prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances for the residues of diflubenzuron (N-[[4-chlorophenyl)amino]-carbonyl]-2,6-difluorobenzamide) and metabolites convertible to p-chloroaniline expressed as diflubenzuron on rice grain at 0.02 ppm and rice straw at 0.8 in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950) and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. Submission to Congress and the Comptroller General

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 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 the rule in the **Federal Register**. This 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: April 7, 1999.

James Jones,

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. In § 180.377, by revising paragraph (a)(2) to read as follows:

§ 180.377 Diflubenzuron; tolerances for residues.

(a) * * *

(2) Tolerances are established for residues of the insecticide diflubenzuron (N-[[4-chlorophenyl)amino]-carbonyl]-2,6-difluorobenzamide) and its metabolites 4-chlorophenylurea and 4-chloroaniline on rice grain at 0.02 ppm and rice straw at 0.8 ppm.

* * * * *

[FR Doc. 99–9711 Filed 4–16–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 43 and 63

[IB Docket No. 98–118, FCC 99–51]

Biennial Review of International Common Carrier Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On March 18, 1999, the Federal Communications Commission adopted a Report and Order (Order) to further streamline the rules governing international common carriers. The new rules will benefit U.S. consumers because they will eliminate unnecessary regulatory delay and will facilitate entrance into the international telecommunications market. The Commission believes that the new rules will lessen the regulatory burdens on applicants, authorized carriers, and the

Commission by allowing carriers to operate more efficiently.

The Commission initiated this proceeding pursuant to section 11 of the Telecommunications Act of 1996, which directs the Commission to undertake a review every even-numbered year of all regulations that apply to providers of telecommunications services to determine whether any such regulation is no longer necessary.

DATES: Effective May 19, 1999.

FOR FURTHER INFORMATION CONTACT: Douglas Klein or Peggy Reitzel, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 99–51, adopted on March 18, 1999, and released on March 23, 1999. The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554.1919 M Street, N.W., Washington, D.C. 20554. The complete text of this Order also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

This Order contains information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collections contained in this proceeding.

Summary of Report and Order

1. In July 1998, the Commission adopted a Notice of Proposed Rulemaking (63 FR 41538, August 4, 1998) to consider whether to further streamline the international Section 214 authorization process and tariff requirements. This proceeding was initiated pursuant to the Telecommunications Act of l996, which directs the Commission to undertake, on every even-numbered year, a review of all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest. Accordingly, the Commission has begun a comprehensive 1998 biennial review of telecommunications and other regulations to determine whether any are overly burdensome or no longer serve the public interest. The Commission sought comment on the proposals contained in the Notice.

2. In this proceeding, the Commission adopts a number of the proposals contained in the Notice and implements procedures that will grant regulatory relief to carriers while increasing the efficiencies of the Commission. In the Notice, the Commission proposed a blanket Section 214 authorization for international service to unaffiliated points. The Commission declines to adopt that proposal based on the comments filed in this proceeding by the Federal Bureau of Investigation (FBI) and the Department of Defense (DoD). Both the FBI and DoD argued that it is important to review some applications and transactions due to national security, law enforcement, and other considerations. The Commission agrees with the FBI and DoD that it remains important to continue to review applications prior to authorization. Thus, the Commission adopts a streamlined authorization procedure that is narrowly tailored to allow it to review applications in advance without causing needless delay or uncertainty. Under the new procedure, once an application is deemed complete and eligible for streamlined processing, the Commission will issue a public notice noting that the application has been accepted for filing and will be subject to streamlined processing. The public notice will state that the application will be deemed granted 14 days after the date of the public notice unless the applicant is notified to the contrary. The International Bureau will issue a weekly public notice of carriers newly authorized pursuant to this procedure. The new rules will eliminate the current requirement that streamlined applications be removed from streamlining in the event that an opposition is filed.

3. The new procedures apply to all international Section 214 applications that currently qualify for streamlining pursuant to § 63.12 of the Commission's rules, as well as to applicants seeking to serve affiliated routes where the affiliate has no facilities, or only mobile wireless facilities, at the foreign end of the route. Included within this class of streamlined applications are some assignments and transfers of control of international Section 214 authorizations. It is highly likely that any application that raises competitive issues would also involve assignments or transfers of control of submarine cable landing licenses or Title III radio licenses. Any application that includes an assignment or transfer of a cable landing license or a Title III license will continue to be subject to notice-and-comment procedures.

4. Although the Commission concludes that these categories of applications generally should be subject to our revised streamlined procedure, the Commission delegates to the International Bureau the authority to identify those particular applications that do warrant public comment and additional Commission scrutiny under current stated Commission policies. For example, additional scrutiny may be required where an application may present a significant potential adverse impact on competition, or where an assignment or transfer of control could eliminate a significant current or future competitor. Absent such concerns, the Commission finds that grant of Section 214 authority under these circumstances will serve the public interest, convenience, and necessity.

5. The Commission will accept petitions seeking a declaratory ruling that a foreign carrier lacks sufficient market power to affect competition adversely in the U.S. market, and such ruling may be cited in an applicant's Section 214 application for the purpose of establishing its eligibility for streamlined authorization on the affiliated route.

6. Bell Operating Companies (BOCs) are not be permitted to take advantage of the streamlined procedure to obtain authorization to provide international services from any of its in-region states until the Commission approves its section 271 application to provide interLATA services from that state. The new streamlined authorization procedure applies equally to commercial mobile radio service (CMRS) licensees as to other classes of carriers.

7. The Commission amends its rules to define *pro forma* and to allow carriers to undertake *pro forma* assignments and transfers of control of international Section 214 authorizations without Commission approval. The Commission concludes that given the mechanisms in place, many *pro forma* transfers and assignments meet the forbearance standard in § 10 of the Communications Act. So that the Commission can maintain accurate records of the entities holding Section 214 authorization, it requires that authorized carriers that undertake a *pro forma* assignment notify the Commission by letter within 30 days after consummation of the transaction. The new rule applies to all authorized international carriers.

8. The Commission adopts its proposal to allow carriers to provide their authorized services through their

wholly owned subsidiaries. Any subsidiary operating pursuant to its parent's authorization must notify the Commission by letter within 30 days after beginning to provide service. If, at any time, such a subsidiary is no longer 100-percent owned by the authorized carrier, it may not operate without first obtaining its own authorization pursuant to § 63.18.

9. Commonly owned companies (''sister'' or ''parent'' companies) may use the streamlined authorization procedure of § 63.12 to obtain authority to provide the same services, subject to the same conditions, that have already been authorized for a company with exactly the same ownership.

10. The Commission amends its rules and the exclusion list to allow any carrier with a global facilities-based authorization to use any non-U.S.-licensed submarine cable system without prior Commission approval of each cable system. The exclusion list now provides that carriers with global Section 214 authorizations to provide facilities-based service will be authorized to serve any unaffiliated market except Cuba and are permitted to use any facilities except non-U.S.-licensed satellite systems that are not specifically identified. The Commission's rules require it to publish the exclusion list in the **Federal Register**, and it is attached as Attachment A. The rule change does not affect the rules for use of non-U.S.-licensed satellite systems, which continue to be governed by the policies adopted in the Commission's *DISCO II Order* (62 FR 64167, December 4, 1997).

11. The Notice sought comment on whether to eliminate the need to apply for separate Section 214 authority to build a new common carrier cable system by including the authorization to construct new lines in the global facilities-based Section 214 authorization. The Commission declines to adopt this proposal because it would create a fee disparity. Until such time as Congress adjusts the fee schedule so that there is only one application fee for cable landing licenses and the separate application fee for overseas cable construction is eliminated, the Commission encourages applicants for common carrier cable landing licenses to file a single application seeking authority under both the Cable Landing License Act and Section 214 of the Communications Act. Information required in each application need not be repeated, and the applicant should submit both of the applicable fees with its consolidated application.

12. The Order amends the rules to reflect that the construction of new submarine cable systems will not have a significant effect on the human environment and therefore should be categorically excluded from our environmental processing requirements. The rules will have a Note to reflect this change, and applicants for a cable landing license may cite this note for the proposition that action on its application is categorically excluded from environmental processing.

13. The Order creates a new rule section 63.16, on the provision of switched basic telecommunications services using international private lines interconnected to the public switched network (sometimes called ''international simple resale'' or ''ISR''). The new rule will simplify the procedure for adding to the list of foreign destinations to which any authorized carrier may carry switched services over its authorized facilities-based or resold private lines. Currently, the Commission adds a country to this list only in response to a showing made in a Section 214 application in which an applicant seeks to provide ISR to a particular foreign country. The new rule will allow carriers to request these determinations by petition for declaratory ruling rather than by a Section 214 application. Applicants would thus be relieved of the burden of providing the detailed carrier-specific information that is required when a carrier receives authorization to provide service as well as to shorten and simplify the rules. The International Bureau staff will have the discretion to set an appropriate period for public comment and to issue a ruling by public notice on any petition for a declaratory ruling to allow ISR to a particular destination.

14. The Commission declines to raise the level of investment by foreign carriers that must be reported to the Commission. The Commission retains the requirement that applicants list every entity that directly or indirectly owns at least 10 percent of the applicant, rather than increase the threshold to 25 percent.

15. The Order adopts the majority of proposals to reorganize and simplify the rules. In order to eliminate confusion the Order clarifies the definition of affiliation and codifies it in § 63.09(e), and removes the reference to affiliation in § 63.18. The term affiliation will be used only in its broader sense, that is, when there is an interest greater than 25 percent, or a controlling interest at any level, by the U.S. carrier in a foreign carrier or by a foreign carrier in the U.S. carrier. This is the standard used to determine whether there exists an affiliation for purposes of classifying a carrier as dominant under § 63.10. The entry standard is no longer tied to a definition of affiliation. The Order adds a provision to § 63.10(a)(4) to require a carrier that is regulated as non-dominant on an affiliated route under this provision to notify the Commission if at any time it begins to provide service by reselling an affiliated facilities-based carrier's services on the affiliated route. The carrier will be deemed a dominant carrier on the route unless and until the Commission finds that the carrier qualifies for non-dominant regulation under § 63.10.

16. The Order adopts the proposal to codify a requirement that carriers notify the Commission by letter within 30 days of a name change, an assignment, or a decision not to consummate an authorized assignment. This requirement ensures that the Commission's records accurately reflect the party or parties that control the carrier's operations, particularly for purposes of enforcing Commission rules and policies.

17. The Commission defers action on the proposal to include in the rules a provision codifying the benchmark settlement rate condition that was adopted in the *Benchmarks Order* (62 FR 45758, August 29, 1997). The Order transfers the record on this issue to the *Benchmarks* reconsideration proceeding that will be addressed by the Commission in the future.

18. The Order directs the International Bureau to release the updated text of §§ 63.09 through 63.24 by June 1, 1999, and to make that document available on the Bureau's Web site at http://www.fcc.gov/ib.

19. In the proceeding, commenters raised a number of miscellaneous issues which the Commission declines to adopt. WorldCom proposed that any new rules with respect to *pro forma* assignments and transfers of control and service by wholly-owned subsidiaries apply to Title III earth station licenses and cable landing licenses. The Commission declines to adopt WorldCom's proposal because Executive Order No. 10,530 requires the Commission to obtain the approval of the State Department and advice from other Executive Branch agencies before granting any cable landing license. With respect to earth station licenses, the Commission may not have authority to forbear from reviewing any assignments or transfers of control when they involve non-common carrier licenses. Tyco requested the Commission to examine its practice of imposing separate regulatory requirements on common carrier and non-common carrier submarine cable systems. The

Commission states that it will consider initiating a proceeding to address those issues in the near future.

20. SBC raised the issue of eliminating the requirement of tariffs for international services. SBC and AT&T requested that the Commission revise the procedures of requiring advance notification of affiliations with foreign carriers. Cable & Wireless proposed that the Commission change its policies permitting the provision of switched services over private lines to recognize when foreign markets offer equivalent resale opportunities in subsets of services. Deutsche Telekom argued that the Commission should not impose dominant carrier safeguards on any carrier whose affiliated foreign carrier's settlement rates are at or below the Commission's benchmark settlement rates. Cable & Wireless also requested that the 25 percent affiliation standard should not apply to the benchmark settlement rate condition. In the Order, the Commission concludes that these arguments and proposals are outside the scope of this proceeding.

21. Cable & Wireless suggested that the Commission include in its rules applicable to international Section 214 authorizations a provision that specifically addresses frivolous filings. Under the new procedures adopted in the Order, public comment on the great majority of international Section 214 applications reduces the ability of parties to file frivolous petitions to deny. The Commission concludes that its new procedures, coupled with the Commission's existing rules, are sufficient to address this concern.

Final Regulatory Flexibility Certification

22. The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, as amended by the Contract with America Advancement Act of 1996, requires that an agency prepare a regulatory flexibility analysis 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.'' In the *Notice*, we certified that the proposed rules would not have a significant economic impact on a substantial number of small entities because they would not impose any additional compliance burden on small entities dealing with the Commission. No comments were received concerning this certification. We now reaffirm this certification with respect to the rules adopted in this order. We anticipate that the rule changes we adopt here will reduce regulatory and procedural burdens on small entities. The purposes of this proceeding are to eliminate some regulatory requirements and to simplify and clarify other existing rules. The modifications do not impose any additional compliance burden on persons dealing with the Commission, including small entities. Any prospective carrier will continue to submit an application for Section 214 authorization. In most cases, the authorization will be granted expeditiously. We anticipate that the revisions we adopt here will make it easier for small entities as well as others to provide international telecommunications service without unnecessary delay. Accordingly, we certify, pursuant to § 605(b) of the RFA, that the rules adopted herein will not have a significant economic impact on a substantial number of small business entities, as defined by the RFA. The Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this certification will also be published in the **Federal Register**.

Paperwork Reduction Act of 1995 Analysis

23. This Order contains information collections which have been submitted to the Office of Management and Budget (OMB) for approval. As part of our continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Order, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due [May 19, 1999.] A 60 day comment period was established when the Notice was published in the **Federal Register** [63 FR 41538, August 4, 1998]. As described above, the Commission did not adopt the blanket Section 214 authorization as proposed in the Notice. As a result, the information collections contained in the Order negate the majority of collections proposed in the Notice, and retain the collections currently approved by OMB. Comments should address the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0686.

Title: Streamlining the International 214 Process and Tariff Requirements.

Form No.: N/A.

Type of Review: Revision of existing collection.

Respondents: Business or other For-Profit.

Number of Respondents: 1650.

Estimated Time Per Response: 1 to 6,056 hours (20.46 hours average).

Total Annual Burden: 73,885.

Estimated costs per respondent: $12,456,000 (Filing Fees and Attorney Services).

Frequency of Response: Annually; Semi-Annually; Quarterly: and On occasion reporting requirements.

Needs and Uses: The information collections are necessary largely to determine the qualifications of applicants to provide common carrier international telecommunications services, or to construct and operate submarine cables, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The information collections are necessary for the Commission to maintain effective oversight of U.S. carriers that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign carriers that have sufficient market power to affect competition adversely in the U.S. market. The information collected is necessary for the Commission to ensure that rates, terms and conditions for international service are just and reasonable, as required by the Communications Act of 1934. In addition, the Commission must maintain records that accurately reflect a party or parties that control a carrier's operations, particularly for purposes of enforcing the Commission's rules and policies.

Written comments by the public on the proposed information collections are due on or before May 19, 1999. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, S.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov.

Ordering Clauses

24. Accordingly, *it is ordered* that, pursuant to §§ 1, 4(i), 4(k), 10, 11, 201(b), 214, 303(r), 307, 309(a), and 310

of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(k), 160, 161, 201(b), 214, 303(r), 307, 309(a), 310, and the Submarine Cable Landing License Act, 47 U.S.C. 34–39, this REPORT AND ORDER is hereby ADOPTED and Parts 1, 43, 63, and 64 of the Commission's rules, 47 CFR Parts 1, 43, 63, 64, ARE AMENDED as set forth in Rule Changes.

25. *It is further ordered* that the rule changes and information collections contained herein WILL BECOME EFFECTIVE May 19, 1999 following OMB approval, unless a notice is published in the **Federal Register** stating otherwise.

26. *It is further ordered* that the record on codification of the benchmarks condition for facilities-based carriers developed in this proceeding be transferred to IB Docket 96–261 for future consideration.

27. *It is further ordered* that authority is delegated to the Chief, International Bureau, and the Chief, Common Carrier Bureau, as specified herein, to effect the decisions as set forth above.

28. *It is further ordered* that the Commission's Office of Legislative and Intergovernmental Affairs is directed to submit a legislative request to Congress as described in paragraph 63 of this order.

29. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

30. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order to the Council on Environmental Quality.

List of Subjects in 47 CFR Parts 1, 43, and 63

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 43, 63, and 64 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

2. Section 1.767 is amended by revising paragraphs (a)(5), (a)(6), (a)(7) and (e), adding new paragraphs (a)(8) and (a)(9) to read as follows:

§ 1.767 Cable landing licenses.

(a) * * *

(5) A specific description of the cable landing stations on the shore of the United States and in foreign countries where the cable will land. The description shall include a map showing specific coordinates or street addresses of each landing station as well as the identity, citizenship, and specific ownership share of each owner of each U.S. landing station. The applicant initially may file a general geographic description of the landing points; however, grant of the application will be conditioned on the Commission's final approval of a more specific description of the landing points, including all information required by this paragraph, to be filed by the applicant no later than 90 days prior to construction. The Commission will give public notice of the filing of this description, and grant of the license will be considered final if the Commission does not notify the applicant otherwise in writing no later than 60 days after receipt of the specific description of the landing points, unless the Commission designates a different time period;

(6) A statement as to whether the cable will be operated on a common carrier or non-common carrier basis;

(7) A list of the proposed owners of the cable system, their voting interests, and their ownership interests by segment in the cable;

(8) For each proposed owner of the cable system, a certification as to whether the proposed owner is, or is affiliated with, a foreign carrier (as defined in § 63.09 of this chapter). Include the information and certifications required in § 63.18(h) through (k) of this chapter; and

(9) Any other information that may be necessary to enable the Commission to act on the application.

* * * * *

(e) The application fee for a non-common carrier cable landing license is payment type code BJT. Applicants for common carrier cable landing licenses shall pay the fees for both a common carrier cable landing license (payment type code CXT) and overseas cable construction (payment type code BIT). There is no application fee for modification of a cable landing license, except that the fee for assignment or transfer of control of a cable landing license is payment type code CUT. See § 1.1107(2) of this chapter.

3. Section 1.1306 is amended by adding the following sentence to the end of Note 1:

§ 1.1306 Actions which are categorically excluded from environmental processing.

* * * * *

Note 1: * * * The provisions of § 1.1307(a) and (b) of this part do not encompass the construction of new submarine cable systems.

* * * * *

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

4. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104–104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) as amended unless otherwise noted. 47 U.S.C. 211, 219, 220 as amended.

5. Section 43.61 is amended by revising paragraph (c) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

* * * * *

(c) Each common carrier engaged in the resale of international switched services that is affiliated with a foreign carrier that has sufficient market power on the foreign end of an international route to affect competition adversely in the U.S. market and that collects settlement payments from U.S. carriers shall file a quarterly version of the report required in paragraph (a) of this section for its switched resale services on the dominant route within 90 days from the end of each calendar quarter. For purposes of this paragraph, *affiliated* and *foreign carrier* are defined in § 63.09 of this chapter.

PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

6. The authority citation for Part 63 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 160, 161, 201–205, 218, 403, 533 unless otherwise noted.

7. Section 63.09 is added to read as follows:

§ 63.09 Definitions applicable to international Section 214 authorizations.

The following definitions shall apply to §§ 63.09–63.24 of this part, unless the context indicates otherwise:

(a) *Facilities-based carrier* means a carrier that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in the U.S. end of an international facility, regardless of whether the underlying facility is a common carrier or non-common carrier submarine cable or a satellite system.

(b) *Control* includes actual working control in whatever manner exercised and is not limited to majority stock ownership. *Control* also includes direct or indirect control, such as through intervening subsidiaries.

(c) *Special concession* is defined as in § 63.14(b) of this part.

(d) *Foreign carrier* is defined as any entity that is authorized within a foreign country to engage in the provision of international telecommunications services offered to the public in that country within the meaning of the International Telecommunication Regulations, see Final Acts of the World Administrative Telegraph and Telephone Conference, Melbourne, 1988 (WATTC–88), Art. 1, which includes entities authorized to engage in the provision of domestic telecommunications services if such carriers have the ability to originate or terminate telecommunications services to or from points outside their country.

(e) Two entities are *affiliated* with each other if one of them, or an entity that controls one of them, directly or indirectly owns more than 25 percent of the capital stock of, or controls, the other one.

Also, a U.S. carrier is *affiliated* with two or more foreign carriers if the foreign carriers, or entities that control them, together directly or indirectly own more than 25 percent of the capital stock of, or control, the U.S. carrier and those foreign carriers are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

(f) *Market power* means sufficient market power to affect competition adversely in the U.S. market.

Note 1: The assessment of ''capital stock'' ownership will be made under the standards developed in Commission case law for determining such ownership. See, e.g., Fox Television Stations, Inc., 10 FCC Rcd 8452 (1995). ''Capital stock'' includes all forms of equity ownership, including partnership interests.

Note 2: Ownership and other interests in U.S. and foreign carriers will be attributed to their holders and deemed cognizable pursuant to the following criteria: Attribution of ownership interests in a carrier that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50 percent, it shall not be included for purposes of this multiplication. For example, if A owns 30 percent of company X, which owns 60 percent of company Y, which owns 26 percent of ''carrier,'' then X's interest in ''carrier'' would be 26 percent (the same as Y's interest because X's interest in Y exceeds 50 percent), and A's interest in ''carrier'' would be 7.8 percent (0.30×0.26). Under the 25 percent attribution benchmark, X's interest in ''carrier'' would be cognizable, while A's interest would not be cognizable.

8. Section 63.10 is amended by removing the third sentence of paragraph (a) introductory text and the last sentence of paragraph (c)(5) and revising paragraph (a)(4) to read as follows:

§ 63.10 Regulatory classification of U.S. international carriers.

(a) * * *

* * * * *

(4) A carrier that is authorized under this part to provide to a particular destination an international switched service, and that provides such service solely through the resale of an unaffiliated U.S. facilities-based carrier's international switched services (either directly or indirectly through the resale of another U.S. resale carrier's international switched services), shall presumptively be classified as non-dominant for the provision of the authorized service. A carrier regulated as non-dominant pursuant to this subparagraph shall notify the Commission at any time that it begins to provide such service through the resale of an affiliated U.S. facilities-based carrier's international switched services. The carrier will be deemed a dominant carrier on the route absent a Commission finding that the carrier otherwise qualifies for non-dominant regulation pursuant to this section.

* * * * *

9. Section 63.11, paragraph (b) is amended by removing the words ''within the meaning of § 63.18(h)(1)'', in paragraph (f) revising all references to ''§ 63.18(i)'' to read ''§ 63.18(n)'', removing the Note to § 63.11 and revising the section heading, paragraph (a), (c)(1), (c)(2), (e)(1) and (e)(2) to read as follows:

§ 63.11 Notification by and prior approval for U.S. international carriers that are or propose to become affiliated with a foreign carrier.

(a) Any carrier authorized to provide international communications service under this part shall notify the Commission sixty days prior to the consummation of either of the following acquisitions of direct or indirect interests in or by foreign carriers:

(1) Acquisition of a controlling interest in a foreign carrier by the authorized carrier, or by any entity that controls the authorized carrier, or that directly or indirectly owns more than 25 percent of the capital stock of the authorized carrier; or

(2) Acquisition of a direct or indirect interest greater than 25 percent, or a controlling interest, in the capital stock of the authorized carrier by a foreign carrier or by an entity that controls a foreign carrier.

* * * * *

(c) * * *

(1) The carrier also should specify, where applicable, those countries named in response to paragraph (c) of this section for which it provides international switched services solely through the resale of the international switched services of unaffiliated U.S. facilities-based carriers.

(2) The carrier shall also submit with its notification:

(i) The name, address, citizenship and principal businesses of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent). The applicant shall also identify any interlocking directorates with a foreign carrier.

(ii) A certification that the applicant has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

* * * * *

(e) * * *

(1) In the case of a notification filed under this section, the Commission, if it deems it necessary, will by written order at any time before or after the deadline for submission of public comments impose dominant carrier regulation on the carrier for the affiliated routes based on the provisions of § 63.10 of this part.

(2) The Commission will presume the investment to be in the public interest unless the Commission notifies the

carrier that the investment raises a substantial and material question of fact as to whether the investment serves the public interest, convenience and necessity. Such notification shall be in writing within 30 days of the issuance of the public notice. If notified that the investment raises a substantial and material question, then the carrier shall not consummate the planned investment until it has filed a complete application under § 63.18, including § 63.18(k) of this part, and the Commission has approved the application by formal written order.

* * * * *

10. Section 63.12, paragraph (c)(2) is amended by removing the words ''within the meaning of § 63.18(h)(1)'', redesignating paragraph (c)(5) as paragraph (c)(4) and revising paragraphs (a), (b), (c)(1) and (c)(4) to read as follows:

§ 63.12 Processing of international Section 214 applications.

(a) Except as provided by paragraph (c) of this section, a complete application seeking authorization under § 63.18 of this part shall be granted by the Commission 14 days after the date of public notice listing the application as accepted for filing.

(b) The applicant may commence operation on the 15th day after the date of public notice listing the application as accepted for filing, but only in accordance with the operations proposed in its application and the rules, regulations, and policies of the Commission. The public notice of the grant of the authorization shall represent the applicant's Section 214 certificate.

(c) * * *

(1) The applicant is affiliated with a foreign carrier in a destination market, unless the applicant clearly demonstrates in its application at least one of the following:

(i) The Commission has previously determined that the affiliated foreign carrier lacks market power in that destination market;

(ii) The applicant qualifies for a presumption of non-dominance under § 63.10(a)(3);

(iii) The affiliated foreign carrier owns no facilities, or only mobile wireless facilities, in that destination market. For this purpose, a carrier is said to own facilities if it holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in international or domestic telecommunications facilities (excluding switches);

(iv) The affiliated destination market is a WTO Member country and the applicant qualifies for a presumption of non-dominance under § 63.10(a)(4)of this part;

(v) The affiliated destination market is a WTO Member country and the applicant agrees to be classified as a dominant carrier to the affiliated destination country under § 63.10, without prejudice to its right to petition for reclassification at a later date; or

(vi) An entity with exactly the same ultimate ownership as the applicant has been authorized to provide the applied-for services on the affiliated destination route, and the applicant agrees to be subject to all of the conditions to which the authorized carrier is subject for its provision of service on that route; or

* * * * *

(4) The Commission has informed the applicant in writing, within 14 days after the date of public notice listing the application as accepted for filing, that the application is not eligible for streamlined processing.

(d) If an application is deemed complete but, pursuant to paragraph (c) of this section, is deemed ineligible for the streamlined processing procedures provided by paragraphs (a) and (b) of this section, the Commission will issue public notice indicating that the application is ineligible for streamlined processing. Within 90 days of the public notice, the Commission will take action upon the application or provide public notice that, because the application raises questions of extraordinary complexity, an additional 90-day period for review is needed. Each successive 90-day period may be so extended. The application shall not be deemed granted until the Commission affirmatively acts upon the application. Operation for which such authorization is sought may not commence except in accordance with any terms or conditions imposed by the Commission.

11. Section 63.14 is amended by removing the last sentence of paragraph (a) and revising paragraph (b) introductory text to read as follows:

§ 63.14 Prohibition on agreeing to accept special concessions.

* * * * *

(b) A special concession is defined as an exclusive arrangement involving services, facilities, or functions on the foreign end of a U.S. international route that are necessary for the provision of basic telecommunications services where the arrangement is not offered to similarly situated U.S.-licensed carriers and involves:

* * * * *

§ 63.15 [Removed]

12. Section 63.15 is removed.

13. Section 63.16 is added to read as follows:

§ 63.16 Switched services over private lines.

(a) Except as provided in § 63.22(f)(2) of this part, a carrier may provide switched basic services over its authorized private lines if and only if the country at the foreign end of the private line appears on a Commission list of destinations to which the Commission has authorized the provision of switched services over private lines. The list of authorized destinations is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

(b) An authorized carrier seeking to add a foreign market to the list of markets for which carriers may provide switched services over private lines must make the following showing:

(1) If seeking a Commission ruling to permit the provision of international switched basic services over private lines between the United States and a WTO Member country, the applicant shall demonstrate either that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and the country at the foreign end of the private line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261 *or* that the country affords resale opportunities equivalent to those available under U.S. law (see paragraph (c) of this section).

(2) If seeking a Commission ruling to permit the provision of international switched basic services over private lines between the United States and a non-WTO Member country, the applicant shall demonstrate that settlement rates for at least 50 percent of the settled U.S.-billed traffic between the United States and the country at the foreign end of the private line are at or below the benchmark settlement rate adopted for that country in IB Docket No. 96–261 that the country affords resale opportunities equivalent to those available under U.S. law (see paragraph (c) of this section).

(c) With regard to showing under paragraph (b) of this section that a destination country affords resale opportunities equivalent to those available under U.S. law, an applicant shall include evidence demonstrating that equivalent resale opportunities exist between the United States and the subject country, including any relevant bilateral or multilateral agreements between the administrations involved. The applicant must demonstrate that the foreign country at the other end of the

private line provides U.S.-based carriers with:

(1) The legal right to resell international private lines, interconnected at both ends, for the provision of switched services;

(2) Reasonable and nondiscriminatory charges, terms and conditions for interconnection to foreign domestic carrier facilities for termination and origination of international services, with adequate means of enforcement;

(3) Competitive safeguards to protect against anticompetitive and discriminatory practices affecting private line resale; and

(4) Fair and transparent regulatory procedures, including separation between the regulator and operator of international facilities-based services.

(d) The showing required by paragraph (b) of this section may be made in a Section 214 application filed pursuant to § 63.18 of this part or in a petition for declaratory ruling addressed to the attention of the International Bureau and indicating clearly the name of the party seeking the declaration and the destination points for which the declaration is sought. The Commission will issue public notice of the filing of the request and may, in each case, determine an appropriate deadline for filing comments. Unopposed requests may be granted by public notice.

Note 1 to § 63.16: The Commission's benchmark settlement rates are available in International Settlement Rates, IB Docket No. 96–261, *Report and Order,* FCC 97–280, 12 FCC Rcd 19,806, 62 FR 45758 (August 29, 1997).

14. Section 63.17 is amended by revising paragraph (b)(4) to read as follows:

§ 63.17 Special provisions for U.S. international carriers.

* * * * *

(b) * * *

(4) No U.S. common carrier may engage in switched hubbing to or from a third country where it has an affiliation with a foreign carrier unless and until it has received authority to serve that country under § 63.18(e)(1), (e)(2), or (e)(4) of this part.

15. Section 63.18 is amended by redesignating paragraphs (j) and (k), as paragraphs (o) and (p), revising paragraphs (e), (g), (h), and (i), and adding new paragraphs (j) through (n) to read as follows:

§ 63.18 Contents of applications for international common carriers.

* * * * *

(e) One or more of the following statements, as pertinent:

(1) *Global facilities-based authority.* If applying for authority to become a facilities-based international common carrier subject to § 63.22 of this part, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to § 63.18(e)(1) of this part of the Commission's rules;

(ii) List any countries for which the applicant does not request authorization under this paragraph (see § 63.22(a) of this part); and

(iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.22 of this part.

(2) *Global resale authority.* If applying for authority to resell the international services of authorized U.S. common carriers subject to § 63.23 of this part, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to § 63.18(e)(2) of this section of the Commission's rules;

(ii) List any countries for which the applicant does not request authorization under this paragraph (see § 63.23(a) of this part); and

(iii) Certify that it will comply with the terms and conditions contained in §§ 63.21 and 63.23 of this part.

(3) *Transfer of control or assignment.* If applying for authority to transfer control of a common carrier holding international Section 214 authorization or to acquire, by assignment, another carrier's existing international Section 214 authorization, the applicant shall complete paragraphs (a) through (d) of this section for both the transferor/assignor and the transferee/assignee. Only the transferee/assignee needs to complete paragraphs (h) through (p) of this section. At the beginning of the application, the applicant should also include a narrative of the means by which the transfer or assignment will take place. The Commission reserves the right to request additional information as to the particulars of the transaction to aid it in making its public interest determination. An assignee or transferee shall notify the Commission no later than 30 days after either consummation of the assignment or transfer or a decision not to consummate the assignment or transfer. The notification may be by letter and shall identify the file numbers under which the initial authorization and the authorization of the assignment or transfer were granted. See also § 63.24 of this part (*pro forma* assignments and transfers of control).

(4) *Other authorizations.* If applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) through (e)(3), the applicant shall provide a description of the facilities and services for which it seeks authorization. The applicant shall certify that it will comply with the terms and conditions contained in § 63.21 and § 63.22 and/or § 63.23 of this part, as appropriate. Such description also shall include any additional information the Commission shall have specified previously in an order, public notice or other official action as necessary for authorization.

* * * * *

(g) Where the applicant is seeking facilities-based authority under paragraph (e)(4) of this section, a statement whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of this chapter. If answered affirmatively, an environmental assessment as described in § 1.1311 of this chapter need not be filed with the application.

(h) The name, address, citizenship and principal businesses of any person or entity that directly or indirectly owns at least ten percent of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest one percent). The applicant shall also identify any interlocking directorates with a foreign carrier.

(i) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier. The certification shall state with specificity each foreign country in which the applicant is, or is affiliated with, a foreign carrier.

(j) A certification as to whether or not the applicant seeks to provide international telecommunications services to any destination country for which any of the following is true. The certification shall state with specificity the foreign carriers and destination countries:

(1) The applicant is a foreign carrier in that country; or

(2) The applicant controls a foreign carrier in that country; or

(3) Any entity that owns more than 25 percent of the applicant, or that controls the applicant, controls a foreign carrier in that country.

(4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

(k) For any destination country listed by the applicant in response to paragraph (j) of this section, the applicant shall make one of the following showings:

(1) The named foreign country (i.e., the destination foreign country) is a

Member of the World Trade Organization; or

(2) The applicant's affiliated foreign carrier lacks market power in the named foreign country; or

(3) The named foreign country provides effective competitive opportunities to U.S. carriers to compete in that country's market for the service that the applicant seeks to provide (facilities-based, resold switched, or resold non-interconnected private line services). An effective competitive opportunities demonstration should address the following factors:

(i) If the applicant seeks to provide facilities-based international services, the legal ability of U.S. carriers to enter the foreign market and provide facilities-based international services, in particular international message telephone service (IMTS);

(ii) If the applicant seeks to provide resold services, the legal ability of U.S. carriers to enter the foreign market and provide resold international switched services (for switched resale applications) or non-interconnected private line services (for non-interconnected private line resale applications);

(iii) Whether there exist reasonable and nondiscriminatory charges, terms and conditions for interconnection to a foreign carrier's domestic facilities for termination and origination of international services or the provision of the relevant resale service;

(iv) Whether competitive safeguards exist in the foreign country to protect against anticompetitive practices, including safeguards such as:

(A) Existence of cost-allocation rules in the foreign country to prevent cross-subsidization;

(B) Timely and nondiscriminatory disclosure of technical information needed to use, or interconnect with, carriers' facilities; and

(C) Protection of carrier and customer proprietary information;

(v) Whether there is an effective regulatory framework in the foreign country to develop, implement and enforce legal requirements, interconnection arrangements and other safeguards; and

(vi) Any other factors the applicant deems relevant to its demonstration.

(l) Any applicant that proposes to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country where it is a foreign carrier or is affiliated with a foreign carrier shall either provide a showing that would satisfy § 63.10(a)(3) of this part or state that it will file the quarterly traffic reports required by § 43.61(c) of this chapter.

(m) With respect to regulatory classification under § 63.10 of this part, any applicant that is or is affiliated with a foreign carrier in a country listed in response to paragraph (i) of this section and that desires to be regulated as non-dominant for the provision of particular international telecommunications services to that country should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to § 63.10 of this part.

(n) A certification that the applicant has not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

* * * * *

16. Section 63.20 is amended by revising paragraphs (b), (c) and the first sentence of paragraph (d) to read as follows:

§ 63.20 Copies required; fees; and filing periods for international service providers.

* * * * *

(b) No application accepted for filing and subject to the provisions of §§ 63.18, 63.62 or 63.505 of this part shall be granted by the Commission earlier than 28 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period, or the application qualifies for streamlined processing pursuant to § 63.12 of this part.

(c) No application accepted for filing and subject to the streamlined processing provisions of § 63.12 of this part shall be granted by the Commission earlier than 14 days following issuance of public notice by the Commission of the acceptance for filing of such application or any major amendment unless said public notice specifies another time period.

(d) Any interested party may file a petition to deny an application within the time period specified in the public notice listing an application as accepted for filing and ineligible for streamlined processing. * * *

17. Section 63.21 is amended by revising the section heading, paragraph (a), and adding new paragraphs (i) and (j) to read as follows:

§ 63.21 Conditions applicable to all international Section 214 authorizations.

* * * * *

(a) Each carrier is responsible for the continuing accuracy of the certifications made in its application. Whenever the substance of any such certification is no longer accurate, the carrier shall as promptly as possible and in any event within thirty days file with the Secretary in duplicate a corrected certification referencing the FCC file number under which the original certification was provided. The information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10 of this part. See also § 63.11 of this part.

* * * * *

(i) Subject to the requirement of § 63.10 of this part that a carrier regulated as dominant along a route must provide service as an entity that is separate from its foreign carrier affiliate, and subject to any other structural-separation requirement in Commission regulations, an authorized carrier may provide service through any wholly owned direct or indirect subsidiaries. The carrier shall, within 30 days after the subsidiary begins providing service, file a letter with the Secretary in duplicate referencing the authorized carrier's name and the FCC file numbers under which the carrier's authorizations were granted and identifying the subsidiary's name and place of legal organization. This provision shall not be construed to authorize the provision of service by any entity barred by statute or regulation from itself holding an authorization or providing service.

(j) An authorized carrier, or a subsidiary operating pursuant to paragraph (i) of this section, that changes its name (including the name under which it is doing business) shall notify the Commission by letter filed with the Secretary in duplicate within 30 days of the name change. Such letter shall reference the FCC file numbers under which the carrier's authorizations were granted.

18. Section 63.22 is added to read as follows:

§ 63.22 Facilities-based international common carriers.

The following conditions apply to authorized facilities-based international carriers:

(a) A carrier authorized under § 63.18(e)(1) of this part may provide international facilities-based services to international points for which it qualifies for non-dominant regulation as set forth in § 63.10 of this part, except in the following circumstance: If the carrier is, or is affiliated with, a foreign carrier in a destination market and the Commission has not determined that the

foreign carrier lacks market power in the destination market (see § 63.10(a) of this part), the carrier shall not provide service on that route unless it has received specific authority to do so under § 63.18(e)(4) of this part.

(b) The carrier may provide service using half-circuits on any appropriately licensed U.S. common carrier and non-common carrier facilities (under either Title III of the Communications Act of 1934, as amended, or the Submarine Cable Landing License Act, 47 U.S.C. 34–39) that do not appear on an exclusion list published by the Commission. Carriers may also use any necessary non-U.S.-licensed facilities, including any submarine cable systems, that do not appear on the exclusion list. Carriers may not use U.S. earth stations to access non-U.S.-licensed satellite systems unless the Commission has specifically approved the use of those satellites and so indicates on the exclusion list, and then only for service to the countries indicated thereon. The exclusion list is available from the International Bureau's World Wide Web site at http://www.fcc.gov/ib.

(c) Specific authority under § 63.18(e)(4) of this part is required for the carrier to provide service using any facilities listed on the exclusion list, to provide service between the United States and any country on the exclusion list, or to construct, acquire, or operate lines in any new major common carrier facility project.

(d) The carrier may provide international basic switched, private line, data, television and business services.

(e)(1) Except as provided in paragraph (e)(2) of this section, the carrier may provide switched basic services over its authorized facilities-based private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16 of this part. If at any time the Commission removes the country from that list or finds that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(2) The carrier may use its authorized private line facilities to provide switched basic services in circumstances where the private line facility is interconnected to the public switched network on only one end—either the U.S. end or the foreign end—and where the carrier is not operating the facility in correspondence with a carrier that directly or indirectly owns the private line facility in the foreign country at the other end of the private line.

(f) The carrier shall file annual international circuit status reports as required by § 43.82 of this chapter.

(g) The authority granted under this part is subject to all Commission rules and regulations and any conditions or limitations stated in the Commission's public notice or order that serves as the carrier's Section 214 certificate. See §§ 63.12, 63.21 of this part.

19. Section 63.23 is added to read as follows:

§ 63.23 Resale-based international common carriers.

The following conditions apply to carriers authorized to resell the international services of other authorized carriers:

(a) A carrier authorized under § 63.18(e)(2) of this part may provide resold international services to international points for which the applicant qualifies for non-dominant regulation as set forth in § 63.10, except that the carrier may not provide either of the following services unless it has received specific authority to do so under § 63.18(e)(4) of this part:

(1) Resold switched services to a non-WTO Member country where the applicant is, or is affiliated with, a foreign carrier; and

(2) Switched or private line services over resold private lines to a destination market where the applicant is, or is affiliated with, a foreign carrier and the Commission has not determined that the foreign carrier lacks market power in the destination market (see § 63.10(a) of this part).

(b) The carrier may not resell the international services of an affiliated carrier regulated as dominant on the route to be served unless it has received specific authority to do so under § 63.18(e)(4) of this part.

(c) Except as provided in paragraph (b) of this section, the carrier may resell the international services of any authorized common carrier, pursuant to that carrier's tariff or contract duly filed with the Commission, for the provision of international basic switched, private line, data, television and business services to all international points.

(d) The carrier may provide switched basic services over its authorized resold private lines if and only if the country at the foreign end of the private line appears on a Commission list of countries to which the Commission has authorized the provision of switched services over private lines. See § 63.16 of this part. If at any time the Commission removes the country from that list or finds that market distortion has occurred in the routing of traffic between the United States and that country, the carrier shall comply with enforcement actions taken by the Commission.

(e) Any party certified to provide international resold private lines to a particular geographic market shall report its circuit additions on an annual basis. Circuit additions should indicate the specific services provided (e.g., IMTS or private line) and the country served. This report shall be filed on a consolidated basis not later than March 31 for the preceding calendar year.

(f) The authority granted under this part is subject to all Commission rules and regulations and any conditions or limitations stated in the Commission's public notice or order that serves as the carrier's Section 214 certificate. See §§ 63.12, 63.21 of this part.

Section 63.24 is added to read as follows:

§ 63.24 Pro forma assignments and transfers of control.

(a) *Definition.* An assignment of an authorization granted under this part or a transfer of control of a carrier authorized under this part to provide an international telecommunications service is a *pro forma* assignment or transfer of control if it falls into one of the following categories and, together with all previous *pro forma* transactions, does not result in a change in the carrier's ultimate control:

(1) Assignment from an individual or individuals (including partnerships) to a corporation owned and controlled by such individuals or partnerships without any substantial change in their relative interests;

(2) Assignment from a corporation to its individual stockholders without effecting any substantial change in the disposition of their interests;

(3) Assignment or transfer by which certain stockholders retire and the interest transferred is not a controlling one;

(4) Corporate reorganization that involves no substantial change in the beneficial ownership of the corporation (including reincorporation in a different jurisdiction or change in form of the business entity);

(5) Assignment or transfer from a corporation to a wholly owned direct or indirect subsidiary thereof or vice versa, or where there is an assignment from a corporation to a corporation owned or controlled by the assignor stockholders without substantial change in their interests; or

(6) Assignment of less than a controlling interest in a partnership.

(b) Except as provided in paragraph (c) of this section, a *pro forma* assignment or transfer of control of an authorization to provide international telecommunications service is not subject to the requirements of § 63.18 of this part. A *pro forma* assignee or a carrier that is the subject of a *pro forma* transfer of control is not required to seek prior Commission approval for the transaction. A *pro forma* assignee must notify the Commission no later than 30 days after the assignment is consummated. The notification may be in the form of a letter (in duplicate to the Secretary), and it must contain a certification that the assignment was *pro forma* as defined in paragraph (a) of this section and, together with all previous *pro forma* transactions, does not result in a change of the carrier's ultimate control. A single letter may be filed for an assignment of more than one authorization if each authorization is identified by the file number under which it was granted.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

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

Authority: 47 U.S.C. 160, 201, 218, 226, 228, 332 unless otherwise noted.

§ 64.1002 [Amended]

22. Section 64.1002, revise all references to ''63.18(h)(1)(i)'' to read ''63.09(e)'' and ''63.18(h)(5)(iii)'' to read ''63.18(k)(3)''.

Note: This attachment will not appear in the Code of Federal Regulations.

Attachment A—Exclusion List for International Section 214 Authorizations

Last Adopted on March 18, 1999

The following is a list of countries and facilities not covered by grant of global Section 214 authority under § 63.18(e)(1) of the Commission's Rules, 47 CFR 63.18(e)(1). In addition, the facilities listed shall not be used by U.S. carriers authorized under § 63.18 of the Commission's Rules unless the carrier's Section 214 authorization specifically lists the facility. Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate Section 214 application pursuant to § 63.18(e)(4) of the Commission's Rules. *See generally* 47 CFR 63.22.

Countries

Cuba (Applications for service to Cuba shall comply with the separate filing requirements of the Commission's Public Notice Report No. I–6831, dated July 27, 1993, ''FCC to Accept Applications for Service to Cuba.'')

Facilities:

All non-U.S.-licensed satellite systems

This list is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. The Commission may then release an order amending the exclusion list. This list also is subject to change upon issuance of an Executive Order. See Streamlining the Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95–118, FCC 96–79, 11 FCC Rcd 12884, released March 13, 1996 (61 FR 15724, April 9, 1996). A current version of this list is maintained at http://www.fcc.gov/ib/td/pf/exclusionlist.html.

For additional information, contact the International Bureau's Telecommunications Division, Policy & Facilities Branch, (202) 418–1460.

[FR Doc. 99–9480 Filed 4–16–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–2, RM–9217]

FM Broadcasting Services; Hawesville and Whitesville, Kentucky

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In MM Docket No. 98–2, the Chief, Allocations Branch, granted the rulemaking proposal (RM–9712) filed by WLME, Inc. and set forth in *Notice of Proposed Rulemaking*, 63 FR 4206, published January 28, 1998, to change the community of license of Station WCXM(FM), Hawesville, Kentucky, by reallotting Channel 246A from Hawesville to Whitesville, Kentucky as that community's first local aural transmission service, and to modify that station's license by specifying Whitesville as the new community of license. The Branch Chief granted RM–9712. With this action, the proceeding is terminated.

DATES: Effective May 17, 1999.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order*, MM Docket 98–2, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, NW, Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, International Transcription Service, 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800.

Channel 246A can be allotted to Whitesville, Kentucky in compliance with the Commission's minimum distance separation requirements without a site restriction at reference coordinates North Latitude 37° 48′39″ and West Longitude 86°53′18″.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads continues to read as follows:

Authority: Sections 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments, under Kentucky , is amended by adding an entry ''Whitesville, 246A'' and by removing the entry for Hawesville.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR part 660

[I.D. 103098A]

RIN 0648–AL49

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries, Amendment 8; Crustacean Fisheries, Amendment 10; Bottomfish and Seamount Groundfish Fisheries, Amendment 6; Precious Corals Fisheries, Amendment 4

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of agency decision.

SUMMARY: NMFS announces the partial approval of a ''comprehensive amendment'' that addresses essential fish habitat (EFH), overfishing definitions, bycatch, fishing sectors, and fishing communities in the Western Pacific Fishery Management Council's