

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
		<p>(C) If the Regional Administrator or his delegate determines the reported information does require Agency action, the Regional Administrator or his delegate will notify the facility in writing of the actions the Regional Administrator or his delegate believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Agency action is not necessary. The facility shall have 10 days from the date of the Regional Administrator or his delegate's notice to present such information.</p> <p>(D) Following the receipt of information from the facility described in (1)(C) or (if no information is presented under (1)(C)) the initial receipt of information described in (1)(A), the Regional Administrator or his delegate will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator or his delegate's determination shall become effective immediately, unless the Regional Administrator or his delegate provides otherwise.</p> <p>(2) <i>Notification Requirements:</i> Tenneco must do following before transporting the delisted waste off-site: Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the exclusion.</p> <p>(A) Provide a one-time written notification to any State Regulatory Agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities.</p> <p>(B) Update the one-time written notification if Tenneco ships the delisted waste to a different disposal facility.</p>

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 63**

[CC Docket No. 01-150; FCC 01-205]

Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations**AGENCY:** Federal Communications Commission.**ACTION:** Final rule; interpretation.

SUMMARY: This document clarifies that non-dominant carriers are required to file applications and obtain Commission approval before consummating a transaction involving an acquisition of corporate control. Connecting carriers, as defined in the Communications Act of 1934, as amended (Act), are not subject to section 214 when engaging in acquisitions of corporate control.

DATES: Effective August 9, 2001.

FOR FURTHER INFORMATION CONTACT: Aaron N. Goldberger, Attorney-Advisor, Policy and Program Planning Division, Common Carrier Bureau, (202) 418-1591.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Declaratory Ruling*, CC Docket No. 01-150, FCC 01-205, adopted July 12, 2001 and released July 20, 2001. The complete text of this *Declaratory Ruling* is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (ITS, Inc.), CY-B400, 445 12th Street, SW., Washington, DC.

Synopsis of Declaratory Ruling

1. In the *Declaratory Ruling*, the Commission clarifies its rules governing requests for authorization pursuant to section 214 of the Act to transfer domestic interstate transmission lines through an acquisition of corporate control. Under section 214, applicants must obtain Commission authorization before constructing, operating, or acquiring domestic interstate transmission lines. The Commission, in § 63.01, granted blanket authority to domestic interstate communications common carriers to provide domestic interstate services and to construct, acquire, and operate domestic transmission lines. The blanket authority in § 63.01, however, expressly does not apply to acquisitions of

corporate control. When an acquisition of corporate control is involved, carriers must file a section 214 application with the Commission and obtain Commission approval prior to consummating a proposed transaction.

2. The Commission, in the *Declaratory Ruling*, clarifies that non-dominant carriers are required to file applications and obtain Commission approval before consummating a transaction involving an acquisition of corporate control. In particular, there is nothing either in the Commission's previous orders or the plain language of § 63.01 to support the contention that acquisitions of corporate control involving non-dominant carriers are covered under the blanket authority of § 63.01. Connecting carriers, as defined in the Act, are not subject to section 214 when engaging in acquisitions of corporate control.

Initial Regulatory Flexibility Act Analysis

1. As required by the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *Declaratory Ruling*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA

and must be filed by the deadlines for comments on the *Declaratory Ruling* provided in section IV(C) of the *Declaratory Ruling*. The Commission will send a copy of this *Declaratory Ruling*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a).

Need for, and Objectives of, the Proposed Rules

2. In the *Declaratory Ruling*, the Commission clarifies that connecting carriers are not required to file section 214 applications for acquisitions of corporate control, and that resellers and other non-dominant carriers must file applications for acquisitions of corporate control.

Legal Basis

3. The legal basis for any action that may be taken pursuant to the *Declaratory Ruling* is contained in sections 2, 4, 201, 214, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 201–202, 303 and 403, and §§ 1.1, 1.2, and 1.411 of the Commission's rules, 47 CFR 1.1 and 1.411.

Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

4. The Regulatory Flexibility Act directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rulemaking, if adopted. See 5 U.S.C. 603(b)(3). The Regulatory Flexibility Act defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." See 5 U.S.C. 601(6). In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. See 5 U.S.C. 601(3). 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 SBA. See 15 U.S.C. 632.

5. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission has indicated that there are

4,144 interstate carriers. These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone service, providers of telephone exchange service, and resellers.

6. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees. See 13 CFR 121.201; Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987). Further, this analysis discusses the total estimated number of telephone companies falling within the two categories and the number of small businesses in each. This analysis also attempts to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

7. The Commission includes small incumbent local exchange carriers (LECs) in this present Regulatory Flexibility Act analysis. As noted above, a "small business" under the Regulatory Flexibility Act is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." See 15 U.S.C. 632(a)(1). The SBA's Office of Advocacy contends that, for Regulatory Flexibility Act purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. See Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999); 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3); 13 CFR 121.102(b). The Commission, therefore, included small incumbent LECs in this Regulatory Flexibility Act analysis, although the Commission emphasizes that this Regulatory Flexibility Act action has no effect on FCC analyses and determinations in other, non-Regulatory Flexibility Act contexts.

8. *Total Number of Telephone Companies Affected.* The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. See U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm

Size 1–123 (1995) ("1992 Census"). This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not "independently owned and operated." See 15 U.S.C. 632(a)(1). For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by the proposed rules, herein adopted.

9. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. See 1992 Census, at Firm Size 1–123. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. See 13 CFR 121.201, SIC Code 4813; 1997 NAICS 51331. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. The Commission does not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs that may be affected by the proposed rulemaking. The Commission further notes that some of these small entities may be "connecting carriers," as defined in section 3(11) of the Act, 47 U.S.C. 153(11), and would not be subject to section 214 or § 63.01 when

engaging in an acquisition of corporate control and thus would not require prior Commission approval to consummate a transaction involving an acquisition of corporate control.

10. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition for small providers of local exchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC Code 4813. According to the most recent *Trends in Telephone Service* data, 1,348 incumbent carriers reported that they were engaged in the provision of local exchange services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 1,348 providers of local exchange service are small entities or small incumbent LECs that may be affected by the proposed rulemaking.

11. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 171 carriers reported that they were engaged in the provision of interexchange services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXC's that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 171 small entity IXC's that may be affected by the proposed rulemaking.

12. *Competitive Access Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 212 CAP/competitive LECs carriers and 10 other LECs reported that they were engaged in the provision of competitive local exchange services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 212 small entity CAPs and 10 other LECs that may be affected by the proposed rulemaking.

13. *Operator Service Providers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 24 carriers reported that they were engaged in the provision of operator services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 24 small entity operator service providers that may be affected by the proposed rulemaking.

14. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone

operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 615 carriers reported that they were engaged in the provision of pay telephone services. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 615 small entity pay telephone operators that may be affected by the proposed rulemaking.

15. *Resellers (including debit card providers).* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies. See 13 CFR 121.201, SIC code 4813; 1997 NAICS 51331. According to the most recent *Trends in Telephone Service* data, 388 toll and 54 local entities reported that they were engaged in the resale of telephone service. See FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000). The Commission does not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 388 small toll entity resellers and 54 small local entity resellers that may be affected by the proposed rulemaking.

16. *Toll-Free 800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service ("toll free") subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. See FCC, CCB Industry Analysis Division,

FCC Releases Study on Telephone Trends, Tbls. 21.2, 21.3 and 21.4 (February 19, 1999). According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that there are fewer than 7,692,955 small entity 800 subscribers, fewer than 7,706,393 small entity 888 subscribers, and fewer than 1,946,538 small entity 877 subscribers may be affected by the proposed rulemaking.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

17. The Regulatory Flexibility Act requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. See 5 U.S.C. 603(c).

18. In this *Declaratory Ruling*, the Commission clarifies that connecting carriers are not required to file section 214 applications for acquisitions of corporate control.

19. The Commission offers this clarification of an existing rule in order to reduce the regulatory burden for connecting carriers, including small entities. The Commission believes that by expressly articulating that connecting carriers are free from a specific section 214 filing requirement, the Commission has provided small entities the least burdensome of filing requirements, *i.e.*, carriers who were once uncertain of their obligations will now find it unnecessary to assume the costs of filing section 214 applications for acquisitions of corporate control. The Commission notes that any other interpretation of

section 2(b) of the Act would increase and not decrease compliance and reporting requirements for connecting carriers, including small entities.

20. Moreover, in this *Declaratory Ruling*, the Commission also clarifies that resellers and non-dominant carriers are not exempt from § 63.01 and must file applications for acquisitions of corporate control. As the Commission explains in section II(B), there is nothing in either the 1999 *Streamlining Order* or the plain language of § 63.01 to support the contention that acquisitions of corporate control involving non-dominant carriers are covered under the blanket authority of § 63.01. Therefore, the Commission clarifies that non-dominant carriers are required to file applications and obtain Commission approval before consummating a transaction involving an acquisition of corporate control. Any alternative approach would violate an existing rule and frustrate the Commission's ability to perform its statutory obligation of considering the public interest in connection with proposed acquisitions of domestic interstate common carriers, including non-dominant carriers.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

21. None.

Procedural Matters

1. Pursuant to the authority contained in sections 2, 4(i)–(j), 201, 214, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r), that the *Declaratory Ruling* in CC Docket No. 01–150 IS ADOPTED.

2. The Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of the *Declaratory Ruling*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

3. Pursuant to sections 2, 4(i)–(j), 201, 214, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 152, 154(i)–(j), 201, 214, and 303(r), that the *Declaratory Ruling* in CC Docket No. 01–150 SHALL BECOME EFFECTIVE August 9, 2001.

List of Subjects in 47 CFR Part 63

Communications common carriers, Telecommunications, Transfers of control, Mergers.

Federal Communications Commission.
Magalie Roman Salas,
Secretary.
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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1822

Investigations of Suspected Forced or Indentured Child Labor

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule amending the NASA FAR Supplement (NFS) to specify NASA's procedure for referring investigations of those suspected of using forced or indentured child labor.

EFFECTIVE DATE: August 9, 2001.

FOR FURTHER INFORMATION CONTACT: Paul Brundage, NASA Headquarters, Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546–0001, (202) 358–0481, email: pbrundage@hq.nasa.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The FAR provides that agencies should specify whether investigations under FAR 22.1503(e) should be referred to the Inspector General, the Attorney General, or the Secretary of the Treasury. This final rule provides that all such investigations shall be referred to NASA's Inspector General.

B. Regulatory Flexibility

NASA certifies that this rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because this rule only affects internal administrative procedures. However, NASA will consider comments from small entities concerning the affected NFS subpart in accordance with 5 U.S.C. 610.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*