

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region III				
Delaware:				
Middletown, town of, New Castle County.	100024	June 13, 1974, Emerg.; January 7, 1977, Reg.; April 17, 1996, Susp.	April 17, 1996	April 17, 1996.
New Castle, city of, New Castle County	100026	June 6, 1970, Emerg.; December 26, 1975, Reg.; April 17, 1996, Susp.	.....do	Do.
New Castle County, unincorporated areas.	105085	June 6, 1970, Emerg.; December 3, 1970, Reg.; April 17, 1996, Susp.	.....do	Do.
Newark, city of, New Castle County	100025	June 5, 1970, Emerg.; March 29, 1974, Reg.; April 17, 1996, Susp.	.....do	Do.
Newport, town of, New Castle County ...	100054	May 28, 1974, Emerg.; June 15, 1978, Reg.; April 17, 1996, Susp.	.....do	Do.
Wilmington, city of, New Castle County .	100028	December 19, 1973, Emerg.; May 2, 1977, Reg.; April 17, 1996, Susp.	.....do	Do.
Region V				
Ohio:				
Fairfield County, unincorporated areas ..	390158	March 21, 1977, Emerg.; April 17, 1989, Reg.; April 17, 1996, Susp.	.....do	Do.
Kenton, city of, Hardin County	390253	August 15, 1975, Emerg.; April 17, 1996, Reg.; April 17, 1996, Susp.	.....do	Do.
Region VI				
Texas: Hardin County, unincorporated areas	480284	November 12, 1973, Emerg.; September 29, 1978, Reg.; April 17, 1996, Susp.	.....do	Do.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.— Reinstatement; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Issued: March 29, 1996.

Richard W. Krimm,
Acting Associate Director, Mitigation Directorate.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 61, and 63

[IB Docket No. 95-118, FCC 96-79]

Streamlining the International Section 214 Authorization Process and Tariff Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On February 29, 1996, the Federal Communications Commission adopted rules to streamline the international Section 214 authorization process and tariff requirements. The Commission anticipates that the elimination of unnecessary and outdated administrative obligations on

carriers will enable them to compete in an evolving global telecommunications market with greater speed and flexibility. These rules will lower the barriers to entry, which will encourage more applicants to enter the international market, ensuring more competition and lower prices for international services to consumers.

EFFECTIVE DATE: § 61.23(c) will become effective May 9, 1996. All other regulations take effect either May 9, 1996 or upon approval by the Office of Management and Budget (OMB), whichever occurs later. When approval is received, the agency will publish a document announcing the effective date.

FOR FURTHER INFORMATION CONTACT: For further information on the Report and Order contact: Helene T. Schrier, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418-1470.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* adopted February 29, 1996, and released March 13, 1996 (FCC 96-79). The full text of this *Report and Order* is available for inspection and copying during normal business hours

in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC 20554. The complete text of this *Report and Order* also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Report and Order

1. In response to a *Notice of Proposed Rulemaking* (60 FR 37980 (July 25, 1995)), the Commission adopted new rules to streamline the international Section 214 authorization process and tariff requirements. The new rules will facilitate international carriers entrance, expansion and exit from the market.

2. The Commission anticipates that the new rules will make entry to the U.S. telecommunications market easier as a facilities-based applicant will need only one authorization to serve virtually all points in the world using U.S.-licensed facilities. A facilities-based applicant with a foreign carrier affiliation, however, may obtain only a limited global Section 214 authorization to provide service to destination markets where the carrier's affiliate does not possess market power.

3. Global authorizations will be streamlined processed. That is, once the Commission reviews the applications to determine eligibility for streamlined processing, the Commission will place them on public notice as accepted for filing, and state whether they will be streamlined or not. Petitions to deny streamlined applications must be filed within 21 days. If streamlined applications are unopposed, they will be deemed granted 35 days after the date of the initial public notice of acceptance for filing, and the applicants may commence operations on the 36th day. Shortly after the streamlined application has been granted, we will issue a second public notice that will be published in the FCC Record and will serve as the applicants' Section 214 authorization. The second public notice will list the applications granted and restrictions, if any, on providing service to particular countries and on the use of certain facilities. Applications that are contested or require the International Bureau to make a determination as to the degree of market power possessed by a foreign carrier affiliate will not be eligible for streamlined processing. Such applications will be acted upon by written order.

4. This global Section 214 authorization will be subject to an exclusion list that the International Bureau will maintain identifying countries or facilities for which there are restrictions. The International Bureau will include the exclusion list as part of each public notice listing granted streamlined applications, or in the case of non-streamlined grants, in the granting order. And, the International Bureau's Reference Center will maintain a copy of the exclusion list.

5. To further ease entry into the U.S. international services market, the Commission's new rules simplify and accelerate the Section 214 and cable landing license application process. The rules reduce the amount of information previously required in applications for Section 214 authorization and cable landing licenses. Applicants will have the option of filing international Section 214 applications on computer diskettes but must still file a paper copy of their application. Applications in foreign languages must be accompanied with a certified translation in English. And, the Commission instructs the International Bureau to determine the practicality of creating a standardized form for filing Section 214 applications. In addition, the Commission will make available to the public through the Internet and other sources filing aids such as checklists, instruction sheets or sample Section 214 applications.

6. The new rules will eliminate several regulatory requirements that delay carriers from expanding their services. First, authorized resellers no longer will need to obtain additional authorizations to resell services of carriers not identified in their initial authorization. Resellers may resell services of any authorized carrier except U.S. facilities-based affiliates that are regulated as dominant on routes the reseller seeks to serve. If a reseller desires to resell service of an affiliated underlying carrier that is regulated as dominant on some routes and not on others, the reseller is now authorized to resell that carrier's services on those routes on which the underlying carrier is non-dominant. The reseller should file a separate Section 214 application, however, to provide resale service on routes where the underlying carrier is deemed dominant. Second, carriers that are authorized to resell interconnected private lines for switched services to a designated "equivalent" country no longer will need to obtain separate Section 214 authority to serve additional equivalent countries. Once that carrier receives the initial authorization, the carrier automatically may resell private lines to provide switched service to all countries that are determined by the Commission, currently or subsequently, to provide equivalent resale opportunities for U.S.-based carriers. This procedure also will be available to facilities-based carriers that wish to provide switched service over their authorized facilities-based private lines. The only limit on this flexibility is for those facilities-based carriers or resellers that have an affiliation with a dominant carrier in the equivalent country. In such a case, carriers will file a separate Section 214 application. Third, non-dominant U.S. international carriers, and U.S. international carriers regulated as dominant for reasons other than having foreign affiliations, may add circuits on U.S.-licensed non-common carrier satellite or submarine cable systems without obtaining additional authority. Dominant carriers will still file a Section 214 application if they seek to add circuits on a non-common carrier system to a point where they have an affiliate that possesses market power.

7. The new rules also are designed to ease carriers' exit from the market. Dominant carriers are now authorized to simply notify the Commission when they convey submarine cable capacity to other carriers instead of obtaining prior Section 214 authority. And, non-dominant carriers will be allowed to provide 60, as opposed to 120, days'

notice to their customers before discontinuing service or retiring facilities.

8. The *Report and Order* streamlines the tariff requirements for non-dominant international carriers by permitting them to file their international tariffed rates on one day's notice instead of the current 14 days' notice. The Commission will apply the same relaxed form and content requirements used for non-dominant domestic carriers, including the filing of the tariffs on computer diskettes and the inclusion of a brief cover letter.

9. Finally, the Commission invites the public to make suggestions regarding what, if any, Section 214 authorization requirements it should forbear from applying.

Administrative Matters

Paperwork Reduction Act

The Commission, as part of its continuing effort to reduce paperwork burdens, will publish a separate document inviting the general public and OMB to comment on the proposed information collections contained in this *Report and Order*.

Final Regulatory Flexibility Analysis

Pursuant to section 603 of Title 5, United States Code, 5 U.S.C. 603, an initial Regulatory Flexibility Analysis was incorporated in the Notice of Proposed Rule Making in IB Docket No. 95-118. Written comments on the proposals in the Notice, including the Regulatory Flexibility Analysis, were requested.

A. Need and Purpose of Rules

This *Report and Order* streamlines the international Section 214 authorization process and tariff requirements in order to greatly lessen the regulatory burdens on applicants, authorized carriers, and the Commission to enable them to operate more efficiently and respond better to customers' needs in a timely manner. These rules allow international carriers to enter and exit the market more quickly with greater flexibility to meet the evolving needs of the global telecommunications market.

B. Issues Raised by the Public in Response to the Initial Analysis

We received one comment in response to the Initial Regulatory Flexibility Analysis. The America's Carriers Telecommunications Association (ACTA) completely supported the initiatives of the Commission in seeking to reduce unnecessary regulation and to streamline the regulation required to serve the interests of the public. ACTA

raised one area of concern as the Commission replaces traditional regulatory controls in favor of competition to regulate the marketplace. ACTA states that effective enforcement of the remaining regulations, which is both prompt and effective, is critical to survival of the smaller competitors in the industry. ACTA states that present complaint and tariff processes favor the established carriers, as does commercial arbitration and/or the Alternative Dispute Resolution proceedings of the Commission. ACTA states that the Commission should provide small competitors a fair, unbiased and competent forum to air their grievances and to obtain justice.

C. Significant Alternatives Considered

We have attempted to balance all the commenters' concerns with our public interest mandate under the Act in order to adopt a clear and administratively feasible approach to processing international Section 214 applications and tariffs. Where we have removed regulations, we have been careful to consider the implications on small businesses and the industry in general. We have considered and addressed all of the alternatives offered. We rejected proposals to streamline dominant carrier regulations where we believed such action would hinder our ability to regulate dominant carriers, and safeguard against market power abuses.

Ordering Clauses

1. Accordingly, it is ordered, that § 61.23(c) will become effective May 9, 1996. All other regulations take effect either May 9, 1996 or upon approval by the Office of Management and Budget (OMB), whichever occurs later. When approval is received, the agency will publish a document announcing the effective date.

2. This action is taken pursuant to sections 4, 214, 219, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154, 214, 219, 303(r) and 403.

3. It is further ordered that this proceeding is hereby terminated.

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 61

Communications common carriers.

47 CFR Part 63

Communications common carriers.

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Parts 1, 61 and 63 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

2. Section 1.767 is amended by revising paragraph (a) and adding new paragraphs (e) and (f) to read as follows:

§ 1.767 Cable landing licenses.

(a) Applications for cable landing licenses under 47 U.S.C. 34–39 and Executive Order No. 10530, dated May 10, 1954, should be filed in duplicate and in accordance with the provisions of that Executive Order. These applications should contain:

- (1) The name, address and telephone number(s) of the applicant;
- (2) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized;
- (3) The name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed;
- (4) A description of the submarine cable, including the type and number of channels and the capacity thereof;
- (5) A specific description of the cable landing location on the shore of the United States and in foreign countries where the cable will land (including a map). Applicants 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 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.

(6) A statement as to whether the cable will be operated on a common carrier or non-common carrier basis, and if operation will be on a non-common carrier basis, include the ownership information required in

§ 63.18 (e)(6) and (h) (1) through (2) of this chapter; and

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

* * * * *

(e) A separate application shall be filed with respect to each individual cable system for which a license is requested, or for which modification or amendment of a previous license is requested.

(f) Applicants shall disclose to any interested member of the public, upon written request, accurate information concerning the location and timing for the construction of a submarine cable system authorized under this section. This disclosure shall be made within 30 days of receipt of the request.

PART 61—TARIFFS

1. The authority citation for part 61 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, and 403 of the Communications Act of 1934, as amended; 47 U.S.C. 151, 154(i), 154(j), 201–205, and 403, unless otherwise noted.

2. Section 61.20 is amended by revising its preceding centered headings and paragraph (b) to read as follows:

General Rules

General Rules for Domestic and International Nondominant Carriers

§ 61.20 Method of filing publications.

* * * * *

(b)(1) In addition, for all tariff publications requiring fees as set forth in part 1, subpart G of this chapter, issuing carriers must submit the original of the cover letter (without attachments), FCC Form 159, and the appropriate fee to the Mellon Bank, Pittsburgh, PA at the address set forth in § 1.1105 of this chapter. Issuing carriers should submit these fee materials on the same date as the submission in paragraph (a) of this section.

(2) International carriers must certify in their original cover letter that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

* * * * *

3. Section 61.21 is amended by revising paragraph (a) to read as follows:

§ 61.21 Cover letters.

(a)(1) Except as specified in § 61.32(b), all publications filed with the Commission must be accompanied by a cover letter, 8.5 by 11 inches (21.6 cm x 27.9 cm) in size. All cover letters should briefly explain the nature of the

filing and indicate the date and method of filing of the original cover letter, as required by § 61.20(b)(1).

(2) International carriers must certify that they are authorized under Section 214 of the Communications Act of 1934, as amended, to provide service, and reference the FCC file number of that authorization.

* * * * *

4. Section 61.22 is amended by revising its preceding centered headings and paragraphs (b) and (d) to read as follows:

Specific Rules for Domestic and International Nondominant Carriers

§ 61.22 Composition of tariffs.

* * * * *

(b) The tariff must contain the carrier's name, the international Section 214 authorization FCC file number (when applicable), and the information required by Section 203 of the Act.

* * * * *

(d) Domestic and international nondominant carriers subject to the provisions of this section are not subject to the tariff filing requirements of § 61.54.

5. Section 61.23(c) is revised to read as follows:

§ 61.23 Notice requirements.

* * * * *

(c) Tariff filings of domestic and international non-dominant carriers must be made on at least one-day notice.

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

1. The authority citation for Part 63 continues to read as follows:

Authority: Secs. 1, 4(i), 4(j), 201–205, 218, and 403 of the Communications Act of 1934, as amended, and sec. 613 of the Cable Communications Policy Act of 1984, 47 U.S.C. 151, 154(i), 15(j), 201–205, 218, 403, and 533 unless otherwise noted.

2. Section 63.01 is amended by removing paragraphs (k)(5) through (k)(7), (r), (s) and Notes 1 through 4, and revising the section heading and introductory text to read as follows:

§ 63.01 Contents of applications for domestic common carriers.

Except as otherwise provided in this part, any party proposing to undertake any construction of a new line, extension of any line, acquisition, lease, or operation of any line or extension thereof or engage in transmission over

or by means of such line, and such line originates and terminates in the United States, for which authority is required under the provisions of Section 214 of the Communications Act of 1934, as amended, shall request such authority by formal application which shall be accompanied by a statement showing how the proposed construction, etc., will serve the public interest, convenience, and necessity. Such statement must include the following information as applicable:

* * * * *

3. Section 63.05 is amended by revising the section heading to read as follows:

§ 63.05 Commencement and completion of construction for domestic common carriers.

* * * * *

4. Section 63.10 is amended by revising the last sentence of paragraphs (a) introductory text, (a)(3), and (a)(4), and (c)(3) to read as follows:

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

(a) * * * For purposes of paragraphs (a)(1) through (a)(3) of this section, "affiliation" and "foreign carrier" are defined as set forth in § 63.18(h)(1) (i) and (ii), respectively.

* * * * *

(3) * * * Such a demonstration should address the factors that relate to the scope or degree of the foreign affiliate's bottleneck control, including those listed in Section § 63.18(h)(8).

(4) * * * The existence of an affiliation with a U.S. facilities-based international carrier shall be assessed in accordance with the definition of affiliation contained in § 63.18(h)(1)(i), except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

* * * * *

(c) * * *
(3) Obtain Commission approval pursuant to § 63.18 before adding or discontinuing circuits; and

* * * * *

5. Section 63.11 is amended by revising paragraphs (a) introductory text, (a)(2), (c)(1) through (c)(3), (d), and the last sentence of (e)(2) to read as follows:

§ 63.11 Notification by and prior approval for U.S. international carriers that have or propose to acquire ten percent investments by, and/or an affiliation with, a foreign carrier.

(a) Any carrier authorized to provide international communications service under this part that, as of the effective date of this rule as amended in IB

Docket No. 95–22, is, or has an affiliation with, a foreign carrier within the meaning of § 63.18(h)(1)(i)(A) or (h)(1)(i)(B), or that as of such date knows of an existing ten percent or greater interest, whether direct or indirect, in the capital stock of the authorized carrier by a foreign carrier, or that after the effective date of this rule becomes affiliated with a foreign carrier within the meaning of § 63.18(h)(1)(i)(A), shall notify the Commission within thirty days of the effective date of this rule or within thirty days of the acquisition of the affiliation, whichever occurs later. For purposes of this section, "foreign carrier" is defined as set forth in § 63.18(h)(1)(ii).

* * * * *

(2) Any carrier that has previously notified the Commission of an affiliation with a foreign carrier, as defined by § 63.18(h)(1) immediately prior to the rule's amendment in IB Docket No. 95–22, need not notify the Commission again of the same affiliation.

* * * * *

(c) ***

(1) The carrier also should specify, where applicable, those countries named in paragraph (c) of this section for which it provides a specified international communications service solely through the resale of the international switched or private line services of U.S. facilities-based carriers with which the resale carrier does not have an affiliation. Such an affiliation is defined in § 63.18(h)(1)(i), except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

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

(i) The ownership information as required to be submitted pursuant to § 63.18(h)(2);

(ii) Where the carrier is authorized as a private line reseller on a particular route for which it has an affiliation with a foreign carrier, as defined in § 63.18(h)(1)(i), a certification as required to be submitted pursuant to § 63.18(h)(4); and

(iii) A "special concessions" certification as required to be submitted pursuant to § 63.18(i).

(3) The carrier is responsible for the continuing accuracy of the certifications provided under this section. Whenever the substance of any certification provided under this section 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 No. under which the original certification was provided, *except that* the carrier shall immediately inform the Commission if at any time the representations in the "special concessions" certification provided under paragraph (c)(2)(iii) of this section are no longer true. See § 63.18(i)(2). This information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10.

(d) Unless the carrier notifying the Commission of a foreign carrier affiliation under paragraph (a) of this section qualifies for the presumption of non-dominant regulation pursuant to § 63.10(a)(4), it should submit the information specified in § 63.18(h)(8) to retain its non-dominant status on any affiliated route.

(e) * * *
(2) * * * If notified that the acquisition raises a substantial and material question, then the carrier shall not consummate the planned investment until it has filed an application under § 63.18 and submitted the information specified under § 63.18(h)(6) or (7) as applicable, and § 63.18(h)(8), and the Commission has approved the application by formal written order.

6. Section 63.12 is revised to read as follows:

§ 63.12 Streamlined processing of certain international facilities-based and resale applications.

(a) Except as provided by paragraph (c) of this section, a complete application seeking authorization under § 63.18(e)(1) and (2) to acquire facilities to provide international services shall be granted by the Commission 35 days after the date of public notice listing the application as accepted for filing.

(b) Issuance of public notice of the grant shall be deemed the issuance of § 214 certification to the applicant, which may commence operation on the 36th 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.

(c) The streamlined processing procedures provided by paragraphs (a) and (b) of this section shall not apply where:

(1) The applicant seeks authority under either § 63.18(e)(1) for global § 214 authority to operate as a facilities-based carrier or § 63.18(e)(2) to resell international services, and the applicant has an affiliation within the meaning of § 63.18(h)(1)(i) with a facilities-based foreign carrier in a destination market,

and the Commission has not yet made a determination as to whether that foreign carrier possesses market power in that market; or

(2) The applicant has an affiliation within the meaning of § 63.18(h)(1)(i) with a dominant U.S. facilities-based carrier whose international switched or private line services the applicant seeks authority to resell (either directly or indirectly through the resale of another reseller's services); or

(3) The applicant seeks authority under § 63.18(e)(2) to resell international private line services to a country for which the Commission has not determined as of the date of public notice of the application that equivalent resale opportunities exist between the United States and the destination country; or

(4) The application is formally opposed within the meaning of § 1.1202(e) of this chapter; or

(5) The Commission has informed the applicant in writing, including by public notice, within 28 days after the date of public notice accepting the application for filing, that the application is not eligible for streamlined processing under this section.

(d) Any complete application that is subject to paragraph (c) of this section will be acted upon only by formal written order and operation for which such authorization is sought may not commence except in accordance with such order.

Note to paragraph (c): The term "facilities-based carrier" means one that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in an international facility, regardless of whether the underlying facility is a common or non-common carrier submarine cable, or an INTELSAT or separate satellite system.

7. § 63.13 is amended by revising the last sentence of paragraphs (a)(3) and (a)(5), and revising (a)(4) to read as follows:

§ 63.13 Streamlined procedures for modifying regulatory classification of U.S. international carriers from dominant to non-dominant.

* * * * *

(a) * * *
(3) * * * For purposes of this paragraph, "telecommunications facilities" are defined as in § 63.18(h)(4).

(4) Any carrier filing a certified list pursuant to paragraph (a)(2) of this section must also provide the "special concessions" certification as required to be submitted pursuant to § 63.18(i).

(5) * * * See § 63.18(i)(2).

* * * * *

8. Section 63.14 is revised to read as follows:

§ 63.14 Prohibition on agreeing to accept special concessions.

Any carrier authorized to provide international communications service under this part shall be prohibited from agreeing to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the United States and any foreign country served under the authority of this part and from agreeing to enter into such agreements in the future. For purposes of this section, "foreign carrier" is defined as in § 63.18(h)(1)(ii) and "special concession" is defined as in § 63.18(i).

9. Section 63.15 is amended by removing paragraph (c) and revising the section heading and paragraph (a) to read as follows:

§ 63.15 Special procedures for international service providers.

(a) Any party seeking to construct, acquire or operate lines in any new major common carrier facility project or non-U.S. licensed satellite or cable system for the provision of international common carrier services shall file an application pursuant to § 63.18(e)(6). If a carrier has global Section 214 authority pursuant to the provisions of § 63.18(e)(1), and the carrier desires to use non-U.S. licensed facilities pursuant to the provisions of § 63.18(e)(1)(ii)(B), this filing requirement does not apply.

* * * * *

10. Section 63.17 is amended by revising paragraphs (b), introductory text, and (b)(4) to read as follows:

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

* * * * *

(b) Except as provided in paragraph (b)(5) of this section, a U.S. common carrier, whether a reseller or facilities-based, may engage in "switched hubbing" to countries not found to offer equivalent resale opportunities under § 63.18(e)(3) and (4) under the following conditions:

* * * * *

(4) No U.S. common carrier may engage in switched hubbing under this section to a country where it has an affiliation with a foreign carrier unless and until it receives specific authority to do so under § 63.18. For purposes of this paragraph, "affiliation" and "foreign carrier" are defined in § 63.18(h)(1)(i)(B) and (ii), respectively.

11. New § 63.18 is added to read as follows:

§ 63.18 Contents of applications for international common carriers.

Except as otherwise provided in this part, any party seeking authority pursuant to Section 214 of the Communications Act of 1934, as amended, to construct a new line, or acquire or operate any line, or engage in transmission over or by means of such additional line for the provision of common carrier communications services between the United States, its territories or possessions, and a foreign point shall request such authority by formal application which shall be accompanied by a statement showing how the grant of the application will serve the public interest, convenience, and necessity. Such statement shall consist of the following information, as applicable:

(a) The name, address, and telephone number of each applicant;

(b) The Government, State, or Territory under the laws of which each corporate or partnership applicant is organized;

(c) The name, title, post office address, and telephone number of the officer and any other contact point, such as legal counsel, to whom correspondence concerning the application is to be addressed;

(d) A statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis);

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

(1) If applying for authority to acquire interests in facilities previously authorized by the Commission in order to provide international basic switched, private line, data, television and business services to all international points, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a facilities-based carrier pursuant to the terms and conditions of paragraph (e)(1) of this section.

(ii) Comply with the following terms and conditions:

(A) Authority to provide services to all international points under this part extends only to those countries for which the applicant qualifies for non-dominant regulation as set forth in § 63.10. If an applicant is affiliated with a facilities-based foreign carrier in a destination market and the Commission has not determined that the foreign carrier does not possess market power in that market, the applicant shall not commence service on any such route

unless and until it receives specific authority to do so under paragraph (e)(6) of this section. If an applicant becomes dominant on a particular route after receiving authority under this section, the terms and conditions of § 63.10(c) will apply to its provision of services on the dominant route. An applicant should file separately under Section 63.18(e)(6) to provide service on routes on which it may not qualify for regulation as a non-dominant carrier.

(B) The applicant may only provide service using half-circuits on appropriately licensed U.S. common and non-common carrier facilities (either under Title III of the Communications Act of 1934, as amended, or the Submarine Cable Landing License Act, 47 U.S.C. 34 *et al.*) provided that these facilities do not appear on an exclusion list published by the Commission and any necessary overseas connecting facilities. Applicants may not use non-U.S. licensed facilities unless and until the Commission specifically approves their use and so indicates on the exclusion list, and only then for service to the countries indicated thereon.

(C) The applicant may provide service to any country not included on an exclusion list published by the Commission.

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

(E) The authority granted under this paragraph shall be subject to all Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See § 63.12.

(2) If applying for authority to resell the international services of authorized U.S. common carriers for the provision of international basic switched, private line, data, television and business services to all international points, the applicant shall:

(i) State that it is requesting Section 214 authority to operate as a resale carrier pursuant to the terms and conditions of § 63.18(e)(2).

(ii) Comply with the following the terms and conditions:

(A) The applicant may resell the international services of any authorized common carrier, except affiliated carriers regulated as dominant on the route to be served, 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;

(B) The applicant may resell private line services for the provision of international basic switched services only to countries found by the Commission to provide equivalent resale opportunities, except in circumstances where the applicant is affiliated with a facilities-based foreign carrier in a destination market and the Commission has not determined that the foreign carrier does not possess market power in that market. In such circumstances, the applicant shall not commence service on any such route unless and until it receives specific authority to do so under paragraph (e)(6) of this section. The Commission will provide public notice of its determinations.

(C) The authority granted under this paragraph shall be subject to all Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See § 63.12.

(3) If applying for authority to resell private lines for the purpose of providing international basic switched services to countries not on the Commission's published list of equivalent countries, applicant shall demonstrate for each country to which it seeks to provide service that that country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall:

(i) Include evidence demonstrating that equivalent resale opportunities exist between the United States and the subject country, including any relevant bilateral agreements between the administrations involved. Parties must demonstrate that the foreign country at the other end of the private line provides U.S.-based carriers with:

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

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

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

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

(ii) The procedures set forth in paragraph (e)(3) of this section are subject to Commission policies on resale of international private lines in CC

Docket No. 90-337 as amended in IB Docket No. 95-22.

(4) Any carrier authorized under this section to acquire and operate international private line facilities other than through resale may use those private lines to provide switched basic services to countries found by the Commission to provide equivalent resale opportunities except in circumstances where the applicant is affiliated with a facilities-based foreign carrier in the country at the foreign end of the private line, and the Commission has not determined that the foreign carrier does not possess market power in that market. In such circumstances, the applicant shall not commence service on such route unless and until it receives specific authority to do so under paragraph (e)(6) of this section. The Commission will provide public notice of its equivalency findings. The applicant is subject to all applicable Commission rules and regulations and any conditions stated in the Commission's public notice or order that serves as the applicant's Section 214 certificate. See § 63.12.

(i) Except as provided in paragraph (e)(4)(ii) of this section, any carrier that seeks to provide switched basic services over its authorized private line facilities to countries not identified in the Commission's published list of equivalent countries shall, for each country for which it seeks to provide switched basic service over its authorized private lines facilities, request such authority by formal application. Such application shall be accompanied by a demonstration that country affords resale opportunities equivalent to those available under U.S. law. In this regard, applicant shall include the information required by paragraph (e)(3) of this section.

(ii) No formal application is required under paragraph (e)(4) of this section in circumstances where the carrier's previously authorized private line facility is interconnected to the public switched network only on one end—either the U.S. 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.

(5) If applying for authority to acquire facilities through the transfer of control of a common carrier holding international Section 214 authorization, or through the assignment of another carrier's existing authorization, the applicant shall complete paragraphs (a) through (d) of this section for both the transferor/assignor and the transferee/

assignee. Paragraph (g) of this section is not applicable, and only the transferee/assignee needs to complete paragraphs (i) and (j) 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.

(6) If applying for authority to acquire facilities or to provide services not covered by § 63.18(e) (1) through (5), the applicant shall provide a description of the facilities and services for which it seeks authorization. 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. Applicants for new submarine cable facilities also shall include a list of the proposed owners of the cable, their voting interests and ownership interests by segment in the cable.

(f) Applicants may apply for any or all of the authority provided for in paragraph (e) of this section in the same application. The applicant may want to file separate applications for those services not subject to streamlined processing under § 63.12.

(g) Where the applicant is seeking facilities-based authority under paragraph (e)(6) 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) A certification as to whether or not the applicant is, or has an affiliation with, a foreign carrier.

(1) The certification shall state with specificity each foreign country in which the applicant is, or has an affiliation with, a foreign carrier. For purposes of this certification:

(i) Affiliation is defined to include:

(A) A greater than 25 percent ownership of capital stock, or controlling interest at any level, by the applicant, or by any entity that directly or indirectly controls or is controlled by it, or that is under direct or indirect common control with it, in a foreign carrier or in any entity that directly or indirectly controls a foreign carrier; or

(B) A greater than 25 percent ownership of capital stock, or controlling interest at any level, in the applicant by a foreign carrier, or by any entity that directly or indirectly controls

or is controlled by a foreign carrier, or that is under direct or indirect common control with a foreign carrier; or by two or more foreign carriers investing in the applicant in the same manner in circumstances where the 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 basic international telecommunications services in the United States. A U.S. carrier also will be considered to be affiliated with a foreign carrier where the foreign carrier controls, is controlled by, or is under common control with a second foreign carrier already found to be affiliated with that U.S. carrier under this section.

(ii) 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.

(2) In support of the required certification, each applicant shall also provide the name, address, citizenship and principal businesses of its ten percent or greater direct and indirect shareholders or other equity holders and identify any interlocking directorates.

(3) Each applicant that proposes to acquire facilities through the resale of the international switched or private line services of another U.S. carrier shall additionally certify as to whether or not the applicant has an affiliation with the U.S. carrier(s) whose facilities-based service(s) the applicant proposes to resell (either directly or indirectly through the resale of another reseller's service). For purposes of this paragraph, affiliation is defined as in paragraph (h)(1)(i) of this section, except that the phrase "U.S. facilities-based international carrier" shall be substituted for the phrase "foreign carrier."

(4) Each applicant that certifies under this section that it has an affiliation with a foreign carrier and that proposes to resell the international private line services of another U.S. carrier shall additionally certify as to whether the affiliated foreign carrier owns or controls telecommunications facilities in the particular country(ies) to which

the applicant proposes to provide service (*i.e.*, the destination country(ies)). For purposes of this paragraph, telecommunications facilities are defined as the underlying telecommunications transport means, including intercity and local access facilities, used by a foreign carrier to provide international telecommunications services offered to the public.

(5) Each applicant and carrier authorized to provide international communications service under this part is responsible for the continuing accuracy of the certifications required by paragraphs (h) (3) and (4) of this section. Whenever the substance of any such certification is no longer accurate, the applicant/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 No. under which the original certification was provided. This information may be used by the Commission to determine whether a change in regulatory status may be warranted under § 63.10.

(6) Each applicant that certifies that it is, or that it has an affiliation with, a foreign carrier, as defined in paragraphs (h)(1) (i)(B) and (ii) of this section, respectively, in a named foreign country and that seeks to operate as a U.S. facilities-based international carrier to that country from the United States shall provide information in its application filed under this part to demonstrate that either:

(i) The named foreign country (*i.e.*, the destination foreign country) provides effective competitive opportunities to U.S. carriers to compete in that country's international facilities-based market; or

(ii) Its affiliated foreign carrier does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in the destination country.

(A) The demonstration specified in paragraph (h)(6)(i) of this section should address the following factors:

(1) 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);

(2) 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;

(3) Whether competitive safeguards exist in the foreign country to protect

against anticompetitive practices, including safeguards such as:

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

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

(iii) Protection of carrier and customer proprietary information;

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

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

(B) The demonstration specified in paragraph (h)(6)(ii) of this section should include the same information requested by paragraph (h)(8) of this section.

(7) Each applicant that certifies that it is, or that it has an affiliation with, a foreign carrier, as defined in paragraph (h)(1) (i)(B) and (ii) of this section, respectively, in a named foreign country and that proposes to resell the international switched or non-interconnected private line services, respectively, of another U.S. carrier for the purpose of providing international communications services to the named foreign country from the United States shall provide information in its application filed under this part to demonstrate that either:

(i) The named foreign country (*i.e.*, the destination foreign country) provides effective competitive opportunities to U.S. carriers to resell international switched or non-interconnected private line services, respectively; or

(ii) Its affiliated foreign carrier does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in the destination country.

(A) The demonstration specified in paragraph (h)(7)(i) of this section should address the following factors:

(1) 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);

(2) Whether there exist reasonable and nondiscriminatory charges, terms and conditions for the provision of the relevant resale service;

(3) Whether competitive safeguards exist in the foreign country to protect

against anticompetitive practices, including safeguards such as:

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

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

(iii) Protection of carrier and customer proprietary information;

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

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

(B) The demonstration specified in paragraph (h)(7)(ii) of this section should include the same information requested in paragraph (h)(8) of this section.

(8) Each applicant that certifies that it has an affiliation with a foreign carrier in a named foreign country and that desires to be regulated as non-dominant for the provision of international communications service to that country may provide information in its application filed under this part to demonstrate that its affiliated foreign carrier does not have the ability to discriminate against unaffiliated U.S. international carriers through control of bottleneck services or facilities in the named foreign country. See § 63.10, Regulatory Classification of U.S. International Carriers.

(i) Such a demonstration should address the factors that relate to the scope or degree of the foreign affiliate's bottleneck control, such as:

(A) The monopoly, duopoly, or oligopoly status of the destination country; and

(B) Whether the foreign affiliate has the potential to discriminate against unaffiliated U.S. international carriers through such means as preferential operating agreements, preferential routing of traffic, exclusive or more favorable transiting agreements, or preferential domestic access and interconnection arrangements.

(ii) Such a demonstration may also address other factors the applicant deems relevant, such as the effectiveness of regulation in the destination country.

(i) Each applicant shall certify that the applicant has not agreed to accept special concessions directly or indirectly from any foreign carrier or administration with respect to traffic or revenue flows between the U.S. and any foreign country which the applicant may serve under the authority granted

under this part and will not enter into such agreements in the future.

(1) For purposes of paragraph (i) of this section, and of §§ 63.11(c)(2)(iii), 63.13(a)(4), and 63.14, special concession is defined as any arrangement that affects traffic or revenue flows to or from the United States that is offered exclusively by a foreign carrier or administration to a particular U.S. international carrier and not also to similarly situated U.S. international carriers authorized to serve a particular route.

(2) The special concessions certification required by paragraph (i) of this section and by §§ 63.11(c)(2)(iii) and 63.13(a)(4) shall be viewed as an ongoing representation to the Commission, and applicants/carriers shall immediately inform the Commission if at any time the representations in their certifications are no longer true. Failure to so inform the Commission will be deemed a material misrepresentation to the Commission.

(j) A certification pursuant to §§ 1.2001 through 1.2003 of this chapter that no party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. See 21 U.S.C. 853a.

Note 1 to paragraph (h): The word "control" as used in this section is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

Note 2 to paragraph (h): The term "facilities-based carrier" as used in this section means one that holds an ownership, indefeasible-right-of-user, or leasehold interest in bare capacity in an international facility, regardless of whether the underlying facility is a common or non-common carrier submarine cable, or an INTELSAT or separate satellite system.

Note 3 to paragraph (h): 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 4 to paragraph (h): 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 x 0.26). Under the 25 percent attribution benchmark, X's interest in "carrier" would be cognizable, while A's interest would not be cognizable.

12. A new § 63.19 is added to read as follows:

§ 63.19 Special procedures for discontinuances of international services.

(a) Any non-dominant international carrier as this term is defined in § 63.10 that seeks to discontinue, reduce or impair service, including the retiring of international facilities, dismantling or removing of international trunk lines, shall be subject to the following procedures in lieu of those specified in §§ 63.61 through 63.601:

(1) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment at least 60 days prior to its planned action. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice.

(2) The carrier shall file with this Commission a copy of the notification on or after the date on which notice has been given to all affected customers.

(b) Any dominant international carrier as this term is defined in § 63.10 that seeks to retire international facilities, dismantle or remove international trunk lines, and the services being provided through these facilities are not being discontinued, reduced or impaired, shall only be subject to the notification requirements of paragraph (a) of this section. If such carrier discontinues, reduces or impairs service to a community or retires facilities that impair or reduce service to a community, the dominant carrier shall file an application pursuant to §§ 63.62 and 63.500.

13. A new § 63.20 is added to read as follows:

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

(a) Unless otherwise specified the Commission shall be furnished with an original and five copies of applications filed for international facilities and services under Section 214 of the Communications Act of 1934, as amended. Provided, however, that where applications involve only the supplementation of existing international facilities, and the issuance of a certificate is not required, an original and two copies of the application shall be furnished. Upon

request by the Commission, additional copies of the application shall be furnished. Each application shall be accompanied by the fee prescribed in subpart G of part 1 of this chapter.

(b) No application accepted for filing and subject to the provisions of §§ 63.02, 63.18, 63.62 or § 63.505 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.

(c) No application accepted for filing and subject to the streamlined processing provisions of § 63.12 shall be granted by the Commission earlier than 21 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 21 day or other time period specified in paragraphs (b) or (c) of this section. The petitioner shall serve a copy of such petition on the applicant no later than the date of filing thereof with the Commission. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience and necessity. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny within 14 days after the original pleading is filed. The petitioner may file a reply to such opposition within seven days after the time for filing oppositions has expired. Allegations of facts or denials thereof shall similarly be supported by affidavit. These responsive pleadings shall be served on the applicant or petitioner, as appropriate, and other parties to the proceeding.

14. A new § 63.21 is added to read as follows:

§ 63.21 Conditions applicable to international Section 214 authorizations.

International carriers authorized under Section 214 of the Communications Act of 1934, as amended, must follow the following requirements and prohibitions:

(a) Carriers may not resell private lines for the provision of international

switched services unless the country at the foreign end of the private line is deemed equivalent. See § 63.18(e) (3) through (4).

(b) Carriers must file copies of operating agreements entered into with their foreign correspondents within 30 days of their execution, and shall otherwise comply with the filing requirements contained in § 43.51 of this chapter.

(c) Carriers must file tariffs pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, and part 61 of this chapter.

(d) Carriers must file annual reports of overseas telecommunications traffic as required by § 43.61 of this chapter.

(e) Carriers regulated as dominant must provide the Commission with the following information within 30 days after conveyance of transmission capacity on submarine cables to other U.S. carriers:

- (1) The name of the party to whom the capacity was conveyed;
- (2) The name of the facility in which capacity was conveyed;
- (3) The amount of capacity that was conveyed; and
- (4) The price of the capacity conveyed.

15. Section 63.52 is amended by revising the section heading to read as follows:

§ 63.52 Copies required; fees; and filing periods for domestic authorizations.

* * * * *

16. Section 63.53 is revised to read as follows:

§ 63.53 Form.

(a) Applications under Section 214 of the Communications Act shall be submitted on paper not more than 21.6 cm (8.5 in) wide and not more than 35.6 cm (14 in) long with a left-hand margin of 4 cm (1.5 in). This requirement shall not apply to original documents, or admissible copies thereof, offered as exhibits or to specially prepared exhibits. The impression shall be on one side of the paper only and shall be double-spaced, except that long quotations shall be single-spaced and indented. All papers, except charts and maps, shall be typewritten or prepared by mechanical processing methods, other than letter press, or printed. The foregoing shall not apply to official publications. All copies must be clearly legible.

(b) Applications submitted under Section 214 of the Communications Act for international services may be

submitted on computer diskettes pursuant to a filing manual compiled by the International Bureau, but a paper copy of the application with the original signature must accompany the diskette. The manual will specify the type and format of the computer diskettes and the reporting and procedural requirements for such applications.

(c) Applications submitted under Section 214 of the Communications Act for international services and any related pleadings that are in a foreign language shall be accompanied by a certified translation in English.

17. Section 63.62 is amended by revising paragraph (a) to read as follows:

§ 63.62 Type of discontinuance, reduction, or impairment of telephone or telegraph service requiring formal application.

* * * * *

(a) The dismantling or removal of a trunk line (for contents of application see § 63.500) for all domestic carriers and for dominant international carriers except as modified in § 63.19;

* * * * *

18. Section 63.71 is amended by revising the section heading to read as follows:

§ 63.71 Special procedures for discontinuance, reduction or impairment of service by domestic non-dominant carriers.

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[FR Doc. 96-8757 Filed 4-8-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 9602226047-6047-01; I.D. 020696B]

Atlantic Sea Scallop Fishery; Reduction in Crew Size Limit; Correction

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

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations (I.D. 020696B) that were published Tuesday, March 5, 1996 (61 FR 8490). The regulations related to Framework Adjustment 7 to the Atlantic Sea Scallop Fishery Management Plan

(FMP) that permanently reduced the maximum crew size from nine to seven.

EFFECTIVE DATE: March 11, 1996.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, 508-281-9273.

SUPPLEMENTARY INFORMATION:
Background

The final regulations that are the subject of this correction related to Framework Adjustment 7 to the FMP that permanently reduced the maximum crew size from nine to seven in response to very high levels of recruitment being documented in the Mid-Atlantic resources area. The New England Fishery Management Council recommended lowering the maximum crew size from nine to seven, because a smaller crew lowers shucked-scallop production.

Need for Correction

As published, the final regulations contained incorrect wording in a sentence under the "Classification" heading and an incorrect reference to the Director, Alaska Region, NMFS, in § 650.21(c). This reference should have been to the Regional Director.

Correction of Publication

Accordingly, the publication on March 5, 1996, of the final regulations (I.D. 020696B), which were the subject of FR Doc. 96-5017, is corrected as follows:

1. On page 8492, in the first column, in line two, insert "notice" after the word prior and in line three remove "notice" after the word comment.

2. On page 8492, in the first column, in § 650.21, paragraph (c) is corrected to read as follows:

§ 650.21 Gear and crew restrictions.

* * * * *

(c) *Crew restrictions.* Limited access vessels participating in or subject to the scallop DAS allocation program may have no more than seven people aboard, including the operator, when not docked or moored in port, unless participating in the small dredge program specified in paragraph (e) of this section, or otherwise authorized by the Regional Director.

* * * * *

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 3, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

[FR Doc. 96-8704 Filed 4-8-96; 8:45 am]

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