ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–7025–8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting a petition submitted by Tenneco Automotive (Tenneco) to exclude from hazardous waste control (or delist) a certain solid waste. This final rule responds to the petition submitted by Tenneco to delist F006 stabilized sludge on a ''generator specific'' basis from the lists of hazardous waste.

After careful analysis and use of the Delisting Risk Assessment Software, the EPA has concluded the petitioned waste is not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies to 1,800 cubic yards of excavated stabilized waste water treatment sludge currently stored in containment cells at Tenneco's Paragould, Arkansas facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills.

EFFECTIVE DATE: August 9, 2001.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Freedom of Information Act review room on the 7th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''F–00-ARDEL-TENNECO.'' The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general information, contact Bill Gallagher, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas at (214) 665–6775. For technical information concerning this notice, contact Michelle Peace, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665–7430.

SUPPLEMENTARY INFORMATION:

The information in this section is organized as follows:

I. Overview Information

A. What Action Is EPA Finalizing?

After evaluating the petition, EPA proposed, on May 11, 2001 to exclude the Tenneco waste from the lists of hazardous wastes under §§ 261.31 and 261.32 (see 66 FR 24085). The EPA is finalizing:

(1) The decision to grant Tenneco's petition to have its wastewater treatment sludge excluded, or delisted, from the definition of a hazardous waste, subject to certain continued monitoring conditions; and

(2) The decision to use the Delisting Risk Assessment Software, which includes the EPACMTP fate and transport model, to evaluate the potential impact of the petitioned waste on human health and the environment. The Agency used this model to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed in a Subtitle D landfill.

B. Why Is EPA Approving This Delisting?

Tenneco's petition requests a delisting for listed hazardous wastes. Tenneco does not believe the petitioned waste meets the criteria for which EPA listed it as a hazardous waste. Tenneco also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22 (d)(1)–(4). In making the final delisting determination, EPA also evaluated the petitioned waste against the listing criteria and factors cited in §§ 261.11(a)(2) and (a)(3). Based on this review, the EPA agrees with the petitioner the waste is nonhazardous with respect to the original listing criteria. If the EPA had found, based on this review, the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. The EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. The EPA believes the petitioned waste does not meet these criteria. EPA's final decision to delist waste from Tenneco's facility is based on the information submitted by Tenneco in its petition, including descriptions of the stabilization techniques and analytical data from the Paragould, AR facility.

C. What Are the Limits of This Exclusion?

This exclusion applies to the waste described in the petition only if the requirements described in Table 1 of part 261 and the conditions contained herein are satisfied. This is a one-time exclusion for 1,800 cubic yards of stabilized waste water treatment sludge.

D. How Will Tenneco Manage the Waste It Is Delisted?

Tenneco currently stores the petitioned waste (stabilized waste water treatment sludge) generated in containment vaults on-site at its facility. Tenneco will dispose of the sludge in a Subtitle D solid waste landfill in Arkansas.

E. When Is the Final Delisting Exclusion Effective?

This rule is effective August 9, 2001. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months after the rule is published when the regulated community does not need the six-month period to come into compliance. That is

the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. This reduction in existing requirements also provides a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

F. How Does This Final Rule Affect States?

Because EPA is issuing this exclusion under the Federal RCRA delisting program, only States subject to Federal RCRA delisting provisions would be affected. This would exclude two categories of States: States having a dual system that includes Federal RCRA requirements and their own requirements, and States who have received our authorization to make their own delisting decisions.

Here are the details: We allow states to impose their own non-RCRA regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the State. Because a dual system (that is, both Federal (RCRA) and State (non-RCRA) programs) may regulate a petitioner's waste, we urge petitioners to contact the State regulatory authority to establish the status of their wastes under the State law.

EPA has also authorized some States (for example, Louisiana, Georgia, Illinois) to administer a delisting program in place of the Federal program, that is, to make State delisting decisions. Therefore, this exclusion does not apply in those authorized States. If Tenneco transports the petitioned waste to or manages the waste in any State with delisting authorization, Tenneco must obtain delisting authorization from that State before they can manage the waste as nonhazardous in the State.

II. Background

A. What Is a Delisting Petition?

A delisting petition is a request from a generator to EPA or another agency with jurisdiction to exclude from the list of hazardous wastes, wastes the generator believes should not be considered hazardous under RCRA.

B. What Regulations Allow Facilities To Delist a Waste?

Under 40 CFR 260.20 and 260.22, facilities may petition the EPA to remove their wastes from hazardous waste regulation by excluding them from the lists of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations. Section 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists.

C. What Information Must the Generator Supply?

Petitioners must provide sufficient information to the EPA to allow the EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

III. EPA's Evaluation of the Waste Data

A. What Waste Did Tenneco Petition EPA To Delist?

On September 8, 2000, Tenneco petitioned the EPA to exclude from the lists of hazardous waste contained in §§ 261.31 and 261.32, a waste by-product (stabilized sludge from the wastewater treatment plant) which falls under the classification of listed waste because of the ''derived from'' rule in RCRA 40 CFR 261.3. Specifically, in its petition, Tenneco Automotive, located in Paragould, Arkansas, requested that EPA grant an exclusion for 1,800 cubic yards of stabilized sludge from electroplating operations, excavated from the Finch Road Landfill and currently stored in containment cells. The resulting waste is listed, in accordance with § 261.3(c)(2)(i) (i.e., the ''derived from'' rule). The waste code of the constituents of concern is EPA Hazardous Waste No. F006. The constituents of concern for F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

B. How Much Waste Did Tenneco Propose To Delist?

Specifically, in its petition, Tenneco requested that EPA grant a one-time exclusion for 1,800 cubic yards of stabilized sludge.

C. How Did Tenneco Sample and Analyze the Waste Data in This Petition?

To support its petition, Tenneco submitted:

(1) Historical information on past waste generation and management practices;

(2) Results of the total constituent list for 40 CFR part 264, Appendix IX volatiles, semivolatiles, and metals except pesticides, herbicides, and PCBs;

(3) Results of the constituent list for Appendix IX on Toxicity Characteristic Leaching Procedure (TCLP) extract for volatiles, semivolatiles, and metals;

(4) Results from total oil and grease analyses and pH measurements.

IV. Public Comments Received on the Proposed Exclusion

A. Who Submitted Comments on the Proposed Rule?

The EPA received public comments on the May 11, 2001, proposal from General Motors (GM).

B. Response To Comments

General Motors (GM) comments the terms used in the DRAS should be more clearly defined. Does the term Cw for waste contamination account for the total mass of contamination in the waste or only that portion that may enter the aqueous phase?

All terms and equations used in the Delisting Risk Assessment Software (DRAS) program are discussed in the Delisting Technical Support Document (DTSD). All abbreviations, acronyms, and variables are listed in Chapter 1, pages x-xx of the DTSD. The DTSD is updated to reflect revisions and modifications to risk algorithms and methodology. The Agency encourages all users and reviewers to comment on the technical support documentation and continues to improve the clarity and transparency of the DTSD. The term Cw is not used in the document. Without specific information to the page location/screen location of the term referenced in the question above, no further response can be provided.

GM comments that the definition of the criteria to be used to determine de minimis risk levels and risk estimates should be provided for a meaningful public review.

Information on the Risk and Hazard Assessment can be found in Chapter 4 of the DTSD. Discussion of criteria and quantification of risk are discussed in this Chapter.

The Delisting Program in its history has never focused on site-specific conditions. It has since its inception

been a program specifically for waste generators. A review of the 40 CFR 260.22 indicates that these are petitions to amend part 261 to exclude a waste produced at a particular facility. The Agency is not currently using the model to predict site-specific results. Since disposal of the delisted waste may occur at any Subtitle C or D landfill in the United States, site-specific considerations are not usually given. The DRAS model is based on national averages of the site specific factors and is intended to model a reasonable worst case scenario for disposal.

The Agency continues to review chemical-specific parameter data. Where appropriate, these data will be incorporated into the DRAS analyses. However, as explained above, in delisting analyses, site specific characteristics (beyond waste constituent concentration and volume) are not incorporated into analyses. Default values are given for many parameters used in risk. The Agency can not fully evaluate how release mechanisms and exposure scenarios may be impacted because the final disposal location remains undefined.

GM comments that documentation of the sensitivity analysis should be provided for a meaningful public review.

The DRAS provides the forward-calculated risk level and back-calculated allowable waste concentration for each exposure pathway, thereby permitting the user to determine which pathway drives the risk for a given chemical. These analyses are currently provided for the user by the DRAS program on the Chemical-Specific Results screen.

GM comments that unlikely scenarios and assumptions which compound the release and risk estimates should be justified.

The DRAS model is intended to model a reasonable worst case model and is based on national averages of these factors. This is the same assumption used for the EPACML.

The DRAS employs standard risk assessment default parameters that are accepted throughout the Agency in risk analyses (i.e., residential exposure @ 350 days/yr, selection of the 90th percentile). These default standards are described and listed in Appendix A of the DTSD.

The DRAS does employ a conservative approach to exposure assessment by assuming the receptor may be exposed to both the most sensitive groundwater pathway and the most sensitive surface exposure pathway. The Agency has no way of knowing that this situation will not occur and therefore deems it prudent to protect for this condition by adding risks. Again, the Agency has no way of knowing the direction of media flow and must assume that all media flow may move toward the receptor. The Agency has no data to indicate that the landfill volume data and other data from the 1987 landfill survey report is not valid. When updated data are available, they will be incorporated into the analyses.

The groundwater fate and transport model used by the Agency to determine first order decay and other processes is the EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP). This model has been peer reviewed and received an excellent review from the Science Advisory Board (SAB). EPA has proposed use of this SAB-reviewed model and no convincing comments to the contrary have been received.

The DRAS is complex and EPA must explain the models and risk processes used in establishing regulatory limits.

Attached to the Delisting Risk Assessment Software is a Technical Support Document which explains the risk algorithms and documentation of the decisions made in development of the model. Publication costs prohibit the inclusion of all this information into the **Federal Register** notice but it is readily available in both the Technical Support Document and at the Region 6 Delisting page (*www.epa.gov/earth1/r6/pd-o/pd-o.htm*). However, the Agency believes that the Delisting Risk Assessment Software is no more complex than use of the EPACML for delisting, just because the calculations have been computerized make them no more difficult to understand than the EPACML. Similar regression models were developed for the DRAS. The risk pathways for surface water and air volatilization are evaluated by the same equations used previously in the delisting program. And finally, the pathways for showering and dermal contact are equations which are commonly used in risk assessments performed for cleanups and site assessments under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) commonly known as Superfund and other programs.

GM comments that model should be peer reviewed and the public should have the formal opportunity to provide comments.

The model has been peer reviewed by EPA risk assessors and EPA's Office of Research and Development scientists. The public has the opportunity to comment on the use of the DRAS model each time a delisting is proposed which is based on the DRAS model. The Agency is currently using the same level of public review used by the delisting program for use of the EPA Composite Model for Landfills in 1991. The model as modified for the delisting program was promulgated in conjunction with its use in evaluating the Reynolds Metals Delisting petition. See, 56 FR 32993 (July 18, 1991). No challenge was made to procedures for promulgating the use of the EPACML in delisting evaluations.

Summary of GM Comments

GM summarizes its comments on the DRAS by stating that (1) EPA is proposing significant changes to the methodology it uses to evaluate delisting petitions. It appears the changes would apply to all future delisting petitions. (2) The proposed changes are complex. (3) It appears the proposed changes would apply in all USEPA Regions. (4) The proposed changes may include elements of the still-draft, unpromulgated, and controversial HWIR waste model. It is inappropriate and contrary to law and the Administrative Procedures Act to use a model prior to public notice and comment. (5) No **Federal Register** notice has been given to clearly indicate the EPA plans to change the way it reviews and evaluates delisting petitions. Instead, references to the changes in the model have been made as part of proposals to delist specific waste streams. (6) If EPA is changing the model it uses to evaluate delisting petitions (from the EPACML to the DRAS model) USEPA should provide specific and clear public notification of this intent. The risk assessment methodology for delisting that has been used since 1991 should still apply until public review period is completed.

The EPA is following the same notice provided for changing from the VHS model to the EPA Composite Model for Landfills (EPACML). See 56 *FR* 32993, July 18, 1991. The public has the opportunity to comment on the DRAS model each time a delisting is proposed which is based on the DRAS model. General Motors has not stated any reason why the DRAS model is not appropriate for use in evaluating the risk associated with the Tenneco Delisting. EPA will consider use of alternatives model for assessing risk if the comments received show that another model is more appropriate under the circumstances.

General Motors states that use of model with public review and comment

is a violation of the Administrative Procedures Act and law. Opportunity for public review and comment is provided for each delisting petition. Comments are requested for each delisting decision regarding the decision to delist the waste and use of a model to assess the risk posed to human health and the environment. Each time the model is used, just as with the use of the EPACML, the public and interested stakeholders can comment on the appropriateness of the use. In fact, each proposed rule for approving a delisting proposes the use of a model in the evaluation of risk and asks for comment. Examples can be seen in the **Federal Register** for the EPACML as well as the DRAS. See, 56 FR 32993 (July 18, 1991), 64 FR 44867 (August 18, 1999), and 65 FR 75641 (December 4, 2000). Any petitioner or interested party may suggest more appropriate evaluation tools for predicting risk. Thus, EPA believes that adequate public notice has been provided and the APA has not been violated.

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The final to grant an exclusion is not significant, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to manage its waste as nonhazardous. There is no additional impact therefore, due to this final rule. Therefore, this proposal would not be a significant regulation and no cost/benefit assessment is required. The Office of Management and Budget (OMB) has also exempted this rule from the requirement for OMB review under section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required however if the Administrator or delegated representative certifies the rule will not have any impact on a small entities.

This rule if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, which was signed into law on March 22, 1995, EPA must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements. The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. The EPA finds that this final delisting decision is deregulatory in nature and does not impose any enforceable duty upon State, local, or tribal governments or the private sector. In addition, the final delisting does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

IX. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will become effective on the date of publication in the **Federal Register**.

X. Executive Order 12875

Under Executive Order 12875, 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 the Office of Management and Budget 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 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.'' This rule does not create a 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.

XI. Executive Order 13045

The Executive Order 13045 is entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This order applies to any rule that EPA determines (1) is economically

significant as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because this is not an economically significant regulatory action as defined by Executive Order 12866.

XII. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 to the Office of Management and Budget, 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 and other representatives of Indian tribal governments ''to meaningful and timely input'' in the development of regulatory policies on matters that significantly or uniquely affect their communities of Indian tribal governments. This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

XIII. National Technology Transfer and Advancement Act

Under section 12(d) if the National Technology Transfer and Advancement Act, the Agency is directed to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires that Agency to provide Congress, through the OMB, an explanation of the reasons for not using such standards.

This rule does not establish any new technical standards and thus, the Agency has no need to consider the use of voluntary consensus standards in developing this final rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: July 27, 2001.

Stephen Gilrein,

Acting Director, Multimedia Planning and Permitting Division.

For the reasons set out in the preamble, 40 CFR part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 1 of Appendix IX, part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Waste Excluded Under §§ 260.20 and 260.22.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
* *	* *	* * *
Tenneco Automotive	Paragould, AR	Stabilized sludge from electroplating operations, excavated from the Finch Road Landfill and currently stored in containment cells by Tenneco (EPA Hazardous Waste Nos. F006). This is a one-time exclusion for 1,800 cubic yards of stabilized sludge when it is disposed of in a Subtitle D landfill. This exclusion was published on August 9, 2001. (1) *Reopener Language:* (A) If, anytime after disposal of the delisted waste, Tenneco possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at level higher than the delisting level allowed by the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data. (B) If Tenneco fails to submit the information described in (2)(A) or if any other information is received from any source, the Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 1.—WASTE EXCLUDED FROM NON-SPECIFIC SOURCES

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

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[FR Doc. 01–20043 Filed 8–8–01; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[CC Docket No. 01–150; FCC 01–205]

Implementation of Further Streamlining Measures for Domestic Section 214 Authorizations

AGENCY: Federal Communications Commission.

ACTION: Final rule; interpretation.

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

DATES: Effective August 9, 2001.

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

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

Synopsis of Declaratory Ruling

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

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

Initial Regulatory Flexibility Act Analysis

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