

Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Executive Associate Director finds that the delayed effective dates would be contrary to the public interest. The Executive Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No

environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U. S. C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under

Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 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
NEW ELIGIBLES—Emergency Program			
Missouri: Diehlstadt, village of, Scott County	290925	Dec. 4, 1996.	
Georgia: Dallas, city of, Paulding County	130372	Dec. 5, 1996.	
North Carolina: Burgaw, town of, Pender County	370483do.	
Michigan:			
Crockery, township of, Ottawa County	260981	Dec. 17, 1996.	
Sylvan, township of, Osceola County	260982do.	
Greenwood, township of, Wexford County	260947	Dec. 20, 1996.	
NEW ELIGIBLES—Regular Program			
Florida: Fort Myers Beach, town of, Lee County ¹	120673	Dec. 17, 1996.	
REINSTATEMENTS			
Minnesota: Koochiching County, unincorporated areas	270233	July 1, 1974, Emerg; June 1, 1988, Reg; Sept. 26, 1996, Susp; Dec. 4, 1996, Rein.	Sept. 29, 1996.
Pennsylvania: West View, borough of, Allegheny County.	420086	April 26, 1974, Emerg; June 30, 1976, Reg; Oct. 4, 1995, Susp; Dec. 4, 1996, Rein.	Oct. 4, 1995.
Pennsylvania:			
Penn, township of, Chester County	421487	October 15, 1975, Emerg; Dec. 17, 1982, Reg; Nov. 20, 1996, Susp; Dec. 9, 1996, Rein.	Nov. 20, 1996.
Parkeshburgh, borough of, Chester County	422277	June 11, 1975, Emerg; June 1, 1983, Reg; Nov. 20, 1996, Susp; Dec. 31, 1996, Rein.	July 16, 1996.

¹ The Town of Fort Myers Beach has been participating in the NFIP as part of the unincorporated areas of Lee County. The Town has adopted Lee County's (125120) Flood Insurance Study and accompanying Flood Insurance Rate Map (FIRM) dated 6/15/84 and any revisions thereto, for flood insurance and floodplain management purposes.

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

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

Issued: January 28, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-2966 Filed 2-5-97; 8:45 am]

BILLING CODE 6718-05-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 64

[CC Docket No. 90-337, FCC 96-459]

Regulation of International Accounting Rates

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted a Report and Order that will permit flexibility in its accounting rate policies. The Commission concluded that U.S. carriers should be permitted to negotiate alternative settlement payment arrangements that deviate from the International Settlements Policy (ISP) with foreign correspondents in

countries that satisfy the Commission's economic competitive opportunity (ECO) test. In addition, the Commission will consider alternative settlement arrangements between a U.S. carrier and a foreign correspondent in a country that does not satisfy the ECO test where the U.S. carrier can demonstrate that deviation from the ISP will promote market-oriented pricing and competition, while precluding abuse of market power by the foreign correspondent. The Commission also adopted safeguards to ensure that its new flexibility policy does not have anticompetitive effects in the international market. The safeguards that are alternative arrangements between affiliated carriers and those involved in non-equity joint ventures must be filed with the Commission and made public, and alternative arrangements affecting more than twenty-five percent of the inbound or twenty-five percent of the outbound traffic on a particular route must be filed with the Commission and made public, and not contain unreasonably discriminatory terms and conditions. The Commission's action will encourage the development of competitive market conditions in other countries and lead to more economically efficient contractual arrangements for terminating service that ultimately will benefit U.S. consumers through lower calling prices.

DATES: The amendments to §§ 43.51 and 64.1001 will become effective March 10, 1997. The amendments to §§ 43.61 and 64.1002 take effect either upon approval by the Office of Management and Budget (OMB) or March 10, 1997, whichever occurs later. When approval is received, the agency will publish a document announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Kathryn O'Brien, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418-1470.

SUPPLEMENTARY INFORMATION This is a summary of the Commission's Fourth Report and Order in CC Docket 90-337, Phase II, adopted on November 26, 1996, and released on December 3, 1996 (FCC 96-459). The full text of the decision is available for inspection and copying during normal business hours in the FCC's Docket Reference Center, Room 239, 1919 M Street, NW., Washington, DC 20554. Copies also may be obtained from the Commission's contractor for public service records duplication: ITS, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, (202) 857-3800.

Summary of Fourth Report and Order

1. For years, U.S. carriers have been required to comply with the Commission's International Settlements Policy (ISP) in their bilateral accounting rate negotiations with monopoly foreign carriers. The ISP prevents foreign carriers from discriminating among U.S. carriers and requires: (1) The equal division of accounting rates; (2) nondiscriminatory treatment of U.S. carriers; and (3) proportionate return of inbound traffic. On January 31, 1996, the Commission issued a Policy Statement (61 FR 11163, March 19, 1996) that set forth a new approach for regulating accounting rates that could, when appropriate, rely on competitive forces to determine termination costs and efficient resource allocation. This was one of the Commission's initial steps to lower international telephone costs by reforming the international accounting rate system. In light of the Policy Statement the Commission reopened the record in CC Docket No. 90-337, Phase II, In the Matter of Regulation of International Accounting Rates (Second Further Notice of Proposed Rulemaking) (58 FR 3522, January 11, 1993) for the submission of supplemental comments and reply comments. (Public Notices Seeking Additional Comments, 61 FR 11172 (March 19, 1996) and 61 FR 11173 (March 19, 1996).)

2. On December 3, 1996, the Commission released the Fourth Report and Order (FCC 96-459) adopting rules to permit flexibility in international accounting rate policies. With this additional step to reform the accounting rate system, the Commission created a framework for competition in the market for U.S. international telecommunications services that is more closely patterned on the competitive market for domestic long distance services. The Commission concluded that the new rules should increase options for U.S. carriers to negotiate arrangements to terminate their international traffic and result in lower prices and greater choices for U.S. consumers. In its decision, the Commission fully describes the differences between the new flexible approach and the current accounting rate policies.

3. The Commission rejected arguments to delay adopting a more flexible regulatory framework until effectively competitive markets exist. The Commission concluded that creating a more flexible regulatory framework at this time will serve its objectives to promote competitive behavior, improve economic

performance, and rely on competitive market forces to determine call termination charges to the maximum extent permitted by market conditions. The new framework for flexibility permits carriers to deviate from the ISP only with carriers in markets where the legal, regulatory, and economic conditions support competition and in certain other limited circumstances. The Commission adopted competitive safeguards to ensure that where it permits flexibility, it does not lead to anticompetitive effects in the U.S. market for international services.

4. The Commission adopted a framework for alternative payment arrangements that affords U.S. carriers maximum flexibility to take advantage of competitive pressures in foreign markets to negotiate alternative arrangements that will enhance competition. At the same time, this framework continues to safeguard against anticompetitive behavior of foreign carriers that favors one correspondent U.S. carrier at the expense of its U.S. competitors.

5. The Commission concluded U.S. carriers will be allowed to negotiate alternative settlement arrangements that deviate from the ISP with foreign correspondents in countries that satisfy the ECO test set forth in Section 63.18(h)(6) of the Commission's regulations. The Commission stated that, where the ECO test has been satisfied, the ability of foreign carriers to exercise market power is constrained by the existence, or potential for, competitive entry. Where the FCC permits flexibility in its ISP, new entrants in foreign markets will have both the incentive and the opportunity to compete with the incumbent foreign carrier to terminate U.S.-originated traffic. The Commission will consider alternative settlement arrangements between a U.S. carrier and a foreign correspondent in a country that does not satisfy the ECO test where the U.S. carrier can demonstrate that deviation from the ISP will promote market-oriented pricing and competition, while precluding abuse of market power by the foreign correspondent.

6. The Commission declined to limit its ISP flexibility policy to certain categories of carriers, such as non-dominant foreign and U.S. carriers or "small" carriers. Instead, it concluded that, subject to certain safeguards, any U.S. carrier should be allowed to negotiate alternative payment arrangements with any carrier in a foreign country that satisfies the ECO test. This conclusion is consistent with the policy of allowing market forces, where possible, to determine the

allocation of resources. Moreover, allowing flexibility in the ISP is the best support for development of more competitive market structures and therefore should not be unduly restricted. In addition, the Commission rejected MFSI's proposal to preclude U.S. carriers with market shares of greater than five percent of U.S.-outbound traffic from entering into alternative settlement arrangements because the proposal could impede the effectiveness in reducing U.S. carrier costs to terminate traffic.

7. Although it declined to preclude dominant or large carriers from negotiating alternative arrangements, the Commission adopted competitive safeguards to protect against potential anticompetitive actions by foreign and U.S. carriers with a significant share of their markets, and to provide a "safety net" for possible unanticipated consequences of its ISP flexibility policy. In particular, it will require that a copy of all alternative settlement arrangements affecting more than either twenty-five percent of the outbound traffic on a particular route or twenty-five percent of the inbound traffic on a particular route be filed with the Commission and made public. Also, the Commission will require that any alternative arrangement that affects more than twenty-five percent of the outbound traffic or twenty-five percent of the inbound traffic on a particular route not contain unreasonably discriminatory terms and conditions. This safeguard will require carriers that negotiate innovative price and return traffic terms in agreements that affect more than twenty-five percent of either the inbound or outbound traffic on a given route to demonstrate that the terms are not unreasonably discriminatory, or to offer such terms on a nondiscriminatory basis to competing carriers. This safeguard will apply whether the arrangement is between separate carriers on the U.S. and foreign ends, between two affiliates, or when a carrier is self-corresponding. The Commission will not permit carriers to circumvent this twenty-five percent threshold by negotiating two or more agreements with one individual correspondent carrier or its affiliate, each of which affects less than twenty-five percent of the inbound or outbound traffic on a particular route. Carriers will be required to file a summary of the terms and conditions of all arrangements that do not trigger the Commission's safeguards and a full copy of all alternative arrangements that do trigger these safeguards. The Commission reserved the right to

request a full copy of arrangements that do not trigger its safeguards in order to detect any potential circumvention of the safeguards by carriers.

8. As an additional measure to guard against unintended market disruptions as a result of the new policy, the Commission will not permit U.S.-inbound traffic that still is subject to the ISP (*i.e.*, traffic from a foreign carrier with whom a U.S. carrier does not have an alternative payment arrangement) to be routed through a foreign carrier that has an alternative payment arrangement with a U.S. carrier. The Commission reserved the right to impose additional safeguards on a case-by-case basis as a condition of granting approval to enter an alternative payment arrangement if it finds that such safeguards are necessary to prevent market distortions in the U.S. IMTS market or to prevent significant adverse results on net settlements payments with a foreign country. If alternative settlement arrangements indicate a need, the Commission will consider additional safeguards in the future.

9. Because the new policy has an impact on the "no special concessions" policy which was established in the Foreign Carrier Entry Order, the Commission created an exception to that rule. This exception applies only to alternative payment arrangements that between U.S. carriers and foreign carriers in countries that satisfy the ECO test, or foreign carriers in countries that do not satisfy the ECO test where the U.S. carrier can demonstrate that deviation from the ISP will promote market-oriented pricing and competition. Where these criteria have not been met, the Commission will continue to enforce vigorously its no special concessions policy. The Commission amended Section 63.14 of its rules to reflect this limited exception to the no special concessions policy.

10. The Commission determined that the issue of tailoring settlement policies to address the special circumstances presented by developing countries, would be better considered in the context of a separate proceeding. Thus, the Commission transferred the record on this issue to its future benchmarks proceeding.

11. To ensure that U.S. carriers are not faced with undue delay in implementing alternative payment arrangements, the Commission established an expedited process whereby U.S. carriers may obtain approval to enter an alternative payment arrangement by filing a detailed petition for declaratory ruling that the alternative payment arrangement is permitted under the criteria for

deviating from the ISP. Each petition for declaratory ruling will be placed on public notice and interested parties will be allowed to file a formal opposition to the petition within twenty-one days of the date of public notice. If no formal opposition is filed and the Commission's International Bureau has not notified the carrier that grant of the petition may not serve the public interest and that implementation of the alternative arrangement must await formal staff action on the petition, the petition will be deemed granted and the alternative settlement arrangement may be implemented as of the twenty-eighth day after the date of public notice without any formal staff action being taken. If a formal opposition is filed, the requesting carrier may file a response pursuant to § 1.45 of the Commission's rules, and implementation of the alternative payment arrangement must await formal action by the FCC's International Bureau.

12. A U.S. carrier may seek approval to enter an alternative payment arrangement with a foreign carrier in a country that has already been found to satisfy the ECO test in the context of a prior Section 214 facilities application to serve that country. When a U.S. carrier seeks approval to enter an alternative payment arrangement with a carrier in a foreign country where the Commission has not yet made an ECO determination, the carrier must submit sufficient evidence to support a finding that either the ECO test has been satisfied, or that deviation from the ISP will promote market-oriented pricing and competition, while precluding abuse of market power by the foreign correspondent. In all cases, a petitioning carrier must state whether the alternative arrangement triggers our safeguards, either because the arrangement affects more than twenty-five percent of the inbound or twenty-five percent of the outbound traffic on the affected route, or because the U.S. carrier and its foreign correspondent are affiliated or involved in a non-equity joint venture affecting the provision of basic services on the affected route.

13. The Commission required that a full copy of all negotiated alternative arrangements that trigger its safeguards be filed with each petition. Where an alternative arrangement does not trigger the safeguards, a summary of the terms and conditions must be filed with each petition, and the Commission reserved the right to request a copy of the arrangement. Where an alternative arrangement does not trigger the safeguards, the Commission's review generally will focus on whether the criteria for allowing flexibility have

been met, rather than on the specific terms of the alternative arrangement. The Commission reserved the right to review and, if need be, reject the terms and conditions of all alternative arrangements, regardless of whether they trigger the safeguards, to ensure that they meet the FCC's policy objectives and will not have a significant adverse impact on U.S. net settlement payments and resulting traffic volumes.

14. The Commission will conduct periodic reviews of alternative settlement arrangements to ensure that the arrangements meet the objectives of creating a competitive market for IMTS and achieving cost-based accounting rates. The Commission will monitor the operating results of alternative arrangements along with foreign market conditions to ensure that the arrangements fulfill its objective of achieving market-determined terms and conditions of payment that approximate competitive levels. As part of the evaluation of alternative arrangements, the Commission will compare the results of each individual arrangement with other alternative arrangements and with its benchmark accounting rates.

15. The Commission will monitor the operating results of approved alternative arrangements to ensure that they do not have significant adverse impacts on traffic volumes and U.S. net settlement payments. In their annual report of international telecommunications traffic filed pursuant to Section 43.61, U.S. carriers will be required to include the number of minutes of outbound and inbound traffic settled pursuant to each alternative arrangement. In the event an alternative arrangement causes significant increases in net settlement payments with a foreign country, the Commission will consider appropriate action, including unilaterally ordering an end to the arrangement and reinstating traditional settlement practices. The Commission emphasized its concern about increases in net settlement outpayments that result from distortions in market competition that harm consumer interests.

16. The Commission amended §§ 43.51 and 64.1001 of its rules to refer to "waiver requests" submitted under § 64.1001 as "modification requests". This change conforms its rules to the historic practice of treating waiver requests filed under § 64.1001 as non-restricted proceedings, in the same manner as Section 214(a) proceedings are treated under the Commission's *ex parte* rules. Because this rule change involves agency practice and procedure, the notice and comment provisions of

the Administrative Procedure Act are inapplicable.

17. The Commission codified its proportionate return policy as a rule. The issue of whether to codify the policy was initially raised in the Foreign Carrier Entry proceeding, but the record was transferred to this proceeding. The proportionate return requirement has long been a cornerstone of the Commission's ISP, and the Commission contends that by codifying this requirement, it is sending a strong signal to foreign carriers that the FCC does not allow U.S. carriers to be whipsawed.

18. The Commission decided not to apply the ISP to the global MSS industry. Based on the record, the Commission found no clear evidence that the global MSS market necessarily shares the anticompetitive characteristics addressed by the ISP. The Commission encouraged the MSS industry to adopt an approach to terminating international traffic that leads to more cost-based results than the current accounting rate regime. The Commission reserved the authority to apply the ISP or other safeguards to the MSS industry in the future if it finds that market conditions merit such actions.

Final Regulatory Flexibility Act Analysis

As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 ("RFA"), an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated into the Second Report and Order and Second Further Notice of Proposed Rulemaking ("Second Further NPRM") in CC Docket No. 90-337, Phase II. The Commission sought written public comments on the proposals in the Second Further NPRM, including the IRFA. The Commission's Final Regulatory Flexibility Analysis ("FRFA") in this Report and Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104-121, 110 Stat. 847 (1996).

A. Need For and Objective of the Rules

This Report and Order: (1) Permits U.S. carriers to deviate from the requirements of the Commission's International Settlements Policy (ISP) where appropriate market conditions exist; and (2) codifies the Commission's preexisting proportionate return policy, which is one of the requirements of the ISP, as a rule of general applicability to all facilities-based carriers.

With respect to our action permitting U.S. carriers to deviate from the requirements of the Commission's ISP where appropriate market conditions

exist, our objective is to create a more flexible framework for regulating international accounting rates that permits U.S. carriers to take advantage of competitive market conditions in foreign countries to negotiate more economically efficient settlement rates. This action is an important step toward a transition from the traditional accounting rate system to competitive markets for originating and terminating international traffic. A more flexible approach to the accounting rate system will enable U.S. carriers to respond more rapidly to changing conditions in the global telecommunications market, reduce their call termination costs and the U.S. net settlement payments, and provide for lower calling prices for U.S. consumers.

With respect to our action codifying the Commission's preexisting proportionate return policy, our objective is to restrict the ability of foreign carriers to manipulate the allocation of return traffic and whipsaw U.S. carriers. This policy has long been a cornerstone of our ISP, and codifying it will send a strong signal to foreign carriers that we will not allow U.S. carriers to be whipsawed. We note, however, the flexible regulatory framework we adopt in this Report and Order permits carriers to deviate from this requirement where appropriate market conditions exist.

B. Summary of Issues Raised by the Public Comments in Response to the IRFA

No comments were submitted in direct response to the IRFA. We also reviewed the general comments for potential impact on small business. Some commenters raised the concern that allowing flexibility for large and/or dominant carriers would put smaller carriers at a disadvantage. These commenters contend that larger carriers will be able to negotiate more favorable terms and conditions than smaller carriers due to their greater traffic volumes. We believe that these concerns are addressed by the safeguards we adopt in this Report and Order.

C. Description and Estimate of Small Entities Subject to Which Rules Will Apply

The Commission has not developed a definition of small entities applicable to international facilities-based common carriers. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is expressed

as one with \$11.0 million or less in annual receipts. Based on preliminary 1995 data, at present there are 29 international facilities-based common carriers that qualify as small entities pursuant to the SBA's definition. The number of small international facilities-based common carriers has been growing significantly, and by the end of 1996 that number could increase to approximately 50. The flexibility rules adopted in this decision will apply to these carriers only if they enter an alternative accounting rate arrangement with a foreign carrier, and the proportionate return rules codified in this Report and Order apply to all these carriers that enter into an operating agreement that provides for return traffic with a foreign carrier.

The IRFA and a Public Notice seeking supplemental comments were issued in November 1992 and January 1996, respectively. Therefore, the record in this proceeding was closed prior to the effective date of SBREFA. The Commission was thus unable to request information regarding the number of international facilities-based common carriers that qualify as small entities.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements of the Rules

International facilities-based common carriers must file a petition for declaratory ruling and obtain Commission approval before implementing an alternative settlement rate arrangement with a foreign carrier that deviates from the regulatory requirements of the Commission's ISP. In addition, carriers that implement such alternative arrangements must include in their annual report of international telecommunications traffic filed pursuant to Section 43.61 of the Commission's rules the number of minutes of outbound and inbound traffic settled pursuant to each alternative arrangement. Carriers already are required to file this annual traffic report; this Report and Order requires only that carriers that enter alternative arrangements include in their annual traffic report a description of the minutes settled pursuant to those arrangements. This reporting requirement and the requirement that carriers obtain approval of alternative arrangements are necessary to enable the Commission to review and monitor alternative arrangements for possible adverse effects on the U.S. market for international telecommunications services. These rules apply only to those small entities that take advantage of the opportunity to negotiate alternative settlement arrangements that deviate

from the regulatory requirements of the Commission's ISP. Compliance with these rules may require the use of accounting and legal skills.

A U.S. international facilities-based common carrier that enters into an operating agreement with a foreign correspondent may not receive an allocation of return traffic from the foreign correspondent to the U.S. carrier that is not proportionate to the amount of traffic that the U.S. carrier sends outbound to the foreign correspondent. This requirement previously has applied to all carriers, including small entities, as part of the Commission's ISP. This Report and Order also adopts a flexible regulatory framework that permits carriers to deviate from this requirement where appropriate market conditions exist. Compliance with this rule may require the use of accounting and legal skills.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities Consistent With Stated Objectives

We have not identified, and commenters have not provided, any significant alternatives that may minimize the economic impact on small entities consistent with the stated objectives. We recognize that all carriers, including small entities, may have an increased paperwork burden; however, this Report and Order will reduce regulatory requirements on small entities that enter into operating agreements with foreign correspondents that include a negotiated accounting rate. Small entities entering alternative settlement arrangements pursuant to this Report and Order will not have to comply with the requirements of the Commission's ISP, including the proportionate return requirement that is codified in this Report and Order.

Several parties raised concerns that allowing flexibility in our ISP may harm smaller carriers because larger carriers may be able to obtain more favorable alternative arrangements due to their large market share. This Report and Order recognizes that there exists the potential for anticompetitive behavior by large carriers. However, rather than preclude large carriers from entering into alternative arrangements or postpone our flexibility policy, this Report and Order adopts competitive safeguards to help prevent potential anticompetitive behavior. These safeguards address the concerns raised by commenters, but at the same time enable the Commission to meet its objectives of allowing U.S. carriers, including small entities, to respond more rapidly to changing conditions in the global telecommunications market,

reduce their call termination costs and the U.S. net settlement payments, and provide for lower calling prices for U.S. consumers.

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

Paperwork Reduction Act

The Report and Order revises an existing information collection and imposes a new information collection. We recognize that the implementation of these requirements will be subject to review and approval of the Office of Management and Budget. Both the new and revised information collections contained in these rules will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995. To obtain copies of the information collections contact Dorothy Conway at (202) 418-0217 or via internet at dconway@fcc.gov. Persons wishing to comment on this collection of information should direct their comments to Dorothy Conway, Federal Communications Commission, Records Management Division, Room 234, Paperwork Reduction Project (3060-0572), Washington, D. C. 20554. For Further information Contact Dorothy Conway, (202) 418-0217.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

OMB Number: 3060-0106.

Title: Common Carrier International Telecommunications Services.

Type of Review: Revision of existing collection.

Respondents: U.S. common carriers providing international telecommunications services.

Number of Respondents: 248 (based on number of international carriers filing traffic reports in 1995).

Estimated Annual Burden: 8 hours including the time for reviewing instructions, searching existing data

sources, segregating the data needed, and completing and reviewing the collection of information.

Total Annual Burden: 1,984 hours.

Estimated costs per respondent: None.

Needs and Uses: The collection of information for which approval is here sought is contained in amendments to Part 43 in the Order adopting such amendments. The information collections are authorized and necessary for the Commission to carry out its statutory mandate, pursuant to Sections 1, 4, 201–205, 211, 214, 218–220, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154, 201–205, 211, 214, 218–220, and 303, and Part 43 of the Commission's Rules.

The information collections contained in amendments to Part 43 are necessary to assist us in reviewing the impact, if any, that alternative settlement agreements have on our international accounting rate policies. The information collections will also enhance the ability of the Commission and interested parties to monitor this policy for anticompetitive effects in the U.S. market for international service, thus increasing competitive options for U.S. carriers and resulting in lower prices and greater choices for U.S. consumers. The information collection will enable the Commission to promote competitive behavior, improve economic performance, and preserve the integrity of our accounting rate policies. The information collections also will enable the Commission and interested parties to determine whether or not the competitive safeguards are sufficient to protect U.S. carriers and consumers against harmful discriminatory practices by foreign carriers.

The information will be used by the Commission staff in carrying out its duties under the Communications Act. Common carriers engaged in providing international telecommunications service are required to file annual reports of international telecommunications traffic. The new rules require that the report shall include the number of minutes of outbound and inbound traffic settled pursuant to each alternative arrangement entered into pursuant to the new Section 64.1002.

OMB Number: 3060–0000.

Title: Common Carrier International Telecommunications Services.

Type of Review: New Collection.

Respondents: U.S. common carriers providing international telecommunications services.

Frequency of Response: As needed basis.

Number of Respondents: 30. It is difficult to estimate the number of respondents filing this information because the information will be filed only by those carriers seeking permission to enter agreements that do not comply with the §§ 43.41(e)(1), 63.14, and 64.1001 of our rules. Such agreements will only be permitted under certain circumstances. Given the limitations on negotiating such agreements, we estimate that no more than 30 such agreements will be negotiated, and very likely, significantly fewer than that number.

Estimated Annual Burden: 16 hours including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. It is difficult to estimate the estimated annual burden for filing the information because it will depend on how many agreements the carriers wish to enter.

Total Annual Burden: 480 hours.

Cost per respondent: \$1,600. This amount is an estimate depending on whether the respondents use in-house legal staff or professional law firms to prepare the filing.

Needs and Uses: The collection of information for which approval is here sought is contained in amendments to Part 64 in the Order adopting such amendments. This information collection is authorized and necessary for the Commission to carry out its statutory mandate, pursuant to Sections 1, 4, 201–205, 211, 214, 218–220, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154, 201–205, 211, 214, 218–220, and 303, and Part 43 of the Commission's Rules.

The information collection contained in amendments to Part 64 is necessary to allow U.S. carriers to enter into alternative settlement agreements that do not comply with §§ 43.41(e)(1), 63.14, and 64.1001 of our rules. The information collected pursuant to this section will enable the Commission to consider alternative agreements that are outside the scope of its current rules. The information collected will be used to monitor the alternative agreements to ensure that competitive opportunities are available. The information collected will also enable interested parties to monitor the alternative agreements and determine potentially anticompetitive arrangements. In addition, the information collected will be the only information available to the Commission and interested parties on alternative accounting settlement arrangements. This information collection will provide the agency with

sufficient data to review the impact, if any, that the alternative settlement agreement will have on our international accounting rate policies. The information collection will also enhance the ability of the Commission and interested parties to monitor for anticompetitive effects in the U.S. market for international service, thus increasing competitive options for U.S. carriers and resulting in lower prices and greater choices for U.S. consumers. The information collection will enable the Commission to promote competitive behavior, improve economic performance, and preserve the integrity of our accounting rate policies. The information collections also will enable the Commission and interested parties to determine whether or not the competitive safeguards are sufficient to protect U.S. carriers and consumers against harmful discriminatory practices by foreign carriers.

The information will be used by the Commission staff in carrying out its duties under the Communications Act.

Ordering Clauses

19. Accordingly, §§ 43.51 and 64.1001 will become effective March 10, 1997. Sections 43.61 and 64.1002 take effect either upon approval by the Office of Management and Budget (OMB) or March 10, 1997 whichever occurs later. When approval is received, the agency will publish a document announcing the effective date.

20. This action is taken pursuant to Sections 4(i), 4(j), 303(r), and 201–205 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r) and sections 201–205, Constitution of the International Telecommunications Union, Special Arrangements Article, and International Telecommunications Regulations, Article 9. Special Arrangements.

List of Subjects in 47 CFR Parts 43 and 64

Communications common carriers, Reporting and recordkeeping requirements.

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

Rule Changes

Parts 43 and 64 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for Part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Section 43.51 is amended by revising paragraph (d) to read as follows:

§ 43.51 Contracts and concessions.

* * * * *

(d) *International settlements policy.*
 (1) If a carrier files an operating agreement (whether in the form of a contract, concession, license, etc.) referred to in paragraph (a) of this section to begin providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point and the terms and conditions of such agreement relating to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, are not identical to the equivalent terms and conditions in the operating agreement of another carrier providing the same or similar service between the United States and the same foreign point, the carrier must also file with the International Bureau a notification letter or modification request, as appropriate, under § 64.1001 of this chapter. No carrier providing switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point shall bargain for or agree to accept more than its proportionate share of return traffic.

(2) If a carrier files an amendment to the operating agreement referred to in paragraph (a) of this section under which it already provides switched voice, telex, telegraph, or packet-switched service between the United States and a foreign point, and other carriers provide the same or similar service to the same foreign point, and the amendment relates to the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, the allocation of return traffic, or the basis of settlement of traffic balances, the carrier must also file with the International Bureau a notification letter or modification request, as appropriate, under § 64.1001 of this chapter.

3. Section 43.61 is amended by revising paragraph (b) to read as follows:

§ 43.61 Reports of international telecommunications traffic.

* * * * *

(b) The information contained in the reports shall include actual traffic and revenue data for each and every service

provided by a common carrier, divided among service billed in the United States, service billed outside the United States, and service transiting the United States. In addition, it shall include the number of minutes of outbound and inbound traffic settled pursuant to each alternative arrangement entered into pursuant to § 64.1002 of this chapter.

* * * * *

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Secs. 4, 201–205, 211, 218–220, 303, 48 Stat. 1066, 1070, 1072–73, 1077–78, as amended; 47 U.S.C. 154, 201–205, 211, 218–220, 303.

2. Section 64.1001 is amended by revising the heading for Subpart J, the section heading, paragraph (d), (e)(7), (f) introductory text, (g) introductory text, and paragraphs (i), (j), (k), and (l) to read as follows:

Subpart J—International Settlements Policy and Modification Requests

§ 64.1001 International settlements policy and modification requests.

* * * * *

(d) If the operating agreement or amendment referred to in §§ 43.51(d)(1) and (d)(2) of this chapter is not subject to notification under paragraphs (b) and (c) of this section, the carrier must file a modification request under paragraph (f) of this section.

(e) * * *

(7) A statement that there has been no other modification in the operating agreement with the foreign correspondent regarding the exchange of services, interchange or routing of traffic and matters concerning rates, accounting rates, division of tolls, allocation of return traffic, or the basis of settlement of traffic balances.

(f) A modification request must contain the following information:

* * * * *

(g) Notification letters and modification requests must contain notarized statements that the filing carrier:

* * * * *

(i) If a carrier files a notification letter for an operating agreement or amendment that should have been filed as a modification request, the Bureau will return the notification letter to the filing carrier and the Bureau will notify the carrier that, before it can implement the proposed modification, it must file a modification request under paragraph (f) of this section.

(j) An operating agreement or amendment filed under a modification request cannot become effective until the modification request has been granted under paragraph (l) of this section.

(k) On the same day the notification letter or modification request is filed, carriers must serve a copy of the notification letter or modification request on all carriers providing the same or similar service to the foreign administration identified in the filing.

(l) All modification requests will be subject to a twenty-one (21) day pleading period for objections or comments, commencing the date after the request is filed. If the modification request is not complete when filed, the carrier will be notified that additional information is to be submitted, and a new 21 day pleading period will begin when the additional information is filed. The modification request will be deemed granted as of the twenty-second (22nd) day without any formal staff action being taken: *provided*

(1) No objections have been filed, and

(2) The International Bureau has not notified the carrier that grant of the modification request may not serve the public interest and that implementation of the proposed modification must await formal staff action on the modification request. If objections or comments are filed, the carrier requesting the modification request may file a response pursuant to § 1.45 of this chapter. Modification requests that are formally opposed must await formal action by the International Bureau before the proposed modification can be implemented.

3. New § 64.1002 is added to Subpart J to read as follows:

§ 64.1002 Alternative settlement arrangements.

(a) A communications common carrier engaged in providing switched voice, telex, telegraph, or packet switched service between the United States and a foreign point may seek approval to enter into an operating agreement with a foreign telecommunications administration containing an alternative settlement arrangement that does not comply with the requirements of § 43.51(e)(1) and § 63.14 of this chapter and § 64.1001 by filing a petition for declaratory ruling in compliance with the requirements of this section.

(b) A petition for declaratory ruling must contain the following:

(1) Information to demonstrate that either:

(i) The Commission has made a previous determination that the

effective competitive opportunities test in § 63.18(h)(6)(i) of this chapter has been satisfied on the route covered by the alternative settlement arrangement; or

(ii) The effective competitive opportunities test in § 63.18(h)(6)(i) of this chapter is satisfied on the route covered by the alternative settlement arrangement; or

(iii) The alternative settlement arrangement is otherwise in the public interest.

(2) A certification as to whether the alternative settlement arrangement affects more than 25 percent of the outbound traffic or 25 percent of the inbound traffic on the route to which the alternative settlement arrangement applies.

(3) A certification as to whether the parties to the alternative settlement arrangement are affiliated, as defined in § 63.18(h)(1)(i) of this chapter, or involved in a non-equity joint venture affecting the provision of basic services on the route to which the alternative settlement arrangement applies.

(4) A copy of the alternative settlement arrangement if it affects more than 25 percent of the outbound traffic or 25 percent of the inbound traffic on the route to which the alternative settlement arrangement applies, or if it is between parties that are affiliated, as defined in § 63.18(h)(1)(i) of this chapter, or that are involved in a non-equity joint venture affecting the provision of basic services on the route to which the alternative settlement arrangement applies.

(5) A summary of the terms and conditions of the alternative settlement arrangement if it does not come within the scope of paragraph (b)(4) of this section. However, upon request by the International Bureau, a full copy of such alternative settlement arrangement must be forwarded promptly to the International Bureau.

(c) An alternative settlement arrangement filed for approval under this section cannot become effective until the petition for declaratory ruling required by paragraph (a) of this section has been granted under paragraph (e) of this section.

(d) On the same day the petition for declaratory ruling has been filed, the filing carrier must serve a copy of the petition on all carriers providing the same or similar service with the foreign administration identified in the petition.

(e) All petitions for declaratory ruling shall be subject to a 21 day pleading period for objections or comments, commencing the day after the date of public notice listing the petition as accepted for filing. The petition will be

deemed granted as of the 28th day without any formal staff action being taken: *provided*

(1) The petition is not formally opposed within the meaning of § 1.1202(e) of this chapter; and

(2) The International Bureau has not notified the filing carrier that grant of the petition may not serve the public interest and that implementation of the proposed alternative settlement arrangement must await formal staff action on the petition. If objections or comments are filed, the petitioning carrier may file a response pursuant to § 1.45 of this chapter. Petitions that are formally opposed must await formal action by the International Bureau before the proposed alternative settlement arrangement may be implemented.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB88

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for “*Pseudobahia bahiifolia*” (Hartweg’s golden sunburst) and Threatened Status for “*Pseudobahia peirsonii*” (San Joaquin adobe sunburst), Two Grassland Plants From the Central Valley of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines endangered status for *Pseudobahia bahiifolia* (Hartweg’s golden sunburst) and threatened status for *Pseudobahia peirsonii* (San Joaquin adobe sunburst) pursuant to the Endangered Species Act of 1973, as amended (Act). The two plants occur primarily in nonnative grasslands in the eastern and southeastern portions of the San Joaquin Valley, but also at a few sites at the ecotone between grasslands dominated by nonnative species and blue oak woodland communities. Both plants are threatened primarily by conversion of habitat to residential development. To a lesser extent, the species are variously threatened by agriculture (ag-land development), competition from nonnative plants, incompatible grazing practices, transmission line maintenance,

recreational activities, mining, road construction and maintenance, a flood control project, and other human impacts. Potential threats include herbicide application to control herbaceous and weedy taxa. This rule implements the Federal protection and recovery provisions afforded by the Act for these species.

EFFECTIVE DATE: March 10, 1997.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Sacramento Field Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821-6340.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Warne (see **ADDRESSES** section) telephone 916/979-2120; facsimile 916/979-2128.

SUPPLEMENTARY INFORMATION:

Background

Pseudobahia bahiifolia (Hartweg’s golden sunburst) and *Pseudobahia peirsonii* (San Joaquin adobe sunburst) are endemic to the nonnative grassland and grassland-blue oak woodland community ecotone of the southern Sacramento Valley and San Joaquin Valley of California. These two valleys comprise the Central Valley. The prehistoric composition of the native grasslands and adjoining plant communities likely will remain a mystery (Brown 1982), although numerous authors have speculated as to the composition of the “pristine” flora of the Central Valley (Clements 1934, Munz and Keck 1950, Biswell 1956, Twisselmann 1956, White 1967, McNaughton 1968, Bakker 1971, Ornduff 1974, Heady 1977, Bartolome and Gremmill 1981, and Wester 1981). Nonnative annual grasses and forbs invaded the low elevation plant communities of California during the days of the Franciscan missionaries in the 1700’s. These nonnative grasses now account for up to 80 percent or more of the floral composition of the grasslands of California (Heady 1956). The nonnative grasses have outcompeted the native flora throughout much of California because these exotics germinate in late fall prior to the germination of the native forbs, including the two sunflower species discussed herein, *Pseudobahia bahiifolia* and *Pseudobahia peirsonii*. Each species, however, occurs in a distinctive microhabitat within the larger matrix of nonnative annual grassland. *Pseudobahia bahiifolia* prefers the top of “Mima” mound topography where the grass cover is