

portability provisions also include rules for the group and individual insurance markets that guarantee access to individual coverage for people who lose their group coverage. These provisions also set forth requirements imposed on health insurance issuers.

Sections 101(g)(4), 102(c)(4), and 401(c)(4) of HIPAA provide that the Secretaries of Health and Human Services, Labor, and Treasury shall each issue, not later than April 1, 1997, such regulations as may be necessary to carry out these provisions. The Agencies have been working actively to develop these regulations.

Comments

Comments have been received from the public on a number of issues arising under the HIPAA portability provisions. The purpose of this announcement is to advise the public that further comments on all issues under the HIPAA portability provisions are welcome in order that comments may be taken into account, to the extent practicable, before April 1, 1997.

In particular, in response to questions already received, the Agencies are considering whether to include in the regulations a model certification that generally could be used to certify an individual's period of creditable coverage. Under sections 2701(e)(1) and 2743 of the PHSA, section 701(e)(1) of ERISA, and section 9801(e)(1) of the Code, a certification of creditable coverage is required to be provided on certain occasions, such as when an individual loses coverage. The model certification might include information identifying the parties involved, whether the individual has at least 18 months of coverage under the plan without a 63-day break, and, if not, the start and end dates of coverage periods (and any related waiting period), but not information about the particular benefits provided under the plan. (Under this approach, information about the particular benefits provided under a plan would have to be furnished only in the event that another plan or issuer, after receiving the model certification, requests additional information under section 2701(e)(2) of the PHSA, section 701(e)(2) of ERISA, and section 9801(e)(2) of the Code.) Comments are invited on whether a model certification of an individual's period of creditable coverage would be helpful.

Signed at Washington, DC this 24th day of December 1996.

Bruce Vladeck,

Administrator, Health Care Financing Administration, Department of Health and Human Services.

Robert J. Doyle,

Director, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Department of Labor.

J. Mark Iwry,

Associate Chief Counsel, Office of Tax Policy, Department of the Treasury.

Sarah Hall Ingram,

Associate Chief Counsel, (Employee Benefits and Exempt Organizations), Internal Revenue Service, Department of the Treasury.

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BILLING CODE 4120-01-M; 4830-01-M; 4510-29-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5 and 90

[ET Docket No. 96-256; FCC 96-475]

Revision of the Experimental Radio Service Regulations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Notice of Proposed Rule Making* (Notice) the Commission proposes to revise the Experimental Radio Service (ERS) rules in order to promote technical innovation and new services by encouraging experiments; ensure that experimental licenses do not result in abuse of the Commission's processes; and reorganize the Part 5 regulatory structure, including eliminating unnecessary and burdensome experimental regulations. The proposed action should encourage experimentation, remove unnecessary regulatory burdens upon ERS applicants, and prohibit abuses of the ERS processes.

DATES: Comments must be filed on or before February 10, 1997, and reply comments February 28, 1997. Written comments by the public on the proposed and/or modified information collections are due February 10, 1997. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before February 28, 1997.

ADDRESSES: Comments and reply comments should be sent to the Office of Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on

the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W. Washington, D.C. 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725-17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain-t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Thomas Derenge at (202) 418-2451 or Rodney Small at (202) 418-2452. Internet: tderenge@fcc.gov or rsmall@fcc.gov, Office of Engineering and Technology, Federal Communications Commission. For additional information concerning the information collections contained in this *Notice* should contact Dorothy Conway at (202) 418-0217, or via the Internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 96-256, FCC 96-475, adopted December 13, 1996, and released December 20, 1996. The item proposes to: permit longer license terms; permit blanket licensing of related multiple experiments by a single entity and of fixed and mobile stations that are part of the same experiment, and permit electronic filing of experimental applications; encourage student experiments by issuing licenses to schools, as well as to individual students, and by permitting use of additional frequencies; modify the rules regarding special temporary authorizations (STAs) to encourage temporary experimental demonstrations and experiments at trade shows, while limiting STAs to single short-term, non-renewable authorizations; limit the size and scope of each market study on a case-by-case basis, and immediately terminate any such study that the Commission determines to be in excess of this size and scope; and consolidate and reorganize the experimental rules structure.

This *Notice* contains proposed or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13. It has been submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed or modified information collections contained in this proceeding.

The full text of this Commission decision, including the proposed rules appendix, is available for inspection and copying during normal business hours in the FCC Reference Center

(Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of Notice

1. By this action, we propose to revise Part 5 of our rules, which governs the Experimental Radio Service (ERS). We take this action to promote technical innovation and new services by encouraging experiments; ensure that experimental licenses do not result in abuse of our processes; eliminate unnecessary and burdensome experimental regulations; and protect public safety frequencies.

2. Experimental licenses are currently granted for two years. We believe that it may be beneficial to certain segments of the communications industry—in particular companies which desire to conduct experiments that involve ongoing research and development to provide for a longer license period. We believe that permitting such entities to obtain long-term experimental licenses may encourage them to conduct long-term research and development. Long-term licenses will decrease the regulatory burden on our licensees and on our staff which processes renewal applications. Therefore, we request comment on the establishment of a new class of experimental license, with a five-year term, to support long-term operations. This additional option would give applicants the flexibility to apply for either a two-year or five-year license, depending on their needs. We request comment specifically on the appropriate length for such an extended license period. We also request comment on whether this new class of experimental license should be limited to certain parties, such as those involved in long-term product development, or whether any applicant should be permitted to apply for an extended license as long as it provides sufficient justification.

3. We propose to permit blanket licensing of related multiple experiments by a single entity and of fixed and mobile stations that are part of the same experiment. Currently, we require a separate application for fixed and mobile stations; and, under normal circumstances, separate licenses for each phase of an experimental program. However, many experimental projects involve a system containing several fixed stations or combinations of fixed and mobile stations, or involve at least loosely-related experiments. Requiring separate applications for the

components of the experimental systems or the different experiments in these cases is a disincentive to the filing of applications and is burdensome to the public and to our staff.

4. We also propose to permit electronic filing of experimental applications. Our Part 5 rules currently do not accommodate electronic filing of experimental applications. Accordingly, we propose to create a new section to permit our Office of Engineering and Technology to accept electronic signatures. We request comment on this proposal and on further steps that would facilitate the electronic filing of experimental applications.

5. We also propose to encourage student experiments by issuing licenses to schools, as well as to individual students, and by permitting use of additional frequencies. We believe that if there is an ongoing experimental radio program at a school, students would be more likely to become involved than if they are required to apply for an individual license. We also propose to modify the frequency bands used for student authorizations. The 2483.5–2500 MHz band is part of the currently authorized 2450–2500 MHz band that is used for student experimental use, but the 2483.5–2500 MHz band is no longer normally assigned for experimental use of any kind because of the need to protect satellite allocations in that band. Therefore, we propose to delete the 2483.5–2500 MHz band from the set of frequencies designated for student authorizations, and replace it with two bands that will provide far greater bandwidth. Specifically, we propose to provide the new bands 2402–2450 MHz and 10.00–10.50 GHz for such use. We request comment on whether student experiments can be accommodated in the 2402–2450 MHz and 10.00–10.50 GHz bands without causing harmful interference to existing users. Additionally, we request comment on whether the 5725–5825 MHz band should be made available for student authorizations. The 5725–5825 MHz band would provide an additional option for student experimentation; however, we note that the band is currently under consideration for unlicensed National Information Infrastructure (U-NII) devices, which are intended to provide wireless wideband networking options to the public including schools, libraries, and health care facilities. If these U-NII devices achieve a high level of deployment in schools, there could eventually be a conflict between U-NII and student use of this band.

6. We also encourage special temporary authorizations (STAs) by

making them independent of other experimental licenses and by expediting processing of STAs where circumstances warrant; Currently, our rules require that an applicant for an STA already have an experimental license prior to receiving an STA. However, it has been our experience that in many instances entities that have requirements for an STA do not have an experimental license and that the need for an STA is independent of the need for such a license. Accordingly, we believe that our current rules discourage some entities from obtaining STAs. Further, our current rules do not contemplate expedited processing of STA applications, even though in some circumstances the need for an STA may arise unexpectedly. Therefore, we propose to modify the rules to remove the requirement that an applicant have an experimental license before applying for an STA, and further propose to include a provision for preferential processing of STA applications in cases in which an applicant sets forth compelling reasons why such an authorization must be granted expeditiously.

7. Additionally, we propose to limit the size and scope of each market study on a case-by-case basis, and to immediately terminate any such study that we determine to be in excess of this size and scope. During the last several years, a number of parties have obtained experimental licenses in order to undertake market studies of new services. In 1983, when we last reviewed our experimental rules, we believed that limited market experiments would provide us with significant useful information about the viability of new products in the marketplace. While this has proven to be the case in a number of instances, in other instances our processes have been abused by companies attempting to establish commercial businesses under the guise of experimental licenses. We note that the purpose of limited market studies is to obtain information about the viability of new products in the marketplace, and not to circumvent our normal licensing processes. Accordingly, we propose that as a condition of granting such authorizations, licensees must limit the size and scope of each study. We shall determine the appropriate limits for market studies on a case-by-case basis and terminate any such study that exceeds these limits. An applicant desiring to perform a limited market study would be expected to submit a narrative describing in detail the proposed study and its objectives.

8. We further propose to limit STAs to single short-term, non-renewable authorizations. While STAs are granted for a period of no more than six months, some licensees have repeatedly sought to extend the same STA. This process has been wasteful of our resources. We realize that unforeseen delays can in some instances cause a planned short term experimental project to exceed six months, but we believe that some action is necessary in order to reduce the administrative and paperwork burden and to prevent abuse of our STA process. Accordingly, we propose to add language to our rules stating that in the absence of extenuating circumstances no extensions of STAs will be granted.

9. We also propose to eliminate the requirement that experimental licensees contact our Compliance and Information Bureau (CIB) before commencing operation. This notification requirement was intended to assist us in investigating any instances of reported interference. However, it has been our experience that experimental operations have rarely resulted in interference complaints. Further, improvements in our experimental license database have made it easier for our staff to identify the cause of any interference problem that may arise. Finally, in cases in which there is a reasonable chance of interference, we can place a condition on the license requiring that the licensee notify our Experimental Licensing Branch (ELB) prior to commencement of the operation. Accordingly, we believe that the existing notification requirements are unnecessary and propose to delete them. However, we request comment on this proposal and whether the removal of these requirements could result in the potential for increased interference from experimental operations.

10. We further propose to eliminate rules that specify that a construction permit be obtained in conjunction with an experimental license and that expiration dates of experimental licenses be distributed over the 12 calendar months. For a number of years, we have accepted a combined application for construction permit and license to operate an experimental station and have issued only one instrument of authority for the ERS. As a matter of administrative convenience and clarification, we propose to remove all references to obtaining a construction permit for experimental authorizations. Further, we propose to delete the rules that specify that the expiration dates of experimental licenses will be distributed over the twelve calendar months, in accordance with the alphabetical distribution of the

names of the licensees. Our experience has been that the constant flow of applications results in an acceptable distribution of license applications, and for several years it has been our standard operating practice to issue a license for a two-year period from the date of grant and to act on any renewal requests upon expiration of this period. Implementation of a 5-year experimental license also will substantially facilitate the renewal process.

11. We also propose to add language to Part 5 to ensure that experiments avoid public safety frequencies and propose to consolidate and reorganize the rules. Specifically, we propose to transfer wildlife and ocean buoy tracking operations from Part 5 to Part 90, and solicit comment on transferring rules governing broadcasting experiments that are not directed toward improvement of the technical phases of operation and service of licensed broadcast stations from Part 74 to Part 5. Currently, Section 5.108 governs wildlife and ocean buoy tracking operations in the 40.66–40.70 MHz and 216–220 MHz bands for the tracking of, and telemetry of scientific data from, such operations. These operations were originally placed under Part 5 because there was no other appropriate rule section to accommodate them. Recently, however, the Commission has established the Location and Monitoring Service under Part 90, which provides for regular licensing of radio tracking functions. Additionally, the Commission recently established under Part 90 the Low Power Radio Service in the 216–217 MHz band that includes, among other things, tracking of stolen goods. Accordingly, we believe that wildlife and ocean buoy tracking operations would now be more appropriately governed as Part 90 services, and we so propose herein to recategorize them. However, we note that Part 90 has more specific eligibility requirements than Part 5. While we do not believe that transferring wildlife and ocean buoy tracking operations would create a situation where an entity qualified under Part 5 would be ineligible under Part 90, we request comment on this issue.

12. In addition, our Experimental License Branch has also received a number of applications for use of broadcast frequencies by experimental operations of a broadcast nature. Currently, such experiments are accommodated under our Auxiliary Broadcasting rules, Part 74, and not Part 5. We believe that a consolidation of all experimental rule subparts into Part 5

may be desirable to eliminate redundancy, any confusion created by having separate bodies of experimental rules, and to increase the efficiency of the Commission's processes. Accordingly, we solicit comment on transferring Subpart A of Part 74—Experimental Broadcast Operations—to Part 5. We request comment on whether such a change is desirable and, if so, on whether Subpart A of Part 74 should be made a separate subpart of Part 5 or fully integrated with the proposed three subparts of Part 5.

Initial Regulatory Flexibility Analysis

13. As required by Section 603 of the Regulatory Flexibility Act,¹ the Commission has prepared an Initial Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rule Making (Notice) to "Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations." Written public comments are requested on the IRFA. Comments must be identified in response to the IRFA and must be filed by the deadlines for comments on the Notice provided in paragraph 26. The Secretary shall send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

14. *Need for and Objectives of the Proposed Rule.* We believe that the Experimental Radio Service (ERS) rules have become outdated and must change to keep pace with an evolving telecommunications industry. The competitive and rapidly developing telecommunications market has demonstrated the increased importance and the usefulness of the ERS. The ERS continues to be utilized to foster development of new service concepts and technologies that stimulate economic growth, create new jobs, and increase spectrum utilization and efficiency. The ERS rules were last updated in 1983 and contain obsolete practices and unnecessary regulations. We propose to modernize the ERS and improve the experimental licensing process by encouraging experiments and streamlining and updating Part 5 of the rules. Additionally, the proposals would eliminate outdated and cumbersome regulatory requirements and unnecessary paperwork.

15. *Legal Basis.* The proposed action is authorized by Sections 4(i), 303(c), 303(f), 303(g) and 303(r) of the

¹ 5 U.S.C. §603.

Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 303(c), 303(f), 303(g) and 303(r). These provisions authorize the Commission to make such rules and regulations as may be necessary to encourage more effective use of radio in the public interest.

16. *Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply.* For purposes of this Notice, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities.² Under the SBA, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any individual criteria established by the Small Business Administration (SBA).³

17. The Commission has not developed a definition of small entities applicable to experimental licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to radiotelephone companies. SBA has defined a small business for Standard Industrial Classification (SIC) category 4812 (Radiotelephone Communications) to be small entities when they have fewer than 1500 employees.⁴

18. The Commission processes approximately 1,000 applications a year for experimental radio operations. About half of these are renewals and the other half are for new licenses. The majority of experimental licenses are issued to companies such as Motorola and Department of Defense contractors such as Northrop, Lockheed and Martin Marietta. Businesses such as these may have as many as 200 licenses at one time. The majority of these applications, 70 percent, are from entities such as these. Given this fact, the remaining 30 percent of applications, we assume, for purposes of our evaluations in the IRFA, will be awarded to small entities, as that term is defined by the SBA.

19. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* Our proposals are intended to decrease the regulatory burden on all experimental license applicants, including small entities. For example, we propose to permit applicants the option of applying for a five-year experimental license, in

addition to maintaining the current two-year license. We anticipate that a longer term license would reduce the number of renewal applications, and thereby decrease the regulatory burden. We are also proposing to remove an unnecessary requirement that STA applicants hold experimental licenses, and are clarifying the STA rules. We are also proposing to replace existing Sections 5.55(a) and 5.55(b) of our rules with a single provision that would allow an applicant to apply for all of the stations in its experimental system, including fixed stations and associated mobile units, on one experimental license application; and similarly to modify Section 5.62 to permit the filing of only a single application for multiple experiments, when doing so would be appropriate for the proposed project. Additionally, this action proposes to increase the opportunities for students to obtain experimental authorizations, proposes to remove requirements that certain licensees notify the FCC's field offices prior to commencing operations, and proposes to eliminate obsolete rules. These changes should have a positive effect on small entities; however, we are unable to quantify all potential effects on such entities. We invite specific comments on this point by interested parties.

20. *Significant Alternatives Minimizing the Impact on Small Entities and Consistent with the Stated Objectives.* We believe that our proposed actions to revise our ERS rules will eliminate unnecessary and burdensome regulations for small entities. Section 303(g) of the Communications Act of 1934, as amended, charges the Commission with encouraging the larger and more effective use of radio in the public interest. We have considered the alternative of not making the proposed revisions; however, we believe that would not serve the public interest and would continue to place an unnecessary burden on licensees. We solicit comment on specific alternatives to the proposed rule changes listed in the Notice. Some or all of the proposals may be adopted or altered in future actions in this proceeding.

21. *Federal Rules That Duplicate, Overlap, or Conflict With the Proposed Rule:* None.

22. *Paperwork Reduction Act.* This Notice contains either a proposed or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Notice, as required by

the Paperwork Reduction Act of 1995, Public Law No. 104-13. Public and agency comments are due at the same time as other comments on the Notice; OMB comments are due February 28, 1997. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: N/A.

Title: Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations.

Form No.: N/A.

Type of Review: New Collection.

Respondents: Individuals or households, Business or other for-profit, not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 428.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 681 hours.

Needs and Uses: The Third Party requirements are made necessary by Sections 5.85(d), 5.85(e), and 5.93(b) of the Notice of Proposed Rule Making revising Part 5 of the Commission's Rules governing the Experimental Radio Service. They are as follows: (1) pursuant to Section 5.85(d), when applicants are using public safety frequencies to perform experiments of a public safety nature, the license may be conditioned to require coordination between the experimental licensee and appropriate frequency coordinator and/or all public safety licensees in its area of operation; (2) pursuant to Section 5.85(e), the Commission may, at its discretion, condition any experimental license or special temporary authority (STA) on the requirement that before commencing operation, the new licensee coordinate its proposed facility with other licensees that may receive interference as a result of the new licensee's operations; and (3) pursuant to Section 5.93(b), unless otherwise stated in the instrument of authorization, licenses granted for the purpose of limited market studies requires the licensee to inform anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary. In all cases, it is the responsibility of the licensee to coordinate with other users.

² See 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C. § 632).

³ 15 U.S.C. § 632.

⁴ 13 C.F.R. § 121.201 Standard Industrial Classification (SIC) Code 4812.

Coordination is necessary to avoid harmful interference, and notification to participants of limited market studies is necessary to indicate that the experiment is temporary.

List of Subjects in

47 CFR Part 5

Radio.

47 CFR Part 90

Communications equipment, Radio.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 96-33144 Filed 12-27-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Part 63

[IB Docket No. 96-261, FCC 96-484]

International Settlement Rates

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On December 19, 1996, the Federal Communications Commission released a Notice of Proposed Rulemaking ("NPRM") that proposes changes to the Commission's international settlement benchmark rates that will move settlement rates closer to the underlying costs of providing international termination services. The Commission believes that proposals made in the NPRM are necessary in light of the significant changes that have occurred in the global telecommunications market in recent years. The NPRM represents the next step in an ongoing effort by the Commission, many foreign governments, and multilateral organizations such as the International Telecommunications Union ("ITU") and the Organization for Economic Cooperation and Development ("OECD") to lower international telephone costs by reforming the international accounting rate system.

DATES: Comments are due on or before February 7, 1997, and reply comments are due on or before March 10, 1997.

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

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

SUPPLEMENTARY INFORMATION:

Summary of Notice of Proposed Rulemaking

1. On December 19, 1996, the Commission released a Notice of Proposed Rulemaking in the Matter of International Settlement Rates, IB Docket No. 96-261 (FCC 96-484) that proposes options for revising international settlement rate benchmarks that will move settlement rates closer to the underlying costs of providing international termination services. The NPRM seeks comment on several alternate methods for calculating benchmark rates in the absence of reliable data on the costs foreign carriers incur to terminate international traffic. The method proposed in the NPRM relies on the three network elements identified by the ITU to provide international service: international transmission facilities, international switching facilities, and national extension (domestic transport and termination). Benchmarks would be developed using foreign carriers' tariffed prices to calculate, on a country-by-country basis, a price for each of these three network elements. The prices for each network element would be aggregated to calculate a "tariffed components price" for each country.

2. The NPRM proposes three benchmark ranges, based on a country's level of economic development under the World Bank and ITU's classification scheme—high income countries (GNP per capita of \$8,956 or more); upper middle and lower middle income countries (\$726-8,955); and low income countries (\$726 or less). The NPRM combines the two middle income categories because the proposed method of calculating benchmark rates would result in benchmarks that are almost identical. The proposed rule would base the upper end of the range for each development category on an average of the prices of the three network elements (or the tariffed components prices) for all countries in that category. This would result in upper ranges of approximately 15¢ for carriers in high income countries; 19¢ for carriers in upper middle and lower middle income countries; and 23¢ for carriers in low income countries. For the lower end of each development category's benchmark, the NPRM proposes using an estimate of the incremental cost per minute of terminating international traffic. The NPRM estimates that this cost would be between 6¢ to 9¢. The NPRM also asks for comment on other alternative methodologies for setting benchmark rates.

3. The NPRM recognizes the potential adjustment problems for foreign carriers that could result from an immediate shift to more cost-based settlement rates. The NPRM therefore proposes a transition schedule for negotiating settlement rates within the benchmark ranges based on countries' levels of economic development. The NPRM proposes a one year transition schedule for U.S. carriers negotiating with carriers in upper income countries; a two year schedule for middle income countries; and a four year schedule for low income countries. The NPRM proposes, though, to consider additional flexibility in the application of the benchmarks beyond this transition schedule for U.S. carriers serving low income and middle income countries that demonstrate an actual commitment to introducing competitive reforms. Under the proposed rule, the Commission would consider carrier-initiated requests for additional flexibility on a case-by-case basis.

4. The NPRM proposes to place conditions on various types of authorizations to provide U.S. international services in order to address potential competitive distortions in the U.S. market for international services that could result from above-cost settlement rates. The NPRM first proposes to condition a carrier's authorization to provide facilities-based service to an affiliated market on the foreign affiliate offering all U.S. international carriers a settlement rate within the benchmark range. Under the proposed rule, the Commission could, if it subsequently learned that the carrier's service offering has caused a distortion of competition on the route in question, require that settlement rates on that route be no more than the lower end of the benchmark range, or could revoke the authorization of the carrier to serve the affiliated market. Second, the NPRM proposes to grant all carriers' applications for resale of private lines to provide switched service on the condition that accounting rates on the route or routes in question are within the benchmark range. The proposed rule would allow the Commission, if it learned that competition on the route was being distorted, to order all authorized U.S. private line resale international carriers not to use their authorization to provide international private line resale services until settlement rates on that route are at the low end of the benchmark range. The NPRM also seeks comment on whether the benchmark conditions should be used in conjunction with the