURTHER INFORMATION CONTACT: Mr. Dominick Spataro, (202) 366–2995, Chief, Commercial Driver's License Division (MC–ESL), Office of Safety Programs, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; or e-mail *dominick.spataro@fmcsa.dot.gov.* Office hours are from 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Copies of This Final Rule and the Interim Final Rule

Copies are available for viewing or downloading through the Internet at: The U.S. Department of Transportation (DOT) Docket Management System (DMS) using the URL, *http://dms.dot.gov*, and typing the last 5 digits of docket number FMCSA–2005–21603; the **Federal Register** Web page at *http://www.gpoaccess.gov;* or the FMCSA's Rules and Regulations Web site at *http://www.fmcsa.dot.gov/rules-regulations.* If you do not have access to the Internet, you may contact the person listed above.

Background

Legal Basis

The Commercial Motor Vehicle Safety Act of 1986 (CMVSA), Public Law 99–570, 100 Stat. 3207–170 (October 27, 1986), codified with amendments in 49 U.S.C. chapter 313, forms the statutory foundation of the CDL program. The CMVSA required the Secretary of Transportation to issue regulations establishing minimum standards which States must meet when licensing drivers of commercial motor vehicles (CMVs), as defined in 49 U.S.C. 31301.[1] Section 12005 of CMVSA required, among other things, that the regulations include minimum standards for written and driving tests for an individual driving a CMV (49 U.S.C. 31305). The minimum testing and fitness standards for obtaining a CDL are in title 49 of the Code of Federal Regulations, Part 383.

Section 214 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), Public Law 106–159, 113 Stat. 1748 at 1766 (December 9, 1999), required a special CDL endorsement for drivers of school buses, including: (1) A driving skills test in a school bus; and (2) proper safety procedures for loading and unloading children, using emergency exits and traversing highway rail grade crossings, 49 U.S.C. 31305 note. These regulations are found in 49 CFR 383.123.

As we stated in the interim rule, recent changes in the law necessitated revisions to the testing requirements for drivers of school buses.

Section 4140(a) of SAFETEA–LU, Public Law 109–59, 119 Stat. 1144, at 1746 (August 10, 2005), directed the Secretary of Transportation to recognize any driver who passes a test approved by FMCSA as meeting the *knowledge* test requirement for a school bus endorsement under 49 CFR 383.123. Because 383.123 requires a driver to pass both knowledge and skills tests, FMCSA interpreted section 4140(a) of SAFETEA–LU as requiring recognition of any driver who passes both approved knowledge and skills tests. Thus, section 4140(a) of SAFETEA–LU eliminates the need for States to retest drivers who passed agency-approved knowledge and skills tests before September 30, 2002.

Section 4140(b) of SAFETEA–LU gave the States an additional year in which to fully implement § 383.123 for all school bus drivers. Thus, the compliance date in 49 CFR 384.301 was extended to September 30, 2006. FMCSA interpreted section 4140(b) of SAFETEA–LU as also extending the sunset date in § 383.123(b) from September 30, 2005, to September 30, 2006, because that subsection permits States to waive the driving skills test requirement for currently-licensed school bus drivers who meet certain conditions.

Interim Final Rule (IFR) and IFR Comments

On September 28, 2005, FMCSA published an IFR (70 FR 56589) implementing section 4140 of SAFETEA–LU and making the interim regulations effective that same day. Because section 4140 of SAFETEA–LU required the regulatory changes to be in effect before October 1, 2005, FMCSA issued the IFR without prior notice and prior opportunity for public comment. However, we invited the public to submit comments on the IFR, and the comment period ended on October 28, 2005.

We received comments on the IFR from: the Ohio State Highway Patrol; American Federation of Teachers, AFL–CIO; and Mr. Lev Vozchikov of Limited Mobility School Bus Co. The commenters agreed with FMCSA's decision not to require retesting of those drivers who had passed knowledge and skills tests approved by the Agency for a CDL school bus endorsement before September 30, 2002. The Ohio State Highway Patrol said the decision will save Ohio and other States millions of dollars. The AFL–CIO teachers' union said the decision was a positive step. Mr. Vozchikov said FMCSA acted in accordance with the legislation.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA determined this final rule is not a significant regulatory action as defined in Executive Order 12866, and is not significant under DOT's Regulatory Policies and Procedures, because it does not impose new costs on the States. This rule implements congressionally-mandated changes which clarify acceptance of approved knowledge and skills tests administered to school bus drivers prior to September 30, 2002 for CDL school bus

[1] As pertinent to this rule, a CMV is a motor vehicle used inc ommerce that is designd to transpot at least 16 passengers, including the driver. 49 U.S.C. 31301(4)(B).