costly or burdensome procedures. We therefore expect that the potential impact of the proposal rules, if such are adopted, is beneficial and does not amount to a possible significant economic impact on affected entities. If commenters believe that the proposals discussed in the NPRM require additional RFA analysis, they should include a discussion of these issues in their comments.

17. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this NPRM, including this initial certification, to the Chief Counsel for Advocacy of the Small Business Administration. (*See* 5 USC 605(b)).

Comment Filing Procedures

18. Interested parties may file comments no later than August 20, 1998 and reply comments may be filed no later than September 4, 1998. All pleadings should reference CC Docket No. 98–117. A copy of each pleading should be sent to Anthony Dale, Accounting Safeguards Division, Common Carrier Bureau, FCC, 2000 L Street, Suite 201, Washington, DC 20554, and another copy should be sent to International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, NW, Washington, D.C. 20036, (202) 857–3800. All pleadings will be made available for public inspection and copying in the Accounting Safeguards Division public reference room, 2000 L Street, NW, Suite 812, Washington, DC 20554.

19. Comments and replies must also comply with § 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and replies. In addition, one copy of each pleading must be filed with International Transcription Services (ITS), the Commission's duplicating contractor, at its office at 1231 20th Street, NW, Washington, DC 20037, (202) 857–3800. All pleadings are available for public inspection and copying in the Accounting and Audits public reference room.

List of Subject in 47 CFR Part 43

Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph and Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22162 Filed 8–17–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 64

[IB Docket No. 98–148; FCC 98–190]

1998 Biennial Regulatory Review—Reform of the International Settlements Policy and Associated Filing Requirements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On August 6, 1998, the Federal Communications Commission adopted a Notice of Proposed Rulemaking (NPRM) to adopt significant changes to the Commission's International Settlements Policy (ISP) and associated rules. The changes in this policy are intended to promote greater competition and lower international calling prices. The Commission proposes to lift regulations under the existing policy that restricts the kinds of arrangements U.S. carriers may enter into with foreign telecommunications carriers in World Trade Organization (WTO) member countries. This action is part of the FCC's biennial review to eliminate or modify rules where appropriate.

DATES: Comments are due on or before September 16, 1998 and reply comments are due on or before October 16, 1998.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert C. McDonald, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 98–190, adopted on August 6, 1998. The full text of this NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. The complete text of this NPRM is available over the Internet on the Commission's World Wide Web page, http://www.fcc.gov. The text of the NPRM also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

Summary of Notice

1. The Commission proposes to scale back significantly on the Commission's application of the International Settlements Policy (ISP) and associated filing requirements. The ISP has governed U.S. carriers' bilateral accounting rate negotiations with foreign carriers for many years. These policies have largely been a success in safeguarding U.S. carrier dealings with monopoly foreign carriers. These rules may not, however, be necessary on routes where there is competition in the foreign market and they may, in fact, impede the further development of competition on such routes. In light of the significant number of countries that recently have introduced competition in their telecommunications markets, the NPRM proposes significant changes to the Commission's ISP and associated rules.

2. The Commission initiated this proceeding in response to the Telecommunications Act of 1996, which requires the Commission to review all regulations that apply to operations or activities of any provider of telecommunications service and to repeal or modify any regulation it determines to be no longer necessary in the public interest.

3. The ISP and related filing requirements were implemented to prevent whipsawing. These rules currently apply to U.S. carrier arrangements for IMTS with all foreign carriers, except where a U.S. carrier receives authorization to enter into an alternative settlement arrangement under our flexibility policy or to provide ISR. We believe, however, that whipsawing is a concern that is largely associated with foreign carriers with monopoly power. Where U.S. carriers are able to terminate international traffic by interconnecting with a carrier that lacks market power, we believe that whipsawing is not a significant danger. We thus seek comment in this Notice on whether we should continue to apply the ISP and related filing requirements to U.S. carrier arrangements with foreign carriers from WTO Member countries that lack market power in the relevant foreign telecommunications market.

4. With respect to the ISP, there also appears to be little danger that a foreign carrier that lacks market power will have the ability to whipsaw U.S. carriers. Indeed, without market power over facilities and services essential to terminate international traffic, an attempt at whipsawing by a foreign carrier that lacks market power should be countered by a defection by U.S.

carriers to another operator. We thus tentatively conclude that we should not apply the ISP to agreements concluded with foreign carriers from WTO Member countries that lack market power on the relevant route. U.S. carriers would therefore be free to enter unencumbered into commercial negotiations with foreign carriers in WTO Member countries that lack market power. We seek comment on whether carriers that lack market power in the foreign market may retain some ability to whipsaw where government policies or other foreign market conditions preclude real competition. We tentatively conclude that the long term benefits of removing our ISP for arrangements with foreign carriers that lack market power will outweigh any short-term risks involved. We seek comment on this tentative conclusion.

5. We also seek comment on whether to exempt U.S. carriers from filing contracts and accounting rate information under section 43.51 and 64.1001 of our rules for arrangements with foreign carriers that lack market power. 47 CFR 43.51, 64.1001. We tentatively conclude that we should amend the § 43.51 contract filing requirement and the § 64.1001 accounting rate filing requirements so that contracts and accounting rate information for arrangements with foreign carriers that lack market power in WTO Member countries would not need to be filed with the Commission. We seek comment on this tentative conclusion.

6. In the *Foreign Participation Order*, 62 FR 64741, December 9, 1997, recon. pending, we adopted a presumption, for the purpose of applying the No Special Concessions rule, that carriers with less than 50 percent market share in the relevant markets lack sufficient market power to affect competition adversely in the United States. We propose to apply this same 50 percent market share presumption for purposes of determining whether to apply our ISP and related filing requirements. We seek comment on how, if we adopt our proposal to eliminate the ISP and filing requirements for arrangements with foreign carriers that lack market power in WTO Member countries, we should make the determination that the foreign carrier lacks market power. For example, should the Commission make an affirmative finding whether a foreign carrier possesses market power, or should we leave the determination of whether a foreign carrier falls outside our presumptive 50 percent market share screen, so that the ISP and our filing requirements apply, to the carrier that concludes the arrangement? We note that carriers that accept a special concession from a foreign carrier that lacks market power are currently required to file publicly contracts with the Commission along with information that the foreign carrier has a market share of less than 50 percent in the relevant markets. Opposing parties thus have the opportunity to rebut this presumption by demonstrating that the carrier indeed possesses market power. If we were to adopt our tentative conclusion to eliminate the contract filing requirement for agreements with foreign carriers that lack market power in the foreign market, we seek comment on whether the Commission and potential competitors would lack the information needed to determine whether an agreement qualifies for the exception to our filing requirement and No Special Concessions rule.

7. We believe that, in most foreign markets, the determination of whether a carrier has market power is clear cut, because most foreign markets are divided between a former incumbent with a market share of well over 50 percent and new entrants with market shares far below 50 percent. Nevertheless, we recognize that there may be some need to preserve Commission oversight to ensure that carriers do not engage in exclusive dealings with foreign carriers that possess market power. This oversight should, however, be balanced with our goal of allowing carriers the freedom to negotiate agreements freely with carriers that lack market power. We seek comment on several alternatives for determining whether to apply our ISP and related filing requirements to a particular arrangement. First, we could adopt a rule that arrangements with foreign carriers with less than 50 percent market share do not have to be filed, and not require any filing to substantiate the claim that the foreign carrier lacks market power. Second, we could require that a carrier that seeks to enter an arrangement with a foreign carrier that lacks market power identify the route and file a certification that the carrier on the foreign end of the international route lacks market power, without revealing the identity of the foreign correspondent. Third, we could require a carrier to identify the foreign carrier and publicly file data indicating that the foreign carrier possesses less than 50 percent market share in each of the relevant markets or file a petition for declaratory ruling that a foreign carrier with greater than 50 percent market share nevertheless lacks market power. We also seek comment on whether, if we adopt this third proposal, we should allow confidential treatment for such filings.

8. We seek to simplify our regulatory requirements to the greatest extent possible, consistent with our commitment to preventing abuse of market power by foreign carriers in their dealings with U.S. carriers. We seek comment on whether our proposal to eliminate the ISP and related filing requirements for arrangements with foreign carriers that lack market power in WTO Member countries achieves this goal. We tentatively conclude that this approach is warranted because carriers without market power have a substantially diminished ability to whipsaw U.S. carriers. We further tentatively conclude that this approach is consistent with the regulatory framework we adopted in our *Foreign Participation Order*, 62 FR 64741, December 9, 1997, recon. pending. We seek comment on our proposed approach for regulating arrangements between U.S. carriers and foreign carriers that lack market power in WTO Member countries, and on any other approaches that would further our goals.

9. We also seek comment on whether, under certain circumstances, we should decline to apply the ISP and related filing requirements to U.S. carrier arrangements with all foreign carriers in selected WTO Member country markets, including arrangements with those carriers that possess market power. We seek comment on what standard we should employ for identifying routes on which we should not apply the ISP. We propose to decline to apply the ISP on routes where the Commission has already authorized ISR.

10. Alternatively, we seek comment on whether a settlement rate threshold lower than a benchmark rate is appropriate. For example, we could apply the current best practices rate of $.08 per minute, established in our Benchmarks Order, as the threshold. Under this proposal, we would decline to apply our ISP on routes where at least 50 percent of the traffic is settled at a rate of $.08 per minute or less. Commenters suggesting an alternative settlement rate threshold should provide a documented basis for any threshold suggested.

11. We also seek comment on whether any other standard is appropriate. For instance, we could decline to apply the ISP only in cases where 50 percent of traffic on the route is settled at or below benchmark rates and the foreign market permits U.S. carriers to provide service via ISR. We seek comment on these alternatives, and on any other alternative standard we could adopt to

identify routes on which we need not apply our ISP.

12. We also seek comment on whether we should decline to apply our § 43.51 contract filing and § 64.1001 accounting rate filing requirements to the extent we decline to apply the ISP on certain routes. *See* 47 CFR 43.51, 64.1001. We seek comment on whether we should require public filing, require confidential filing or remove the filing requirements altogether for arrangements on certain routes where we decline to apply the ISP. For instance, if we remove these filing requirements generally, should we maintain them for arrangements entered into with foreign carriers with market power, or only for affiliated foreign carriers with market power?

13. Our proposal to eliminate the ISP and related filing requirements on routes where we permit ISR would greatly reduce regulatory oversight for arrangements between U.S. carriers and foreign carriers on those routes. We believe that our proposal will further our goal of eliminating unnecessary regulatory burdens, while continuing to prevent abuse of market power by foreign carriers in their dealings with U.S. carriers. We seek comment on our proposed approach for eliminating regulatory requirements on routes where we believe they are not necessary, and on any other approaches that would further our goals.

14. We further seek comment on what modifications we can make to our flexibility policy to encourage more carriers to negotiate alternative settlement arrangements. Specifically, we propose to modify our flexibility policy to limit the filing of commercial information on routes that qualify for flexibility. Our current flexibility rules require a carrier seeking to implement a flexible arrangement to obtain approval by filing a petition for declaratory ruling with the Commission. Under our rules, carriers must include a summary of the terms and conditions of the alternative settlement arrangement in their petition. In addition, carriers are required under § 43.51 of our rules to file a copy of all settlement arrangements, including alternative settlement arrangements.

15. We seek comment on whether these filing requirements inhibit carriers from negotiating alternative settlement arrangements. Would a foreign carrier be less willing to negotiate a favorable arrangement with one U.S. carrier if the terms of the agreement must be disclosed to all competing carriers in the U.S. market? We seek comment on whether we should modify our flexibility policy for alternative settlement arrangements which do not trigger our safeguards. Thus, for alternative settlement arrangements affecting less than 25 percent of the inbound or outbound traffic on a particular route, and for arrangements that are not between affiliated carriers or carriers involved in a joint venture, we propose to allow carriers to file a petition for authorization to enter into a flexible settlement arrangement without including a summary of the terms and conditions of the agreement or identifying the foreign correspondent in their petition. We also seek comment on whether we should decline to apply our § 43.51 contract filing requirement for alternative settlement arrangements in these circumstances. We note that under this proposal, carriers could only seek approval without filing agreements with the Commission to the extent the presumption in favor of flexible treatment is not rebutted (*i.e.* there are not multiple facilities-based competitors capable of terminating international traffic operating in the foreign market).

16. We also seek comment on the two safeguards we adopted in our *Flexibility Order*, 62 FR 5535, February 6, 1997, recon. pending. The first of these safeguards requires that any alternative arrangement affecting more than 25 percent of the outbound or inbound traffic on a particular route may not contain unreasonably discriminatory terms and conditions and must be publicly filed. The other safeguard requires that all alternative arrangements between affiliated carriers and carriers involved in non-equity joint ventures be publicly filed. We adopted these 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 our flexibility policy. We tentatively conclude that we should maintain these safeguards. We seek comment on this tentative conclusion and on our tentative conclusion to modify our filing requirements for alternative settlement arrangements that do not trigger our safeguards. We also seek comment, however, on whether we should modify the safeguard that currently requires all flexible arrangements entered into with affiliated carriers and joint-venture partners to be publicly filed with the Commission. Where the U.S. carrier's foreign affiliate does not possess market power in the foreign market, there is little danger that a flexible arrangement would have anticompetitive effects. The current safeguard, however, requires a U.S. carrier to make public flexible arrangements entered into with its foreign affiliate even if it lacks market power. We therefore seek comment on whether we should only require public availability of flexible arrangements entered into by U.S. carriers with affiliated carriers or with joint-venture partners that possess market power in the foreign market.

17. If we adopt these proposals, we propose to modify the flexibility policy to require only that a carrier file a certification that the arrangement does not trigger our flexibility safeguards (*i.e.*, that it affects less than 25 percent of traffic on the route and is not with an affiliate or joint venture partner) and to identify the destination market. We propose to permit other parties to file comments to rebut the presumption in favor of flexibility (demonstrating that the foreign market lacks multiple facilities-based competitors), but not comment on the nature of the flexible arrangement itself. We believe that this approach would enable U.S. carriers to enter into innovative arrangements that would otherwise not be viable if the full contents of the agreement were disclosed.

18. We note that these proposed modifications to our flexibility rule may not be needed if we adopt our proposals in this Notice to lift the ISP and related filing requirements for settlement arrangements with foreign carriers that lack market power in WTO Member countries and settlement arrangements on WTO country routes where we permit ISR. Our flexibility policy provides an exception to the ISP. Thus, to the extent our ISP does not apply, our flexibility rules would be irrelevant. We seek comment on the proposals in this *Notice* for modifying our flexibility policy, and on any other modifications to our flexibility policy that would further our goals of encouraging the negotiation of more market-based arrangements and eliminating unnecessary regulatory burdens.

19. We also seek comment on whether we should modify our ISR rules as a mechanism for putting greater pressure on settlement rates. We seek comment in this NPRM on whether we can permit ISR on more routes, consistent with our commitment to prevent one-way bypass. For example, should we permit carriers to provide ISR for a limited amount of traffic on routes where we would otherwise not authorize the provision of ISR? We believe that a limited offering of ISR could put significant pressure on settlement rates, while limiting the potential damage from one-way bypass. Another approach might be to decide in advance to lift our ISP requirement at some future point when international markets have become sufficiently

competitive overall, *e.g.* when 50 percent of routes have been approved for ISR. We note that regulators in other markets that allow ISR, such as the United Kingdom, Sweden, Germany, and others, do not impose restrictions on ISR similar to those we have in place in the United States. We seek comment on whether it is possible to deter foreign carriers from engaging in one-way bypass that distorts the U.S. market through an approach other than prohibiting ISR altogether. For example, in the *Benchmarks Order*, 62 FR 45758, August 29, 1997, recon. pending, appeal filed, Cable & Wireless *et al.* v. FCC, No. 97–1612 (D.C. Cir. filed Sept. 26, 1997), we adopted a safeguard that would impose sanctions on a carrier whose provision of ISR results in a market distortion, *i.e.*, one-way bypass. We adopted a presumption that a market distortion would occur if the ratio of inbound/outbound traffic increases by ten or more percent over two successive reporting periods. We seek comment on whether this or a different competitive safeguard would be an effective means of preventing one-way bypass in lieu of our existing safeguards, either now or as competitive conditions evolve.

20. We seek comment on the effect of adopting the above proposals on our No Special Concessions rule as well as on the existing ISR and flexibility policies. We also seek comment on whether additional safeguards are necessary to address any possible competitive distortion that may result from limiting the scope of our ISP. We note that if we adopt our proposals to scale back our application of the ISP, our flexibility and ISR policies will apply only to arrangements with foreign carriers with market power in foreign markets to which the Commission does not allow ISR and to arrangements with carriers in non-WTO Member countries.

21. Our No Special Concessions rule prohibits U.S. international carriers from ''agreeing to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses sufficient market power on the foreign end of the route to affect competition adversely in the U.S. market * * *.'' 47 CFR 63.14(a). We seek comment on whether to maintain the No Special Concessions rule for U.S. carrier arrangements with foreign carriers with market power if we adopt the proposal in this Notice not to apply the ISP and related filing requirements on ISR routes. It may be necessary to maintain the No Special Concessions rule because it applies more broadly than the ISP. For example, the No Special Concessions rule prohibits U.S. carriers from agreeing to accept from a foreign carrier that possesses market power exclusive arrangements with respect to operating agreements, interconnection of international facilities, private line provisioning and maintenance, as well as quality of service. The ISP, however, applies only to the settlement of international traffic and allocation of return traffic. We seek comment on whether such exclusive arrangements with a foreign carrier that possesses market power could adversely affect competition in the U.S. market on routes where we permit ISR, such that we should continue to apply the No Special Concessions rule.

22. We also seek comment on the extent to which the No Special Concessions rule applies within the context of our ISR and flexibility policies in light of the changes to our rules proposed in this Notice. In the *Flexibility Order*, 62 FR 5535, February 6, 1997, recon. pending, the Commission stated that arrangements approved under the flexibility rules are permitted as an exception to the No Special Concessions rule. By contrast however, we have not made clear how the No Special Concessions rule applies to the settlement of traffic under an ISR arrangement. An ISR arrangement between a foreign carrier and a U.S. carrier, for example, could be viewed as a prohibited special concession if the foreign carrier also exchanges traffic in a traditional correspondent relationship with other U.S. carriers under financial terms and conditions that differ from those governing the ISR arrangement. We believe that such an interpretation of our No Special Concessions rule was not contemplated when we adopted our ISR policy. We therefore tentatively conclude that our No Special Concessions rule does not apply to the terms and conditions under which traffic is settled, including allocation of return traffic, by a U.S. carrier on an ISR route. Notwithstanding an ISR arrangement, however, the No Special Concessions rule would prohibit exclusive arrangements with a foreign carrier with market power with respect to interconnection of international facilities, private line provisioning and maintenance, as well as quality of service. We seek comment on this tentative conclusion. We also seek comment on whether we should apply the No Special Concessions rule in this manner if we decide to retain the No Special Concessions rule for U.S. carrier arrangements that deviate from the ISP on ISR routes, as discussed above.

23. Finally, although we seek to remove regulatory impediments to competition, we recognize that carriers that possess market power in the foreign market may have the potential to leverage that market power into the U.S. market. By removing the ISP and transparency requirements, we may be removing measures which limit the ability of such carriers to distort competition in the U.S. market. We therefore seek comment on whether we should adopt additional safeguards to prevent a competitive distortion, such as one-way inbound bypass, and on measures we should take in the event a competitive distortion occurs. For instance, we seek comment on whether we should modify our reporting requirements in order to more easily detect such a competitive distortion. We also seek comment on what measures we can take to ensure that the Commission is able to take swift action in the event of a competitive distortion. We recognize, however, that any safeguards we adopt may, to the extent they are not absolutely necessary, preclude carriers from responding to market influences and concluding agreements that may bring settlement rates closer to cost.

24. We note in particular that removing our ISP and filing requirements may, in certain cases, allow carriers to conclude some types of arrangements upon which the Commission has not yet ruled. For example, commenting parties in other proceedings have expressed concern regarding whether carriers may negotiate arrangements to accept ''groomed'' traffic, *i.e.* traffic that terminates in particular geographic regions. If we adopt our above proposal to remove the ISP and our filing requirements with respect to arrangements with carriers with market power in selected markets, we would no longer require pre-approval or public filing of such arrangements. We seek comment on whether these types of grooming arrangements present a potential for anticompetitive effects, particularly with respect to arrangements between foreign carriers with market power and incumbent local exchange carriers. We also seek comment on whether the potential for such anticompetitive effects would justify an exception to our proposals to relax our application of the ISP or whether it would justify application of other safeguards.

25. Currently, the Commission requires that carriers seek approval for changes in their accounting rate arrangements with foreign correspondents. Under the procedures set out in the Commission's rules, carriers seeking such approval must file

either a modification request or a notification. The notification requirement applies to simple reductions in the applicable accounting rate. Such notifications must be filed prior to the effective date of the change in the accounting rate. Grant of these filings is automatic the day after filing. The accounting rate modification filing procedures apply to all other changes in accounting rates (except flexibility filings), including retroactive changes in the applicable accounting rate. Modification filings are automatically granted 21 days after filing if the filing is unopposed and the International Bureau has not notified the applicant that approval of the modification may not serve the public interest. Where a filing is not automatically granted, approval is only granted by formal action of the Bureau. The Bureau's experience indicates that there is confusion regarding the filing procedures applicable to a given agreement. For instance, in many cases carriers seek to use notification filing procedures for accounting rate arrangements that should be filed under modification procedures, causing increased staff workload and additional paperwork for filing parties.

26. In light of the confusion caused by the existence of two standards for accounting rate filings, along with the fact that few filings are made under the notification procedure, we find that adopting the notification filing procedure has not had its intended effect of removing regulatory barriers to simple reductions in accounting rates. On the contrary, it is our experience that having two procedures for accounting rate filings has made procedures more complicated than they need to be. We therefore tentatively conclude that we should remove the option of filing a notification and require that all accounting rate filings be governed under the existing procedures for accounting rate modifications. We seek comment on this tentative conclusion.

27. Our international settlements policy requires that U.S. carriers not accept exclusive settlement arrangements with foreign carriers and prohibits U.S. carriers from entering into any arrangement not made available to all U.S. carriers providing service on the route. For this reason, carriers making modification or notification filings are required under our rules to serve a copy of their filings on all facilities-based carriers providing services on the same route.

28. The Commission is implementing an electronic filing system that will replace the current paper filing system for accounting rate modifications. This system will automatically generate reports of all accounting rate filings and will be available over the Internet on the Commission's web page. We seek comment on whether, in light of detailed information regarding accounting rate filings that will be available on the Internet, we can eliminate the increasingly cumbersome requirement that copies of accounting rate filings be served on all carriers providing service on a given route. We seek comment, alternatively, on whether the Commission should issue a public notice when it receives accounting rate filings instead of maintaining the service requirement. Due to the significant volume of such filings, we tentatively conclude that the information contained in public notices for accounting rate filings would be far less helpful than the information that will be available on the Commission's web page.

29. We seek comment on these proposed changes to our accounting rate modification and notification filing requirements. We also seek comment on any other modifications that would simplify our regulations but also enable the Commission and interested parties to obtain the information necessary to monitor accounting rate agreements effectively, where necessary.

30. Following adoption of the *Flexibility Order*, 62 FR 5535, February 6, 1997, recon. pending, the Commission received petitions for reconsideration from several parties, requesting that the Commission alter its competitive safeguards to differing degrees. In light of the above proposals to modify our ISP, we seek further comment on the issues raised by parties that filed petitions for reconsideration in the *Flexibility* proceeding. We invite interested parties to comment on the issues raised in the petitions for reconsideration of the *Flexibility Order* in light of the recent changes in our rules and the proposals detailed above.

Initial Regulatory Flexibility Certification

31. The Regulatory Flexibility Act (RFA) requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The rule changes proposed in this Notice may directly affect approximately 10 facilities-based international telecommunications carriers. Neither the Commission nor SBA has developed a definition of ''small entity'' specifically applicable to these international carriers. Therefore, the definition to be used is the most appropriate definition under the SBA rules, which here is the definition of Communications Services, Not Elsewhere Classified (NEC). Under this definition, a small entity is one with $11.0 million or less in annual receipts. Based on information filed with the Commission, the subject facilities-based international telecommunications carriers do not fall within the above definition of ''small entity'' because they each have more than $11.0 million in annual receipts. We therefore certify that this document will not have a significant economic impact on a substantial number of small entities. The Commission will send a copy of this document, including this certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Paperwork Reduction Act of 1995 Analysis

32. This Notice of Proposed Rulemaking contains a proposed information collection and will be submitted to the Office of Management and Budget (OMB).

Comment Filing Procedures

33. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before September 16, and reply comments on or before October 16. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (May 1, 1998).

34. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html≤. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen,

commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

35. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. N.W., Room 222, Washington, D.C. 20554.

36. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Donna Christianson, International Bureau, Federal Communications Commission, 2000 M Street, N.W., Room 836, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding (Docket No. 98–148), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

Ordering Clauses

37. Accordingly, it is ordered that, pursuant to §§ 1, 4(i)-(j), 201(b), 214, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 214, 303(r), and 403, this Notice of Proposed Rulemaking is hereby adopted.

38. It is further ordered that the commission's office of public affairs, reference operations division, shall send a copy of this Notice of Proposed Rule Making, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 43, and 64

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

[FR Doc. 98–22292 Filed 8–17–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AE65

Migratory Bird Permits; Amended Certification of Compliance and Determination That the States of Vermont and West Virginia Meet Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to add the States of Vermont and West Virginia to the list of States whose falconry laws have been determined by the Director to meet or exceed Federal falconry standards. As a result, we propose the States of Vermont and West Virginia be participants in the cooperative Federal/State permit application program and falconry allowed to be practiced in those States. The list of States that meet Federal falconry standards, including Vermont and West Virginia, is being published in this proposed rule for public review as well. The Service wishes to amend the regulations on the States' compliance in order to clarify the administrative procedure that States follow in order to be in compliance with Federal falconry standards.

DATES: Comments may be submitted on or before September 17, 1998 at the location noted below under the heading **ADDRESSES**.

ADDRESSES: Copies of the environmental assessment (EA), and the State falconry rules for Vermont and West Virginia are available by writing to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 634 ARLSQ, Washington, DC 20240. Comments may also be forwarded to this same address. The public may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, telephone 703/358–1714.

SUPPLEMENTARY INFORMATION:

Regulations in 50 CFR part 21 provide for review and approval of State falconry laws by the Service. A list of States whose falconry laws are approved by the Service is found in 50 CFR 21.29(k). Falconry legally occurs in those States. As provided in 50 CFR 21.29 (a) and (c), the Director has reviewed certified copies of the falconry regulations adopted by the States of Vermont and West Virginia and has determined that they meet or exceed Federal falconry standards. Federal falconry standards contained in 50 CFR 21.29 (d) through (i) include permit requirements, classes of permits, examination procedures, facilities and equipment standards, raptor marking, and raptor taking restrictions. Both Vermont and West Virginia regulations also meet or exceed all restrictions or conditions found in 50 CFR 21.29(j), which include requirements on the number, species, acquisition, possession of feathers, and marking of raptors. Therefore, the Service is proposing that the States of Vermont and West Virginia be listed under part 21.20(k) as States which meet Federal falconry standards. The proposed listing would eliminate the current restriction that prohibits falconry within the States of Vermont and West Virginia.

The Service proposes to amend the regulatory language in 50 CFR 21.29 (a) and (c) to clarify the Service's procedures in approving State regulations for compliance with Federal falconry standards. This approval is contingent upon the respective State's submission of its laws and regulations to the Director for review and a further finding that such laws and regulations meet or exceed Federal falconry standards.

The Service is publishing for public review the list of States that have met the Federal falconry standards, including the States of Vermont and West Virginia. The Service believes that publishing this list in its entirety will eliminate any confusion concerning which States have approval for falconry and further indicate which States participate in a joint Federal/State permit system.

The Service also is revising the text in 50 CFR 21.29 (j)(2) to be gender neutral.