

will not issue any new permits or new portions of permits for the provisions listed in Item G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of Colorado's final authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which Colorado is not yet authorized.

J. How Does This Action Affect Indian Country (18 U.S.C. 1151) in Colorado?

Colorado is not authorized to carry out its RCRA program in "Indian country", as defined in 18 U.S.C. 1151. This includes: (1) Lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Colorado, (a) Southern Ute Indian Reservation and (b) Ute Mountain Ute Indian Reservation; (2) any land held in trust by the United States for an Indian tribe, and (3) any other areas which are "Indian country" within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where EPA will continue to implement and administer the RCRA program in these lands.

K. What is Codification and is EPA Codifying Colorado's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart G for the codification of Colorado's updated program until a later date.

L. Statutory and Executive Order Reviews

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any

unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective May 12, 2008.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation-by-reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 28, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E8-4978 Filed 3-11-08; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94-129; FCC 07-223]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission revises its requirements concerning verification of a consumer's intent to switch carriers. These new requirements will ensure that each verification includes the date; expand

the disclosure obligations of third party verifiers when consumers have questions during the verification; and otherwise clarify the required disclosures by verifiers to ensure that consumers better comprehend precisely what service changes they are approving. The Commission believes that these requirements will increase consumer confidence, decrease the administrative costs for carriers, and alleviate the enforcement burden on state regulatory authorities and the Commission.

DATES: Effective April 11, 2008 except for 47 CFR 64.1120(c)(3)(iii) which contains information collection requirements that have not been approved by the Office of Management and Budget (OMB), The Commission will publish a document in the **Federal Register** announcing the effective date for the amendment and information collection requirements. Interested parties (including the general public, OMB, and other Federal agencies) that wish to submit written comments on the Paperwork Reduction Act (PRA) information collection requirements must do so on or before May 12, 2008.

ADDRESSES: Interested parties may submit PRA comments identified by OMB Control Number 3060-0787 and CC Docket No. 94-129 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- *E-mail:* Parties who choose to file by email should submit their PRA comments to PRA@fcc.gov. Please include OMB Control Number 3060-0787 and CC Docket No. 94-129 in the subject line of the message.
- *Mail/Fax:* Parties who choose to file by paper should submit their PRA comments to Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy Stevenson, Consumer & Governmental Affairs Bureau at (202) 418-7039 (voice), or e-mail Nancy.Stevenson@fcc.gov. For additional information concerning the PRA information collection requirements contained in this document, send an e-mail to PRA@fcc.gov or contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: The Commission's rules implementing section 258 of the Act have been

promulgated through a series of orders. In the *Second Report and Order* (FCC 98-334) published at 64 FR 7746, February 16, 1999, the Commission sought to eliminate the profits associated with slamming by broadening the scope of its carrier change rules and adopting more rigorous slamming liability and carrier change verification measures. In the *Third Reconsideration Order* (FCC 03-42), published at 68 FR 19152, April 18, 2003, the Commission modified certain rules concerning verification of carrier change requests and liability for slamming. In the *Fifth Reconsideration Order* (FCC 04-214), published at 70 FR 14567, March 23, 2005, the Commission denied petitions filed by a coalition of rural independent local exchange carriers (Rural LECs) seeking reconsideration of the Commission's verification requirement for in-bound carrier change request calls. In the *Third Report and Order* (FCC 00-255), published at 66 FR 12877, March 1, 2001, the Commission declined to mandate specific language for third party verification calls, but did adopt minimum content requirements for such calls. Based on the Commission's experience since the effective date of the *Third Report and Order* (FCC 00-255), in the *Second FNPRM* (FCC 03-42) published at 68 FR 19152, April 18, 2003, the Commission sought comment on the need for additional minimum requirements for third party verification calls in order to maximize accuracy and efficiency for consumers, carriers, and the Commission. This is a summary of the Commission's *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, CC Docket No. 94-129, FCC 07-223, adopted December 18, 2007, released January 9, 2008 (*Fourth Report and Order*), revising its requirements concerning verification of a consumer's intent to switch carriers.

The full text of document FCC 07-223 and copies of 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, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. Document FCC 07-223 and copies of subsequently filed documents in this matter may also 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 duplicating contractor at their Web site: <http://www.bcpweb.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). Document FCC 07-223 can also be downloaded in Word and Portable Document Format (PDF) at: <http://www.fcc.gov/cgb/policy>.

Paperwork Reduction Act of 1995 Analysis

Document FCC 07-223 contains modified information collection requirements subject to the PRA of 1995. It will be submitted to OMB for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. Public and agency comments are due May 12, 2008.

In addition, pursuant to the Small Business Paperwork Review Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4), the Commission has assessed the effect of rule changes and find that there likely will be an increased administrative burden on businesses with fewer than 25 employees. The Commission has taken steps, however, to minimize the information collection burden for small business concerns, including those with fewer than 25 employees. The rules permit carriers to decide how the date of verification will be ascertained. In addition, though in some instances the rules require verifiers to inform the consumer that the carrier change can be effectuated once the verification is completed, they require verifiers to do so only in situations where the subscriber has additional questions for the carrier's sales representative. The Commission also declines to prohibit verifiers from using compound questions during the verification process. These measures should substantially alleviate any burdens on businesses with fewer than 25 employees.

Synopsis

1. The requirements adopted in the *Fourth Report and Order* address issues the Commission has seen repeatedly in its enforcement of the slamming liability rules. They are also fully consistent with *AT&T v. FCC*, in which the Court of Appeals for the District of Columbia Circuit recognized that section 258 of the Act "authorizes the Commission to prescribe verification procedures." In light of this decision, the Commission's

experiences in dealing with slamming complaints since the implementation of section 258 of the Act, and the comments filed in response to the *Second FNPRM*, the Commission believes that further enhancement of the verification procedures is warranted.

2. In the *Second FNPRM*, the Commission sought comment on whether third party verifiers should be required to state the date of the verification call during the verification process.

3. The Commission concludes that the date of the verification should be obtained at the time of the verification and should be readily identifiable by parties that review the verification at a later date. Requiring that the date of verification be obtained and recorded at the time of the verification, in a readily identifiable manner, protects consumers against unauthorized carrier changes, and conversely prevents customers from fraudulently revoking a validly executed agreement. This requirement also helps to prevent mistakes and confusion that could arise in the verification process, and enhances the evidentiary case on which regulatory authorities may rely in order to determine whether a slam occurred. The Commission also notes that carriers that do not wish to use third party verifications are free to use one of the other approved forms of verification. Therefore, in light of these experiences and this previous rule change, as well as the substantial support by most commenters for a requirement that verifications include the date, the Commission finds that the date of the verification should be ascertained and recorded at the time of the verification, and should be readily identifiable by parties that review the verification at a later date. The Commission agrees that carriers should be free to decide how this information will be ascertained, and therefore declines to mandate that the third party verifier must, in all cases, confirm the date verbally with the consumer during the verification. The Commission declines to require that verifications also include the time of the call, because the Commission believes that including the date is sufficient to address the concerns raised by commenters regarding multiple switches.

4. The record reflects that undated verifications have resulted in abuses to the system. In addition, given that the subscriber need not identify the displaced carrier during the verification process, the potential for a slam to occur based on an outdated verification is even greater, because there is no identifying information concerning the date of the verification or the carrier

from whom the subscriber is switching. Given the generally widespread support of this proposal by the carrier commenters, the Commission is skeptical that this particular requirement is overly burdensome. It appears that many carriers already register this information; for carriers that do not, the Commission believes that this requirement will only incrementally affect costs of the existing third party verification requirement, particularly since the Commission has given carriers latitude to devise their own methods of obtaining and recording this information.

5. In the *Third Report and Order*, the Commission required that the carrier or carrier's sales representative drop off the call once the connection has been established between the consumer and the third party verifier. In the *Second FNPRM*, the Commission sought comment on whether the verifier should explicitly state that, if the customer has additional questions for the carrier's sales representative regarding the carrier change after verification has begun, the verification will be terminated, and further verification proceedings will not be carried out until after the customer has finished speaking with the sales representative ("Verification Termination Proposal"). In addition, the Commission sought comment on whether the verifier should be required to convey to the customer that the carrier change can be effectuated once the verification has been completed in full ("Verification Completion Proposal"), regardless of whether the customer has further contact with the carrier.

6. The Commission declines to adopt the Verification Termination Proposal, but does adopt what is in effect a modified Verification Completion Proposal. The Commission agrees with those commenters that question the utility of having verifiers provide this information to customers at the outset of the verification. The Commission agrees that doing so likely would increase rather than decrease consumer confusion while unnecessarily increasing costs. This determination does not alter existing requirements. Moreover, the record reflects that under prevailing practices, the verifier generally offers the customer the option to either terminate the verification, if the customer wishes to speak to a sales representative before completing the verification, or to complete the verification and defer the question until after completion.

7. The Commission concludes that, if customers have questions which a verifier can not answer and the verifier

indicates it will complete the verification and the question is to be deferred to a carrier's sales representative after completion of the verification, the verifier must state that the carrier change can be effectuated once the verification has been completed. When customers wait until after the verification is completed to ask sales agents questions that might affect their choice of whether to switch carriers, this creates a potential problem. In such cases, customers may erroneously believe that if they choose not to switch carriers after further discussions with the carrier's agent, the previously completed verification is, in all cases, automatically invalidated. As with the Verification Termination Proposal, however, carriers argue that implementing the Verification Completion Proposal would be superfluous, impose unnecessary costs on carriers, and ultimately cause consumer confusion. Some commenters maintain that implementing this proposal would cause undue anxiety for the consumer, delay the verification process and ultimately altogether dissuade consumers from consummating the carrier switches.

8. The Commission adopts what is in effect a modified Verification Completion Proposal, to accommodate these competing concerns. To avoid consumer confusion, while minimizing obligations on carriers, the Commission requires verifiers to directly state that the carrier change can be effectuated once the verification has been completed in full, even where the consumer has additional questions for the carrier's sales representative after the verification process. Such a requirement will avoid consumer misperception that the verification automatically will be invalidated if the consumer decides that they do not want to go through with the carrier switch, and will encourage the consumer to address any potentially confusing issues prior to consummating the verification. The Commission rejects a proposal that verifiers convey this information only at the end of the verification, because it believes that waiting until that point likely will deter consumers from asking questions, out of fear they must go through the whole process again. Some carriers do allow customers to revoke their carrier change authorizations within a certain amount of time after completing the verification process. Therefore, they maintain that requiring third party verifiers to inform consumers that the effectuation can occur after verification is complete could create a conflict with information

provided by a sales representative. In these cases, the Commission agrees the verifier should simply inform the consumer of the carrier's verification revocation policy.

9. In the *Second FNPRM*, the Commission sought comment on whether verifiers must clarify to a customer that she is not verifying an intention to retain existing service, but is in fact asking for a carrier change. The Commission noted examples of carriers seeking to obtain customer authorization for carrier changes merely stating to customers that they are consenting to an "upgrade" of the customers' service or to bill consolidation.

10. The Commission agrees with the commenting state utility commissions and Verizon that it should require verifiers to convey explicitly to customers that the carrier change transaction is exactly that, and not a mere upgrade to existing service or any other misleading description. The record reflects that carriers using ambiguous language to describe the nature of the transaction may lead to consumer confusion concerning the true purpose of the solicitation call. The Ohio PUC, for instance, cites instances in which solicitors promised consumers that they would not be changing carriers, inducing these consumers into authorizing carrier changes under the guise of offering discounts and other "upgrades" to their current services. The Commission believes that such practices are misleading and unreasonable, and warrant specific treatment in our rules. Thus, the Commission amends § 64.1120(c)(3)(iii) of its rules to provide for verifications to elicit "confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized." The Commission finds that making these clarifications for the third party verification process will eliminate these sources of confusion.

11. The Commission rejects the contentions of some carriers that this requirement is redundant with existing regulations. Though § 64.1120(c)(3)(iii) of the Commission's rules already requires, *inter alia*, that the verifier confirm that the person on the call wants to make a carrier change, the record reflects that some carriers introduce ambiguity into what should be a straightforward interaction by describing the carrier change offer as a mere "upgrade" to existing service or in other ways that obscure the true purpose. As the Commission concluded

when it first considered proposals for third party verifier script requirements, "the scripts used by the independent third party verifier should clearly and conspicuously confirm that the subscriber has previously authorized a carrier change." The Commission concludes that requiring the verifier to convey explicitly that the consumers will have authorized a carrier change, and not, for instance, an upgrade to existing service, is a small refinement that will eliminate a significant source of ambiguity to consumers while minimally burdening carriers.

12. IDT opposes this requirement on Constitutional grounds arguing that the Commission "has long avoided requiring specific language in communicating with consumers, in deference to carriers' First Amendment rights." IDT misconstrues the requirement. The Commission did not propose, nor does it adopt, a specific incantation that verifiers must recite. Rather, the Commission seeks to ensure that verifiers confirm the consumer's intent to receive service from a different carrier, regardless of whether that is phrased as a "change," a "switch," or any other non-misleading term. Thus, First Amendment issues are not implicated by the action the Commission takes today.

13. In the *Second FNPRM*, the Commission asked commenters to address whether each piece of information that a third party verifier must gather under its rules should be the subject of a separate and distinct third party verifier inquiry and subscriber response. The Commission notes that § 64.1120(b) of its rules already requires the carrier to obtain separate authorization and verification for each service that is being changed. In addition, customers should be aware of the separate and distinct nature of the types of services they are consenting to switch. Thus, the Commission concludes that its rules provide sufficient protection for consumers, such that a prohibition on compound questions would be unnecessary and unduly burdensome for carriers and consumers alike.

14. In the *Second FNPRM*, the Commission sought comment on whether, when verifying a long distance service change, the verifier should specify that long distance service encompasses both international and state-to-state calls, and whether a verifier should define the terms "intraLATA toll" and "interLATA toll" service. The Commission noted its observation that carriers sometimes use different terms for these services. For example, a carrier might refer to

intraLATA service as "short haul long distance, local toll, local long distance, or long distance calls within your state." The Commission noted receiving numerous complaints from consumers who assert they unknowingly gave up the flat rate for intraLATA service they paid to their LEC when consenting to a carrier change for different services. The Commission declines to require third party verifiers to define for subscribers the terms "intraLATA toll" and "interLATA toll" service. The Commission concludes that to do so could increase consumer confusion and add unnecessary time and cost to the verification process. In addition, the Commission believes that other requirements adopted in the *Fourth Report and Order* will go a long way toward alleviating consumer confusion about the services to which they subscribe. The Commission does, however, require third party verifiers to verify that the consumer understands that long distance service includes both international and long distance service.

15. While most commenters acknowledge that distinguishing intraLATA service from interLATA service is particularly complicated, only some support the inclusion of explicit definitions in the verification process. Many carriers believe instead that, in the context of carrier changes, this responsibility should be allocated to the carriers themselves, rather than the third party verifiers. These carriers are concerned primarily that requiring third party verifiers to define complicated terms such as interLATA service and intraLATA service will confuse consumers and cause them to ask questions beyond the verifier's capacity to answer, resulting in likely termination of the verification and an unnecessary and costly reconnection with the carrier's sales representative. The Commission agrees that requiring a third party verifier to explain the differences between intraLATA service and interLATA service could confuse consumers, a majority of whom are unfamiliar with the terms, and increase verification costs. Therefore, the Commission declines to adopt such a requirement. The Commission also notes that these terms have little, if any significance since the former Bell Operating Companies have now been granted permission to re-enter the InterLATA market and provide both IntraLATA and InterLATA service by grant of applications filed pursuant to section 271 of the Act. The Commission does, however, revise certain paragraphs in Subpart K of part 64 of the Commission's rules, 47 CFR 64.1100 *et*

seq., to clarify terminology which heretofore could have been construed to render “intraLATA” synonymous with “intrastate” and “interLATA” synonymous with “interstate.”

16. In adopting the proposal that verifiers specify that long distance service also includes international calls, the Commission disagrees with carriers who suggest that the proposal is unnecessary due to many consumers’ purported disinterest in international services. The record reflects that customers have an interest in how carrier changes will affect all aspects of their telecommunications services. Moreover, given the expense of international calling plans, the Commission believes that these services merit special consideration during the verification process. The cost of international connectivity varies widely from carrier to carrier. According to the National Association of State Utility Consumer Advocates (NASUCA), carriers often will charge exorbitant prices after executing an unauthorized carrier change, and international charges are among the most frequently abused. Consequently, customers who erroneously believe that their international rates have not been affected by a carrier change can receive charges for such calls that exceed by many times the rates they expect. In light of the risks of such uninformed consent, the Commission disagrees that many consumers simply are “not interested” in this aspect of their telecommunications services.

17. The Commission notes that some carriers have conducted campaigns that target minorities and consumers with modest English speaking abilities. The Commission believes that these measures are appropriate and necessary to protect such consumers. Finally, the Commission rejects the argument of some carriers that carriers are better situated than verifiers to specify that long distance service also encompasses international service. While the Commission encourages carriers to keep their subscribers informed in this regard, we believe that assigning this role to verifiers will burden the verification process only minimally, if at all. The Commission further believes that doing so will alleviate, rather than exacerbate, consumer confusion.

18. The Commission declines to adopt rule changes proposed by the Joint Commenters regarding the preemption of state slamming regulations that differ from the Commission’s. The Commission also rejects a proposal to change the Commission’s requirement that carrier sales representatives drop off the sales call once the connection

has been established between the subscriber and the verifier. The Commission does, however, adopt clerical changes to its rules to correct previous typographical errors, or to reflect changes in Commission organization.

Final Regulatory Flexibility Certification (FRFA)

19. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking 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).

20. The *Fourth Report and Order* adopts clarifications and modifications to §§ 64.1110, 64.1120, 64.1130, 64.1150, 64.1160, and 64.1190 of the Commission’s rules pertaining to changes in preferred telecommunications service providers that do not have a significant economic impact on entities subject to those rules. The modifications to § 64.1110(a) and (b) clarify to whom state notification of the election to administer our carrier-change rules is to be sent at the Commission. The modification to § 64.1120(b) clarifies examples of the types of services for which a verifier conducting a third party verification must obtain separate authorization. The Commission modifies § 64.1120(c)(3) to add the date of the third-party verification. The Commission modifies § 64.1120(c)(iii) to add the requirement that the verifier clarify what constitutes long distance service, and to add the requirement that, when a subscriber has a question for the sales representative, the verifier must explain that the subscriber will have authorized a carrier change at the end of the verification. Section 64.1130(e) is modified to clarify examples of the types of services switched through the use of a letter of agency. The Commission modifies § 64.1150(d) to clarify which subsections apply concerning proof of verification. Section 64.1160(c) is

modified to correct a grammatical error. In § 64.1190(c) and § 64.1190(d)(3)(ii)(B) the Commission clarifies the types of services for which a subscriber may request a preferred carrier freeze.

21. As noted above, the modified verification requirements in the *Fourth Report and Order* provide that a third-party verification must include the date of the verification, and that the verifier must convey to the consumer that long distance service includes international service, and, if the subscriber has additional questions for the carrier’s sales representative, the verifier must indicate that once the verification is completed, the subscriber’s service will be switched. These additions should require only minor modifications to third-party verifications. Specifically, from the Commission’s experience with verifications, as well as from the record in this proceeding, the Commission believes that most verifications already contain the date; in addition, the Commission will allow carriers to decide themselves how they would like this information to be ascertained. Likewise, from our experience, as well as from the record in this proceeding, the Commission believes that customers have additional questions in relatively few cases, and thus will generally not trigger the requirement that the verifier inform the customer that the service will still be switched if the verification is completed. Other rule changes in the *Fourth Report and Order* are minor clarifications (such as grammatical corrections to the existing rules) that would not generate any additional burdens. Thus, the Commission believes that the compliance burden, and resulting economic impact on entities subject thereto, will be *de minimus*. Therefore, the Commission certifies for purposes of the RFA that the clarifications and modifications adopted in the *Fourth Report and Order* will not have a significant economic impact on a substantial number of small entities.

22. The Commission will send a copy of the *Fourth Report and Order*, including a copy of this Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA.

Congressional Review Act

The Commission will send a copy of FCC 07–223 in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to sections 1, 4(i), 4(j), 201, 206–208 and 258 of the

Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 206–208, and 258, and § 1.421 of the Commission's rules, 47 CFR 1.421, document FCC 07–223 is adopted, and that part 64 of the Commission's rules, 47 CFR part 64, is amended.

The requirements of the *Fourth Report and Order* shall become effective April 11, 2008, except § 64.1120 (c)(3)(iii) which contains information collections that have not been approved by OMB. These information collections will go into effect upon announcement in the **Federal Register** of OMB approval.

The information collections contained herein are contingent upon approval by the Office of Management and Budget.

The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of document FCC 07–223 in CC Docket No. 94–129, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B), (c), Public Law 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254 (k) unless otherwise noted.

■ 2. Section 64.1110 is amended by revising the first sentence in paragraph (a) and the first sentence in paragraph (b), to read as follows:

§ 64.1110 State notification of election to administer FCC rules.

(a) * * * State notification of an intention to administer the Federal Communications Commission's unauthorized carrier change rules and remedies, as enumerated in §§ 64.1100 through 64.1190, shall be filed with the Commission Secretary in CC Docket No. 94–129 with a copy of such notification provided to the Consumer &

Governmental Affairs Bureau Chief. * * *

(b) * * * State notification of an intention to discontinue administering the Federal Communications Commission's unauthorized carrier change rules and remedies, as enumerated in §§ 64.1100 through 64.1190, shall be filed with the Commission Secretary in CC Docket No. 94–129 with a copy of such amended notification provided to the Consumer & Governmental Affairs Bureau Chief. * * *

■ 3. Section 64.1120 is amended by revising the first sentence in paragraphs (b) and (c)(3), and revising paragraph (c)(3)(iii), to read as follows:

§ 64.1120 Verification of orders for telecommunications service.

* * * * *

(b) Where a telecommunications carrier is selling more than one type of telecommunications service (e.g., local exchange, intraLATA toll, and interLATA toll), that carrier must obtain separate authorization from the subscriber for each service sold, although the authorizations may be obtained within the same solicitation. * * *

(c) * * *

(3) An appropriately qualified independent third party has obtained, in accordance with the procedures set forth in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, the subscriber's oral authorization to submit the preferred carrier change order that confirms and includes appropriate verification data (e.g., the subscriber's date of birth or social security number). * * *

(iii) *Requirements for content and format of third party verification.* Any description of the carrier change transaction by a third party verifier must not be misleading, and all third party verification methods shall elicit, at a minimum: The date of the verification; the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the carrier change; confirmation that the person on the call understands that a carrier change, not an upgrade to existing service, bill consolidation, or any other misleading description of the transaction, is being authorized; the names of the carriers affected by the change (not including the name of the displaced carrier); the telephone numbers to be switched; and the types of service involved (including a brief description of a service about which the subscriber demonstrates confusion regarding the nature of that

service). Except in Hawaii, any description of interLATA or long distance service shall convey that it encompasses both international and state-to-state calls, as well as some intrastate calls where applicable. If the subscriber has additional questions for the carrier's sales representative during the verification, the verifier shall indicate to the subscriber that, upon completion of the verification process, the subscriber will have authorized a carrier change. Third party verifiers may not market the carrier's services by providing additional information, including information regarding preferred carrier freeze procedures.

* * * * *

■ 4. Section 64.1130 is amended by revising the second sentence in paragraph (e)(4), to read as follows:

§ 64.1130 Letter of agency form and content.

* * * * *

(e) * * *

(4) * * * To the extent that a jurisdiction allows the selection of additional preferred carriers (e.g., local exchange, intraLATA toll, interLATA toll, or international interexchange), the letter of agency must contain separate statements regarding those choices, although a separate letter of agency for each choice is not necessary; and

* * * * *

■ 5. Section 64.1150 is amended by revising the second sentence in paragraph (d), to read as follows:

§ 64.1150 Procedures for resolution of unauthorized changes in preferred carrier.

* * * * *

(d) * * * This proof of verification must contain clear and convincing evidence of a valid authorized carrier change, as that term is defined in §§ 64.1120 through 64.1130. * * *

* * * * *

■ 6. Section 64.1160 is amended by revising the second sentence in paragraph (c), to read as follows:

§ 64.1160 Absolution procedures where the subscriber has not paid charges.

* * * * *

(c) * * * An allegedly unauthorized carrier choosing to challenge such allegation shall immediately notify the complaining subscriber that: The complaining subscriber must file a complaint with a State commission that has opted to administer the FCC's rules, pursuant to § 64.1110, or the FCC within 30 days of either the date of removal of charges from the complaining subscriber's bill in accordance with paragraph (b) of this section, or the date

the allegedly unauthorized carrier notifies the complaining subscriber of the requirements of this paragraph, whichever is later; and a failure to file such a complaint within this 30-day time period will result in the charges removed pursuant to paragraph (b) of this section being reinstated on the subscriber's bill and, consequently, the complaining subscriber will only be entitled to remedies for the alleged unauthorized change other than those provided for in § 64.1140(b)(1). * * *

* * * * *

■ 7. Section 64.1190 is amended by revising the first sentence in paragraph (c), and the second sentence in paragraph (d)(3)(ii)(B), to read as follows:

§ 64.1190 Preferred carrier freezes.

* * * * *

(c) Preferred carrier freeze procedures, including any solicitation, must clearly distinguish among telecommunications services (*e.g.*, local exchange, intraLATA toll, and interLATA toll) subject to a preferred carrier freeze. * * *

(d) * * *

(3) * * *

(ii) * * *

(B) * * * To the extent that a jurisdiction allows the imposition of preferred carrier freezes on additional preferred carrier selections (*e.g.*, for local exchange, intraLATA toll, and interLATA toll), the authorization must contain separate statements regarding the particular selections to be frozen;

* * * * *

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA-2007-28874]

Final Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of final theft data.

SUMMARY: This document publishes the final data on thefts of model year (MY) 2005 passenger motor vehicles that occurred in calendar year (CY) 2005. The final 2005 theft data indicate an increase in the vehicle theft rate experienced in CY/MY 2005. The final theft rate for MY 2005 passenger vehicles stolen in calendar year 2005 (1.85 thefts per thousand vehicles) increased by 1.1 percent from the theft rate for CY/MY 2004 (1.83 thefts per thousand vehicles) when compared to the theft rate experienced in CY/MY 2004. As explained in this notice, NHTSA is not concerned at this time about this minor increase. Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data and publish the information for review and comment.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, 1200 New Jersey Avenue, SE., Washington, DC 20590. Ms. Ballard's telephone number is (202) 366-0846. Her fax number is (202) 493-2990.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR part 541. The standard specifies performance requirements for inscribing and affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data and publish the data for review and comment. To fulfill this statutory mandate, NHTSA has published theft data annually beginning with MYs 1983/84. Continuing to fulfill the section 33104(b)(4) mandate, this document reports the final theft data for CY 2005, the most recent calendar year for which data are available.

In calculating the 2005 theft rates, NHTSA followed the same procedures it used in calculating the MY 2004 theft

rates. (For 2004 theft data calculations, see 71 FR 59400, October 10, 2006). As in all previous reports, NHTSA's data were based on information provided to NHTSA by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a government system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 2005 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 2005 vehicles of that line stolen during calendar year 2005 by the total number of vehicles in that line manufactured for MY 2005, as reported to the Environmental Protection Agency (EPA).

The final 2005 theft data show a slight increase in the vehicle theft rate when compared to the theft rate experienced in CY/MY 2004. The final theft rate for MY 2005 passenger vehicles stolen in calendar year 2005 increased to 1.85 thefts per thousand vehicles produced, an increase of 1.1 percent from the rate of 1.83 thefts per thousand vehicles experienced by MY 2004 vehicles in CY 2004. NHTSA is not currently concerned with this minor increase in the theft rate. While NHTSA has seen an overall downward trend in theft rates since CY 1993, there have been periods of increase from one year to the next. This increase is lower than any seen in this period. Therefore, NHTSA does not expect that it indicates the beginning of an upward trend for theft rates.

For MY 2005 vehicles, out of a total of 233 vehicle lines, 24 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 24 vehicle lines with a theft rate higher than 3.5826, 21 are passenger car lines, two are multipurpose passenger vehicle lines, and one is a light-duty truck line.