

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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive order to include regulations that 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.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive order to include regulations 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.

**VIII. 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: September 10, 2004.

**Lois Rossi,**  
*Director, Registration Division, 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 180.439 is revised to read as follows:

**§ 180.439 Thifensulfuron methyl; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the herbicide thifensulfuron methyl (methyl-3-[[[[[4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino] carbonyl] amino] sulfonyl]-2-thiophene carboxylate) in or on the following raw agricultural commodities:

Commodity	
Barley, grain .....	0.05
Barley, straw .....	0.10
Canola, seed .....	0.02
Cotton, gin byproducts ...	0.02
Cotton, undelinted seed	0.02
Flax, seed .....	0.02
Oat, grain .....	0.05
Oat, straw .....	0.10
Soybean .....	0.10
Wheat, grain .....	0.05
Wheat, straw .....	0.10

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 2**

[ET Docket No. 03-201; FCC 04-165]

**Unlicensed Devices and Equipment Approval**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** On September 7, 2004 (69 FR 54027), the Commission published final rules in the Report and Order, which amended the rules for unlicensed devices and equipment approval. This document contains a correction to § 2.948(a)(2), which was inadvertently published incorrectly.

**DATES:** Effective October 7, 2004.

**FOR FURTHER INFORMATION CONTACT:** Neal McNeil, Office of Engineering and Technology, (202) 418-2408, TTY (202) 418-2989, e-mail: [Neal.McNeil@fcc.gov](mailto:Neal.McNeil@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The Federal Communications Commission published a document amending parts 2 and 15 of the Commission’s rules in the **Federal Register** of September 7, 2004 (69 FR 54027). This document corrects the **Federal Register** as it appeared.

In FR Doc. 04-19745, published on September 7, 2004 (69 FR 54027), the Commission is correcting § 2.948(a)(2).

**PART 2—[CORRECTED]**

■ In rule FR Doc. 04-19745 published on September 7, 2004 (69 FR 54027) make the following correction:

■ On page 54033, in the third column correct § 2.948(a)(2) to read as follows:

**§ 2.948 Description of measurement facilities.**

(a) \* \* \*

(2) If the equipment is to be authorized by the Commission under the certification procedure, the description of the measurement facilities shall be filed with the Commission’s Laboratory in Columbia, Maryland. The data describing the measurement facilities need only be filed once but must be updated as changes are made to the measurement facilities or as otherwise described in this section. At least every three years, the organization responsible for filing the data with the Commission shall certify that the data on file is current. A laboratory that has been accredited in accordance with paragraph (d) of this section is not required to file a description of its facilities with the Commission’s laboratory, provided the accrediting organization (or designating authority in the case of foreign laboratories) submits the following

information to the Commission's laboratory:

- (i) Laboratory name, location of test site(s), mailing address and contact information;
- (ii) Name of accrediting organization;
- (iii) Date of expiration of accreditation;
- (iv) Designation number;
- (v) FCC Registration Number (FRN);
- (vi) A statement as to whether or not the laboratory performs testing on a contract basis;
- (vii) For laboratories outside the United States, the name of the mutual recognition agreement or arrangement under which the accreditation of the laboratory is recognized.

\* \* \* \* \*

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC Docket Nos. 96-45, 97-21, and 02-6; FCC 04-181]

#### Federal-State Joint Board on Universal Service; Changes to the Board of Directors for the National Exchange Carrier Association, Inc.; and Schools and Libraries Universal Service Support Mechanism.

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; clarification.

**SUMMARY:** In this document, the Commission addresses pending petitions for reconsideration filed by Sprint Corporation, United States Telecom Association, Inc., and MCI Worldcom, Inc. The Commission agrees with petitioners that the Commission should seek recovery from schools and libraries in certain instances, and therefore grants their petitions in part. The Commission resolves the limited question raised in the *Second Further Notice of Proposed Rulemaking (Second FNPRM)* in CC Docket No. 02-06 of from whom the Commission will seek recovery of schools and libraries funds disbursed in violation of the statute or a rule. The Commission modifies its requirements in this area so that recovery will be sought from whichever party or parties has committed the statutory or rule violation.

**DATES:** Effective September 17, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Schneider, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration and Fourth Report and Order in CC Docket Nos. 96-45, 97-21, and 02-6 released on July 30, 2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554.

### I. Introduction

1. In this order, we address pending petitions for reconsideration filed by Sprint Corporation (Sprint), United States Telecom Association, Inc. (USTA), and MCI Worldcom, Inc. (MCI). Petitioners seek reconsideration of an order which, among other things, directed the Universal Service Administrative Company (Administrator or USAC) to cancel any funding commitments under the schools and libraries support mechanism that were made in violation of the Communications Act, as amended (the Act), and to recover from the service providers any funds that had already been distributed pursuant to an unlawful funding decision. For the reasons discussed below, we agree with petitioners that we should seek recovery from schools and libraries in certain instances, and therefore grant their petitions in part. We also resolve the limited question raised in the *Second FNPRM*, 69 FR 6181, February 10, 2004, in CC Docket No. 02-06 of from whom we will seek recovery of schools and libraries funds disbursed in violation of the statute or a rule. We modify our requirements in this area so that recovery is directed at whichever party or parties has committed the statutory or rule violation.

### II. Discussion

2. Based on the more fully developed record now before us, we conclude that recovery actions should be directed to the party or parties that committed the rule or statutory violation in question. We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider. We thus grant the petitions for reconsideration in part, and deny the petitions to the extent they argue that recovery should always be directed at the school or library. This revised recovery approach shall apply on a going forward basis to all matters for which USAC has not yet issued a demand letter as of the effective date of

this order, and to all recovery actions currently under appeal to either USAC or this agency. We do not intend to modify any recovery action in which the service provider has satisfied the outstanding obligation or for which USAC has already issued an initial demand letter.

3. We now recognize that the beneficiary in many situations is the party in the best position to ensure compliance with the statute and our schools and libraries support mechanism rules. At the time the Commission adopted the *Commitment Adjustment Order*, USAC had been distributing funds through the schools and libraries mechanism for only one year. The Commission and USAC then faced a limited range of situations in which statutory or rule violations had occurred requiring the recovery of funds. Thus, the Commission lacked a full appreciation for the wide variety of situations that could give rise to recovery actions in which the school or library would be the party most culpable. The school or library is the entity that undertakes the various necessary steps in the application process, and receives the direct benefit of any services rendered. The school or library submits to USAC a completed FCC Form 470, setting forth its technological needs and the services for which it seeks discounts. The school or library is required to comply with the Commission's competitive bidding requirements as set forth in §§ 54.504 and 54.511(a) of our rules and related orders. The school or library is the entity that submits FCC Form 471, notifying the Administrator of the services that have been ordered, the service providers with whom it has entered into agreements, and an estimate of the funds needed to cover the discounts to be provided on eligible services.

4. To be sure, service providers have various obligations under the statute and our rules as well. Among other things, the service provider is the entity that provides the supported service, and as such, must provide the services approved for funding within the relevant funding year. The service provider is required under our rules to provide beneficiaries a choice of payment method, and, when the beneficiary has made full payment for services, to remit discount amounts to the beneficiary within twenty days of receipt of the reimbursement check. But in many situations, the service provider simply is not in a position to ensure that all applicable statutory and regulatory requirements have been met. Indeed, in many instances, a service provider may