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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 704

Corporate Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: NCUA is amending its regulations governing corporate credit unions to reduce the close ties between many corporate credit unions and credit union trade associations. The final rule requires that at least a majority of a corporate credit union's directors, including the chair, be representatives of member credit unions. The rule provides that a majority of a corporate credit union's directors may not be individuals who also serve as officers, directors, or employees of the same trade association or affiliated trade associations. The rule requires that the chief executive officer of a corporate credit union answer solely to the board of directors and not also serve as an employee of a trade association. While the rule imposes these and other requirements to ensure corporate credit union governance is controlled by member credit unions, substantial revisions from the Board's earlier proposed rule have been made to address concerns raised by commenters.

EFFECTIVE DATE: January 1, 1996.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428.

FOR FURTHER INFORMATION CONTACT: H. Allen Carver, Director, Office of Corporate Credit Unions, (703) 518–6640, or Robert M. Fenner, General Counsel, (703) 518–6540, at the above address.

SUPPLEMENTARY INFORMATION:

A. Background

On April 12, 1994, the NCUA Board issued an advance notice of proposed rulemaking (ANPR) regarding the relationship between corporate credit unions and credit union leagues and trade associations. 59 FR 18503, April 19, 1994. The ANPR noted that approximately half of the corporate credit unions are closely tied to leagues and trade associations, through integrated boards or management relationships. The ANPR requested comment on whether Part 704 should be amended to require that the board of directors of a corporate credit union be independently elected by its members, with the condition that a majority of the board seats be held by representatives of member credit unions, that all or a majority of the corporate credit union board be comprised of representatives who do not also serve on the board of a league or trade association, and that management of a corporate credit union report solely to the board of the corporate credit union.

NCUA received 400 comment letters in response to the ANPR, 115 expressing general support for the proposed changes, 278 expressing general opposition, and 7 commenting on tangential issues. Remaining concerned that a corporate credit union system independent of trade association control is important to the safety and soundness of the credit union system, the Board determined to request comment on specific proposed changes. Accordingly, on September 16, 1994, the Board issued a notice of proposed rulemaking. 59 FR 48832, September 23, 1994.

It was proposed that the definition of "corporate credit union" be amended by providing that a corporate credit union could not require its members to belong to any other organization. It was proposed that at least a majority of a corporate credit union's directors, including the chair, be individuals who represented member credit unions and who were not officers, directors, or employees of a credit union-related organization. "Credit union-related organization" was proposed to be defined as a credit union league or trade association, an affiliate of a credit union league or trade association, or an entity operated or controlled by a credit union league, trade association, or affiliate. For purposes of meeting the required majority, it was proposed that an individual be prohibited from serving as a director of a corporate credit union if another individual from his or her credit union was serving as an officer, director, or employee of a credit union-related organization.

To implement the existing requirement that elections be conducted by mail ballot, revisions were proposed to the standard corporate federal credit union bylaws. In addition, it was proposed that state chartered corporate credit unions be required to comply with those bylaws. It was proposed that if an individual ceased to be the representative of an organization for any reason, his or her seat would be declared vacant and filled by the corporate credit union board in accordance with the bylaws. Finally, it was proposed that the recusal provision be strengthened, that management report solely to the board, and that no management official or other employee of a corporate credit union could be an employee or official of a credit union-related organization.

B. Comments

NCUA received 417 comments on the proposed rule: 330 from natural person credit unions, 29 from corporate credit unions, 33 from credit union trade associations, 10 from state regulatory agencies, 10 from individuals, 3 from central credit unions, 1 from a chapter of a state league, and 1 from a bank trade association. Of the commenters 291 were opposed to any NCUA regulation in the area of corporate credit union governance, 95 supported some regulation in that area but stated that the proposed regulation went too far, and 31 supported the proposed regulation with no or only minor modifications.

Many of the commenters who objected to any regulation in the area of corporate credit union governance expressed the view that the Board should not go forward with a proposed regulation in the face of opposition by the majority of commenters on the ANPR. Some suggested that the decision to go forward was an indication that the Board did not bother to consider the comments and that commenting was useless. In fact, the Board took very seriously the comments of interested parties, and relied on them to produce what it considers to be a better product. The regulatory process, while allowing

interested parties to participate in rule making through submission of written data, views, and arguments, does not bind the Board to abide by such submissions. Having solicited comments, the Board, as an independent regulatory body, must then act in its best judgment to establish policies that it believes will ensure the safety and soundness of federally chartered and insured credit unions.

The Board has concluded that because the interests of trade associations (which are basically political organizations) and financial institutions often conflict, trade association control of a corporate credit union can cause, and in several instances has caused, improper allocation of corporate resources. By this rule, the Board seeks to position corporate credit unions to remain free of conflicts of interest and to avoid the appearance of such conflicts that could diminish public confidence in the credit union system.

The commenters on the proposed rule who objected to any regulation on interlocks did so primarily on the basis that corporate credit union governance is not a safety and soundness issue. The fact is that trade association control of corporate credit unions is a safety and soundness issue. Less than arms length financial transactions, and problems of financial and fiduciary accountability and control in corporate credit unions with close board and management ties to trade associations, can affect resource allocation decisions. The Board is well aware of several instances where such misallocations have occurred. To prevent both the real and apparent conflicts of interest, the Board has determined that regulatory changes are in order.

The commenters who were in favor of some regulation in the area of corporate credit union governance tended to believe that the proposed regulation was on the right track but that some of its provisions were too broad. The commenters argued that the proposed rule could be modified and still meet the goal of eliminating trade association control of corporate credit unions. The Board agrees and has amended the proposed rule as discussed below.

C. Section-by-Section Analysis

Section 704.2 Definitions

The final rule retains the proposed addition to the definition of "corporate credit union": the requirement that a corporate credit union may not condition a credit union's eligibility to join the corporate credit union on that credit union's membership in any other organization. Most of the commenters who favored some regulation in this area supported the amendment. In a first step in providing a clearer definition of what a corporate credit union is, the final rule also adds two new elements to the definition. These are that a corporate credit union is chartered by state or federal law as a credit union and that it provides share and loan services to other credit unions.

Among the commenters who favored some regulation, many suggested that the term "credit union-related organization" was confusing. Accordingly, that term has been eliminated and replaced with the term "trade association," which is defined in the final rule to include entities owned or controlled directly or indirectly by a trade association. When used in the regulation, "trade association" is modified by the words "credit union." "Credit union trade association" includes, but is not necessarily limited to, state credit union leagues and league service corporations, national credit union trade associations and their affiliates and service organizations, and local, state, and national special interest credit union associations and organizations.

Section 704.12(a) Board Representation

The proposed rule provided that the board was to be determined as stipulated in the standard federal corporate credit union bylaws. Some commenters objected to requiring state chartered corporate credit unions to comply with federal bylaws. The Board is sensitive to state interests but believes it is critical that each corporate credit union follow election procedures that will provide an opportunity for full participation by all members. At the same time, the Board does not wish to intrude unnecessarily on a state's prerogative, so the final rule makes clear that state chartered corporate credit unions need only follow the federal bylaws which govern elections. These would be the notice provisions of Article IV, Section 2, and Article V, both as amended in the final rule. Since these bylaws provide for elections by mail ballot, with procedures for nominations by petition, Section 704.12(a)(2) of the proposed rule has been deleted as unnecessary.

In response to comments, the Board has also substantially revised the other elements of proposed Section 704.12(a). The Board agrees that proposed Section 704.12(a) went beyond preventing trade association control and in fact prevented individuals who serve on the corporate credit union board from serving in other capacities in the credit union system and, in addition, prevented other individuals from their credit unions from serving in the system.

Since corporate credit unions should exist to serve the interests of natural person credit unions and their members, Section 704.12(a)(1) of the final rule retains the requirement that a majority of corporate credit union board members, including the chair, must be representatives of member credit unions. Section 704.12(a)(2) of the final rule, however, only prohibits the board chair from serving in a trade association, on the theory that the chair should be an individual whose loyalty is in no way divided between the corporate credit union and a trade association.

Rather than prohibiting the majority of board members who represent member credit unions from any service in the credit union system, Section 704.12(a)(3) of the final rule simply prohibits a majority of board members from serving with a given credit union trade association or its affiliates, excluding chapters. The Board believes that a corporate credit union's board should not be controlled or overly influenced by individuals who represent a particular trade association.

League chapters were excluded from the restriction because individuals serving as officers of such chapters generally are not involved in setting policy or making decisions for the league. Individuals who serve on league committees are likewise excluded because the regulation only applies to officers, directors, and employees of a trade association. The proposed prohibition against a majority of board members serving as "agents" of a trade association has been deleted. The provision was unclear in its meaning and unnecessary, given the rule against a majority serving as officers, directors, or employees of the same or affiliated trade associations.

State leagues that are members of the Credit Union National Association (CUNA) are considered to be affiliated with CUNA and with each other. Thus, for example, a five-member corporate credit union board could not have two members who serve on the boards of different state leagues and one member who serves on the board of CUNA. A five-member board could, however, have two members who serve on the boards of different state leagues, and one member who serves on the board of another, unaffiliated trade association. Thus, individual leaders in the credit union system would retain the ability to serve in various capacities, but a corporate credit union could not be dominated by a given trade group.

Section 704.12(a)(4) of the final rule operates to prevent the limitations of paragraphs (2) and (3) from being circumvented by placing a senior employee of a credit union on a trade association board and a subordinate employee of the same credit union on a corporate credit union board. For example, again in the case of a corporate credit union with a five-member board, it would not be permissible to have the following combination of board members: one corporate board member who also serves on the board of CUNA, one board member who also serves on the board of a state league, and one corporate board member who is an employee of a credit union whose CEO serves on the board of a state league. This same example would become permissible, however, if the credit union CEO were on the corporate credit union board and the vice president were on the league board, or if either or both of the two individuals were board members at their natural person credit union instead of employees. This distinction is based on the belief that only superior to subordinate employee relationships result in the kind of domination that would subvert the rule.

Section 704.12(a)(5) of the final rule is a new requirement which provides that in the case of any corporate credit union whose membership is comprised of more than 25% non credit unions, the majority of directors representing member credit unions must be elected only by those member credit unions. At least 80% of the membership of all corporate credit unions but U.S. Central consists of credit unions. Approximately 60% of U.S. Central's membership, however, consists of individuals or organizations that are not credit unions and that, for the most part, are officials or affiliates of CUNA, CUNA Mutual, the World Council of Credit Unions, and the leagues. In the absence of some special rule for U.S. Central, this majority would be able to elect, to the majority of board seats that must be held by representatives of member credit unions, representatives of their choosing, thus removing control from U.S. Central's member credit unions.

Other than requiring the use of the bylaw provisions regarding mail ballots and nomination by petition, the Board will not prescribe specific procedures for achieving the requirements of Section 704.12(a). Each corporate credit union has the freedom to develop its own election procedures, subject to the requirements of the rule and the bylaws.

Section 704.12(b) Representatives of Organizational Members

Proposed Section 704.12(b) has been carried through to the final rule with the addition of a sentence clarifying that an organizational member of a corporate credit union is a member that is not a natural person. In response to comments, proposed Section 704.12(b)(2) has been amended to make it clear that in filling vacancies, the board of a state chartered corporate credit union is free to use the credit union's own bylaws, as long as the substantive requirements of the rule are met.

Section 704.12(c) Recusal Provision

Again, most commenters who supported regulation in the area of corporate credit union governance agreed with the proposal to require recusal for all matters involving the pecuniary interest of an organization in which a corporate official is interested, rather than just matters where the amount in question exceeds 5% of the corporate's capital. The final rule makes this change. As noted in the supplementary information section of the proposed rule, a healthy and independent credit union movement depends, in part, on preventing even the appearance of conflicts of interest. A strong recusal provision is necessary to achieve this goal. Under the recusal provision, an individual who is interested in a matter may not deliberate or vote on the matter, or otherwise attempt to influence its outcome.

The final rule has been amended to clarify that the recusal provision does not apply when the matter involves general policy applicable to all members, rather than a specific action regarding one member. In addition, the word "agent" has been deleted as being vague and potentially overly broad.

The proposed definition of "interested" has been made final, with the clarification that recusal is only required when a director, committee member, officer, or employee of a corporate credit union has a relationship with someone and knows that that person has in interest in an entity whose interest will be affected by an action of the corporate credit union.

Section 704.12(d) Administration

Section 704.12(d) of the proposed rule required the management official of the corporate credit union to report solely to the board and prohibited any management official, officer, agent, or employee of the corporate credit union from being a management official, officer, agent, or employee of a trade association. In response to comments, the final rule prohibits only the chief executive officer of a corporate credit union from serving as an employee of a trade association.

The provision was narrowed because of the criticism that prohibiting sharing of employees and resources with leagues or other organizations would put small corporate credit unions out of existence. It was argued that small corporate credit unions have a place in the future of the credit union system because large, regional or national corporate credit unions may not devote as much time and resources to providing service to small natural person credit unions. To address this concern, the final rule does not prohibit sharing of employees below the level of the chief executive officer of the corporate credit union. The CEO of the corporate credit union, who may not be an employee of a trade association, must report to the corporate board, which cannot be dominated by persons associated with any given trade association. With those restrictions in place, a corporate credit union should be allowed, based on its business judgment, to share employees and other resources with any other organization.

To clarify that the provision applies to the top paid employee of the corporate credit union, not the chair of the board, the final rule substitutes "chief executive officer" for "management official."

As discussed earlier, Section 704.12(e), the definition of "credit union-related organization," has been deleted from the final rule.

D. Applicability to State Chartered Corporate Credit Unions

The final rule applies to all federally insured corporate credit unions. (Non federally insured corporate credit unions must comply with the rule in order to receive funds from federal credit unions.) The Board acknowledges the strong sentiment against NCUA applying this rule to state chartered corporate credit unions. The Board's rationale for applying this rule to such credit unions is provided in the analysis of Executive Order 12612, set forth below.

E. Effective Date

This rule will not take effect until January 1, 1996. Board members in the midst of their terms on that date need not leave the board, even if that means the corporate credit union does not meet Section 704.12(a) of the rule. Elections held after the effective date, however, must be conducted so as to bring the corporate credit union into compliance

with the regulation. For example, on a nine-person board where each member serves as a director of Trade Association A, members serve three-year terms, and three members are elected each year, the three individuals elected in 1996 must not serve as officers, directors, or employees of Trade Association A or its affiliates. Two of the individuals elected in 1997 also must not serve in those capacities for the trade association. At that time, the majority of the board will not be serving as officers, directors, or employees of the same or affiliated trade association, a condition which must be maintained in subsequent elections. The requirement for an independent chair of the board would have to be met at the earliest possible date, the 1996 election in this example.

Corporate credit unions must come into compliance with the other provisions of the rule on the effective date.

F. Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the final rule will not have a significant economic impact on small credit unions (those under $1 million in assets). The rule applies only to corporate credit unions, all of which have assets well in excess of $1 million. Accordingly, the NCUA Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The final rule does not impose any paperwork requirements.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states, "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope." The risk of loss to federally insured credit unions and the NCUSIF caused by actions of corporate credit unions are concerns of national scope. The final rule will help ensure that proper safeguards are in place to ensure the safety and soundness of corporate credit unions.

The rule applies to all federally insured corporate credit unions, including those that are state-chartered. State-chartered corporate credit unions enjoy the same benefits provided by the NCUSIF as do federally chartered corporate credit unions. The benefits are provided through a federal system, the responsibility for which lies with the NCUA Board. The Board believes that those who benefit from the system should bear its burdens equally. The rule also affects, indirectly, non federally insured state-chartered corporate credit unions, which, pursuant to 12 CFR Part 703, must comply with the rule in order to receive funds from federally chartered credit unions. The final rule does not impose additional costs or burdens on the states or affect the states' ability to discharge traditional state government functions.

The Board has determined, pursuant to Executive Order 12612, that the final rule may have an occasional direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Further, the final amendments may supersede provisions of state law or regulation concerning federally insured state-chartered corporate credit unions.

List of Subjects in 12 CFR Part 704

Credit unions, Reporting and record keeping requirements.

By the National Credit Union Administration Board on November 10, 1994.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, 12 CFR part 704 is amended as follows:

PART 704—CORPORATE CREDIT UNIONS

1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781, and 1789.

2. Section 704.2 is amended by removing the definition of *Affiliated organization*, revising the definition of *Corporate credit union*, and adding in alphabetical order the definition of *Trade association*, to read as follows:

§ 704.2 Definitions.

* * * * *

Corporate credit union means an organization that:

(1) Is chartered under Federal or state law as a credit union;

(2) Receives shares from and provides loan services to other credit unions;

(3) Is operated primarily for the purpose of serving other credit unions;

(4) Is designated by the National Credit Union Administration as a corporate credit union;

(5) Limits natural person members to the minimum required by state or federal law to charter and operate the credit union; and

(6) Does not condition the eligibility of any credit union to become a member on that credit union's membership in any other organization.

* * * * *

Trade association means an association of organizations or persons formed to promote their common interests. The term includes entities owned or controlled directly or indirectly by such an association but does not include credit unions.

* * * * *

3. Section 704.12 is revised to read as follows:

§ 704.12 Representation.

(a) *Board representation.* The board shall be determined as stipulated in the standard corporate federal credit union bylaws governing election procedures, provided that:

(1) At least a majority of directors, including the chair of the board, must serve on the board as representatives of member credit unions;

(2) The chair of the board may not serve simultaneously as an officer, director, or employee of a credit union trade association;

(3) A majority of directors may not serve simultaneously as officers, directors, or employees of the same credit union trade association or its affiliates (not including chapters or other subunits of a state trade association);

(4) For purposes of meeting the requirements of paragraphs (a)(2) and (a)(3) of this section, an individual may not serve as a director or chair of the board if that individual holds a subordinate employment relationship to another employee who serves as an officer, director, or employee of a credit union trade association;

(5) In the case of a corporate credit union whose membership is composed of more than 25% non credit unions, the majority of directors serving as representatives of member credit unions, including the chair, must be elected only by member credit unions.

(b) *Representatives of organizational members.*—(1) An organizational member of a corporate credit union is a member that is not a natural person. An organizational member may appoint one of its members or officials as a representative to the corporate credit union. The representative shall be empowered to attend membership meetings, to vote, and to stand for election on behalf of the member. No individual may serve as the representative of more than one organizational member in the same corporate credit union.

(2) Any vacancy on the board of a corporate credit union caused by a representative being unable to complete his or her term shall be filled by the board of the corporate credit union according to its bylaws governing the filling of board vacancies.

(c) *Recusal provision.*—(1) No director, committee member, officer, or employee of a corporate credit union shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his or her pecuniary interest or the pecuniary interest of any entity (other than the corporate credit union) in which he or she is interested, except if the matter involves general policy applicable to all members, such as setting dividend or loan rates or fees for services.

(2) An individual is "interested" in an entity if he or she:

(i) Serves as a director, officer, or employee of the entity;

(ii) Has a business, ownership, or deposit relationship with the entity; or

(iii) Has a business, financial, or familial relationship with an individual whom he or she knows has a pecuniary interest in the entity.

(3) In the event of the disqualification of any directors, by operation of paragraph (c)(1) of this section, the remaining qualified directors present at the meeting, if constituting a quorum with the disqualified directors, may exercise, by majority vote, all the powers of the board with respect to the matter under consideration. Where all of the directors are disqualified, the matter must be decided by the members of the corporate credit union.

(4) In the event of the disqualification of any committee member by operation of paragraph (c)(1) of this section, the remaining qualified committee members, if constituting a quorum with the disqualified committee members, may exercise, by majority vote, all the powers of the committee with respect to the matter under consideration. Where all of the committee members are disqualified, the matter shall be decided by the board of directors.

(d) *Administration.*—A corporate credit union shall be under the direction and control of its board of directors. While the board may delegate the performance of administrative duties, the board is not relieved of its responsibility for their performance. The board may employ a chief executive officer who shall have such authority and such powers as delegated by the board to conduct business from day to day. Such chief executive officer must answer solely to the board of the corporate credit union, and may not be an employee of a credit union trade association.

Note: The following appendix will not appear in the Code of Federal Regulations

Appendix to the Preamble of the Final Rule

The document entitled "Corporate Federal Credit Union Bylaws" is amended by revising Article IV, Section 2, and Article V, Sections 1 and 2, and adding Article V, Section 4, to read as follows:

Article IV. Meetings of Members

* * * * *

Section 2. At least 75 days before the date of any annual meeting or 10 days before the date of any special meeting of the members, the recording officer shall cause written notice to be mailed to each member at the address that appears on the records of this credit union. Such notice shall state the date, time, and location of the meeting and such other information as the board of directors shall determine consistent with these bylaws. The written notice for the annual meeting shall advise the members of the deadlines for elections. Any meeting of the members, whether annual or special, may be held without prior notice, at any time or place, if all members entitled to vote and who are not present at such meeting shall, in writing, waive notice thereof, before, during, or after such meeting.

* * * * *

Article V. Elections

Section 1. At least 120 days prior to each annual meeting the board of directors shall appoint a nominating committee of not fewer than three from among the members. It shall be the duty of the nominating committee to nominate at least one eligible candidate for each vacancy, including any unexpired-term vacancy, for which elections are being held, and to determine that the candidates nominated are agreeable to the placing of their names in nomination and will accept office if elected. The nominating committee shall file its nominations with the recording officer at least 90 days prior to the annual meeting, and the recording officer shall notify in writing all members eligible to vote at least 75 days prior to the annual meeting that nominations for vacancies may also be made by petition signed by 5 percent of the members with a minimum of 5 members and a maximum of 100 members.

The written notice shall indicate that the election will not be conducted by ballot and there will be no nominations from the floor when there is only one nominee for each position to be filled. A brief statement of qualifications and biographical data in such form as shall be approved by the board of directors will be included for each nominee submitted by the nominating committee with the written notice to all eligible members. Each nominee by petition shall submit a similar statement of qualifications and biographical data with the petition. The written notice shall state the closing date for receiving nominations by petition. The period for receiving nominations by petition shall, in all cases, extend at least 30 days from the date the petition requirement and the list of nominating committee nominees are mailed to all members. To be effective, such nominations shall be accompanied by a signed certificate from the nominee or nominees stating that they are agreeable to nomination and will serve if elected to office. Such nominations shall be filed with the recording officer at least 40 days prior to the annual meeting.

In carrying out their responsibilities, the nominating committee and board of directors must ensure that the requirements of 12 CFR § 704.12(a) are satisfied.

Section 2. All elections shall be determined by plurality vote and shall be by mail ballot except where there is only one nominee for each position to be filled. Nominations shall not be made from the floor unless sufficient nominations have not been made by the nominating committee or by petition to provide for one nominee for each position to be filled or circumstances prevent the candidacy of the one nominee for a position to be filled. Only those positions without a nominee shall be subject to nominations from the floor. In the event nominations from the floor, when permitted herein, result in more than one nominee for a position to be filled, and when nominations have been closed, tellers shall be appointed by the board of directors, ballots shall be distributed, the vote shall be taken and tallied by the tellers, and the results announced. When only one member is nominated for each position to be filled, the chair may take a voice vote or declare each nominee elected by general consent or acclamation at the annual meeting.

* * * * *

Section 4. Except as provided in Section 2 of this article, all elections shall be by mail ballot, subject to the following conditions.

(a) The tellers of election shall be appointed by the board of directors;

(b) Sufficient nominations having been made by the nominating committee or by petition to provide more than one nominee for any position to be filled, the recording officer shall, at least 30 days prior to the annual meeting, cause printed ballots to be mailed to all members eligible to vote;

(c) The recording officer shall cause the following materials to be mailed to each eligible voter:

(1) One ballot, clearly identified as such, on which the names of the candidates for the board of directors and the candidates for other separately identified offices or committees shall have been printed in order as determined by the draw of lots. The name of each candidate shall be followed by a brief statement of qualifications and biographical data in such form as shall be approved by the board of directors;

(2) One envelope clearly marked with instructions that the completed ballot shall be placed therein and the envelope sealed;

(3) One identification form to be completed so as to include the name, address, and account number of the voter;

(4) One mailing envelope in which the voter, pursuant to instructions provided, shall insert the sealed ballot envelope and the identification form, and which shall have

been postage prepaid and pre addressed for return to the tellers of election;

(5) When properly designed, one form can be printed that represents a combined ballot/identification form, and postage prepaid and pre addressed return envelope;

(d) It shall be the duty of the tellers of election to verify, or cause to be verified, the name and account number of the voter appearing on the identification form; to place the verified identification form and the sealed ballot envelope in separate places of safekeeping pending the count of the vote; and, in the case of a questionable or challenged identification form, to retain the identification form and sealed ballot envelope together until the verification or challenge has been resolved;

(e) Ballots mailed to the tellers of election must be received by the tellers no later than midnight 5 days prior to the date of the annual meeting;

(f) Voting shall be closed at the midnight deadline specified in subsection (e) hereof and the vote shall be tallied by the tellers of election. The result shall be verified at the annual meeting, and the board of directors shall make public the result of the vote at the annual meeting.

[FR Doc. 94–28367 Filed 11–16–94; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–ANE–49; Amendment 39–8861; AD 94–07–03]

Airworthiness Directives; AlliedSignal, Inc. TFE731–2A and –3 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 94–07–03 applicable to certain AlliedSignal, Inc. TFE731–2A and –3 series turbofan engines that was published in the **Federal Register** on April 20, 1994 (59 FR 18709). The AlliedSignal, Inc. TFE731–2A engine was omitted from the Title, Summary, and Supplementary Information sections. This document corrects that omission. In all other respects, the original document remains the same.

EFFECTIVE DATE: November 17, 1994.

SUPPLEMENTARY INFORMATION: A final rule airworthiness directive applicable to AlliedSignal, Inc. TFE731–2A and –3 series turbofan engines, was published in the **Federal Register** on April 20, 1994 (59 FR 18709). The following correction is needed:

On page 18709, in the right column, in the Title, "TFE731–3 Series" should read "TFE731–2A and –3 Series."

On page 18710, in the left column, in the **SUPPLEMENTARY INFORMATION,** "TFE731–3 series" should read "TFE731–2A and –3 series."

Issued in Burlington, MA, on November 3, 1994.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–28371 Filed 11–16–94; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

RIN 0960–AC86

Supplemental Security Income for the Aged, Blind, and Disabled; Treatment of Augmented Veterans Benefits, Anderson, et al. v. Sullivan

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: These final regulations set out our policy, under the supplemental security income (SSI) program, regarding the treatment of veterans benefits that are increased ("augmented") to provide for dependents. The effect of these regulations is to clarify our treatment of the "dependent's portion" of the veterans benefits.

DATES: *Effective Date:* November 17, 1994.

Applicability Dates: The application dates of these final regulations are discussed in the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Regarding this document—Duane Heaton, Legal Assistant, 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–8470; regarding eligibility or filing for benefits—our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: Section 1612 of the Social Security Act (the Act) specifies certain items that are included as earned and unearned income under the SSI program. Section 1612(a)(2)(B) provides that unearned income includes, among other things, payments received as an annuity, pension, retirement, or disability benefit, including veterans compensation and pensions.

With regard to veterans benefits, in certain situations the veteran or the veteran's surviving spouse's benefits are augmented on account of the dependents of the veteran. Prior to November 1981, the Social Security Administration (SSA) counted the entire benefit, including the augmented portion, as income to the veteran or veteran's surviving spouse for SSI purposes. In 1981, after the policy was successfully challenged in the courts, SSA changed its policy, effective November 1, 1981, and published a ruling (SSR 82–31) which explained that for SSI purposes the dependent's portion of an augmented veterans benefit would not be counted as unearned income to the veteran or the veteran's surviving spouse but as unearned income to the dependent.

The Anderson Case

SSA was challenged in *Anderson, et al.* v. *Sullivan,* No. CV–88–036–GF (D. Mont., Nov. 21, 1989), for not applying the policy published in SSR 82–31 to a nationwide class of recipients of veterans pensions known as "protected pensions." The protected pensions under Pub. L. 95–588 include pensions which are means-tested and paid under provisions that predate the current "improved pension" program. In *Anderson,* the plaintiff was a veteran's widow who received a veterans protected pension and SSI disability benefits. Her pension was augmented due to the presence of a dependent in her household. SSA considered the full amount of the veterans pension, including the dependent's portion, as income to Mrs. Anderson in determining the amount of her SSI benefits. She filed suit against the Secretary of Health and Human Services (the Secretary) seeking relief from our practice of counting the dependent's portion of her veterans protected pension as income to her. SSA had counted this as income to her because of incomplete information received from the computer match between the Department of Veterans Affairs (VA) and SSA with regard to veterans protected pensions. On November 21, 1989, the court in *Anderson* ordered the Secretary to promulgate, within 6 months, interim final regulations that provide that the augmented portion of a veterans pension is not to be counted as unearned income to the veteran or the veteran's surviving spouse.

Provisions of the Regulations Under Anderson

Interim final regulations implementing the *Anderson* order were published on May 18, 1990 (55 FR

20598). Consistent with that order, we revised section 416.1123 of our regulations, which sets out how we count unearned income. We added a new paragraph (e) to explain that if you receive a veterans benefit that includes an amount paid to you because of a dependent, we do not count as your unearned income the amount paid to you because of the dependent.

The Paxton Case

The treatment of the dependent's portion of an augmented benefit was also challenged in *Paxton* v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988). In *Paxton*, the plaintiff was an SSI recipient. Mr. Paxton, the plaintiff's husband, received a pension from the VA. In determining the amount of Mrs. Paxton's SSI benefit in accordance with SSR 82–31, SSA reduced her SSI benefit by the amount of the dependent's portion attributable to her from her husband's veterans pension. Mrs. Paxton filed suit against the Secretary seeking relief from the practice of counting as her unearned income that portion of her husband's veterans pension that was attributed to her.

The court in *Paxton* held that, as written, the current regulations did not support counting the dependent's portion of the veterans pension directly as unearned income to the dependent. On the same date that we published the interim final regulations pursuant to the *Anderson* court order, we also published an NPRM at 55 FR 20612 to clarify our policy on the treatment of augmented benefits to prevent future misinterpretation of the regulations, as occurred in *Paxton*. Further, we published Acquiescence Ruling AR 90–1(9) on July 16, 1990 (55 FR 28946) to reflect the decision of the Ninth Circuit in *Paxton*. Under AR 90–1(9), we do not count the dependent's portion of the veterans benefit as unearned income to the dependent in the Ninth Circuit. Upon the effective date of these regulations, we will rescind AR 90–1(9) and supersede SSR 82–31 with a ruling that contains only the policy of the obsoleted SSR 82–31 that is not the subject of these regulations.

Implementing These Regulations in the Ninth Circuit

Some recipients in the Ninth Circuit may lose SSI benefits as a result of the rescission of AR 90–1(9). To lessen the effect of the rescission on those recipients, we will apply these regulations to them only prospectively upon routine redetermination of eligibility. While we realize that, due to variances in the dates of redetermination, some of these individuals will benefit more from this treatment than others, none of these individuals will lose any more SSI benefits than if these regulations were applicable to them on publication, rather than on redetermination, and most will lose less. Moreover, since the publication date will not be used as the effective date of these regulations for these individuals, our implementation will avoid the negative consequences of overpayment determinations. This method of implementation was not contained in the NPRM. However, AR 90–1(9) was published subsequent to the publication of the NPRM, and accordingly, the NPRM did not contemplate the effect of the AR's rescission upon some recipients to whom the AR applied. In order to fully apprise the affected claimants of the impact of these new rules, we decided that the publication of our plan for implementing the regulations prospectively at redetermination for those to whom AR 90–1(9) had been applied should be part of the final rules.

Public Comment

Both the interim final rule and the NPRM which were published on May 18, 1990, provided for a 60-day comment period. We received one comment in response to the NPRM and it was relevant to both the interim final rule and the NPRM. This comment was from an assistant director for a State agency that serves individuals with mental retardation and developmental disabilities. The comment generally supported the regulations, but recommended further changes. We have summarized and responded to the comment below.

Comment: The commenter believes the proposed regulations may be inequitable to those dependents who neither receive nor materially benefit from their portion of the augmented veterans benefit. The commenter cited case experience of dependents living apart from the veteran who did not receive any benefit from their dependent's portion of the augmented veterans benefit. He proposes that the regulations also provide that the dependent's portion will not be counted as the dependent's income when it can be documented that such portion has not been made available to the dependent or that the dependent has not received in-kind income equal in value to the dependent's portion.

Response: We agree it may not be appropriate to count the dependent's portion of the augmented veterans benefit payment as income to the dependent in those cases where the dependent lives apart from the veteran or the veteran's surviving spouse and does not receive the benefit of his or her portion. If all or part of the dependent's portion is not available for the benefit of the dependent, but is counted as the dependent's unearned income for SSI purposes, he or she may experience hardship and the inability to meet daily needs. Such a result could be viewed as inconsistent with the purpose of the SSI program which is to provide for the beneficiary's current needs when his or her income and resources are below specified amounts.

However, where the dependent lives with the veteran or the veteran's surviving spouse and the dependent's augmented portion of the veterans benefit is included in the veteran's or the veteran's surviving spouse's check, we believe that it is reasonable to assume that the dependent benefits from his or her portion in this living arrangement by the dependent having and using, for example, heat, electricity, food, and space. Not only is it likely that the dependent would be advantaged in some way from living with the veteran or the veteran's surviving spouse, but it would be administratively onerous to monitor the exact percentage of food, electricity, and heat used by the dependent and the designated beneficiary of the veterans benefit in order to document to what extent the augmented portion is used on the support and maintenance of the dependent. In those cases in which the veteran or the veteran's surviving spouse provides cash or in-kind support to a dependent who does not reside with him or her, we will count such support under other SSI income rules appropriate to the nature of the support. We believe that this interpretation is consistent with the statutory requirements of the SSI program.

Therefore, we are responding to this comment by revising § 416.1123(e)(2) to provide that the dependent's portion will be counted as the dependent's unearned cash income if the dependent resides with the veteran or the veteran's surviving spouse, or if the dependent receives his or her own portion in a separate payment from the VA.

The United States Courts of Appeals for the Second, Fourth, Seventh, and Tenth Circuits have held that it is reasonable to count the augmented portion of VA benefits as unearned income of the dependent on whose behalf it is paid, in *White* v. *Shalala*, 7 F.3d 296 (2nd Cir. 1993), *Kennedy* v. *Shalala*, 995 F.2d 28 (4th Cir. 1993), *Inman* v. *Shalala*, Nos. 93–2305 and 93–2941 (7th Cir., July 19, 1994), and *Ryder* v. *Shalala*, 25 F.3d 944 (10th Cir. 1994).

We are aware that the United States District Court for the Middle District of Florida has rejected this reasoning in *Fair v. Shalala*, No. 90–1263–CIV–T–22A (M.D. Fla., Aug. 2, 1993). We have sought appellate review in this case, but will apply the operative court order pending the resolution of the appeal.

Except for the changes noted above and several nonsubstantive technical revisions, we are adopting the rules as proposed on May 18, 1990, at 55 FR 20612 and are restating the interim final rule published on that same date at 55 FR 20598.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under E.O. 12866. Thus, they were not subject to OMB review.

Paperwork Reduction Act

These final regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because these regulations will affect only individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance: Program No. 93.807—Supplemental Security Income.)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure; Aged; Blind; Disability benefits; Public assistance programs; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: September 22, 1994.

Shirley Chater,

Commissioner of Social Security.

Approved: November 8, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set out in the preamble, Part 416 of Chapter III of Title 20, Code of Federal Regulations, is amended as follows:

PART 416—[AMENDED]

1. The authority citation for Subpart K of Part 416 continues to read as follows:

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

2. Section 416.1123(e) is revised to read as follows:

§ 416.1123 How we count unearned income.

* * * * *

(e) *Certain veterans benefits.*

(1) If you receive a veterans benefit that includes an amount paid to you because of a dependent, we do not count as your unearned income the amount paid to you because of the dependent.

(2) If you are a dependent of an individual who receives a veterans benefit and a portion of the benefit is attributable to you as a dependent, we count the amount attributable to you as your unearned cash income if—

(i) You reside with the individual who receives the veterans benefit, or

(ii) You receive your own separate payment from the Department of Veterans Affairs.

[FR Doc. 94–28324 Filed 11–16–94; 8:45 am]

BILLING CODE 4190–29–P

Food and Drug Administration

21 CFR Parts 510, 520, and 558

Animal Drugs, Feeds, and Related Products; Tetracycline Hydrochloride Capsules; Dichlorophene/Toluene Capsules; Hygromycin B Type B Medicated Feed

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations that reflect approval of three new animal drug applications (NADA's). The sponsors requested the withdrawals of approval. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA's.

EFFECTIVE DATE: November 28, 1994.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0749.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of (1) NADA 65–467 for Tetracycline Hydrochloride Capsules held by Lemmon Co., 650 Cathill Rd., Sellersville, PA 18960; (2) NADA 119–844 for Dichlorophene/Toluene Capsules held by Banner Pharmacaps, Inc. (formerly Pharmacaps, Inc.), P.O. Box 547, 1111 Jefferson Ave., Elizabeth, NJ 07207; and (3) NADA 129–160 for Hygromix O.6 (hygromycin B Type B medicated feed) held by Nutra-Blend Corp., Rt. 7, Box 192A, Neosho, MO 64850. The sponsors requested withdrawal of approval of the NADA's. This document amends 21 CFR 520.580, 21 CFR 520.2345a, and 21 CFR 558.274 to reflect the withdrawal of approval of these NADA's.

Additionally, this document amends 21 CFR 510.600(c)(1) and (c)(2) to remove the entries for Pharmacaps, Inc., because the firm is no longer the sponsor of any approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Pharmacaps, Inc.," and in the table in paragraph (c)(2) by removing the entry for "010888".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 520.580 [Amended]

4. Section 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(1) by removing "010888,".

§ 520.2345a [Amended]

5. Section 520.2345a *Tetracycline hydrochloride capsules* is amended in paragraph (b)(1) by removing "Nos. 000009 and 000693" and replacing it with "No. 000009".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

6. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.274 [Amended]

7. Section 558.274 *Hygromycin B* is amended in paragraph (a)(4) by removing "050568," and in the table in paragraph (c)(1), under the heading "Sponsor," in entries (i) and (ii) by removing "050568,".

Dated: October 31, 1994.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 94–28331 Filed 11–16–94; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Arkansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Arkansas regulatory program (hereinafter referred to as the "Arkansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Arkansas proposed revisions to the Arkansas statute pertaining to the small operator's assistance program (SOAP). The amendment is intended to revise the Arkansas program to be consistent with SMCRA and incorporate the additional flexibility afforded by SMCRA, as amended by the Energy Policy Act of 1992 (Pub. L. 102–486).

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Arkansas program. General background information on the Arkansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Arkansas program can be found in the November 21, 1980, **Federal Register** (45 FR 77003). Subsequent actions concerning Arkansas' program and program amendments can be found at 30 CFR 904.12 and 904.15.

II. Submission of Proposed Amendment

By letter dated March 31, 1993, Arkansas submitted a proposed amendment to its program to SMCRA (administrative record No. AR–496). The proposed amendment relates to financial assistance to small operators. Arkansas submitted the proposed amendment at its own initiative with the intent of making its program consistent with SMCRA, as amended by the Energy Policy Act of 1992 (Pub. L. 102–486). Arkansas proposed to amend the Arkansas Surface Coal Mining and Reclamation Act of 1979 at Arkansas Code Annotated (ACA) 15–58–104(11), by redefining the term "small operator," and ACA 15–58–503(a)(2), by expanding the permitting activities eligible for funding under SOAP.

OSM announced receipt of the proposed amendment in the April 22, 1993, **Federal Register** (58 FR 21552; administrative record No. AR–500) and in the same document opened the public comment period and provided an opportunity for a public hearing on the substantive adequacy of the proposed amendment. The public comment period closed on May 24, 1993. No substantive comments were received. The public hearing, scheduled for May 17, 1993, was not held because no one requested an opportunity to testify.

During its review of the amendment, OSM identified concerns relating to, among other things, SOAP funding for (1) the cost of the preparation of the results of test borings and core samplings at proposed ACA 15–58–503(a)(2)(B) and (2) the development of cross section maps and plans at proposed ACA 15–58–503(a)(2)(D). In addition, OSM required that Arkansas include, at proposed ACA 15–58–503(a)(2), the requirement for a coal operator to reimburse the State for SOAP expenses if the operator's coal production exceeds the allowable limit. OSM notified Arkansas of these concerns by letter dated June 23, 1993 (administrative record No. AR–507).

By letter dated July 22, 1993, Arkansas responded to OSM's concerns by submitting revisions to its proposed program amendment (administrative record No. AR–505).

Based upon the revisions to the proposed program amendment submitted by Arkansas, OSM reopened the public comment period in the August 23, 1993, **Federal Register** (58 FR 44477; administrative record No. AR–511). The public comment period closed on September 7, 1993.

During its review of the revised amendment, OSM identified concerns relating to, among other things, the coal operator's liability for reimbursement of the cost of SOAP services at proposed ACA 15–58–503(a)(2). OSM notified Arkansas of these concerns by letter dated October 19, 1993 (administrative record No. AR–513).

By letter dated August 26, 1994, Arkansas responded by submitting additional revisions to its proposed amendment that replaced in their entirety the previously proposed revisions (administrative record No. AR–521).

Based upon the revisions to the proposed program amendment submitted by Arkansas, OSM reopened the public comment period in the September 29, 1994, **Federal Register** (59 FR 49615; administrative record No. AR–525). The public comment period closed on October 14, 1994.

III. Director's Findings

As discussed below, the Director, in accordance with SMCRA and 30 CFR 732.15 and 732.17, finds that the proposed program amendment submitted by Arkansas on March 31, 1993, and as revised by it on July 22, 1993, and August 26, 1994, is no less stringent than SMCRA, as amended. Thus, the Director approves the proposed amendment.

1. Typographical Errors in Arkansas' Codification at Proposed ACA 15–58–104(11) and ACA 15–58–503(a)

In its August 26, 1994, proposed amendment, Arkansas submitted proposed revisions at paragraph (12) of ACA 15–58–104 and paragraph (c) of ACA 15–58–503. However, in the published ACA, the language that Arkansas has proposed to revise occurs at paragraph (11) of ACA 15–58–104 and paragraph (a) of ACA 15–58–503. In addition, in its proposed amendment as originally submitted on March 31, 1993, and subsequently revised on July 22, 1993, Arkansas submitted revisions at paragraph (a) of ACA 15–58–503.

OSM concluded that these discrepancies occurred as a result of typographical errors and that Arkansas intended to propose revisions at ACA 15–58–104(11) and ACA 15–58–503(a) rather than at ACA 15–58–104(12) and ACA 15–58–503(c) in its August 26, 1994, proposed amendment. For this reason, in findings Nos. 2 through 5 below and elsewhere throughout this document, OSM addresses Arkansas' proposed revisions at ACA 15–58–104(11) and ACA 15–58–503(a).

OSM recommends that when Arkansas promulgates its proposed amendment as submitted on August 26, 1994, Arkansas correct these typographical errors and ensure that it promulgates the correct codification for the proposed revisions to the published ACA.

2. ACA 15–58–104(11), Definition of "Small Operator"

Arkansas proposed revisions to ACA 15–58–104(11), redefining "small operator" to mean

> an operator whose probable annual production at all locations will not exceed 300,000 tons of coal per year.

Although there is no counterpart definition in SMCRA, Arkansas' proposed definition is consistent with section 507(c)(1) of SMCRA, which identifies coal operations that qualify for SOAP as those where the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons. Therefore, the Director finds that proposed ACA 15–58–1–104(11) is no less stringent than section 507(c)(1) of SMCRA, and approves it.

3. ACA 15–58–503(a)(2)(A) (i) through (vi), Permitting Activities Eligible for Payment Under SOAP

Arkansas proposed at ACA 15–58–503(a)(2)(A) (i) through (vi) to expand those activities associated with the development of a surface coal mining and reclamation permit application that are eligible for funding under SOAP. As discussed below, Arkansas proposed at ACA 15–58–503(a)(2)(A) (i) through (v) to provide funding under SOAP for certain permitting activities that are included by reference in the counterpart sections 507(c)(1) (A) through (E) of SMCRA. And, as discussed below, Arkansas proposed at ACA 15–58–503(a)(2)(A)(vi) to provide funding under SOAP for certain permitting activities that are substantively identical to the permitting activities identified in the counterpart section 507(c)(1)(F) of SMCRA.

a. *ACA 15–58–503(a)(2)(A), General requirements for activities eligible for funding under SOAP.* Arkansas proposed to revise ACA 15–58–503(a)(2)(A) to (1) add the requirement that the activities specified in proposed ACA 15–58–503(a)(2)(A) (i) through (vi) must be performed by a qualified public or private laboratory or such other public or private qualified entity designated by Arkansas and (2) delete the language that limits the activities eligible for funding under SOAP to the determination of probable hydrologic consequences and preparation of the result of test borings and core samplings. The added requirement is substantively identical to the requirement concerning qualified laboratories or entities in section 507(c)(1) of SMCRA. The deletion of the language concerning the activities that may be funded is consistent with Arkansas' proposed ACA 15–58–503(a)(2)(A) (i) through (vi) and section 507(c)(1) of SMCRA, as amended by the Energy Policy Act.

Therefore, the Director finds that the proposed revisions of ACA 15–58–503(a)(2)(A) are no less stringent than the requirements of section 507(c)(1) of SMCRA, and approves them.

b. *ACA 15–58–503(a)(2)(A)(i), Determination of probable hydrologic consequences.* Arkansas proposed to add a new paragraph at ACA 15–58–503(a)(2)(A)(i) that provides funding under SOAP for the costs of the determination of probable hydrologic consequences required by ACA 15–58–503(a)(2)(A), including the engineering analyses and designs necessary for the determination.

Proposed ACA 15–58–503(a)(2)(A)(i) is identical to section 507(c)(1)(A) of SMCRA, with the exception that section 507(c)(1)(A) of SMCRA references the requirements for the determination of probable hydrologic consequences at section 507(b)(11) of SMCRA. Arkansas' existing requirements for the determination of probable hydrologic consequences at referenced ACA 15–58–503(a)(2) are substantively identical to the requirements at referenced section 507(b)(11) of SMCRA.

Therefore, the Director finds that the requirements of proposed ACA 15–58–503(a)(2)(A)(i) are substantively identical to and no less stringent than the requirements of sections 507(c)(1)(A) and 507(b)(11) of SMCRA. The Director approves the proposed requirements.

c. *ACA 15–58–503(a)(2)(A)(ii), Development of cross-sections, maps, and plans.* Arkansas proposed to add a new paragraph at ACA 15–58–503(a)(2)(A)(ii) that provides funding under SOAP for the costs of the development of permit application cross-sections, maps, and plans of land to be affected by a surface coal mining and reclamation permit. Arkansas proposed at ACA 15–58–503(a)(2)(A)(ii) to (1) require that these cross-sections, maps, and plans

> shall be prepared by or under the direction of a qualified registered professional engineer or geologist with assistance from experts in related fields such as land surveying and landscape architecture,

and (2) specify certain information that must be depicted in the cross-sections, maps, and plans.

Section 507(c)(1)(B) of SMCRA provides funding under SOAP for the costs of the development of permit application cross-sections, maps, and plans of land to be affected by a surface coal mining and reclamation permit. Section 507(c)(1)(B) of SMCRA references the requirements for the development of cross-sections, maps, and plans at section 507(b)(14) of SMCRA.

Arkansas proposed requirements at ACA 15–58–503(a)(2)(A)(ii) that are, with one exception, substantively identical to the requirements for cross-sections, maps, and plans in section 507(c)(1)(B) of SMCRA and referenced section 507(b)(14) of SMCRA. The exception is that Arkansas' proposed ACA 15–58–503(a)(2)(A)(ii) does not require that the cross-sections, maps, and plans be *certified* by a qualified registered professional engineer, or professional geologist as does section 507(b)(14) of SMCRA. However, in its regulations at section 779.25(l) of the Arkansas Surface Mining and Reclamation Code, Arkansas requires that all maps required by section 779.25, which includes those same features required to be depicted by the cross-sections, maps, and plans in proposed ACA 15–58–503(a)(2)(A)(ii), must be

> prepared by or under the direction of and certified by a qualified registered professional engineer or professional geologist, with assistance from experts in related fields such as land surveying and landscape architecture and shall be updated as required by the Director.

Therefore, the Director finds that the requirements of proposed ACA 15–58–503(a)(2)(A)(ii), in conjunction with the requirements of section 779.25(l) in the Arkansas regulations, are substantively identical to and no less stringent than the requirements of sections 507(c)(1)(B) and 507(b)(14) of SMCRA. The Director approves the proposed requirements.

d. *ACA 15–58–503(a)(2)(A)(iii), Geologic drilling and statement of results of test borings and core*

samplings. Arkansas proposed to add a new paragraph at ACA 15–58–503(a)(2)(A)(iii) that provides funding under SOAP for the costs of geologic drilling and the statement of results of test borings and core samplings from the permit area, including logs of drill holes; the thickness of the coal seam found, and analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic-forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined. Proposed ACA 15–58–503(a)(2)(A)(iii) also provides that its provisions may be waived by the Director of the Arkansas Department of Pollution Control and Ecology with respect to a specific application by a written determination that such requirements are unnecessary.

Section 507(c)(1)(C) of SMCRA provides for the funding of geologic drilling and the statement of results of test borings and core samplings required by section 507(b)(15) of SMCRA. Section 507(b)(15) of SMCRA requires that a permit application include a statement of the result of test borings or core samplings from the permit area, including logs of drill holes; the thickness of the coal seam found, and analysis of the chemical properties of such coal; the sulfur content of any coal seam; chemical analysis of potentially acid or toxic-forming sections of the overburden; and chemical analysis of the stratum lying immediately underneath the coal to be mined. Section 507(b)(15) of SMCRA also states that its provisions may be waived by the regulatory authority with respect to the specific application by a written determination that such requirements are unnecessary.

The Director finds that the requirements of proposed ACA 15–58–503(a)(2)(A)(iii) are substantively identical to and no less stringent than the requirements of sections 507(c)(1)(C) and 507(b)(15) of SMCRA. The Director approves the proposed requirements.

e. *ACA 15–58–503(a)(2)(A)(iv), Collection of archaeological information.* Arkansas proposed to add a new paragraph at ACA 15–58–503(a)(2)(A)(iv) that provides funding under SOAP for the costs of the collection of archaeological information and any other historical information needed to prepare accurate maps to an appropriate scale clearly showing all manmade features and significant known archaeological sites existing on the date of the application and the preparation of plans necessitated thereby.

Section 507(c)(1)(D) of SMCRA provides for funding of the collection of archaeological information required by section 507(b)(13) of SMCRA and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby. Section 507(b)(13) of SMCRA requires accurate maps that include all manmade features and significant known archaeological sites existing on the date of application.

Section 507(b)(13) of SMCRA also requires maps or plans that shall, among other things specified by the regulatory authority, show all boundaries of the land to be affected, the boundary lines and names of present owners of record of all surface areas abutting the permit area, and the location of all buildings within 1000 feet of the permit area. These additional maps and plans are extraneous to the requirements at section 507(c)(1)(D) of SMCRA concerning SOAP funding for the collection of archaeological information. Therefore, the fact that these other maps or plans are not included for SOAP funding at proposed ACA 15–58–503(a)(2)(A)(iv) is consistent with the provisions for SOAP funding under section 507(c)(1)(D) of SMCRA.

Based on the above discussion, the Director finds that the provisions of proposed ACA 15–58–503(a)(2)(A)(iv) are no less stringent than the provisions of sections 507(c)(1)(D) and 507(b)(13) of SMCRA, and approves them.

f. *ACA 15–58–503(a)(2)(A)(v), Preblast surveys.* Arkansas proposed to add a new paragraph at ACA 15–58–503(a)(2)(A)(v) that provides funding under SOAP for the costs of preblast surveys requested by residents or owners of manmade dwellings or structures within ½ mile of any portion of the permitted area. Proposed ACA 15–58–503(a)(2)(A)(v) also requires that the applicant or permittee shall conduct the preblast survey of such structures and submit the survey to the Director of the Arkansas Department of Pollution Control and Ecology and a copy to the resident or owner making the request.

Section 507(c)(1)(E) of SMCRA provides for the funding of preblast surveys required by section 515(b)(15)(E) of SMCRA. Section 515(b)(15)(E) of SMCRA requires that, upon the request of a resident or owner of a manmade dwelling or structure within ½ mile of any portion of the permitted area, the applicant or permittee shall conduct a preblasting survey of such structures and submit the survey to the regulatory authority and a copy to the resident or owner making the request.

The Director finds that the requirements of proposed ACA 15–58–503(a)(2)(A)(v) are substantively identical to and no less stringent than the requirements of sections 507(c)(1)(E) and 515(b)(15)(E) of SMCRA. The Director approves the proposed requirements.

g. *ACA 15–58–503(a)(2)(A)(vi), Collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values.* Arkansas proposed to add a new paragraph at ACA 15–58–503(a)(2)(A)(vi) that provides funding under SOAP for the costs of the collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values.

Arkansas' proposed provision is substantively identical to section 507(c)(1)(F) of SMCRA. Therefore, the Director finds that proposed ACA 15–58–503(a)(2)(A)(vi) is no less stringent than section 507(c)(1)(F) of SMCRA, and approves it.

4. ACA15–58–503(a)(2)(B), The Cost of Training and the Obligation to Ensure That Qualified Coal Operators Are Aware of SOAP Assistance

Arkansas proposed a new paragraph at ACA 15–58–503(a)(2)(B) concerning the responsibility to (1) provide or assume the costs of training coal operators that meet the qualifications under SOAP regarding the preparation of permit applications and compliance with the regulatory program, and (2) ensure that qualified coal operators are aware of the available assistance.

Section 507(c)(2) of SMCRA states that the Secretary of the Interior shall provide or assume the cost of training coal operators that meet the qualification stated in section 507(c)(1) of SMCRA concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection. With two exceptions, which are discussed below, proposed ACA 15–58–503(a)(2)(B) is substantively identical to section 507(c)(2) of SMCRA.

The first exception is that, at proposed ACA 15–58–503(a)(2)(B), Arkansas specifies that it is the Arkansas Department of Pollution Control and Ecology's responsibility rather than the Secretary of the Interior's responsibility to provide or assume the cost of training operators and ensure that operators are aware of the available assistance. OSM is provisionally interpreting section 507(c)(2) of SMCRA

to specify that it is a requirement for State regulatory authorities in primacy states to assume these responsibilities. OSM intends to clarify this requirement when it promulgates implementing rules.

The second exception is that, at proposed ACA 15–58–503(a)(2)(B), Arkansas uses the term "small operator" in place of the phrase "coal operators that meet the qualifications stated in [section 507(c)(1)]" that is used in section 507(c)(2) of SMCRA. As discussed in finding No. 2 above, Arkansas' proposed definition of "small operator" is consistent with section 507(c)(1) of SMCRA.

Therefore, the Director finds that proposed ACA 15–58–503(a)(2)(B) is no less stringent than the requirements of section 507(c)(2) SMCRA, and approves it.

5. ACA 15–58–503(a)(2)(C), An Operator's Obligation to Reimburse the Department for the Cost of the Services Rendered under SOAP

Arkansas proposed a new paragraph at ACA 15–58–503(a)(2)(C) that requires a coal operator that has received assistance under SOAP to reimburse the State for the cost of the services rendered if Arkansas finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit. Proposed ACA 15–58–503(a)(2)(C) is substantively identical to section 507(h) of SMCRA. Therefore, the Director finds that proposed ACA 15–58–503(a)(2)(C) is no less stringent than section 507(h) of SMCRA, and approves it.

IV. Summary and Disposition of Comments

Following are summaries of all substantive written comments on the proposed amendment that were received by OSM, and OSM's responses to them.

1. Public Comments

OSM invited public comments on the proposed amendment, but none were received (administrative record Nos. AR–507, AR–513, and AR–525.

2. Federal Agency Comments

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Arkansas program (administrative record Nos. AR–497, AR–506, and AR–523).

The U.S. Bureau of Land Management responded on April 19, 1993, that its management responsibilities would not be impacted by the proposed amendment (administrative record No. AR–498).

The U.S. Bureau of Mines responded on April 27 and August 11, 1993, and October 12, 1994, that it had no comments (administrative record Nos. AR–499, AR–508, AR–528).

The U.S. Soil Conservation Service responded on May 5 and August 10, 1993, and October 24, 1994, that it had no comments (administrative record Nos. AR–501, AR–509, and AR–530).

The U.S. Fish and Wildlife Service (FWS) responded on May 11, 1993, that, because the proposed amendment should provide for improved fish and wildlife protection plans and increased reclamation efforts on abandoned mined lands, it concurred with it (administrative record No. AR–502). Additionally, the U.S. FWS responded on October 12, 1994, that it had no comments (administrative record No. AR–527).

The U.S. National Park Service responded on May 14, 1993, that it had no comments (administrative record No. AR–503).

The U.S. Forest Service responded on May 14, 1993, that it had no comments (administrative record No. AR–504).

3. Environmental Protection Agency (EPA) Concurrence and Comments

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to solicit the written concurrence of EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). Pursuant to 732.17(h)(11)(i), OSM is required to solicit comments on the proposed amendment from EPA.

None of the revisions that Arkansas proposed to make in its amendment pertain to air or water quality standards.

Therefore, OSM did not request EPA's concurrence. OSM did solicit comments from EPA on the proposed amendment (administrative record Nos. AR–497, AR–506, and AR–523).

EPA responded on October 25, 1993, that because the amendment demonstrates legal authority, administrative capability, and technical conformity with controlling National Pollutant Discharge Elimination System regulations necessary to maintain water quality standards promulgated under the authority of the Clean Water Act, as amended, it concurred with the proposed amendment (administrative record No. AR–514).

4. State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM solicited comments on the proposed amendment from the SHPO and ACHP (administrative record Nos. AR–497, AR–506, and AR–523). The ACHP did not respond to OSM's request.

SHPO responded on August 27, 1993, that, although the revisions did not directly address cultural resources issues in Arkansas, it wanted to remind OSM of the need to be responsive to section 106 of the National Historic Preservation Act of 1966, as amended (NHPA, administrative record No. AR–510). SHPO further commented that because NHPA requires Federal agencies to give due consideration to historic properties when those historic properties may be affected by the undertakings of the agency, surface mining activities that may have the result of affecting historic properties should be submitted to its office for review and comment prior to their commencement.

As SHPO is award, the NHPA definition of "undertaking" at 16 U.S.C. section 470w(7) was expanded by 1992 amendments to include those projects, activities, or programs funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including, among other things, "those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency" (see 16 U.S.C. section 470w(7)(D)). This new statutory language encompasses State permitting actions carried out under SMCRA. As a result of the 1992 NHPA amendments, OSM has taken action to clarify that the State permitting activities are Federal undertakings subject to the section 106 review and consultation requirements of NHPA. OSM, in conjunction with ACHP, the National Council of SHPO's, and others, has developed a draft programmatic Agreement as the preferred alternative for implementing OSM's responsibilities under the 1992 NHPA amendments. The draft agreement has undergone public review and the agencies involved in its development are currently reviewing public comments. Upon completion, the agreement will assist OSM, through coordination with the States, in fulfilling OSM's responsibilities under section 106 of NHPA.

V. Director's Decision

Based on the above findings, the Director approves Arkansas' proposed

amendment as submitted on March 31, 1993, and as revised on July 22, 1993, and August 26, 1994.

The Director approves the statutes as proposed by Arkansas with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR Part 904, codifying decisions concerning the Arkansas program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the State must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C))

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 904

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 9, 1994.

Charles E. Sandberg,

Acting Assistant Director, Western Support Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 904—ARKANSAS

1. The authority citation for Part 904 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 904.15 is revised to read as follows:

§ 904.15 Approval of amendments to the Arkansas regulatory program.

Revisions to and/or addition of the following provisions of the Arkansas Surface Coal Mining and Reclamation Act of 1979, as submitted to OSM on March 31, 1993, and revised on July 22, 1993, and August 26, 1994, are approved effective November 17, 1994.

Arkansas Code Annotated (ACA) 15–58–104(11), definition of "small operator;"

ACA 15–58–503(a)(2)(A), activities associated with the development of a surface coal mining and reclamation permit application that are eligible for funding under the small operator's assistance program (SOAP);

ACA 15–58–503(a)(2)(B), the responsibility for training coal operators that meet the SOAP qualifications regarding the preparation of permit applications, and ensuring that qualified coal operators are aware of the available assistance; and

ACA 15–58–503(a)(2)(C), an operator's obligation to reimburse the Arkansas Department of Pollution Control and Ecology for the cost of the services rendered under SOAP.

[FR Doc. 94–28444 Filed 11–16–94; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5106–3]

Protection of Stratospheric Ozone: Leak Repair; Partial Stay

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial stay of final rule.

SUMMARY: This action promulgates a temporary stay of certain federal rules requiring the repair and/or retrofit of appliances containing ozone-depleting substances contained in the regulations implementing the National Recycling Program. EPA has already issued an action staying the effectiveness of 40 CFR 82.156(i), as they apply to industrial process refrigeration equipment only, including the applicable compliance dates, for a period of three months, pursuant to Clean Air Act section 307(d)(7)(B), 42 U.S.C. 7607(d)(7)(B), which provides the Administrator authority to stay the effectiveness of a rule during reconsideration (August 17, 1994, 59 *FR* 42169).

This action promulgates a partial stay of the effectiveness of 40 CFR 82.156(i), and applicable compliance dates, beyond the three months pursuant to Clean Air Act sections 301(a)(1), 42 U.S.C. 7601(a)(1), but only to the extent necessary to complete reconsideration (including any appropriate regulatory action) of the rules in question.

DATES: Effective December 16, 1994.

ADDRESSES: Comments and materials supporting this rulemaking are contained in Public Docket No. A–92–01, Waterside Mall (Ground Floor) Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 in room M–1500. Dockets may be

inspected from 8 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Cynthia Newberg, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205–J), 401 M Street, SW., Washington, DC 20460, (202)233–9729. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

SUPPLEMENTARY INFORMATION: The contents of this preamble are listed in the following outline:

I. Background
II. Rules To Be Stayed and Reconsidered
III. Issuance of a Three-Month Stay
IV. Proposed Additional Temporary Stay
V. Comments Received
VI. Response to Comments
VII. Effective Date

I. Background

On July 13, 1993, the Chemical Manufacturers Association (CMA) sent to the United States Environmental Protection Agency (EPA) a petition for reconsideration of the Refrigerant Recycling Rule, promulgated May 14, 1993, (58 *FR* 28660), particularly the leak repair provisions under 40 CFR 82.156(i) as they concern industrial process refrigeration equipment.[1] On that same date, CMA filed a petition in the United States Court of Appeals for the District of Columbia Circuit seeking review of this Refrigerant Recycling Rule (*Chemical Manufacturers Association* v. *Browner, et al.*, D.C. Cir. Docket 93–1444.) As part of a settlement agreement signed by EPA and the CMA on May 20, 1994, EPA agreed to propose changes to the appropriate sections of the rules. A notice of the settlement agreement was published on June 14, 1994 (59 FR 30584), pursuant to the Clean Air Act section 113(g). Although several comments regarding the settlement agreement were submitted during the notice and comment period, none of them opposed the settlement or suggested that EPA not revise the regulation.

The settlement agreement set a tight deadline for the completion of rulemaking, requiring EPA to propose changes by December 1, 1994,[2] and to take final action by June 1, 1995. EPA has issued a temporary stay of § 82.156(i) as it relates to industrial process equipment, and initiated reconsideration of this provision.

II. Rules To Be Stayed and Reconsidered

Final regulations published on May 14, 1993 (58 *FR* 28660), establish a recycling program for ozone-depleting refrigerants recovered during the servicing and disposal of air-conditioning and refrigeration equipment. Together with the prohibition on venting during the service, repair, and disposal of class I and class II substances (see the listing notice January 22, 1991; 56 *FR* 2420) that took effect on July 1, 1992, these regulations should substantially reduce the emissions of ozone-depleting refrigerants. The petition filed by the CMA seeks for reconsideration of leak repair provisions under § 82.156(i) as they relate to industrial process refrigeration equipment. In particular, the petitioners raised concerns regarding the ability to repair or retrofit some industrial process refrigeration equipment within the timeframes established by the final rule. CMA's concerns involve the need to shut down equipment and/or obtain custom built parts within the appropriate timeframes. CMA also raised the possibility of delays caused by other regulatory requirements related to changes at plants.

EPA has evaluated information contained in CMA's petition and is now reconsidering the leak repair provisions. Moreover, EPA believes that this information warrants review and response pursuant to section 307(d)(7)(B) of the Clean Air Act. In order to review and evaluate the ability of the owners and operators of industrial process refrigeration equipment to comply with the leak repair provisions when extenuating circumstances exist, EPA will reconsider the regulatory requirements applicable to repairing leaks in accordance with section 307(d) of the Clean Air Act.

III. Issuance of a Three-Month Stay

On August 17, 1994, EPA issued a three-month administrative stay effective September 16, 1994, of provisions of § 82.156(i) as they apply to industrial process refrigeration equipment, including all applicable compliance dates. These provisions had been promulgated as final federal rules requiring the reduction of emissions of ozone-depleting substances during the servicing and disposal of air-conditioning and refrigeration equipment (August 17, 1994, 59 *FR* 42169). EPA is reconsidering these rules, as discussed above and, following the notice and comment procedures of section 307(d) of the Clean Air Act, will take appropriate action.[3]

IV. Proposed Additional Temporary Stay

EPA will not be able to complete the reconsideration (including any appropriate regulatory action) of the rules stayed by the Administrator within the three-month period expressly provided in section 307(d)(7)(B). That stay will expire on December 16, 1994. Therefore, EPA believes it is appropriate to extend temporarily the stay of the effectiveness of the leak repair requirements for industrial process refrigeration and applicable compliance dates from December 16, 1994, until EPA completes final rulemaking action upon reconsideration.

Because the settlement agreement between EPA and CMA set a tight deadline for the completion of the rulemaking, EPA is reconsidering the rules in question as expeditiously as practicable. However, EPA will not be able to complete the reconsideration process during the three-month administrative stay of these regulations. EPA will not be able to issue proposed action, seek public comment, and take final action before the temporary stay expires on December 16, 1994.

As proposed, this action will only remain effective to the extent necessary to complete reconsideration of the rules in question. The settlement agreement between EPA and CMA expressly requires that final action regarding reconsideration be signed by June 1, 1994. Therefore, the stay would expire when the final action regarding the reconsideration of the leak repair requirements become effective.

V. Comments Received

EPA received five comments concerning the proposal to extend the

[1] Industrial process refrigeration is defined in § 82.152(g) of the final regulations (58 *FR* 28713). The definition states that "industrial process refrigeration means, for the purposes of § 82.156(i), complex customized appliances used in the chemical, pharmaceutical, petrochemical and manufacturing industries. This sector also includes industrial ice machines and ice rinks."

[2] The settlement agreement originally specified that a proposal be signed by September 1, 1994. Through a subsequent modification to the settlement agreement this date was revised.

[3] If, after reconsideration of these provisions, EPA determines that it is appropriate to impose leak repair requirements that are stricter than the existing rules, EPA will propose an adequate compliance period from the date of final action on reconsideration. EPA will seek to ensure that the affected parties are not unduly prejudiced by the Agency's reconsideration. Any EPA proposal regarding changes to the leak repair requirements and the appropriate compliance period would be subject to the notice and comment procedures of Clean Air Act section 307(d).

administrative stay beyond the three months expressly provided in section 307(d)(7)(B). All the commenters agreed with the need for such an extension. Two comments discussed some of the specific reasons why it is not practical for the owners and operators of industrial process refrigeration equipment to comply with the requirements originally promulgated under § 82.156(i). The reasons included, but were not limited to:

—the need for a process shutdown in order to complete certain repairs;
—delays stemming from compliance with other applicable federal, state, or local regulations; and
—the inability to receive the necessary parts and/or appropriate replacement refrigerant within the specified times.

In addition, one commenter addressed the need for a stay to ensure that no enforcement action was initiated by EPA or undertaken in response to citizen suits, during the reconsideration of the leak repair requirements. The commenter was particularly concerned with the potential for unfair imposition of penalties during the pendency of the reconsideration. The commenter stated that while compliance personnel may have been advised of the settlement agreement, they are not legally required to refrain from imposing penalties. Penalties stemming from actions undertaken during reconsideration could be substantial.

VI. Response to Comments

EPA agrees with the five commenters concerning the need for a stay. EPA believes that it is essential to continue staying the effectiveness of § 82.156(i) and the applicable compliance dates, as these provisions relate to industrial process refrigeration equipment only. Therefore, through this action, EPA is extending the stay of § 82.156(i) and the applicable compliance dates, for industrial process refrigerant only, until EPA completes reconsideration of these regulations in accordance with the settlement agreement reached between EPA and CMA. This stay will expire when the final action regarding § 82.156(i) and compliance dates, with respect to industrial process refrigeration equipment are completed and effective.

Based on internal Agency review, the regulatory language of this stay has been slightly modified for purposes of clarification.

VII. Effective Date

This action will become effective on December 16, 1994, the date on which the administrative stay expires.

List of Subjects in 40 CFR Part 82

Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Hydrochlorofluorocarbons, Imports, Interstate commerce, Nonessential products, Reporting and recordkeeping requirements, Stratospheric ozone layer.

Dated: November 4, 1994.

Carol M. Browner,

Administrator.

Part 82, chapter I, title 40, of the Code of Federal Regulations, is amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. Section 82.156 is amended by revising paragraph (i)(5) to read as follows:

§ 82.156 Required practices.

* * * * *

(i) * * *

(5) Rules stayed for reconsideration. Notwithstanding any other provisions of this subpart, the effectiveness of the 40 CFR 82.156(i)(1), (i)(3), and (i)(4) as these provisions apply to industrial process refrigeration equipment only is stayed from December 16, 1994, until the EPA takes final action on its reconsideration of these provisions. EPA will publish any such final action in the **Federal Register**.

[FR Doc. 94–28295 Filed 11–16–94; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 52e

RIN 0905–AE25

National Heart, Lung, and Blood Institute Grants for Prevention and Control Projects

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The National Institutes of Health (NIH) is amending the regulations governing grants awarded by the National Heart, Lung, and Blood Institute (NHLBI) for prevention and control projects in order to conform the regulations to minor changes made to the NHLBI authority by the NIH Revitalization Act of 1993 and add a reference to the NIH policy on the inclusion of women and minorities as subjects in clinical research.

EFFECTIVE DATE: This amendment is effective on November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Moore, Regulatory Affairs Officer, National Institutes of Health, Building 31, Room 3B11, 9000 Rockville Pike, Bethesda, Maryland 20892–0001, telephone (301) 496–2832 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 419 of the PHS Act authorizes NHLBI to make prevention and control grants. Section 505 of the NIH Revitalization Act of 1993, which was enacted on June 10, 1993, amended section 419 of the Public Health Service (PHS) Act by making minor changes to the NHLBI Prevention and Control authority. The NIH Revitalization Act of 1993 also added section 492B to the PHS Act which requires the Director of NIH, in conjunction with the Director of the Office of Research on Women's Health and the Director of the Office of Research on Minority Health, to establish guidelines on the inclusion of women and minorities as subjects in clinical research supported by NIH. In a notice published in the **Federal Register** of March 28, 1994 (59 FR 14508), NIH announced the establishment of those guidelines. Additionally, in a notice published in the **Federal Register** of March 7, 1994 (59 FR 10648), the Assistant Secretary for Health enunciated PHS policy concerning the establishment and maintenance of a smoke-free workplace and the promotion of the non-use of tobacco products by recipients of PHS grants. Further, Public Law 103–227, enacted on March 31, 1994, prohibits smoking in certain facilities in which minors will be present. The Department of Health and Human Services is now preparing to implement the provisions of that law. Until those implementation plans are in place, PHS continues to strongly encourage all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products.

We are amending regulations at 42 CFR part 52e governing grants for prevention and control projects to refer to the NIH policy on the inclusion of women and minorities as subjects in clinical research, and to make minor changes in the NHLBI Prevention and Control authority. Specifically, we are amending § 52.8 by adding the word "policies" to the heading and amending the text of § 52e.8 by adding reference

to the new NIH guidelines on the inclusion of women and minorities as subjects in clinical research. We are also revising paragraphs (a)(1) and (b) of § 52e.1 to conform them to amended section 419 of the PHS Act.

Notice, public comment, and delayed effective date procedures are being waived for this amendment based on a finding of good cause. These procedures for ensuring public participation in the rulemaking process and time for compliance are unnecessary because the substantive changes have already been made by the NIH Revitalization Act and this technical amendment changes the regulation to conform with the statutory changes. Similarly, the addition of a reference to a recently issued policy does not impose any new substantive requirements upon applicants.

The following statements are provided for information of the public.

Regulatory Impact Statement

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, requires us to prepare an analysis for any rule that meets one of the E.O. 12866 criteria for a significant regulatory action; that is, that may—

Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal, governments, or communities;

Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

Materially alter the budgetary impact of grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

In addition, we prepare a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6), if the rule is expected to have a significant impact on a substantial number of small entities.

For the reasons outlined below, we do not believe this rule is economically significant nor do we believe that it will have a significant impact on a substantial number of small entities. In addition, this rule is not inconsistent with the actions of any other agency.

This rule makes minor changes to conform existing regulations to the current statute and to refer to a recently issued NIH policy. While these grants benefit those segments of the public afflicted by heart, blood vessel, lung, and blood diseases, and community-based and population-based programs carried out in cooperation with other Federal agencies, with public health agencies of State or local governments, with nonprofit private entities that are community-based health agencies, or with other appropriate public or non-profit private entities, these grants do not have a significant economic or policy impact on a broad cross-section of the public. Furthermore, this rule would only affect those few institutions interested in obtaining financial assistance to carry out authorized prevention and control projects, subject to the normal accountability requirements for grant funds. No entity is obligated to apply for grant support.

For these same reasons, we certify this rule will not have a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is not required.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbered programs affected by this rule are:

93.837—Heart and Vascular Diseases Research
93.838—Lung Diseases Research
93.839—Blood Diseases and Resources Research

List of Subjects in 42 CFR Part 52e

Grant programs—Health; Health; Medical research.

Dated: October 28, 1994.

Philip R. Lee,

Assistant Secretary for Health.

Approved: November 8, 1994.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, part 52e of title 42 of the Code of Federal Regulations is amended to read as set forth below.

PART 52e—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE GRANTS FOR PREVENTION AND CONTROL PROJECTS

1. The authority citation for part 52e continues to read as follows:

Authority: 42 U.S.C. 216, 285b–1.

2. In § 52e.1 paragraphs (a)(1) and (b) are revised to read as follows:

§ 52e.1 To what programs do these regulations apply?

(a) * * *

(1) Demonstrate and evaluate the effectiveness of new techniques or procedures for the prevention and control of heart, blood vessel, lung, and blood diseases, with special consideration given to the prevention and control of these diseases in children, and in populations that are at increased risk with respect to such diseases;

(2) * * *

(3) * * *

(b) For purposes of this part, prevention and control projects shall include community-based and population-based programs carried out in cooperation with other Federal agencies, with public health agencies of State or local governments, with nonprofit private entities that are community-based health agencies, or with other appropriate public or nonprofit private entities.

3. Section 52e.8 is amended by adding the words "and policies" to the heading following the word "regulations" and, immediately after the reference to the PHS Policy on Humane Care and Use of Laboratory Animals, by adding as the last item a reference to the NIH Guidelines on the Inclusion of Women and Minorities as Human Subjects in Clinical Research, to read as follows:

§ 52e.8 Other HHS regulations and policies that apply.

* * * * *

59 FR 14508 (as republished March 28, 1994), as may be amended, or its successor—NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research.

[FR Doc. 94–28323 Filed 11–16–94; 8:45 am]

BILLING CODE 4140–01–M

Health Care Financing Administration

42 CFR Parts 435 and 436

Medicaid

Administration for Children and Families

45 CFR Part 233

RIN 0970–AA07

Aid to Families With Dependent Children; Extension of Medicaid When Support Collection Results in Termination of Eligibility

AGENCIES: Administration for Children and Families (ACF) and Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: These final rules interpret section 20 of the Child Support Enforcement Amendments of 1984, as amended by section 303(e) of the Family Support Act of 1988, and section 8003 of the Omnibus Budget Reconciliation Act of 1989. The 1984 law extended

Medicaid coverage for a period of four months to certain dependent children and adult relatives who become ineligible for Aid to Families with Dependent Children (AFDC) as a result, wholly or partly, of the collection or increased collection of child or spousal support under title IV–D of the Social Security Act (the Act). The regulations are applicable to the AFDC and Medicaid programs in all jurisdictions.

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT:

AFDC: Mr. Mack Storrs, ACF/OFA 5th Floor, 370 L'Enfant Promenade S.W., Washington, DC 20447, telephone (202) 401–9289.

Medicaid: Mr. Marinos T. Svolos, HCFA Room 323, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone (410) 966–4451.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Section 20 of the Child Support Enforcement Amendments of 1984 (Public Law 98–378) amended both the AFDC and Medicaid titles of the Act. Title IV–A (AFDC) was amended by adding a new paragraph (h) to section 406 of the Act. This new paragraph provides that: "[e]ach dependent child and each relative with whom such a child is living (including the spouse of such relative as described in subsection (b)), who becomes ineligible for aid to families with dependent children as a result (wholly or partly) of the collection or increased collection of child or spousal support under Part D, and who has received such aid in at least three of the six months immediately preceding the month in which such ineligibility begins, shall be deemed to be a recipient of aid to families with dependent children for purposes of title XIX for an additional four calendar months beginning with the month in which such ineligibility begins."

Section 20 of Public Law 98–378 also amended section 1902(a)(10(A)(i)(I) to require Medicaid coverage of eligible individuals pursuant to section 406(h) of the Act. Both amendments apply only to those individuals who became ineligible for AFDC on or after August 16, 1984, the date of enactment of Public Law 98–378, and before October 1, 1988, and who received AFDC in at least three of the six months immediately preceding the month of ineligibility.

Section 303(e) of the Family Support Act of 1988 (Public Law 100–485) amended section 20 of the Child Support Enforcement Amendments of 1984 to extend for one year, through September 30, 1989, the authority of this provision. Section 8003 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239) removed the sunset date for this section, thus making it a permanent provision of the Act.

Notice of Proposed Rulemaking (NPRM)

A NPRM was published in the **Federal Register** on November 27, 1992 (57 FR 56294), amending 45 CFR Part 233 and 42 CFR Parts 435 and 436 to set forth the circumstances under which individuals become eligible for the four-month period of extended Medicaid coverage because they have lost AFDC as a result (wholly or partly) of the collection or increased collection of child or spousal support. The proposed rules interpreted the statute to require either the new receipt of, or an increase in, the collection of child or spousal support which renders the family ineligible for AFDC.

As required by statute, the proposed rules provide that individuals must have received AFDC in at least three of the six months immediately preceding the month in which AFDC ineligibility begins in order to qualify for the extended Medicaid coverage. As we pointed out in the preamble to the proposed rules, individuals who do not actually receive an AFDC payment for any month because of the rounding of the payment amount to zero, the recoupment of an overpayment, or the elimination of payments for those who are eligible for amounts less than $10 are deemed to be AFDC recipients for that month for purposes of determining eligibility for continued Medicaid coverage under this provision.

Also under the proposed rules, continued Medicaid under this provision ends for any individual family member who moves to another State. In the preamble to the proposed rules, we stated that Medicaid ends effective with the month following the month the individual moves to the new State. Although benefits end when an individual moves to another State, eligibility can be reinstated in the State in which he or she was entitled to the extended coverage if the individual re-establishes residence there before the end of the four-month period. It was the Department's view that extended Medicaid benefits are available only in the State in which the family became ineligible for AFDC benefits. For example, if a family moved to another State in March, the first month of the extended period, and moved back in May, the third month of the extended period, they would be eligible for extended Medicaid benefits for the months of May and June.

The preamble to the proposed rules recognized that States require collection of support made by absent parents and spouses to be paid directly to the IV–D agency. Nevertheless, AFDC recipients occasionally receive child or spousal support directly. Because current regulations require that these payments must be turned over to the IV–D agency we consider direct payments which are properly turned over to the IV–D agency to be collections of support for the purposes of this provision. Thus, extended Medicaid coverage will be provided when collections of child or spousal support are received by the eligible assistance unit and are turned over to the IV–D agency if these payments result (wholly or partly) in the loss of AFDC.

The proposed rules indicated that section 406(h) of the Act provides certain individuals with extended Medicaid if they lose AFDC eligibility "*as a result* (wholly or partly) *of the collection* or increased collection of child or spousal support * * *" (emphasis added). They separately specified the circumstances under which AFDC ineligibility would be considered to be due "wholly" to a collection and when they would be considered to be due "partly" to a support collection. They also discussed at length examples of cases in which the child or spousal support collection "wholly" or "partly" affected the family's AFDC eligibility and made a clear distinction between the "wholly" or "partly" cases.

Our interpretation of Congressional intent as it relates to the term "wholly" or "partly" limits the Medicaid extension under this provision to cases where ineligibility can be attributed, at least partly, to the initiation of or an increase in the amount of a child or spousal support collection. The proposed and final regulations both reflect our position that the collection of support must actually cause or actively contribute to ineligibility for AFDC, even if there are other factors which also contribute to ineligibility or could simultaneously cause it.

The proposed rules provided that extensions of Medicaid eligibility pursuant to expiration of the earnings disregards as set forth in 45 CFR 233.20(a)(14) or pursuant to section 303(a) of the Family Support Act of 1988 (P.L. 100–485) are not affected by this provision. Thus, if a family is entitled to extended Medicaid as a result of earned income under section 303(a) and is also simultaneously entitled to extended Medicaid as a

result of the initiation of or a change in the amount of the child or spousal support collection, the assistance unit would be entitled to the full twelve-month extension of Medicaid available under the section 303(a) transitional provision if it meets the requirements of section 1925 of the Act. However, the periods run concurrently so that one extended period cannot be delayed until the end of the other extended period.

Response to Specific Individual Comments

We received five comments on the proposed rules. Three were from State government agencies, one was from an advocacy group and one was from a health services organization. A discussion of these comments and our responses follows.

Comment: One advocacy group requested that the Department clarify the definition of support collections which would trigger entitlement to extended Medicaid coverage. It recommended that the change must be in the *amount of support collected*. The advocacy group was concerned that the language in the discussion of the proposed regulations referring to an increase in the "ongoing support payment" may be read as referring to an increase in the amount the absent parent has to pay, rather than an increase in the amount which is collected in a given month.

Response: We have eliminated any reference to an increase in an "ongoing support payment." We believe this will eliminate any confusion between support ordered and support collected. The amount of support ordered is not material when establishing eligibility for extended benefits. This eligibility is based on the amount of support which is collected.

Comment: One State agency recommended a change in the definition of "collection" of child or spousal support to cover situations where collections of child or spousal support contribute to a loss of eligibility but no initiation of or increase in collections occurred. Another State agency believed that the proposed definition is more restrictive than the wording of the statute and that there was no legislative history presented to conclude that Congress intended to define the entitlement as narrowly as proposed.

Response: As a condition of extended Medicaid coverage, the final regulations continue to require that ineligibility for AFDC must result from a change in support collection; that is, either the new receipt of, or an increase in, the amount of a child or spousal support collection. As we stated in the preamble to the proposed rules, we believe that the Conference Report, H.R. Rep. No. 925, 98th Cong., 2d Sess. (1984), contemplates a change in the amount of the child or spousal support collection. In describing the House bill, the Conference Report states that "[i]f a family loses AFDC eligibility as the result (wholly or partly) of *increased* collection of support payments * * *, the State must continue to provide Medicaid benefits * * *." *Id.* at 55 (emphasis added). The Conference Agreement followed the House bill, but with an amendment limiting the application of the provision to families who become ineligible for AFDC before October 1, 1988.

Similarly, the Report of the Committee on Ways and Means, H.R. Rep. No. 527, 98th Cong., 1st Sess. at pages 11, 23, 52, and 56 refers repeatedly to either an "increase in child support payments" or to "a change in child support levels."

Comment: Two State agencies believed that the definition of "collection" was convoluted, unnecessarily complex, and difficult to administer. One agency believed the definition would make automation more difficult and expensive.

Response: We believe that any difficulty in the proposed definition stemmed from our attempt to interpret the law broadly. The interpretation requires States to compare the different possible causes for the loss of AFDC, but was designed to allow continued eligibility under a number of different circumstances.

We could have interpreted section 406(h) to mean that continued eligibility is available only when changes in support collections alone lead to a loss of AFDC. Extended coverage would not have been available if any other factors contributed to or caused ineligibility. We instead chose to cover individuals who lose AFDC under any circumstances in which the change in support either causes or contributes to the loss of AFDC. This interpretation, by its nature, has increased the complexity of the rule.

We have attempted in the final regulation to express these concepts more simply and concisely. We have done so by removing the emphasis in the proposed regulation on the distinction between the loss of AFDC which results "wholly" instead of "partly" from support collections. Instead, we have placed the emphasis on extended Medicaid whenever a support collection has either caused or actively contributed to the loss of AFDC. As in the proposed regulation, a family can qualify for extended Medicaid when the support collection alone causes ineligibility for AFDC or when the support collection, in conjunction with other changes in income or family circumstances, contributes to ineligibility. The following examples demonstrate these concepts, as we have revised them. They are keyed to the regulations at §§ 435.115(h)(1), 436.114(h)(1) and 233.20(a)(15)(iii)(A).

An example of how the final rule would apply in §§ 435.115(h)(1)(i), 436.114(h)(1)(i) and 233.20(a)(15)(iii)(A)(1) is an assistance unit which receives $250 in countable child support collections monthly. The applicable standard of need is $375. In the next month the countable child support collection increases to $400. In this example, the resulting ineligibility is due to the collection of child support, and the Medicaid extension would apply.

Another illustration includes a situation which conforms to §§ 435.115(h)(1)(i), 436.114(h)(1)(i) and 233.20(a)(15)(iii)(A)(1) of the final regulations. An assistance unit receives $200 in countable child support collections and $100 in title II benefits monthly. The applicable standard of need is $325. In the next month both the child support collection and title II increase by $75, for a total increase of $150 a month. Here, the resulting ineligibility is due to the child support collection because the change in support by itself, when added to the unchanged title II benefit, would cause ineligibility. Thus, the Medicaid extension would apply.

An example of how the definition of "collection" applies in combination with other changes in family circumstances, as indicated in §§ 435.115(h)(1)(ii), 436.114(h)(1)(ii) and 233.20(a)(15)(iii)(A)(2), would be as follows. An assistance unit received $275 in countable child support collections and the applicable standard of assistance was $375. In the next month, the countable child support collection increased to $325 and at the same time one of the older children left home. As a result, the applicable standard of assistance was reduced to $300. The countable child support collection of $325 exceeded the new standard of $300 and resulted in the assistance unit's ineligibility.

Under the clarified definition of "collection" in the final regulation, the family would be eligible for extended Medicaid, since the collection of child support increased and contributed to the ineligibility. In this instance, the reduction in the standard of assistance worked in combination with the increased collection of support to cause

the ineligibility. It thus contributed to the family's ineligibility. Neither change would have caused ineligibility by itself.

However, suppose that in this example the $275 received by the assistance unit was raised to $325 and the $375 standard of assistance was reduced to $250. In this case, the increase in child support would have no effect on eligibility for AFDC. That is because the change in the standard of assistance would have caused ineligibility even before the child support collection was raised from $275 to $325. Because the change in the support collection neither caused nor contributed to ineligibility for AFDC, the family would not be eligible for extended Medicaid.

Thus, under the definition included in the final rule, other changes affecting eligibility and occurring in conjunction with a change in the amount of the support collection would not negate the family's entitlement to extended Medicaid, as long as the support collection contributes to ineligibility for AFDC.

Comment: One State questioned the discussion of payments made by absent parents directly to the AFDC recipient. The State asserted that *if these payments are turned in as required*, the money flows through the child support mechanism as would money collected by the State directly from the absent parent. As such it represents a "collection" under title IV–D. If the money is not forwarded to the State agency, it is budgeted accordingly (as income to the family), and penalties (for non-cooperation) are imposed as appropriate. The regulations are silent on the issue of monies not forwarded so the State assumes there is no intent to provide the extension when the support causes ineligibility when budgeted, since to provide such an extension in this case would be contrary to the statute.

Response: There is no intent to provide the extension in such situations. The State is correct that monies not forwarded to the State agency would not constitute a "collection" under title IV–D, as required by the statute. Such monies would be budgeted as income to the family in a IV–A income State, with sanctions for non-cooperation imposed as appropriate. In a IV–D recovery State, the IV–D agency must recover all such payments. The IV–D agency would enter into a repayment agreement with the custodial parent in accordance with 45 CFR 303.80. We have revised the regulation in several places in order to make it clear that support collections must be child or spousal support collected under title IV–D.

Comment: One State agency commented that, given the erratic nature of child support payments, the proposed policy could result in disparate treatment for clients with equal amounts of child support. Another State agency expressed concern that the application of the proposed regulations may provide an incentive for an absent parent not to pay child support when a child is approaching the age of majority or some other income change is expected to occur.

Response: Because of the sporadic nature of the receipt of support payments and other changes in family circumstances, it would be difficult to determine when such a situation might occur. Nevertheless, it is true that, in some cases, an increase in support collection would coincide with other circumstances affecting AFDC eligibility. The statute places no special requirements on the circumstances which resulted in the increased support collection which, in turn, triggered the four-month period. If a family receives a change in support payments which in some way *causes* that family to lose AFDC, regardless of the circumstances, then that family is entitled to four extra months of Medicaid coverage. The statute places no relevance on the regularity or timing of payments.

Comment: Two commenters suggested that extended Medicaid should be continued when a family or individual moves out of the State and is no longer a resident of the State. One commenter suggested that the State where the individual was originally eligible for extended Medicaid should be responsible for providing any remaining months of extended Medicaid, particularly where the individual was enrolled in a managed care organization. The other commenter suggested that the new State should be automatically responsible for paying for the remaining months of the extended period.

Response: In the preamble to the notice of proposed rulemaking, HCFA took the position that "[c]ontinued Medicaid under this provision ends for any individual who moves to another State." The preamble further provided, however, that eligibility could be reinstated if the individual returns to the State and the individual would be entitled to any remaining months of extended benefits. We believe that it is reasonable to allow States to terminate families who become residents of other States during the extended Medicaid period.

Nothing in section 406(h) explicitly requires a State to continue extended benefits for an individual who has moved to another State. In addition, our interpretation of this provision conforms with the longstanding policy that States are only required to provide Medicaid to their own residents. The Medicaid statute establishes a framework of cooperative federalism in which each state develops a plan for providing medical assistance for its residents. The statute establishes a general framework for the State's Medicaid program; however, States have some flexibility to tailor the program to meet the particular needs of their residents. As a result, each State plan is different.

From the outset of the Medicaid program, State residency has been an important aspect of Medicaid eligibility. Section 1902(b)(2), 42 U.S.C. section 1396a(b)(2), prohibits the Secretary from approving a plan which imposes any residency requirement which excludes individuals who reside in the State, regardless of whether or not the residence is maintained permanently or at a fixed address. On the other hand, there has never been any general statutory requirement that a State cover individuals who are not its residents or continue to cover those who are no longer its residents. Indeed, section 1902(b)(2) implicitly recognizes that States may limit Medicaid coverage to their own residents.

Moreover, the statute requires the State plan to include provisions for furnishing medical assistance under the plan "to individuals who are *residents* of the State but are absent therefrom" (section 1902(a)(16); 42 U.S.C. section 1396a(a)(16)). This provision recognizes a State's continued responsibility for its Medicaid eligible residents during temporary periods of absence in another jurisdiction, but only as long as they remain residents. In light of these rules, we have for many years taken the position that the Secretary is permitted to approve a plan which limits eligibility to all State residents and consequently denies medical assistance to individuals who do not reside in the State. It is our understanding that most States expressly require individuals to be residents of the State in order to receive medical assistance under the State plan, although they could choose to cover non-residents.

The right to continued receipt of Medicaid normally ends when an individual establishes residency in a new State. If an individual seeks medical assistance in the new State, eligibility is determined based on the State plan of the new State. If Congress had intended in section 406(h) a major departure from this traditional role of

States under the Medicaid statute, we believe this would have been clear from either the statute or legislative history. Our review of the statute and the legislative history for section 406(h) does not reflect that Congress intended this result.

We also do not believe that section 406(h) requires an individual's new State of residence to provide continued Medicaid coverage. This provision simply deems an individual to be an AFDC recipient for Medicaid purposes for an *additional* four calendar months; that is, as an add-on to the period of coverage the individual has already received under the State plan of his or her original State. HCFA does not regard section 406(h) as creating a portable status that entitles the individual to different Medicaid coverage in a different State.

The fact that an individual is an AFDC recipient in State A does not get that individual Medicaid benefits in State B. Similarly, the fact that an individual is *deemed* to be an AFDC recipient in State A would not necessarily get that individual Medicaid benefits in State B (unless State B chooses to cover the individual or has an interstate agreement which does so). If the individual is deemed to be an AFDC recipient for Medicaid purposes for an additional four months, the individual should therefore receive extended Medicaid only in the State in which he or she lost AFDC status and was granted the four months of extended coverage.

One commenter also raised the question of whether our policy has constitutional implications because the commenter believes that it violates an individual's right to interstate travel. The commenter points out that other residents in the new State would be eligible for extended benefits while the newly arrived individuals with exactly the same circumstances would not be eligible. We believe that the commenter is incorrect in assuming that the individual who has moved is equally situated with other residents of the new State who are receiving the additional four months of Medicaid. The individual's former State may well have had a higher AFDC eligibility standard than the new State, which enabled the individual to get Medicaid in the old State before he or she lost AFDC because of a support payment. In the new State, the individual may never have been eligible for AFDC even without the increased collection.

We do not believe the residency requirement for extended Medicaid has any significant effect on managed care. Ordinarily, an HMO will lose an enrollee when he or she has moved to another State, because HMOs have defined service areas and provider networks. In most cases, when a recipient enrolled in an HMO moves to another State, he or she would no longer be in the service area of the HMO. As such, the recipient would no longer be qualified to remain in the HMO, regardless of the residency requirement. In addition, the effect of the residency requirement on recipients of extended Medicaid is no different from the effect of the residency requirement on any Medicaid eligible HMO recipient who moves from the State.

Regulatory Procedures

Executive Impact Analysis

These regulations have been reviewed pursuant to Executive Order 12866 to ensure their consistency with the priorities and principles set forth in that Executive Order. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost-effective and least burdensome while achieving the regulatory objectives.

Paperwork Reduction Act

There will be no reporting or record keeping requirements imposed on the public or States which would require clearance by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small businesses. The primary impact of these final rules is on State governments and individuals. Therefore, we certify that these rules will not have a significant economic impact on a substantial number of small entities because they affect benefits to individuals and payments to States. Thus, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act (RFA), is not required.

Section 1102(b) of the Social Security Act requires the Secretary to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital which is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact statement since we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

List of Subjects

42 CFR Part 435

Aid to Families with Dependent Children, Grant programs—health, Medicaid, reporting and record keeping, Supplemental Security Income (SSI), Wages.

42 CFR Part 436

Aid to Families with Dependent Children, Grant programs—health, Guam, Medicaid, Puerto Rico, Supplemental Security Income (SSI), Virgin Islands.

45 CFR Part 233

Aliens, Grant programs—social programs, Public assistance programs, Reporting and record keeping requirements.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program: 13.780, Assistance Payments Maintenance Assistance.)

Dated: April 4, 1994.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Dated: April 24, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Approved: November 4, 1994.

Donna E. Shalala,

Secretary of Health and Human Services.

For the reasons set forth in the preamble, parts 435 and 436 of chapter IV, title 42 and part 233 of chapter II, title 45, Code of Federal Regulations, are amended as set forth below:

Health Care Financing Administration

42 CFR Chapter IV

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA

1. The authority citation for Part 435 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 435.115 is amended by adding new paragraphs (f), (g), and (h) to read as follows:

§ 435.115 Individuals deemed to be receiving AFDC.

* * * * *

(f) The State must deem an individual to be receiving AFDC if a new collection or increased collection of child or spousal support under title IV–D of the Social Security Act results in the termination of AFDC eligibility in accordance with section 406(h) of the Social Security Act. States must continue to provide Medicaid for four consecutive calendar months, beginning with the first month of AFDC ineligibility, to each dependent child and each relative with whom such a child is living (including the eligible spouse of such relative as described in section 406(b) of the Social Security Act) who:

(1) Becomes ineligible for AFDC on or after August 16, 1984; and

(2) Has received AFDC for at least three of the six months immediately preceding the month in which the individual becomes ineligible for AFDC; and

(3) Becomes ineligible for AFDC wholly or partly as a result of the initiation of or an increase in the amount of the child or spousal support collection under title IV–D.

(g)(1) Except as provided in paragraph (g)(2) of this section, individuals who are eligible for extended Medicaid lose this coverage if they move to another State during the 4-month period. However, if they move back to and reestablish residence in the State in which they have extended coverage, they are eligible for any of the months remaining in the 4-month period in which they are residents of the State.

(2) If a State has chosen in its State plan to provide Medicaid to non-residents, the State may continue to provide the 4-month extended benefits to individuals who have moved to another State.

(h) For purposes of paragraph (f) of this section:

(1) The new collection or increased collection of child or spousal support results in the termination of AFDC eligibility when it actively causes or contributes to the termination. This occurs when:

(i) The change in support collection in and of itself is sufficient to cause ineligibility. This rule applies even if the support collection must be added to other, stable income. It also applies even if other independent factors, alone or in combination with each other, might simultaneously cause ineligibility; or

(ii) The change in support contributes to ineligibility but does not by itself cause ineligibility. Ineligibility must result when the change in support is combined with other changes in income or changes in other circumstances and the other changes in income or circumstances cannot alone or in combination result in termination without the change in support.

(2) In cases of increases in the amounts of both support collections and earned income, eligibility under this section does not preclude eligibility under 45 CFR 233.20(a)(14) or section 1925 of the Social Security Act (which was added by section 303(a) of the Family Support Act of 1988 (42 U.S.C. 1396r–6)). Extended periods resulting from both an increase in the amount of the support collection and from an increase in earned income must run concurrently.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

1. The authority citation for Part 436 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 436.114 is amended by adding new paragraphs (f), (g), and (h) to read as follows:

§ 436.114 Individuals deemed to be receiving AFDC.

* * * * *

(f) The State must deem an individual to be receiving AFDC if a new collection or increased collection of child or spousal support under title IV–D of the Social Security Act results in the termination of AFDC eligibility in accordance with section 406(h) of the Social Security Act. States must continue to provide Medicaid for four consecutive calendar months, beginning with the first month of AFDC ineligibility, to each dependent child and each relative with whom such a child is living (including the eligible spouse of such relative as described in section 406(b) of the Social Security Act) who:

(1) Becomes ineligible for AFDC on or after August 16, 1984; and

(2) Has received AFDC for at least three of the six months immediately preceding the month in which the individual becomes ineligible for AFDC; and

(3) Becomes ineligible for AFDC wholly or partly as a result of the initiation of or an increase in the amount of a child or spousal support collection under title IV–D.

(g)(1) Except as provided in paragraph (g)(2) of this section, individuals who are eligible for extended Medicaid lose this coverage if they move to another State during the 4-month period. However, if they move back to and reestablish residence in the State in which they have extended coverage, they are eligible for any of the months remaining in the 4-month period in which they are residents of the State.

(2) If a State has chosen in its State plan to provide Medicaid to non-residents, the State may continue to provide the 4-month extended benefits to individuals who have moved to another State.

(h) For purposes of paragraph (f) of this section:

(1) The new collection or increased collection of child or spousal support results in the termination of AFDC eligibility when it actively causes or contributes to the termination. This occurs when:

(i) The change in support collection in and of itself is sufficient to cause ineligibility. This rule applies even if the support collection must be added to other, stable income. It also applies even if other independent factors, alone or in combination with each other, might simultaneously cause ineligibility; or

(ii) The change in support contributes to ineligibility but does not by itself cause ineligibility. Ineligibility must result when the change in support is combined with other changes in income or changes in other circumstances and the other changes in income or circumstances cannot alone or in combination result in termination without the change in support.

(2) In cases of increases in the amounts of both the support collections and earned income, eligibility under this section does not preclude eligibility under 45 CFR 233.20(a)(14) or section 1925 of the Social Security Act (which was added by section 303(a) of the Family Support Act of 1988 (42 U.S.C. 1396r–6)). Extended periods resulting from both an increase in the amount of the support collection and from an increase in earned income must run concurrently.

Administration for Children and Families

45 CFR Chapter II

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

1. The authority citation for Part 233 continues to read as follows:

Authority: 42 U.S.C. 301, 602, 606, 606 note, 607, 1202, 1302, 1352 and 1382 note; sec. 6 of Pub. L. 94–114, 89 Stat. 579; Part XXIII of Pub. L. 97–35, 95 Stat. 843; Pub. L. 97–248, 96 Stat. 324; Pub. L. 99–603, 100 Stat. 3359; and sec. 1883 of Pub. L. 99–514, 100 Stat. 2916.

2. Section 233.20 is amended by adding a new paragraph (a)(15) to read as follows:

§ 233.20 Need and amount of assistance.

(a) * * *

(15) For Medicaid eligibility only, pursuant to section 406(h) of the Act:

(i) Each dependent child and each relative with whom such a child is living (including the eligible spouse of such relative pursuant to section 237.50(b) of this chapter) who becomes ineligible for AFDC wholly or partly because of the initiation of or an increase in the amount of a child or spousal support collection under title IV–D will be deemed to be receiving AFDC, but only for purposes of this paragraph (a)(15), for a period of four consecutive calendar months beginning with the first month of AFDC ineligibility. To be eligible for extended Medicaid coverage pursuant to this paragraph (a)(15), each dependent child and relative must meet the following conditions:

(A) The individual must have become ineligible for AFDC on or after August 16, 1984; and

(B) The individual must have received AFDC in at least three of the six months immediately preceding the month in which the individual becomes ineligible for AFDC; and

(C) The individual must have become ineligible for AFDC wholly or partly as a result of the initiation of or an increase in the amount of a child or spousal support collection under title IV–D.

(ii)(A) Except as provided in paragraph (a)(15)(ii)(B) of this section, individuals who are eligible for extended Medicaid lose this coverage if they move to another State during the 4-month period. However, if they move back to and reestablish residence in the State in which they have extended coverage, they are eligible for any of the months remaining in the 4-month period in which they are residents of the State.

(B) If a State has chosen in its State plan to provide Medicaid to non-residents, the State may continue to provide the 4-month extended benefits to individuals who have moved to another State.

(iii) For purposes of paragraph (i) of this section:

(A) The new collection or increased collection of child or spousal support results in the termination of AFDC eligibility when it actively causes or contributes to the termination. This occurs when:

(*1*) the change in support collection in and of itself is sufficient to cause ineligibility. This rule applies even if the support collection must be added to other, stable income. It also applies even if other independent factors, alone or in combination with each other, might simultaneously cause ineligibility; or

(*2*) The change in support contributes to ineligibility but does not by itself cause ineligibility. Ineligibility must result when the change in support is combined with other changes in income or changes in other circumstances and the other changes in income or circumstances cannot alone or in combination result in termination without the change in support.

(B) In cases of increases in the amounts of both the support collections and earned income, eligibility under this section does not preclude eligibility under paragraph (a)(14) of this section or section 1925 of the Social Security Act (which was added by section 303(a) of the Family Support Act of 1988 (42 U.S.C. 139r–6)). Extended periods result from both an increase in the amount of the support collection and from an increase in earned income must run concurrently.

* * * * *

[FR Doc. 94–28317 Filed 11–16–94; 8:45 am]
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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1871

Modification of Test of MidRange Procurement Procedures

AGENCY: Office of Procurement, NASA.

ACTION: Temporary rule.

SUMMARY: The Office of Federal Procurement Policy approved a test of NASA's MidRange Procurement Procedures in 1993. This modification of the procedures is a result of OFPP's approval to expand the test to all NASA centers and addresses other editorial and substantive changes.

EFFECTIVE DATES: This regulation is effective November 17, 1994, and expires June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. T. Deback, (202) 358–0431.

SUPPLEMENTARY INFORMATION: The MidRange Procurement Procedures were published in 58 FR 54300, October 21, 1993.

Comments on the test procedure had been requested in 57 FR 57845, December 7, 1992. The following substantive changes are being made to the MidRange Procurement Procedures: (1) Authority to utilize these procedures at all NASA centers is provided, (2) construction and A&E contracts may now be done under MidRange, (3) the Best Value Selection procedures have been simplified to limit the value characteristics, and (4) the Electronic Bulletin Board aspects of MidRange have been clarified since we will be using Internet in lieu of a separate bulletin board. The use of the Electronic Bulletin Board was approved as part of the Federal Acquisition Streamlining Act. NASA is in the process of developing the Bulletin Board and will provide industry notice of its use through the Commerce Business Daily NASA will continue publishing synopses in the Commerce Business Daily until that notice is provided.

List of Subjects in 48 CFR Part 1871

Government Procurement.

Thomas S. Luedtke,

Deputy Associate Administrator for Procurement.

Accordingly, under the authority of 42 U.S.C. 2473(c)(1), 48 CFR ch. 18 is amended by revising part 1871 to read as follows:

PART 1871—MIDRANGE PROCUREMENT PROCEDURES

1871.000 Scope of part.

Subpart 1871.1—General

1871.101 Purpose.
1871.102 Authority.
1871.103 Applicability.
1871.104 Definitions.
1871.105 Policy.

Subpart 1871.2—Planning and Requirements Process

1871.201 Use of buying team.
1871.202 Organizational responsibilities.
1871.202–1 Requiring organization.
1871.202–2 Procurement organization.
1871.202–3 Supporting organizations.
1871.202–4 Center management.
1871.203 Buying team responsibilities.
1871.204 Small business set-asides.

Subpart 1871.3—Publicizing of Solicitation

1871.301 Publicizing policy.
1871.302 Publicizing procedure.

Subpart 1871.4—Request for Offer (RFO)

1871.401 Types of RFO's.
1871.401–1 Sealed offers.
1871.401–2 Two-step competitive procurement.
1871.401–3 Competitive negotiated procurement not using qualitative criteria.
1871.401–4 Competitive negotiation using qualitative criteria.
1871.401–5 Noncompetitive negotiations.
1871.402 Preparation of the RFO.
1871.403 Offer preparation period and limitations.
1871.404 Protection of offers.
1871.405 Model contract.
1871.406 RFO by electronic bulletin board.
1871.406–1 Methods of disseminating information.
1871.406–2 Special situations.
1871.406–3 Publicizing and response time.

1871.406–4 Method of soliciting offers.

Subpart 1871.5—Award

1871.501 Representations and certifications.
1871.502 Determination of responsible contractor.
1871.503 Negotiation documentation.
1871.504 Award documents.
1871.505 Notifications to unsuccessful offerors.
1871.506 Publication of award.
1871.507 Debriefing of unsuccessful offerors.

Subpart 1871.6—"Best Value Selection"

1871.601 General.
1871.602 Specifications for MidRange procurements.
1871.603 Establishment of evaluation criteria.
1871.604 Evaluation phases.
1871.604–1 Initial Evaluation.
1871.604–2 Determination of "Finalists".
1871.604–3 Discussions with "Finalists".
1871.604–4 Selection of "Best Value" Offer.
1871.605 Negotiation methods and procedures.
1871.606 Debriefings.

Authority: 42 U.S.C. 2473(c)(1).

PART 1871—MIDRANGE PROCUREMENT PROCEDURES

1871.000 Scope of part.

This part prescribes policies and procedures for the acquisition of supplies and services from commercial sources as a pilot test procurement program.

Subpart 1871.1—General

1871.101 Purpose.

The purpose of this part is to establish policies and procedures that implement the MidRange procurement process. This will be a pilot test program at the National Aeronautics and Space Administration (NASA).

1871.102 Authority.

The Office of Federal Procurement Policy has provided authority for NASA to conduct a pilot test of a new procurement process within the scope of this part.

1871.103 Applicability.

(a) This part applies to all acquisitions, as described in 1871.103(b), conducted at NASA installations.

(b) This part applies to all contract actions, the aggregate amount of which is greater than the small purchase limitation ((FAR) 48 CFR Part 13) and not more than $500,000 in basic value. For service contracts (exclusive of R&D and construction for which options are not permitted), up to four annual options of not more than $500,000 each are permitted where the option requirements are substantially the same as the basic requirement. For supply contracts, four options of not more than $500,000 each are permitted when not more than $500,000 in funding is to be required in any fiscal year. The total amount of the basic award plus options may not exceed $2,500,000 in either the case of supplies or services except as provided in paragraph (c) of this section.

(c) When the Government estimate for the basic award amount or any option amount, if any, exceeds the limits of 1871.103(b), the procurement will be processed under FAR and NFS procurement procedures applicable to large procurements (see (FAR) 48 CFR Parts 14 and 15). When the estimate is within the range of 1871.103(b) and the procurement was started using these procedures but the offered prices/costs exceed the MidRange ceiling, the procurement may continue under MidRange procedures, provided that:

(1) The price/cost can be determined to be fair and reasonable,

(2) The successful offeror accepts incorporation of required FAR and NFS clauses applicable to large procurements, and

(3) The procurement does not exceed $750,000 for the basic requirement (and each option, if any) or $3,750,000 for the total requirement.

1871.104 Definitions.

The following terms are used throughout part 1871 as defined in this subpart.

(a) *NASA Acquisition Bulletin Board* or *NABB* means an electronic bulletin board; i.e., a computer system through which users may access documents available in electronic format.

(b) *MidRange procurement procedure* means a set of procedures within the authority of 1871.102 and the applicability of 1871.103.

(c) *Pilot test* means a test of MidRange procurement procedures conducted within the authority of 1871.102 and applicability of 1871.103.

(d) *Request for Offer (RFO)* means the solicitation used to request offers for all authorized MidRange procurements.

(e) *Clarification* and *Discussion* are used as defined in (FAR) 48 CFR 15.601.

(f) *Negotiation* is used as defined in (FAR) 48 CFR 15.101 and includes bargaining as described in (FAR) 48 CFR 15.102.

1871.105 Policy.

(a) The procedures in this part shall be used for all procurements within the scope of part 1871 at NASA installations.

(b) Under MidRange procedures, cost or pricing data and certification thereof shall be in accordance with (FAR) 48 CFR 15.804.

(c) Procurements conducted under part 1871, unless otherwise properly restricted under the provisions of (FAR) 48 CFR part 6, are considered to be full and open competition after exclusion of sources in accordance with (FAR) 48 CFR 6.203, Set-asides for small business and labor surplus area concerns, or full and open competition in accordance with (FAR) 48 CFR part 6, subpart 6.1.

(d) Options may be included in the acquisition provided they conform to 1871.103(b) or do not exceed $500,000 for the total requirement, options included.

(e) The appropriate part 1871 post-selection processes (negotiation, award, and publication of award) may be used to the extent applicable for Small Business Innovation Research (SBIR), broad agency announcements, unsolicited proposals, and Small Business Administration 8(a) procurement actions within the applicability of 1871.103(b). Notwithstanding the threshold requirements set forth in 1871.103(b), SBIR Phase II contracts may be awarded in amounts not exceeding $750,000.

(f) The NABB will be used to the maximum extent practicable to disseminate advance procurement information and conduct part 1871 procurements.

(g) Use of locally generated forms is encouraged where their use will contribute to the efficiency and economy of the process. NASA Forms 1667, Request for Offer, and 1668, Contract, or computer generated versions of these forms shall be used as the solicitation and contract cover sheets, respectively. Contractor generated forms or formats for solicitation response should be allowed whenever possible. There is no requirement for uniform formats (see (FAR) 48 CFR 15.406).

Subpart 1871.2—Planning and Requirements Process

1871.201 Use of buying team.

MidRange procedures are based on the use of a buying team to conduct the procurement. The concept is to designate individuals who are competent in their respective functional areas, provide those individuals with the basic authority to conduct the procurement and hold them accountable for the results. The buying team will normally consist of one technical member and one procurement member, but may be augmented with additional members as necessary. Personnel providing normal functional assistance

to the team (e.g., legal, financial) will not be considered a part of the team unless so designated. To function properly, the team should be given the maximum decision authority in matters related to the procurement. When higher level management approvals remain essential, it will be incumbent upon the functional team member to obtain such approvals. The team may accept, as final, the decision of the responsible buying team member.

1871.202 Organizational responsibilities.

1871.202–1 Requiring organization.

The requirements organization shall appoint, by name, the technical member of the buying team. This individual will normally be an end user or the one most familiar with the technical aspects of the requirement. The individual appointed, whatever the relationship with the procured item, is expected to totally fulfill the responsibilities to the buying team. If the requiring organization elects not to appoint a technical member to the buying team, standard interfaces and authorities applicable to large procurements will be used. The procedures in this part will be used to the extent practical; however, priority will be afforded to procurements fully using buying teams.

1871.202–2 Procurement organization.

The procurement organization shall appoint the procurement member of the buying team. This individual shall be a warranted contracting officer or a contract specialist with broad latitude to act for the contracting officer. The procurement member shall be the team leader with the ultimate responsibility to conduct the procurement.

1871.202–3 Supporting organizations.

Buying team members may require additional team members to perform specialized functions or to assist in the evaluation of offers. Requests for supporting members shall be made by the organization identifying the need for the support and directed to the appropriate management level in the supporting organization. Supporting team members, once designated for the team, shall fulfill all applicable responsibilities to the team as other members.

1871.202–4 Center management.

Center managers shall, to the maximum extent practical and consistent with their responsibilities to manage the Center mission, convey sufficient authority to members of the buying team to conduct the procurement. Administrative or technical approvals should be minimized, and where deemed essential, facilitated to the maximum extent practicable. Center managers should lend their full support to the buying team should problems arise from the procurement.

1871.203 Buying team responsibilities.

(a) The buying team shall conduct the procurement in a manner that best satisfies the user requirements and meets the norms expected of a Government procurement. Team members should develop open communications, rely on decisions of other responsible functional team members and meet their obligations to the team. The team will typically—

(1) Refine the final specifications for the solicitation;

(2) Decide the most appropriate solicitation method;

(3) Establish milestones for the procurement;

(4) Finalize the evaluation criteria;

(5) Develop the RFO and model contract; and

(6) Evaluate offers and determine the awardee.

(b) The procurement member of the buying team shall lead clarifications, discussions, and negotiations; shall be the source selection official; and shall conduct debriefings.

1871.204 Small business set-asides.

(a) Except as provided in paragraphs (b) through (e) of this section, each MidRange acquisition of supplies and services shall be reserved exclusively for small business concerns.

(b) The requirement for small business MidRange set-asides does not relieve the buying office of its responsibility to procure from required sources of supply, such as Federal Prison Industries, Industries for the Blind and Other Severely Handicapped, and mandatory multiple award Federal Supply Schedule contracts.

(c) Procurement not conducted as small business set-asides and under less than full and open competition require a Justification for Other than Full and Open Competition pursuant to (FAR) 48 CFR part 6.

(d) If the buying team procurement member determines there is no reasonable expectation of obtaining offers from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery, the buying team need not proceed with the small business set-aside and may purchase on an unrestricted basis utilizing MidRange procedures. The buying team procurement member shall document the contract file with the reason for the unrestricted procurement.

(e) If the buying team proceeds with the small business MidRange set-aside and receives an offer from only one responsible small business concern at a reasonable price, the contracting officer will normally make an award to that concern. However, if the buying team does not receive a reasonable offer from a responsible small business concern, the buying team procurement member may cancel the small business set-aside and complete the procurement on an unrestricted basis utilizing MidRange procedures. The buying team procurement members shall document in the file the reason for the unrestricted purchase.

(f) Each model contract under a small business MidRange set-aside shall contain the clause at (FAR) 48 CFR 52.219–6, Notice of Total Small Business Set-Aside.

Subpart 1871.3—Publicizing of Solicitation

1871.301 Publicizing policy.

Use of the MidRange procedure is intended to streamline and expedite the acquisition process. Presolicitation publication requirements are streamlined; however, it is in the Government's interest to provide as much advance notice as possible of a pending acquisition in order for the Government to obtain maximum competition. As soon as practicable after a requirement has been finalized and before the RFO is ready for release, a presolicitation notice of the procurement action shall be published on the NABB.

1871.302 Publicizing procedure.

(a) Synopses are not to be sent or published in the Commerce Business Daily.

(b) A separate pre-solicitation notice for each requirement shall be published on the NABB. The pre-solicitation notice shall be published prior to the actual release of the solicitation.

(c) The presolicitation notice will comply with the requirements set forth in (FAR) 48 CFR 5.207(b).

(1) Include a statement that the solicitation will be released via the NABB, that potential offerors will be responsible for downloading their own copy of the solicitation, and that hard copies of the solicitation shall be made available on request, but the closing date will be the same as that required for the NABB released solicitation; and

(2) State the projected solicitation release date, provide notice that it is the offeror's responsibility to monitor the NABB for solicitation release as the solicitation will be released as soon as

permissible whether prior or subsequent to the projected date, and identify the name, telephone number, and e-mail address of a point of contact. The presolicitation notice shall be updated to reflect significant changes to the original notice.

Subpart 1871.4—Request for Offer (RFO)

In MidRange procedures, solicitation of sources shall be accomplished by use of an RFO. The RFO will be solely a solicitation document incorporating only those elements of information required to solicit the offer. Offers will be provided on a model contract furnished with the RFO.

1871.401 Types of RFO'S.

The RFO may be used for all types of procurements to which MidRange is applicable. The distinguishing difference will be the evaluation and award criteria specified in the RFO. This, in turn, will be driven by the buying team's decisions on the extent of discussion required, the amount of non-price factors that will influence the award and the amount of competition available. If the conditions in (FAR) 48 CFR 6.401(a) are met, the RFO's described in 1871.401–1 and 1871.401–2 shall be used; otherwise, RFO's described in 1871.401–3, 1871.401–4, or 1871.401–5 may be used. Once the evaluation and award criteria have been specified in the RFO, the procurement must conform to the procedures applicable to these criteria, unless changed by formal amendment to the RFO.

1871.401–1 Sealed Offers.

(a) *Policy.* RFO's may specify that award will be made to the low, responsive, responsible offeror providing the most advantageous offer considering only price and price-related factors. This method shall be used when (1) time permits the solicitation, submission, and evaluation of sealed offers; (2) award will be made on the basis of price and other price-related factors; (3) conducting discussions with the offerors is not necessary; and (4) a reasonable expectation of receiving more that one offer exists. The RFO shall be in compliance with the requirements of (FAR) 48 CFR part 14 relating to Sealed Bidding.

(b) *Procedures.* (1) The RFO shall request offerors to provide both a technical and price offer by the closing date specified.

(2) In accordance with (FAR) 48 CFR Part 14, offers (whether received by facsimile or sealed envelope delivery) shall be publicly opened at the designated time and place. Interested members of the public will be permitted to attend the opening. Offers shall be abstracted pursuant to (FAR) 48 CFR part 14 and be available for public inspection. For unclassified acquisitions, a summary abstract, containing offerors, prices and any essential information specific to that procurement shall be posted on the NABB. The abstract shall be included in the contract file.

(3) All offers shall be examined for mistakes in accordance with (FAR) 48 CFR 14.406. The buying team shall determine that a prospective contractor is responsible and that the prices offered are reasonable (see (FAR) 48 CFR 14.407–2).

(4) The Government will award a contract to the low, responsive, responsible offeror, whose offer conforms to the RFO and will be most advantageous to the Government, considering only price and the price-related factors included in the solicitation

1871.401–2 Two-Step competitive procurement.

(a) *Policy.* (1) RFO's may specify that evaluation and award may be conducted in two distinct steps, similar in concept to "Two Step Sealed Bidding." The MidRange Two Step process should be used when it is desirable to award to the lowest, responsive, responsible offeror after determining that the initial technical offer, or the revised technical offer, is acceptable.

(2) The procedures of (FAR) 48 CFR 14.503–2(a) shall be used once Step two of this process begins.

(b) *Procedures.* (1) The RFO shall request offerors to provide both a technical and a price offer by the closing date specified. Price offers are requested to ensure that they are accomplished in a timely manner and to reduce the time required for Step Two.

(2) *Step One.* The technical offer will be evaluated to determine if the product or service offered is acceptable. The buying team may proceed directly to Step Two if there are sufficient acceptable offers to ensure adequate price competition, and if further time, effort and delay to make additional offers acceptable and thereby increase competition would not be in the Government's interest. If this is not the case, the buying team procurement member shall enter into discussions and request offeror(s) whose offer(s) is susceptible to being made acceptable to submit additional clarifying or supplementing information to make it acceptable (see (FAR) 48 CFR 14.503–1). It is expected that these discussions will be conducted on an informal basis. After completion of discussions, the buying team shall proceed to Step Two.

(3) *Step Two.* The buying team shall afford all offerors who have submitted acceptable offers and those offers with whom discussions were conducted, an opportunity, by a common date, to revise their price offers. No changes to technical offers will be permitted during this process. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each offeror. The procedures at 1871.401–1(b)(2) and (3) shall then be followed.

(4) The Government will award a contract to the low, responsive, responsible offeror, whose offer conforms to the RFO and will be most advantageous to the Government, considering only price and the price-related factors included in the solicitation.

1871.401–3 Competitive negotiated procurement not using qualitative criteria.

(a) *Policy.* (1) RFO's may provide for discussion of all aspects of the offer but award is based on the lowest priced (or most probable cost) technically acceptable offer. This method should be used when qualitative factors are not material in the award decision, but it is important to assure that technical offers and contract terms are fully compliant with the Government's needs. This method also permits direct discussion of price with offerors and is particularly appropriate when different approaches can be offered to satisfy the Government's need.

(2) The RFO should reserve the right to award without discussion based on the initial offers submitted. (FAR) 48 CFR 52.215–16, Alternate III will be included in all RFO's for competitive negotiated procurements not using qualitative criteria.

(b) *Procedures.* (1) The RFO shall request offerors to provide both a technical and a price offer by the closing date specified.

(2) *Initial evaluation.* The offer shall be reviewed to determine if all required information has been provided. No further evaluation shall be made of any offer that is deemed unacceptable because it does not meet the technical requirements of the RFO and is not reasonably susceptible to being made so. Offerors may be contacted for clarification purposes only during the initial evaluation. Offerors determined not to be acceptable shall be notified of their rejection and the reasons therefor and excluded from further consideration. Documentation for such

rejection should consist of one or more succinct statements of fact that show the offer is not acceptable. No documentation is required if all offers are deemed to be acceptable or reasonably susceptible to being made so.

(3) *Determination of finalists.* From among the acceptable offers and those susceptible to being made acceptable, the buying team shall rank the offers based on price (or most probable cost) and exclude any whose price/most probable cost precludes any reasonable chance of being selected for final award. The remaining offers constitute the "finalists" for the contract. Only in exceptional cases will this number be less than two offers. The procurement buying team member shall succinctly record the basis for the decision.

(4) *Discussions.* Discussions may be used if it is necessary to request the offeror to submit additional clarifying or supplementing information to make an offer acceptable. The procurement buying team member shall lead discussions with each finalist. The discussions are intended to assist the buying team in fully understanding each finalist's offer and to assure that all finalists are competing equally on the basis intended. Care must be exercised to ensure these discussions adhere, to the extent applicable, to the guidelines set forth in 1815.613–71(b)(5) for the applicable contract type. Technical transfusion, technical leveling, and auction techniques are prohibited. It is expected that discussions will be conducted on an informal basis with each finalist. After completion of discussions, each finalist shall be afforded an opportunity to revise its offer to support and clarify its offer. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each finalist. Such discussions are not required if there are sufficient acceptable offers to ensure adequate price competition, and if further time, effort and delay to make additional proposals acceptable and thereby increase competition, would not be in the Government's interest.

(5) The buying team may choose to conduct parallel negotiations with all acceptable offerors without a determination of finalists. This could particularly apply when few offers were received.

(6) *Selection.* The procurement team member shall be the source selection official. The source selection official may elect to make selection in lieu of determining finalists provided that it can be demonstrated that (i) selection of an initial offer(s) will result in the lowest price/cost to the Government and (ii) discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation relative to evaluated price/cost. It is expected that the source selection statement will not ordinarily exceed one page and that the basis for the decision will be apparent upon review of the informal worksheets used in the evaluation process. These informal worksheets shall be included in the contract file.

(7) The names of offerors determined to be finalists, selected for parallel negotiations, or selected for negotiations and/or final contract award will be electronically transmitted to the offerors. This will serve as notification to those offers that were not selected for further evaluation (see 1871.505).

(8) *Negotiation methods and procedures.* The buying team may choose to conduct parallel negotiations of complete contracts with those offerors determined to be finalists or with all acceptable offerors, including offers susceptible to being made acceptable. The buying team may discuss any aspect of the offer during parallel negotiations. The objective of the negotiations should be to achieve revisions to the offer, consistent with the RFO, that are more favorable to the Government. Technical transfusion, technical levelling, and auction techniques are prohibited. Upon conclusion of negotiations with each offeror, the offeror shall be asked to submit a revised offer (in full or amended) reflecting the results of negotiations, and including the offeror's signature on the negotiated contract. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. Award will be made to the lowest priced (or most probable cost), technically acceptable offer.

1871.401–4 Competitive negotiations using qualitative criteria.

(a) *Policy.* (1) MidRange procurements shall normally use the BVS source selection method, prescribed in 48 CFR part 1871, subpart 1871.6 when it is desirable to base evaluation and award on a combination of price and non-price qualitative criteria.

(2) The RFO should reserve the right to award without discussion based on the initial offers submitted. (FAR) 48 CFR 52.215–16, Alternate III will be included in all RFO's for competitive negotiated procurements using qualitative criteria.

(3) In exceptionally complex procurements where it is desirable to use a highly structured approach and multiple evaluators, a source selection method following the principles specified in NASA Source Evaluation Board Handbook, 48 CFR 1870.303, Appendix I, may be more appropriate than BVS. This may be appropriate in cases in which the following factors cannot be accommodated within the MidRange/BVS selection methodology:

(i) The ability to predefine the value characteristics that will constitute the discriminators among the offers;

(ii) The complexity of the interrelationships that must be evaluated;

(iii) The number of evaluators required to address the disciplines that will be involved in the offers; or

(iv) The impact that the procurement may have on higher level mission management (level of selection official) or future procurements.

(4) A source selection process combining the mid-range and the NASA Source Evaluation Board Handbook (48 CFR 1870.303, Appendix I) approaches shall not be used.

(b) *Procedures.* (1) The buying team will determine which of the source selection methodologies is most appropriate to the specific procurement.

(2) The team shall record its rationale for selecting the SEB methodology rather than BVS. Once this decision is made, the team shall no longer function as a MidRange buying team, but shall follow the instructions prescribed in the local procedures for the source selection method.

1871.401–5 Noncompetitive negotiations.

(a) *Policy.* (1) The RFO may be used as the solicitation method for noncompetitive procurements.

(2) MidRange procedures may be used in noncompetitive acquisitions to the extent they are applicable.

(b) *Procedures.* (1) Posting a presolicitation notice on the NABB meets the requirement of (FAR) 48 CFR 5.201 and complies with the notice required by the Competition in Contracting Act. A presolicitation notice is not required if one of the exceptions of (FAR) 48 CFR 5.202 is met.

(2) The buying team shall require submission of certified cost and pricing data in accordance with (FAR) 48 CFR 15.804–2.

(3) The technical member of the buying team shall provide technical assistance to the procurement member during evaluation and negotiation of the contractor's offer.

1871.402 Preparation of the RFO.

(a) The RFO shall provide all standard information required for the offeror to submit an offer.

(b) The RFO shall contain space for all necessary additional instructions to offerors. As a minimum, the RFO shall contain the following:

(1) Incorporation by reference of all required standard provisions.

(2) A provision notifying offerors that standard Representations and Certifications will be required from the successful offeror, or from all offerors selected for parallel negotiations, prior to award of the contract.

(3) Evaluation and award criteria.

(4) A provision requiring offerors to submit offers on an attached model contract.

(c) Requirements for the content and format of the offer should be the minimum required to provide for proper evaluation. Offerors' formats should be allowed to the maximum extent possible.

(d) Facsimile offers, defined by Federal Acquisition Regulation 48 CFR 14.202–7 and 15.402(i), shall normally be authorized for MidRange procurements. In special circumstances, the buying team may elect to require only original offers.

1871.403 Offer preparation period and limitations.

The buying team should establish deadlines for receipt of offers based on an assessment of the minimum amount of time required to respond to the solicitation. The time required will depend on the complexity of the requirement and amount of cost and technical information required to be submitted. The information required shall be limited to the amount required to conduct a proper evaluation. The offer preparation period established in the RFO shall not be less than 15 calendar days unless the procurement is urgent and the reasons for urgency are documented in the contract file.

1871.404 Protection of offers.

A facsimile machine(s) shall be dedicated for receipt of offers and placed in a secure location where offers received on it can be safeguarded. All offers submitted shall be recorded, sealed in an envelope marked with the RFO number and taken to the buying team procurement member. Facsimile attendants shall make a good faith effort to inspect the document for completeness and legibility. If the attendant believes there are missing or illegible pages, the document will be promptly referred to the buying team procurement member for notification to the offeror that it should resubmit the offer. The Government shall not assume responsibility for proper transmission.

1871.405 Model contract.

MidRange procedures use a simplified contract format. The simplified contract format may be used with any type of contract, as long as the clauses and provisions appropriate to the contract type are included.

1871.406 RFO by electronic bulletin board.

1871.406–1 Methods of disseminating information.

(a) In accordance with 1871.302, presolicitation notices of solicitations for MidRange procurements shall be posted on the NABB. The presolicitation notice shall include the information required by 1871.302(c).

(b) Solicitations for MidRange Procurements shall be made available on the NABB. Paper copies shall be mailed within 5 working days from the date the RFO is posted on the NABB or receipt of the request, whichever is later.

(c) Solicitations available on the NABB are exempt from the requirement in (FAR) 48 CFR 14.203–1 that delivery of the solicitations be made pursuant to (FAR) 48 CFR 14.205.

(d) For the purposes of (FAR) 48 CFR 15.402(a), a solicitation posted on the NABB is a written solicitation.

(e) Solicitations posted on the NABB in accordance with these regulations are exempt from the requirement in (FAR) 48 CFR 15.408(a) to issue solicitations using the procedures in (FAR) 48 CFR Part 5.

1871.406–2 Special situations.

Notices for special situations as described in (FAR) 48 CFR 5.205 involving MidRange Procurements must be published in the Commerce Business Daily. Such special situations include R&D sources sought, intent to sponsor or change the mission of an Federally Funded Research and Development Center, effort to locate commercial sources under OMB Circular No. A–76, and Section 8(a) competitive national buy acquisitions.

1871.406–3 Publicizing and response time.

In accordance with 18.403, contracting activities shall allow at least 15 calendar days response time for receipt of offers from the date of posting of the solicitation on the NABB. Contracting activities shall check the NABB immediately after uploading a solicitation to assure that the solicitation is properly posted.

1871.406–4 Method of soliciting offers.

(a) Solicitations and solicitation amendments for MidRange procurements shall be generated in, or converted to, electronic files and uploaded to the NABB. Each contracting activity will designate two or more individuals to perform the upload and check the uploaded files to assure that the data was not corrupted during transmission.

(b) Amendments to a solicitation posted on the NABB shall be uploaded to the NABB, and the solicitation and amendment number shall be added to the index of amended solicitations.

Subpart 1871.5—Award

1871.501 Representations and certifications.

Upon determination of the successful offeror, or all offerors selected for parallel negotiations, the buying team procurement member will determine if the offeror has on file valid Representations and Certifications. If the offeror has not completed the required forms, or they have expired, the offeror will be requested to provide the forms promptly. Should the offeror fail to provide the required Representations and Certifications or fail to meet a required condition, the buying team may reject the offer and proceed to the next highest ranked offeror who is responsive and responsible.

1871.502 Determination of responsible contractor.

Contractor responsibility shall be determined in accordance with (FAR) 48 CFR Part 9.

1871.503 Negotiation documentation.

The prenegotiation memorandum, if required, and the results of negotiation will be in abbreviated form and will be approved by the buying team.

1871.504 Award documents.

Contract award shall be accomplished by Contracting Officer execution of the contract document and providing a paper copy to the successful offeror. If facsimile documents were used in the evaluation process, the successful offeror may be required to execute original copies of the contract to facilitate legibility during the administration phase of the contract.

1871.505 Notifications to unsuccessful offerors.

For solicitations that were posted on the NABB, a preaward notice shall be electronically transmitted to the offerors. This notice meets the requirements of (FAR) 48 CFR 15.1001. However, the preaward notice in a small business set-aside must allow unsuccessful offerors 5 working days to challenge the small business status of the successful offeror. The procedures of

(FAR) 48 CFR 15.1001(c)(2) shall be followed for procurements subject to the Trade Agreements Act.

1871.506 Publication of award.

An award notice shall be posted on the NABB for seven (7) calendar days after posting, if the contract offers subcontracting opportunities or if it is subject to the Trade Agreement Act. The information required by (FAR) 48 CFR 5.207 shall be included in the award notice in abbreviated form.

1871.507 Debriefing of unsuccessful offerors.

If the procurement method used provides for a debriefing of unsuccessful offerors, the procedures applicable to that selection process shall be used in the debriefing. The procurement buying team member shall conduct debriefings.

Subpart 1871.6—"Best Value Selection"

1871.601 General.

(a) Best Value Selection (BVS) seeks to select an offer based on the best combination of price and qualitative merit of the offers submitted and reduce the administrative burden on the offerors and the Government.

(b) BVS takes advantage of the lower complexity of MidRange procurements and predefines the value characteristics which will serve as the discriminators among offers. It eliminates the use of area evaluation factors and the highly structured scoring.

1871.602 Specifications for MidRange procurements.

BVS refines the traditional approach to preparing specifications. BVS envisions that the specification will focus on the end result that is to be achieved and will serve as a statement of the Government's baseline requirements. The offeror will be guided in meeting the Government's needs by a separate set of value characteristics which establish what the Government considers to be valuable in an offer. These value characteristics will be performance based and will permit the selection of the offer which provides better results for a reasonable marginal increase in price.

1871.603 Establishment of evaluation criteria.

(a) The requiring organization will provide, along with the specification, a list of value characteristics against which the offers will be judged. There is no limit to the number or the type of characteristics that may be specified. The only standard will be whether the characteristic is rationally related to the need specified in the specification. Characteristics may include such factors as improved reliability, innovativeness of ideas, speed of service, demonstrated delivery performance, higher speeds, ease of use, qualifications of personnel, solutions to operating problems, level of service provided on previous similar contracts, or any of numerous other characteristics that may be of value to the Government in satisfying its needs.

(b) Cost and technical will be considered equal in importance. The value characteristics will not be assigned weights.

(c) All subsequent evaluations will consider these characteristics when determining the finalists or making the final selection for award. Additional characteristics, not listed in the RFO, shall not be used as a basis for discriminating among proposals.

1871.604 Evaluation phases.

1871.604–1 Initial evaluation.

(a) Offers will be reviewed to determine if all required information has been provided and the offeror has made a reasonable attempt to present an acceptable offer. Offerors may be contacted only for clarification purposes during the initial evaluation. No further evaluation shall be made of any offer that is deemed unacceptable because:

(1) It does not represent a reasonable effort to address itself to the essential requirements of the RFO or clearly demonstrates that the offeror does not understand the requirements of the RFO;

(2) It contains major technical or business deficiencies or omissions or out-of-line costs which discussions with the offeror could not reasonably be expected to cure; or

(3) In R&D procurement, a substantial design drawback is evident in the offer and sufficient correction or improvement to consider the offer acceptable would require virtually an entirely new offer.

(b) Offerors determined not to be acceptable shall be notified of their rejection and the reasons therefor and excluded from further consideration.

(c) *Documentation.* If it is concluded that all offers are acceptable, then no documentation is required and evaluation proceeds. If one or more offers are not acceptable, the procurement member of the team will notify the offeror of the rejection and the reasons therefor. The documentation should consist of one or more succinct statements of fact that show the offer is not acceptable.

1871.604–2 Determination of "Finalists".

(a) All acceptable offers will be evaluated against the specifications and the value characteristics. Based on this evaluation, the team will identify the finalists from among the offers submitted. Finalists will include all offers having a reasonable chance of being selected for final award, as prescribed in 1815.613–71(b)(4)(i) for competitive range. Generally, finalists will include the offer having the best price (or lowest most probable cost) and the offer having the highest qualitative merit, plus those determined to have the best combination of price and merit. Offers not qualifying as finalists will be excluded from the balance of the evaluation process.

(b) Whenever possible, the buying team will conduct parallel negotiations of complete contracts with all finalists as discussed in 1871.605. This approach, which provide for the negotiation of definitive contracts prior to selection, serves to maintain the competitive environment among offerors throughout the acquisition cycle.

(c) In some cases, the buying team may choose to conduct discussions with the finalists as opposed to conducting parallel negotiations of complete contracts. This may be appropriate when: (1) Certain aspects of offers are unclear and clarifying the offers could determine that a finalist actually has no reasonable chance of being selected for final award; or (2) the finalists are so numerous that negotiating complete contracts with all finalists is not practical considering the time and resources available. Discussions shall be conducted in accordance with 1871.604–3.

(d) The buying team may choose to conduct parallel negotiations with all acceptable offerors without a determination of finalists. This could particularly apply where few offers were received.

(e) The selection official may elect to make selection in lieu of determining finalists, provided it can be clearly demonstrated that (1) selection of an initial offer(s) will result in the best value for the Government, considering both price and non-price qualitative criteria; and (2) discussions with other acceptable offerors are not anticipated to change the outcome of the initial evaluation relative to the best value offer(s).

(f) *Documentation.* If finalists are identified as discussed in paragraph (a) of this section, the documentation expected and required to result from this phase of evaluation is approximately one-quarter of a page for

each finalist. The documentation shall succinctly describe how the value characteristics in the RFO were provided by the offeror and cost/price considerations that caused the offer to qualify as a finalist. The evaluator(s) shall not be required to justify why other offers provided less qualitative merit. It is expected that, should the decision be challenged, the documented reason for selection, when compared with the non-selected offer, shall clearly demonstrate the difference that resulted in non-selection. It is expected and recommended that all informal worksheets used in the evaluation process be included in the contract file for use in any debriefings requested. When selection of the successful offeror(s) is made, the buying team shall document the selection in accordance with 1871.604–4(c).

(g) The names of offerors determined to be finalists, selected for parallel negotiations, or selected for negotiations or final contract award will be electronically transmitted to the offerors. This will serve as notification to those offerors that were not selected for further evaluation (see 1871.505).

1871.604–3 Discussions with "Finalists".

(a) The procurement team member shall lead discussions with each finalist. The discussions are intended to assist the buying team in fully understanding each finalist's offer and to assure that the meanings and points of emphasis of the RFO have been adequately conveyed to the finalists so that all are competing equally on the basis intended. Care must be exercised to ensure these discussions adhere, to the extent applicable, to the guidelines set forth in 1815.613–71(b)(5) for the applicable contract type. Technical transfusion, technical leveling, and auction techniques are prohibited. It is expected that these discussions will be conducted on an informal basis with each finalist.

(b) After completion of discussions, each finalist shall be afforded an opportunity to revise its offer to support and clarify its offer. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each finalist.

1871.604–4 Selection of "Best Value" Offer.

(a) The procurement team member shall be the source selection official.

(b) The BVS source selection is based on the premise that, if all offers are of approximately equal qualitative merit, award will be made to the offer with the lowest evaluated price (fixed-price contracts) or the Government-determined most probable cost (cost type contracts). However, the Government will consider awarding to an offeror with higher qualitative merit if the difference in price is commensurate with added value. Conversely, the Government will consider making award to an offeror whose offer has lower qualitative merit if the price (or cost) differential between it and other offers warrant doing so.

(c) *Documentation.* Rationale for selection of the successful offeror shall be recorded in a selection statement which succinctly records the value characteristics upon which selection was made. The statement need not and should not reveal details of the successful offer that are proprietary or business sensitive. Since the value characteristics are expressed in performance terms, the reasons for selection can focus on results to be achieved, rather than the detailed approach the offeror will use. The statement shall also comment on the rationale used to equate cost and qualitative merit. Little or no comment would be required when the selected offeror possessed the highest merit and lowest price. When a marginal analysis is made between value characteristics and price (or cost)—in most cases this will be a subjective, integrated assessment of all pertinent factors—specific rationale should be provided to the extent possible. It is expected that the statement will not ordinarily exceed one page. Where the procurement is closely contested, it would be prudent to expand on the rationale provided in the statement.

(d) The name of the offeror(s) selected for award and the selection statement shall be electronically transmitted to the offerors which will serve as a notification to those offerors that were not selected (see 1871.505).

1871.605 Negotiation methods and procedures.

(a) *Policy.* (1) The buying team may choose to conduct parallel negotiations of complete contracts with those offerors determined to be finalists or with all acceptable offerors. Parallel negotiation may also be used where more than one offeror is selected for negotiations after discussions. Use of parallel negotiations takes advantage of the competitive atmosphere and the responsiveness of offerors in completing negotiations. It also provides the selection official a higher confidence in the offer, since only the contracting officer's signature is required to make the offer a binding contract.

(2) When the selection official has chosen to make selection in lieu of conducting parallel negotiations, negotiations may be conducted with the successful offeror(s) to resolve any open issues necessary to effect a binding contract(s). This may be typical of R&D and service contracts where the Government desires to negotiate changes in emphasis or orientation in an otherwise superior offer(s).

(b) *Procedure.* (1) Upon conclusion of parallel negotiations with each offeror, the offeror shall be asked to submit a revised offer (in full or amended) reflecting the results of the negotiations, and including the offeror's signature on the negotiated contract. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. The amount of time given shall be the same for each offeror. Upon receipt of all offers, the procurement member of the buying team shall make selection and document as required in 1871.604–4(c). Upon selection, the contracting officer shall execute the selected contract.

(2) If negotiation is conducted after selection, the buying team shall first select the offer and document as required in 1871.604–4(c), then negotiate the terms of the contract. The offeror shall be asked to submit a revised offer reflecting the results of negotiation, and including the offeror's signature on the negotiated contract. A reasonable amount of time (normally less than 5 working days) will be afforded for the revision. After receipt of the revised offer, the contracting officer shall execute the contract.

1871.606 Debriefings.

In addition to electronically transmitting the selection statement to the offerors, a debriefing, a debriefing will be provided by the buying team procurement member to any offeror submitting a written request. The debriefing will concentrate on the reasons why the successful offeror was selected. If the contract is unclassified, the debriefer may reveal any aspect of the contract and how it relates to the merits used to select the successful offer. If the successful offer had value characteristics which are proprietary or business sensitive, and had an impact on the selection, the debriefer should so state and summarize the results which are expected to accrue to the Government. The debriefer shall not divulge the details of the proprietary or business sensitive information.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC–91–1]

Qualification of Drivers; Vision Deficiencies; Waivers

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Final Determination and change in research plan.

SUMMARY: The FHWA announces its Final Determination which validates waivers issued to certain drivers of commercial motor vehicles (CMV) from the date of this notice until March 31, 1996. This action is directed solely at those drivers who had been granted temporary waivers to participate in the previously authorized vision waiver study, who numbered 2,399 as of November 5, 1994. This action follows, and is consistent with, the decision of the U.S. Court of Appeals for the D.C. Circuit in the case captioned *Advocates for Highway and Auto Safety* v. *Federal Highway Administration*, 28 F.3d 1288, D.C. Cir. 1994, which vacated the rule authorizing the temporary waivers and remanded the matter to the agency for further action not inconsistent with the Court's ruling. This notice also announces a basic change in the purpose for which data on the waived drivers are being collected and the intention of the FHWA to develop criteria for the imposition of additional conditions for maintaining the waivers and to improve monitoring of the performance of the waived drivers to identify and exclude those drivers who do not meet these conditions.

DATES: This final determination is effective on November 8, 1994.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a special telephone number to receive inquiries regarding this notice. The number is 1–800–832–5660. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Section 206(f) of the Motor Carrier Safety Act of 1984, (MCSA) Pub. L. No. 98–554, 98 Stat. 2832 (codified at 49 U.S.C. 31136(e), formerly 49 U.S.C. app. 2505(f)), allows the Secretary of Transportation to grant waivers from the Federal Motor Carrier Safety Regulations only after a determination that such waivers are not contrary to the public interest and are consistent with the safe operation of CMVs. Historically, except for a limb-handicap waiver program established in 1979 (49 CFR 391.49), the agency granted no individual waivers to drivers who did not meet the physical qualification requirements set forth at 49 CFR 391.41.

Vision Waiver Study

The FHWA announced its vision waiver study in a Notice of Intent to accept applications for waivers on March 25, 1992, (57 FR 10295). This vision waiver study was initiated as part of an overall regulatory review of the medical qualification standards applicable to interstate CMV drivers. For a complete description of the waiver program, see the FHWA's October 6, 1994, Notice of Determination; request for comments, at 59 FR 50887.

Court Decision

The Advocates for Highway and Auto Safety (hereinafter Advocates or AHAS) filed suit in the United States Court of Appeals for the D.C. Circuit, requesting a review of the FHWA's notice of final disposition granting waivers to individuals who otherwise did not meet the Federal vision standard required for the qualification of CMV drivers in interstate commerce. The Court found that the FHWA's notices of the program did provide for meaningful opportunity for comment and that the comments received were given due consideration. The Court also held that the FHWA's approach, given the conflicting policy demands, was reasonable, and therefore not arbitrary and capricious. The Court observed, however, that the FHWA "initiated a program to issue temporary waivers to visually impaired drivers in order to procure the hard evidence needed to determine the effect of visual deficiencies on safety. Yet, before it may grant a waiver, the Safety Act required the agency to determine that such waiver * * * is consistent with the safe operation of commercial motor vehicles." 28 F.3d at 1294. The Court found that the agency's "determination that the waiver program will not adversely affect the safe operation of CMVs is devoid of empirical support in the record," 28 F.3d at 1294, and that "the FHWA has failed to meet the exacting requirements of section 2505(f) [now 49 U.S.C. 31136(e)]." 28 F.3d at 1294. Consequently, the Court concluded that the FHWA's adoption of the waiver program was contrary to law, and vacated and remanded the rule to the agency.

Proceedings after the Court Decision

On October 6, 1994, the FHWA published a Notice of Determination, request for comments in the Federal Register (59 FR 50887), extending the validity of the vision waivers for a thirty-day period. The Notice also provided for a 15-day comment period to consider whether the agency had sufficient empirical evidence to allow the waiver program to continue until March 31, 1996. On the same day, the Advocates filed an emergency motion requesting that the Court issue and enforce a mandate in this case that would, in effect, halt the waiver program. The Court issued a mandate on October 21, 1994. That mandate simply restated that the rule authorizing the vision waivers is vacated and remanded the case to the agency. On October 24, 1994, the Court denied the Advocates' emergency motion.

Comments

The FHWA received 19 comments to the docket in response to the October 6 Notice of Determination. Fourteen commenters favored continuing the vision waiver program, while five commenters asserted that the program should be discontinued. Commenters in favor of continuing the program include the National Private Truck Council, the International Brotherhood of Electrical Workers, the Association for the Advancement of Automotive Medicine, the Tennessee Public Service Commission, the Owner-Operator Independent Drivers Association (OOIDA), John Murphy (a driver participating in the waiver program), Thomas Breth and James Strickland (drivers not participating in the waiver program), Altim, Inc., Mixson Oil Company, the State of Indiana Department of Motor Vehicles, Daily Express, Inc., and the American Optometric Association.

Commenters urging the agency to discontinue the vision waivers are the Advocates (two separate comments), the Insurance Institute for Highway Safety (IIHS), the American Movers Conference, the American Trucking Association (ATA), and Dr. Arthur M. Keeney, Dean Emeritus, University of Louisville. Their comments addressed the study design, the lack of a control group, the use of interim data, and other factors which, they contend, require the study's termination, or at a minimum, a restructuring of the method for conducting research.

These comments are more fully discussed below.

Discussion of the Comments

A. In favor:

The State of Indiana Department of Motor Vehicles emphasizes the importance of the vision waiver as a tool to accurately assess the vision standards

for commercial drivers, specifically addressing the condition known as amblyopia, or "lazy eye." The State acknowledges that persons with less than perfect vision often develop scanning techniques to compensate for their disability, and that such techniques may actually increase their awareness of traffic and other conditions. The Tennessee Public Service Commission commented that it has grandfathered vision impaired CMV drivers and found no increase in incidents or accidents as a result.

OOIDA, a national trade association representing the interests of a large number of independent owner-operators at both the Federal and State level, urged the FHWA to revalidate the waivers of the affected drivers because delay and uncertainty cause them significant harm. OOIDA believes that the FHWA's proposal "strikes a careful balance between safety * * * and the federal policies underlying the Americans with Disabilities Act and the Rehabilitation Act."

The American Optometric Association (AOA) supports the FHWA effort to study the performance of visually impaired drivers. The AOA believes "it is virtually impossible to unequivocally delineate a visual standard," and therefore, contends that a waiver system is needed.

Daily Express, Inc., Mixson Oil Company, Inc. and Altim, Inc. offer the performance of their employees with waivers as examples of the ability of drivers to compensate for their disability and remain safe operators of CMVs. These companies express concern over replacing waived drivers with known safety records with other drivers whose safety record is not of the same high caliber.

The National Private Truck Council (NPTC) also expressed support for the continuation of the vision waivers. The NPTC stresses the need for the type of data being collected from the waived drivers, as no such information currently exists. The NPTC believes that the FHWA's qualifying conditions for drivers, as well as the post-waiver conditions, ensure that those drivers holding waivers are safe operators of CMVs. The Association for the Advancement of Automotive Medicine also expresses the need for the data being gathered, although it has some reservations regarding the agency's study methodology.

Individual drivers Thomas Breth, James Strickland and John M. Murphy also commented favorably to the October 6 notice. The latter commented on his own behalf and on behalf of a freightline company he owns and operates with his brothers. Mr. Breth, who petitioned the U.S. Court of Appeals for the Eighth Circuit because he was excluded from the vision waiver study because he did not timely file, submitted extensive records relating to that litigation. Although he supports the waivers, he opposes limiting them to those drivers originally granted the waivers under the determination that was invalidated by the D.C. Circuit in *AHAS, supra.*

The International Brotherhood of Electrical Workers supports the 30-day extension of the waivers, but does not comment on the extension of the waivers through March 31, 1996.

B. In opposition:

The Insurance Institute for Highway Safety accurately portrays the FHWA's premise for its "consistent with safety" determination as being that drivers with relatively clean driving records are at a lower risk for future accidents and that this is borne out in the crash experience of drivers in the waiver group as compared with the general commercial driver population. It concedes that the studies cited by the FHWA and other studies [1] referred to in the IIHS comments "(r)epeatedly * * * have shown that prior citations and crashes can be used as predictors of future crash risk (citations omitted)," and acknowledges that such research "amply justifies driver control policies based on driver records, such as point systems, suspensions, and revocations."

The IIHS, however, goes on to contend that these justifications are specious. It cites several studies which show that many drivers with clean driving records are involved in accidents, and that many drivers with poor driving records over a three-year period experience accident-free periods of equal length. A 1994 California report is cited which "did find that crash risk increases as a function of the number of crashes and citations on a drivers prior record. Of the two, prior citations is a slightly better indicator of subsequent crash risk, but subsequent crash risk can be more accurately predicted from a combination of prior crash and prior citation information than from either alone." Significantly, it is this combination that the FHWA relied upon to reach its "consistent with safety" determination. The IIHS contends that none of the findings in the California report support the proposition that "the absence of citations or crashes can be used to predict a crash-free future."

It is apparent from its comments that the IIHS believes that the FHWA, in order to reach a "consistent with safety" determination, was bound to predict with some certainty that the waived drivers would be accident-free. The FHWA rejects this contention. The FHWA's determination is based on a reasonable expectation, supported by the studies cited both in the October 6 notice and in the IIHS comments, that the waived drivers with relatively clean driving records, as a group, would present less of a risk to public safety than a representative group of drivers, meeting existing standards, to be used in place of the waived drivers.

The IIHS also faults the FHWA for ignoring the data gathered to date on fatal crash involvement of the waived group. Because of reporting errors by the drivers, which were detected and corrected through the FHWA back-up monitoring systems, much of the information on fatal accident involvement was not available by the time "The Third Interim Monitoring Report on the Drivers of Commercial Motor Vehicles Who Receive Vision Waivers" was completed on June 27, 1994. That report analyzes data collected from July, 1992, through February, 1994. The Fourth Interim Monitoring Report, which has been placed in the docket, includes both the fatal and non-fatal accident rates resulting from all data accumulated through June 30, 1994. The fatal accident rate for the waived group of drivers is indeed slightly higher than the general truck driving population. However, in none of the fatal accidents was the waived driver issued a citation or found by the reporting police officer to have been at fault.

Finally, the IIHS is critical of the study methodology and faults the FHWA for its failure to use a control group as originally planned. The FHWA will more fully address this in the methodology to be developed to establish parameters for a performance-based vision standard.

The American Trucking Associations, Inc., a national trade association of the trucking industry, also commented in opposition to the FHWA proposal. The ATA had participated in the D.C. Circuit case, *AHAS* v. *FHWA, supra.*, by filing an *amicus curiae* brief in support of the petitioner's challenge to the waiver

[1] Gebers and Peck, 1994, An Inventory of California Driver Accident Risk Factors. Sacramento, CA: California Dept. of Motor Vehicles, "the California study"; Gebers and Peck, 1987, Basic California Traffic Conviction and Accident Record Facts. Sacramento, CA, California Dept. of Motor Vehicles; Lund, 1984, Driver Records and Crash Prediction, Arlington, VA: Insurance Institute for Highway Safety; California Department of Motor Vehicles, 1981, California Driver Fact Book, Sacramento, CA: Dept. of Motor Vehicles; IIHS, 1988, Drivers' Crash, Violations Records Predict Future Crash Involvement, Advisory No. 6, Arlington, VA: Insurance Institute for Highway Safety.

study. The ATA contends that the decision of the Court of Appeals in *AHAS* was broad enough to preclude the FHWA's present proposal. The FHWA disagrees for the reasons stated herein and in its filings with the D.C. Circuit in opposition to the AHAS motion for issuance and enforcement of a mandate, which the court dismissed. The filings in that matter are recorded in the docket.

The ATA suggests that pooling of the waived drivers may mask poor performance by individual members of the pool, and that comparisons with general populations are faulty because the waived group contains only experienced drivers. The ATA then significantly concedes that "(a) pool of experienced drivers will also appear to be safer than the national pool which includes new drivers and drivers with various driving experience." That is precisely the point. The FHWA's "consistent with safety" determination is based on the premise. The waived drivers had all been operating commercial motor vehicles on the highways when the waivers were issued to them. If they were required to stop driving they would have to be replaced by drivers drawn from the general population of truck drivers or new drivers. This is particularly true in this era of driver shortages which the ATA has publicly and repeatedly proclaimed. (See, e.g., *Transport Topics*, No. 3050, January 17, 1994, p. 12; and No. 3083, September 5, 1994, p. 42 and p. 49.)

The ATA also faults the study design because it will never be probative of "the ability of visually impaired drivers, in general, to operate CMVs safely." The ATA states that this is because "the study is limited to the experiences of these apparently better-than-average drivers." Once again, the ATA makes the FHWA's point. The "consistent with safety" determination relates to the issuance of the waivers, and not to the design or conclusions to be drawn from the study. The FHWA recognizes that the study as presently fashioned has some problems, which the FHWA is taking steps to correct. The FHWA also recognizes that its group of waived drivers may include some subpar performers who individually may present an unacceptable risk to safety. The FHWA is taking steps to identify and exclude such drivers, while at the same time maintaining the integrity of the overall waiver program.

Finally, the ATA contends that the FHWA proposal is an attempt to give retroactive effect to its previous waiver rule, and that this is violative of the Administrative Procedure Act, citing *Georgetown University Hosp.* v. *Bowen*, 821 F.2d 750 (D.C. Cir. 1987), *aff'd.*, 488 U.S. 204 (1988). The *Georgetown* case involved a rule issued by the Department of Health and Human Services (HHS) that affected the formula under which hospitals were to be reimbursed for the provision of certain health services. After the rule was invalidated because it was issued without opportunity for public comment, the HHS issued a new rule retroactive to an earlier date. On the basis of this new rule, the HHS then sought reimbursement from the hospitals for payments made before the date of the new rule which were greater than would be allowable under the new formula.

The FHWA's decision allowing waived drivers to operate in interstate commerce until March 31, 1996, has no retroactive effect whatsoever. It speaks only prospectively. On September 30, the FHWA validated the waivers for a 30-day period and requested comments.

Moreover, the rule in this instance was not vacated for procedural error, as it was in the *Georgetown* case. In this instance, the rule was vacated after the court determined that the agency did not have the necessary empirical evidence in the record to support its assertion that the waivers were consistent with the safe operation of CMVs. The Notice published on October 6 provided the necessary empirical evidence for the future effect of the waivers, including data on the driving performance of the waived group of drivers as a whole, which clearly indicates that allowing this group to continue operating in interstate commerce is consistent with the safe operation of CMVs. (See 59 FR 50887 at 50889, 50890, October 6, 1994). In providing the necessary empirical evidence, the agency cured the defect and now validates the waivers through March 31, 1996. Consequently, this action is entirely consistent with the APA.

The comments of the American Movers Conference merely voice its support for the position taken by the ATA.

Arthur H. Keeney, M.D., D.Sc., a Distinguished Professor of Ophthalmology and Dean Emeritus of the University of Louisville Department of Ophthalmology urged the FHWA to hold to its previously established physiologic standards without further reduction. Dr. Keeney suggested that the FHWA might grandfather the remaining waived drivers into the system as a means of proceeding away from the agency's current course, but recommended against enrolling any more "monocular blind or "visually deficient drivers' who may be interpreted as otherwise qualified to meet occupational requirements." Dr. Keeney also submitted a recently prepared but thus far unpublished paper entitled "The Monocular Quandary" which includes an extensive bibliography. The paper supports the current standard and explores operational problems, particularly associated with individuals with no vision in one eye. The FHWA believes the comments and the research paper of Dr. Keeney will be useful in its pursuit of performance-based vision standards.

Strong opposition to the FHWA proposal was also received from the Advocates for Highway and Auto Safety (AHAS), the petitioner in the D.C. Circuit case referred to throughout this notice. The AHAS reargues its position in the court proceeding both before and after judgment and urges a broader interpretation of the court's decision.

The Advocates also believe that the waived drivers could have been "grandfathered" into a qualified status, and, indeed, that such an alternative is still available to the FHWA. It is unclear how the effect of this approach would differ in any significant degree from that of the route chosen by the FHWA. The Advocates contend that the FHWA misused the data from the vision waiver study, ignoring the advice of its own experts in the process. We believe the AHAS is confusing the basis for a "consistent with safety" determination to justify the issuance of the waivers in order to conduct the study with prejudging the outcome of the study. As mentioned above, the FHWA concedes that the study, as currently designed, will not produce, by itself, sufficient evidence upon which to develop a new vision standard, and the FHWA has never claimed that the study was intended to create a standard, per se, for issuing waivers.

Finally, the AHAS criticized the FHWA for not being candid with the data it has obtained during the course of the vision waiver study. It claims that the FHWA has underreported fatalities. The FHWA has made every attempt to be forthcoming regarding the data and accident information compiled. In fact, the State police and accident reports referred to in comments by the Advocates were provided promptly and directly to the AHAS by the agency. This issue, however, has convinced the agency to take steps to improve its monitoring systems.

The Fourth Interim Report has been completed by the contractor and covers cumulative activities and mileage through June 30, 1994. Since the June 30 date, another waived driver has been

involved in a fatal accident. As of June 30, the fatal accident rate for waived drivers is 0.034 per million vehicle miles travelled (VMT) as compared to the national rate computed from GES data of 0.026. The total accident rate for drivers in the waived group is 1.636 per million VMT compared with the rate of 2.531 per million VMT computed from GES data. Given the small number of fatal accidents that have occurred, these rates can represent only approximate estimates of what may actually be expected to occur on the highways. Therefore, conclusions drawn solely from them must be cautiously interpreted.

Additionally, the fatal accidents that have occurred were not necessarily related to the drivers' vision impairments. The most recent fatality, which was promptly reported by the waived driver involved, occurred when an automobile collided with the rear end of the truck operated by the waived driver. The police accident report indicated there was no fault on the part of the truck driver. A review of the police accident reports of the previous 6 fatal accidents in which waived drivers were involved also reveals that none of the waived drivers was found to be at fault by the reporting police officer.

Status of the Waived Drivers

The FHWA has reviewed all the comments carefully, conferred with its contractor administering the agency's vision waiver program and conducted peer reviews regarding the studies and other evidence submitted by the commenters. The FHWA believes that continuing to allow those drivers operating commercial motor vehicles in interstate commerce while holding Federal vision waivers is consistent with the two-pronged test set forth in the Motor Carrier Safety Act of 1984 (49 U.S.C. 31136(e) (1994)).

As discussed above, even the comments opposing the vision waivers did not refute the premise upon which the "consistent with safety" determination articulated in the October 6 notice was based. The studies referred to by the FHWA to support the proposition that a group of experienced drivers with clean driving records over a 3-year period will present less of a risk than a group of drivers selected from the general truck driving population to replace them over a similar 3-year period were not contradicted. In fact, studies referred to by some of the commenters opposing the vision waivers bolstered this position. The opposing commenters did, however, point out some weaknesses in monitoring the performance of the waived drivers which can be corrected to assure the continued safety of these drivers.

To correct these and assure the continued safety of the drivers, the FHWA will, within the next 60 days, undertake a close review of the data gathered thus far and develop additional criteria which the waived drivers will be required to meet as conditions of retaining the waiver. These conditions will be communicated directly to the waived drivers. In those 60 days, the FHWA will also improve its monitoring systems to enable the agency to more promptly identify subpar performers among the waived group to ensure that safety is maintained.

Determination

The FHWA has determined that the issuance of waivers to the 2,399 drivers remaining in the study group is consistent with the public interest and the safe operation of commercial motor vehicles. This determination is based on studies referred to herein and data gathered during the course of the last two years which support the proposition that a group of experienced drivers of commercial motor vehicles with clean driving records, including both accident and citation records over the previous three years, will present a lower risk to safety over the following 3 years than a group of the same size comprised of drivers representing the general truck driving population, including new drivers, over the same 3-year period. The statistics that have been gathered from the waived drivers to date indicate that this class of drivers has performed and continues to perform more safely than those drivers in the general population of commercial drivers.

The waivers were issued to these drivers following an individual determination of each driver's capability to operate a commercial motor vehicle (CMV) safely. This individual determination consisted of a review of each individual's vital statistics, employment history, status of driving privilege as recorded on the licensing State's MVR and the license status for the past three years, and expert medical opinion by an ophthalmologist or optometrist attesting to the visual acuity of each driver and its effect on his or her ability to perform the driving task safely. Once a driver was granted a waiver, he or she was, and is, required to submit monthly driving reports and be examined annually by an ophthalmologist or optometrist and submit the results of that examination to the FHWA. Failure to report timely as required will result in the initiation of a process to revoke the waiver. Moreover, the FHWA's contractor periodically verifies the waived drivers reported accidents and citations through each driver's State motor vehicle record (MVR). Medical reports are also verified. The drivers holding waivers from the Federal vision standards, as is true of all drivers in the general population, are not immune from State or Federal enforcement or licensing sanctions by virtue of their participation in the waiver study, and are subject to the penalty provisions of the commercial drivers' license regulations (49 CFR Part 383), State and local licensing sanctions, as well as the penalty provisions set forth as conditions of the waiver.

In addition, the FHWA believes that the continued employment of individuals with proven safe driving records is in the public interest. The comments to the docket reflect several instances where companies employing waived drivers rely heavily upon their waived drivers because these drivers are consistently safe operators of CMVs. Permitting waived drivers to continue operating in interstate commerce is also consistent with the public interest policy of employing persons with disabilities, which is evidenced in both the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

Status of the Study

The agency believes that the observations made by the Advocates, the ATA, the IIHS and others regarding flaws in the current research method have merit. In addition, several experts reviewed the studies and data upon which the FHWA based its "consistent with safety" determination and were unanimous in finding (1) the waived drivers as a group would be expected to perform as well as or better than a group of equal size drawn at random from the general truck driving population because of the preselection criteria and conditions; and (2) the data developed by the study will never answer the question as to what the standards should be. Consequently, the FHWA has decided to develop and implement, with the input of these commenters and others, a new research method that will address the concerns of these commenters.

The FHWA will undertake comprehensive research to develop parameters for performance-based visual standards for all commercial drivers. The agency anticipates that any new vision standards will consider at least three critical aspects of visual performance: static acuity, dynamic acuity, and useful field of view. The

vision standard found at 49 CFR § 391.41(b)(10) will remain in effect until the completion of this research and the implementation of any new standard. The agency's ultimate goal is to adopt driver physical qualification standards that are performance-based: that is, they will reflect the actual physical requirements that fosters safe operation of commercial vehicles.

Development of standards will begin with an analysis of the existing body of knowledge, including knowledge gained from this project when completed, and from analogous applications of visual standards in other environments (e.g., Department of Defense, Federal Aviation Administration, and National Aeronautical and Space Administration). The final standards will be developed in careful consideration of the practical constraints of driver vision testing, cost, examiner training, testing time, and requirements for development of new testing equipment, all of which will be balanced against projected safety improvements.

The FHWA will proceed within the following framework:

- FHWA will develop a sound methodology, based on accepted experimental and statistical practices, for developing visual standards.
- The development process will include consideration of the collected accident experience of commercial vehicle operators, including the drivers holding vision waivers.
- Before a final method and design for developing standards is determined, FHWA will announce its proposed method and design for discussion at a public meeting to be held in the Spring of 1995. The proposed method will be open to public scrutiny. The final methodology will be published in the **Federal Register**.
- The FHWA will announce the results of the study, the proposed standards and a proposed plan for implementing the standards at the completion of this study.

Public Hearing on Vision Standard and Waiver Program

As mentioned earlier, the FHWA intends to announce its proposed revisions to the research method at a public hearing to be held in Spring 1995. The FHWA is eager to gain a broader perspective of the public's viewpoint concerning other studies, data and experiences which will enhance the agency's knowledge on the subject of a performance-based vision standard. The FHWA is also interested in sharing its data with other researchers and agencies which may undertake useful analyses and initiate studies leading to new approaches in establishing future physical qualification standards, standards that are both necessary and valid to increasing opportunities in the truck-driving profession while ensuring that society's high expectations of CMV safety are realized. Notice of the hearing will be published in the **Federal Register** and will contain further questions to which the agency seeks responses, as well as directions on how to obtain information about the data collected during the vision waiver study.

Conclusion

Based upon the comments to the docket and the empirical evidence gathered to date, the FHWA will allow those drivers currently holding waivers from the Federal vision standard to continue to operate in interstate commerce until March 31, 1996. This permission is conditioned upon each driver's continued compliance with the reporting requirements outlined in the **Federal Register** on July 16, 1992 (57 FR 31458) and again on October 6, 1994 (59 FR 50887) and such further conditions and monitoring as may be imposed by the FHWA in the interest of safety. Waived drivers also remain subject to State or Federal enforcement or licensing sanctions. Additionally, the FHWA will concurrently undertake research to develop comprehensive, performance-based visual standards for all commercial drivers. This proposed analysis and research method will be presented at a public hearing to be held in Spring 1995, and the public will be invited to comment on the research method. And finally, the FHWA, within the next 60 days, will complete a review of the performance data on the waived drivers to develop criteria which will form the basis for further conditions which will be imposed directly on the waiver holders and will further reduce the safety risks to these drivers and highway users.

Issued on: November 9, 1994.

Rodney E. Slater,

Federal Highway Administrator.

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Proposed Rules

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Vol. 59, No. 221
Thursday, November 17, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–ANE–07]

Airworthiness Directives; Teledyne Continental Motors (formerly Bendix) S–20, S–1200, D–2000, and D–3000 Series Magnetos

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This notice revises an earlier proposed airworthiness directive (AD), applicable to Teledyne Continental Motors (TCM) (formerly Bendix) S–20, S–1200, D–2000, and D–3000 series magnetos equipped with impulse couplings, that would have superseded an AD that currently requires inspections for wear, and replacement, if necessary, of the impulse coupling assemblies. The proposed rule would have retained the repetitive inspections for wear required by the current AD, but would have also required replacement, if necessary, of riveted impulse coupling assemblies with newly designed, improved, snap ring impulse coupling assemblies. In addition, the proposed AD would have required marking the magneto data plate to indicate installation of a snap ring impulse coupling assembly. Installation of snap ring impulse coupling assemblies would have constituted terminating action to the inspection requirements of the AD. That proposal was prompted by availability of an improved design for the impulse coupling assembly. This action revises the proposed rule by retaining the 500 hour repetitive inspections for wear required by the current AD but makes them effective for the snap ring couplings as well. The actions specified by this proposed AD are intended to prevent magneto failure and subsequent engine failure.

DATES: Comments must be received by January 17, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–07, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, AL 36601; telephone (205) 438–3411. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Jerry Robinette, Aerospace Engineer, Atlanta Aircraft Certification Office, FAA, Small Airplane Directorate, 1669 Phoenix Parkway, Suite 210C, Atlanta, GA 30349; telephone (404) 991–3810, fax (404) 991–3606.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–ANE–07." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–ANE–07, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On January 4, 1983, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 78–09–07 R3, Amendment 39–4538 (48 FR 1482, January 13, 1983), to require inspections for wear, and replacement, if necessary, of the impulse coupling assemblies on certain Teledyne Continental Motors (TCM) (formerly Bendix) S–20, S–1200, D–2000, and D–3000 series magnetos equipped with impulse couplings. That action was prompted by reports of numerous magneto failures. That condition, if not corrected, could result in magneto failure and subsequent engine failure.

A proposal to amend part 39 of the Federal Aviation Regulations was published as a notice of proposed rulemaking (NPRM) in the Federal Register on September 21, 1993 (58 FR 48987). That NPRM would have retained the repetitive inspections for wear required by the current AD, but would have also required replacement, if necessary, of the riveted impulse coupling assembly with newly designed, improved, snap ring impulse coupling assemblies. In addition, the proposed AD would have required marking the magneto data plate to indicate installation of a snap ring impulse coupling assembly. Installation of snap ring impulse coupling assemblies would have constituted terminating action to the inspection requirements of this AD. That NPRM was prompted by the manufacturer redesigning the impulse coupling assembly to include snap ring fastening technology which strengthens the cam axle and reduces wear. The snap ring impulse coupling assembly was believed not to have the failure mode of the previous design.

Since the issuance of that NPRM, the FAA has received reports of snap ring impulse coupling assemblies being worn beyond limits. This supplemental proposed AD would therefore retain the 500 hour repetitive inspections for wear required by the current AD, but would require these inspections for magnetos equipped with snap ring impulse coupling assemblies as well. Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA has reviewed and approved the technical contents of TCM Mandatory Service Bulletin (MSB) No. MSB645, dated April 4, 1994, that describes procedures for inspection of the impulse coupling assemblies for wear; and TCM SB No. 639, dated March 1993, that clarifies procedures for installation of impulse coupling assemblies.

The FAA estimates that 130,000 magnetos would be affected by this proposed AD, that the required inspection would take 1 work hour, plus 1 work hour to change the impulse coupling, and that the average labor rate is $55 per work hour. The average utilization of the fleet of these airplanes is estimated to be evenly divided between commercial/commuter service and private owners. The commercial/commuter service population is estimated to operate 500 hours time in service (TIS) per year; therefore the cost to perform the inspections required by the proposed AD would be approximately $3,575,000 per year. The FAA estimates that private owners operate their aircraft between 50 and 100 hours TIS per year; therefore it will take approximately 5 to 10 years to reach 500 hours time in service. The estimated cost for these owners would also be $3,575,000 spread over a time period of 5 to 10 years or 715,000 per year for 5 years or $357,500 for 10 years. The cost to replace the impulse coupling assembly is $125 per magneto plus one work hour at $55 per work hour for a total of $180 per magneto. While all the riveted impulse coupling assemblies will eventually have to be replaced, it is not possible to estimate the cost per year. The total cost for replacement for U.S. operators would be $23,400,000.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Teledyne Continental Motors: Docket No. 93–ANE–07.

Applicability: Teledyne Continental Motors (TCM) (formerly Bendix) S–20, S–1200, D–2000, and D–3000 series magnetos equipped with impulse couplings, installed on but not limited to reciprocating engine powered aircraft manufactured by Beech, Cessna, Mooney, and Piper.

Note: The Federal Aviation Administration (FAA) has received reports of some confusion as to what is meant by S–20, S–1200, D–2000, and D–3000 series magnetos as referenced in TCM Mandatory Service Bulletin (MSB) No. MSB645, dated April 4, 1994, and this airworthiness directive (AD). A typical example is S6RN–25, where the S designates single type ignition unit (a D designates a dual ignition unit), the 6 designates the number of cylinders, the R designates right hand rotation, the N is the manufacturer designation (this did not change when TCM purchased the Bendix magneto product line), and the number after the dash indicates the series (a–25 is a S–20 series magneto while a–3200 is a D–3000 series magneto, etc.).

Compliance: Required as indicated, unless accomplished previously.

To prevent magneto failure and subsequent engine failure, accomplish the following:

(a) For magnetos with riveted or snap ring impulse coupling assemblies, having less than 450 hours time in service (TIS) since new, or overhaul, or since last inspection, on the effective date of this AD, accomplish the following:

(1) Prior to the accumulation of 500 hours TIS since new, or overhaul, or since last inspection, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable snap ring impulse coupling assemblies, in accordance with the Detailed Instructions of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(2) Thereafter, at intervals not to exceed 500 hours TIS since the last inspection, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable snap ring impulse coupling assemblies, in accordance with the Detailed Instructions of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(b) For magnetos with riveted or snap ring impulse coupling assemblies, having 450 or more hours TIS since new, or overhaul, or since last inspection, on the effective date of this AD, or an unknown TIS on the effective date of this AD, accomplish the following:

(1) Within the next 50 hours TIS after the effective date of this AD, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable snap ring impulse coupling assemblies in accordance with the Detailed Instructions of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(2) Thereafter, at intervals not to exceed 500 hours TIS since the last inspection, inspect riveted or snap ring impulse coupling assemblies for wear, and replace, if necessary, prior to further flight, with serviceable snap ring impulse coupling assemblies, in accordance with the Detailed Instruction of TCM MSB No. MSB645, dated April 4, 1994, and TCM SB No. 639, dated March 1993.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Atlanta Aircraft Certification Office.

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the

Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on November 9, 1994.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 94–28375 Filed 11–16–94; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 94–32; FCC No. 94–272]

Spectrum Below 5 GHz Transferred From Federal Government Use

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This Notice proposes allocations for 50 megahertz of spectrum that is being transferred from Federal Government use to private sector use. This action is necessary to comply with provisions of the Omnibus Budget Reconciliation Act of 1993 (Reconciliation Act) that require the Commission to allocate, and propose regulations to assign, this spectrum within 18 months of adoption of the Reconciliation Act. Our goal in this proceeding is to ensure that spectrum reallocated for private sector is put to its highest and most valued use and that the greatest benefit to the public is attained.

DATES: Comments must be filed on or before December 19, 1994, and reply comments must be filed on or before January 3, 1995.

ADDRESSES: Federal Communications Commission, 1919 M St., NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Sharkey, Office of Engineering and Technology, (202) 653–8151.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, PR Docket No. 94–32, FCC No. 94–272, Adopted October 20, 1994, and released November 8, 1994. The full text of this *Notice of Proposed Rule Making* is available for inspection during normal business hours in the Records Room of the Federal Communications Commission, Room 239, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St., SW., Suite 140, Washington, DC, 20037, telephone (202) 857–3800.

Summary of Notice of Proposed Rule Making (NPRM).

1. The purpose of this *NPRM* is to propose allocations for 50 megahertz of spectrum that is being transferred from Federal Government to private sector use as required by the Omnibus Budget Reconciliation Act of 1993, Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, Title VI, Section 6001(a)(3), 107 Stat. 312 (approved August 10, 1993) (Reconciliation Act).

2. In compliance with the provision of the Reconciliation Act, the Department of Commerce released a report on February 10, 1994, which made a preliminary identification of 200 megahertz of spectrum for reallocation from Federal Government to private sector use, including 50 megahertz at 2390–2400 MHz, 2402–2417 MHz, and 4660–4685 MHz identified for immediate availability. The Reconciliation Act requires that, by February 10, 1995, the Commission allocate, and propose regulations to assign, the 50 megahertz of spectrum that is immediately available. On May 4, 1994 we released a *Notice of Inquiry*, 59 FR 25589 (5/17/94), in this proceeding to seek information on potential uses for the spectrum that is immediately available.

3. The instant *NPRM* proposes that all 50 megahertz of immediately available spectrum be allocated generally for Fixed and Mobile services. Such a broad and general allocation will allow for flexible use of the spectrum and should ensure that the spectrum is put to its best and most valued use. We also believe that most of the services that will be provided in this spectrum will likely meet the statutory criteria for auction and therefore propose that licenses for this spectrum be made available through competitive bidding.

4. We wish to create a competitive market structure that will provide incentives to develop and introduce innovative service features and technologies. Comments are requested on a licensing structure that will achieve such a result, including channel block size and geographic licensing areas. We also propose that technical flexibility in the provision of services be permitted and request comment on specific technical requirements necessary to maximize flexibility while ensuring against interference.

5. As an alternative to allocating this spectrum generally for Fixed and Mobile service, we request comment on the possible allocation of these bands for specific communications services. A number of suggestions were put forth by various commenters responding to the *Notice of Inquiry* in this proceeding. These include an aeronautical audio/visual service to provide real time information and entertainment aboard aircraft, wireless local loop service, broadcast auxiliary services to support advanced television, low-power communications, either on a licensed or unlicensed basis, and continued use of some of this spectrum by the amateur community.

Initial Regulatory Flexibility Analysis

1. *Reason for Action:* The changes to Part 2 of the Commission's Rules proposed herein are for use of the spectrum that is being reallocated from Federal Government to non-Government use. This reallocation of spectrum is required by the Omnibus Budget Reconciliation Act of 1993.

2. *Objectives:* The Commission seeks to allocate the spectrum for services that present the greatest potential to provide benefit to the public by providing for the introduction of new services and the enhancement of existing services. These new and enhanced services will create new jobs, foster economic growth, and improve access to communications by industry and the American public.

3. *Legal Basis:* The legal basis for these rule changes is found in Sections 4(i), 303(g), 303(r), and 332(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(g), 303(r), and 332(a).

4. *Reporting, Recordkeeping, and Other Compliance Requirements:* No reporting, recordkeeping, or other compliance requirements are proposed in this item.

5. *Federal Rules Which Overlap, Duplicate or Conflict With These Rules:* None.

6. *Description, Potential Impact, and Number of Small Entities Involved:* Many small entities could be positively affected by this proposal because the allocations proposed will foster new technologies, resulting in new jobs, economic growth, and improved access to communications by industry, including small entities. The number of small entities that will be affected is unknown.

7. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives:* This Notice of Proposed Rule Making solicits comments on a variety of alternatives. Additionally, all significant alternatives presented in response to the *Notice of Inquiry* in this proceeding have been addressed in this Notice of Proposed Rule Making.

8. *Paperwork Reduction*: This proposal has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, disclosure or record retention requirements and will not increase the burden hours imposed on the public.

List of Subjects in 47 CFR Part 90

Allocations, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94-28392 Filed 11-16-94; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 94-126, RM-8531]

Radio Broadcasting Services; Willows, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by KIQS, Inc. requesting the allotment of Channel 292A to Willows, California, to provide an additional local aural transmission service at that community. Coordinates used for this proposal are 39-25-56 and 122-04-50.

DATES: Comments must be filed on or before January 5, 1995, and reply comments on or before January 20, 1995.

ADDRESSES: Secretary, Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: KIQS, Inc., Attn: Anthony F. Rusnak, President, 118 W. Sycamore Street, Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 94-126, adopted November 1, 1994, and released November 14, 1994. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all exparte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94-28394 Filed 11-16-94; 8:45 am]

BILLING CODE 6712-01-F

Notices

Federal Register
Vol. 59, No. 221
Thursday, November 17, 1994

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 11, 1994.

The Department of Agriculture has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extension, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Reinstatement

- Agricultural Stabilization and Conservation Service
- 7 CFR Part 700-Rural Clean Water Program (RCWP) Regulations and Form RCWP–1, Request for Cost-Sharing
- RCWP–1
- On occasion
- Individuals or households; Farms; 50 responses; 25 hours
- Paul E. Smith, (202) 720–5784.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 94–28452 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–01–M

Cooperative State Research, Education, and Extension Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research, Education, and Extension Service announces the following meeting:

Name: Committee of Nine.
Date: December 1, 1994.
Time: 10:30 a.m., EST.
Place: Room 346, Aerospace Building, 901 D Street, SW, USDA, CSREES, Washington, D.C. 20250–2230.

Type of Meeting: Conference Call. Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State Agricultural Experiment Stations.

Contact person for Agenda and more information: Dr. Walter R. Woods, Executive Secretary, U.S. Department of Agriculture, Cooperative State Research, Education, and Extension Service, Room 346, Aerospace Building, Washington, D.C. 20250–2230, Telephone: 202–401–6040.

Done at Washington, D.C. this 7th day of November 1994.

Sally Rockey,

Cooperative State Research, Education, and Extension Service.

[FR Doc. 94–28466 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–22–M

Federal Crop Insurance Corporation

Request for Comments—Draft Optional Amendment to the 1995 Standard Reinsurance Agreement—Catastrophic Risk Protection Plan; Additional and Limited Protection Plan

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of draft optional amendment and request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) publishes this notice to advise all interested parties that a draft Optional Amendment to the 1995 Standard Reinsurance Agreement is available for comment by the general public and private sector insurance companies. The draft Optional Amendment sets forth the terms and conditions under which the FCIC will provide premium subsidy, loss adjustment expense, and reinsurance for policies covered by catastrophic risk protection and subsidy expense reimbursement and reinsurance for policies covered by additional and limited protection coverage plans of crop insurance sold by approved insurance providers.

DATES: Written comments must be received by November 18, 1994, at the address below.

ADDRESSES: Written comments, data, and opinion, on this draft Optional Amendment should be sent to Federal Crop Insurance Corporation, Office of the Acting Deputy Administrator for Risk Management, 14th & Independence Avenue, S.W., Washington, D.C. 20250. Hand or messenger delivery may be made to 2101 L Street, N.W., 5th Floor, Washington, D.C. 20037. Written comments will be available for public inspection and copying in the Office of the Acting Deputy Administrator for Risk Management, 2101 L Street, N.W., 5th Floor, Washington, D.C., during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For further information and a copy of the Draft Optional Amendment to the 1995 Standard Reinsurance Agreement, contact David Miller, Acting Director, Delivery System Services, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 254–8245.

SUPPLEMENTARY INFORMATION: The Standard Reinsurance Agreement establishes the terms and conditions under which FCIC provides premium subsidy, expense reimbursement, and reinsurance on multiple peril crop insurance policies. The Standard Reinsurance Agreement is a cooperative financial assistance agreement between FCIC and private insurance companies to deliver the multiple peril crop insurance program under the authority of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

Notice

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the FCIC herewith gives

notice of the availability of the draft Optional Amendment to the 1995 Standard Reinsurance Agreement for comment. Comments must be received by November 18, 1994.

Authority: 7 U.S.C. 1501, as amended.

Done in Washington, DC on November 10, 1994.

Kenneth D. Ackerman,

Acting Deputy Administrator, Federal Crop Insurance Corporation.

[FR Doc. 94–28384 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–08–M

Forest Service

Elsmere Canyon Proposed Solid Waste Management Facility; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent to prepare an environmental impact statement.

SUMMARY: The Angeles National Forest published a Notice of Intent to prepare an environmental impact statement for a non-significant amendment to the Angeles National Forest Land and Resources Management Plan in Volume 55, No. 173 / Thursday, September 6, 1990. The amendment would add 1640 acres to the Land Adjustment Plan, which is part of the Land and Resources Management Plan. This is in response to a proposal to exchange land for the purpose of development of a solid waste management facility in the Elsmere Canyon area of the Tujunga Ranger District, Angeles National Forest, Los Angeles County, California.

The Forest wishes to revise and update the Notice of Intent with the following information:

DECISION: The Forest Service must decide whether or not to exchange 1643 acres of National Forest land currently within the boundaries of the Angeles National Forest for private lands within the boundaries of Angeles National Forest. Other private lands within the boundaries of other National Forests within Southern California, may also be considered. As part of that decision, an amendment to the existing Angeles National Forest Land Adjustment Plan would be made, adding the 1643 acres to the Adjustment Plan. Further, the Angeles Land and Resources Management Plan would be amended to reflect the changes in the Plan as a result of the decision. This decision will be subject to appeal under 36 CFR 215.

DATES: A revised date for the DEIS to be filed with the Environmental Protection Agency (EPA) and to be available for public review is on or about December 31, 1994. The Final EIS is scheduled to be completed by December, 1995.

RESPONSIBLE OFFICIAL: The responsible official will be the Regional Forester, Pacific Southwest Region, 630 Sansome St., San Francisco, Ca. 94111.

OTHER PROVISIONS: All other provisions of the original notice remain accurate.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact statement may be directed to Charles K. McDonald, 701 N. Santa Anita Ave., Arcadia, CA. 91006 or phone (818) 574–5257.

Dated: November 7, 1994.

Michael J. Rogers,

Forest Supervisor.

[FR Doc. 94–28426 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–11–M

Crown Jewel Mine, Okanogan National Forest, Okanogan County, WA

AGENCY: Forest Service, USDA.

ACTION: Revision of notice of intent to prepare an environmental impact statement.

SUMMARY: On March 2, 1992, the USDA, Forest Service and the Washington State Department of Ecology, as joint lead agencies, issued a notice of intent (NOI) to prepare an environmental impact statement (EIS) for a proposal to develop a mine for precious mineral extraction on Buckhorn Mountain in the Federal Register (57 FR 7362). On April 15, 1993, and March 11, 1994 the USDA, Forest Service and the Washington State Department of Ecology, as joint lead agencies, issued revisions to the notice of intent (NOI) to prepare an environmental impact statement (EIS) in the Federal Register (58 FR 19646 and 59 FR 11576). The purpose of this revised notice of intent is to inform the interested publics, of a revised release date for the draft and final EIS. The draft environmental impact statement (EIS) is expected to be completed and available for public review in March, 1995. The final EIS is expected to be available in September, 1995.

FOR FURTHER INFORMATION CONTACT: Phil Christy, 1 West Winesap, Tonasket Ranger District, Tonasket, Washington 98855; phone 486–2186.

Dated: November 3, 1994.

David Hood,

Acting Forest Supervisor.

[FR Doc. 94–28372 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–11–M

Long-Term Ecosystem Productivity (LTEP) Research Project, Willamette National Forest, Lane County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: Notice is hereby given that the Forest Service will prepare an environmental impact statement on a proposal to implement a Long-Term Ecosystem Productivity research project. This project will result in establishing conditions across a gradient of successional stages and organic matter levels on the forest floor according to the Long-Term Ecosystem Productivity Program Integrated Research Sites, Governing Research Plan (PNW, Susan Little and others, 10/16/91). Creating these conditions will require harvesting approximately 180 acres of 70 to 80 year old Douglas fir forest by clearcutting and 90 acres of partial cutting. Other proposed activities include weather station siting, reforestation, fuel control, and snag creation.

The Willamette National Forest invites additional written comments and suggestions on the scope of the analysis. Comments have already been received as the result of local public participation activities. The agency will also give notice of the full environmental analysis and decision-making process so that interested and affected people are made aware as to how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received in writing by December 19, 1994.

ADDRESSES: Send written comments to Lynn Burditt, District Ranger, Blue River Ranger Station, PO Box 199, Blue River OR, 97413.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and environmental impact to Karen Geary, Planning Assistant or Jim Overton, Site Manager, (503) 822–3317.

SUPPLEMENTARY INFORMATION: The Long-Term Ecosystem Productivity planning area is located in the East Fork of Deer Creek drainage in portions of T17S, R3E, Sections 13, 23, 24, 25, 26, and 35. This research site is one of six in Oregon, Washington, and Alaska designed for long-term ecosystem productivity research. The Integrated Research Sites are established as a network of research and monitoring sites to look at topics which are long-term, which are complex, and which demand the integration of scientific disciplines. These sites will be studied over a period of 200 years to test the hypothesis that

long-term ecosystem productivity is directly affected by successional patterns and the level of down woody debris.

The nature and scope of the decision is to implement the research project. This EIS will tier to the Willamette National Forest Land and Resource Management Plan (1990) as amended by the Record Of Decision and Standards and Guidelines for Management of Habitat For Late Successional and Old-Growth Forest Related Species within the Range of the Northern Spotted Owl.

On June 25, 1992 an amendment to the Willamette National Forest Plan made an allocation change of this Isolation Block from Management Area 14a (General Forest) to a newly created allocation, Management Area 3b (Integrated Research Site) and established Management Area (MA) standards and guidelines for MA 3b.

Initial scoping began in February of 1991. Issues that were identified include water quality, soil productivity, wildlife habitat, we area protection, and economics of helicopter harvesting needed for research objectives and design.

Preliminary analysis and alternative formulation have resulted in the proposed action. This proposed action meets the objectives of the Governing Research Plan and proposes to implement the research plan by treating approximately 180 clearcut acres and 90 partial cut acres of 70 to 80 year old Douglas fir forest. There are 3 study blocks, each containing 6 treatment units and 1 control area, resulting in a total of 18 treatment units and 3 control areas. Each treatment unit would be approximately 15 acres in size. Helicopter yarding would be used for removal of the trees. The research plan has been scaled down and refined to minimize environmental effects. At its fullest extent, the original research concept would have included 36 treatment units and 4 control areas. Alternative 2 is the No Action alternative.

A scoping meeting will be held in early December. If you are interested in this meeting, please notify us for the location and time. The Forest Service will be seeking additional information, comments and assistance from Federal, State and local agencies and other individuals or organizations who may be interested or affected by the proposed project. Additional information will be used to further identify key issues or develop other alternatives. This input will be used in preparation of the draft EIS.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 1995. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, a reviewer of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 *(1978)*. Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled to be completed by May 1995. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The responsible official will document the decision and rationale for the decision in the Record of Decision. That decision will be subject to Forest Service appeal Regulations (36 CFR 217).

Dated: November 8, 1994.

Darrel L. Kenops,

Forest Supervisor.

[FR Doc. 94–28373 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Asaayi Lake Watershed, Navajo Nation, San Juan and McKinley Counties, NM

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Soil Conservation Service Regulations (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Asaayi Lake Watershed.

FOR FURTHER INFORMATION CONTACT: Humberto Hernandez, State Conservationist, Soil Conservation Service, 3003 North Central Avenue, Suite 800, Phoenix, Arizona, 85012. Telephone: (602) 280–8808.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Humberto Hernandez, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project proposes a combination of land treatment and structural practices to reduce erosion and the resulting sedimentation into Asaayi Lake. This action will extend the useful life of the lake from 15 years to 43 years. The land treatment includes planned grazing systems, grazing management, and proper grazing use. Also included are forest road obliteration, fencing, livestock pipeline, range seeding, brush management, and rangeland water spreaders.

Structural measures include sediment and flood control structures, grade control and bank stabilization structures, improved recreational facilities, an irrigation water delivery system and 15 pools for improved fish habitat.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental

Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mike Sullivan, Assistant State Conservationist for Water Resources, at (602) 280–8787.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under NO. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.)

[FR Doc. 94–28443 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–16–M

Point Remove Wetland Reclamation and Irrigation Project Pope and Conway Counties, AR

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Soil Conservation Service Regulations (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Point Remove Wetland Reclamation and Irrigation Project, Pope and Conway Counties, Arkansas.

FOR FURTHER INFORMATION CONTACT: Thomas H. Wehri, State Conservationist, Soil Conservation Service, Room 5404, Federal Office Building, 700 West Capitol Avenue, Little Rock, AR, 72201, (501) 324–5445.

SUPPLEMENTARY INFORMATION: The environmental assessment of action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Thomas H. Wehri, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are wetland reclamation, enhancement of fish and wildlife habitat, and irrigation. The planned works of improvement include five pumping plants, four low water weirs, one weir with taintor gates, 1.8 miles of concrete flume, 8.8 miles of earthen channel, and 1.6 miles of buried pipe. Forty-six miles of existing ditches will be used for water conveyance.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Thomas H. Wehri. No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Dated: November 8, 1994.

Thomas H. Wehri,

State Conservationist.

[FR Doc. 94–28435 Filed 11–16–94; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: International Trade Administration (ITA).

Title: OECD Industrial Committee Subsidies and Structural Adjustment Questionnaire.

Form Number(s): None.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 1,120 hours.

Number of Respondents: 40.

Avg Hours Per Response: 16 hours – Federal agencies; 40 hours – state and local governments.

Needs and Uses: The Paris–based Organization for Economic Cooperation and Development (OECD) is compiling a database of government supports and subsidies to industry. The compilation and analysis of this data will support efforts to continue to reduce and eliminate trade distorting subsidies. ITA is responsible for the United States Government's submission to the OECD.

Affected Public: Federal agencies or employees and state or local governments.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Taché, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, room 10202, New Executive Office Building, Washington, DC 20503.

Dated: November 10, 1994.

Gerald Taché,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 94–28379 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–CW–F

Foreign-Trade Zones Board

[Docket 35–94]

Proposed Foreign-Trade Zone—Fort Myers, FL; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Lee County Port Authority, requesting authority to establish a general-purpose foreign-trade zone at two airport sites in Fort Myers, Florida. The main site would be at Southwest Florida International Airport, which is a Customs user fee port facility. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 2, 1994. The applicant is authorized to make the proposal under Section 288.36, Florida Statutes Annotated (1993).

The two proposed sites (3,955 acres) are in Fort Myers, Lee County, on property owned and operated by the applicant. *Site 1* (Southwest Florida International Airport—3,315 acres) is located at 16000 Chamberlin Parkway, and *Site 2* (Page Field—640 acres) is located adjacent to U.S. Highway 41, some 7 miles northwest of Site 1. There are cargo and warehouse structures at both sites.

The application contains evidence of the need for zone services in the Fort Myers area. Several firms have indicated an interest in using zone procedures for warehousing/distribution of such items as electronic and telecommunication products, audio-video equipment, oriental carpets, and assorted machinery. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

In accordance with the Board's regulations (as revised, 57 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

As part of the investigation, the Commerce examiner will hold a public hearing on January 19, 1995 at 9:00 a.m., Training Center at the Southwest Florida International Airport, Fort Myers, Florida.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is February 6, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period until February 21, 1995.

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

U.S. Customs Service, Office of Resident Agent, 6324 Corporation Court, Fort Myers, Florida 33919

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: November 9, 1994.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 94–28464 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

National Institutes of Health, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 94–099. *Applicant:* National Institutes of Health, Bethesda, MD 20892. *Instrument:* Electron Microscope and Accessories, Model CM-100. *Manufacturer:* Philips, The Netherlands. *Intended Use:* See notice at 59 FR 49645, September 29, 1994. *Order Date:* March 31, 1994.

Docket Number: 94–105. *Applicant:* National Institutes for Arthritis and Musculoskeletal and Skin Diseases, Bethesda, MD 20892-2755. *Instrument:* Electron Microscope, Model CM 120. *Manufacturer:* Philips, The Netherlands. *Intended Use:* See notice at 59 FR 49645, September 29, 1994. *Order Date:* June 24, 1994.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Pamela Woods,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 94–28465 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Approval of Exploration License Revisions

AGENCY: National Oceanic and Atmospheric Administration. Commerce.

ACTION: Notice of approval of Deep Seabed Mining Exploration License revisions to USA–2 and USA–3 for Ocean Management Inc., and Ocean Mining Associates.

SUMMARY: On September 8, 1994, at 59 FR 46396, the National Oceanic and Atmospheric Administration (NOAA), noticed receipt of applications for revisions to the schedules of expenditures for Deep Seabed Mining Exploration Licenses USA–2 issued to Ocean Management, Inc. (OMI), and USA–3 issued to Ocean Mining Associates (OMA). Amendments to the related exploration plans were also received. No comments objecting to approval of these proposed revisions were received by NOAA. Pursuant to the Deep Seabed Hard Mineral Resources Act (Pub. L. 96–283) and 15 CFR Part 970, NOAA has approved the following license revisions: Revision No. 4 to OMI's License USA–2 on November 2, 1994; and Revision No. 3 to OMA's License USA–3 on October 17, 1994.

FOR FURTHER INFORMATION CONTACT: Betty Rosser or Karl Jugel, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, (301) 713–3159, Ext 206.

Dated: November 10, 1994.

Frank W. Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 94–28458 Filed 11–16–94; 8:45 am]

BILLING CODE 1360–12–M

[I.D. 110494C]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council will convene public meetings of its Standing and Reef Fish Scientific and Statistical Committees (SSC) on November 29–30, 1994, from

8:00 a.m. until 5:00 p.m., on each day; and a joint meeting of its Reef Fish and Ad Hoc Red Snapper Advisory Panels (AP) on December 1–2, 1994, from 8:00 a.m. until 5:00 p.m., on each day, to review a draft amendment that contains alternatives for limiting access to the Gulf commercial red snapper fishery including license limitation and individual transferable quota systems.

The meetings will be held at the Pontchartrain Hotel, 2031 St. Charles Avenue, New Orleans, LA; telephone: (504) 524–0581.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Julie Krebs at the above address by November 21, 1994.

Dated: November 9, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–28327 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–22–F

Meeting of Monterey Bay National Marine Sanctuary Advisory Council

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Monterey Bay National Marine Sanctuary Advisory Council Open Meeting.

SUMMARY: The Advisory Council was established in December 1993 to advise NOAA's Sanctuaries and Reserves Division regarding the management of the Monterey Bay National Marine Sanctuary.

TIME AND PLACE: Friday, December 9, 1994 from 8:30 until 4:00. The meeting location will be at the Half Moon Bay Community Center, 535 Kelley Avenue, Half Moon Bay, California.

AGENDA: General issues related to the Monterey Bay National Marine Sanctuary are expected to be discussed.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seats will be available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Scott Kathey at (408) 647–4201 or Elizabeth Moore at (301) 713–3141.

Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program

Dated: November 7, 1994.

Frank Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 94–28370 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 110494B]

North Pacific Fishery Management Council; Meetings

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

ACTION: Notice of committee meetings.

SUMMARY: The North Pacific Fishery Management Council (NPFMC) has scheduled the following committee meetings:

The Full Retention/Full Utilization and Harvest Priority Committee will meet November 17–18, 1994, in the Regency Room at the Meany Tower Hotel, 4507 Brooklyn Avenue, NE., Seattle, WA. The meeting will be held from 8:30 a.m until 4:30 p.m., each day. The committee has been tasked with evaluating and fleshing out alternatives designed to reduce bycatch and waste of North Pacific fishery resources. For more information on this meeting contact: Dave Witherell, NPFMC, telephone: (907) 271–2809.

The NPFMC's Enforcement Committee has scheduled a meeting for November 28–29, 1994, at the NMFS Regional Office, 709 W. 9th Street, Juneau, AK. The meeting will begin at 10:30 a.m. on November 28. It will reconvene at 8:00 a.m. on November 29, and adjourn at 5:00 p.m. The committee will review the following issues:

1. Revision of 50 CFR part 301 regulations to accommodate changes for the NPFMC halibut-sablefish individual fishing quota program,
2. License limitation alternatives under consideration by the NPFMC,
3. Halibut grid-sorting amendment,
4. King crab closed area,
5. Seamount fishery restrictions,
6. Trawl mesh regulations,
7. Total weight measurement amendment, and
8. Salmon area closures.

For more information on this meeting contact: Jane DiCosimo, NPFMC; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Judy Willoughby, (907) 271–2809.

Dated: November 9, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94–28328 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110494D]

North Pacific Fishery Management Council; Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory bodies will hold meetings the week of December 4, 1994, at the Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK. All meetings are open to the public with the exception of a meeting of the Nominating Committee and an executive session to be held during the lunch hour one day during the meeting week. All meetings will be held at the hotel and are scheduled as follows:

The Council Advisory Panel meeting will begin at 1:00 p.m., on December 4, and the Scientific and Statistical Committee will meet, beginning at 10:30 a.m., on December 5.

The Council meeting will begin at 8:00 a.m., on December 7. Each meeting will continue until business is completed. There may be other workgroup and/or committee meetings held during the week. Notice of meetings will be posted. Time permitting, the Council will address, and may take appropriate action on, the following agenda items:

1. Reports from the Alaska Department of Fish and Game and NMFS on the current status of fisheries and regulations; reports from NMFS and the U.S. Coast Guard on fisheries enforcement activities;
2. Appointments to the Council's Advisory Panel and Scientific and Statistical Committee for 1995;
3. Comments on a proposed rule for the revised moratorium;
4. Review of additional analyses for the Council's license limitation program for groundfish and crab; identification of elements and alternatives of most interest and approval of documents for public review;
5. Receipt of committee reports on full utilization and harvest priority programs, and consideration of the next steps in addressing the waste and discard issue;
6. Review of potential scope of analysis for extension of inshore-offshore allocations and pollock community development quota program, and further direction to staff;
7. 1995 Final Groundfish Specifications: Review and approve final Stock Assessment and Fishery Evaluation reports for the Gulf of Alaska and Bering Sea/Aleutian Island groundfish fisheries and set final 1995 groundfish specifications, bycatch rates, Vessel Incentive Program rates, and discard mortality rates for halibut in the groundfish fisheries;
8. Review of proposed rule for scallop fishery management plans (FMPs), including the issue of management jurisdiction over vessels not registered with the State of Alaska;
9. Review of actions to protect red king crab in Bristol Bay, including a report on opilio bycatch and consider next steps, and
10. Review of proposals for amendments to groundfish FMPs; give staff further direction.

FOR FURTHER INFORMATION CONTACT: North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: These meetings are physically accessible to

people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Judy Willoughby, (907) 271–2809, at least 5 working days prior to the meeting date.

Dated: November 9, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service

[FR Doc. 94–28329 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Bangladesh

November 10, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 4039, published on January 28, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 10, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on February 1, 1994 and extends through January 31, 1995.

Effective on November 17, 1994, you are directed to amend the directive dated January 24, 1994 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the People's Republic of Bangladesh:

Category	Adjusted twelve-month limit [1]
336/636	309,189 dozen.
341	1,879,700 dozen.
347/348	1,758,757 dozen.
351/651	516,511 dozen.
363	20,317,339 numbers.
369–S [2]	1,210,241 kilograms.
635	244,429 dozen.
638/639	930,684 dozen.
645/646	245,591 dozen.
847	594,321 dozen.

[1] The limits have not been adjusted to account for any imports exported after January 31, 1994.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–28460 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

November 10, 1994

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing certain limits and a sublimit.

EFFECTIVE DATE: November 15, 1994.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6703. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 336, 369–L, and 641 and sublimit for Categories 338–S/339–S are being increased for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 59 FR 3847, published on January 27, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated January 17, 1994, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Novmeber 10, 1994.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textile products, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on November 15, 1994, you are directed to amend further the directive dated January 24, 1994 to increase the limits and sublimit for the following categories, as provided under the terms of the

Memorandum of Understanding dated January 17, 1994 between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit[1]
Sublevels in Group I	
336	158,241 dozen.
338/339	2,346,869 dozen of which not more than 1,870,607 dozen shall be in Categories 338–S/339–S[2].
369–L[3]	3,097,177 kilograms.
641	1,370,816 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

[2] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[3] Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–28461 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–DR–F

Amendment and Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

November 10, 1994.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending and adjusting limits.

EFFECTIVE DATE: November 10, 1994.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 9276–6712. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

In a Memorandum of Understanding (MOU) dated November 3, 1994, the Governments of the United States and Malaysia agreed, among other things, to amend the current base level for Category 326 in the Fabric Group.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to increase the current limit for Category 326. Also, Category 225 is being reduced to account for additional flexibility which was applied to Category 326 as a result of the increase.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 58 FR 62645, published on November 29, 1993). Also see 58 FR 65580, published on December 15, 1993.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU, but are designed to assist only in the implementation of certain of its provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 10, 1994.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 9, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1994 and extends through December 31, 1994.

Effective on November 10, 1994, you are directed, pursuant to the Memorandum of Understanding (MOU) dated November 3, 1994 between the Governments of the United States and Malaysia, to adjust the limits for the following categories:

Category	Adjusted twelve-month limit[1]
Sublevels in the Fabric Group	
225	25,506,166 square meters.
326	5,350,000 square meters.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1993.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 94–28459 Filed 11–16–94; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Applicable Form: Marksmanship Competition Rifle and Pistol (Individual) Entry and Score Cards; DA FORM 1342 and DA FORM 1344

Type of Request: Reinstatement

Number of Respondents: 3,600

Responses per Respondent: 1

Annual Responses: 3,600

Average Burden per Response: 3 mins

Annual Burden Hours: 180

Needs and Uses: DA Form 1342 and 1344 are used to collect data to determine participation eligibility, and to record individual competitor scores for Excellence-in-Competition (EIC) matches conducted annually at Regional and State Levels by the Director of Civilian Marksmanship (DCM). These scores are utilized by the Office of the DCM for computation and recording purposes.

Affected Public: Non-profit institutions

Frequency: Annually

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive

Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302.

Dated: November 14, 1994.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Department of the Army

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 6 December 1994.

Time of Meeting: 0830–1600.

Place: Arlington, VA.

Agenda: The Army Science Board's Infrastructure and Environment Issue Group on "Remediation of Contaminated Army Sites: Utility of Natural Attenuation" will receive briefings on natural attenuation related processes and regulatory perspectives. This meeting will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (703) 695–0781.

Sally A. Warner,

Administrative Officer, Army Science Board.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP94–330–001]

Carnegie Natural Gas Company; Notice of Reconciliation Report

November 10, 1994.

Take notice that on October 24, 1994, Carnegie Natural Gas Company (Carnegie) filed an Account No. 191 reconciliation report reflecting a refund to New Jersey Natural Gas Company (New Jersey) of $22,942, inclusive of interest, in compliance with a Commission order issued September 22, 1994.[1]

Carnegie states that it has complied with the Commission order by remitting to New Jersey the refund with applicable interest. Carnegie states that it is also filing workpapers showing the final balance in the account and indicating the adjustments necessary to the amounts collected or refunded to reflect the final posting to the account.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 18, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–28356 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

[1] 68 FERC ¶ 61,352 (1994)

[Docket No. ER94–1161–002]

Direct Electric Inc.; Notice of Informational Filing

November 10, 1994.

Take notice that on November 7, 1994, Direct Electric Inc. (DEI) filed certain information as required by the Commission's July 18, 1994, letter order in Docket No. ER94–1161–000. Copies of DEI's informational filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–28348 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–968–003]

Electric Clearinghouse, Inc.; Notice of Informational Filing

November 10, 1994.

Take notice that on October 25, 1994, Electric Clearinghouse, Inc. filed certain information as required by the Commission's April 7, 1994, letter order in Docket No. ER94–968–000. Copies of the Electric Clearinghouse, Inc. informational filing are on file with the Commission and are available for public inspection.

Louis D. Cashell,

Secretary.

[FR Doc. 94–28350 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–112–000]

Entergy Services, Inc., Filing

November 10, 1994.

Take notice that on October 31, 1994, as supplemented on November 9, 1994, Entergy Services, Inc. (Entergy Services), as agent for Arkansas Power & Light Company, Gulf States Utilities Company, Louisiana Power & Light Company, Mississippi Power & Light Company, and New Orleans Public Service Inc. (collectively "Entergy Operating Companies) filed a Network Service Tariff ("NST), including a pro forma network operating agreement, and service agreement, and a revised Transmission Service Tariff ("TST"), including pro forma service agreements for firm and non-firm services. Entergy Services states the filing is in response to the D.C. Circuit's remand in *Cajun Electric Power Cooperative, Inc. vs. FERC*, No 92–1461 (D.C. Cir. July 12, 1994), or prior Commission orders in Docket No. ER91–569. Entergy Services states the TST and NST are "conforming proposals" under the Commission's Transmission Pricing Policy Statement in Docket No. RM93–10. Entergy Services requests that the "conforming" NST and TST take effect on January 1, 1995.

On October 31, 1994, as supplemented on November 9, 1994, Entergy Services also filed an alternative "non-conforming" transmission pricing proposal. Entergy Services requests that the non-conforming proposal supersede the conforming proposal, and go into effect after Commission review.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before December 2, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–28446 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94-397-002]

K N Interstate Gas Transmission Co.; Notice of Filing

November 10, 1994.

Take notice that on November 7, 1994, K N Interstate Gas Transmission Co. tendered for filing with the Federal Energy Regulatory Commission Revised Tariff Sheets in compliance with the Commission's September 14, 1994, Letter Order in the above docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commissions' Rules of Practice and Procedure (18 CFR 385.211). All such protests should be filed on or before November 18, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-28359 Filed 11-16-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP94-179-003]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

November 10, 1994.

Take notice that on November 7, 1994, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fourth Revised Sheet Nos. 318 and 319, to be effective December 1, 1994.

Natural states that the tariff sheets were submitted in compliance with the Federal Energy Regulatory Commission's (Commission) order issued October 7, 1994 at Docket Nos. RP94-179-000, et al. (Order). Section 21 of the General Terms and Conditions of Natural's tariff has been modified to reflect the Commission's determination in the Order regarding the billing determinants to be used in developing surcharges for the recovery of Account No. 858 costs and the sequence in which various components of Natural's rates are to be deemed discounted.

Natural requested waiver of its Tariff or of the Commission's Regulations to the extent necessary to permit the tariff sheets to become effective December 1, 1994.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers, interested state regulatory agencies and all parties set out on the official service list at Docket Nos. RP94-179-000, et al.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 18, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94-28358 Filed 11-16-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP94-343-000, and RP95-14-000; Docket Nos. RP94-237-000]

NorAm Gas Transmission Company; Arkansas Gas Consumers v. NorAm Gas Transmission Company; Notice of Change in Date of Technical Conference

November 10, 1994.

Take notice that the technical conference originally scheduled to be held on Thursday, November 17, 1994, at 10:00 a.m. (59 FR 55476, November 7, 1994), as established by the Commission's August 31, 1994 order in Docket Nos. RP94-343-000 and RP94-237-000 (68 FERC ¶61,272), will now be held on Tuesday, November 29, 1994, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, N.E., Washington D.C. 20426.

The parties to the technical conference should address the issues set out in the August 31, 1994 order as well as: (1) NorAm's balancing procedures established in Docket No. RP94-343-000, in light of NorAm's October 28, 1994 filing in Docket No. RP-14-000; and (2) NorAm's proposed procedures for conducting an open season for its change to zone rates in Docket No. RP94-343-000. NorAm's proposed open season should not end until December 9, 1994, to allow for adjustments agreed to at the technical conference.

Lois D. Cashell,

Secretary.

[FR Doc. 94-28347 Filed 11-16-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES95-9-000]

Old Dominion Electric Cooperative; Notice of Application

November 10, 1994.

Take notice that on November 4, 1994, Old Dominion Electric Cooperative filed an application under Section 204 of the Federal Power Act seeking authorization to issue intermediate term debt, in the form of commercial paper, notes, bonds or other obligations, in an amount not to exceed $125 million during the period from January 1, 1995, through December 31, 1996, with maturities of 12 months to 60 months.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 5, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94-28349 Filed 11-16-94; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER95-104-000]

South Carolina Electric & Gas Company; Notice of Filing

November 9, 1994.

Take notice that South Carolina Electric & Gas Company on October 31, 1994, tendered for filing Modification No. 3 to Rate Schedule FPC No. 33 between SCE&G and Public Service Authority (SCPSA).

This modification makes this agreement consistent with the Operating Guidelines of the North American Electric Reliability Council (NERC).

Copies of this filing were served upon South Carolina Public Service Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules

of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 25, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[Docket No. CP92–184–011]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 10, 1994.

Take notice that on October 31, 1994, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheet:

First Revised Seventh Revised Sheet No. 34A

Texas Eastern and the above tariff sheet is filed pursuant to and in compliance with the Commission's October 12, 1993 "Order Amending Certificate and Deferring Further Action" in Docket No. CP92–184–007.

Texas Eastern respectfully requests that the Commission waive all necessary rules and regulations to permit the above referenced tariff sheet to become effective on November 1, 1994, the date service is scheduled to commence.

Texas Eastern states that copies of the filing were served on the firm customers of Texas Eastern's and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before November 18, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 94–28355 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER94–1676–000]

Texas-Ohio Power Marketing, Inc.; Notice of Issuance of Order

November 10, 1994.

On September 23, 1994, Texas-Ohio Power Marketing, Inc. (TOPM) submitted for filing a rate schedule under which TOPM will engage in wholesale electric power and energy transactions as a marketer. TOPM also requested waiver of various Commission regulations. In particular, TOPM requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by TOPM.

On October 31, 1994, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by TOPM should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, TOPM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interests, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of TOPM's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protest, as set forth above, is November 30, 1994.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 94–28346 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. GT95–2–000]

Transcontinental Gas Pipe Line Corporation; Refund Report

November 10, 1994.

Take notice that on October 31, 1994, Transcontinental Gas Pipe Line Company (TGPL) tendered for filing with the Federal Energy Regulatory Commission a Refund Report showing a refund received from the CNG Transmission Corporation (CNG) and flowed through to its FT–NT customers in accordance with Section 4 of TGPL's Rate Schedule FT–NT.

The report states that on October 27, 1994, TGPL refunded $3,085.53, including $316.53 in interest, due its FT–NT customers for the period November 1991 through November 1992. The report summarizes TGPL's computation of the refund pursuant to the Commission Order dated December 16, 1993 in CNG's Docket No. RS92–14–000 et al.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 18, 1994. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for the public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 94–28357 Filed 11–16–94; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRI–5107–3]

Public Water System Supervision Program Revision for the State of West Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the provisions of § 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f *et seq.*, and 40 CFR part 142 that the State of West

Virginia is revising its approved State Public Water System Supervision Primacy Program. West Virginia has adopted drinking water regulations for Volatile Organic Chemicals, Synthetic Organic Chemicals, and Inorganic Chemicals (Known as Phase II, IIB, and V) that correspond to the National Primary Drinking Water regulations promulgated by EPA on January 30, 1991 (56 FR 3526), July 1, 1991 (56 FR 30266), and July 17, 1992 (57 FR 31776). EPA has determined that these State program revisions are no less stringent than the corresponding federal regulations. Therefore, EPA has tentatively decided to approve these State program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted by December 19, 1994, to the Regional Administrator at the address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request for a public request is made by December 19, 1994, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on December 19, 1994.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such a hearing; and (3) the signature of the individual making the request; or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

West Virginia Office of Environmental Health Services, 815 Quarrier Street, Suite 418, Charleston, West Virginia 25301.

FOR FURTHER INFORMATION CONTACT: Ghassan M. Khaled, U.S. EPA, Region III, Drinking Water Section (3WM41), at the Philadelphia address given above; telephone (215) 597–8992.

Dated: November 3, 1994.

Peter H. Kostmayer,

Regional Administrator, EPA, Region III.

[FR Doc. 94–28457 Filed 11–16–94; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

November 8, 1994.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3507. Persons wishing to comment on this information collection should contact Timothy Fain, Office of Management and Budget, Room, 10102, NEOB, Washington, DC 20503, (202) 395–3561. For further information, contact Judy Boley, Federal Communications Commission, (202) 418–0214.

Please note: Pursuant to 5 CFR 1320.18, the Commission has requested expedited review of this collection by December 27, 1994.

Title: Implementation of Sections 3(n) and 332 of the Communications Act—Third Report and Order, Gen. Docket No. 93–252.

OMB Control No.: None.

Action: New collection.

Respondents: Businesses or other for-profit, including small businesses.

Frequency of Response: On occasion, annually.

Estimated Annual Burden: 10–500 respondents; average .50–10 hours per respondent; 6923 hours total annual burden.

Needs and Uses: In the Third Report and Order in Gen. Docket No. 93–252, the Commission adopted changes to its technical, operational, and licensing rules for private mobile radio service licensees to implement Sections 3(n) and 332 of the Communications Act of 1934, as amended. These rule changes are necessary to implement the statute and to establish regulatory symmetry among similar mobile services.

The foregoing estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the burden estimates or any other aspect of the collection of information including suggestions for reducing the burden to the Federal Communications Commission, Records Management Branch, Paperwork Reduction Project, Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 94–28391 Filed 11–16–94; 8:45 am]

BILLING CODE 6712–01–M

GENERAL SERVICES ADMINISTRATION

Finding of No Significant Impact; Proposed Federal Building—Courthouse, Central Islip, NY

Description of Action

The proposed action involves the construction and operation of a new Federal Building—Courthouse complex on a 29-acre site in Central Islip, Long Island, New York by the United States General Services Administration (GSA). The complex will be developed in two phases and will provide space for the Untied States Courts for the Eastern District of New York and other Federal agencies. The first phase of the development is scheduled for completion by 1998 and will contain approximately 900,000 gross square feet of floor area, with 450,000 occupiable square feet allocated to U.S. Courts and office space and 170,000 square feet (480 spaces) to covered parking. The second phase of the development, depending upon future needs, is anticipated to be completed between the years 2006 and 2011, and would consist of an additional building with a floor area of approximately 200,000 occupiable square feet.

The site of the proposed development is the former grounds of the Central Islip State Psychiatric Hospital, located at exit 43A of the Southern State (Heckscher) Parkway on Long Island. The site is bounded by North Spur Drive to the south, Carleton Avenue to the west, the John P. Cohalan, Jr. County Courts Complex to the north, and the cemetery of the Central Islip State Psychiatric Hospital to the east. The site contains a pond and landscaped grounds associated with the recently completed County complex, as well as surface parking for the complex and a groundwater recharge basin. The site is owned by Suffolk County.

Finding

Pursuant to the provisions of GSA Order ADM P 100.2B and the Regulations issued by the Council on Environmental Quality, November 29,

1978, and based upon the Environmental Assessment and review of the air quality analysis conducted for the proposed action, the proposed action is not considered a major federal action significantly affecting the quality of human environment.

Basis for Finding

The findings are presented in the Environmental Assessment, entitled New Federal Building—Courthouse, Central Islip, New York, dated June 1994.

Construction and operation of the proposed Federal Building—Courthouse Complex would result in less than significant impacts to the immediate project site and surrounding community. Less than significant adverse impacts would occur to utility services, traffic and transportation movements to and from the site, noise, and air quality.

The General Services Administration reviewed the air quality analysis conducted for this project consistent with the requirements of 40 CFR Part 93: "Determining Conformity of General Federal Actions to State or Federal Implementation Plans (SIP)", issued on November 30, 1993. This ruling seeks to conform federal actions, such as the construction of the Federal Building—Courthouse, to the purpose of the State Implementation Plan to reduce or eliminate violations of the National Ambient Air Quality Standards. Criteria contained in 40 CFR Part 93 were applied to the air quality analysis for the proposed project to determine the need to conduct a conformity analysis for the proposed action.

Suffolk County, in which the project is located, is in attainment with National Ambient Air Quality Standards (NAAQS) for carbon monoxide levels. Therefore, federal conformity criteria contained in the general conformity rule for this pollutant do not apply to the project. However, Suffolk County is in severe non-attainment with NAAQS for ozone levels, and conformity criteria for this pollutant therefore do apply. The air quality analysis conducted for the proposed action indicated that the combined predicted direct and indirect emissions for ozone precursors VOC's and NO_x are 6.9 tons/year, and 16.1 tons/year, respectively. This is below the de minimus level of 25.0 tons/year for either pollutant, as identified in the general conformity rule 40 CFR Part 93. Since the proposed facility conforms with the allowed emissions limitations, no further conformity determination was deemed necessary.

Beneficial impacts would be realized through the increased efficiency of the Federal justice system. Beneficial impacts upon the region's economy would also be realized by virtue of the construction and operating budgets associated with the Federal Building—Courthouse Complex. Cumulative and secondary impacts would be controlled, mitigated or avoided to the maximum extent possible.

Dated: October 26, 1994.

Recommended:

William B. Jenkins,

Assistant Regional Administrator, Region 2, Public Buildings Service, General Services Administration.

Dated: October 26, 1994.

Approved:

Karen R. Adler,

Regional Administrator, Region 2, General Services Administration.

[FR Doc. 94–28434 Filed 11–16–94; 8:45 am]

BILLING CODE 6820–23–M

Public Buildings Service; Notice of Availability for a Supplemental Draft Environmental Impact Statement; Proposed Federal Courthouse, Seattle, Washington

The General Services Administration (GSA) hereby gives notice a Supplemental Draft Environmental Impact Statement (SDEIS) has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended for a proposed new Federal Courthouse to be located in the city of Seattle, King County, Washington. The SDEIS is being made available November 10, 1994. GSA is the lead Federal agency for the preparation of the SDEIS. The SDEIS evaluates the no action alternative and four build alternatives. The two alternatives for the I–5 Freeway site have two different concept design/size options. In addition, there are two alternatives for the Seattle Public Library site.

Written comments on the alternatives, impacts, and mitigation measures should be sent no later than December 27, 1994 to GSA's EIS subconsultant, Dames & Moore, Inc., 2025 1st Avenue, Suite 500, Seattle, Washington 98121. Comments will also be accepted at a public hearing to be held on December 6, 1994, at the Henry M. Jackson Federal Building, North Auditorium, 915 Second Avenue, Seattle, Washington. The meeting will be held at 4 p.m. Representatives of GSA, the Washington State Department of Transportation (WSDOT), the City of Seattle, and Dames & Moore will receive comments from interested parties regarding the proposed project, the environmental analysis, and proposed mitigation measures. All comments received will be made a part of the administrative record for the SDEIS and will be evaluated as part of the Final Environmental Impact Statement (FEIS) review process.

For further information contact Donna M. Meyer, General Services Administration, Public Buildings Service, Planning Staff (10PL), 400 15th Street SW., Auburn, Washington 98001 or she can be reached at 206–931–7675.

Dated: October 26, 1994.

L. Jay Pearson,

Regional Administrator (10A).

[FR Doc. 94–28470 Filed 11–16–94; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Aid to Families With Dependent Children, Medicaid, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 1995 through September 30, 1996

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: The Federal Percentages and Federal Medical Assistance Percentages for Fiscal Year 1996 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 1995 through September 30, 1996. This notice announces the calculated "Federal percentages" and "Federal medical assistance percentages" that we will use in determining the amount of Federal matching in State welfare and medical expenditures. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. Programs under title XIX of the act exist in each jurisdiction; title IV–A programs in all jurisdictions except American Samoa and the Northern Mariana Islands; programs under titles I, X, and XIV operate only in Guam and the Virgin Islands; while a program under title XVI (AABD) operates only in Puerto Rico. The percentages in this notice apply to State expenditures for assistance payments and medical services (except family planning which is subject to a higher matching rate). The statute provides separately for Federal matching of administrative costs.

Sections 1101(a)(8) and 1905(b) of the Act, as revised by section 9528 of Pub. L. 99–272, require the Secretary of Health and Human Services to publish these percentages each year. The Secretary is to figure the percentages, by formulas in sections 1101(a)(8) and 1905(b) of the Act, from the Department of Commerce's statistics of average income per person in each State and in the Nation as a whole. The percentages are within upper and lower limits given in those two sections of the Act. The statute specifies the percentages to be applied to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

The "Federal percentages" are for Aid to Families with Dependent Children (AFDC) and aid to needy aged, blind, or disabled persons, and the "Federal medical assistance percentages" are for Medicaid. However, under section 1118 of the Act, States with approved Medicaid plans may claim Federal matching funds for expenditures under approved State plans for these other programs using either the Federal percentage or the Federal medical assistance percentage. These States may claim at the Federal medical assistance percentage without regard to any maximum on the dollar amounts per recipient which may be counted under paragraphs (1) and (2) of sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) of the Act.

DATES: The percentages listed will be effective for each of the 4-quarter-year periods in the period beginning October 1, 1995 and ending September 30, 1996.

FOR FURTHER INFORMATION CONTACT:

Mr. Gene Moyer, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 442E Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, Telephone (202) 690–7861.

(Catalog of Federal Domestic Assistance Program Nos. 13.808-Assistance Payments—Maintenance Assistance (State Aid); 13.714—Medical Assistance Program)

Dated: October 28, 1994.

Donna Shalala,

Secretary of Health and Human Services.

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 1995–SEPTEMBER 30, 1996 (FISCAL YEAR 1996)

State	Federal percentages	Federal medical assistance percentages
Alabama	65.00	69.85
Alaska	50.00	50.00
American Samoa	50.00	[1]50.00
Arizona	62.06	65.85
Arkansas	65.00	73.61
California	50.00	50.00
Colorado	50.00	52.44
Connecticut	50.00	50.00
Delaware	50.00	50.33
District of Columbia	50.00	50.00
Florida	50.85	55.76
Georgia	57.67	61.90
Guam	50.00	[1]50.00
Hawaii	50.00	50.00
Idaho	65.00	68.78
Illinois	50.00	50.00
Indiana	58.42	62.57
Iowa	60.24	64.22
Kansas	54.49	59.04
Kentucky	65.00	70.30
Louisiana	65.00	71.89
Maine	59.24	63.32
Maryland	50.00	50.00
Massachusetts	50.00	50.00
Michigan	51.97	56.77
Minnesota	50.00	53.84
Mississippi	65.00	78.07
Missouri	55.63	60.06
Montana	65.00	69.38
Nebraska	54.99	59.49
Nevada	50.00	50.00
New Hampshire	50.00	50.00
New Jersey	50.00	50.00
New Mexico	65.00	72.87
New York	50.00	50.00
North Carolina	60.65	64.59
North Dakota	65.00	69.06
Northern Mariana Islands	50.00	[1]50.00
Ohio	55.75	60.17
Oklahoma	65.00	69.89
Oregon	56.68	61.01
Pennsylvania	50.00	52.93
Puerto Rico	50.00	[1]50.00
Rhode Island	50.00	53.84
South Carolina	65.00	70.77
South Dakota	62.95	66.66
Tennessee	61.82	65.64
Texas	58.11	62.30
Utah	65.00	73.21
Vermont	56.52	60.87
Virgin Islands	50.00	[1]50.00
Virginia	50.00	51.37
Washington	50.00	50.19
West Virginia	65.00	73.26
Wisconsin	55.19	59.67
Wyoming	55.22	59.69

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES, EFFECTIVE OCTOBER 1, 1995–SEPTEMBER 30, 1996 (FISCAL YEAR 1996)—Continued

For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI and Part A of title IV will be 75 per centum.

[FR Doc. 94–28397 Filed 11–16–94; 8:45 am]

BILLING CODE 4120–01–M

Centers for Disease Control and Prevention

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) announce that the Secretary of Health and Human Services (HHS) signed the charter for the following Federal advisory committee:

DESIGNATION: Citizens Advisory Committee on Public Health Service Activities and Research at Department of Energy Sites.

SUPPLEMENTARY INFORMATION: HHS and the Department of Energy (DOE) have two Memoranda of Understanding (MOU) for public health activities and research at DOE sites. One transferred the responsibility for the management and conduct of energy-related analytic epidemiologic research to HHS. HHS has delegated program responsibility to CDC.

The Office of Environmental Restoration and Waste Management and the Office on Environment, Safety, and Health within DOE have a separate MOU with ATSDR. This MOU addresses ATSDR public health responsibilities around DOE sites. In addition, ATSDR is required by law (Sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act) to conduct public health assessments and where appropriate other health activities (for example, health studies, health surveillance, exposure registries), many of which are conducted at DOE sites.

Implementing these MOUs requires significant interaction with communities living in proximity to DOE

sites. This charter is in response to the requests by representatives of the communities surrounding DOE sites to provide consensus advice and recommendations on community concerns related to CDC's and ATSDR's activities related to the sites.

PURPOSE: The Citizens Advisory Committee on Public Health Service Activities and Research at DOE Sites will provide advice and recommendations to the Director of CDC and the Administrator of ATSDR regarding community, Native American Tribes, and labor concerns pertaining to CDC's and ATSDR's public health activities and research at respective DOE sites. Activities will focus on providing a forum for community, Native American Tribal, and labor interaction and serve as a vehicle for community concern to be expressed as advice and recommendations to CDC and ATSDR.

Dated: November 9, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94-28377 Filed 11-16-94; 8:45 am]

BILLING CODE 4163-18-M

Preapplication Workshop on Cooperative Agreements for Preventive Health Services-Sexually Transmitted Diseases (STD)/Human Immunodeficiency Virus (HIV) Prevention Training Centers—Program Announcement Number 514: Meeting

The National Center for Prevention Services (NCPS) of the Centers for Disease Control and Prevention (CDC) announces the following preapplication workshop.

Name: Preapplication Workshop on Cooperative Agreements for Preventive Health Services-STD/HIV Prevention Training Centers—Program Announcement 514.

Time and Dates: 8:30 a.m.—4:30 p.m., December 1–2, 1994

Status: Open to the public, limited only by the space available; seating preference for eligible applicants.

Place: Sheraton Washington Hotel, 2660 Woodley Road at Connecticut Avenue, NW, Washington, DC 20008, telephone 202/328–2000.

Purpose: To provide information concerning programmatic and business aspects of preparing an application for funding under Program Announcement 514.

Eligibility: Eligible applicants are the official public health agencies of State and local governments, the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, the Republic of Palau, and Federally-recognized Indian Tribal governments.

Availability of funds: Contingent on the availability of funds, up to $5.6 million will be available in fiscal year 1995 to fund approximately ten awards for a 1-year budget period within a 5-year project period. These awards may fund one STD/HIV Prevention Training Center in each of the ten Department of Health and Human Services regions. All applicants must compete for Part I, Clinical Services Training. Part II, Health Behavior Training, and Part III, Partner Counseling Training, are elective. Up to $4 million will be available to fund ten awards in Part I. For Part II, up to $1 million will be available to fund up to four awards. For Part III, up to $600,000 will be available for up to four awards. Awards are expected to be made on or before April 1, 1995.

Matters to be Discussed: The workshop will allow participants to receive explanations from CDC staff and ask questions about a draft announcement prior to the publication of the official announcement in the **Federal Register.**

General Information: The objective of these awards is to support innovative professional training programs in integrated STD and HIV Client management within a national network of STD/HIV Prevention Training Centers to achieve a comprehensive prevention strategy including clinical service, health behavioral, and partner counseling interventions. Applicants must demonstrate the capability to employ state-of-the-art training techniques, including distance learning technology, to reach participants regionally or nationally in a manner that prepares them to provide STD/HIV prevention interventions in the clinic and community. Training is for providers who have face-to-face contact with clients. Part I supports hands-on STD clinical services training in public health STD clinics. Applicants must demonstrate adequate clinic and training facilities for the practical experiences of participants. Plans to provide 200 hours of clinic-based course are required. Part II supports the practical skills based on behavior change theory to employ at the client level. Applicants must emphasize participant cotnact with high-risk individuals in the community. Plans to provide 100 hours of health behavior training is required. Part III supports the training of provides in STD/HIV partner counseling skills including partner elicitation, referral, and notification. Plans to provide 500 hours of partner counseling training is required.

Each Part requires the organization of a qualified training administration; analysis of STD and HIV Prevention Program training needs; collaboration with graduate schools and community experts for faculty and services and inclusion of graduate assistants in training activities; provision of clinic-based, and for Part II and Part III community-based, integrated STD/HIV services and actual experiences for participants; the development of innovative distance learning strategies; quality training through acquisition of continuing education credits for participants; evaluation of training and the design of cost-effective training models; and collaboration with CDC in a nation-wide public health training network.

For More Information Contact: To confirm your attendance, you may call (404) 639–8357 or FAX (404) 639–8609 the following information on or before November 25, 1994, to Robert B. Emerson: Organization's name and number of attendees.

Dated: November 9, 1994.

William H. Gimson,

Acting Associate Director for Policy Coordination Centers for Disease Control and Prevention (CDC).

[FR Doc. 94-28376 Filed 11-16-94; 8:45 am]

BILLING CODE 4163-18-M

Food and Drug Administration

[Docket No. 94N-0219]

Lemmon Co., et al.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three new animal drug applications (NADA's) held by Lemmon Co., Banner Pharmacaps, Inc., and Nutra-Blend Corp. The sponsors requested the withdrawals of approval. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing the entries which reflect approval of the NADA's.

EFFECTIVE DATE: November 28, 1994.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0749.

SUPPLEMENTARY INFORMATION: FDA is withdrawing approval of three NADA's on the written request of the following sponsors: Lemmon Co., 650 Cathill Rd., Sellersville, PA 18960, is the sponsor of NADA 65–467 that provides for the use of Tetracycline Hydrochloride Capsules in dogs for the treatment of bacterial gastroenteritis and urinary tract infections. Lemmon Co. requested, in its letter of May 2, 1994, that FDA withdraw approval of NADA 65–467 because the firm no longer manufactures or markets the product.

Banner Pharmacaps, Inc. (formerly Pharmacaps, Inc.), P.O. Box 547, 1111 Jefferson Ave., Elizabeth, NJ 07207, is the sponsor of NADA 119–844 that provides for the use of Dichlorophene/Toluene Capsules in dogs and cats as an anthelmintic. Banner Pharmacaps, Inc., requested, in its letter of April 20, 1994, that FDA withdraw approval of NADA

119–844 because the firm no longer manufactures or markets the product.

Nutra-Blend Corp., Rt. 7, Box 192A, Neosho, MO 64850, is the sponsor of NADA 129–160 that provides for the manufacture of a Type B medicated feed containing 0.6 gram of hygromycin B per pound. This approved NADA is not required for the firm to manufacture a Type B medicated feed containing 0.6 gram of hygromycin B per pound. Accordingly, in a letter dated March 18, 1994, the firm requested that FDA withdraw the approval for NADA 129–160.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 65–467, 119–844, and 129–160, and all supplements and amendments thereto is hereby withdrawn, effective November 28, 1994.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 520.2345a, 21 CFR 520.580, 21 CFR 510.600(c)(1) and (c)(2), and 21 CFR 558.274 to reflect the withdrawal of approval of these NADA's.

Dated: November 8, 1994.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 94–28332 Filed 11–16–94; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93F–0199]

Asahi Chemical Industry Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Chemical Industry Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of maleic anhydride modified hydrogenated styrene butadiene block polymer.

DATES: Written comments on petitioner's environmental assessment by December 19, 1994.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Andrew J. Zajac, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3095.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4354) has been filed by Asahi Chemical Industry Co., Ltd., c/o Regulatory Assistance Corp., 17 Clearview Circle, Hopewell Junction, NY 12533. The petition proposes that the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) and § 177.1810 *Styrene block polymers* (21 CFR 177.1810) be amended to provide for the safe use of maleic anhydride modified hydrogenated styrene butadiene block polymer.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before December 19, 1994, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 8, 1994.

Alan M. Rulis,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 94–28453 Filed 11–16–94; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority; Bureau of Policy Development

Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 59, No. 60, pp. 14638–14641, dated Tuesday, March 29, 1994) is amended to reflect changes in the substructure of the Bureau of Policy Development (BPD). The BPD functional statement has not been changed. The remaining BPD substructure is being published to reflect the organizational changes resulting from streamlining efforts.

The specific amendments to Part F are as follows:

- Section F.10.C.2. (Organization) is amended to read as follows:

2. Bureau of Policy Development
   - a. Office of Correspondence
     - (1) Division of Correspondence Development
     - (2) Division of Correspondence Analysis and Resources
   - b. Management and Systems Support Staff
   - c. Office of Regulations
     - (1) Division of Part A and Medicaid
     - (2) Division of Part B and Operations
   - d. Technology and Special Analysis Staff
   - e. Office of Hospital Policy
     - (1) Division of Prospective Payment System
     - (2) Division of Hospital Services
     - (3) Division of Cost Principles and Reporting
     - (4) Division of End Stage Renal Disease
   - f. Office of Physician and Ambulatory Care Policy
     - (1) Division of Outpatient Surgery and Services
     - (2) Division of Ambulatory Care Services
     - (3) Division of Physician Services
   - g. Office of Chronic Care and Insurance Policy
     - (1) Division of Skilled Nursing Care
     - (2) Division of Home Care and Therapy
     - (3) Division of Beneficiary and Insurance Issues
     - (4) Division of Durable Medical Equipment and Devices

- Section F.20.C.2. (Functions) is amended by deleting the statement and substructure in their entirety and replacing them with the new functional statements. The new functional statements read as follows:

a. Office Of Correspondence (FKA–4)

• Plans, directs, and coordinates the correspondence program for the bureau.

• Receives, controls, tracks, prepares and/or forwards to appropriate components, Bureau assignments from all sources, including the Department, HCFA and its components, the White House, members of Congress, State and local agencies, officials of professional organizations, representatives of providers of health care, regional offices, the mass media and correspondence from beneficiaries and their representatives.

• Assigns, controls, tracks, and coordinates all work assigned to, or generated within the Bureau, except regulations.

• Coordinates Bureau responses on all assignments requiring input from two or more offices.

• Prepares or coordinates the preparation of responses to Secretary and Administrator correspondence and Inspector General and General Accounting Office reports.

• Handles Bureau Freedom of Information requests, determining what information may and may not be released to the public, and ensuring that bureau replies are fully responsive.

• Manages Bureau-wide internal control systems.

• Prepares responses to correspondence.

• Provides technical assistance upon request to components and field offices.

• Responsible for the input and control of all Bureau correspondence and Bureau management of the Correspondence Assignment Tracking and Control System (CATCS); represents the Bureau on any matters involving CATCS.

(1) Division of Correspondence Development (FKA–41)

• Analyzes incoming correspondence, prepares interim responses, as well as acknowledgement of referral letters, as needed.

• Identifies the issues that need to be addressed and determines what resources are needed to prepare final replies; as needed, consolidates information from the precedent language file (BRIEF), the Staff library, Bureau components (generally through draft language requests), and organizations outside of the Bureau.

• Develops final responses to correspondence received.

• Receives and responds to telephone inquiries.

• Receives and initiates telephone calls to offices of members of Congress and White House Staff as necessary to resolve problems, respond to Medicare and Medicaid inquiries, and negotiates due dates or otherwise expedites the work.

(2) Division of Correspondence Analysis and Resources (FKA–42)

• Develops methods and procedures for the distribution and processing of correspondence work performed in the Bureau.

• Acts as the focal point for Offices and Divisions preparing Bureau correspondence.

• Coordinates and prepares responses to issues or assignments requiring input from two or more Offices.

• Maintains operating instructions.

• Develops instructions on the use of computer terminals in the Office's work.

• Responsible for the input, control and Bureau management of all correspondence in the Correspondence Assignment Tracking and Control System (CATCS); represents the Bureau on any matters involving CATCS.

• Designs, maintains, implements, and reports on the correspondence appraisal program, a post release review of the replies prepared by the Division of Correspondence Development designed to insure a high quality product.

• Develops and maintains a sophisticated filing system and resource program, including a precedent language file, Office library, and manuals.

• Conducts beneficiary recontact programs to determine how beneficiaries receive and react to the replies Staff writers prepare.

• Tests and monitors a variety of writing styles and formats in an effort to improve replies to correspondence.

• Studies randomly selected correspondence to determine trends or concerns of inquirers and reports findings to the Office Director.

• Controls incoming correspondence; controls, types, and releases interim and final replies on each letter prepared by Office writers.

• Receives, controls, tracks and prepares responses to General Accounting Office and Inspector General reports, Freedom of Information Act requests and other correspondence on HCFA programs.

• Assists the Office Director in responding to requests from the Bureau Director or Deputy in matters concerning White House or Secretary inquiries.

b. Management and Systems Support Staff (FKA–5)

• Serves as principal advisor to the Director, as well as the Bureau's executive staff, on the full range of management and related administrative issues.

• Responsible for handling highly sensitive and complex assignments requiring the Director's and Deputy Director's personal attention often involving inter-Bureau and office coordination and attention.

• Develops, coordinates, and directs a management program for the management analysis functions, internal financial management, personnel selection and placement, training and employee development, position control and staff utilization.

• Develops and issues Bureau-wide problem area reporting, coordination of Bureau operational planning activities, and a variety of administrative support services, including property and space management.

• Develops and evaluates Bureau management information systems, conducts management information and project management monitoring studies, and administers the Bureau's reports management program.

• Responsible for the Bureau's Automatic Data Processing, Local Area Networks, Telecommunications and Word Processing systems including identifying needs, procurement, evaluation, and maintaining liaison with the Bureau of Data Management and Strategy.

c. Office of Regulations (FKA–6)

• Conducts the HCFA process for developing regulations and plans corresponding work agendas.

• Drafts all HCFA regulations and HCFA rulings and related clearance documents.

• Establishes and assures compliance with editorial standards for clarity and uniformity of HCFA regulations and with the requirements of the Office of the Federal Register.

• Recommends schedules for the development of regulations, tracks progress against these schedules, and develops routine and special reports on HCFA's regulatory activities.

• Works jointly with HCFA components and the Office of the General Counsel to identify and resolve issues associated with each regulation.

• Coordinates the review of regulations received for concurrence from other HCFA and Department of Health and Human Services' components and other government agencies and prepares the Bureau and HCFA response.

• Prepares needed studies to assure completion of regulatory flexibility analysis consistent with the Regulatory

Flexibility Act and regulatory impact analysis for small rural hospitals.

• Manages the HCFA process for substantive review and clearance of regulations within HCFA, and with the Office of the General Counsel.

• Provides training to HCFA regulation writers and clerical staff.

• Maintains specialized word processing systems to assure efficient preparation of regulations documents.

• Manages public comment process and maintains official agency regulations files.

• Maintains current database of 42 Code of Federal Regulations, Part 400–End.

(1) Division of Part A and Medicaid (FKA–61)

• Reviews, analyzes and comments on specifications prepared by originating offices. Drafts, coordinates and clears payment and coverage regulations relating to Part A Medicare and special programs such as End Stage Renal Disease, Hospices, Home Health Agencies, Peer Review Organizations, Medicare Secondary Payer and Durable Medical Equipment. Also, drafts, coordinates and clears regulations related to eligibility for Medicare.

• Reviews, analyzes and comments on specifications prepared by originating offices. Drafts, coordinates and clears regulations related to the Medicaid program such as Medicaid payment to providers, practitioners, and suppliers of all services; coverage of services under Medicaid; and eligibility of individuals for Medicaid.

• Analyzes legislation related to Part A Medicare and Medicaid issues to determine necessity for changes in regulations.

• Ensures the content of regulations is consistent with **Federal Register** requirements.

• Negotiates and monitors schedules for preparation of regulations and coordinates with originating component the review of draft regulations, development of policy and analysis of issues. Negotiates resolution of policy issues necessary to meet regulation schedules.

• Analyzes the economic impact, costs, savings, and effectiveness of draft regulations, to assure compliance with the requirements of the Regulatory Flexibility Act, Executive Order 12606, the Impact on the Family, Executive Order 12612, Federalism and specific impact on small rural hospitals as required by Public Law 100–203.

• Coordinates review of regulations received for concurrence and prepares Bureau and HCFA response.

• Indexes official regulation files to assist in post publication legal reviews.

(2) Division of Part B and Operations (FKA–62)

• Reviews, analyzes and comments on specifications prepared by originating offices. Drafts, coordinates and clears payment, coverage, and operations regulations relating to Physicians and Practitioners who are paid under the physician fee schedule, Outpatient Hospitals, Managed Care, Ambulatory Surgical Centers, Rural Health Clinics, Federally Qualified Health Centers, Alternative Service Delivery, and several Medicare Part B suppliers of products and services such as: laboratories, drugs, x-rays, ambulance services.

• Analyzes legislation related to Part B Medicare and all other assigned areas to determine necessity for changes in regulations.

• Ensures the content of regulations is consistent with **Federal Register** requirements.

• Negotiates and monitors schedules for preparation of regulations and coordinates with originating component the review of draft regulations, development of policy, and analysis of issues. Negotiates resolution of policy issues necessary to meet regulation schedules.

• Analyzes the economic impact, costs, savings, and effectiveness of draft regulations, to assure compliance with the requirements of the Regulatory Flexibility Act, and specific impact on small rural hospitals as required by Public Law 100–203.

• Coordinates review of regulations received for concurrence and prepares Bureau and HCFA response.

• Indexes official regulations files to assist in post publication legal reviews.

d. Technology and Special Analysis Staff (FKA–7)

• Evaluates policies, regulations, rulings and guidelines pertaining to the establishment of Medicare coverage and payment for new health care technologies and for preventive services, including mammography screening and covered inoculations.

• Initiates special technical and economic studies in response to identified problems in payment or coverage policy.

• Coordinates with other components, such as the Health Standards and Quality Bureau, the analysis of innovative treatment patterns, referral patterns and activities that improve health care status.

• Recommends legislative or other remedies to improve coverage and utilization effectiveness of new items and services.

• Coordinates activities of HCFA's Technology Advisory Committee (TAC) and disseminates policy changes and clarifications flowing from TAC meetings.

• Coordinates activities with the Agency for Health Care Policy Research and other HCFA components such as the Office of Research and Demonstrations, the Health Standards and Quality Bureau and the Bureau of Program Operations as they relate to the establishment of policies for reasonable and necessary medical services and with the Public Health Service on formal reviews of safety and effectiveness of new health care technologies. This will include such issues as appropriate use of physician practice guidelines and measures of cost-effectiveness.

• Prepares studies, and advise others on the preparation of studies, analyzing the cost-benefits of new technology to support changes in Medicare coverage and payment policy; also, reviews cost-benefit studies prepared by others and develops the policy implications of these studies.

• Provide data analysis to support program policy changes in payment systems or in coverage of services, and to support Reports to Congress on program policy issues.

• Conducts economic research and develops or oversees the development of microsimulation models to ascertain the impact of national payment policies in areas such as inpatient/outpatient hospital services, hospital capital, physicians and other alternative types of medical delivery services.

• Works on major payment reform proposals as they relate to such issues as expenditure caps and use of preferred provider organization concepts under Medicare.

• Reviews all significant economic and medical research bearing on Medicare coverage and payment policies and prepares summaries of significant findings, emphasizing the policy situations.

• Serves as liaison to other agencies within the Department, other government organizations and industry groups regarding technical and economic policy issues and analysis.

e. Office of Hospital Policy (FKA3)

• Develops, evaluates, and maintains national policies, regulations and instructions on the coverage, payment and utilization effectiveness of items and services under the Medicare program provided for inpatients of hospitals, by End-Stage Renal Disease

(ESRD) facilities, organ procurement agencies and transplantation centers; develops and evaluates provider reporting and accounting policy; assists in the development and evaluation of related legislation.

• Develops, evaluates, and maintains regulations, policies and instructions for payments to hospitals for inpatient services under the prospective payment system.

• Coordinates with and reviews recommendations from the Prospective Payment Assessment Commission.

• Coordinates with other components, such as the Health Standards and Quality Bureau in developing and evaluating health and safety standards for hospitals and ESRD providers or suppliers of health services under Medicare.

• Develops HCFA coding standards and policies for ICD–9 and 10.

• Participates in the formulation and analysis of medical classification systems, such as Diagnosis Related Groups, mortality and other outcome groupings, and the Medicare Quality Indicator System.

• Formulates, maintains, and evaluates national policies pertaining to the exclusion of certain categories of hospitals and hospital costs from the prospective payment system (PPS) and requirements for exceptions and adjustments to PPS rates.

• Develops and evaluates policies for developing and applying rates of increase and total cost limitations to payment for hospital inpatient services.

• Develops and evaluates criteria for exceptions to rates of increase and total cost limitations to payment for hospital inpatient services.

• Reviews requests for exceptions to ESRD, Tax Equity and Fiscal Responsibility Act and capital payment limitations and recommends approval or disapproval.

• Develops and evaluates national policies, regulations, and instructions for payment/reimbursement for the costs incurred by providers of services and other classes of facilities under the health insurance program.

• Formulates and evaluates national policies for all Medicare program provider financial filing and reporting requirements.

• Establishes policy for implementing payment controls and cost containment programs.

(1) Division of Prospective Payment System (FKA31)

• Develops, evaluates and maintains regulations, policies and standards for payments to hospitals for inpatient services under the prospective payment system (PPS).

• Develops, evaluates and maintains policies pertaining to the determination of appropriate amounts of prospective payments to hospitals for services furnished to inpatients.

• Works with the Prospective Payment Assessment Commission for PPS and reviews the Commission's recommendations on and basis for rates of payments.

• Develops, evaluates and maintains policies pertaining to the appropriate methods for determining the amount of payments for cost items associated with inpatient hospital services but not yet within the prospective payment rates and develops policies for bringing such excepted cost items under PPS.

• Develops, evaluates and maintains methods for classifying hospitals and hospital services to inpatients, including sole community hospitals, for determining prospective payments to hospitals and requirements for exceptions and adjustments to PPS rates.

• Formulates HCFA policy for development and maintenance of new and revised codes for the International Classification of Diseases—Ninth Revision—Clinical Modification (ICD–9–CM).

• Chairs, serves, or supports various committees such as the ICD–9–CM Coordination and Maintenance Committee, the National Committee on Vital and Health Statistics, the American Hospital Association Editorial Advisory Board for the Coding Clinic, and the HCFA coding work-group.

• Participates in the formulation and analysis of medical classification systems, such as Diagnosis Related Groups, mortality and other outcome groupings, and the Uniform Clinical Data Set.

• Prepares reports which analyze the effects of changes in coding policy on HCFA payments, quality of care, and changes in the case mix index.

• Serves as the principal organization within HCFA for the development, evaluation and implementation of the International Classification of Diseases, Tenth Revision.

(2) Division of Hospital Services (FKA32)

• Develops, evaluates and maintains policies, regulations, rulings and instructions pertaining to the capital prospective payment system for inpatient hospital services and payment for graduate medical education.

• Develops, evaluates and maintains criteria for exceptions to the established rates of increase and limitations on hospitals' costs for inpatient services and reviews fiscal intermediaries' recommendations on requests for exceptions.

• Develops, evaluates and maintains policies for determining and applying rates of increase and limitations to the costs of hospitals for services furnished to inpatients.

• Develops, evaluates and reviews Medicare coverage policies, conditions of participation, regulations, procedures and standards pertaining to services provided by hospitals (general, psychiatric, and swing bed hospitals as well as nonparticipating emergency hospitals—including hospital level of care, custodial care, active treatment in psychiatric hospitals, rehabilitation care in hospitals, alcohol and drug treatment, hospital care in lieu of nonavailable skilled nursing facility care and outpatient hospital services including psychiatric partial hospitalization services and outpatient services covered as inpatient services) and services in Christian Science Sanitoriums.

• Establishes the prospective payment rates applicable to capital-related costs for inpatient hospital services.

• Reviews and processes obligated capital determinations and extraordinary circumstances exception requests for additional payment under the capital prospective payment system.

• Monitors the impact of capital and graduate medical education payment methodologies on hospital classes and program payments.

• Analyzes and recommends legislative or administrative remedies to improve payment policies for graduate medical education and capital-related costs.

• Coordinates with staff on the Prospective Payment Assessment Commission and prepares an analysis and response to Commission recommendations pertaining to capital and graduate medical education.

• Formulates, maintains and evaluates national policies pertaining to the exclusion of certain categories of hospitals and hospital costs from the prospective payment system.

(3) Division of Cost Principles and Reporting (FKA33)

• Develops and evaluates national policies, regulations and instructions for payment/reimbursement of the costs incurred by providers of services and other classes of facilities under the health insurance program.

• Initiates and collaborates in the development and review of legislative proposals on general Medicare payment policies, interprets law and develops

policy directives and basic payment policy decision statements.

• Reviews alternative payment and rate-setting systems for potential adaptation to the health insurance program.

• Establishes policies, principles, and guidelines related to circumstances requiring atypical payment practices.

• Plans, develops and maintains a continuing program of surveillance and evaluation of HCFA general payment policies in order to identify emerging problems and to develop and promulgate corrective policies and procedures.

• Formulates and evaluates national policies for all Medicare program provider financial filing and reporting requirements.

• Develops policies pertaining to the use of all cost reporting forms, schedules, and related instructions necessary for paying health care institutions.

• Develops policies pertaining to the validity of accounting policies and procedures.

• Formulates the basic principles and policies for developing and applying limitations to the costs of health care.

(4) Division of End Stage Renal Disease (FKA34)

• Develops, evaluates and reviews policies, regulations and instructions concerning the coverage of renal dialysis and organ transplant services for Medicare beneficiaries, including the reasonableness, necessity and effectiveness of services furnished by these providers.

• Coordinates with other components, such as the Health Standards and Quality Bureau, the development and evaluation of health and safety standards for renal dialysis facilities and organ transplant centers.

• Analyzes payment data, develops, maintains and updates payment rates for End Stage Renal Disease (ESRD) services and covered, or related, transplantation services.

• Maintains continuing liaison with ESRD provider groups, organ procurement organizations, industry associations, patient organizations, medical associations, and other parties that relate to these specialty delivery systems.

• Participates in the development and evaluation of proposed legislation pertaining to the ESRD program and organ transplant issues.

• Establishes policies, procedures, and criteria for payment exceptions for ESRD facilities.

• Processes such requests and determines which ESRD facilities should be granted exceptions to national payment rates.

• Develops and evaluates policies and regulations governing coverage and payment for transplants as well as the conditions to be met for Medicare approval of transplant centers.

f. Office of Physician and Ambulatory Care Policy (FKA4)

• Develops, evaluates and reviews national Medicare payment and coverage policy for physician and ambulatory care services, including physician and other practitioner services; radiology and diagnostic services; clinical laboratory, ambulance, drugs and other medical services; hospital outpatient and ambulatory surgical center (ASC) services; and special delivery systems, including rural health clinics (RHCs) and federally qualified health centers (FQHCs).

• Assists in the development and evaluation of related legislation concerning payment and coverage policies, including health and safety and utilization effectiveness standards, for physician and ambulatory care services.

• Serves as the principal organization within HCFA for evaluating the medical aspects of Medicare coverage issues. Coordinates with other components, such as the Health Standards and Quality Bureau, in developing and evaluating health quality and safety standards for physician and ambulatory care services under Medicare.

• Coordinates with and reviews recommendations from the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

• Develops and maintains fee schedules for physician, radiology and diagnostic services.

• Develops and maintains fee schedules for independent laboratory services and ambulatory surgical centers.

• Develops payment policy for special forms of health care delivery such as hospital outpatient departments, ASCs, RHCs and FQHCs, including the development of prospective payment systems.

• Establishes policy for implementing payment controls and cost containment programs.

• Develops, evaluates, and reviews national Medicare coverage issues concerning the reasonableness and necessity for medical and related services.

• Participates in the formulation and use of medical codes under the HCFA Common Procedure Coding System and develops common medical coding standards and policy.

• Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of Medicare coverage and payment policy to program contractors and the health care field.

• Identifies, studies, and makes recommendations for modifying Medicare payment and coverage policies and health and safety standards to reflect changes in beneficiary health care needs, program objectives, and the health care delivery system.

(1) Division of Outpatient Surgery and Services (FKA41)

• Develops and evaluates coverage and payment policies and participation requirements for hospital outpatient services and ambulatory surgical centers (ASCs).

• Develops, evaluates, and reviews regulations, manuals, program guidelines, and instructions required for the dissemination of program policies to program contractors and the health care field.

• Participates in the development and evaluation of proposed legislation pertaining to hospital outpatient services and ASCs.

• Formulates policies and principles for developing, evaluating and updating payment rates for hospital outpatient services and ASCs.

• Develops innovative payment policies and rate setting systems designed to promote efficiency and economy for ASC and hospital outpatient services, including the development of prospective payment systems, as appropriate.

• In cooperation with other components, such as the Health Standards and Quality Bureau, develops and evaluates health quality and safety standards for ASCs.

• Maintains continuing liaison with provider groups, industry associations, patient organizations, medical associations, and other parties that relate to outpatient facility services and ASCs.

• Provides interpretations of established policies and technical assistance to regional offices, State agencies, fiscal intermediaries, suppliers of services,congressional staff,and other departmental offices.

• Coordinates with and reviews recommendations from the Prospective Payment Assessment Commission.

• Coordinates with other components responsible for health and safety standards, program operations, and quality control, professional groups and standard setting organizations, and with

other parties and individuals, as appropriate.

• Identifies, studies, and makes recommendations for modifying Medicare policies and providers' health and safety standards to reflect changes in beneficiary health care needs, program objectives, and the health care delivery system.

• Reviews policies developed by other components for their impact on hospital outpatient and ASC services.

(2) Division of Ambulatory Care Services (FKA42)

• Develops and evaluates coverage and payment policies and participation requirements for clinical laboratory services, ambulance services, drugs and special payment delivery systems, including rural health clinics and federally qualified health centers.

• Develops, evaluates, and reviews regulations, manuals, program guidelines, and instructions required for the dissemination of program policies to program contractors and the health care field.

• Participates in the development and evaluation of proposed legislation pertaining to clinical laboratory services, ambulance services, drugs and special payment delivery systems.

• Identifies, studies, and makes recommendations for modifying Medicare policies and providers' health and safety standards to reflect changes in beneficiary health care needs, program objectives, and the health care delivery system.

• Develops and maintains the fee schedule for clinical laboratory services.

• Establishes payment policies for blood, blood products and hemophilia clotting factors.

• Formulates payment methods for drugs provided by physicians (e.g., injectable drugs, vaccines, chemotherapy agents), and drugs used in connection with durable medical equipment.

• Develops innovative payment policies and rate setting systems designed to promote efficiency and economy for clinical laboratory services, ambulance services, drugs and special payment delivery systems.

• Maintains continuing liaison with provider groups, industry associations, patient organizations, medical associations, and other parties.

• Provides interpretations of established policies and technical assistance to regional offices, State agencies, fiscal intermediaries, suppliers of services, congressional staff, and other departmental offices.

• Coordinates with other components responsible for health and safety standards, program operations, and quality control, professional groups and standard setting organizations, and with other parties and individuals, as appropriate.

• Reviews policies developed by other components for their impact on clinical laboratory services, ambulance services, drugs and special payment delivery systems.

(3) Division of Physician Services (FKA43)

• Develops and maintains fee schedules for physician services, radiology and certain diagnostic services. This includes establishment and revision of relative value units, geographic adjusters, and site of service differentials.

• Formulates and evaluates national policies and health and safety standards for Medicare coverage and payment for physician services including the determination of policies related to the payment of provider-based physicians, teaching physicians, interns, and residents.

• Develops, evaluates and reviews policies, regulations, rulings and guidelines pertaining to services excluded from Medicare coverage.

• Develops, evaluates, and reviews national Medicare policies concerning reasonableness and necessity for services.

• Develops, evaluates, and reviews national Medicare payment policies, including global payment rates for surgical services and separate payment for supplies.

• Develops, evaluates and reviews national policies pertaining to the coverage of items and services furnished by physicians and services incident to the services of physicians.

• Develops recommendations for annual physician fee schedule revisions (e.g., relative values and geographic adjusters), including preparation of **Federal Register** notices and reports and recommendations to the Congress.

• Drafts program regulations, manuals, guidelines, and other general instructions related to the coverage and payment of physician services.

• Administers the Medicare Volume Performance Standards (MVPS), including preparing **Federal Register** notices with respect to the MVPS and update and developing annual reports and recommendations to the Congress.

• Participates in the development and evaluation of proposed legislation in the area of medical services coverage and payment and recommends alternatives that will improve current methods of payment and coverage, health and safety, and utilization effectiveness.

• Participates in the formulation and use of medical codes under the HCFA Common Procedure Coding System and develops common medical coding standards and policy.

• Coordinates with other HCFA bureaus, divisions, and offices, the Social Security Administration, and Departmental components in the development of coverage and payment policies for medical services.

• Provides interpretations of established policies and technical assistance to the Social Security Administration, Departmental and HCFA components, regional offices, intermediaries, carriers and State agencies.

• Coordinates with and reviews recommendations from the Physician Payment Review Commission.

• Identifies, studies, and makes recommendations for modifying Medicare coverage and payment policies to reflect changes in beneficiary health care needs, program objectives, and the health care delivery system.

• Initiates special studies in response to identified problems in payment or coverage of physician services.

• Reviews policies developed in other areas for their impact on physician payment.

g. Office of Chronic Care and Insurance Policy (FKA5)

• Develops and evaluates national Medicare policies and standards on the coverage of and payment methods for services provided by skilled nursing facilities, home health agencies, hospices, comprehensive outpatient rehabilitation facilities, community mental health centers, and outpatient rehabilitation therapy providers. Develops and evaluates requirements for participation of these providers in Medicare.

• Develops and evaluates national Medicare policies and standards on the coverage of mental health services, including partial hospitalization, clinical psychologists' services, and clinical social workers' services.

• Develops and evaluates national Medicare policies and principles for applying limitations to the costs of skilled nursing facilities. Develops criteria for exceptions to cost limitations and reviews and makes decisions on skilled nursing facility requests for such exceptions.

• Develops and evaluates national Medicare policies and standards on entitlement to hospital insurance and supplementary medical insurance, premium amounts and collection, general requirements for payment of claims, beneficiary rights and

protections, limitation on liability, hearings and appeals, technical exclusions, and other technical issues.

• Develops and evaluates national Medicare policies and standards on Medicare as secondary payer, coordination of other payers' benefits with Medicare, and Medicare supplemental insurance (Medigap).

• Develops and evaluates national Medicare policies and standards on the coverage of and payment methods for durable medical equipment, orthotics, prosthetics, braces, splints, and other supplies and devices.

(1) Division of Skilled Nursing Care (FKA51)

• Develops and evaluates national Medicare policies and standards on the coverage of and payment methods for services provided by skilled nursing facilities. Develops and evaluates requirements for participation of skilled nursing facilities in Medicare and nursing facilities in Medicaid.

• Develops and evaluates national Medicare policies and principles for applying limitations to the costs of skilled nursing facilities. Develops criteria for exceptions to and exemptions from cost limitations. Reviews and makes decisions on skilled nursing facility requests for such exceptions or exemptions.

• Develops and evaluates national Medicare policies and standards on spell of illness, and the deductibles, coinsurance, and benefit limits applicable to skilled nursing facilities.

• Develops, evaluates, and reviews national Medicare policies and standards relating to subacute care.

• Participates in the development and evaluation of a prospective payment system for skilled nursing facility services.

• Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of policies to Medicare contractors and the health care field.

(2) Division of Home Care and Therapy (FKA52)

• Develops and evaluates national Medicare policies and standards on the coverage of and payment methods for services provided by home health agencies, hospices, comprehensive outpatient rehabilitation facilities, community mental health centers, and outpatient rehabilitation therapy providers. Develops and evaluates requirements for participation of these providers in Medicare.

• Develops and evaluates national Medicare policies and standards on the coverage of mental health services, including partial hospitalization, clinical psychologists' services, and clinical social workers' services.

• Develops and evaluates national Medicare policies and standards on the deductibles, coinsurance, and benefit limits applicable to the provider and practitioner services described above.

• Develops, evaluates, and reviews national Medicare policies and standards relating to managed care organizations.

• Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of policies to Medicare contractors and the health care field.

(3) Division of Beneficiary and Insurance Issues (FKA53)

• Develops and evaluates national Medicare policies and standards on entitlement to Medicare hospital insurance and supplementary medical insurance, premium amounts and collection, general requirements for payment of claims, beneficiary rights and protections, limitation on liability, hearings and appeals, technical exclusions, and other technical issues.

• Develops and evaluates national Medicare policies and standards on Medicare as secondary payer, coordination of other payers' benefits with Medicare, and Medicare supplemental insurance (Medigap).

• Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of policies to Medicare contractors, social security offices, and the health care field.

• Maintains liaison with other Federal agencies such as the Social Security Administration, the Department of Veterans Affairs, and the Office of Personnel Management to coordinate policies in areas of mutual concern.

(4) Division of Durable Medical Equipment and Devices (FKA54)

• Develops and evaluates national Medicare policies and standards on the coverage of and payment methods for durable medical equipment, orthotics, prosthetics, braces, splints, and other supplies and devices.

• Develops and evaluates national Medicare policies and standards concerning restrictions on referrals by physicians to entities in which they have an ownership interest.

• Provides administrative support and management for Levels 2 and 3 of the Health Care Financing Administration's Common Procedure Coding System.

• Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of policies to Medicare contractors and the health care field.

Dated: November 1, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 94–28398 Filed 11–16–94; 8:45 am]

BILLING CODE 4120–01–P

Social Security Administration

Social Security Acquiescence Rulings: Rescissions; Paxton v. HHS Secretary; Augmented Veterans Benefit Paid Directly to Veteran, Treatment of Dependent's Portion

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling 90–1(9)—*Paxton* v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988).

SUMMARY: In accordance with 20 CFR 416.1485(e) and 422.406(b)(2), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 90–1(9).

EFFECTIVE DATE: November 17, 1994.

FOR FURTHER INFORMATION CONTACT: Gary Sargent, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 965–1695.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 416.1485(e)(4), a Social Security Acquiescence Ruling may be rescinded as obsolete if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On July 16, 1990, we issued Acquiescence Ruling (AR) 90–1(9) (55 FR 28946) to reflect the Ninth Circuit's holding in *Paxton* v. *Secretary of Health and Human Services*, 856 F.2d 1352 (9th Cir. 1988), that, as written, the current regulations did not support counting the dependent's portion of an augmented Department of Veterans Affairs (VA) benefit as unearned income

to the dependent in determining supplemental security income (SSI) eligibility and calculating benefits. Acquiescence Ruling 90–1(9) applied to SSI applicant and recipient cases arising in the Ninth Circuit in which an individual received an augmented VA benefit.

On November 17, 1994, we are publishing final regulations which set out our policy, under the SSI program, regarding the treatment of veterans benefits that are augmented to provide for dependents. The effect of these regulations is to clarify and make more equitable our treatment of the "dependent's portion" of augmented veterans benefits. The regulations state that, if an individual receives a veteran's benefit that includes an amount paid to him or her because of a dependent, we will not count as unearned income the amount paid to him or her because of the dependent. The regulations additionally provide that the dependent's portion will be counted as the dependent's unearned income if the dependent resides with the veteran or the veteran's surviving spouse, or if the dependent receives his or her own portion in a separate payment from the Department of Veterans Affairs.

Because these regulations address the issued decided by the *Paxton* court, we hereby rescind AR 90–1(9) as obsolete. The regulations make specific provisions for those individuals in the Ninth Circuit who might lose SSI benefits as a result of this rescission.

Adjudicators of claims arising in the Ninth Circuit (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Northern Mariana Islands, Oregon and Washington) will no longer follow AR 90–1(9), but will decide cases based on the amended regulations.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Dated: September 22, 1994.

Shirley S. Chater,

Commissioner of Social Security.

[FR Doc. 94–28325 Filed 11–16–94; 8:45 am]

BILLING CODE 4190–29–M

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Center for Substance Abuse Treatment (CSAT) National Advisory Council in December 1994.

The meeting of the CSAT National Advisory Council will include a discussion of the mission and programs of the Center, policy issues and administrative announcements. The Council will also be briefed on and discuss CSAT's FY 1995 procurement plans; therefore, portions of this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(3) and 5 U.S.C. app. 2 10(d). Attendance by the public will be limited to space available.

A summary of the meeting and a roster of council members may be obtained from: Ms. D. Winstead, Committee Management Specialist, CSAT, Rockwall II Building, Suite 619, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–5050.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Center for Substance Abuse Treatment, National Advisory Council.

Meeting Dates: December 8–9, 1994.

Place: Stouffer Madison Hotel, 515 Madison Street, Seattle, Washington 98104.

Open:

December 8, 1:30 p.m.–4:30 p.m.

December 9, 9:00 a.m.–4:00 p.m.

Closed: December 8, 4:30 p.m.–5:30 p.m.

Contact: Penni St. Hilaire, Rockwall II Building, Suite 619, Telephone (301) 443–5050.

Dated: November 10, 1994.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 94–28330 Filed 11–16–94; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1320–01; OKNM 91190, et al.]

Notice of Coal Lease Offering; Oklahoma; Correction

In notice document 94–59, No. 203, beginning on page 53201, in the issue of Friday , October 21, 1994, make the following corrections:

1. On page 53201, in the first column, under T. 8N., R. 26 E., correct Sec. 5 to read as follows: "Sec. 5, lots 1 to 4 inclusive, SW¼NE¼, N½SE¼NE¼, SW¼SE¼NE¼, and S½NW¼."

2. On the same page, same column, under T. 9 N., R. 26 E., correct Sec. 21 to read as follows: "Sec. 21, S½S½."

3. On the same page, same column, under T. 9 N., R. 26 E., before Sec. 33, remove extra Sec.

4. On the same page, same column, under T. 9 N., R. 26 E., I.M., correct acreage to read: "3,429.04."

5. On the same page, second column, first paragraph, correct BUT/1b to read: "BTU/1b."

6. On page 53202, in the first column, under T. 5 N., R. 27 E., I.M., correct Sec. 19 to read as follows: "Sec. 19, NE¼NE¼, SW¼NW¼, and W½SE¼NW¼."

7. On the same page, column three, under Rental and Royalty, sixth sentence, correct to read: "* * * of the coal * * *"

8. Finally, correct date at end of notice to read: "October 11, 1994."

Dated: November 7, 1994.

William C. Calkins,

State Director.

[FR Doc. 94–28427 Filed 11–16–94; 8:45 am]

BILLING CODE 4310–FB–M

[4310–OR–100–6332–00; 5–032]

Availability of Proposed Resource Management Plan/Final Environmental Impact Statement; Oregon

ACTION: Notice.

SUMMARY: In accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, section 202(f) of the Federal Land Policy and Management Act of 1976, and 43 CFR part 1610, a Proposed Resource Management Plan/Final Environmental Impact Statement has been prepared for the Roseburg District, Oregon. The Proposed Final RMP/EIS describes and analyzes future options for managing approximately 423,900 acres of mostly forested public land and 1,717 acres of non-federal surface ownership with federal mineral estate administered by the Bureau of Land Management in Douglas county in southwestern Oregon.

PUBLIC PARTICIPATION: The Draft RMP/EIS was available for public review and comment from August 21, 1992 to December 21, 1992. Written comments were received from agencies, organizations, and individuals. All comments provided were considered during the preparation of the Proposed Final RMP/EIS.

Copies of the Proposed Resource Management Plan/Final Environmental Impact Statement and its summary may be obtained from the Roseburg District Office. Copies will be available for

review at public libraries throughout Douglas County, all government document depository libraries, and at the following BLM locations:

Office of External Affairs, Main Interior Building Room 5600, 18th and C Streets, N.W. Washington, D.C.
Public Room, Oregon State Office 1515 S.W. 5th Portland, Oregon 97201
Roseburg District Office 777 NW Garden Valley Blvd. Roseburg, Oregon 97470

All other BLM offices in western Oregon.

Background information and maps used in developing the Proposed Final RMP/EIS are available at the Roseburg District Office.

Open houses with opportunity to discuss the Proposed Resource Management Plan/Final Environmental Impact Statement will be held at the Roseburg District Office (at the above address). The dates, times, and locations of all open house meetings will be announced in a separate mailer as well as in the local media.

Protests should be sent to: Director (760), Bureau of Land Management, Chief, Planning and Environmental Coordination, Bureau of Land Management, 1849 "C" Street, NW, Washington, D.C. 20240.

The Roseburg District Proposed Resource Management Plan and Final Environmental Impact Statement is expected to be published on or about November 10, 1994. Protests must be postmarked within the 30-day protest period which would start November 18, 1994 and would close December 19. 1994. To be considered complete, your protest must contain, at a minimum, the following information:

—Name, mailing address, telephone number, and interest of the person filing the protest.
—A statement of the issue or issues being protested.
—A statement of the part or parts of the specific (named) proposed RMP being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, maps, etc. included in the document.
—A copy of all documents addressing the issue or issues that you submitted during the planning process or a reference to the date the issue or issues were discussed by you for the record.
—A concise statement explaining why the BLM State Director's decision is believed to be incorrect. This is a critical part of your protest. Document all relevant facts. As much as possible, reference or cite the planning documents, environmental analysis documents, and available planning records (e.g., meeting minutes or summaries, or correspondence). A protest that merely expresses disagreement with the Oregon/Washington State Director's proposed decision, without any data, will not provide us with the benefit of your information and insight. In this case, the Director's review will be based on the existing analysis and supporting data.

At the end of the 30-day protest period, the BLM may issue a Record of Decision approving implementation of any portion of the proposed plan not under protest. Approval will be withheld on any portion of the plan under protest until the protest has been resolved.

FOR FURTHER INFORMATION, CONTACT: Phil Hall, RMP Team Leader Roseburg District Office; Phone (503) 440–4930.

SUPPLEMENTARY INFORMATION: The Proposed Resource Management Plan/ Final Environmental Impact Statement describes and analyzes seven alternatives to resolve the following issues: (1) Timber production practices; (2) Old-growth forests and habitat diversity; (3) Threatened and endangered and other special status species habitat, including habitat for the northern spotted owl; (4) Special areas; (5) Visual resources; (6) Stream/ riparian/water quality; (7) Recreation resources; (8) Wild and scenic rivers; (9) Land tenure; and (10) Rural interface areas. The issues are analyzed in seven distinct alternatives, with each alternative representing a complete management plan for the district.

The Proposed Resource Management Plan responds to the need for a healthy forest ecosystem with habitat that will support populations of native species (particularly those associated with late-successional and old-growth forests). It also responds to the need for a sustainable supply of timber and other forest products that will help maintain the stability of local and regional economies and will contribute valuable resources to the national economy, on a predictable and long-term basis. BLM-administered lands are primarily allocated to Riparian Reserves, Late-Successional Reserves, General Forest Management Areas, and Connectivity/ Diversity Blocks. An Aquatic Conservation Strategy would be applied to all lands and waters under BLM jurisdiction.

Approximately 89,900 acres would be managed for timber production. The annual probable sale quantity would be 7.0 million cubic feet (45 million board feet). Standing trees; snags; and down, dead woody material would be retained to contribute to biological diversity.

Management would provide for a wide variety of recreation opportunities, with particular emphasis on enhancement of opportunities for dispersed recreational use.

Approximately 29 miles of river found eligible for designation and studied by BLM would be found not suitable for designation.

Most BLM-administered lands would remain available for mineral leasing and location of mining claims, but 28 acres would be closed to leasing for oil and gas and geothermal resources, and 5,070 acres would be closed to location of claims.

The Proposed Resource Management Plan would designate or redesignate the following ACECs and RNAs:

Bear Gulch	ACEC/RNA330 acres.
Beatty Creek	ACEC/RNA331 acres.
Bushnell-Irwin Rocks.	ACEC958 acres.
Myrtle Island	ACEC/RNA30 acres.
North Bank	ACEC6221 acres.
North Myrtle Creek	ACEC/RNA472 acres.
North Umpqua River	ACEC1620 acres.
Red Pond	ACEC/RNA134 acres.
Tater Hill	ACEC/RNA280 acres.
Umpqua River Wildlife Area.	ACEC 947 acres.

There were no potential ACEC areas identified that met the Bureau ACEC criteria of relevance and importance that are not included in whole or in part in the proposed alternative described above.

This notice meets the requirements of 43 CFR 1610.7–2 for designation of ACECs and the requirements of the final revised Department of the Interior-Department of Agriculture Guidelines for Eligibility, Classification, and Management of Rivers (FR Vol. 47, No. 173, pg. 39454).

Dated: November 10, 1994.

Bennie C. Hobbs,

Acting District Manager, Roseburg District Manager.

[FR Doc. 94–28469 Filed 11–16–94; 8:45 am]
BILLING CODE 4310–33–P

[MT–020–04–4920–10; SDM 75269]

Notice of Realty Action; Exchange

AGENCY: Bureau of Land Management, Montana, Miles City District, South Dakota Resource Area, Interior.

ACTION: Notice of Realty Action SDM 75269. Exchange of public and private lands and minerals in Harding County, South Dakota.

SUMMARY: The following described lands and minerals have been determined

suitable for disposal by exchange to the Cave Hills Cattle Company under the authority of Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), General Exchange Act of March 20, 1922 and the Federal Land Exchange Facilitation Act of August 20,1988.

Selected public surface land to be acquired by Cave Hills Cattle Company in Harding County, South Dakota:

Principal Meridian, Black Hills

T. 20 N., R. 5 E.,
Section 1, Lot 2
T. 20 N., R. 6 E.,
Section 6, Lot 3
T. 21 N., R. 6 E.,
Section 30, SW¼NE¼, NW¼SE¼

Selected public surface land and minerals to be acquired by Cave Hills Cattle Company in Harding County, South Dakota:

T. 20 N., R. 5 E.,
Section 3, SW¼SE¼
T. 21 N., R. 6 E.,
Section 33, NW¼NE¼
Approximately 272.70 acres.

Offered surface and mineral estate to be acquired by the U.S. Forest Service in Harding County, South Dakota:

T. 21 N., R. 5 E.,
Section 3, S½SW¼
Section 10, W½, S½SE¼.
Approximately 480 acres.

DATES: Comments on this proposal must be submitted on or before January 3, 1995. Interested parties may submit comments to the District Manager, Bureau of Land Management, P. O. Box 940, Miles City, MT 59301. Any adverse comments will be evaluated by the BLM Montana State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange and the environmental assessment is available for review at the Bureau of Land Management, South Dakota Resource Area Office, 310 Roundup Street, Belle Fourche, SD 57717.

SUPPLEMENTARY INFORMATION: The public lands and minerals described above are segregated from settlement, sale location, and entry under the public land laws, including the mining laws, but not from the mineral leasing laws nor from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, for a period of two years from the date of publication of this notice. The exchange will be made subject to:

1. A reservation to the United States of a right-of-way for ditches or canals in accordance with U.S.C. 945.
2. All valid existing rights of record.
3. The exchange must meet the requirements of 43 CFR 4110.4–2(b).

Any other applicable terms and conditions.

This exchange is consistent with BLM policies and planning and has been discussed with state and local officials. The public interest will be served by completion of this exchange because it will enable the BLM to acquire lands with high public values and will increase management efficiency of public lands in the area.

Mary Alice Spencer,
Acting District Manager.

[FR Doc. 94–28425 Filed 11–16–94; 8:45 am]
BILLING CODE 4310–DN–P

[CA–068–01–4333–01]

Prohibition of the Discharge of Firearms

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of the implementation of a supplementary rule banning the use of firearms, with the sole exception of the hunting of upland game birds in season, upon the public lands within the Stoddard Valley and east half of Sec. 28, the Sawtooth Canyon area.

SUMMARY: Order: A supplementary rule will take effect that will ban the discharge of firearms, with the sole exception of the hunting of upland game birds in season, upon the public lands within the Stoddard Valley and east half of Sec. 28, the Sawtooth Canyon area, within the California Desert Conservation Area and San Bernardino County, California. The supplementary rule will be cited under 43 CFR 8365.1–6, Visitors Services, Rules of Conduct, Supplementary Rules. The text of this rule follows: "Ban on the Discharge of Any Firearm with the Exception of the Hunting of Upland Game Birds in Season Within the Boundaries of the Stoddard Valley and east half of Sec. 28, the Sawtooth Canyon area, within San Bernardino County, California (Supplementary Rule as Per 43 CFR 8365.1–6).

With the exception of the hunting of upland game birds in season, all recreational shooting, including rifles, pistols, shotguns, and/or any other firearm, is prohibited upon the Public Lands within the above-named boundaries:

(a) Because a hazardous condition exists from the discharge of firearms, there is an evident need to exclude the use of all firearms, with the exception of the hunting of upland game birds in season upon the Public Lands within these areas.

(b) Upon the Public Lands within the subject boundaries, no person shall discharge a firearm for recreational shooting, with the exception of hunting upland game birds in season.

(c) Requests for exceptions to this rule must be made in writing to the Area Manager, Barstow Resource Area."

The purpose of this supplemental rule is to protect visitors to the Stoddard Valley and east half of Sec. 28, the Sawtooth Canyon area, from serious injury to themselves, as well as damage to their vehicles as a result of the discharge of firearms and firing of other projectiles.

EFFECTIVE DATE: Effective November 17, 1994.

ADDRESSES: Maps of the closure areas are available at the Barstow Resource Area Office, 150 Coolwater Lane, Barstow CA 92311, from 7:45 a.m. until 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mike Moor, Chief Area Ranger, Barstow Resource Area, 150 Coolwater Lane, Barstow, California, 92311, telephone (619) 256–2729.

SUPPLEMENTARY INFORMATION: This order is intended to restrict the discharge of firearms and firing of other projectiles in two, congested recreational use areas. Other, adjacent, and less-heavily-used parcels of Public Land are not affected by this order. Authority for this supplemental rule is found in 43 CFR 8365.1–6. Violation of this rule is punishable by a fine not to exceed $100,000, or imprisonment not to exceed 12 months.

Dated: October 28, 1994.

Ed Hastey,
State Director.

[FR Doc. 94–28428 Filed 11–16–94; 8:45 am]
BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–724 (Preliminary)]

Manganese Metal From The People's Republic of China

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a preliminary antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary

antidumping investigation No. 731–TA–724 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of manganese metal, provided for in subheadings 8111.00.45 and 8111.00.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. The Commission must complete preliminary antidumping investigations in 45 days, or in this case by December 23, 1994.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: November 8, 1994.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on November 8, 1994, by Elkem Metals Company, Pittsburgh, PA, and Kerr-McGee Chemical Corporation, Oklahoma City, OK.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 29, 1994, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Woodley Timberlake (202–205–3188) not later than November 25, 1994, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before December 2, 1994, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to §§ 207.12 of the Commission's rules.

Issued: November 14, 1994.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 94–28513 Filed 11–16–94; 8:45 am]

BILLING CODE 7020–02–P

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-No. 1142)]

Consolidated Rail Corporation—Abandonment—Between Hudson and Cuyahoga Falls in Summit County, OH

The Commission has issued a decision and certificate of interim trail use and abandonment authorizing Consolidated Rail Corporation (Conrail) to abandon its Akron Secondary line between milepost 1.45 at Hudson and milepost 8.00 at Cuyahoga Falls, a total of about 6.55 miles in Summit County, OH. The abandonment is subject to an historic preservation condition, a trail use condition, a public use condition, and standard labor protective conditions. The abandonment certificate will become effective [30 days after publication] unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served on the applicant no later than 10 days after publication of this notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Office of Proceedings, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: November 10, 1994.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 94–28454 Filed 11–16–94; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–33 (Sub-No. 88)]

Union Pacific Railroad Company—Abandonment—in Butte County, ID (Scoville Branch)

The Commission has issued a certificate authorizing Union Pacific Railroad Company (UP) to abandon that portion of its Scoville Branch extending from milepost 43.1 near Scoville to the end of the line at milepost 59.5 near Arco, a distance of approximately 16.4 miles in Butte County, ID. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Office of Proceedings, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Decided: November 9, 1994.

By the Commission, Chairman McDonald, Vice Chairman Phillips, and Commissioners Simmons, Morgan and Owen. Vice Chairman Phillips recused herself in this proceeding.

Vernon A. Williams,

Secretary.

[FR Doc. 94–28455 Filed 11–16–94; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *AND* to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) COPS AHEAD Application Kit.

(2) COPS 003/01. Office of Community Oriented Policing Services.

(3) On occasion.

(4) State and local governments. The COPS AHEAD Application Kit is a grant application to be used to apply for police hiring grants by state, local and Indian Tribal law enforcement agencies serving populations of 50,000 or more.

(5) 500 annual respondents at 22 hours per response.

(6) 11,000 annual burden hours.

(7) Not applicable under Section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: November 14, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–28472 Filed 11–16–94; 8:45 am]

BILLING CODE 4410–21–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *AND* to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) National Prisoner Statistics.

(2) NPS–1. Bureau of Justice Statistics, Office of Justice Programs.

(3) Annually.

(4) State or local governments, Federal agencies or employees. To provide

annual summary measures on persons confined in the Nation's correctional institutions, as well as on prison capacity, AID's testing and number of inmates with AIDS at year-end. These data elements will form the basis for historical trend analyses. Respondence are personnel in the Department of Corrections of the States, the District of Columbia and the Federal Bureau of Prisons.

(5) 52 respondents @ 6.5 hours per response.

(6) 338 annual burden hours.

(7) Not applicable under Section 3504(h).

Public comment on this item is encouraged.

Dated: November 10, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–28473 Filed 11–16–94; 8:45 am]

BILLING CODE 4410–18–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 USC Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 *AND* to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer *AND* the Department of Justice Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, *AND* to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) 1995 Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities.

(2) CJ–17, CJ–29, CJ–29A. Office of Justice Programs, Office of Justice Programs.

(3) Biennially.

(4) State or local governments, Non-profit institutions. This biennial undertaking provides descriptive data on public and private juvenile detention and correctional facilities and their residents. This information is used by policy makers, planners and juvenile justice practitioners.

(5) 3,700 respondents @ 3.6 hour per response.

(6) 13,320 annual burden hours.

(7) Not applicable under Section 3504(h).

Public comment on this item is encouraged.

Dated: November 10, 1994.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 94–28474 Filed 11–10–94; 8:45 am]

BILLING CODE 4410–18–M

Antitrust Division

Proposed Final Judgment and Competitive Impact Statement; United States v. Association of Retail Travel Agents

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States* v. *Association of Retail Travel Agents*, Civil No. 94–2305 as to the association of Retail Travel Agents.

The Complaint alleges that the defendant and its members agreed on commission levels and other terms of trade on which to transact business with providers of travel services, and encouraged and participated in a group boycott with the intent to induce certain providers of travel services to agree to certain commission levels and practices.

The proposed Final Judgment enjoins the defendant from inviting or encouraging travel agents to engage in concerted refusals to deal with travel services providers, and also requires defendant to establish an antitrust compliance program.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court. Comments should be directed to Roger Fones, Chief, Transportation, Energy and Agriculture Section, Room 9104, U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Washington, D.C. 20001 (telephone: 202–307–6351).

Mark C. Schechter,

Deputy Director of Operations, Antitrust Division.

In the United States District Court for the District of Columbia

Case Number 1:94CV02305.
Judge: Paul L. Friedman.
Deck Type: Antitrust.
Date Stamp: 10/25/94.

The United States of America, plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief against the above-named defendant, and complains and alleges as follows:

I

Jurisdiction and Venue

1. This complaint is filed under Section 4 of the Sherman Act, 15 U.S.C. § 4, in order to prevent and restrain violations by defendant of Section 1 of the Sherman Act, 15 U.S.C. § 1, and this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1337.

2. Defendant transacts business and is found in the District of Columbia, within the meaning of 15 U.S.C. § 22 and 28 U.S.C. § 1391(c).

II

Defendant

3. Association of Retail Travel Agents, Ltd. ("ARTA"), is a District of Columbia nonprofit corporation with its principal place of business in Arlington, Virginia. ARTA is a trade association with over two thousand members who act as retail

travel agents selling transportation and accommodations ("travel services") to the public as agents for airlines, hotels, cruise lines, rental car companies and other providers of travel services ("travel providers"). ARTA's members compete with one another both to sell travel services to the public and to act as selling agents for travel providers.

III

Trade and Commerce

4. Airlines, hotels, rental car companies, cruise lines, and other travel providers sell a significant portion of their travel services to the public through travel agents, including the members of defendant. Travel agents inform consumers about the price, availability and other details of various travel options and make reservations and sell tickets to the travellers for the travel services they choose. Roughly 80% of airline sales, 30% of hotel sales, 50% of rental car sales and 95% of cruise line sales in the United States are made through travel agents. In 1993, the amount of such sales by travel agents was in excess of $90 billion.

5. Travel agents sells travel services to the public as agents of the travel providers. Travel agents normally do not charge travellers directly for their services; instead, travel providers pay commissions to the travel agents for the sales the agents make on behalf of the travel providers. These commissions vary and are established between individual travel agents and travel providers. These commissions generally are included in the price the consumer pays for airline tickets, hotel accommodations, rental cars, cruises and other travel services. The lower the sales commissions established between individual travel agents and travel providers, the lower the total cost of travel services to the consumer.

6. A substantial proportion of the commissions earned by travel agents, including members of defendant, are derived from the sale of travel services that are within the flow of and substantially affect interstate and foreign trade and commerce.

7. The sale of travel services by travel agents constitutes a line of commerce and a relevant product market within the meaning of Section 1 of the Sherman Act.

8. The United States constitutes a relevant geographic market within the meaning of Section 1 of the Sherman Act.

IV

Alleged Violation

9. On or about October 16, 1993, the members of defendant, through its Board of Directors, adopted a statement of objectives for defendant and its members. That statement, entitled "ARTA Objectives for the Travel Agency Community," constitutes an agreement among the members of defendant's Board of Directors and among defendant's members as to the matters contained therein.

10. Included among the ARTA Objectives described in Paragraph 9 are agreements concerning the amount of commissions that certain travel providers should pay to travel agents, including members of defendant, and agreements as to the terms under which travel providers should transact business with travel agents, including members of defendant.

11. On or about October 19, 1993, defendant held a press conference, attended by defendant's president and two members of its Board of Directors, where it announced and disseminated the contents of the ARTA Objectives. The contents of the ARTA Objectives were subsequently disseminated to travel providers, its own members and other travel agents through publications that are widely circulated among travel agents and travel providers.

12. Shortly after defendant's public announcement of the ARTA Objectives, a member of defendant's Board of Directors made a public statement, through a press release, that he and his travel agency would refuse to deal with certain travel providers who did not comply with the ARTA Objectives. In making that announcement, the defendant's director stated that he "encourage[d] owners and managers [of travel agencies] nationwide to join this effort."

13. Thereafter, at least one other member of defendant's Board of Directors made a public announcement that she and her travel agency would also refuse to deal with the travel providers who did not comply with the ARTA Objectives.

14. As a result of the actions of its president and directors described above, defendant and its members agreed on commission levels and other terms of trade on which ARTA members and other travel agents should transact business with travel providers, and invited, encouraged and participated in a group boycott of certain travel providers to induce them to agree to those commission levels and other terms of trade.

15. The group boycott and agreement on commissions and other terms of trade described above had the effect of unreasonably restraining trade in the sale of travel services by travel agents.

16. The group boycott and agreement on commissions and other terms of trade described above constitutes a contract, combination or conspiracy in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1. There is a significant likelihood that the offense will recur unless the relief hereinafter prayed for is granted.

Prayer

Wherefore, plaintiff prays:

1. That defendant be enjoined from inviting or encouraging concerted action by travel agents that has the purpose or effect of specifying the commission levels paid by travel providers to travel agents, or of specifying the terms of trade between travel agents and travel providers;

2. That plaintiff have such other or further relief as the Court may deem just and proper; and

3. That plaintiff recover the costs of this action.

Dated: October 25, 1994.

Anne K. Bingaman,
Assistant Attorney General.
Robert E. Litan,
Deputy Asst. Atty. General.
Mark C. Schechter,
Roger W. Fones,
Mary Jean Moltenbrey,
Robert D. Young,
D.C. Bar #.
Nina B. Hale,
Transportation, Energy, and Agriculture Section, Antitrust Division, Attorneys, U.S. Department of Justice.

Civil Action No.: 94 2305.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties thereto, and venue of this action is proper in the District of Columbia;

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn consent,

which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court;

3. Defendant shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment;

4. This Stipulation and the Final Judgment to which it relates are for settlement purposes only and do not constitute an admission by defendant in this or any other proceeding that Section 1 of the Sherman Act, 15 U.S.C. § 1, or any other provision of law has been violated;

5. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation; this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: October 25, 1994.

For Plaintiff United States of America:

Anne K. Bingaman,

Assistant Attorney General.

Robert E. Litan,

Deputy Asst. Attorney General.

Mark C. Schechter,

Deputy Director of Operations.

Roger W. Fones,

Mary Jean Moltenbrey,

Robert D. Young,

DC Bar #248260,

Nina B. Hale,

Attorneys, Transportation, Energy, and Agriculture Section, Antitrust Division, U.S. Department of Justice.

For Defendant Association of Retail Travel Agents:

Alexander Anolik,

A Professional Law Corporation,

By: Mitchell Blumenthal.

Civil Action No.: 94 2305

Final Judgment

Plaintiff, United States of America, filed its complaint on October 25, 1994. Plaintiff and defendant, by their respective attorneys, have consented to the entry of the Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against or an admission by any party with respect to any issue of fact or law. Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby ordered, adjudged, and decreed, as follows:

I

This Court has jurisdiction over the subject matter of and parties to this action. The complaint states a claim upon which relief may be granted against defendant under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II

The provisions of this Final Judgment shall apply to defendant, to the officers, directors, agents, employees, successors, and assigns of defendant, and to all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

III

Defendant is enjoined from:

(A) Inviting or encouraging concerted action by travel agents or travel agencies to refuse to do business with specified suppliers of travel services or to do business with specified suppliers only on specified terms; and

(B) Directly or indirectly adopting, disseminating, publishing, or seeking adherence to any rule, bylaw, resolution, policy, guideline, standard, objective, or statement made or ratified by an officer, director or other official of defendant that has the purpose or effect of advocating or encouraging any of the practices identified in Section III(A) above.

IV

(A) Nothing in this Final Judgment shall prohibit any individual travel agent or travel agency, acting alone and not on behalf of defendant, from negotiating commission rates and policies with suppliers of travel services, or from choosing the suppliers whose services they wish to sell.

(B) Nothing in this Final Judgment shall prohibit defendant from advocating or discussing, in accordance with the doctrine established in *Eastern Railroad Presidents Conference* v. *Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961), and its progeny, legislative, judicial or regulatory actions, or governmental policies or actions.

V

Defendant is ordered:

(A) To cause the annual publication of a summary of this Final Judgment, in a form acceptable to the Assistant Attorney General in charge of the Antitrust Division, in ARTAFacts or any equivalent newsletter provided to its members;

(B) To provide a copy of this Final Judgment to each director, officer, and chapter president at the time they take office and annually, and to obtain a written certification from those persons that they received, read, understand to the best of their ability, and agree to abide by this Final Judgment and that they have been advised and understand that noncompliance with the Final Judgment may result in conviction of the person for criminal contempt of court.

VI

Defendant is ordered to maintain an antitrust compliance program which shall include an annual briefing of the defendant's Board of Directors, officers, chapter presidents, and non-clerical employees on this Final Judgment and the antitrust laws.

VII

(A) To determine or secure compliance with this Final Judgment and for no other purpose, duly authorized representatives of the plaintiff shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during defendant's office hours to inspect and copy all documents in the possession or under the control of defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees, or agents of defendant, who may have counsel present, regarding such matters.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such written reports, under oath if requested, relating to any matters contained in this Final Judgment as may be reasonably requested, subject to any legally recognized privilege.

(C) No information or documents obtained by the means provided in Section VII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of

such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

VIII

This Final Judgment shall expire ten (10) years from the date of entry.

IX

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

X

Entry of this Final Judgment is in the public interest.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. § 16(b)–(h), the United States files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of the Association of Retail Travel Agents in this antitrust proceeding.

I

Nature and Purpose of the Proceeding

On October 25, 1994, the United States filed a Complaint alleging that the Association of Retail Travel Agents (hereinafter "ARTA") had entered into a contract, combination or conspiracy in restraint of trade in violation of Section 1 of the Sherman Act (15 U.S.C. § 1). The Complaint alleges that ARTA, a trade association all of whose members are travel agents, and its members agreed on commission levels and other terms of trade on which to transact business with providers of travel services, and encouraged and participated in a group boycott with the intent to induce certain providers of travel services to agree to certain commission levels and practices.

On October 25, 1994, the United States and ARTA filed a Stipulation by which they consented to the entry of a proposed Final Judgment designed to prevent any recurrence of such activity in the future. Under the proposed Final Judgment, ARTA will be enjoined from inviting or encouraging travel agents to deal with travel providers only on agreed terms. This prohibition includes any agreements on specified commission levels. The proposed Final Judgment also prohibits ARTA from adopting or disseminating any rules, policies, or statements that have the purpose or effect of advocating or encouraging such a concerted refusal to deal.

The United States and ARTA have agreed that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction to construe, modify, and enforce the Final Judgment, and to punish violations of the Final Judgment.

II

Events Giving Rise to the Alleged Violation

Airlines, hotels, rental car companies, cruise lines and other providers of transportation and accommodations (hereinafter "travel providers") sell a significant proportion of their services to the public through travel agents. Travel agents inform travellers about the price, availability and other details of various travel options and make reservations and sell tickets to the travellers for the travel services they choose. Travel agents are agents of the travel providers, receiving commissions from the travel providers for sales they make. These commissions vary and are established between individual travel agents and travel providers. These commissions generally are included in the price the consumer pays for airline tickets, hotel accommodations, rental cars, cruises and other travel services. The lower the sales commissions established between individual travel agents and travel providers, the lower the total cost of travel services to the consumer.

ARTA is an association of travel agents. Among its goals are achieving improved commission levels for travel agents and persuading travel services providers to adopt commission policies and practices that are beneficial to travel agents. ARTA members compete with each other and with other travel agents both to sell travel services to the public and to act as selling agents for travel services providers.

On October 16, 1993, ARTA's Board of Directors adopted a document entitled "ARTA Objectives for the Travel Agency Community." Among its Objectives, ARTA stated that it sought a "minimum" ten percent commission on all hotel and car rental sales by travel agents, the elimination of all distribution outlets for airline tickets other than travel agents, and the payment of commissions based on full fares rather than the discounted prices actually paid by travellers.

A few days after adopting the ARTA Objectives, ARTA hosted a press conference attended by its president and two members of its Board of Directors, in addition to members of the press. Several days after the press conference, one of ARTA's board members announced that his travel agency would cease doing business with certain travel providers whose commission and sales practices did not comport with the ARTA Objectives, and invited other travel agents to join his boycott in support of the ARTA Objectives. Shortly thereafter, at least one other ARTA board member made a similar public announcement.

The Complaint alleges that through those activities, defendant and its members agreed on commission levels and other terms of trade on which ARTA members and other travel agents should transact business with travel providers, and invited, encouraged and participated in a group boycott designed to induce travel providers to agree to those commission levels and terms of trade. The Complaint further alleges that those activities constitute a contract, combination or conspiracy in unreasonable restraint of trade in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

III

Explanation of the Proposed Final Judgment

The proposed Final Judgment is designed to prevent defendant and its officers, directors and agents from inviting, encouraging or advocating concerted refusals to deal. In addition to enjoining defendant and its officers, directors and agents from engaging in such activities (Section III), it requires defendant to provide an annual summary of the Final Judgment to its members (Section IV), and requires that its officials provide an annual certification that they have read and understand the Final Judgment (Section IV). The proposed Final Judgment also requires that defendant provide an annual briefing on the requirements of the Final Judgment and on the antitrust laws to its officials (Section V).

The United States is satisfied that the proposed Final Judgment sufficiently resolves the antitrust violations alleged in the Complaint. Compliance with the proposed Final Judgment would prevent any recurrence of the violations alleged in the Complaint, and thus provides complete relief.

IV

Remedies Available to Potential Private Litigations

Section 4 of the Clayton Act (15 U.S.C. § 15) provides that any person who has been injured in his business or property as a result of conduct forbidden by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorneys fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. § 16(a)), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought.

V

Procedure Available for Modification of the Proposed Final Judgment

The United States and defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate the comments, determine whether it should withdraw its consent, and respond to comments. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, Judiciary Center Building, 555 4th Street, N.W., Rm 9104, Washington, D.C. 20001.

VI

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial of the case against ARTA. In the view of the Department of Justice, such a trial would involve substantial cost to the United States and is not warranted because the Proposed Final Judgment provides relief that will remedy the violations of the Sherman Act alleged in the United States' Complaint.

VII

Determination Materials and Documents

There are no materials or documents that the United States considered to be determinative in formulating this proposed Final Judgment. Accordingly, none are being filed with this Competitive Impact Statement.

Dated: October 25, 1994.

Respectfully submitted,

Robert D. Young,

Attorney, Antitrust Division, U.S. Department of Justice.

[FR Doc. 94–28440 Filed 11–16–94; 8:45 am]

BILLING CODE 4410–01–M

United States v. Microsoft Corporation Civ. No. 94–1564 (SS) (D.D.C.); Response of the United States to Public Comments Concerning the Proposed Final Judgment and Notice of Hearing

Pursuant to section 2(d) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(d), the United States publishes below the written comments received on the proposed Final Judgment in *United States v. Microsoft Corporation*, Civil Action No. 94–1564 (SS), United States District Court for the District of Columbia, together with its response thereto. A hearing will be held on this matter at 10 AM on December 15, 1994, at the United States Courthouse, Third Street & Constitution Avenue, NW., Washington, DC 20001. Any persons who may wish to be heard at such time should make a written application to the Court on or before December 4, 1994, and provide a copy to the Department of Justice. Such application should include a summary of the comments or views that the applicant wishes to express at the hearing and a statement of why the views of the applicant should be heard by the court. Please send the Department of Justice copy of any such application to Donald J. Russell, 555 Fourth Street, NW., room 8104, Washington, DC 20001, (telephone (202) 514–5621).

Copies of the written comments and the response are available for inspection and copying in Room 3235 of the Antitrust Division, United States Department of Justice, Tenth Street and Constitution Avenue, NW., Washington, DC 20530 (telephone (202) 514–2481) and for inspection at the Office of the Clerk of the United States District Court for the District of Columbia, room, United States Courthouse, Third Street & Constitution Avenue, NW., Washington, DC 20001.

Mark C. Schechter,

Deputy Director of Operations.

United States Response to Public Comments

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, ("APPA" or "Tunney Act") 15 U.S.C. § 16(b)–(h), the United States hereby responds to public comments it has received relating to the proposed Final Judgment in this civil antitrust proceeding. After careful consideration of these comments, the United States continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Complaint. After the public comments and this response have been published in the **Federal Register**, pursuant to 15 U.S.C. § 16(d), the United States will move the Court for entry of the proposed Final Judgment.

This action began on July 15, 1994, when the United States filed a Complaint alleging that Microsoft Corporation had unlawfully maintained its monopoly of personal computer operating systems and had unreasonably restrained trade, in violation of sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1, 2. Simultaneously, with the filing of the Complaint, the United States filed a proposed Final Judgment and a Stipulation signed by the defendant consenting to the entry of the proposed Final Judgment after compliance with the requirements of the APPA.

Pursuant to the APPA requirements, the United States filed a Competitive Impact Statement ("CIS") on July 27, 1994. The defendant filed a description of certain written and oral communications on its behalf, as required by section 15(g) of the APPA, on August 8, 1994. A summary of the terms of the proposed Final Judgment and CIS, and directions for the submission of written comments relating to the proposal were published in the Washington Post for seven days in the period from August 7, 1994 through August 13, 1994. The proposed Final Judgment and the Competitive Impact Statement were published in the **Federal Register** on August 19, 1994. 59 Fed. Reg. 42845–42857 (1994).

The 60-day period for public comments began on August 20, 1994 and expired on October 18, 1994.[1] The

[1] The United States has treated as timely all comments that it received up to the time of the filing of this response.

United States received five comments, which are attached hereto as Exhibits 1–5. Three of these comments relate to alleged Microsoft practices that the government did not challenge as violations of the antitrust laws, and which are not addressed in the proposed Consent Decree. Only one comment relates directly to the proposed relief, and that comment suggests that an additional remedy should have been included. Finally, one brief comment argues that the government should not have taken any action against Microsoft.

I. Background

The proposed Final Judgment is the culmination of an investigation of Microsoft begun by the Federal Trade Commission ("FTC") in June 1990 and continued by the Department of Justice beginning in August 1993. From April 1991 onward, the FTC's investigation had as its central focus the licensing practices by which Microsoft distributes its operating system software products, MS–DOS and Microsoft Windows, to manufacturers of personal computers, a group referred to in the computer industry as original equipment manufacturers or OEMs. In the course of its investigation, the FTC subpoenaed documents from Microsoft, deposed over a dozen Microsoft officers and employees, and interviewed numerous OEMs, firms that compete against Microsoft in the development and sale of operating system software, and other software industry participants.

While focussing on Microsoft's licensing practices, the FTC staff also considered whether Microsoft attempted to stifle competition in various computer software markets through other practices. Among other things, they considered whether Microsoft had deliberately created incompatibilities between its Windows operating system software product and its competitors' disk operating system products in order to disadvantage those competing products; whether Microsoft used false preannouncements of new products; and whether Microsoft's developers of applications software products obtained an anticompetitive advantage over their competitors because they received preferential access to information about Microsoft's operating system products.

In August of 1993, following reports that the FTC's deliberations had ended with a 2–2 vote that would result in no enforcement action against Microsoft, the Antitrust Division of the United States Department of Justice began its investigation of Microsoft. The Justice Department was provided with complete access to all evidence collected by the FTC in the course of its investigation. After reviewing this evidence, the Department sought additional evidence from Microsoft and other industry participants. The Department carefully examined the use by Microsoft of per-processor and per-system licenses to distribute MS–DOS and Windows to OEMs. The Department also looked extensively at all other issues that had been considered by the FTC, including alleged false product preannouncements and the relationship between Microsoft's operating system and applications divisions. In addition, the Department's investigation explored new issues which first emerged during the course of its investigation, including Microsoft's use of restrictive non-disclosure agreements.

The Department contacted dozens of OEMs, and Division staff lawyers visited at least fifteen OEMs in person. In addition, the Division contacted numerous other industry participants, former Microsoft employees, and other companies and individuals knowledgeable about the computer software and hardware industries. In total, the Department conducted over one hundred interviews of individuals involved in the software industry. Twenty-two depositions were conducted pursuant to Civil Investigative Demands ("CIDs") issued by the Department; six of these oral examinations were of top-ranking officers of Microsoft. In addition to reviewing the material produced to the FTC, the Department reviewed material produced in response to twenty-one additional CIDs that it sent to a number of software companies, including Microsoft. In total, the Department reviewed over one million pages of documents in connection with this investigation.

At the conclusion of this effort, the Department determined that certain of Microsoft's licensing practices and its use of unreasonably restrictive non-disclosure agreements violated the Sherman Act. The Department challenged these practices, and obtain a proposed Consent Decree which adequately addressed the competitive concerns. As to all other areas that were investigated, the Department carefully considered the evidence before it under the prevailing legal standard, and determined that no further action was warranted on the evidence before it.

II. Response to Public Comments

A. Comments That Do Not Relate to Violations Charged in the Complaint

Three of the five comments received related to conduct not charged in the Complaint. As discussed in more detail *infra*, review under the Tunney Act is confined to the terms of the proposed decree and their adequacy as remedies for the violations alleged in the Complaint. Public comments and the Court's review are designed to ensure that the Department has fashioned relief to the violations alleged in the Complaint that it reasonably believes will further the public interest. Public comments that relate to conduct that the Department has determined not to prosecute are beyond the scope of the Tunney Act review procedure, for the reasons and under the law set forth fully at section III, below.

The issues raised by the following three comments therefore are not relevant to the Tunney Act determination of whether the proposed decree is in the "public interest." Nevertheless, the Department herewith provides an explanation to interested members of the public on the issues raised.

1. Comment of Anne E. Bogoch, Chan & Jodziewicz

Anne E. Bogoch, an attorney in the firm Chan & Jodziewicz, submitted a comment on behalf of small computer companies who claim to have been unlawfully excluded from both the hardware and software computer market by Microsoft's monopolization of the personal operating system software market. The comment objects to two related Microsoft practices: (1) "Microsoft's tying or bundling of the sale of MS–DOS to the purchase of hardware systems" and (2) Microsoft's "purported licensure to restrict the resale of copies of MS–DOS." The comment attacks these practices as illegal under two theories. The first relies on copyright law, arguing that under the First Sale Doctrine, Microsoft cannot restrict the ability of purchases of MS–DOS to resell that MS–DOS in any manner they see fit. The fact that Microsoft is writing license agreements that purport to restrict resale is alleged to be an abuse of the copyright and therefore an antitrust violation. Second, the comment argues that Microsoft has engaged in illegal tying, by conditioning the purchase of the typing product, MS–DOS, on the purchase of personal computers: customers are prevented from buying MS–DOS without a personal computer.

This comment apparently refers to Microsoft's practice of licensing the use of its copyrighted software (Microsoft) to OEMs only for distribution with the personal computers sold by those OEMs, and subject to license restrictions that prohibit the OEMs from reselling

the software as a stand-alone product. Microsoft has used this licensing policy for many years, and has initiated legal action against a number of its licensees alleging that by distributing copies of MS–DOS that were not sold in conjunction with a computer, the licensee had violated the terms of its license and infringed Microsoft's copyrights. In a number of these cases, Microsoft has apparently received favorable results.

In general, a firm does not violate the antitrust laws merely by enforcing its legitimate intellectual property rights. Thus, to the extent that Microsoft's conduct is an instance of legitimately exploiting its copyright, there is little reason to challenge that conduct as violative of the Sherman Act. Based on the facts that were uncovered through its inquiry, the Department did not find a basis for challenging under the Sherman Act this aspect of Microsoft's conduct.

The Department also has not sought to challenge this alleged conduct as an illegal tying arrangement under the antitrust laws. Microsoft does not sell the allegedly tied product (personal computers). This situation does not, therefore, come with the framework for illegal tying arrangements.

2. Comment of Micro System Options

A comment from Micro System Options complaints that the developers toolkit for Microsoft's Windows NT 3.5 contains a new, attractive feature to create three dimensional images within software applications. It expresses concern that Microsoft's next release of Windows will include the same feature. Micro System Options apparently makes a software product called 3d Graphic Tools which performs functions similar to those of the new feature in Microsoft's software product(s), and Micro System Options is concerned that the inclusion of this new feature in Microsoft software products will reduce demand for its own software product.

The Department's Complaint does not challenge as violations of the antitrust laws Microsoft's inclusion of new software features in its operating system products. Over the past fourteen years, Microsoft has developed and soft numerous successive versions of its operating system products, each more advanced and containing more software features than the previous one. Whenever Microsoft adds an attractive software feature to its operating system products, it reduces the demand for software products sold by third parties as a complement to the Microsoft product that performed similar functions.

The proposed Final Judgment, in IV (E), forbids Microsoft from licensing covered products[2] through agreements conditioned on "(1) the licensing of any * * * other product." However, this provision explicitly states that "this provision in and of itself shall not be construed to prohibit Microsoft from developing integrated products." The evidence developed by the government during this investigation would not, in its view, support a broader injunction. Activity of this sort requires case by case analysis, and a broad injunction against such behavior generally would not be consistent with the public interest.

3. Comment of Anthony R. Martin

A comment from Anthony R. Martin states that since the settlement of this case, Microsoft has begun to engage in new and different forms of monopolistic conduct. As an example of this, Mr. Martin complains that Microsoft is pressuring software suppliers into switching from the current version of Windows to the next version of Windows which will be released shortly. Mr. Martin suggests that the government may have "settled too soon, for too little," and that it should reopen its investigation.

The United States does not believe that the possibility that Microsoft might in the future engage in new forms of anticompetitive behavior is a sufficient reason to reject the proposed Final Judgment before the Court now. Obviously, the Department cannot, in a Consent Decree, proscribe every conceivable kind of anticompetitive conduct in which a firm might engage in the future. It certainly cannot allege in a complaint anticompetitive conduct that has not yet occurred. In addition, the government cannot be expected to continue its investigations and litigation indefinitely, without resolution, on the theory that the defendant might, at some point, begin to engage in additional anticompetitive practices. The Department considered every allegation of anticompetitive behavior that came to its attention during the period of its investigation, and brought an action challenging the practices that it thought should be challenged on the facts then before it. The proposed Decree meets the Department's competitive concerns as of the date of filing of the proposed Decree. Should Microsoft at some future date begin to engage in new forms of anticompetitive conduct, the government can and will initiate a new investigation.

B. Comment of IDEA

One comment does relate directly to the terms of the proposed decree. That comment, submitted by IDEA, an OEM which has licensed software from Microsoft, contends that its license agreements from January 1, 1989 to the present have resulted in more than $2,000,000 in prepaid royalties. IDEA suggests that the decree should contain provisions ordering Microsoft to refund such prepaid royalties to IDEA and similarly situated companies.

This comment apparently concerns the "minimum commitment" feature found in the many operating system software licenses Microsoft has entered into with OEMs. The minimum commitments create "take or pay" contracts in which OEM's commit themselves to pay Microsoft not less than a particular amount of money in a particular time period.[3]

The proposed Final Judgment prohibits Microsoft from entering into license agreements that contain minimum commitments (section IV (F)) and from enforcing any minimum commitment in existing license agreements (section IV (J) (2)). These prohibitions were included because of concerns that minimum commitments could be structured in ways that create anticompetitive disincentives for OEMs to make incremental purchases of non-Microsoft operating systems. *See* Competitive Impact Statement, pp. 10, 14. In addition, Section IV (I) of the proposed Final Judgment provides all OEMs the right to terminate existing license agreements for MS-DOS and Windows immediately, without penalty. However, the government did not believe that it was necessary, in order to create the conditions for competition in the operating system software market on an ongoing basis, to require Microsoft to refund "unused" royalty payments that were paid under minimum commitment provisions applicable to contract periods prior to the filing of the government's case. The principal goal of the government's action was to ensure that OEMs' purchasing decisions in the future would not be distorted by the existence of anticompetitive license

[2] We note that the developers' toolkit for Microsoft Windows NT 3.5, the product that is the subject of Micro System Options comment, is not a "Covered Product" as defined by the proposed Final Judgment.

[3] For example, an OEM under a pet-processor license that expected to sell 10,000 personal computers a year for the three-year term of its license and negotiated a royalty rate of $25 for each computer it shipped containing a microprocessor identified in its license agreement might have a minimum commitment of $250,000 per year. If the OEM only sold 8,000 personal computers in the first year, it would still owe Microsoft $250,000. If it sold 11,000, it would owe Microsoft $275,000 (11,000 times $25).

terms. Refunds of royalties paid by OEMs in prior periods would not have affected prospective decisions about which operating system products they should buy now and in the future. Further, such refunds arguably could produce a windfall for some OEMs without producing corrective or remedial procompetitive impact.[3]

C. Comment of J. Adam Burden

A comment by J. Adam Burden complains about the "ridiculous action brought forth towards Microsoft." Mr. Burden contends that Microsoft's large market share can be attributed to the fact that software developers like to have an operating system standard, and that the government has penalized Microsoft for its success.

As evidenced by the Complaint, proposed Consent Decree, and Competitive Impact Statement filed with the Court, the Department concluded after an extensive and thorough investigation that specific Microsoft practices were unlawfully restraining competition in the PC operating system market, and sought to enjoin such practices in the proposed Final Judgment. The government's Complaint and the proposed Decree do not suggest that Microsoft should be penalized for success or merely for obtaining a larget market share.

III. The Legal Standard Governing the Court's Public Interest Determination

When the United States proposes an antitrust consent decree, the Tunney Act requires the court to determine whether "the entry of such judgment is in the public interest." 15 U.S.C. § 16(e) (1988). In making that determination, "the court's function is not to determine whether the resulting array of rights and liabilities 'is one that will *best* serve society,' but only to confirm that the resulting 'settlement is "within the *reaches* of the public interest. *United States* v. *Western Elec. Co.*, 993 F.2d 1572, 1576 (D.C. Cir.), *cert. denied*, 114 S. Ct. 487 (1993) (quoting, in turn, *United States* v. *Western Elect. Co.*, 900 F.2d 283, 309 (D.C. Cir.), *cert. denied*, 498 U.S. 911 (1990); *United States* v. *Bechtel*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454.U.S. 1083 (1981); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975) emphasis in 993 F. 2d)).[4]

Thus, under the Tunney Act, the district court plays an important but limited role. It properly reviews the government's reasons for proposing the decree, as explained in the competitive impact statement and the response to comments, to ensure that the government is not acting irrationally. But the court may not reject the proposed decree "simply because the proposal diverge[s] from its view of the public interest." *Western Elec. Co.*, 993 F.2d at 1577. Rather, the public interest standard requires the court to enter a proposed decree "that the Department * * * reasonably regard[s] as advancing the public interest." *Id.* at 1576; *see also United States* v. *Gillette Co.*, 406 F. Supp. 713, 716 (D. Mass. 1975). The court may reject the decree "only if it has exceptional confidence that adverse antitrust consequences will result—perhaps akin to the confidence that would justify a court in overturning the predictive judgments of an administrative agency." *Western Elect. Co.* 993 F.2d at 1577.

Moreover, review under the Tunney Act is confined to the terms of the proposed decree and their adequacy as remedies for the violations alleged in the complaint. To the extent that comments raise issues not addressed in the complaint, those comments are irrelevant to the court's Tunney Act review. The Tunney Act does not contemplate that the court will evaluate the wisdom or adequacy of the government's complaint or consider what relief might be appropriate for violations that the Department has not alleged. In describing the factors that may be considered by the court in its public interest determination, the Act refers to "the competitive impact *of such judgment*", the "termination of *alleged violations*" and the impact of the judgment upon "individuals alleging specific injury *from the violations set forth in the complaint.*" 15 U.S.C. 16(e) (1988) (emphasis added). There is no suggestion in the Act that the court should consider whether the government should have challenged other practices beyond those detailed in its complaint.

The limitations on the scope of a court's Tunney Act review have been explained by two Courts of Appeals. In *United States* v. *Western Elec. Co.*, 900 F.2d 283 (D.C. Cir.), *cert denied*, 498 U.S. 911 (1990), the Court of Appeals for the D.C. Circuit considered whether the public interest required the continuation of a consent decree provision designed to protect competition in information services markets, notwithstanding the agreement of the parties in the case that the decree provision should be rescinded.[5] The court noted that the government's case "centered exclusively on AT&T's activities in the interexchange-service and equipment manufacturing markets," and did not involve the information services market. *Id* at 307. Because of that, the Court of Appeals concluded that if the parties had proposed a decree that did not include provisions to protect information services markets, that decree nonetheless would have been in the public interest. *Id.* The Ninth Circuit Court of Appeals has recognized the same principle: the Tunney Act "does not authorize a district court to base its public interest determination on antitrust concerns in markets other than those alleged in the government's complaint." *United States* v. *BNS Inc.*, 858 F.2d 456, 462–63 (9th Cir. 1988); *see also In re International Business Mach. Corp.*, 687 F.2d 591, 603 (2d Cir. 1982) (Department's decision to dismiss without prejudice an antitrust case it previously had filed does not require court approval under the Tunney Act); *United States* v. *Mercedes-Benz of N. Am.*, 547 F. Supp. 399, 400 (N.D. Cal. 1982) (same).

There are many reasons that might cause the Department not to initiate a lawsuit, or to challenge some practices and not others, including reasons related to the factual support available for potential claims and the enforcement resources that would be required to establish them. These decisions are "peculiarly within [the] expertise" of the Department of Justice, which is "far better equipped then the courts to deal with the many variables involved in the proper ordering of its priorities." *Heckler* v. *Chaney*, 470 U.S. 821, 831–32 (1985); *see also Maryland* v. *United States*, 460 U.S. 1001, 1006 (1983) (Rehnquist, J., dissenting from summary affirmance) ("How is a court to decide whether a better settlement in a case involving one industry is more important to the public than the benefits that might be gained by immediately

[3] For example, an OEM under a per-processor license that expected to sell 10,000 personal computers a year for the three-year term of its license and negotiated a royalty rate of $25 for each computer it shipped containing a microprocessor identified in its license agreement might have a minimum commitment of $250,000 per year. If the OEM only sold 8,000 personal computers in the first year, it would still owe Microsoft $250,000. It it sold 11,000, it would owe Microsoft $275,000 (11,000 times $25).

[4] The *Western Electric* decision involved a consensual modification of an antitrust decree. The Court of Appeals assumed that the Tunney Act standards were applicable in that context.

[5] Although there is arguably a distinction between the entry of a consent judgment and the modification of the consent judgment, modifications of the consent judgment in this case generally have been governed by Tunney Act procedures and the Tunney Act's public interest standard. *See Western Elect. Co.*, 993 F.2d at 1576; *Western Elec. Co.*, 900 F.2d at 295; *United States* v. *American Tel. & Tel.*, 552 F. Supp. 131, 143 (D.D.C. 1982), *aff'd*, *Maryland* v. *United States* 460 U.S. 1001(1983).

working on an antitrust problem in another industry?").

Finally, Congress did not intend the Tunney Act to lead to protracted hearings on the merits, and thereby undermine the incentives for defendants and the government to enter into consent judgments. S. Rep. No. 298, 93d Cong. 1st Sess. 3 (1973); *see United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 151 (D.D.C. 1982), *aff'd, Maryland* v. *United States*, 460 U.S. 1001 (1983). Because it is not the function of the court "to make de novo determination of facts and issues" but rather to determine whether explanations of the Department of Justice were "reasonable under the circumstances," *United States* v. *Mid-America Dairymen*, 1977–1 Trade Cas. (CCH) ¶61,508, at 71,980 (W.D. Mo. 1977), courts have consistently refused to consider "contentions going to the merits of the underlying claims and defenses." *Bechtel Corp.* 648 F.2d at 666.

IV. Conclusion

The Tunney Act requires that public comments and the government's response to those comments be published in the **Federal Register**. When that publication has been accomplished, the government will notify the Court that all of the procedures required by the Tunney Act have been completed, and will ask the Court to enter the proposed Final Judgment based on its determination that the Final Judgment is in the public interest.

The United States is firmly convinced that the proposed Final Judgment is in the public interest, and we urge the Court to act promptly to ratify that judgment. If the proposed Final Judgment is to fulfill its promise of opening the personal computer operating system software market, it must be approved without delay. Microsoft has agreed to abide by the requirements of the proposed Final Judgment pending the Court's Tunney Act review. However, the effectiveness of the proposed remedy depends not only on Microsoft's conduct, but on the perception of industry participants that the remedy will be approved and enforced. OEMs considering alternatives to Microsoft's forthcoming Windows '95 product need to know that they may shop the competition without paying a royalty to Microsoft for each computer they sell. Other operating system suppliers also need to make development and marketing decisions with the assurance that Microsoft's per-processor and per-system licenses will no longer artificially limit the market for their wares. Accordingly, we urge the Court to act promptly to approve the proposed Final Judgment following the completion of the remaining Tunney Act requirements.

Dated: October 31, 1994.

Respectfully submitted,

Anne K. Bingaman,

Assistant Attorney General, Antitrust Division.

Donald J. Russell

John F. Greaney

Gilad Y. Ohana

Lawrence M. Frankel

Dianne Kempt Torresen

U.S. Department of Justice, Antitrust Division, Communications & Finance Section, Judiciary Center Building, 555 Fourth Street, NW., Washington, DC 20001, (202) 514–5814.

To: Mr. Richard L. Rosen, Chief,
Communications and Finance Section,
Department of Justice

Re: Comment, *United States* v. *Microsoft*

Attn: Mr. Gil Ohannah, Esq.

Date: Oct. 18, 1994

As per our phone conversation, I enclose my comment. I will forward the final version under separate cover. If it is not received in time, please consider the attached my comment.

Thank you,

Sincerely,

Anne E. Bogoch, Esq.,

Chan & Jodziewicz.

"Society * * * has found it necessary over the centuries to restrain those engaged in competition from undue destruction of competitors and oppression of consumers. * * * for competition, unless supervised, like Cronus, will devour its contending young. Cise & Lifland, *Understanding Antitrust Laws*, PLI, N.Y. 1991 at 4. This comment is being filed on behalf of the small computer companies who have been unlawfully excluded from both the hardware and software computer market by Microsoft's monopolization of the personal operating system software market. In this instance of voracious market manipulation the small vendors in the computer industry are Cronus' children.

It is the opinion of this author, that although the consent decree in *United States* v. *Microsoft* was long needed, it has not gone far enough, for additional pernicious anticompetitive conduct survives, namely Microsoft's tying or bundling of the sale of MS-DOS to the purchase of hardware systems and attempting, through contract sale and purported licensure to restrict the resale of copies of MS-DOS.

Microsoft's bundling restrictions have impacted four different segments of the economy; consumers of hardware, consumers of software, sellers of hardware and sellers of software. In addition because Microsoft's has attempted to impose restrictions upon downstream purchasers it has also and most severely affected resellers of computer software and hardware, already in a submissive market position. Microsoft's monopoly in operating systems has effectively precluded the market for other operating systems and accompanying applications programs. Consumers who wish to buy from small companies which sell hardware and or equip their customers with systems to operate their businesses must sell the tied accompanying hardware system to which the MS-DOS was originally bundled, effectively precluding the consumer from choosing the hardware systems.

In addition, small computer companies are faced with insurmountable barriers to access to the market for the sale of hardware if they do not have licenses to sell DOS, the operating system product used by over 70% of the market and for which most application software on the market is written. The only thing a small computer seller or reseller can do in the current Microsoft regime is resell the goods tied or bundled as per Microsoft's purported licensure agreements. This form of restriction on alienation is an unlawful extension of federal copyright law's monopoly grant and constitutes an antitrust violation.

The Copyright Act of 1976 grants copyright holders "the exclusive right to distribute copies * * * of [a] copyrighted work to the public by 'sale' or other transfer of ownership, or by rental, lease or lending." 17 U.S.C. 106(3). It expressly limits, however, this monopoly grant by prohibiting copyright holders from imposing any restraints on alienation subsequent to the first sale of a copy of a copyrighted work.

The First Sale Doctrine, a codified exception to the Copyright Act's monopoly grant is based on the common law's aversion to the restraint of alienation, *Sabastian International Inc.* v. *Consumer Contacts (PTY) Ltd.*, 847 F.2d 1093 (3rd Cir. 1988) and the principle that ownership of a material object or copy is distinct from ownership of a copyright or intangible, c.f. *Mirage Editions, Inc.* v. *Albuquerque A.R.T. Co.*, 856 F.2d 1341 (9th Cir. 1988). The First Sale provision provides that where a copyright owner sells or parts with title to a particular copy of a copyrightable work, he divests himself of his exclusive right to vend that particular copy, 17 U.S.C. Section 109(a). Under the First Sale Doctrine, a first sale extinguishes the copyright holder's ability to control the course of copies placed into the stream of commerce.

Microsoft seeks to avoid the operation of the First Sale Doctrine and unlawfully extend its copyright monopoly beyond what is permitted by law by characterizing the sale of copies of MS-DOS as licenses. Blanket misuse of the term "license" cannot veil the fact the distribution of the hard copies of MS-DOS at issue are sales.[1] Microsoft, illegally

[1] Cases under the Uniform Commercial Code have consistently found contracts between computer companies and vendors, drafted as if they were licenses constituted sales of goods within the meaning of UCC 2–102 and 2–105. A number of other courts have found that contracts for computer software cast in the form of licenses were contracts for the sale of goods within the definition of the Uniform Commercial Code." *Advent Systems Ltd.* v. *Unisys Corp.*, 925 F.2d 670 (3rd Cir. 1991); see also *Chatlos Systems, Inc.* v. *National Cash Register Corp.*, 635 F.2d 1081 (3d Cir. 1980) (hardware,

attempting to control the ultimate disposition of the over 70 Million copies of MS-DOS it has placed into the marketplace is succeeding in market place power semantics at the expense of Constitutional and Congressional copyright policy and law.

What Microsoft is doing is not new. The Court of Appeals for the Ninth Circuit, in *Step-Saver Data System*, in finding a similar purported license to in fact be a contract for the sale of computer software stated:

When form licenses were first developed for software, it was, in large part, to avoid the federal copyright law first sale doctrine. * * * By characterizing the original transaction between the software producer and the software rental company as a license, rather than a sale, and by making the license personal and non-transferable, software producers hoped to avoid the reach of the first sale doctrine and to establish a basis in state contract law for suing the software rental companies directly. * * * Under the amended (copyright) statute, a purchaser of a copy of a copyrighted computer program may still sell his copy to another without the consent of the copyright holder. This amendment renders the need to characterize the original transaction as a license largely anachronistic.

The purchaser of a copy of a computer program enjoys the same freedom to transfer a copy as the owner of copies of any other form of copyrighted work. Goldstein, *Copyright*, Vol.1 Section 5.6.1 at p. 607. A copy of a computer program is a fungible good like any other copy of a copyrighted work.

Computer programs are copyrightable intellectual property, but like a phono record of a composition, once implanted into a medium and widely distributed to computer owners, are merely copies. When transferred to a readable, it becomes a readily merchantable commodity.

"That a computer program may be copyrightable as intellectual property does not alter the fact that once in the form of a floppy disc or other medium, the program is tangible, moveable and available in the marketplace." Like a phono record of a musical composition, once implanted into a medium and widely distributed to computer owners, computer programs become fungible goods.

The copyright owner who does not wish to encumber subsequent distribution of copies, embodying his work can do so by initially leasing rather than selling, C.F. Goldstein, *Copyright, supra*, Section 5.6.1, Vol. 1 at 595. However, once there has been a valid first sale of a copy of computer program, the *First Sale Doctrine Act* as a defense to any claim of copyright infringement as to subsequent purchases.

While perhaps Microsoft desires to control the ultimate disposition of every one of the seventy million odd copies of its software in existence, it may not use the copyright laws to do so. Congress has decided wisely that when an item is sold, purchaser is to take certain minimum rights, among which is the right to resell.

Patent decisions and copyright costs by analogy have uniformly recognized that the purpose of patent law is fulfilled with respect to any particular article when the patentee has received his reward for the use of his work by the sale of an article or copy, and that once that purpose is realized, the patent law affords no basis for retaining the use and enjoyment of the thing sold. [Citations omitted]. Construing and applying the patent law so as to give affect to the public policy which limits the granted monopoly strictly to the terms of the statutory grant, the particular form or method by which the monopoly is sought to be extended is immaterial. The first vending of any article manufactured under a patent or a copy of a copyright work puts the article beyond the reach of the monopoly which the patent confers. *United States* v. *Univis Leno Co., et al.*, 316 U.S. 241, 251–252 (1942).

A copyright, like a patent is a statutory grant of monopoly privileges. *Broadcast Music, Inc.* v. *Columbia Broadcasting System, Inc.*, 441 U.S. 1, 29, 99 S. Ct. 1551, 1567 (1979). Being a statutory grant, the rights are only such as the statute confers, and may be enjoined only on the terms and conditions which is specifies. See *Loew's Inc.* v. *Columbia Broadcasting System, Inc.* A copyright owner, like a patentee, may not increase the scope of the monopoly afforded by the copyright through a license agreement with a licensee. *F.E.L. Publications* v. *Catholic Bishop of Chicago*, 506 F. Supp. 1127, 1134 (N.D. Ill. 1981) (Plaintiff's attempt to extend his copyright monopoly to the licensing of not-for-profit performances of copyright religious music for worship constituted an antitrust violation.) Microsoft's attempt to extend his monopoly beyond that conferred by statutory grant constitutes misuse and an antitrust violation.

In addition its attempt to do so in concert with and by licensure agreement with hardware manufacturer constitutes a conspiracy in violation of the antitrust laws.

Microsoft's bundling is an illegal tying arrangement, either cast as a per se tying or a conspiracy under Section 1 of the Sherman Act. Microsoft's "licenses" are "contracts" within the scope of Section 1 of the Sherman Act, as well as its licensing practices constituting monopolization under Section 2 of the Sherman Act.

The essential characteristic of an invalid tying arrangement lies in the seller's exploitation of its control over the tying product to force the buyer into the purchase of tied product that the buyer either did not want at all, or might have preferred to purchase elsewhere." *Jefferson Parish Hospital* v. *Hyde*, 466 U.S. 2, 12, 104 S. Ct., 1551, 1558, 80 L.Ed.2d 2 (1984). A tying arrangement violates Section 1 of the Sherman Act and Section 3 of the Clayton Act if it is shown to restrain competition unreasonably or is illegal per se. *Fortner Enterprises* v. *U.S. Steel Corp.*, 394 U.S. 495, 498–500, 89 S. Ct. 1252, 1256–1257, 22 L.Ed.2d 495 (1969).

The prerequisites of per se illegality are: (1) separate products, the purchase of one (tying product) being conditioned on purchase of the other (tied product); (2) sufficient economic power with respect to the tying product to restrain competition appreciably in the tied product; and (3) an effect upon a substantial amount of commerce in the tied product. *Id.* What is required in a per section case is not power over the whole market for the tying product, but only a "type of market power [that] has sometimes been referred to as leverage * * * defined here as a supplier's ability to induce his customers for one product to buy a second product from him that would not be purchased solely on the merit of that second product." *Id.* at 1559 n.20 *quoting V.P. Areeda & D. Turner, Antitrust Law*, 1134 at 202 (1980). Courts have condemned tying arrangements "when the seller has 'market power' to force a purchaser to do something that he would not do in a competitive market." *Id.* at 1241. *Id.* at *citing United States* v. *Loew's, Inc.*, 371 U.S. At 45, 83 S. Ct. at 102.

Microsoft not only has sufficient power, it has a monopoly in the MS-DOS/tying product market, that clearly enables it in combination with its licensees to restrict competition in the tied product. *Id.* at 1345. "[T]he mere presence of competing substitutes is insufficient to destroy the legal, and indeed the economic, distinctiveness of the copyrighted product." *United States* v. *Loew's, Inc.*, 371 U.S. At 49, 83 S. Cit. at 104 *Id.* at 1341.

In *Digidyne* v. *Data General Corp.*, 734 F.2d 1336 (9th Cir. 1984) and *Telerate Systems, Inc.* v. *Caro.*, 689 F. Supp. 221, 237 (S.D.N.Y. 1988). (*Id.* at 808) the Court of Appeals for the Ninth Circuit and the District Court for the Southern District of New York found software and CPUs, to be "separate products," for purposes of finding tie-ins.

Digidyne v. *Data General Corp.*, 734 F.2d 1336 (9th Cir. 1984) involved litigation between rival computer manufacturers. Data General, the defendant, manufactured a computer system called NOVA, consisting of a central processing unit ("CPU") and a disk operating system called RDOS. The operating system contained the basic commands for operating the system. Data General refused to license the RDOS to all except the purchasers of its NOVA hardware. The Ninth Circuit held that defendant's refusal to license its computer operating system software except to purchasers of central processing units of its computer system was an unlawful tying arrangement. Stating that tying agreements served hardly any purpose beyond the suppression of competition. The Court found that conditions such as existed in *Digidyne* successfully curbed competition on the merits with respect to the tied product," by denying competitors free access to the market for the tied product, not because the party imposing the tying requirements has a better product or a lower price, but because of his power or leverage in another market. At the same time buyers are forced to forego their free choicé between competing product." *Id.* at 807. Since it is the use of "power or leverage in another market" which the antitrust laws proscribe, the Court reasoned that tie-ins are 'unreasonable in and of

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software and associated services governed by U.S.C.); *Carl Beasly Ford, Inc.*, v. *Burroughs Corp*, 361 F. Supp. 325 (E.D. Pa. 1973) *aff'd* 493 F.2d 1400 (3d Cir. 1974) (U.C.C. applied without discussion); c.f. *BRX Industries, Inc.* v. *Lab-Con, Inc.*, 772 F.2d 543 (9th Cir. 1985); c.f. *Advent Sys, Ltd.* v. *Unisys Corp.*, 925 F.2d 670, 674–76 (3d Cir. 1991).

themselves whenever a party has sufficient economic power with respect to the tying product to appreciably restrain free competition in the market for the tied product and a 'not insubstantial' amount of interstate commerce is affected." "If each of the products may be purchased separately in a competitive market, one seller's decision to sell the two in a single package imposes no unreasonable restraint on either market particularly if competing suppliers are free to sell either the entire package or its several parts. *Jefferson Parish*, 466 U.S. At 12. Microsoft's anticompetitive licenses prevent sellers from doing just that. Licenses specifically restrict the sale of MS-DOS to circumstances where it is tied to an accompanying hardware system.

Microsoft's contracts with its licensees whereby they have tied the purchase of MS-DOS to the purchase of accompanying hardware may be seen as a similar conspiracy as those found in patent tying *United States* v. *Univis Lens Co., et al.*, 316 U.S. 241 (1942) and patent pooling cases *see United States* v. *General Electric Co.*, 82 F. Supp. 753, 814 (D.N.J. 1949) as well as the seminal copyright block licensing case of *United States* v. *Paramount Pictures*, 334 U.S. 131, 156–159 (1948).

Because of Microsoft's monopoly, sellers of software are precluded from entering and competing in the market for operating software. Because of Microsoft's monopoly, and sellers inability to obtain MS-DOS to run it sells, seller is effectively precluded from entering a large portion of the hardware market as well. *Jefferson Parish*, 466 U.S. at 14, and increasing the social cost of market power by facilitating price discrimination, thereby increasing monopoly profits over what they would be absent the tie. *Jefferson*, 466 U.S. at 15.

From the standpoint of the consumer whose interests in the statute was especially intended to serve the freedom to select the best bargain in the second market is impaired by his need to purchase the tying product, and perhaps by the inability to evaluate the true cost of either product when they are available only as a package. *Jefferson*, 466 U.S. at 15.

Microsoft may claim that it limits its licenses to hardware companies so severely for valid quality control reasons.

Microsoft's effort to enlarge the scope of its monopoly by using the market power it confers to restrain competition in the market for a second product will undermine competition on the merits in that second market. *Jefferson* at 16 *citing United States* v. *Paramount Pictures, Inc.*, 334 U.S. 131, 156–159, 92 L.Ed.2d 1260, 68 S. Ct. 915 (1948). Such restraint of trade violates the Sherman Act § 1.

Richard L. Rosen, Chief,
Communications & Finance Section, Antitrust Division, Room 8104, 555 Fourth Street NW., Washington, DC 20001.

October 18, 1994.

Dear Mr. Rosen. This letter refers to the Justice Department's Proposed Final Judgment in United States of America vs. Microsoft Corporation. I am not certain if this situation is covered. If it is, Microsoft is already violating the principles of the consent decree. If it is not, I believe it should be included as Prohibited Conduct. This is not an isolated case.

Last week I purchased the developers toolkit for Microsoft's Windows NT 3.5 and discovered that Microsoft has included third party tools to create three dimensional images within software applications free of charge. My product, 3d Graphic Tools, is a tool to create three dimensional images within software applications. The third party tools included in Windows NT 3.5 were obtained or licensed from Silicon Graphics by Microsoft. Further I hear (Microsoft will not cooperate and say one way or the other) that a version of the same third party tools will be included in the upcoming Windows 4.0 release. If this happens my product will be dead, because why would anyone pay for something they already get free? I think Microsoft's intent by selling this "package" is to guarantee a market for one software product and squeeze may product (and other competing products) out of this market.

I was under the impression (false) that these third party tools would be sold separately. I was an official test site for Windows NT 3.5 and they were not included by Microsoft in the pre-release version of the product in other than an extremely rudimentary form which would have required the purchase of additional tool kits from other sources. 3d Graphic Tools is not unknown to Microsoft, they have two copies in their corporate library which are accessible to any employee. We participate in Microsoft's Add-on Developer Tools Program and advertise in the Companion Products catalogs which are included in Microsoft's product boxes with the Visual Basic and Visual C++. (I have included a copy of the most recent catalog for Visual C++, my advertisement is on page 15). I think this demonstrates that Microsoft is aware of my products. As with other small companies this is my sole product. 3d Graphic Tools has been available since 1992 to Windows developers and to MacIntosh developers since 1988.

Please contact me if you need further information regarding this matter.

Best Regards,

Mark M. Owen,

Owner, Micro System Options phone 206 868 5418 fax 206 868 7780

cc: Peter Miller, Microsoft Corporation

September 6, 1994.

Anne Bingaman, Deputy Attorney General
Antitrust Division, Department of Justice, Washington, DC 20530, Via fax (202) 616–2645.

Re: *Microsoft, Inc. Settlement*

Dear Deputy Attorney General Bingaman: I am writing to ask you to please send me a set of the settlement documents for the Microsoft lawsuit which you recently settled, and also to request that you reopen that matter to consider postsettlement conduct by Microsoft.

As I understand the basic parameters of the settlement, you sought to "open up" access to operating systems. However, I think you may have settled too soon, for too little.

In the wake of your settlement Microsoft appears to have become more, not less, predatory. Last week I announced I would fight to stop Microsoft from monopolizing use of the word "windows" in computers. This past Sunday the New York Times carried a story indicating Microsoft is trying to strong-arm software suppliers into shifting to Windows 4.0 under pain of losing permission to use a "compatibility" logo, thereby forcing both producers and consumers of software to incur major expenses without any real need to do so. These gestures are the classic activity of a monopolist.

I believe there is a reasonable, credible basis to believe that Microsoft is using your settlement as a sword, not a shield, and has gone on to initiate new forms of monopolistic conduct which may not be literally touched upon by your settlement. I therefore ask that you reopen your investigation and take meaningful steps to ensure a level playing field/open marketplace in computer software as well as in operating systems.[1]

Respectfully submitted,

Anthony R. Martin

ARM: sp

w/encl. NYT Sunday Sept. 4, 1994
VIA FACSIMILE AND FEDERAL EXPRESS
(202) 514–6525 (202) 307–6283 (202) 514–6381

October 17, 1994.

Anthony V. Nanni, Section Chief,
P. Terry Lubeck, Section Chief,
Gil Ohana. Esq.
U.S. Department of Justice, Antitrust Division, 10th & Constitution Avenue, Washington, DC

RE: *United States v. Microsoft Corporation* Civil Action No. 94–1564 Comment in accordance with the Tunney Act

Dear Messrs. Nanni, Lubeck and Ohana: Under the terms of License Agreements ("Agreements") with Microsoft Corporation ("Microsoft") which cover the period January 1, 1989 to present, I.D.E. Corporation ("IDEA") has paid Microsoft prepaid royalties which now exceed Two Million ($2,000,000.00). The Agreements expressly state that these prepaid royalties may never be refunded to IDEA by Microsoft. Although the Agreement provides that prepaid royalties may be recoupable against actual earned royalties in excess of IDEA's minimum commitment payments, it is virtually impossible that these prepaid royalties shall ever be recouped as set forth in the Agreement.

Although the Consent Decree ("Decree") grants IDEA the ability to renegotiate the terms of our Agreements, the Decree does not grant us a remedy for the recovery of $2,000,000 of prepaid royalties. IDEA has been able to obtain a firm commitment from Microsoft on a refund of the prepaid royalties. It is our sincere belief that Microsoft will not refund prepaid royalties

[1] The Windows 4.0 product is also a new operating system so Microsoft is obviously trying to move its antitrust conduct downstream from compelled sales to compelled upgrading. I see no distinction between each type of anticompetitive conduct. Do you?

unless they are so ordered. We therefore respectfully request that the Final Decree contain such a remedy to IDEA and similarly situated companies.

Sincerely,

Wanda Washington,

Corporate Counsel.

cc: Gautam Gupta, President
David Hunter, Vice President
David Page, Vice President
VIA FACSIMILE AND FEDERAL EXPRESS
(202) 514–6525 (202) 307–6283 (202) 514–6381
October 18, 1994.

Anthony V. Nanni, Section Chief
P. Terry Lubeck, Section Chief
Gil Ohana, Esq.
U.S. Department of Justice, Antitrust Division, 10th & Constitution Avenue, Washington, DC.

RE: *United States v. Microsoft Corporation* Civil Action No. 94–1564 Comment in accordance with the Tunney Act

Dear Messrs. Nanni, Lubeck and Ohana: In furtherance of comments provided to your office dated October 17, 1994, we have enclosed a copy of a draft Amendment submitted to I.D.E. Corporation ("IDEA") by Microsoft Corporation ("Microsoft"). As was stated in our earlier comments, although the Consent Decree ("Decree") grants IDEA the ability to renegotiate the terms of our Agreements, the Decree does not grant us a remedy for the recovery of $2,000,000 of prepaid royalties.

The attached draft Amendment evidences Microsoft's unwillingness to refund prepaid royalties. This Amendment indicates that:

> "* * * prepaid royalties shall be recoupable against earned royalties * * * only to the extent such prepaid royalties could have been recouped had the minimum commitment payments existing prior to the Amendment remained in effect."

I therefore submit that by amending existing agreements in this manner Microsoft continues to impose minimum commitments and does not comply with the Decree which requires that it discontinue its practice of imposing minimum commitments. Again, we respectfully request that the Final Decree stipulate a remedy to IDEA and similarly situated companies with respect to prepaid royalties. Microsoft's most recent draft Amendment supports our belief that Microsoft will not refund prepaid royalties unless they are so ordered.

Sincerely,

Wanda Washington,

Corporate Counsel.

Janet Reno, Attorney General #4400,
Department of Justice, Constitution Ave. and 10th St., NW., Washington, DC 20530.
July 25, 1994.

To whom it may concern: This letter is being written in regards to the ridiculous action brought forth towards Microsoft. Is it Microsoft's fault that they have produced a product that is popular due to the ease in which it takes to operate it?

In the statement issued from the Justice department it states that Microsoft has a 70% market share. If it was a monopoly, should that number not be around 90–95%? To me it looks a little strange to have the Vice-President promoting the Information Super-Highway and the Justice Department going after a company that will help provide a user friendly interface for "computer novices" to use in order to navigate the highway with. One reason that Microsoft has such a large market share is that software developers would like to have an operating system standard. Can you imagine the cost for developing an application in 3 or 4 different formats? I believe that this would cripple trade far more than the fact that Microsoft has 70% of the market share. This clearly shows that in America you get penalized for success.

Sincerely,

J. Adam Burden.

Internet address: uarw61a@prodigy.com

[FR Doc. 94–28441 Filed 11–16–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—CAD Framework Initiative, Inc.

Notice is hereby given that, on September 1, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, these changes are as follows: (1) Lockheed Sanders, Inc., Nashua, NH, has joined as a new Corporate Member; (2) Synopsys, Inc., Mountain View, CA, has reinstated its Corporate Membership; (3) Nikolay Vitsyn, Moscow, RUSSIA, has joined as a new Individual Member.

On December 30, 1988, CFI filed its original notification pursuant to Section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the **Federal Register** pursuant to Section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction notice was published on April 20, 1989 (54 FR 16013).

The last notification was filed with the Department on June 3, 1994. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on September 26, 1994 (59 FR 49084).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94–28436 Filed 11–16–94; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Hart Communication Foundation

Notice is hereby given that, on August 22, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Hart Communication Foundation ("HCF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are: ABB Instrumentation, Huntingdon, Cambridgeshire, ENGLAND; Adaptive Instruments Corporation, Hudson, MA; AIM Automation and Instr. Management Oy, Pietarsaari, FINLAND; Allen-Bradley, Highland Heights, OH; Applied Systems Technologies, Inc., Ft. Lauderdale, FL; Arcorn Control Systems Ltd., Cambridge, ENGLAND; Beamex Oy, Ab, Pietarsaari, FINLAND; Dragerwerk AG, Lubeck, GERMANY; Eckardt AG, Stuttgart, GERMANY; Elcon Instruments sr., Virneroate (MI), ITALY; Electro-Chemical Devices, Inc., Yorba Linda, CA; Endress + Hauser Ltd., Manchester, ENGLAND; Fisher Controls, Marshalltown, IA; Fuji Electric Co., Ltd., Tokyo, JAPAN; Hartmann & Braun AG, Minden, GERMANY; Johnson Yokogawa Corp., Newnan, GA; K–TEK Corporation, Prairieville, LA; Krohne MeBtochnlk GmbH & Co., Dulsburg, GERMANY; Masoneilan, Noireau, FRANCE; Meridian Instruments B.V., Oosterhout, THE NETHERLANDS; Neles-Jamebury, Helsinki, FINLAND; Ohkura Electric Co., Ltd., Tokyo, JAPAN; Pepperl + Fuchs, Oldham, Lancashire, UNITED KINGDOM; Raytek, Inc., Santa Cruz, CA; Samson AG, Frankfort, GERMANY; Siemens AG, Berlin, GERMANY; Southwest Research Institute, San Antonio, TX; Sparling Instruments Co., Inc., El Monte, CA; Termiflex Corporation, Merrimack, NH; and Two Technologies, Inc., Horsham, PA.

No other changes have been made in the membership, nature and objectives

of the consortium. Membership in HCF remains open, and HCF intends to file additional written notifications disclosing all changes in membership.

On March 17, 1994, HCF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on May 5, 1994 (59 FR 23234).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94-28437 Filed 11-16-94; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—LCX Translational CMOS Logic Development Agreement

Notice is hereby given that, on September 7, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), LCX Translational CMOS Logic Development Agreement ("Agreement") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Motorola, Inc., Mesa, AZ; National Semiconductor Corporation, Santa Clara, CA; and Toshiba Corporation, Tokyo, JAPAN. The nature and purpose of the Agreement is the development of a consistent set of specifications for specified translational 3 volt/5 volt CMOS logic devices fabricated in a sub-micron CMOS process.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94-28438 Filed 11-16-94; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The SQL Access Group, Inc. and X/Open Company Limited

Notice is hereby given that, on June 2, 1994, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), The SQL Access Group, Inc. ("the Group"), and X/Open Company Limited ("X/Open") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the changes are as follows: Apple Computer; Boeing Computer Services; British Telecom Research; Cincom Systems; E.O. Dupont de Nemours & Co., Inc.; Hewlett Packard; Lotus Development Corp.; Micro Decisionware, Novell; Retix; DB Access; Jyacc; Locus Computing; and Revelation Technologies are no longer members of the Group. The following parties have become members of the Group: Svenska Handelsbanken, Stockholm, SWEDEN; and Samsung Advanced Institute, Kyung Ki-Do, KOREA.

The following companies have changed their names: Computer Corporation of America is now Praxis; and NCR/Teradata is now AT&T/Global Information Solutions.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and SQL and X/Open intend to file additional written notifications disclosing all changes in membership.

On July 16, 1992, the Group and X/Open filed their original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on December 14, 1992 (57 FR 59128).

The last notification was filed with the Department on August 27, 1993. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on November 10, 1993 (58 FR 59736).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 94-28439 Filed 11-16-94; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Eastern Associated Coal Corporation

[Docket No. M-94-158-C]

Eastern Associated Coal Corporation, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.364(b)(2) & (4) (weekly examination) to its Lightfoot No. 1 Mine (I.D. No. 46-04332) located in Boone County, West Virginia. Due to current roof conditions and roof falls in certain locations of the return airway, traveling the area in its entirety would be unsafe. The petitioner proposes to establish two positive return evaluation points, one in the No. 6 entry and one in the No. 4 entry, to measure the return airflow; to maintain and check evaluation points Nos. 17 and 18 at least once every twenty-four hours; and to designate a certified person to make these examinations and record the results in an approved book. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Clark Elkhorn Coal Company, Inc.

[Docket No. M-94-159-C]

Clark Elkhorn Coal Company, Inc., P.O. Box 2805, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.900 (low- and medium-voltage circuits serving three-phase alternating current equipment; circuit breakers) to its Sunset No. 1 Mine (I.D. No. 15-11905) located in Pike County, Kentucky. The petitioner proposes to use contactors for undervoltage protection instead of using circuit breakers. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. Eastern Associated Coal Corporation

[Docket No. M-94-160-C]

Eastern Associated Coal Corporation, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Federal No. 2 Mine (I.D. No. 46-01456) located in Monongalia County, West Virginia. Due to large falls and deteriorating roof conditions in certain areas of the intake air course, traveling the affected area would be unsafe. The petitioner proposes to have a certified person monitor the direction of the airflow and the methane and oxygen concentrations at two check points on a weekly basis and record the results on a date board. The petitioner asserts that the proposed alternative method would provide at

least the same measure of protection as would the mandatory standard.

4. Pontiki Coal Corporation

[Docket No. M–94–161–C]

Pontiki Coal Corporation, P.O. Box 801, Lovely, Kentucky 41231 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Pontiki No. 1 Mine (I.D. No. 15–08413) located in Martin County, Kentucky. The petitioner proposes to use belt haulage entries as intake air courses to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake air courses. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Pontiki Coal Corporation

[Docket No. M–94–162–C]

Pontiki Coal Corporation, P.O. Box 801, Lovely, Kentucky 41231 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Pontiki No. 2 Mine (I.D. No. 15–09571) located in Martin County, Kentucky. The petitioner proposes to use belt haulage entries as intake air courses to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake air courses. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. D.G.W. Coal Company

[Docket No. M–94–163–C]

D.G.W. Coal Company, P.O. Box 425–B2, Pine Grove, Pennsylvania 17963 has filed a petition to modify the application of 30 CFR 75.1405 (automatic couplers) to its No. 7 Vein Slope (I.D. No. 36–07093) located in Schuylkill County, Pennsylvania. The petitioner proposes to use bar and pin or link and pin couplers on its underground haulage equipment instead of automatic couplers. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Mallie Coal Company, Inc.

[Docket No. M–94–164–C]

Mallie Coal Company, Inc., Rt. 1, Box 211, Woodbine, Kentucky 30771 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its No. 4 Mine (I.D. No. 15-17603) located in Knox County, Kentucky. The petitioner proposes to monitor continuously with a hand-held methane and oxygen detector instead of using a methane monitoring system on permissible three-wheel tractors with drag bottom buckets. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard

8. Eastern Associated Coal Corporation

[Docket No. M–94–165–C]

Eastern Associated Coal Corporation, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Federal No. 2 Mine (I.D. No. 46–01456) located in Monongalia County, West Virginia. The petitioner proposes to increase the maximum length of its trailing cables supplying shuttle cars, loading machines, and roof bolters to 900 feet from a nominal 480 volt, 3-phase alternating current system during longwall development; to have the cables for shuttle cars and loading machines not smaller than #2 AWG with the maximum setting at 800 amps; to have the roof bolter cable not smaller than #4 AWG with the maximum setting at 500 amps; and to have the trip settings of these circuit breakers sealed or otherwise fixed so that the unit settings cannot be set above the maximum allowable value. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Gray Quarries, Inc.

[Docket No. M–94–43–M]

Gray Quarries, Inc., P.O. Box 386, Hamilton, Illinois 62341 has filed a petition to modify the application of 30 CFR 56.6131(a)(1) (location of explosive material storage facilities) to its Gray Quarries (I.D. No. 11–00073) located in Hancock County, Illinois. The petitioner requests a modification of the mandatory safety standard to allow the storage facility to remain in its present location until a new location can be established. The petitioner states that the only other location that is within the mine site that would not create a hazard cannot be used until mining is complete in that location.

10. J. M. Huber Corporation

[Docket No. M–94–44–M]

J. M. Huber Corporation, P.O. Box 306, Langley, South Carolina 29834 has filed a petition to modify the application of 30 CFR 56.14101(a)(2) (brakes) to its Langley Plant (I.D. No. 38–00052) located in Aiken County, South Carolina. The petitioner requests a modification of the mandatory safety standard to allow the use of a different type of parking device for its Case W–11B loaders because the operator is not able to pull the handle into position when the parking brakes are adjusted tight enough to hold on a ramp. The petitioner proposes to park this mobile equipment between two mounds (speed brake type) to ensure the safety of employees, equipment, and surrounding area; to train designated loader operators in job requirement and safe work practices; and to post a sign in each loader and at each designated parking area stating the requirement for parking in the designated area.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 19, 1994. Copies of these petitions are available for inspection at that address.

Dated: November 10, 1994

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 94–28433 Filed 11–16–94; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 94–093]

NASA Advisory Council; Life and Microgravity Sciences and Applications Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity

Sciences and Applications Advisory Committee.

DATES: December 14, 1994, 8:30 a.m. to 5:30 p.m.; and December 15, 1994, 8:30 a.m. to 1 p.m.

ADDRESSES: Lockheed Engineering and Sciences Corporation, Suite 800, 500 E Street, S.W., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Arnauld Nicogossian, Code U, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0215.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Wednesday, December 14, 1994, from 3:30 p.m. to 5:30 p.m. in accordance with 5 U.S.C. 522b(c)(6), to allow for discussion on qualifications of individuals being considered for membership to the Committee. The remainder of the meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review of the Office of Life and Microgravity Sciences and Applications Status
—Russian Program Status
—International Space Station
—Working Group Preparation of Position Papers
—Discussion of Committee Findings and Recommendations
—Committee Discussion Regarding Future Activities.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 10, 1994.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 94–28335 Filed 11–16–94; 8:45 am]

BILLING CODE 7510–01–M

[Notice 94–092]

NASA Advisory Council, NASA/NIH Advisory Committee on Biomedical and Behavioral Research; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, NASA/NIH Advisory Committee on Biomedical and Behavioral Research.

DATES: December 7, 1994, 8:30 a.m. to 5 p.m.; and December 8, 1994, 8:30 a.m. to 1 p.m.

ADDRESSES: National Aeronautics and Space Administration, 9th Floor Program Review Center, Room 9H40, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Arnauld E. Nicogossian, Code U, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0215.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Wednesday, December 7, 1994, from 3:45 p.m. to 5 p.m., and on Thursday, December 8, 1994, from 8 a.m. to 10 a.m. in accordance with 5 U.S.C. 522b(c)(6), to allow for discussion on qualifications of individuals being considered for membership to the Committee. The remainder of the meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review of the Office of Life and Microgravity Sciences and Applications Advisory Committee Status
—Report on NASA/NIH Activities
—Report on Bioreactor Program
—Committee Recommendations/Future Planning

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: November 10, 1994.

Timothy M. Sullivan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 94–28336 Filed 11–16–94; 8:45 am]

BILLING CODE 7510–01–M

[Notice 94–090]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant Carson Services, Inc. of Perkasie, Pennsylvania, an exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent No. 4,766,531 which was issued on October 11, 1988, and is entitled "High Lift, Low Pitching Moment Airfoils." The proposed exclusive patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATES: Comments to this notice must be received by January 17, 1994.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: November 4, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–28337 Filed 11–16–94; 8:45 am]

BILLING CODE 7510–01–M

[Notice 94–091]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive Patent License.

SUMMARY: NASA hereby gives notice of intent to grant Carson Services, Inc. of Perkasie, Pennsylvania, an exclusive, royalty-bearing, revocable license to practice the invention described and claimed in U.S. Patent No. 4,459,083 which was issued on July 10, 1994, and is entitled "Shapes for Rotating Airfoils." The proposed exclusive patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR Part 1245, Subpart 2. NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the Date of this Notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the exclusive license.

DATES: Comments to this notice must be received by January 17, 1994.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, (202) 358–2041.

Dated: November 4, 1994.

Edward A. Frankle,

General Counsel.

[FR Doc. 94–28338 Filed 11–16–94; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Guidelines for the Supervisory Review Committee

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed Interpretive Ruling and Policy Statement 94–2 (IRPS 94–2).

SUMMARY: The Riegle Community Development and Regulatory Improvement Act of 1994 (the Act) requires that NCUA and the federal banking agencies each establish an appeals process within the Agency to review material supervisory determinations made with respect to insured institutions. The NCUA Board proposes that the review process be carried out by a supervisory review committee consisting of senior staff members. This proposal sets forth the types of issues that are eligible for review by the committee as well as the composition, structure and procedures for the proposed committee. The Board requests comment on the committee concept as well as all other aspects of the proposal.

DATES: Comments must be postmarked or received by December 19, 1994.

ADDRESSES: Send written comments to Becky Baker, Secretary to the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314 or comments via the electronic bulletin board to Becky Baker at 703–518–6480.

FOR FURTHER INFORMATION CONTACT: Hattie M. Ulan, Special Counsel to the General Counsel, at the above address or telephone 703–518–6540.

SUPPLEMENTARY INFORMATION:

Background

The Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325 (the Act) was signed into law on September 23, 1994. Section 309 of the Act requires, among other things, that the NCUA and the federal banking agencies each establish an independent appellate process to review material supervisory determinations. The Act requires that the agencies provide the public with notice and opportunity to comment on proposed guidelines for the appellate process within 90 days of the Act's passage. The Act requires further that each agency's appellate process be established not later than 180 days after the Act's passage.

The Act defines the terms "material supervisory determinations" and "independent appellate process." Material supervisory determinations are defined to include determinations relating to (1) examination ratings; (2) adequacy of loan loss reserve provisions; and (3) loan classifications on loans that are significant to a credit union. The definition specifically excludes determinations made by NCUA to appoint a conservator or liquidating agent or a decision made under Section 212 of the FCU Act (12 U.S.C. 1790a) concerning NCUA approval of officials of newly chartered or troubled credit unions.

Independent appellate process is defined as a review by an agency official who does not report, directly or indirectly, to the agency official who made the determination that is being reviewed. The Act also requires that the agencies ensure that appeals be heard and decided expeditiously and that safeguards exist for protecting the appellant from retaliation by agency examiners.

In order to carry out the requirements of the Act, the NCUA Board proposes the establishment of a supervisory review committee composed of several senior NCUA personnel. The Board believes the committee will provide at least the following benefits for NCUA and credit unions:

- Ensure more consistent application of supervisory policy throughout the Agency.
- Enhance the level of fairness and due process afforded to credit unions and others who are involved in supervisory disputes with NCUA.
- Reduce the number of cases that can only be resolved through judicial proceedings.
- Provide a more comprehensive and accurate record in those cases that do result in such proceedings.

The Board requests comment on all aspects of this proposal, including the advisability of meeting the statutory requirements through the establishment of a committee; whether the process should be established by policy statement (as proposed here) or regulation; the types of disputes subject to the committee's jurisdiction; the composition of the committee's membership; and the procedural workings of the committee. Certain of these issues are discussed in greater detail below.

Supervisory Disputes

As noted above, the Act sets forth the material supervisory determinations subject to the review process. Included are determinations related to (1) examination ratings; (2) adequacy of loan loss reserves; and (3) loan classifications on loans that are significant to the credit union.

The Board understands the reference to "examination" rating to mean a credit union's CAMEL rating. CAMEL is a rating system that provides a numerical score, from 1 through 5 (with 1 being the highest score), in each of five key areas of a credit union's management and financial performance, as well as a composite score. The five rated areas—capital adequacy, asset quality, management, earnings and liquidity—provide the basis for the CAMEL acronym.

It should be noted that CAMEL is intended and used mainly as an internal supervisory tool by NCUA, to assist the agency in determining how and where to devote its supervisory resources. It is not a public rating and it does not necessarily reflect the level of service a credit union provides to its members.

The Board proposes that only a credit union's composite CAMEL rating be appealable, but requests comment on whether the individual component ratings (capital, assets, management, earnings and liquidity) should also be subject to appeal. In either case, the Board proposes that only ratings of 4 and 5 be subject to appeal. Credit unions with CAMEL ratings of 4 and 5 are treated differently than those with ratings of 1, 2, or 3. They are generally under much closer supervision. They are often subject to letters of understanding and agreement. All new officials of credit unions with a 4 or 5 CAMEL rating are subject NCUA approval pursuant to Section 701.14 of the NCUA Regulations. The Board believes that credit unions subject to these special supervisory and regulatory procedures are the credit unions whose examination ratings should be subject to the appeal process. Comment is requested on whether additional composite ratings should be subject to the appeal process.

The Board also requests comment on how it should define classified loans that are "significant" to the credit union. Should this be left to the discretion of the credit union? Should it be determined by the loan amount as a

percentage of reserves? Or is some other definition more appropriate.

Finally, with respect to disputes subject to review, the Board proposes to limit the review process to those three categories set forth in the Act and identified above. The Board requests comment, however, on any other specific disputes that should be subject to the committee's review.

Timing of Committee Involvement

The Board proposes that the committee assume jurisdiction over a supervisory determination only when the credit union establishes that it has been unsuccessful in attempting to resolve the matter with the credit union's examiner and the appropriate regional office. The Board does not intend by this requirement to establish a series of regional reviews (e.g. Director of Supervision, to Associate Regional Director, to Regional Director), but only that the credit union demonstrate that an effort was made to resolve the matter with the regional office and an official stationed in the regional office has said no.

The Board believes that any earlier involvement by the committee would be disruptive of the established organizational structure of the NCUA and the relationships between credit unions and their regional offices. Also, in order to remain flexible and avoid unnecessary bureaucracy, the Board would prefer not to establish specific time frames for resolving issues at the regional level. The Board welcomes comment on these issues, however, and is committed to both preserving the regional chain of command and avoiding unnecessary delays.

Committee Composition and Procedures

The committee will be comprised of senior agency staff. The Board proposes that the committee be comprised of five regular members. The members of the committee will consist of the Executive Director, the General Counsel, the Director of the Office of Examination and Insurance, a specified Regional Director, and one additional senior or Board staff member. The regional member will be rotated on a periodic basis (proposed policy is to rotate every two years), and an alternate Regional Director will be named to consider matters arising in the regular member's region. The Executive Director will serve as the chairperson of the committee.

Regular committee meetings will be scheduled four times a year. Special meetings may be called and regular meetings may be canceled based on the workload of the committee. Each committee member will have one vote, the chairperson will only vote in the case of a tie, and a quorum will be required to conduct business.

All appeals will be submitted in writing. An appeal may be made by letter, addressed to the Chairman of the Supervisory Review Committee, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. The appeal need only include the name of the credit union, the determination being appealed, and the reasons for the appeal. Appellants will be encouraged, however, to provide as much detail and supporting documentation as possible, in order to expedite the appeal process.

Personal appearances will not be a regular part of the process. Appellants may request personal appearances, but the final decision will be made by the committee.

NCUA is committed to the Act's mandate that appeals be decided expeditiously. It is proposed that the following timing requirements apply. Credit unions must submit their appeal within 30 days of the regional office's decision. Once a complete package of information is submitted, the committee will make a determination on the appeal within 90 days.

The committee may request more information from either the appealing party or the regional office. Committee requests for more information must be made within 30 days of receipt of the appeal. The information must be submitted to the committee within 15 days of receipt of the committee request. The 90 days to make a determination will not begin to run until the expiration of the time allotted to submit more information. Although these time requirements should be sufficient in most cases, they are subject to adjustment by the committee, either on its own or upon request of the appellant or the region involved.

Each determination by the committee will be submitted in writing to the NCUA Board. The Board will review the determination within seven working days. Board members will each sign indicating whether they agree with the committee's determination. If a majority of the Board members agree, the determination will be final and the parties will be notified. If a majority of the Board members do not agree, the matter will be considered by the Board on final appeal.

The Board welcomes comment on both the composition and procedural aspects of the committee.

Miscellaneous Issues

Section 309 of the Act requires that each of the agencies ensure that safeguards exist for protecting the appellant from retaliation by agency examiners. The proposal notes that credit unions can seek redress from alleged retaliation through NCUA's Office of Inspector General. The Board will expeditiously and firmly address any cases of retaliation or abuse. The Board requests comment on any other steps it should take to protect and reassure appellants.

The Act requires that the appellate process be available at *insured institutions* that the agency supervises. Accordingly, the supervisory review process will be open to all federally insured credit unions. The committee will however, only consider appeals of material supervisory determinations made by NCUA. the committee will consult with the state supervisory authority in appropriate cases involving federally insured state chartered credit unions.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed IRPS, if made final, will not have a significant impact on a substantial number of small credit unions. The appeal procedure set forth in the proposal applies equally to all credit unions. The appeal procedure is not mandatory. Only those credit unions wishing to appeal certain regional decisions are subject to its provisions. It is not anticipated that small credit unions will use the appeal procedure any more or less than large credit unions. Accordingly, the NCUA Board has determined that a Regulatory Analysis is not required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed IRPS will apply to all federally insured credit unions, as required by the Act. It may have a direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, the Act requires that this process apply to FISCUs.

Paperwork Reduction Act

The proposed IRPS, if adopted, will impose paperwork requirements on an appealing credit union. The paperwork requirements will be submitted to the Office of Management and Budget

(OMB) for review under the Paperwork Reduction Act. Written comments on the paperwork requirements should be forwarded directly to the OMB Desk Officer indicated below at the following address: OMB Reports Management Branch, New Executive Office Building, Room 10202, Washington, DC 20530, Attn. Milo Sunderhauf. NCUA will publish a notice in the Federal Register once OMB action is taken on the submitted requirement.

By the National Credit Union Administration Board on November 10, 1994.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA proposes IRPS 94–2:

Interpretive Ruling and Policy Statement 94–2—Supervisory Review Committee

Section 309 of the Riegle Community Development and Regulatory Improvement Act of 1994 requires that NCUA establish an independent intra-agency appellate process to review material supervisory determinations. The NCUA Board hereby establishes a supervisory review committee to implement Section 309.

The committee shall consist of five regular members of NCUA's senior staff: the Executive Director, the Director of the Office of Examination and Insurance, the General Counsel, one Regional Director, and one additional senior staff or Board staff member. An alternate Regional Director shall be appointed to consider matters arising in the member Regional Director's region. The term of committee service for the Regional Director, alternate Regional Director and additional member is two years. These members may be appointed for additional terms. All other members will serve permanently.

The Executive Director shall serve as the chairperson of the committee and shall only vote in the case of a tie. All other members shall have one vote. At least three members will be present at each committee meeting. A majority vote is required for action on an appeal. Regular committee meetings shall be held four times a year. Meetings via teleconference are acceptable. Regular meetings may be canceled and special meetings may called by the Executive Director.

Appeals may be made by all federally insured credit unions. The committee shall hear appeals of material supervisory determinations made by the NCUA. Such determinations are limited to: (1) composite CAMEL rating of a 4 or 5; (2) adequacy of loan loss reserve provisions; and (3) loan classifications on loans that are significant to a credit union. A determination is appealable only after a decision has been made by an official of the appropriate NCUA Regional Office.

Appeals shall be submitted in writing to the Chairman of the committee, within 30 days of the regional office's decision. Appeals shall be mailed or delivered to Chairman, Supervisory Review Committee, NCUA, 1775 Duke Street, Alexandria, VA 22314–3428. Appeals may be made by letter, which shall include the name of the appellant credit union, the supervisory determination being appealed and the reasons for the appeal. Appellants are encouraged to submit all information and supporting documentation relevant to the matter in dispute.

The committee may request additional information from the appellant and/or the regional office within 30 days of its receipt of the appeal. The information must be submitted to the committee within 15 days of receipt of the committee request. The committee shall make a determination on the appeal within 90 days from the date of the receipt of an appeal by the committee or of its receipt of any requested additional information.

The time requirements set forth above are subject to adjustment by the committee, either on its own or upon request of the appellant or the region involved.

The committee's determination shall be submitted in writing to the NCUA Board. Within seven working days, each Board member will sign indicating whether they agree with the committee's determination. If a majority of the Board members agree, the determination shall be final and the parties so notified. If a majority of the Board members do not agree, the parties will be notified, and the Board will proceed with the final appeal.

Appellants can seek redress from alleged retaliation through NCUA's Office of Inspector General.

[FR Doc. 94–28366 Filed 11–16–94; 8:45 am]

BILLING CODE 7535–01–P–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting a notice of information collection that will affect the public. Interested persons are invited to submit comments by December 19, 1994. Copies of materials may be obtained at the NSF address or telephone number shown below.

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Contracts, Policy, and Oversight, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, or by telephone (703) 306–1243.

Comments may also be submitted to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Followup Survey on Teacher Enhancement Programs.

Affected Public: Individuals.

Respondents/Reporting Burden: 1,660 respondents: 40 minutes per response.

Abstract: The purpose of the survey is to obtain data on the impacts of teacher enhancement programs (TEPS) on teachers' approaches to science education. The data will provide a description of teachers' experience in 34 TEPS and the impact of these experiences on their teaching. The survey will assess impact from the teachers' perspectives using a questionnaire and teacher logs.

Dated: November 14, 1994.

Herman G. Fleming,

Reports Clearance Officer.

[FR Doc. 94–28407 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (No. 1189).

Date and Time: December 5, 1994, 1994; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 370, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: John Enderle, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1319.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including

technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28409 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis in Biological Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following three meetings of the Special Emphasis Panel in Biological Sciences (1754).

Name: Special Emphasis in Biological Sciences (1754).

Date and Time: December 2, 1994; 8:00 a.m.–5:00 p.m.

Place: Room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Contact Person: Dr. B. Jane Harrington, Program Director, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1481.

Name: Special Emphasis in Biological Sciences (1754).

Date and Time: December 5, 1994; 8:30 a.m.–6:00 p.m.; December 6, 1994; 8:30 a.m.–2:00 p.m.

Place: Room 365, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Contact Person: Dr. Brenda Flam, Program Manager, Division of Molecular and Cellular Biology, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1440.

Agenda: To review and evaluate Research Experiences for Undergraduate Proposals.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28419 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological Sciences (#1754).

Date and Time: December 8–9, 1994; 9 a.m. to 5:00 p.m. each day.

Place: Room 365, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part Open.

Contact Person: Dr. Kathie L. Olsen, Acting Deputy Director, Division of Biological Instrumentation and Resources (BIR), Room 685, National Science Foundation, 4201 Wilson Blvd. Arlington, VA 22230, Tel: (703) 306–1419.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF.

Agenda: Open—12/8 from 2 to 3 p.m.—Discussion of goals and assessment procedures.

Closed—12/8, 8 a.m. to 2 p.m., 3 p.m. to 5 p.m., and all day 12/9—Review and evaluate Research Experiences for Undergraduate proposals.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28413 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Special Emphasis Panel in Civil & Mechanical Systems (#1205).

Date and Time: December 8th and 9th, 1994 from 8:00 a.m. to 5:00 p.m.

Place: NSF, Rms. 310 and 360, 4201 Wilson Blvd., Arlington, VA 22230.

Contact: Dr. Clifford Astill, Program Director, Room 545, 703–306–1361.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning the Northridge Earthquake proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Division of Civil and Mechanical Systems as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28408 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel for CISE Research Experience for Undergraduates Panel Meeting (1193).

Date and Time: December 6, 1994; 8:30 a.m.–5:00 p.m.

Place: Room 1150.

Type of Meeting: Closed.

Contact Person(s): Harry Hedges, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Experience for Undergraduate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28415 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Cross-Disciplinary Activities (#1193).

Date and Time: December 2, 1994; 8:30 a.m.–5:00 p.m.

Place: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

Type of Meeting: Closed.

Contract Pperson(s): Tse-yun Feng, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Instrumentation proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28423 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(#1194).

Date and time: December 2, 1994, 8:30 a.m.–5:00 p.m.

Place: Rooms 330 and 340 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed

Contact Person: Dr. Warren DeVries, Program Director, Manufacturing Machines and Equipment Program, Dr. Kesh Narayanan, Materials Processing and Manufacturing Program, room 550, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1330.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28424 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Design, Manufacture, and Industrial Innovation—(#1194).

Date and Time: December 7, 1994, 8:30 a.m.–5:00 p.m.

Place: Rooms 580 and 330 National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Pius Egbelu, Program Director, Operations Research and Production Systems Program, Dr. George Hazelrigg, Program Director, Engineering Design Program, and Mr. John Meyer, Program Director, Integration Engineering Program, Room 550, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1330.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate unsolicited proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28411 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Electrical and Communications Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Electrical and Communications Systems.

Date and Time: November 30, 1994, 8:30 a.m. to 5:00 p.m.

Place: Room 370, NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. William H. Carter, Program Director, Quantum Electronics, Waves and Beams, Division of Electrical and Communications Systems, NSF, 4201 Wilson Boulevard, Room 675, Arlington, VA 22230, Telephone: (703) 306–1339.

Purpose: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Research Equipment Grant Program proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28418 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Geoscience

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geoscience.

Date and Time: December 1, 1994, 9:00 a.m.

Place: Room 330, NSF, 4201 Wilson Blvd., Arlington VA 22230.

Type of Meeting: Closed.

Contact Person: Richard W. West, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1579.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Shipboard Scientific Support Equipment proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and person information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28416 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Information, Robotics and Intelligent Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Information, Robotics and Intelligent Systems (#1200).

Date and Time: December 1–2, 1994, 8:30 a.m. to 5 p.m.

Place: NSF, 4201 Wilson Blvd., room 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Howard Moraff, Acting Deputy Division Director, Robotics and Intelligence, Room 1115, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1928.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Robotics and Machine Intelligence proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28422 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Mathematical Sciences.

Date and Time: December 5–7, 1994, 8:30 a.m. til 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 310, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Keith Crank, Program Director, National Science Foundation, 4201 Wilson Boulevard, Room 1025, Arlington, VA 22230, Telephone: (703) 306–1885.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate proposals for the Statistics and Probability Program, Proposal External Panel Review (PEPR), as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28410 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Networking and Communications Research and Infrastructure (NCRI); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications Research & Infrastructure, (#1207).

Date and Time: December 7–9, 1994; 8:30 a.m. to 5:00 p.m.

Place: Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Aubrey Bush, NCRI, National Science Foundation, Room 1175, Arlington, VA 22230 (703 306–1949).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted for Networking and Communications Research Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals.

These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28412 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

DOE/NSF Nuclear Science Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: November 30, 1994 from 10:00 a.m. to 7:00 p.m.; December 1, 1994 from 8:00 a.m. to 2:00 p.m.

Place: National Science Foundation, Room 390 (Nov. 30) and Rm. 340 (Dec. 1), 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: John W. Lightbody, Program Director for Nuclear Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1890.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To advise the National Science Foundation and the Department of Energy on scientific priorities within the field of basic nuclear science research.

Agenda: Organization of Subcommittee and Working Group Appointments, Town Meeting Scheduling and Agendas, and Related Discussion of the Long Range Planning Process (*) Public Comments. (*) Persons wishing to speak should make arrangements through the Contact Person Identified above.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28417 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Research, Evaluation and Dissemination Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Research, Evaluation and Dissemination #1210.

Date and Time: December 9, 1994; 8 a.m. to 5 p.m. December 10, 1994; 8 a.m. to 5 p.m.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Andrew Molnar, Program Director, 4201 Wilson Boulevard, Room 855, Arlington, VA 22230. Telephone (703) 306–1651.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals and provide advice and recommendations as part of the selection process for proposals submitted to Applications of Advanced Technologies.

Reason for Closing: Because the proposals reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Dated: November 14, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28414 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Social, Behavioral and Economic Science; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral and Economic Science.

Date and Time: December 1 and 2, 1994 (8:30 a.m.–5:00 p.m.); December 3, 1994 (8:30 a.m.–noon).

Type of Meeting: Closed.

Contact Person: Dr. Eduardo Feller, Executive Secretary to the Committee of Visitors, Division of International Programs, Suite 935, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230–0935. Telephone (703) 306–1709.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Division of International Programs.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Sunshine Act would be improperly disclosed.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28420 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Systematic and Population Biology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Systematic and Population Biology (#1753).

Date and Time: November 29 & 30, 1994, 8:00 a.m.–5:00 p.m. each day.

Place: St. James Hotel, 950 24th Street, NW., Washington, DC.

Type of Meeting: Open.

Contact Person: James E. Rodman, Division of Environmental Biology, Room 635, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1481.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To present and discuss views on scientific issues and questions related to the NSF's new Special Competition of Systematic Biology, PEET: Partnerships for Enhancing Expertise in Taxonomy.

Agenda: To discuss modern monographic research in taxonomy, training of the next generation of experts, and building computer infrastructure in taxonomy.

Dated: November 7, 1994.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 94–28421 Filed 11–16–94; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear Corporation; Oyster Creek Nuclear Generating Station Environmental Assessment and Finding of No significant impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–16, issued to GPU Nuclear Corporation, et al. (the licensee), for operation of the Oyster Creek Nuclear Generating Station, located in Ocean County, New Jersey.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment would revise the Technical Specification Section 2.3.P(2) to raise the degraded voltage setpoints from 3671 volts to 3840 volts, and to revise the allowable setpoint range from ±1% to +20V, −40V. The revised setpoint tolerance values in volts represents a range of +0.5%, −1.0% compared to the existing setpoint tolerance range of ±1%.

The proposed action is in accordance with the licensee's application for amendment dated July 8, 1994.

The Need for the Proposed Action

The proposed action is needed to provide improved protection to safety related electrical equipment from loss of capability in the event of a sustained degraded voltage condition of the offsite electrical grid system.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed change provides improved protection to safety related equipment from loss of capability in the event of a sustained degraded voltage condition on the offsite electrical grid system.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evacuated. The principal alternative to the action would be to deny the request. Such action would not provide the improved protection to safety related equipment from loss of capability in the event of a sustained degraded voltage condition on the offsite electrical grid system.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Oyster Creek Nuclear Generating Station dated December 1974.

Agencies and Persons Consulted

The NRC staff consulted with the New Jersey State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of no Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 8, 1994, as supplemented October 10, 1994, which are available

for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room located at the Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Dated at Rockville, Maryland, this 8th day of November 1994.

For the Nuclear Regulatory Commission.

Phillip F. McKee,

Director, Project Directorate I–4, Division of Reactor Projects—I/II Office of Nuclear Reactor Regulation.

[FR Doc. 94–28401 Filed 11–16–94; 8:45 am]

BILLING CODE 7590–01–M

Notice of Availability: Supporting Documents for a Proposed Generic Letter, "Use of NUMARC/EPRI Report TR–102348, 'Guideline on Licensing Digital Upgrades,' in Determining the Acceptability of Performing Analog-to-Digital Replacements Under 10 CFR 50.59"

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission (NRC) published a proposed generic letter, "Use of NUMARC/EPRI Report TR–102348, 'Guideline on Licensing Digital Upgrades,' in Determining the Acceptability of Performing Analog-to-Digital Replacements Under 10 CFR 50.59," in the **Federal Register** on October 18, 1994 (59 FR 52559). NRC has placed documents associated with the proposed generic letter in the NRC Public Document Room (PDR). These documents are available in the PDR under accession number 9410280055.

DATES: None.

ADDRESSES: Not applicable.

FOR FURTHER INFORMATION CONTACT: Paul Loeser, (301) 504–2825.

SUPPLEMENTARY INFORMATION: None.

Dated at Rockville, Maryland, this 9th day of November 1994.

For the Nuclear Regulatory Commission.

Brian K. Grimes,

Director, Division of Project Support, Office of Nuclear Reactor Regulation.

[FR Doc. 94–28403 Filed 11–16–94; 8:45 am]

BILLING CODE 7590–01–P

Phone Number Changes: Prefix

In conjunction with the consolidation of the Nuclear Regulatory Commission (NRC) Headquarters at Rockville, Maryland, the NRC telephone numbers with prefix 504 are being changed to prefix 415. The telephone area code (301) and the last four digits of the number will not change. Beginning in December 1994, the number changes will take place over the following 3 months. As numbers are changed, a recording will be placed on the old number for a period of 90 days. The Nuclear Regulatory Commission's main telephone number is (301) 415–7000.

Dated at Rockville, Maryland, this 7th day of November 1994.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Director, Office of Information Resources Management.

[FR Doc. 94–28405 Filed 11–16–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–445]

Texas Utilities Electric Company; Comanche Peak Steam Electric Station, Unit 1; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a "PETITION FOR EMERGENCY ENFORCEMENT ACTION UNDER PROVISION OF 10 CFR 2.206 WITH REGARD TO COMANCHE PEAK UNIT 1 AND THERMOLAG 330–1 FIRE BARRIERS," dated September 26, 1994, Citizens for Fair Utility Regulation and Nuclear Information and Resource Service (Petitioners) request that the Nuclear Regulatory Commission take action with regard to Comanche Peak Steam Electric Station (CPSES) Unit 1 of Texas Utilities Electric Company (TU Electric).

The Petition requests that (1) the licensee perform additional destructive analysis for Thermo-Lag configurations in proportion to the total installed amount to determine the degree of "dry joint" occurrence; (2) the licensee perform fire tests on up-graded "dry joint" Thermo-Lag configurations for conduit and cable trays to rate the barrier as a tested configuration in compliance with fire protection regulations; and (3) the NRC immediately suspend the Comanche Peak Unit 1 license until the above corrective actions are taken.

As the bases for their requests concerning Thermo—Lag 330–1 Fire Barrier upgrades, Petitioners state that: (1) The licensee's records on the original installation of Thermo-Lag fire barriers on conduits and cable trays indicate that its contractor followed specifications for pre-buttering all joints; (2) NRC Inspection Report No. 50–455/93–42; 50–446/93–42 found, based on destructive analysis documents, that a concern did exist where Thermo-Lag conduit joints fell apart easily and did not appear to have any residual material of a buttered surface, indicative of a joint that had not been pre-buttered; (3) the "dry joint" deficiency appeared in Room 115A and other areas of the unit; (4) the licensee directly contradicts a NRC inspector's findings that were determined in part by destructive analysis; (5) the "dry joint" or absence of pre-buttering of Thermo-Lag panels can be determined only by destructive analysis and cannot be determined by a walk down visual inspection; (6) the findings reported in the Comanche Peak Unit 1 Region IV inspection report 50–445/93–42 and 50–446/93–42, based on the limited amount of destructive analysis conducted at the unit, constitutes a substantial documentation of installation deficiencies found in Thermo-Lag fire barriers as documented in NRC Information Notice 91–79 and IN 91–79 Supplement 1; (7) neither the NRC nor the industry, by its agent Nuclear Energy Institute, nor a utility, have conducted fire tests on dry fitted or "dry joint" upgraded configurations of Thermo-Lag 330–1; and (8) the presence of "dry joint" upgraded configurations in Comanche Peak Unit 1 constitutes an untested application of Thermo-Lag fire barriers.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The Petition has been referred to the Director of Nuclear Reactor Regulation. As provided by 10 CFR 2.206, appropriate action will be taken on this Petition within a reasonable time. By letter of November 7, 1994, the Director denied Petitioners' request for an immediate suspension of the operating license.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555, and at the University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 7th day of November 1994.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 94–28402 Filed 11–16–94; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–29343, License No. 29–19310–02 (Expired), EA No. 94–179]

Environmental Testing Laboratories, Inc. (ETL) Forked River, NJ; Order To Cease and Desist Use and Possession of Regulated Byproduct Material

Environmental Testing Laboratories (ETL), Inc. (Licensee), is the holder of expired Byproduct Materials License No. 29–19310–02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on July 31, 1986. The License authorized the possession and use of nickel-63 in plated sources or foils, not to exceed 15 millicuries per foil, in accordance with the conditions specified therein. The License expired on August 31, 1991.

II

The byproduct material has been transferred from the licensed address of 412 Route 9, Lanoka Harbor, New Jersey, 08834, to 512 Route 9, Forked River, New Jersey 08731, where it is currently stored. The Licensee did not submit an application for renewal of the License under 10 CFR 30.37 prior to its expiration, nor did the Licensee notify the Commission, in writing under 10 CFR 30.36, of a decision not to renew the License. Although Mr. Walter Holm, Jr., the Radiation Safety Officer, stated ETL's intentions in a letter dated May 15, 1991, to terminate the license, as of this date, ETL has not transferred the licensed material to an authorized recipient, nor has ETL applied for an NRC license.

On January 14, 1993, the NRC, Region I, issued a Notice of Violation (NOV) to ETL, mailed to Mr. Walter Holm, for possession of material without a valid specific license. The letter forwarding the NOV directed the Licensee to place the licensed material in secure storage, not to use the material, and promptly transfer the licensed material to a lawful recipient. The Licensee has not responded to the Notice of Violation.

In addition, in a June 7, 1994 letter, the NRC again reminded ETL of the need to respond to the NRC Notice of Violation. ETL did not respond to a telephone message left on October 26, 1994. To date, ETL still possesses nickel-63 sealed sources without an NRC license and without applying for such a license.

III

ETL remains in possession of NRC-licensed radioactive material without a license. This is prohibited by Section 81 of the Atomic Energy Act of 1954, as amended. Based on the above, ETL has violated 10 CFR 30.3, which states that, except for persons exempt as provided in 10 CFR Parts 30 and 150, no person shall possess or use byproduct material except as authorized in a specific or general NRC license.

Furthermore, based on the above, notwithstanding the several notices concerning the above from the NRC and the corresponding opportunities to achieve compliance with applicable requirements, ETL has deliberately violated NRC requirements by possessing nickel-63 sealed sources without a license. This conclusion is based on the facts that ETL never filed a renewal application before the License issued to ETL expired on August 31, 1991, as required by 10 CFR 30.37; ETL has not responded to the NRC Notice of Violation issued on January 14, 1993; ETL has not responded to an NRC letter, dated June 7, 1994, addressing its previous failure to respond to the Notice of Violation; ETL has refused to dispose of the radioactive material; and ETL possesses the radioactive material contrary to 10 CFR 30.3; without a valid NRC specific license.

Improper handling of the nickel-63 sealed sources can result in an unnecessary exposure to radiation. The Atomic Energy Act and the Commission's regulations require that possession of licensed material be under a regulated system of licensing and inspection. ETL's possession of NRC-licensed material without a valid NRC license, as documented in the January 14, 1993, Notice of Violation, and its unwillingness to respond to numerous NRC written and verbal communications to apply for an NRC license, demonstrate that it is either unable or unwilling to comply with NRC requirements.

Given the circumstances surrounding ETL's possession of the byproduct material and the failure to respond to communications with the NRC, I lack the requisite reasonable assurance that the health and safety of the public will be protected while ETL remains in possession of the radioactive material without the required NRC license.

IV

Accordingly, in accordance with Sections 81, 161b, 161c, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and 10 CFR Parts 20 and 30, IT IS HEREBY ORDERED THAT, ETL shall:

A. Immediately cease and desist from any further use of byproduct material now in its possession.

B. Maintain safe control over the byproduct material, as required by 10 CFR Part 20, by keeping the material in locked storage and not allowing any person access to the material, except for purposes of assuring the material's continued safe storage, until the material is transferred to a person authorized to receive and possess the material in accordance with the provisions of this Order and the Commission's regulations.

C. Transfer the nickel-63 byproduct material within 30 days to a person authorized to receive and possess the material. If ETL does not have sufficient funds to complete the transfer, ETL must provide, within 10 days of this Order, evidence supporting such a claim by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555: (1) An estimate of the cost of the transfer and the basis for the estimate, including the license numbers and identifies of the persons who have provided estimates of the cost of the transfer; (2) written statements from at least two banks stating that ETL does not qualify for a loan to pay for the transfer; (3) copies of the Federal income tax returns of ETL for the years ending 1993, 1992, 1991, and 1990; and (4) a signed statement agreeing to allow the NRC to receive credit information on ETL from a credit agency. In addition, if ETL has not been able to find a person who will accept the byproduct material, ETL must provide to the Director, Office of Enforcement, at the address stated above, within 10 days of the date of this Order, the names of the persons who have been contacted regarding acceptance of the byproduct material and the dates that the contacts were made. A SUBMITTAL OF EVIDENCE SUPPORTING THE LACK OF SUFFICIENT FUNDS DOES NOT EXCUSE NONCOMPLIANCE WITH THIS ORDER.

D. At least two working days prior to the date of the transfer of the byproduct material, notify Dr. Ronald Bellamy, Chief, Nuclear Materials Safety Branch, NRC, Region I, by telephone (610–337–5200) so that the NRC may, if it elects, observe the transfer of the material to the authorized recipient.

E. Within seven days following completion of the transfer, provide to the Regional Administrator, Region I, in writing, under oath or affirmation: (1) Confirmation, on NRC Form 314, that the nickel-63 byproduct material has been transferred, (2) the last date that the byproduct material was used, (3) a copy of the survey performed in accordance with 10 CFR 30.36(c)(1)(v), and (4) a copy of the certification from the authorized recipient that the source has been received.

Copies of the response to this Order shall be sent to the Regional

Administrator, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Assistant General Counsel for Hearings and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

After reviewing your response, the NRC will determine whether further action is necessary to ensure compliance with NRC requirements.

Dated at Rockville, Maryland, this 10th day of November 1994.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 94-28404 Filed 11-16-94; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Cancellation of Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the meeting of the Federal Prevailing Rate Advisory Committee scheduled for Thursday, November 17, 1994, has been cancelled.

Information on other meetings can be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, DC 20415, (202) 606-1500.

Dated: November 9, 1994.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 94-28503 Filed 11-15-94; 10:38 am]

BILLING CODE 6325-01-M

TRADE AND DEVELOPMENT AGENCY

SES Performance Review Board

AGENCY: Trade and Development Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the Trade and Development Agency's Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Deirdre E. Curley, Assistant Director for Management, Trade and Development Agency, State Annex—16, Room 309, Washington, D.C. 20523-1602, (703) 875-4357.

SUPPLEMENTARY INFORMATION: Section 4314 (c)(1) through (5), U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

The following have been selected as acting members of the Performance Review Board of the Trade and Development Agency: Michael G. Usnick, Financial Advisor, Office of Resources, Plans, and Policy, Department of State; Robert S. Perkins, General Counsel to the Inspector General, Agency for International Development; and Leonard M. Rogers, Director of Project Planning and Evaluation, Bureau of Humanitarian Response, Agency for International Development.

Dated: November 10, 1994.

Deirdre E. Curley,

Assistant Director for Management.

[FR Doc. 94-28467 Filed 11-16-94; 8:45 am]

BILLING CODE 8040-01-M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Acting Agency Clearance Office: Richard T. Redfearn, (202) 942-8800.

Upon written request copy available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, D.C. 20549.

Extensions

Rule 23c-1—File No. 270-253
Form F-6—File No. 270-270

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget requests for approval of extension on previously approved collections for the following rule and form:

Rule 23c-1 under the Investment Company Act of 1940, sets forth conditions for the repurchase, by a registered closed-end investment company, of its own securities. There are 540 registered closed-end investment companies, all of which are eligible to use the rule. Estimated annual burden is .250 hours per response.

Form F-6 is used by depository banks to register American Depository Receipts of foreign companies pursuant to the Securities Act of 1933. All filings on Form F-6 are prepared and filed by a limited number of banks that operate as depositories. An estimated 339 filings on Form F-6 are made annually at an estimated burden on one hour per response.

Direct general comments to the Desk Officer for the Securities and Exchange Commission at the address below. Direct any comment concerning the accuracy of the estimated burden hours for compliance with the Commission rules and forms to Richard T. Redfearn, Acting Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, (Project Number 3235-0260 and 3235-0292), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: November 8, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94-28360 Filed 11-16-94; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-34959; File No. SR-CBOE-94-15]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to a Proposed Rule Change Relating to Solicited Transactions

November 9, 1994.

I. Introduction

On May 3, 1994, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposal to adopt a new Rule 6.9 that would regulate the execution of "solicited orders"; would set forth specific priority principles applicable to such orders; and would restrict trading by members and associated persons possessing knowledge of imminent undisclosed solicited transactions. On September 19, 1994, the CBOE filed Amendment No. 1

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1993).

to its proposal.[3] The proposed rule change was published for comment and appeared in the **Federal Register** on July 13, 1994.[4] One comment letter was received on the proposed rule change,[5] to which the CBOE responded.[6]

II. Description of the Proposal

The purpose of the CBOE's proposal is to regulate the execution of "solicited" transactions in options, *i.e.*, options transactions having terms that are negotiated prior to the time the orders comprising the transaction are exposed to the trading crowd on the CBOE floor.[7] The proposed rule change also restricts trading in any class of an option, as well as trading in the underlying security or any "related instrument," by CBOE members and their associated persons who have knowledge of an imminent solicited transaction in options of that class. This prohibition applies until all terms are disclosed to the trading crowd or until execution of the solicited transaction cannot reasonably be considered imminent given the passage of time since the transaction was agreed upon.

Currently, the CBOE's rules are designed to promote order interaction in an open-outcry auction. For example, Rule 6.43 requires bids and offers to be made at the post by public outcry, and Rule 6.74 imposes specific order exposure requirements on floor brokers seeking to cross buy orders with sell orders. The CBOE believes that if the orders that comprise a solicited transaction are not suitably exposed to the order interaction process on the CBOE floor, the execution of such orders would be inconsistent with the open auction market principles governing the execution of orders on the CBOE's floor.

Proposed Rule 6.9 is intended to preserve the right that CBOE members currently enjoy the solicit orders in advance of submitting a proposed trade to the crowd, while at the same time assuring that original orders that are the subject of a solicitation are exposed to the auction market in a meaningful way. For instance, the proposed rule change would require a member representing an original order that is the subject of a solicitation to disclose the terms of the original order to the crowd before the original order can be executed.

The CBOE's proposal establishes a series of priority principles for solicited transactions. Priority is accorded depending on whether the original order is disclosed throughout the solicitation period; whether the solicited order improves the best bid or offer in the crowd; and whether the solicited order matches the original order's limit. Thus, when the original order is disclosed in advance of the solicitation and the solicited order both matches the disclosed original order's limit and improves the market, the solicited order has priority over other orders in the crowd and may trade with the original order at the improved bid or offered price, subject to the customer limit order book priorities set forth in Rule 6.45. When a solicited order does not match the original order's limit and does not improve the market, however, it does not have priority over other bids and offers represented in the crowd even if the original order was disclosed to the crowd for the full solicitation period. Under the proposal, if an original order is not disclosed to the crowd, a responsive solicited order will not have priority to trade with the original order even if the solicited order improves the market; instead, in that instance, others in the crowd may trade ahead of the solicited person at the improved price, subject to the customer limit order priorities in CBOE Rule 6.45.

In addition to requiring disclosure of original orders and clarifying the priority principles applicable to solicited transactions, proposed Rule 6.9(e) clarifies that it is inconsistent with just and equitable principles of trade for any member or associated person, who has knowledge of all the material terms of an original order and a solicited order that matches the original order's price, to enter an order to buy or sell an option of the same class as any option that is the subject of the solicitation prior to the time the original order's terms are disclosed to the crowd or the execution of the solicited transaction can no longer reasonably be considered imminent. This prohibition would extend to orders to buy or sell the underlying security or any "related instrument," as that term is defined in the Rule.[8] The CBOE has stated that the purpose of these measures is to prevent members and associated persons from using undisclosed information about imminent solicited option transactions to trade the relevant option or any closely-related instrument in advance of persons represented in the relevant options crowd. Moreover, the CBOE believes that proposed Rule 6.9 improves the CBOE's auction by clarifying the requirements applicable to solicited transactions and by enabling the CBOE to initiate enforcement proceedings in appropriate cases under specific rules.

III. Comment Letter

The Comment Letter[9] concerning the proposed rule change addressed two areas of concern. First, the letter questions whether the proposed rule applies to those market makers who are continuously present in a trading crowd. Second, the commenter claims that the terminology used in the proposed rule is vague and undefined.

The commenter claims that the CBOE's proposed rule is silent with respect to its applicability to market makers continuously present in the trading crowd. Instead, the commenter claims that the proposal only specifically addresses those situations where a market maker decides to participate in a solicitation either by order or by appearing in person in the trading crowd, and believes the proposal should make this clear.

The commenter, however, is concerned that if the proposed rule imposes solicitation-related trading restrictions on market makers who are physically present in a trading crowd on a continual basis, this would significantly affect such market makers'

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[3] Amendment No. 1 to the CBOE's proposal serves to make three minor revisions: (1) the first paragraph of Proposed Rule 6.9 is amended to make it clear that the rule includes solicitations by floor brokers who do not represent an original order but who become aware of the original order when it is announced in the trading crowd or otherwise; (2) Proposed Interpretation and Policy .04 is revised to reflect that only paragraph (a) of Rule 6.9 overrides the Exchange's crossing rule, Rule 6.74; and (3) Proposed Interpretation and Policy .05 is revised by deleting the introductory clause and adding an example to make it clear that the priority of an original order is in all cases governed by the priority principals of Rule 6.45. *See* letter from Michael L. Meyer, Schiff Hardin & Waite, to Sharon M. Lawson, Assistant Director, Division of Market Regulation, Commission, dated September 15, 1994 ("Amendment No. 1").

[4] *See* Securities Exchange Act Release No. 34323 (July 6, 1994), 59 FR 35771.

[5] *See* letter from John Davoli, General Partner, O'Connor & Associates, to Margaret H. McFarland, Deputy Secretary, Commission, dated August 2, 1994 ("Comment Letter").

[6] *See* letter from Joanne Moffic-Silver, Associate General Counsel & Chief Enforcement Attorney, CBOE, to Jonathan Katz, Secretary, Commission, dated September 16, 1994.

[7] Proposed Rule 6.9 states:

A member or member organization representing an order respecting an option trading on the Exchange (an "original order"), including a spread, combination, or straddle order as defined in Rule 6.53 and a stock-option order as defined in Rule 1.1(ii), may solicit a member or member organization or a non-member customer or broker-dealer (the "solicited person") to transact in-person or by order (a "solicited order") with the original order.

[8] An order to buy or sell a "related instrument" means, in reference to an index option, an order to buy or sell securities comprising ten percent or more of the component securities in the index or an order to buy or sell a futures contract on any economically equivalent index. In addition, with respect to an option of the Standard & Poor's 500 Stock Index, an option on the Standard & Poor's 100 Stock Index is a related instrument, and vice versa. *See* Proposed CBOE Rule 6.9(e).

[9] *See supra* note 5.

ability to fulfill their market making functions under CBOE rules. According to the commenter, such an interpretation conceivably could preclude any number of market makers in a given trading crowd from trading in their appointed option classes for an undetermined amount of time in instances when a solicited transaction never materializes into an actual order in a trading crowd.

The commenter also expressed concern that the terminology used in the CBOE's proposal is vague or undefined, making it difficult for the Exchange to enforce the rule consistently. Specifically, the commenter believes the rule should define what comprises "all of the material terms" of an order, what establishes an order as "imminent," and the length of time that trading restrictions remain in effect following a solicitation.

In its response, the CBOE addresses each of the commenter's concerns.[10] With respect to the commenter's concern that the CBOE proposal ignores market makers continuously present in a trading crowd, the CBOE states that for purposes of its proposed rule, a member's location at the time a solicitation is received is irrelevant. The proposed rule applies to all members, including market makers, whether or not continuously present in a trading crowd, and whether or not present in the crowd at the time of the solicitation.

As for the commenter's contention that the proposal's reach is too broad if it is meant to apply to market makers continuously present in a trading crowd, the CBOE notes that the only transactions prohibited by its proposed rule are those that are based on knowledge of the terms (which requires knowledge of the price of both the original and responsive solicited order) of an imminent, undisclosed solicited transaction. Thus, general solicitations of interest that do not specify all material terms, or other solicitations that do not result in express or tacit agreement on all material terms of a trade, including price, do not give rise to trading restrictions under the rule. Further, trades not based on undisclosed knowledge of a solicitation are not restricted.

Regarding the commenter's contention that the terms "material" and "imminent" as used in the proposal are undefined and vague, the CBOE responds that similar terms and concepts are used in the regulatory circulars of the CBOE and other exchanges prohibiting front running of block transactions. According to the CBOE, many of the principles in the proposed rule are derived from the frontrunning context, where compliance and enforcement has not been difficult. Similarly, the CBOE contents, compliance and enforcement should not be difficult in the context of solicited transactions.

[10] See letter from Joanne Moffic-Silver, *supra* note 6.

IV. Discussion

The Commission finds the proposed rule change consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the proposed rule change is consistent with the requirements of Sections 6(b)(5) of the Act, because the proposal is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market, and protect investors and the public interest.

The Commission believes that it is appropriate to permit solicitation between potential buyers and potential sellers of options in advance of the time they send actual orders to the trading crowd on the Exchange. Complex options orders, such as spreads, straddles, and combination orders, as well as stock-option orders and large-sized orders, often require the "advance shopping" that is characteristic of a solicited transaction. Therefore, the Commission agrees with the CBOE that such interactions between buyers and sellers and the resulting solicited transactions can enhance liquidity and depth at the CBOE by bringing orders to the floor that might otherwise be difficult to effect.

Nevertheless, because solicited transactions may entail individualized negotiation, the orders that comprise a solicited transaction may not adequately be exposed to the floor auction. Consequently, the crowd may not have sufficient time to digest and react to those orders' terms, causing the parties to a solicited transaction to preempt the crowd by executing it at the pre-negotiated price.

The Commission believes that the CBOE's proposal strikes the proper balance of allowing members to solicit, in advance, the other side of an order, while ensuring at the same time that the order will be exposed to the trading crowd consistent with auction market principles. The proposal encourages disclosure of an original order to the trading crowd by making the priority of a solicited order dependent upon the degree of disclosure to the crowd, and upon whether the order improves the market.[11] Such disclosure gives members of the trading crowd the opportunity to participate in all transactions, including solicited transactions, and should ensure that customer orders receive the best price available on the CBOE floor. At the same time, the CBOE's proposal will enable members to search for contra-side interest for orders that will ultimately be brought down to the CBOE floor, thereby enhancing depth and liquidity on the CBOE floor.

Absent the proposal, the only guidelines concerning solicited transactions are contained in a 1988 memorandum to the CBOE's membership.[12] The lack of codified Exchange rules governing such activity could cause uncertainty and hinder solicitation of additional trading interest. The Exchange's proposal introduces clear rules applicable to solicited transactions, and strengthens the ability of the Exchange to ensure that customer orders receive full consideration by the trading crowd. In addition, the proposed rule change will enable the Exchange to monitor more effectively transactions where orders have been solicited outside the trading crowd, and should ensure that transactions involving solicitation will be executed consistent with auction market principles.

The Commission also believes that the commenter's concerns have been adequately addressed. In this regard, the Commission believes that it is appropriate for the CBOE to prohibit, as inconsistent with just and equitable principles of trade, transactions by members based on the knowledge of imminent undisclosed solicited transactions, irrespective of a member's location in or out of the trading crowd at the time of the solicitation. Without this prohibition, such trading can threaten the integrity of the auction market or disadvantage unwittingly other market participants.

Although the Commission recognizes that the trading restrictions may prevent a market maker from conducting certain transactions while in the crowd, we do not believe the proposal inhibits CBOE market makers from fulfilling their market making functions. The trading

[11] As noted above, the priority principles set forth in the proposal are subject to customer limit order priorities in CBOE Rule 6.45.

[12] See Memorandum from Market Performance Committee regarding Prior Knowledge of Orders/Rule 8.1 (Requirement that market maker transactions/order be initiated from the trading floor), dated January 20, 1988 (describing, among other things, situations in which it may be appropriate for a member representing an order to solicit buying or selling interest for the opposite side of the order).

restrictions only will apply if the member has knowledge of all material terms and conditions, including the price of both sides of the trade, of an imminent undisclosed solicited transaction. General solicitations will not give rise to trading restrictions under the proposal. Moreover, market maker trades not based on undisclosed knowledge of the terms of a solicited transaction are not restricted. Thus, a market maker only will be subject to trading restrictions when he or she trades based on the information regarding an imminent transaction that is not disclosed to the trading crowd. It is reasonable for the CBOE to conclude that transactions effected under such circumstances are inconsistent with market making obligations, and should be restricted. Accordingly, the Commission believes that market makers will still be able to perform their functions fully, and will be expected to do so, notwithstanding the trading restrictions imposed under the rule. Finally, regarding the commenter's concerns that the terms in the CBOE's proposed rule are vague, the Commission agrees with the CBOE that, although subject to interpretation, when used in other contexts these terms have not posed a problem for the Exchange or the Commission.

In summary, the Commission believes that the CBOE proposal is a reasonable approach to ensure that solicited, prenegotiated orders are not "hidden" from interaction with the auction market. Such orders should be exposed to the trading crowd to ensure that the best price available is obtained. At the same time, the proposal will still provide market participants with flexibility to search for interest for unusual or complex orders. By setting forth a set of priority principles, subject to the priorities granted to the customer limit order book, to encourage disclosure of solicited orders, and by prohibiting market participants from trading ahead of others based on undisclosed knowledge of solicited orders, the proposal should benefit market participants and ensure investor protection consistent with Section 6(b)(5) of the Act.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. Amendment No. 1 effects three minor revisions to the CBOE's proposal. First, paragraph one of Proposed Rule 6.9 is amended to make it clear that the rule includes solicitations by floor brokers who do not represent such an original order but who become aware of the original order when it is announced in the trading crowd or otherwise. Second, Proposed Interpretation and Policy .04 is revised to reflect that only paragraph (a) of Rule 6.9 overrides the Exchange's crossing rule, CBOE Rule 6.74. Third, Proposed Interpretation and Policy .05 is revised by deleting the introductory clause and adding an example to make it clear that the priority of an original order is in all cases governed by the priority principals of Rule 6.45.

The Commission believes that Amendment No. 1 strengthens the Exchange's proposal by refining some of the language used in its proposed rule. Moreover, these changes do not affect the substance of the Exchange's proposal. Accordingly, the Commission believes the Amendment raises no new or unique regulatory issues. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–94–15 and should be submitted by [insert date 21 days from date of publication].

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act, and, in particular, Section 6 of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–CBOE–94–15), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–28451 Filed 11–16–94; 8:45 am]

BILLING CODE 8010–01–M

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–34960; International Series Release No. 748; File No. SR–MBS–94–04]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Approving Proposed Rule Change Establishing Additional Requirements Applicable to Participants

November 9, 1994.

On June 27, 1994, the MBS Clearing Corporation ("MBS") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–MBS–94–04) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] The proposed rule change establishes additional requirements in MBS's rules applicable to participants. The Commission published notice of the proposed rule change in the **Federal Register** on August 1, 1994.[2] On November 7, 1994, MBS filed Amendment No. 1 to the proposed rule change.[3] The amendment was technical in nature and did not require republication of notice of filing. No comments were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change establishes additional requirements in MBS's rules applicable to participants. Specifically, MBS is adding a new Section 13 to Article III, Rule 1 ("Requirements Applicable to participants") of MBS's rules. New Section 13 requires that all participants prepare and maintain all required financial and other reports and a general ledger chart of accounts in English and in U.S. dollars, ensure the availability of an individual fluent in English and knowledgeable in securities

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 34438 (July 25, 1994), 59 FR 38997.

[3] Amendment No. 1 modified the filing by clarifying that the additional requirements in MBS's rules apply to all participants and not, as originally proposed, only to participants that are organized under the laws of a foreign country. Letter from David T. Rusoff, Foley & Lardner, to Ari Burstein, Attorney, Division of Market Regulation, Commission (November 7, 1994).

and financial matters to assist representatives of MBS, and satisfy the financial net worth requirements in MBS's rules computed in accordance with generally accepted U.S. accounting principals. In addition, new Section 13 requires that all participants maintain an agent located in the U.S. for service of process and maintain an office or agent located in the U.S. that can adequately address all purchase and sales, margin compliance, clearance, and cash settlement functions for the participant. Section 13 explicitly sets forth that these requirements are in addition to all other requirements applicable to MBS participants.

II. Discussion

The Commission believes that MBS's proposed rule change is consistent with Section 17A of the Act[4] and in particular with Sections 17A(b)(3) (A) and (F) of the Act.[5] Sections 17A(b)(3) (A) and (F) require, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds within its possession or control or for which it is responsible. The Commission believes that MBS's proposal to establish additional requirements in MBS's rules applicable to participants is consistent with this obligation.

Under the proposed rule change, all MBS participants now will be required to satisfy their financial and reporting obligations in a manner which will better facilitate MBS's oversight of participants. For example, a participant now will be explicitly required to satisfy the financial net worth requirements in MBS's rules computed in accordance with generally accepted U.S. accounting principals and maintain an entity located in the U.S. to tend to certain securities matters related to MBS.

The Commission believes that the additional requirements applicable to all participants should facilitate MBS's monitoring of the communications with participants and should help ensure that participants comply with all requirements in MBS's rules. As a result, MBS should be better able to reduce its risk exposure and consequently should be better able to fulfill its safeguarding obligations.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act, in particular with Section 17A of the Act, and with the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the proposed rule change (File No. SR–MBS–94–04) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–28361 Filed 11–16–94; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 20694; International Series Release No. 749/ 812–9292]

The Chase Manhattan Bank, N.A.; Notice of Application

November 9, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: The Chase Manhattan Bank, N.A. ("Chase").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions section 17(f) of the Act.

SUMMARY OF APPLICATION: Chase seeks an order to enable it to maintain foreign securities and other assets of United States registered investment companies for which Chase serves as custodian or subcustodian in the custody of The Chase Manhattan Bank Mexico, S.A. ("Chase-Mexico, S.A. ("Chase-Mexico").

FILING DATE: The application was filed on October 14, 1994. Counsel for Chase has undertaken to file an amendment during the notice period, the substance of which is incorporated herein.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 2, 1994, and should be accompanied by proof of service on Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reasons for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Daniel L. Goelzer, Esq., Baker & McKenzie, 815 Connecticut Avenue, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., at (202) 942–0564 or Barry D. Miller, Senior Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations and Legal Analysis

1. Chase requests exemptive relief for itself, any management investment company registered under the Act, other than an investment company registered under section 7(d) of the Act (a "U.S. Investment Company"), and any custodian for a U.S. Investment Company from section 17(f) of the Act. The requested exemption would let Chase, such U.S. Investment Company and such custodian maintain foreign securities, cash, and cash equivalents (collectively, "Assets") in the custody of Chase-Mexico, an indirect subsidiary of Chase located in Mexico. For purposes of the application, the term "foreign securities" includes (a) securities issued and sold primarily outside the United States by a foreign government, a national of any foreign country, or a corporation or other organization incorporated or organized under the laws of any foreign country, and (b) securities issued or guaranteed by the Government of the United States or by any state or any political subdivision thereof or by any agency thereof or by any entity organized under the laws of the United States or of any state thereof which have been issued and sold primarily outside of the United States.

2. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities. Rule 17f–5 under the Act expands the group of entities located outside the United States that are permitted to serve as custodians for the Assets of registered management investment companies. Rule 17f–5 defines the term "Eligible Foreign Custodian" to include a majority-owned direct or indirect subsidiary of a qualified U.S. bank-holding company that is incorporated or organized under the laws of a country other than the United States and that has shareholders'

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[4] 15 U.S.C. § 78q–1 (1988).

[5] 15 U.S.C. § 78q–1(b)(3) (A) and (F) (1988).

[6] 15 U.S.C. § 78s(b)(2) (1988).

[7] 17 CFR 200.30–3(a)(12).

equity in excess of $100,000,000 (U.S. $ equivalent or U.S. $) as of the close of its most recently completed fiscal year. The rule defines the term "Qualified U.S. Bank" to include a banking institution organized under the laws of the United States that has an aggregate capital, surplus and undivided profit of not less than $500,000.

3. Chase is a national banking association and is regulated as such by the Comptroller of the Currency under the National Bank Act. At December 31, 1993, Chase had shareholders' equity in excess of $6.4 billion. Thus, Chase is a "Qualified U.S. Bank" under the requirements of rule 17f-5, since it is a banking institution organized under the laws of the United States, and it has aggregate capital, surplus and undivided profit substantially in excess of the $500,000 minimum required by the rule.

4. Chase is a subsidiary of The Chase Manhattan Corporation, a Delaware company that provides financial services throughout the world. Through its Global Securities Services division ("GSS"), Chase provides custody and related services to global institutional investors, including U.S. mutual funds. GSS currently has over $1,300 trillion in assets under custody at various locations throughout the world, including its branches and subsidiaries in approximately 50 countries.

5. Chase currently operates a representative office in Mexico and has custodian accounts at a Mexican bank and Meixco's central securities depositary. As a result of the implementation of the North American Free Trade Agreement, Chase wishes to consolidate its activities in Mexico with the establishment of Chase-Mexico, which it anticipates will be incorporated in Mexico on or around November 1, 1994. Chase-Meixco will be a wholly-owned indirect subsidiary of Chase engaged in the business of commercial banking in Mexico, and will be supervised by the National Banking Commission under the Banking Law. Chase intends to transfer its current custody operations in Mexico to Chase-Mexico upon receipt of the requested exemptive order.

6. Chase-Mexico will satisfy the requirements of rule 17f-5 insofar as it will be a majority-owned indirect subsidiary of a Qualifying U.S. Bank and will be incorporated and organized under the laws of Mexico. Chase-Mexico will not, however, meet the $100 million minimum shareholders' equity requirement of rule 17f-5. Accordingly, Chase-Mexico will not qualify as an "Eligible Foreign Custodian" under the rule and, absent exemptive relief, could not serve as custodian for the Assets of U.S. Investment Companies.

7. Where custody services are required in Mexico, Chase will hold the Assets of U.S. Investment Companies as custodian or subcustodian and will deposit (or cause or permit the deposit of) the Assets with Chase-Mexico in accordance with the arrangements described in the conditions below. Before permitting Chase-Mexico to act as a custodian for U.S. Investment Company Assets, Chase will assure that Chase-Mexico is capable and well-qualified to provide custody and subcustody services to Chase, U.S. Investment Companies, and custodians for U.S. Investment Companies. Under the proposed foreign custody arrangements, the protection afforded the Assets of U.S. Investment Companies held by Chase-Mexico would not be diminished from the protection afforded by rule 17f-5.

Applicant's Conditions

Chase agrees that any order of the SEC granting the requested relief my be conditioned upon the following:

1. The foreign custody arrangements proposed regarding Chase-Mexico will satisfy the requirements of rule 17f–5 in all respects other than Chase-Mexico's level of shareholders' equity.

2. Chase will deposit Assets with Chase-Mexico only in accordance with the Custody Agreement and the Subcustody Agreement described in (a) and (b) below. The Custody and Subcustody Agreements will remain in effect at all times during which Chase-Mexico fails to satisfy all the requirements of the rule.

(a) The Custody Agreement will be between Chase and the U.S. Investment Company (or its custodian). In that agreement, Chase will undertake to provide custody or subcustody services, and the U.S. Investment Company (or its custodian) will authorize Chase to delegate to Chase-Mexico such of Chase's duties and obligations as will be necessary to permit Chase-Mexico to hold in custody the Mexican Assets of U.S. Investment Companies. The Custody Agreement will further provide that the delegation by Chase to Chase-Mexico will not relieve Chase of any responsibility to the U.S. Investment Company or its custodian for any loss due to such delegation, and that Chase will be liable for any loss or claim arising out of or in connection with the performance by Chase-Mexico of the custody services to the same extent as if Chase had itself provided the custody services under the Custody Agreement.

(b) A Subcustody Agreement will be executed by Chase and Chase-Mexico. Pursuant to this agreement, Chase will delegate to Chase-Mexico such of Chase's duties and obligations as would be necessary to permit Chase-Mexico to hold Assets in custody in Mexico. The Subcustody Agreement will explicitly provide that (i) Chase-Mexico is acting as a foreign custodian for Assets that belong to a U.S. Investment Company pursuant to the terms of an exemptive order issued by the SEC and (ii) the U.S. Investment Company or its custodian (as the case may be) that has entered into a Custody Agreement will be entitled to enforce the terms of the Subcustody Agreement and can seek relief directly against Chase-Mexico. The Subcustody Agreement will provide that it will be governed by New York law.

3. Chase currently satisfies and will continue to satisfy the Qualified U.S. Bank requirement set forth in rule 17f–5(c)(3).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–28362 Filed 11–16–94; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–20695; 812–9108]

Portico Funds, Inc., et al.; Notice of Application

November 10, 1994.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Portico Funds, Inc. (the "Fund"), Firstar Investment Research & Management Company ("FIRMCO"), and Sunstone Financial Group, Inc. ("Sunstone").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c), and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to permit the Fund to issue multiple classes of shares representing interests in the same portfolio of securities and assess a contingent deferred sales charge on redemptions of shares.

FILING DATES: The application was filed on July 8, 1994, and amended on September 14, 1994, and November 10, 1994.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 5, 1994, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, the Fund, 615 East Michigan Street, P.O. Box 3011, Milwaukee, WI 53201–3011; FIRMCO, Firstar Center, 777 East Wisconsin Ave., 18th Floor, Milwaukee, WI 53202; and Sunstone, 207 East Buffalo St., Suite 400, Milwaukee, WI 53202.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is a open-end management investment company. The Fund consists of multiple investment portfolios or series, each of which has separate investment objectives and policies. FIRMCO serves as the Fund's investment adviser and Sunstone serves as the distributor.

2. Applicants request that any relief granted also apply to other open-end management investment companies for which FIRMCO or any person controlling, controlled by, or under common control with FIRMCO acts in the future as investment adviser (collectively, with the Fund, the "Companies").

3. Under the current distribution arrangements, shares of each of the Fund's portfolios are offered to investors without a sales charge. Some portfolios are, however, subject to a purchase adjustment fee of up to .50%. This fee is imposed at the time of purchase to prevent a portfolio from being adversely affected by the transaction costs associated with share purchases. It is anticipated that this fee will be discontinued after the requested order is granted.

4. Applicants propose that each Company be permitted to offer an unlimited number of classes of shares. Classes of shares may be offered in connection with a plan or plans adopted pursuant to rule 12b–1 under the Act (the "Distribution Plan") and/or in connection with a non-rule 12b–1 administrative plan (the "Administrative Services Plan," and, collectively with the Distribution Plan, the "Plans"). Services under the Plans may be provided by a Company's distributor and/or administrator, or by organizations that have entered into agreements (collectively, "Plan Agreements") with the Company, its distributor, or it administrator concerning the provision of services to the organization's clients who may be the record or beneficial owners of shares of a particular class. The Companies also may offer classes of shares that would be subject to front-end sales loads and/or CDSCs. The sum of any front-end load, asset based sales charge, and CDSC paid by a shareholder for a single investment will not exceed the maximum sales charge provided for in article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. ("NASD").

5. Expenses of a Company that could not be attributed directly to any one portfolio would be allocated to each portfolio based on the relative net assets of the portfolio or as otherwise determined under the supervision of its directors ("Company Expenses"). Expenses attributable to a portfolio but not to a particular class would be allocated on the basis of the relative net asset value of the respective classes in the portfolio ("Portfolio Expenses"). Each class will bear certain expenses attributable specifically to such class, as set forth in condition 1 ("Class Expenses"). The net asset value of all shares of a portfolio would be computed on the same days and at the same times.

6. FIRMCO or another service contractor may choose to reimburse or waive Class Expenses on certain classes on a voluntary, temporary basis. The amount of Class Expenses waived or reimbursed may vary from class to class. Class Expenses are by their nature specific to a given class and are expected to vary from one class to another. Applicants believe that it is acceptable and consistent with shareholder expectations to reimburse or waive Class Expenses at different levels for different classes of the same portfolio.

7. In addition, FIRMCO or another service contractor may waive or reimburse Company Expenses and/or Portfolio Expenses (with or without a waiver or reimbursement of Class Expenses) but only if the same proportionate amount of Company Expenses and/or Portfolio Expenses are waived or reimbursed for each class. Thus, any Company Expenses and/or Portfolio Expenses that are waived or reimbursed would be credited to each class of a portfolio according to the relative net assets of the classes. Company Expenses and Portfolio Expenses apply equally to all classes of a given portfolio. Accordingly, it may not be appropriate to waive or reimburse Company Expenses or Portfolio Expenses at different levels for different classes of the same portfolio.

8. Applicants propose that share exchange privileges may be available to shareholders to permit (a) the exchange of shares of one portfolio for shares of another portfolio, (b) the exchange of shares of an equity portfolio or a fixed income portfolio for shares of a money market portfolio (or vice versa), and/or (c) the exchange of shares of one class of a portfolio for shares of another class of the same portfolio. Any exchange of shares will comply with rule 11a–3 under the Act.

9. Shares of some classes of shares subject to a CDSC ("Convertible CDSC Shares") could automatically convert into shares of non-CDSC shares ("Non-CDSC Shares") after a prescribed period following the purchase of Convertible CDSC Shares. Shares acquired through the reinvestment of dividends and other distributions paid with respect to Cnvertible CDSC Shares will also be Convertible CDSC Shares. These shares will convert to Non-CDSC Shares on the earlier of a prescribed period following the date of such reinvestment or the conversion date of the most recently purchased Convertible Shares which were not acquired through the reinvestment of dividends or other distributions.

10. Applicants also request an exemption to permit the Companies to impose a CDSC on redemptions of shares of the Company, and to waive the CDSC under certain circumstances. No CDSC will be imposed on an amount that represents an increase in the shareholder's account resulting from capital appreciation, on shares acquired through the reinvestment of income dividends or capital gain distributions, or on those shares purchased more than a specified period prior to redemption. In determining whether a CDSC would be payable, it would be assumed that shares, or amounts representing shares, that are not subject to a CDSC would be redeemed first and other shares or

amounts would be redeemed in the other purchased. No CDSC will be imposed on shares purchased before the effective date of the requested order.

11. Applicants also request relief to permit each Fund to waive or reduce the CDSC in certain circumstances. Any waiver or reduction will comply with the conditions in paragraphs (a) through (d) of rule 22d–1 of the Act.

Applicants' Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 18(f)(1), 18(g), and 18(i) of the Act to issue multiple classes of shares representing interests in the same portfolio of securities. Applicants believe that by implementing the multiple class distribution system, the Company would be able to facilitate the distribution of their shares and provide a broad array of services without assuming excessive accounting and bookkeeping costs. Applicants also believe that the proposed allocation of expenses and voting rights in the manner described above is equitable and would not discriminate against any group of shareholders.

2. Applicants also request an exemption under section 6(c) from sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c–1 thereunder to assess and, under certain circumstances, waive a CDSC on redemptions of shares. Applicants believe that their request to permit the CDSC arrangement would permit shareholders the option of having more investment dollars working for them from the time of their share purchases than if they chose a class with a front-end sales load.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. Each class of shares will represent interests in one portfolio of a Company, and will be identical in all respects, except as set forth below. The only differences between the classes of shares of the same portfolio will relate solely to: (a) the impact of (i) expenses assessed to a class pursuant to a Plan, (ii) other Class Expenses which would be limited to (A) transfer agency fees identified by the transfer agent as being attributable to a specific class of shares, (B) printing and postage expenses related to preparing and distributing materials such as shareholder reports, prospectuses, and proxies to current shareholder of a class, (C) blue sky registration fees incurred by a class of shares, (D) SEC registration fees incurred by a class of shares, (E) the expense of administrative personnel and services as required to support the shareholders of a specific class, (F) litigation or other legal expenses or audit or other accounting expenses relating solely to one class of shares, and (G) directors' fees incurred as a result of issues relating to one class of shares; and (iii) any other incremental expenses subsequently identified that should be properly allocated to one class and which are approved by the SEC pursuant to an amended order; (b) the fact that the classes will vote separately with respect to a portfolio's Plans and any other matter submitted to shareholders relating to Class Expenses, except as provided in condition 17 below; (c) the different exchange privileges of the classes of shares; (d) the designation of each class of shares of a portfolio; and/or (e) certain conversion features offered by some of the classes.

2. The board of directors of a Company, including a majority of the independent directors, will approve the multiclass distribution system. The minutes of the meetings of the directors regarding the deliberations of the directors with respect to the approvals necessary to implement a multi-class system will reflect in detail the reasons for the directors' determination that the proposed multi-class system is in the best interests of both the Company involved and its shareholders.

3. The initial determination of the Class Expenses that will be allocated to a particular class and any subsequent changes thereto will be reviewed and approved by a vote of the board of directors of a Company, including a majority of the directors who are not interested persons of the Company. Any person authorized to direct the allocation and disposition of monies paid or payable by a Company to meet Class Expenses shall provide to the board of directors, and the directors shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the directors of a Company, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each portfolio having a multi-class system for the existence of any material conflicts among the interests of the various classes of each portfolio. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. A portfolio's investment adviser and distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, a portfolio's investment adviser and/or distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. Any Administrative Plan will be adopted and operated in accordance with the procedures set forth in rule 12b–1(b) through (f) as if the expenditures made thereunder were subject to rule 12b–1, except that shareholders need not enjoy the voting rights specified in rule 12b–1.

6. The directors of a Company will receive quarterly and annual statements concerning distributions and shareholder servicing expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of a particular class of shares will be used to justify any distribution or servicing expenditure charged to that class. Expenditures not related to the sale or servicing of a particular class will not be presented to the directors to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

7. Dividends paid by a portfolio with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that Plan Payments relating to each respective class of shares and the Class Expenses relating to each class of shares will be borne exclusively by that class.

8. The methodology and procedures for calculating the net asset value and dividends and distributions of the various classes in any portfolio having a multi-class distribution system and the proper allocation of expenses among the various classes in each such portfolio have been reviewed by an expert (the "Expert") who has rendered a report to the Company involved, which report has been provided to the staff of the SEC, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Company involved that the calculations and allocations are being made

properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Company involved (which the Company agrees to provide), will be available for inspection by the SEC staff upon the written request to the Company for such work papers by a senior member of the Division of Investment Management or a regional office of the SEC. Authorized staff members would be limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "report on policies and procedures placed in operation" and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the American Institute of Certified Public Accountants ("AICPA"), as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

9. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the various classes of shares and the proper allocation of expenses among the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition 8 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 8 above. Applicants will take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

10. The prospectuses of each portfolio having a multi-class system will contain a statement to the effect that a salesperson and any other person entitled to receive compensation for selling or servicing shares of a portfolio may receive different compensation with respect to one particular class of shares over another in the same portfolio.

11. The distributor for a Company having a multi-class system will adopt compliance standards for any portfolio which has a multi-class system, which standards will relate to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of a portfolio having a multi-class system to agree to conform to such applicable standards.

12. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors with respect to the multi-class system will be set forth in guidelines which will be furnished to the directors of a Company having a multi-class system.

13. Each portfolio having a multi-class system will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, conversion features, CDSCs, and exchange privileges applicable to each class of shares in a portfolio in every prospectus relating to such portfolio, regardless of whether all classes of shares are offered through each prospectus. Each such portfolio will disclose the respective expenses and performance data applicable to all classes of shares in a portfolio in every shareholder report relating to such portfolio. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the portfolio as a whole generally and not on a per class basis. Each portfolio's per share data, however, will be prepared on a per class basis with respect to all classes of shares of such portfolio. To the extent any advertisement or sales literature describes the expenses or performance data applicable to any class of shares, it will also disclose the respective expenses and/or performance data applicable to all classes of shares. The information provided by applicants for publication in any newspaper or similar listing of any portfolio's net asset value and public offering price will present each class of shares separately.

14. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply SEC approval, authorization, or acquiescence in any particular level of payments that the portfolios may make pursuant to a Plan in reliance on the exemptive order.

15. If a CDSC arrangement is implemented with respect to shares of a portfolio, applicants agree to comply with the provisions of proposed rule 6c–10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as such rule is currently proposed and as it may be reproposed, adopted or amended.

16. Any class of shares with a conversion feature will convert into another class of shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge. After conversion, the converted shares will be subject to an asset-based sales charge and/or service fee (as those terms are defined in article III, section 26 of the NASD's Rules of Fair Practice), if any, that in the aggregate are lower than the asset-based sales charge and service fee to which they were subject prior to the conversion.

17. If a Company implements any amendment to its Distribution Plan(s) (or, if presented to shareholders, adopts or implements any amendment to an Administrative Plan or Plans) that would increase materially the amount that may be borne by the Non-CDSC Shares under the Plan, existing Convertible CDSC Shares will stop converting into the Non-CDSC Shares unless the Convertible CDSC Shares, voting separately as a class, approve the proposal. The directors shall take such action as is necessary to ensure that Convertible CDSC Shares are exchanged or converted into a new class of shares ("New Non-CDSC Shares"), identical in all material respects to the Non-CDSC Shares as they existed prior to implementation of the proposal, no later than the date such shares previously were scheduled to convert into Non-CDSC Shares. If deemed advisable by the directors to implement the foregoing, such action may include the exchange of all existing Convertible CDSC Shares for a new class ("New Convertible CDSC Shares "), identical to the existing Convertible CDSC Shares in all material respects except that the New Convertible CDSC Shares will convert into New Non-CDSC Shares. New Non-CDSC Shares or New Convertible CDSC Shares may be formed without further exemptive relief. Exchanges or conversions described in this condition shall be effected in a manner that the directors reasonably believe will not be subject to federal taxation. In accordance with condition 4, any additional cost associated with the creation, exchange, or conversion of New Non-CDSC Shares or New Convertible CDSC Shares shall be borne solely by the Company's adviser and/or distributor. Convertible CDSC Shares sold after the implementation of the proposal may convert into Non-CDSC Shares subject to the higher maximum payment, provided that the material features of the Non-CDSC Shares plan and the relationship of such plan to the Convertible CDSC Shares are disclosed in an effective registration statement.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–28363 Filed 11–16–94; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0416]

Kwiat Capital Corporation; Notice of Surrender of License

Notice is hereby given that Kwiat Capital Corporation, 579 Fifth Avenue, New York, N.Y. 10017 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Kwiat Capital Corporation was licensed by the Small Business Administration on September 25, 1981.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the license was accepted on November 1, 1994. Accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–28388 Filed 11–16–94; 8:45 am]

BILLING CODE 8025–01–M

[License No. 09/79–0400]

Aspen Ventures West II, L.P.; Notice of Issuance of a Small Business Investment Company License

On August 29, 1994, a notice was published in the Federal Register (59 FR 44450) stating that an application had been filed by Aspen Ventures West II, L.P., 10898 Mora Drive, Los Altos, CA 94024, with the Small Business Administration (SBA) pursuant to section 107.102 of the Regulations governing small business investment companies (13 C.F.R. 107.102 (1994)) for a license to operate as a small business investment company.

Interested parties were given until close of business September 13, 1994 to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 09/79–0400 on November 8, 1994, to Aspen Ventures West II, L.P. to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: November 10, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–28471 Filed 11–16–94; 8:45 am]

BILLING CODE 8025–01–M

[License No. 01/01–5356]

Commonwealth Enterprise Fund, Inc.; Notice of Filing of an Application for Transfer of Ownership and Control of a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1994)) by Commonwealth Enterprise Fund, Inc., 10 Post Office Square, Boston, Massachusetts 02109, for transfer of ownership and control of its license under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. seq.). Commonwealth Enterprise Fund, Inc. was licensed May 28, 1992.

The proposed new shareholders of Commonwealth Enterprise Fund, Inc. are as follows:

Name	Ownership percentage
Massachusetts Community Development Finance Corporation, 10 Post Office Square, Boston, Massachusetts 02109	33
Massachusetts Technology Development Corporation, 148 State Street, Boston, Massachusetts 02109	26
Massachusetts Government Land Bank, One Court Street, Boston, Massachusetts 02108	15
Massachusetts Industrial Finance Agency, 75 Federal Street, Boston, Massachusetts 02110	26

The proposed new officers and directors of Commonwealth Enterprise Fund, Inc. are:

Name	Title
William J. Solomon, 10 Post Office Square, Suite 1090, Boston, Massachusetts 02109.	Managing Director.
Milton J. Benjamin, President, Massachusetts Community Develop. Finance Corporation, 10 Post Office Square, Suite 1090, Boston, Massachusetts 02109.	Chairman & President.
Jesse M. Lanier, President, Springfield Food System, Inc., 644 State Street, Springfield, Massachusetts 01109.	Director.
Susan Y. Friedman, 130 Bishop Allen Drive, Cambridge, Massachusetts 02139.	Director.
Burton M. Harris, Exec. Director, Massachusetts Industrial Finance Agency, 75 Federal Street, Boston, Massachusetts 02110.	Director & Secretary.
Judith H. Obermayer, 239 Chestnut Street, West Newton, Massachusetts 02165.	Director & Treasurer.

The applicant will have Regulatory Capital of at least $2.0 million. It will be a source of equity financing for qualified small business concerns located in the state of Massachusetts.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in Boston, Massachusetts.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: November 10, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–28389 Filed 11–16–94; 8:45 am]

BILLING CODE 8025–01–M

[Application No. 99000148]

Exeter Equity Partners, L.P.; Notice of Filing of An Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1994)) by Exeter Equity Partners, L.P., 10 East 53rd Street, New York, New York 10022, for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958, as amended, (15 U.S.C. et. seq.), and the Rules and Regulations promulgated thereunder. Exeter Equity Partners, L.P. is a Delaware limited partnership.

The applicant's general partner, Exeter Equity Advisors, Inc., is located at the same address as the applicant. Mr. Fox is the sole owner of Exeter Equity Advisors, Inc. The officers and directors of Exeter Equity Advisors Inc. are:

Name	Title
Keith R. Fox.	President and Director.
Timothy P. Bradley.	Director.
Jeffrey A. Weber.	Director.

These individuals have offices at the address of the applicant.

The following investors beneficially own 10 percent or more of the applicant's Regulatory Capital:

William A.M. Burden & Co., 10 East 53rd Street, New York, New York 10022;

Florence V. Burden Foundation, 10 East 53rd Street, New York, New York 10022;

Electra Investment Trust PLC, 65 Kingsway, London, WC2B 6QT, UK.

The applicant will have Regulatory Capital of at least $10.0 million. It will be a source of equity financing for qualified small business concerns located primarily in the eastern United States.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is here given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: November 10, 1994.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 94–28390 Filed 11–16–94; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 2112]

Shipping Coordinating Committee; Subcommittee on Standards of Training and Watchkeeping; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 10:00 AM on Wednesday, January 11, 1995, in Room 2415 of the United States Coast Guard headquarters Building, 2100 2nd Street SW, Washington, DC 20593–0001. The purpose of the meeting is to review the actions taken by the sixty-fourth session of the International Maritime Organization (IMO) Maritime Safety Committee (MSC) concerning the comprehensive review and revision of the International Convention of Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW). Preparations for future sessions of the Sub-Committee on Standards of Training and Watchkeeping (STW), will also be discussed.

Members of the public may attend the meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Christopher Young, U.S. Coast Guard (G–MVP–4), Room 1210, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–0229.

Dated: October 31, 1994.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 94–28340 Filed 11–16–94; 8:45 am]

BILLING CODE 4710–01–M

[Public Notice 2116]

Shipping Coordinating Committee; Subcommittee on Safety of Life at Sea; Working Group on Bulk Chemicals; Notice of Meeting

The Working Group on Bulk Chemicals (BCH) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 AM on December 15, 1994, in Room 6319, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to provide a review of the results of the Twenty-fourth Session of the Bulk Chemicals Subcommittee of the International Maritime Organization (IMO) which was held on September 19–23, 1994, at the IMO Headquarters in London.

Among other things, the items of particular interest are:

a. Amendments and interpretation of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) and the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

b. Amendments and interpretation of the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

c. Amendments and interpretation of the provisions of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).

d. Role of the human element in maritime casualties.

e. Air pollution from ships.

f. Existing ships' standards.

g. International Convention on Oil Pollution Preparedness, Response and Cooperation.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Commander K. J. Eldridge, U.S. Coast Guard (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1217.

Dated: November 7, 1994.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 94–28341 Filed 11–16–94; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Pettis, Morgan, Cooper, Moniteau and Cole Counties, MO

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed project in central Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Neumann, Program Review Engineer, Federal Highway Administration, P.O. Box 1787, Jefferson City, MO 65102, Telephone Number 314–636–7104; or Mr. Bob Sfreddo, Design Engineer, Missouri Highway and Transportation Department, P.O. Box 270, Jefferson City, Missouri 65102, Telephone Number 314–751–2876.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Highway and Transportation Department (MHTD), will prepare an environmental impact statement (EIS) on a proposal to upgrade U.S. Route 50 to a dual-lane facility starting 0.7 mile west of Routes D and T in Cole county and continuing to a point west of the cityof Sedalia in Pettis county. The EIS will also include U.S. Route 65 through the city of Sedalia. A location study will run concurrently with the preparation of the EIS and will provide definitive alternatives for evaluation by the EIS. The proposed action will accomplish several goals (1) improve safety and capacity for through traffic on U.S. Route 50, (2) to study the need for a dual-lane bypass around the cities of Sedalia, Syracuse, Tipton, California, and St. Martins and (3) promote economic development for the counties involved in the cities mentioned above.

1. The proposed project begins at 0.7 mile west of Routes D and T in Cole county and continues to a point west of the city of Sedalia in Pettis county. The project is approximately 70.0 miles in length. The proposed facility will provide a four-lane, limited-access roadway with at-grade intersections or interchanges at major arterial crossroads.

2. Alternatives under consideration include "build" alternatives north and/or south of the existing route that could be either parallel or on relocation. Other alternatives include transportation management options as well as a "no build" alternative.

3. To date, preliminary information has been issued to local officials and other interested parties. The scoping process was initiated with federal, state, and local agencies at a scoping meeting on October 11, 1994. Further public meetings and hearings will be held. To ensure that the full range of issues related to this proposed action is addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to the FHWA or to the MHTD at the addresses provided above.

Issued on: November 3, 1994.

Donald L. Neumann,

Program Engineer, Jefferson City, Missouri.

[FR Doc. 94–28442 Filed 11–16–94; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

[Docket 5–913]

SeaRiver Maritime, Inc.; Notice of Application for Approval To Transfer Operating-Differential Subsidy Agreement, Contract MA/MSB–439 From the Bankruptcy Estate of Equity Carriers, Inc. and To Operate the S/R "Mediterranean" in the Foreign Trade With Operating-Differential Subsidy

SeaRiver Maritime, Inc. (SeaRiver), by letter of September 29, 1994, advises that it has purchased Operating-Differential Subsidy Agreement, Contract MA/MSB–439 from the bankruptcy estate of Equity Carriers, Inc., and that its purchase agreement with the bankruptcy estate is subject to:

- Maritime Administration (MARAD) approval of the transfer of Contract MA/MSB–439,
- MARAD obtaining approval of funding for at least one of the three operating subsidies comprising Contract MA/MSB–439 for the balance of the period of Contract MA/MSB–439, which expires on May 23, 2001, and
- MARAD and SeaRiver agreement to necessary amendments to Contract MA/MSB–439.

SeaRiver advises that the purpose of its petition to MARAD is to request approval of the transfer of Contract MA/MSB–439 to SeaRiver and to obtain confirmation that funding will be available for subsidizing the worldwide transportation of crude oil in bulk in the foreign commerce of the United States and between foreign ports on the S/R MEDITERRANEAN (Vessel), a 211,000 DWI tanker, which sustained bottom damage in 1989 when it ran aground on Bligh Reef in Prince William Sound. Following completion of repairs in 1990 and due to an expected decline in ANS transportation requirements, the Vessel was temporarily placed in foreign service and renamed accordingly. Subsequently, under a provision of the Oil Pollution Act of 1990, the vessel was, and remains, prohibited from operating in Prince William Sound, thereby denying the Vessel from operating in the only Jones Act trade for which it is operationally and economically suited.

SeaRiver advises that since September 1990, therefore, the Vessel has operated in foreign service. In the four years of foreign operations, the Vessel has completed more than 60 voyages primarily transporting mid-East crude oil to European discharge ports. SeaRiver states that the Vessel's performance in this service has been exemplary, and the Vessel and its crew are highly regarded in the many foreign ports which it has entered. Moreover, as the only modern U.S. tanker consistently operating abroad, the Vessel and her crew have demonstrated and fostered the best traditions of the American flag merchant marine.

SeaRiver advises that the Vessel is competing against low-cost foreign-flag operators for foreign commerce in a depressed-rate trade, which is not covering operating costs of foreign flag tankers with significantly lower operating costs than U.S. flag vessels. However, the Vessel is precluded from operating in the domestically protected trade for which it was primarily built. SeaRiver advises that given the losses sustained and the prospect of continuing losses on the operation of the Vessel, SeaRiver has to consider alternatives including lay-up and sale. The other viable and beneficial alternative is the granting of operating-differential subsidy (ODS) to support continued operation of the Vessel in foreign commerce.

SeaRiver states that it is wholly-owned affiliate of Exxon Corporation (Exxon). SeaRiver is a "stand alone" company which has the responsibility to the shareholders to ensure that SeaRiver maintains its leadership presence as a technically proficient, high quality owner/operator of U.S.-flag vessels transporting crude and petroleum products. SeaRiver states that providing ODS will ensure that this modern state-of-the-art and technologically advanced Vessel will continue to operate and will provide for continuing employment for about 50 skilled, dedicated American seafarers.

SeaRiver states that it owns and operates oceangoing tankers, tugs/

towboats and barges. It has an ocean fleet of 12 tankers totaling 1,200 thousand DWT and an inland fleet of 16 tugs and towboats and 50 barges. SeaRiver advises that its principal operations involve the transportation of crude oil, petroleum feedstocks, and finished petroleum and chemical products and tug assist service.

SeaRiver's principal operations are listed below:

- Alaskan crude from Valdez, Alaska, to U.S. west coast destinations;
- Motor gasoline, heating oil, jet fuel, and other petroleum fuel products to U.S. ports from Baytown, Texas; and Baton Rouge, Louisiana;
- Lubricating oils, solvents, and other specialty products from Baytown and Baton Rouge to east coast and inland destinations;
- Inter-refinery feedstock transportation;
- Harbor, escort and assist tug services to vessels; and
- International crude trade (one vessel).

SeaRiver, by letter of October 24, 1994, provided additional information in connection with its request of September 29, 1994.

SeaRiver advises that since September 1990, the Vessel has operated in foreign service, having now completed more than 60 voyages, primarily from the Middle East and Mediterranean areas to European ports. On occasion, the Vessel has loaded North Sea crude in Scotland for transportation to other European discharge ports. Earlier this year, the Vessel also transported a Strategic Petroleum Reserve cargo from Sullom Voe. SeaRiver advises that its plans are that the Vessel will continue to operate in international service, optimally in the Middle East and European foreign trades. However, this does not preclude the vessel from trading in the U.S. In Attachment I to its letter of October 24, SeaRiver shows the number of voyages and foreign areas of operation for the Vessel for 1992, 1993, and 1994.

SeaRiver also requests the necessary written permission under section 805(a) of the Merchant Marine Act, 1936, as amended (Act), for vessels owned and operated by SeaRiver in the domestic trades. These include tank vessels used to transport crude from Alaska to U.S. west coast destinations and solvents, chemicals, specially and petroleum products from the U.S. gulf to the U.S. east coast. SeaRiver also operates towboats and barges that move petroleum fuel products, specialty products and chemicals along the U.S. gulf coast and inland waterways. SeaRiver advises that tugs are also used in harbor assist, escort and oil spill response service on the U.S. west coast and in the Gulf. SeaRiver states that it may acquire additional U.S. flag tonnage as an owner/operator or may dispose of existing tonnage in the course of normal business operations. Additionally, SeaRiver indicates that it may spot, term or bareboat incharter and/or outcharter U.S.-flag tonnage as necessary to satisfy business requirements. SeaRiver lists its domestic fleet and areas of operating in Attachment II to its letter of October 24, 1994.

SeaRiver advises that it presently distinguishes accounting for the expenditures of the S/R MEDITERRANEAN separate from other operations. SeaRiver will further guarantee to institute any additional internal procedures that may be necessary to ensure that any operational subsidy granted will apply only to the S/R MEDITERRANEAN.

SeaRiver is also requesting a waiver of section 804(a) of the Act. In addition to owning, operating, inchartering and outchartering U.S. flag vessels, SeaRiver also incharters foreign flag tankers to support domestic operations (e.g. Gulf of Mexico ligthering service).

SeaRiver advises that Exxon also has international affiliates that own, operate and charter foreign flag vessels. These affiliates are located primarily in Europe, the Far East and Latin America. The vessels are managed and operated by the affiliates and are totally independent from the U.S. flag marine operations of SeaRiver. These Exxon affiliates may acquire additional foreign flag tonnage as owners/operators or may dispose of existing tonnage in the course of their normal business operations. The affiliates may also spot, term, or bareboat incharter and/or outcharter foreign flag tonnage necessary to satisfy business requirements. Attachment III to SeaRiver's October 24, letter details all of the Exxon affiliates's owned, operated, and chartered foreign flag vessels.

SeaRiver advises that Exxon is a participant in the Revised Voluntary Tanker Agreement (MARAD Contract MA–11725) under which Exxon agrees to make foreign flag tanker tonnage capacity available to the U.S. to further meet (beyond the SeaRiver U.S. flag tonnage) emergency national defense needs. The Bahamian registered vessels which are noted in Attachment III to the October 24 letter are covered by the Agreement.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in such application and desiring to submit comments concerning the application must by 5:00 PM on December 7, 1994, file written comments in triplicate with the Secretary, Maritime Administration. Any person seeking to oppose the application must file a petition for leave to intervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief. The Maritime Administration will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 (Operating-Differential Subsidies)).

By Order of the Maritime Administrator.

Dated: November 10, 1994.

Joel C. Richard,

Acting Secretary, Maritime Administration.

[FR Doc. 94–28463 Filed 11–16–94; 8:45 am]

BILLING CODE 4910–81–M

National Highway Traffic Safety Administration

[Docket No. 94–75; Notice 2]

Automobili Lamborghini; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 214

Automobili Lamborghini S.p.A. of Sant'Agata Bolognese, Italy, ("Lamborghini") applied for a temporary exemption from the dynamic side impact protection requirements of Federal Motor Vehicle Safety Standard No. 214 *Side Impact Protection*. The basis of the application was that compliance would cause substantial economic hardship to a company that has tried to comply with the standard in good faith.

Notice of receipt of the application was published on September 28, 1994, and an opportunity afforded for comment (59 FR 49462). This notice grants the exemption.

On May 16, 1994, Lamborghini petitioned NHTSA to permit Chrysler Corporation to include Lamborghini vehicles in its vehicle fleet for the purpose of compliance with Standard No. 214's phase-in calculation for enhanced side protection. In the alternative, it petitioned NHTSA to grant the company a temporary exemption from the side impact standard's new performance requirements until September 1, 1996. On August 5, 1994, NHTSA denied Lamborghini's request to be included in Chrysler's fleet because Chrysler had sold its interest in Lamborghini on January 31, 1994, to a group of investors led by MegaTech Ltd., a Bermuda corporation. At the same time, NHTSA

informed Lamborghini that it would proceed to consider the question of temporary exemption. Lamborghini supplemented its application on August 22, 1994.

Lamborghini has manufactured only 1,475 motor vehicles over the past five years, approximately 25% of which have been sold in the United States. Denial would therefore mean loss of the important U.S. market until compliance could be achieved, an estimated 250 sales of 670 produced between January 1, 1995 and August 31, 1996. The applicant had operating losses in 1993 of approximately $5,000,000, and in 1992 of approximately $28,000,000. For 1991 it had an operating profit of almost $5,000,000.

While it was owned by Chrysler, Lamborghini vehicles were scheduled to be modified during the last year of the phase-in period which ends with vehicles produced on August 31, 1996, because of the low number of vehicles produced and the lead time necessary for engineering and tooling modifications. Chrysler's sale of Lamborghini, therefore, has placed the applicant in a difficult position since, before the sale, "Lamborghini had a good faith basis for believing that it would not need to meet the requirements of Standard 214 until the production year beginning September 1, 1996 * * *." Lamborghini was left without sufficient lead time to comply 100% of its production by either September 1, 1994 or September 1, 1995, and, since it produces only a single model, cannot avail itself of the phase-in requirement.

Accordingly, it has begun the preliminary work required to effect compliance in production vehicles manufactured beginning July 1996. During that time, it estimates that it will spend between $500,000 and $900,000 on research, development, and tooling changes.

Lamborghini argued that an exemption would be in the public interest and consistent with the objectives of motor vehicle safety because it is "one of the last small, pioneering and independent automobile manufacturers * * * precisely the type of small manufacturer that the * * * temporary exemption authority is intended to assist." Its vehicles "are used predominantly for shorter pleasure, rather than commuting or longer, trips" so that an exemption "would have an imperceptible impact on motor vehicle safety." It points out that the livelihoods of its workers in U.S. distributorships and dealerships would be affected by a denial.

No comments were received on the application.

The agency has reviewed Lamborghini's application. Given the fact that 25% of its sales over the past five years have been in the U.S. market and that this is likely to be the case in the event an exemption is granted, it is manifest that a denial until compliance with Standard No. 214 can be effected would cause the applicant substantial economic hardship within the meaning of the statute. Indeed, Lamborghini has had to suspend production of its cars for the U.S. market since September 1, 1994, and a present hardship already exists. Because of its previous relationship to Chrysler for the purpose of compliance with the phase-in requirement, it had a good faith basis upon which to delay compliance with Standard No. 214 until the end of the phase-in period, August 31, 1996. Although the company had net operating losses of $5,000,000 in 1993, it is nevertheless prepared to spend an estimated $500,000 to $900,000 to achieve compliance by July 1996.

Furthermore, the estimated 250 cars that would be produced under an exemption are not a significant part of the nation's vehicle fleet and, as the applicant argues, are generally not used in everyday driving. Presumably the company has been meeting, and will continue to meet, the requirements of Standard No. 214 which continue in effect until the phase-in period ends as of September 1, 1996. In this light, an exemption becomes one more of form than of substance. Lamborghini has sold vehicles in the United States for the better part of 30 years and its, goodwill, dealers and service personnel would be affected by its inability to continue business.

In consideration of the foregoing, it is hereby found that compliance would cause substantial economic hardship to a company that has tried to comply with the standard in good faith, and that a temporary exemption is consistent with the public interest and the objectives of motor vehicle safety. Accordingly, Automobili Lamborghini is hereby granted NHTSA Exemption No. 94–6, expiring September 1, 1996, from 49 CFR 571.214 Motor Vehicle Safety Standard No. 214 *Side Impact Protection.*

(49 U.S.C. 30113; delegation of authority at 49 CFR 1.50)

Issued on November 9, 1994.

Ricardo Martinez,

Administrator.

[FR Doc. 94–28381 Filed 11–16–94; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. EA92–041; Notice 2]

General Motors Pickup Truck Defect Investigation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Identification of information sought at public meeting.

SUMMARY: On October 27, 1994, NHTSA published a notice that it will hold a public meeting on December 6, 1994 regarding the initial decision by the Secretary of Transportation that certain pickup trucks manufactured by General Motors Corporation (GM) with fuel tanks mounted outside the frame rails contain a defect that relates to motor vehicle safety. The purpose of the meeting is to permit any interested person, including General Motors, to present relevant information to NHTSA and the Secretary on the issue of whether a defect that relates to motor vehicle safety exists in these GM pickup trucks. This supplemental notice identifies particular information that the Secretary believes could be useful in making his final decision on whether to order a recall or to close the investigation.

FOR FURTHER INFORMATION CONTACT: Ellen Berlin, Director, Office of Public and Consumer Affairs, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590; (202) 366–9550.

SUPPLEMENTARY INFORMATION: On October 17, 1994, Secretary of Transportation Federico Peña announced his initial decision that model year 1973–1991 full-sized GM pickup trucks and cab-chassis equipped with fuel tanks mounted outboard of the frame rails contain a defect related to motor vehicle safety. At the same time, he released a comprehensive Engineering Analysis (EA) Report that explains in detail the basis for the decision. A summary of that Report is set out in the **Federal Register** notice announcing that decision. 59 Fed. Reg. 54025 (October 27, 1994).

The EA Report makes two fundamental findings. First, on the basis of statistical analysis, laboratory crash tests, and a review of available information concerning specific real-world crashes, the EA Report demonstrates that the GM pickups at issue exhibit an increased risk of fire in side-impact crashes compared to similar vehicles (specifically, to contemporary Ford and Dodge full-sized pickups). Second, primarily on the basis of this increased risk and an analysis of GM's actions (both at the time it designed the trucks and during the period they were

in production), the Secretary concluded that this increased risk is unreasonable. On the basis of these findings, and other supplementary information, the Secretary made his initial decision that the GM pickups contain a defect related to motor vehicle safety.

The Secretary also announced that, pursuant to 49 U.S.C. § 30118 and 49 CFR 554.10, a public meeting will be held on December 6, 1994, in order to afford GM and other interested persons an opportunity to present information, views, and arguments on the issue of whether the vehicles covered by this initial decision contain a defect related to motor vehicle safety. Following the public meeting, the Secretary will decide whether to order a recall of the vehicles or to close the investigation.

This defect investigation has raised many important and complex factual, legal, and public policy issues. Substantial interest in those issues has been expressed by affected individuals, auto manufacturers, and members of the general public. The Department believes that the December 6 public meeting will provide a valuable forum and opportunity for both General Motors and the public to address these issues, either in support of or in opposition to the initial decision.

To assist in reaching a final decision, interested persons are requested to present relevant information and arguments on issues raised by the investigation and in particular on the issues identified below.

Issues Related to the Question of Increased Risk

1. Is there additional information supporting or rebutting the finding in the EA Report that the GM pickups exhibit an increased risk of fire and fatalities/injuries due to fire in side-impact crashes?

2. Is it appropriate in this investigation to focus only on side-impact crashes as opposed to other crash modes? What is the most appropriate focus and why?

3. Is it appropriate in this investigation to focus on fatal crashes, fatal crashes in which there was a fire, and/or fatal crashes in which the fatalities are due to fire? Would other data provide a more appropriate basis for reaching a decision on these issues?

4. In ascertaining whether the design of the 1973–1987 GM pickups at issue here causes an increased risk of death and injury in accidents, is it appropriate to compare those pickups to other contemporary pickups (i.e., 1973–1987 Ford full-sized pickups)? To what other vehicles, if any, should these GM pickups be compared? Please explain.

Issues Related to the Question of Unreasonable Risk

1. What factors should be considered in determining whether the design of the GM vehicles creates an "unreasonable risk of death or injury" due to post-crash fires?

2. In materials submitted to NHTSA, GM presented a series of vehicle fire rate comparisons in an effort to demonstrate that many other pairs of vehicles experience differences in the rate of fire-related fatalities that are greater than the difference between GM and Ford pickups. Do vehicle pair rate comparisons provide an appropriate basis for analyzing the issue of whether these vehicles present an unreasonable safety risk? If not, why not? If so, is the methodology used by GM the best way to analyze the issue? Are there better comparative rate methodologies for evaluating the existence of an unreasonable risk?

3. Is the overall safety record of a vehicle relevant to the issue of unreasonable risk when the alleged defect relates to a particular component or type of crash? If so, how relevant?

4. Are the extent of a manufacturer's awareness of a potential or ongoing safety risk, and the extent of a manufacturer's efforts to avoid that risk, relevant to the issue of whether an unreasonable risk exists? Is a manufacturer's failure to implement measures to mitigate or eliminate an increased safety risk relevant to that issue?

5. What weight should be given to the foregoing three factors, and any other relevant factors, in deciding whether a vehicle contains a defect related to motor vehicle safety?

Other Information Sought

1. Additional information concerning post-crash fires in real-world crashes involving the GM vehicles covered by this investigation and comparable vehicles.

2. Additional information regarding GM's awareness of an increased risk of post-crash fires due to the placement of the fuel tanks outside of the frame rails of these trucks, both at the time of their design and afterward.

3. Additional information regarding efforts by GM to eliminate or mitigate any safety risk associated with the location of the fuel tanks in these vehicles, both at the time of their design and afterward.

4. Information regarding what remedy or remedies would be appropriate if the vehicles in question are finally determined to have a defect related to motor vehicle safety.

As stated in the October 27 notice, persons wishing to make oral presentations are requested to notify Ms. Judy Taylor, Office of Defects Investigation, National Highway Traffic Safety Administration, Room 5326, 400 Seventh Street SW., Washington, DC 20590, (202) 366–2850, before the close of business on November 28, 1994. Written comments may be submitted to the same address and must be received not later than the beginning of the meeting on December 6, 1994.

Because many people may be coming from other cities to appear at the public meeting, NHTSA intends to give each person who wishes to appear a reasonably precise idea of the day and time for his or her presentation. Therefore, the agency urges persons desiring to appear to notify Ms. Taylor as soon as possible in order to properly organize the meeting. Depending upon the number of persons who wish to appear, NHTSA may have to limit the time for each person's presentation or arrange for group appearances.

Authority: 49 U.S.C. § 30118.

Issued on: November 15, 1994.

Christopher A. Hart,

Deputy Administrator.

[FR Doc. 94–28542 Filed 11–15–94; 3:00 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

List of Blocked Persons and Specially Designated Nationals

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice

SUMMARY: The Treasury Department is issuing a comprehensive list of all blocked persons and specially designated nationals under the various sanctions programs administered by the Office of Foreign Assets Control as of [insert date of filing], to enhance public awareness of these persons and to facilitate compliance with the applicable prohibitions on dealing in property in which these persons have an interest. This list includes designations pursuant to 31 CFR parts 500, 515, 550, 575, and 585.

EFFECTIVE DATE: November 14, 1994, or upon actual prior notice.

FOR FURTHER INFORMATION CONTACT: J. Robert McBrien, Chief, International Programs, Tel.: (202) 622–2420; Office of Foreign Assets Control, Department of the Treasury, Annex, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem dial 202/512–1387 or call 202/512–1530 for disks or paper copies. This file is available in Postscript, WordPerfect 5.1 and ASCII.

Background

The following list contains the names of entities and individuals that the Director of the Office of Foreign Assets Control has determined, as of November 14, 1994, to be (1) component agencies of a government subject to sanctions, or, depending on the program subjecting them to sanctions, (2) organized or located in a country subject to economic sanctions, (3) owned and controlled by persons that are organized or located in, or are nationals of, a country subject to economic sanctions, or (4) owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the government of a country subject to economic sanctions. The listed specially designated nationals and blocked persons relate to sanctions imposed against Cuba, Iraq, Libya, North Korea, and the Federal Republic of Yugoslavia (Serbia and Montenegro). The list also includes the names of vessels determined to be the property of blocked persons.

The entities and individuals included in the list are subject to all prohibitions applicable to the government of the country subject to economic sanctions with which they are associated. "Persons subject to U.S. jurisdiction," or "U.S. persons," depending on the sanctions program, are prohibited from engaging in transactions involving property in which any of these entities and individuals has an interest unless the transactions are exempted by statute or licensed by the Office of Foreign Assets Control. Additionally, all assets within U.S. jurisdiction owned or controlled by these entities and individuals are blocked and may not be transferred, withdrawn, exported or otherwise dealt with. Persons subject to U.S. jurisdiction, or U.S. persons, are not prohibited, however, from paying funds owed to any of these entities and individuals into a blocked account held in the name of the blocked entity or individual in a domestic U.S. financial institution. Such payments must be reported to the Office of Foreign Assets Control, Compliance Division, pursuant to applicable regulations.

Determinations that persons are blocked or specially designated nationals under a particular sanctions program are effective upon the date of determination by the Director of the Office of Foreign Assets Control ("FAC"), acting under authority delegated by the Secretary of the Treasury. Public notice of a blocking or designation is effective upon the date of publication in the **Federal Register** or upon prior actual notice. This list is not definitive or all–inclusive, and new **Federal Register** notices with regard to specially designated nationals or blocked persons may be published at any time. The absence of any particular person from the list of specially designated nationals and blocked persons is not to be construed as evidence that the person is not a component agency of a government subject to sanctions; or organized or located in a country subject to economic sanctions; or owned and controlled by persons that are organized or located in, or are nationals of, a country subject to economic sanctions; or owned or controlled by, or acting or purporting to act directly or indirectly on behalf of, the government of a country subject to economic sanctions. The Treasury Department regards it as incumbent upon all U.S. persons or persons subject to U.S. jurisdiction, depending upon the sanctions program, to take reasonable steps to ascertain for themselves whether persons with whom they enter into transactions fall into one of these categories.

A listing of citations to previous **Federal Register** notices and rules through November 14, 1994 is included at the conclusion of this notice. Users are advised to check the **Federal Register** and *The Federal Bulletin Board* routinely for additional names or other changes to the listings. Entities and individuals on the list are occasionally licensed by the Office of Foreign Assets Control to transact business with U.S. persons or persons subject to U.S. jurisdiction in anticipation of removal from the list or because of foreign policy considerations in unique circumstances. Current information on licenses issued with regard to blocked persons or specially designated nationals may be obtained by calling the Office of Foreign Assets Control, Licensing Division (202/622–2480).

ALPHABETICAL LISTING OF BLOCKED PERSONS AND SPECIALLY DESIGNATED NATIONALS

Note: The alphabetical list below provides the following information (to the extent known) concerning blocked persons and vessels.

For blocked individuals: name and title (known aliases), address, date of birth, (the notation "individual"), [country sanctions program under which the program is blocked].

For blocked entities: name (known former or alternate names), address, [country sanctions program under which the entity is blocked].

For blocked vessels: name (call sign), type, size and registration of vessel, (vessel owner), (the notation "vessel"), [country sanctions program under which the property is blocked].

Abbreviations: "a.k.a." means "also known as"; "f.k.a." means "formerly known as"; "n.k.a." means "now known as"; "DOB" means "date of birth"; "FRY S&M" means "the Federal Republic of Yugoslavia (Serbia & Montenegro)".

1 ATHAR (HNAR) Tanker 1,502DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]

1 HURIZAN (HNHN) Tanker 1,502DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]

7 NISSAN (HNNN) Tanker 1,502DWT Iraqi Flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]

13. JULI, Podgorica, Montenegro [FRY S&M]

21 MAJ, Belgrade, Serbia [FRY S&M]

A. BORTOLOTTI & CO. S.P.A. (a.k.a. BORTOLOTTI), Cremona, Italy [LIBYA]

A. BORTOLOTTI & CO. S.P.A. (a.k.a. BORTOLOTTI), Via Predore, 59, 24067 Sarnico, Bergamo, Italy [LIBYA]

A.T.E. INTERNATIONAL LTD. (f.k.a. RWR INTERNATIONAL COMMODITIES), 3 Mandeville Place, London, England [IRAQ]

A.W.A. ENGINEERING LIMITED, 3 Mandeville Place, London, England [IRAQ]

ABASTECADORA NAVAL Y INDUSTRIAL, S.A. (a.k.a. ANAINSA), Panama [CUBA]

ABBAS, Abdul Hussein, Italy (individual) [IRAQ]

ABBAS, Kassim, Italy (individual) [IRAQ]

ABBOTT, John G., 34 Grosvenor Street, London W1X 9FG, England (individual) [LIBYA]

ABDELMULLA, Yousef Abd–El–Razegh (a.k.a. ABDULMOLA, Yousef Abd–El–Razegh), P.O. Box 4538, Maidan Masif El Baladi, Tripoli, Libya (individual) [LIBYA]

ABDELNUR, Nury de Jesus, Panama (individual) [CUBA]

ABDUL JAWAD, Mohammed (a.k.a. ABDULJAWAD, Muhammed I.), Tripoli, Libya (individual) [LIBYA]

ABDULJAWAD, Muhammed I. (a.k.a. ABDUL JAWAD, Mohammed), Tripoli, Libya (individual) [LIBYA]

ABDULMALIK, Abdul Hameed (a.k.a. MALIK, Assim Mohammed Rafiq Abdul; a.k.a. RAFIQ, Assem), 14 Almotaz Sad Al Deen Street, Al Nozha, Cairo, Egypt (individual) [IRAQ]

ABDULMOLA, Yousef Abd–El–Razegh (a.k.a. ABDELMULLA, Yousef Abd–El–Razegh), P.O. Box 4538, Maidan Masif El Baladi, Tripoli, Libya (individual) [LIBYA]

ABRAHAM, Trevor, England (individual) [IRAQ]

ACE INDIC NAVIGATION CO., LTD., Malta [CUBA]

ACECHILLY (Acechilly Navigation Co., Malta) (vessel) [CUBA]

ACECHILLY NAVIGATION CO., LTD., 171 Old Bakery St., Valletta, Malta [CUBA]
ACEFROSTY (Acefrosty Shipping Co., Malta) (vessel) [CUBA]
ACEFROSTY SHIPPING CO., LTD., 171 Old Bakery St., Valletta, Malta [CUBA]
AD–DAR AL JAMAHIRIYA FOR PUBLISHING DISTRIBUTION & ADVERTISING, P.O. Box 321, Benghazi, Libya [LIBYA]
AD–DAR AL JAMAHIRIYA FOR PUBLISHING DISTRIBUTION & ADVERTISING, P.O. Box 20108, Sebha, Libya [LIBYA]
AD–DAR AL JAMAHIRIYA FOR PUBLISHING DISTRIBUTION & ADVERTISING, P.O. Box 15977, Casablanca, Morocco [LIBYA]
AD–DAR AL JAMAHIRIYA FOR PUBLISHING DISTRIBUTION & ADVERTISING, P.O. Box 959, Tripoli, Libya [LIBYA]
AD–DAR AL JAMAHIRIYA FOR PUBLISHING DISTRIBUTION & ADVERTISING, P.O. Box 547, Valletta, Malta [LIBYA]
AD–DAR AL JAMAHIRIYA FOR PUBLISHING DISTRIBUTION & ADVERTISING, P.O. Box 17459, Misurata, Libya [LIBYA]
ADMINCHECK LIMITED, 1 Old Burlington Street, London, England [IRAQ]
ADMIRAL ZMAJEVIC (9HTX3) General Dry Cargo 8,569GT Malta flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
ADVANCED ELECTRONICS DEVELOPMENT, LTD., 3 Mandeville Place, London, England [IRAQ]
AERO–CARIBBEAN (a.k.a. AEROCARIBBEAN AIRLINES), Havana, Cuba [CUBA]
AEROCARIBBEAN AIRLINES (a.k.a. AERO–CARIBBEAN), Havana, Cuba [CUBA]
AERODROM BEOGRAD (a.k.a. AIRPORT BELGRADE), Belgrade, Serbia [FRY S&M]
AEROINZINJERING, Belgrade, Serbia [FRY S&M]
AEROTAXI EJECUTIVO, S.A., Managua, Nicaragua [CUBA]
AGENCIA d.d., New York, U.S.A. [FRY S&M]
AGENCIA DE VIAJES GUAMA (a.k.a. VIAJES GUAMA TOURS; a.k.a. GUAMATUR, S.A.; a.k.a. GUAMA TOUR), Bal Harbour Shopping Center, Via Italia, Panama City, Panama [CUBA]
AGHIL, Yousef I., Libya (individual) [LIBYA]
AGIP (N.A.M.E.) LIMITED (a.k.a. AGIP NORTH AFRICA AND MIDDLE EAST OIL COMPANY), Adahr, P.O. Box 346, Sciara Giakarta, Tripoli, Libya [LIBYA]
AGIP (N.A.M.E.) LIMITED (a.k.a. AGIP NORTH AFRICA AND MIDDLE EAST OIL COMPANY), Benghazi Office, P.O. Box 4120, Benghazi, Libya (Designation applies only to joint venture located in Libya) [LIBYA]
AGIP NORTH AFRICA AND MIDDLE EAST OIL COMPANY (a.k.a. AGIP (N.A.M.E.) LIMITED), Benghazi Office, P.O. Box 4120, Benghazi, Libya (Designation applies only to joint venture located in Libya) [LIBYA]
AGIP NORTH AFRICA AND MIDDLE EAST OIL COMPANY (a.k.a. AGIP (N.A.M.E.) LIMITED), Adahr, P.O. Box 346, Sciara Giakarta, Tripoli, Libya [LIBYA]
AGOCO (a.k.a. ARABIAN GULF OIL COMPANY), P.O. Box 693–325, Ben Ashour Street, Tripoli, Libya [LIBYA]
AGOCO (a.k.a. ARABIAN GULF OIL COMPANY), P.O. Box 263, Al Kish, Benghazi, Libya [LIBYA]
AGOCO (a.k.a. ARABIAN GULF OIL COMPANY), Sarir Field, Libya [LIBYA]
AGOCO (a.k.a. ARABIAN GULF OIL COMPANY), Windsor House, 42–50 Victoria Street, London SW1H 0NW, England [LIBYA]
AGRICULTURAL BANK, THE (a.k.a. LIBYAN AGRICULTURAL BANK; a.k.a. NATIONAL AGRICULTURAL BANK OF LIBYA), (1 city branch and 27 branches in Libya) [LIBYA]
AGRICULTURAL BANK, THE (a.k.a. LIBYAN AGRICULTURAL BANK; a.k.a. NATIONAL AGRICULTURAL BANK OF LIBYA), 52, Omar El Mokhtar Street, P.O. Box 1100, Tripoli, Libya [LIBYA]
AGRO–UNIVERZAL, Kanijiza, Vojvodina (Serbia) [FRY S&M]
AGROBANKA BELGRADE, all offices worldwide [FRY S&M]
AGROEXPORT, Belgrade, Serbia [FRY S&M]
AGROOPREMA, Belgrade, Serbia [FRY S&M]
AGROPANONIJA, Vrsac, Vojvodina (Serbia) [FRY S&M]
AGROPROM BANKA d.d., Banja Luka, Bosnia–Herzegovina [FRY S&M]
AGROPROMET, Kikinda, Vojvodina (Serbia) [FRY S&M]
AGROVOJVODINA EXPORT–IMPORT, 23 Oktobra blvd. 61, 21000 Novi Sad, Serbia [FRY S&M]
AGROVOJVODINA, Karafiatova 40, Prague 10, Czech Republic [FRY S&M]
AGROVOJVODINA, Katona Jozef utca 10/a, 1137 Budapest 13.ker, Hungary [FRY S&M]
AGROVOJVODINA, Mosfiljmovskaja 42, Moscow, Russia [FRY S&M]
AGROVOJVODINA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
AGROVOJVODINA, Warynskiego 28 m 40, Warsaw, Poland [FRY S&M]
AGUIAR, Raul, Director, Banco Nacional de Cuba, Ave. de Concha,Espina 8, E–28036 Madrid, Spain (individual) [CUBA]
AHMAD, Rasem, P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
AHMAD, Wallid Issa, Iraq (individual) [IRAQ]
AIK SUMADIJA, Kragujevac, Serbia [FRY S&M]
AIK VRANJE, Vranje, Serbia [FRY S&M]
AIMOROS SHIPPING CO., Valletta, Malta [CUBA]
AIN ZALAH (HNAZ) Tanker 36,330DWT Iraqi flag (Iraqi Oil Tankers Company, Basrah, Iraq) (vessel) [IRAQ]
AIR JUGOSLAVIA, Belgrade, Serbia [FRY S&M]
AIRE F (f.k.a. OBOD) (9HTG3) General Dry Cargo 13,651GT Malta flag (Oktoih Overseas Shipping Ltd.) (vessel) [FRY S&M]
AIRPORT BELGRADE (a.k.a. AERODROM BEOGRAD), Belgrade, Serbia [FRY S&M]
AL–AGELI, Dr. Muktar Ali (a.k.a. EL–AGELI, Dr. Mukhtar Ali; a.k.a. EL–AGELI, Dr. Muktar Ali), Apartment 10, Maida Vale, Little Venice, London, England; 15/17 Lodge Road, St. Johns Wood, London NW8 7JA, England; DOB 23 July 1944 (individual) [LIBYA]
AL–ALYAA (N/A) Tug 375DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL–AMIN (YIAM) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL–AMIRI, Adnan Talib Hassim, 43 Palace Mansions, Hammersmith, London, England (individual) [IRAQ]
AL ANBAR (YIAV) Tug DWT N/A Iraqi flag (Government of the Republic of Iraq Managed by the State Organization of Iraqi Ports, Basrah, Iraq) (vessel) [IRAQ]
AL–ARABI TRADING COMPANY LIMITED, Lane 11, Hai Babil, Baghdad District 929, Iraq [IRAQ]
AL–AZAWI, Dafir, Iraq (individual) [IRAQ]
AL–BAATH (HNBT) Tanker 9,928DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
AL–BAHAR AL–ARABI (formerly Iraqi–owned; f.k.a. SEABANK) (HQHR4) Fish/Cargo 6,953DWT Honduras flag (Trading & Maritime Investments, Honduras. Managed by Arab Trans Trade Co. S.A.E., Alexandria, Egypt) (vessel) [IRAQ]
AL–BAKR (YIBR) Research 390DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL–BAYAA (f.k.a. HIBOOB) (HNHB) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
AL–DAJANI, Leila N.S., P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
AL–DAJANI, Nadim S., P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
AL–DAJANI, Sa'ad, P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
AL–DULAIMI, Khalaf M. M., Baghdad, Iraq (individual) [IRAQ]
AL–ENTISAR (N/A) Tug 375DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL FAO (YIAN) Research 80DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL–HABOBI, Dr. Safa Haji J., Flat 4D Thorney Court, Palace Gate, Kensington, England (individual) [IRAQ]
AL HAMBRA HOLDING COMPANY, Madrid, Spain [LIBYA]
AL–HASSAN, Anas Malik Dohan (a.k.a. AL–HASSAN, Anas; a.k.a. DOHAN, Anas; a.k.a. DOHAN, Anas Malik; a.k.a. MALIK, Anas), Jordan (individual) [IRAQ]
AL–HASSAN, Anas Malik Dohan (a.k.a. AL–HASSAN, Anas; a.k.a. DOHAN, Anas; a.k.a. DOHAN, Anas Malik; a.k.a. MALIK, Anas), Baghdad, Iraq (individual) [IRAQ]
AL–HATHER (YIHR) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL KABIR, 1 Giaddet Omar Mokhtar, P.O. Box 685, Tripoli, Libya (individual) [LIBYA]
AL KARAMAH (HNKM) Tanker 12,882DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
AL–KARRKH (YIKH) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL–KHAFAJI, Sabah, 254 Rue Adolphe Pajeaud, 92160 Antony, France (individual) [IRAQ]
AL KHALIDA (HNKD) Tanker 7,155DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
AL–KHALIJ–AL–ARABI (YIKA) Service 4,740DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL–MAJID, Ali Hassan, Baghdad, Iraq (individual) [IRAQ]

AL-MAJID, Hussein Kamel Hassan, Baghdad, Iraq (individual) [IRAQ]
AL MANSUR (HNMR) Yacht 1,223DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
AL MERBID (YIMD) Service 4,649DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL MOSUL (YIAS) Service 1,219DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL NAJAF (YINF) Service 4,740DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL NASR (DDRH) Service 2,444DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL NASR (HNNR) Tanker 1,502DWT Iraqi flag (Iraqi Oil Tanker Company) (vessel) [IRAQ]
AL-NOHOODH (YINU) Tug 375DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL-OGAILY, Akram H., Flat 2, St. Ronons Court, 63 Putney Hill, London, England (individual) [IRAQ]
AL OMARAH (YIAW) Tug 320DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL PETRA COMPANY FOR GOODS TRANSPORT LTD., (a.k.a. PETRA NAVIGATION AND INTERNATIONAL TRADING CO. LTD.) Hai Al Wahda Mahalat 906, 906 Zulak 50, House 14 Baghdad, Iraq [IRAQ]
AL-QADISIYA (HNKS) Yacht 100DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
AL-RAFIDAIN SHIPPING COMPANY, Bombay, India [IRAQ]
AL RAMADI (YIAY) Tug 320DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL RASHEED (YIBE) Service 304DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL RATBA (YIBA) Tanker 544DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL-RESSAFA (YIRF) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL-SAHIL-AL-ARABI (HNSA) Service 6,396DWT Iraqi flag (Iraqi State Enterprise for Sea Fisheries, Basrah Iraq) (vessel) [IRAQ]
AL SHUMOOKH (N/A) Tug 375DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL-TAKRITI, Barzan Ibrahim Hassan, Geneva, Switzerland (individual) [IRAQ]
AL-TAKRITI, Sabawi Ibrahim Hassan, Baghdad, Iraq (individual) [IRAQ]
AL-TAKRITI, Watban, Baghdad, Iraq (individual) [IRAQ]
AL-THIRTHAR (YITH) Tanker 524DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL-WAHDAH (YIWH) Tug 149DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL WALEED (YIBF) Research DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL ZAB (YIBH) Tug DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AL-ZAHRAA (HNNZ) RO/RO 3,985DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
AL ZAWRAA (HNZW) Cargo 3,549DWT Iraqi flag (Iraqi State Enterprise for Water Transport, Baghdad) (vessel) [IRAQ]
ALABID (f.k.a. SANABUL) (HNDB) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALBA (J8FM9) RO/RO Cargo 915GT Saint Vincent flag (Montenegro Overseas Navigation Ltd.) (vessel) [FRY S&M]
ALBAHR ALARABI (a.k.a. BAROON, MV; f.k.a. BAHAR AL ARABI; f.k.a. SEABANK), a motor vessel registered under the Belizean flag [IRAQ]
ALEDREESI (HNID) Cargo 3,550DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALEGRIA DE PIO (Naviera Maritima de Arosa, Spain) (vessel) [CUBA]
ALFARABI (HNFB) Cargo 8,342DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALFARAHIDI (HNFR) Tanker 149,441DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
ALFIDAA (f.k.a. SILOWAT) (HNFD) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALFONSO, Carlos (a.k.a. Carlos Alfonso GONZALEZ), Panama (individual) [CUBA]
ALI, Ali Abdul Mutalib, Germany (individual) [IRAQ]
ALKADISIYAH (n.k.a. MANDALI) (YIQS) Service 6,977DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ALKHANSAA (HNKN) Cargo 3,525DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALKINDI (HNKI) Cargo 8,342DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALLEN, Peter Francis, "Greys", 36 Stoughton Lane, Stoughton, Leicestershire, England (individual) [IRAQ]
ALMUSTAN-SIRIYAH (HNMS) Tanker 155,210DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
ALMUTANABBI (HNMB) Tanker 130,241DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
ALNAJAF (YINF) Service 4,740DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ALOARDI, Carlo Giovanni, Milan, Italy (individual) [CUBA]
ALQADISIYAH (HNQS) Tanker 155,210DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
ALRAZI (formerly Iraqi-owned; n.k.a. SKY SEA) (HNRZ) Cargo 8,334 DWT Honduras flag (Pandora Shipping Co. S.A., Honduras. Managed by Petra Navigation & International Trading Co. Ltd., Amman, Jordan) (vessel) [IRAQ]
ALSUMOOD (YISD) Service 6,977DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ALTAAWIN-ALARABI (HNAI) Cargo 13,634DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALUBAF ARAB INTERNATIONAL BANK E.C. (a.k.a. ALUBAF), UGB Tower, Diplomatic Area, P.O. Box 12529, Manama, Bahrain [LIBYA]
ALUBAF INTERNATIONAL BANK—TUNIS (a.k.a. ALUBAF—TUNIS), 90-92 Avenue Hedi Chaker, P.O. Box 51, 1002 Tunis Belvedere, Tunisia [LIBYA]
ALUMINUM COOPERATIVE PODGORICA (a.k.a. KOMBINAT ALUMINIJUMA PODGORICA), P.O.B. 22, 81000 Podgorica, Montenegro [FRY S&M]
ALVAREZ, Manuel (AGUIRRE), Panama (individual) [CUBA]
ALWAHDA (HNAD) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALWAN, Allaidin Hussain (a.k.a. ALWAN, Alla Idin Hussain), Baghdad, Iraq (individual) [IRAQ]
ALWASITTI (HNWS) Cargo 8,343DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ALYARMUK (HNYK) Tanker 149,371DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
ALZUBAIR (YIZR) Service 4,640DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
AMARO, Joaquim Ferreira, Praca Pio X, 54-10o Andar CEP 20091, Rio de Janeiro, Brazil (individual) [IRAQ]
AMD CO. LTD AGENCY, Al-Tahrir Car Parking Building, Tahrir Sq., Floor 3, Office 33, P.O. Box 8044, Baghdad, Iraq [IRAQ]
AMERICAN AIR WAYS CHARTERS, INC. 1840 West 49th St., Hialeah, Florida, U.S.A. [CUBA]
AMEROPA MERCHANDISING CORP., East Rockaway, NY, U.S.A. [FRY S&M]
AMURIYAH (HNAM) Tanker 155,210DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
ANA 1 (Navigable Water Corp., Panama) (vessel) [CUBA]
ANAINSA (a.k.a. ABASTECADORA NAVAL Y INDUSTRIAL, S.A), Panama [CUBA]
ANDJIC, Slobodan, Kolazceja 1, 11000 Belgrade, Serbia (individual) [FRY S&M]
ANGELINI, Alejandro Abood, Panama (individual) [CUBA]
ANGLO-CARIBBEAN CO., LTD. (a.k.a. AVIA IMPORT), Ibex House, The Minories, London EC3N 1DY, England [CUBA]
ANGLO-YUGOSLAV BANK (n.k.a. AY BANK LIMITED), London, England [FRY S&M]
ANTAMALLO SHIPPING CO., LTD., Valletta, Malta [CUBA]
ANTARA (YIBD) Service 508DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ANTILLANA SALVAGE CO., LTD., 171 Old Bakery St., Valletta, Malta [CUBA]
APABO (a.k.a. ARAB HELLENIC BANK, S.A.), 80-88 Syngrou Avenue, GR-117 41 Athens, Greece; P.O. Box 19126, GR-117 10 Athens, Greece; 43 Penepistimiou Street, GR-105 64 Athens, Greece [LIBYA]
APATEX-APATIN, Industrijska Zona, 25260 Apatin, Serbia [FRY S&M]
AQUITAINE LIBYE, Omar El Mokhtar Street, P.O. Box 282, Tripoli, Libya (Designation applies only to joint venture located in Libya) [LIBYA]
ARAB BANK FOR INVESTMENT AND FOREIGN TRADE (a.k.a. ARBIFT), Al Masood Building, Khalifa Street, P.O. Box 7588, Abu Dhabi, U.A.E. [LIBYA]
ARAB BANK FOR INVESTMENT AND FOREIGN TRADE (a.k.a. ARBIFT), Head Office, ARBIFT Building, Sheikh Hamdan

Street, P.O. Box 2484, Abu Dhabi, U.A.E. [LIBYA]
ARAB BANK FOR INVESTMENT AND FOREIGN TRADE (a.k.a. ARBIFT), ARBIFT Tower, Baniyas Street, P.O. Box 5549, Deira, Dubai, U.A.E. [LIBYA]
ARAB BANK FOR INVESTMENT AND FOREIGN TRADE (a.k.a. ARBIFT), Khalfan Bin Rakan Building, Khalifa Street, P.O. Box 16003, Al Ain, U.A.E. [LIBYA]
ARAB COMMERCIAL INSURANCE COMPANY, Channel Islands [LIBYA]
ARAB HELLENIC BANK, S.A. (a.k.a. APABO), 80–88 Syngrou Avenue, GR–117 41 Athens, Greece; P.O. Box 19126, GR–117 10 Athens, Greece; 43 Penepistimiou Street, GR–105 64 Athens, Greece [LIBYA]
ARAB LIBYAN SYRIAN INDUSTRIAL & AGRICULTURAL INVESTMENT COMPANY (a.k.a. SYLICO; a.k.a. SYRIAN LIBYAN COMPANY—INDUSTRIAL & AGRICULTURAL INVESTMENTS), 9 Mazze, Autostrade, Damascus, Syria [LIBYA]
ARAB LIBYAN TUNISIAN BANK S.A.L. (n.k.a. NORTH AFRICA COMMERCIAL BANK S.A.L.), P.O. Box 9575/11, 1st Floor, Piccadily Centre, Hamra Street, Beirut, Lebanon [LIBYA]
ARAB PETROLEUM ENGINEERING COMPANY LTD., Amman, Jordan [IRAQ]
ARAB PROJECTS COMPANY S.A. LTD., P.O. Box 7939, Beirut, Lebanon [IRAQ]
ARAB PROJECTS COMPANY S.A. LTD., P.O. Box 1972, Riyadh, Saudi Arabia [IRAQ]
ARAB PROJECTS COMPANY S.A. LTD., P.O. Box 1318, Amman, Jordan [IRAQ]
ARAB REAL ESTATE COMPANY (a.k.a. ARESCO), Beirut, Lebanon [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), P.O. Box 380, 80223 Sisli, Istanbul, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), Ziyapasa Bulvari No. 14/A, 01130 Adana, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), P.O. Box 11, 01321 Adana, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), Havuzlu Sok. No. 3, 06540 Asagi Ayranci, Ankara, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), P.O. Box 38, 06552 Cankaya, Ankara, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), Gaziosmanpasa Bulvari No. 10/1, 35210 Alsancak, Izmir, Turkey [LIBYA]
ARAB TURKISH BANK (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ATB), P.O. Box 52, 35212 Pasaport, Izmir, Turkey [LIBYA]
ARABIAN GULF OIL COMPANY (a.k.a. AGOCO), P.O. Box 693–325 Ben Ashour Street, Tripoli, Libya [LIBYA]
ARABIAN GULF OIL COMPANY (a.k.a. AGOCO), P.O. Box 263, Al Kish, Benghazi, Libya [LIBYA]
ARABIAN GULF OIL COMPANY (a.k.a. AGOCO), Sarir Field, Libya [LIBYA]
ARABIAN GULF OIL COMPANY (a.k.a. AGOCO), Windsor House, 42–50 Victoria Street, London SW1H 0NW, England [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), P.O. Box 380, 80223 Sisli, Istanbul, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), Ziyapasa Bulvari No. 14/A, 01130 Adana, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), P.O. Box 11, 01321 Adana, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), Havuzlu Sok. No. 3, 06540 Asagi Ayranci, Ankara, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), P.O. Box 38, 06552 Cankaya, Ankara, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), Gaziosmanpasa Bulvari No. 10/1, 35210 Alsancak, Izmir, Turkey [LIBYA]
ARAP TURK BANKASI A.S. (a.k.a. ARAB TURKISH BANK; a.k.a. ATB), P.O. Box 52, 35212 Pasaport, Izmir, Turkey [LIBYA]
ARBEEL (YIBB) Tug 320DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ARBIFT (a.k.a. ARAB BANK FOR INVESTMENT AND FOREIGN TRADE), Al Masood Building, Khalifa Street, P.O. Box 7588, Abu Dhabi, U.A.E. [LIBYA]
ARBIFT (a.k.a. ARAB BANK FOR INVESTMENT AND FOREIGN TRADE), Head Office, ARBIFT Building, Sheikh Hamdan Street, P.O. Box 2484, Abu Dhabi, U.A.E. [LIBYA]
ARBIFT (a.k.a. ARAB BANK FOR INVESTMENT AND FOREIGN TRADE), Khalfan Bin Rakan Building, Khalifa Street, P.O. Box 16003, Al Ain, U.A.E. [LIBYA]
ARBIFT (a.k.a. ARAB BANK FOR INVESTMENT AND FOREIGN TRADE), ARBIFT Tower, Baniyas Street, P.O. Box 5549, Deira, Dubai, U.A.E. [LIBYA]
ARCHI CENTRE I.C.E. LIMITED, 3 Mandeville Place, London, England [IRAQ]
ARCHICONSULT LIMITED, 128 Buckingham Place, London 5, England [IRAQ]
ARENAL SHIPPING S.A., Office 803, Nicolaou Pentadromos Centre, Pentadromos Junction, Limassol, Cyprus [FRY S&M]
ARESCO (a.k.a. ARAB REAL ESTATE COMPANY), Beirut, Lebanon [LIBYA]
ARIFI, Dr. Najmeddine Abdalla (a.k.a. ARIFI, Dr. Nagmeddin Abdalla), P.O. Box 2134, Tripoli, Libya; DOB 21 November 1947 (individual) [LIBYA]
ARION SHIPPING CO., LTD., 60 South St., Valletta, Malta [CUBA]
ARMANI, Dino, Via San Francesco d'Assisi 10, Milan, Italy; Via Abruzzi 94, Milan, Italy; Viale Abbruzzi 24, Milan, Italy; DOB 20 September 1920 (individual) [LIBYA]
ARMANI, Giampiero, Viale Abruzzi 94, Milan, Italy; DOB 15 September 1932 (individual) [LIBYA]
AS IMPEX/AEROSERVIS, Serbia [FRY S&M]
ASSOCIATED BANK OF KOSOVO (a.k.a. UDRUZENA KOSOVSKA BANKA), all offices worldwide [FRY S&M] including, but not limited to:
ASSOCIATED BANK OF KOSOVO (a.k.a. UDRUZENA KOSOVSKA BANKA), Rossmarkt 14/111, D–6000 Frankfurt am Main 1, Germany [FRY S&M]
ASSOCIATED BANK OF KOSOVO (a.k.a. UDRUZENA KOSOVSKA BANKA), Schauenbergstrasse 8, 8046 Zurich, Switzerland [FRY S&M]
ASSOCIATED BANK OF NOVI SAD (a.k.a. VOJVODJANSKA BANKA d.d.), all offices (Bank is headquatered in Novi Sad, Vojvodina [Serbia]) [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), all offices worldwide [FRY S&M] including, but not limited to:
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Kleine Budergasse 13, 5000 Koln 1, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Kungsgaten 32/VI, P.O. Box 7592, 10393 Stockholm, Sweden [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Uranis Strasse 14/III, 8001 Zurich, Switzerland [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 71 Avenue des Champs–Elysees, 75008 Paris, France [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), P.O. Box 3502, Harrare, Zimbabwe [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 38 Rue Ali Azil, Algiers, Algeria [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Damrak 28–30/IV, Amsterdam, Netherlands [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Tuebingerstrasse 72, 7000 Stuttgart 1, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Alt Moabit 74, 1000 Berlin 21, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Sonnenstrasse 12/III, 8000 Munich 2, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA

BEOGRADSKA BANKA), Piazza Velasca 5, Milan, Italy [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 85–93/IV Zeil, 6000 Frankfurt am Main, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Lange Reihe 66, 2000 Hamburg 1, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Drokstre Str. 14–16, 3000 Hannover 1, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 108 Fenchurch Street, London LEC 3M 5 JJ, England [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Landestrasse–Hauptstrasse 1/III, 1030 Vienna, Austria [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), P.O. Box 2869, Tripoli, Libya [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Sokolovska 93/2p, Prague, 8 Karlin, Czech Republic [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Karlstrasse 31, 4000 Dusseldorf 1, Germany [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Przedstawicielstwo, Aleje Roz 5, Warsaw, Poland [FRY S&M]
ASSOCIATED BELGRADE BANK (a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 40 Rue de l'Ecuyer, BTE 8, 1000 Brussels, Belgium [FRY S&M]
ASSOCIATED ENGINEERS, England [IRAQ]
ASSOCIATION OF YUGOSLAV RAILWAYS (a.k.a. ZAJEDNICA JUGOSLOVENSKIH ZELEZNICA), Belgrade, Serbia [FRY S&M]
ASTERIS S.A. INDUSTRIAL & COMMERCIAL CORPORATION, Athens, Greece [LIBYA]
ASTRO–ORION, Serbia [FRY S&M]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), P.O. Box 380, 80223 Sisli, Istanbul, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), Ziyapasa Bulvari No. 14/A, 01130 Adana, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), P.O. Box 11, 01321 Adana, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), Havuzlu Sok. No. 3, 06540 Asagi Ayranci, Ankara, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), P.O. Box 38, 06552 Cankaya, Ankara, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), Gaziosmanpasa Bulvari No. 10/1, 35210 Alsancak, Izmir, Turkey [LIBYA]
ATB (a.k.a. ARAP TURK BANKASI A.S.; a.k.a. ARAB TURKISH BANK), P.O. Box 52, 35212 Pasaport, Izmir, Turkey [LIBYA]
ATEKS, Belgrade, Serbia [FRY S&M]
ATIA, Hachim K., 2 Stratford Place, London W1N 9AE, England (individual) [IRAQ]
ATIA, Hachim K., Hay Al–Adil, Mahala–645, Zukak–8, No.–39, Baghdad, Iraq (individual) [IRAQ]
ATIA, Hachim K., Lane 15, Area 902, Hai Al–Wahda, Baghdad, Iraq (individual) [IRAQ]
ATLAS AIR CONDITIONING COMPANY LIMITED, 55 Roebuck House, Palace Street, London, England [IRAQ]
ATLAS EQUIPMENT COMPANY LIMITED, 55 Roebuck House, Palace Street, London, England [IRAQ]
AUTOMOBILE INDUSTRY—CRVENA ZASTAVA (a.k.a. ZASTAVA; a.k.a. ZAVODI CRVENA ZASTAVA—KRAGUJEVAC), Kragujevac, Serbia [FRY S&M]
AUTOPREVOZ, Pljevlja, Montenegro [FRY S&M]
AUTOTEHNA, Belgrade, Serbia [FRY S&M]
AVALA (n.k.a. DAN; f.k.a. GOLD STAR) (J8FN7) Bulk Carrier 27,069GT Denmark (Saint Vincent) Flag (Leonela Shipping) ((Sunbow Maritime S.A.)) (vessel) [FRY S&M]
AVALON, S.A., Colon Free Zone, Panama [CUBA]
AVIA IMPORT (a.k.a. ANGLO–CARIBBEAN CO., LTD.), Ibex House, The Minories, London, EC3N 1DY, England [CUBA]
AVIOGENEX, Belgrade, Serbia [FRY S&M]
AVIOGENEX, Milentia Popovica, 11070 Belgrade, Serbia [FRY S&M]
AVIS FAITH (Bradfield Maritime Corp. Inc., Panama) (vessel) [CUBA]
AVNOJA 57, Serbia [FRY S&M]
AY BANK LIMITED (f.k.a. ANGLO–YUGOSLAV BANK), London, England [FRY S&M]
AZIZ, Fouad Hamza, Praca Pio X, 54–10o Andar, CEP 20091, Rio de Janeiro, Brazil (individual) [IRAQ]
AZRAK S.A., Panama [CUBA]
AZZAWIYA OIL REFINING COMPANY, Benghazi Asphalt Plant Office, Benghazi, Libya [LIBYA]
AZZAWIYA OIL REFINING COMPANY, P.O. Box 6451, Tripoli, Libya [LIBYA]
B.S.E. GENEX CO. LTD. (a.k.a. B.S.E. TRADING LIMITED), Heddon House, 149–151 Regent Street, London, W1R 8HP, England [FRY S&M]
B.S.E. TRADING LIMITED (f.k.a. B.S.E. GENEX CO. LTD.), Heddon House, 149–151 Regent Street, London, W1R 8HP, England [FRY S&M]
B.T.L. (a.k.a. BANQUE ARABE TUNISO–LIBYENNE DE DEVELOPPEMENT ET DE COMMERCE EXTERIEUR), 25 Avenue Kheireddine Pacha, P.O. Box 102, 1002 Le Belvedere, Tunis, Tunisia [LIBYA]
BABA GURGUR (HNGR) Tanker 36,397DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
BABIL INTERNATIONAL, Aeroport D'Orly, 94390 Orly Aerogare, France [IRAQ]
BABYLON (HNBB) Cargo 13,656DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
BADR (N/A) Service 647DWT Saudi Arabian flag (Government of the Republic of Iraq, Ministry of Oil, State Company for Oil Projects, Baghdad, Iraq) (vessel) [IRAQ]
BAGERSKO BRODARSKO PREDUZECE, Hajduk Veljkov Venac 46, 11000 Belgrade, Serbia [FRY S&M]
BAGHDAD (HNBD) Cargo 13,656DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
BAGHDAD (YIAD) Service 2,900DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
BAHAR AL ARABI (n.k.a. ALBAHR ALARABI; n.k.a. BAROON, MV; f.k.a. SEABANK), a motor vessel registered under the Belizean flag [IRAQ]
BALIMA (a.k.a. BANQUE ARABE LIBYENNE MALIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT; a.k.a. BANQUE COMMERCIALE DU SAHEL), P.O. Box 2372, Bamako, Mali [LIBYA]
BALINEX (a.k.a. BANQUE ARABE LIBYENNE NIGERIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT; a.k.a. BANQUE COMMERCIALE DU NIGER; a.k.a. BCN), P.O. Box 11363, Niamey, Niger [LIBYA]
BALKAN, Suva Reka, Serbia [FRY S&M]
BALKANIJA, Belgrade, Serbia [FRY S&M]
BALM (a.k.a. BANQUE ARABE LIBYENNE MAURITANIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT; a.k.a. CHINGUETTY BANK), Jamal Abdulnasser Street, P.O. Box 262, Nouakchott, Mauritania [LIBYA]
BALQEES (HNBL) RO/RO 3,985DWT Iraqi flag (State Organization for Iraq Government) (vessel) [IRAQ]
BALTEX (a.k.a. BANQUE ARABE LIBYENNE TOGOLAISE DU COMMERCE EXTERIEUR; a.k.a. SOCIETE INTERAFFRICAINE DU BANQUE), P.O. Box 4874, Lome, Togo [LIBYA]
BANCO BRASILEIRO–IRAQUIANO S.A., Praca Pio X, 54–10o Andar CEP 20091, Rio de Janeiro, Brazil (Head Office and City Branch) [IRAQ]
BANCO NACIONAL DE CUBA (a.k.a. BNC; a.k.a. NATIONAL BANK OF CUBA), Zweierstrasse 35, CH–8022 Zurich, Switzerland) [CUBA]
BANCO NACIONAL DE CUBA (a.k.a. BNC; a.k.a. NATIONAL BANK OF CUBA), Ave. de Concha Espina 8, E–28036 Madrid, Spain [CUBA]
BANCO NACIONAL DE CUBA (a.k.a. BNC; a.k.a. NATIONAL BANK OF CUBA), Dai–Ichi Bldg. 6th Floor, 10–2 Nihombashi, 2–chome, Chuo–ku, Tokyo 103, Japan [CUBA]
BANCO NACIONAL DE CUBA (a.k.a. BNC; a.k.a. NATIONAL BANK OF CUBA),

Federico Boyd Ave. & 51 St., Panama City, Panama [CUBA]
BANJALUCKA BANKA d.d., Banja Luka, Bosnia–Herzegovina [FRY S&M]
BANK FOR DEVELOPMENT OF KOSOVO AND METOHIJA, all offices worldwide [FRY S&M]
BANK FOR FOREIGN TRADE AD (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), all offices worldwide [FRY S&M]
BANK FOR FOREIGN TRADE AD—SKOPJE (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Skopje, Former Yugoslav Republic of Macedonia [FRY S&M]
BANK OF VOJVODINA, a.k.a. VOJVODJANSKA BANKA, Kaiser Strasse 3, D 6000 Frankfurt am Main, Germany [FRY S&M]
BANK OF VOJVODINA, a.k.a. VOJVODJANSKA BANKA, Langham House, 308 Regent Street, London, W1R 5AL, England [FRY S&M]
BANQUE ARABE D'AFRIQUE DU NORD [BAAN] (a.k.a. BANQUE ARABE DU NORD–BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 485, 1080 Tunis Cedex, Tunisia [LIBYA]
BANQUE ARABE D'AFRIQUE DU NORD [BAAN] (a.k.a. BANQUE ARABE DU NORD–BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), 25 Avenue Khereddine Pacha, Tunis, Tunisia [LIBYA]
BANQUE ARABE D'AFRIQUE DU NORD [BAAN] (a.k.a. BANQUE ARABE DU NORD–BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 102, Le Belvedere, 1002 Tunis, Tunisia [LIBYA]
BANQUE ARABE D'AFRIQUE DU NORD [BAAN] (a.k.a. BANQUE ARABE DU NORD–BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), Avenue Kheireddine Pacha 25, Tunis, Tunisia [LIBYA]
BANQUE ARABE DU NORD—BAAN (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 485, 1080 Tunis Cedex, Tunisia [LIBYA]
BANQUE ARABE DU NORD—BAAN (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), Avenue Kheireddine Pacha 25, Tunis, Tunisia [LIBYA]
BANQUE ARABE DU NORD—BAAN (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 102, Le Belvedere, 1002 Tunis, Tunisia [LIBYA]
BANQUE ARABE DU NORD—BAAN (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), 25 Avenue Khereddine Pacha, Tunis, Tunisia [LIBYA]
BANQUE ARABE LIBYENNE BURKINABE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT, 1336 Avenue Nelson Mandela, Ouagadougou, Burkina Faso [LIBYA]
BANQUE ARABE LIBYENNE MALIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT (a.k.a. BALIMA; a.k.a. BANQUE COMMERCIALE DU SAHEL; a.k.a. CHINGUETTY BANK), P.O. Box 2372, Bamako, Mali [LIBYA]
BANQUE ARABE LIBYENNE MAURITANIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT (a.k.a. BALM), Jamal Abdulnasser Street, P.O. Box 262, Nouakchott, Mauritania [LIBYA]
BANQUE ARABE LIBYENNE NIGERIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT (a.k.a. BALINEX; a.k.a. BANQUE COMMERCIALE DU NIGER; a.k.a. BCN), P.O. Box 11363, Niamey, Niger [LIBYA]
BANQUE ARABE LIBYENNE TOGOLAISE DU COMMERCE EXTERIEUR (a.k.a. BALTEX; a.k.a. SOCIETE INTERAFFRICAINE DU BANQUE), P.O. Box 4874, Lome, Togo [LIBYA]
BANQUE ARABE TUNISO–LIBYENNE DE DEVELOPPEMENT ET DE COMMERCE EXTERIEUR (a.k.a. B.T.L.), 25 Avenue Khereddine Pacha, P.O. Box 102, 1002 Le Belvedere, Tunis, Tunisia [LIBYA]
BANQUE COMMERCIALE DU NIGER (a.k.a. BALINEX; a.k.a. BANQUE ARABE LIBYENNE NIGERIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT; a.k.a. BCN), P.O. Box 11363, Niamey, Niger [LIBYA]
BANQUE COMMERCIALE DU SAHEL (a.k.a. BALIMA; a.k.a. BANQUE ARABE LIBYENNE MALIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT), P.O. Box 2372, Bamako, Mali [LIBYA]
BANQUE FRANCO YOUGOSLAVE, Paris, France [FRY S&M]
BANQUE INTERCONTINENTALE ARABE, 67, Avenue Franklin Roosevelt, 75008 Paris, France [LIBYA]
BANQUE NATIONALE DE YOUGOSLAVIE (a.k.a. NATIONAL BANK OF YUGOSLAVIA; a.k.a. NARODNA BANKA JUGOSLAVIJE), Belgrade, Serbia [FRY S&M]
BANQUE TCHADO ARABE LIBYENNE, P.O. Box 104, N'Djamena, Chad [LIBYA]
BAR (9HSU3) Bulk Carrier 17,460GT Malta flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
BAR OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Rigel Shipmanagement Ltd., Second Floor, Regency House, Republic Street, Valletta, Malta [FRY S&M]
BAROON, MV (a.k.a. ALBAHR ALARABI; f.k.a. BAHAR AL ARABI; f.k.a. SEABANK), a motor vessel registered under the Belizean flag [IRAQ]
BAROON SHIPPING COMPANY LIMITED, Haven Court, 5 Library Ramp, Gibraltar [IRAQ]
BASRA (YIAB) Service 2,906DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
BASRAH (HNBS) Cargo 13,656DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
BATISTA, Miguel, Panama (individual) [CUBA]
BAY INDUSTRIES, INC., 10100 Santa Monica Boulevard, Santa Monica, California, U.S.A. [IRAQ]
BAYAMO (f.k.a. NIKSIC) (9HTF3) Bulk Carrier 9,916GT Malta flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
BCN (a.k.a. BALINEX; a.k.a. BANQUE ARABE LIBYENNE NIGERIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT; a.k.a. BANQUE COMMERCIALE DU NIGER; a.k.a. BCN), P.O. Box 11363, Niamey, Niger [LIBYA]
BEGEJ SHIPYARD, Temisvarski drum bb, 23000 Zrenjanin, Serbia [FRY S&M]
BEKO, Bulevar Vojvode Bojovica 6–8, 11000 Belgrade, Serbia [FRY S&M]
BELGRADE—PREDUZECE ROBNIH KUCA, Belgrade, Serbia [FRY S&M]
BELGRADE RAILROAD TRANSPORTATION ORGANIZATION (a.k.a. ZELEZNICKO TRANSPORTNO PREDUZECE BEOGRAD), Belgrade, Serbia [FRY S&M]
BELMEX IMPORT EXPORT CO., LTD., 24 Corner Regent and Kings Streets, Belize City, Belize [CUBA]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), all offices worldwide [FRY S&M] including, but not limited to:
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 40 Rue de l'Ecuyer, BTE 8, 1000 Brussels, Belgium [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Przedstawicielstwo, Aleje Roz 5, Warsaw, Poland [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Karlstrasse 31, 4000 Dusseldorf 1, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Sokolovska 93/2p, Prague, 8 Karlin, Czech Republic [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Drokstre Str. 14–16, 3000 Hannover 1, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Sonnenstrasse 12/III, 8000 Munich 2, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA

BEOGRADSKA BANKA), 85–93/IV Zeil, 6000 Frankfurt am Main, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 108 Fenchurch Street, London LEC 3M 5 JJ, England [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Alt Moabit 74, 1000 Berlin 21, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Landestrasse–Hauptstrasse 1/III, 1030 Vienna, Austria [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), P.O. Box 2869, Tripoli, Libya [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Tuebingerstrasse 72, 7000 Stuttgart 1, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), P.O. Box 3502, Harrare, Zimbabwe [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Damrak 28–30/IV, Amsterdam, Netherlands [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 38 Rue Ali Azil, Algiers, Algeria [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 71 Avenue des Champs–Elysees, 75008 Paris, France [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Kleine Budergasse 13, 5000 Koln 1, Germany [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Piazza Velasca 5, Milan, Italy [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Uranis Strasse 14/III, 8001 Zurich, Switzerland [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Kungsgaten 32/VI, P.O. Box 7592, 10393 Stockholm, Sweden [FRY S&M]
BEOBANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOGRADSKA BANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Lange Reihe 66, 2000 Hamburg 1, Germany [FRY S&M]
BEOCINASKA FABRIKA CEMENTA, Trg. Ive Lole Ribara 1, 21300 Beocin, Serbia [FRY S&M]
BEOGRAD (n.k.a. MARIEL) (9HSV3) Bulk Carrier 15,396GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
BEOGRAD AGRICULTURAL COMPLEX, PKB, 11213 Padinska Skela, Belgrade, Serbia [FRY S&M]
BEOGRAD—PREDUZECE ZA UPRAVA ELEKTROENERGICNIK SISTEMA, Belgrade, Serbia [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA, d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), all offices worldwide [FRY S&M] including, but not limited to:
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Kungsgaten 32/VI, P.O. Box 7592, 10393 Stockholm, Sweden [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Alt Moabit 74, 1000 Berlin 21, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Sokolovska 93/2p, Prague, 8 Karlin, Czech Republic [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 40 Rue de l'Ecuyer, BTE 8, 1000 Brussels, Belgium [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Karlstrasse 31, 4000 Dusseldorf 1, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Przedstawicielstwo, Aleje Roz 5, Warsaw, Poland [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 108 Fenchurch Street, London LEC 3M 5 JJ, England [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Lange Reihe 66, 2000 Hamburg 1, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 85–93/IV Zeil, 6000 Frankfurt am Main, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Landestrasse–Hauptstrasse 1/III, 1030 Vienna, Austria [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Sonnenstrasse 12/III, 8000 Munich 2, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Drokstre Str. 14–16, 3000 Hannover 1, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), P.O. Box 3502, Harrare, Zimbabwe [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Damrak 28–30/IV, Amsterdam, Netherlands [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 38 Rue Ali Azil, Algiers, Algeria [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), P.O. Box 2869, Tripoli, Libya [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Tuebingerstrasse 72, 7000 Stuttgart 1, Germany [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Piazza Velasca 5, Milan, Italy [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), 71 Avenue des Champs–Elysees, 75008 Paris, France [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Uranis Strasse 14/III, 8001 Zurich, Switzerland [FRY S&M]
BEOGRADSKA BANKA d.d. (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. UDRUZENA BEOGRADSKA BANKA), Kleine Budergasse 13, 5000 Koln 1, Germany [FRY S&M]
BEOGRADSKA CYPRUS OFFSHORE BANKING UNIT (COBU), Nicosia, Cyprus [FRY S&M]
BEOGRADSKA PLOVIDBA (a.k.a. BEOPLOV), Lenjinov Bulevar 165A, 11070 Novi Beograd, Serbia [FRY S&M]
BEOMEDICINA, Belgrade, Serbia [FRY S&M]
BEOMEDICINA, Vojislava Ilica 145, 11000 Belgrade, Serbia [FRY S&M]
BEOPLOV (a.k.a. BEOGRADSKA PLOVIDBA), Lenjinov Bulevar 165A, 11070 Novi Beograd, Serbia [FRY S&M]
BERRUIEN, Dr. Nuri Abdalla, c/o ARABIAN GULF OIL COMPANY, P.O. Box 263,

Benghazi, Libya; DOB 16 March 1946 (individual) [LIBYA]
BETTINA SHIPPING CO., Ltd., Valletta, Malta [CUBA]
BEWELL CORPORATION, INC., Panama [CUBA]
BIJELO POLJE (n.k.a. C. BLANCO) (9HSW3) Bulk Carrier 17,460GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
BIMEL LIMITED, Cyprus [FRY S&M]
BINGO FRANCE (n.k.a. SIMPO FRANCE), 28 Rue du Puits Dixmes Sennia 606, 94320 Thiais—CEDEX, France [FRY S&M]
BIP, Bulevar Vojvode Putnika 5, 11000 Belgrade, Serbia [FRY S&M]
BJELASICA, Bijelo Polje, Serbia [FRY S&M]
BNC (a.k.a. BANCO NACIONAL DE CUBA; a.k.a. NATIONAL BANK OF CUBA) Ave. de Concha Espina 8, E–28036 Madrid, Spain [CUBA]
BNC (a.k.a. BANCO NACIONAL DE CUBA; a.k.a. NATIONAL BANK OF CUBA) Zweierstrasse 35, CH–8022 Zurich, Switzerland [CUBA]
BNC (a.k.a. BANCO NACIONAL DE CUBA; a.k.a. NATIONAL BANK OF CUBA) Federico Boyd Ave. & 51 St., Panama City, Panama [CUBA]
BNC (a.k.a. BANCO NACIONAL DE CUBA; a.k.a. NATIONAL BANK OF CUBA) Dai–Ichi Bldg. 6th Floor, 10–2 Nihombashi, 2–chome, Chuo–ku, Tokyo 103, Japan [Cuba]
BOILEAU, Pierre, 1078 Rue Champigny, Duvernay, Quebec, Canada (individual) [CUBA]
BOJANA, Cetinje, Montenegro [FRY S&M]
BOKA (n.k.a. HANUMAN) (9HUQ3) General Dry Cargo 13,688GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
BOKA, Herceg Novi, Montenegro [FRY S&M]
BOKA OCEAN SHIPPING CORPORATION, Monrovia, Liberia, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
BOR—TOPIONICA I RAFINERIJA BAKRA, Bor, Serbia [FRY S&M]
BORTOLOTTI (a.k.a. A. BORTOLOTTI & CO. S.P.A.), Via Predore, 59, 24067 Sarnico, Bergamo, Italy [LIBYA]
BORTOLOTTI (a.k.a. A. BORTOLOTTI & CO. S.P.A.), Cremona, Italy [LIBYA]
BOUTIQUE LA MAISON, 42 Via Brasil, Panama City, Panama [CUBA]
BRACE KARIC (a.k.a. KARIC BROTHERS), Belgrade, Serbia [FRY S&M]
BRADFIELD MARITIME CORP., Inc., Panama [CUBA]
BREGA INTERNATIONAL MARKETING COMPANY, Al Nassar Street, P.O. Box 4768, Tripoli, Libya [LIBYA]
BREGA PETROLEUM MARKETING COMPANY, Alnaser Street, P.O. Box 402, Tripoli, Libya [LIBYA]
BREGA PETROLEUM MARKETING COMPANY, Azzawiya Km. 50, P.O. Box 402, Tripoli, Libya [LIBYA]
BREGA PETROLEUM MARKETING COMPANY, P.O. Box 1278, Benghazi, Libya [LIBYA]
BREGA PETROLEUM MARKETING COMPANY, Sayedi Street, P.O. Box 402, Tripoli, Libya [LIBYA]
BRISA (f.k.a. IVANGRAD) (9HTB3) General Dry Cargo 13,651GT Malta Flag (Oktoih Overseas Shipping Ltd) (vessel) [FRY S&M]
BRODOGRADILISTE NOVI SAD, Kamenicka ada 1, 21000 Novi Sad, Serbia [FRY S&M]
BRODOIMPEX, Belgrade, Serbia [FRY S&M]
BUDVA (9HUH3) Bulk Carrier 17,397GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
BUDVANSKA RIVIJERA, Budva, Montenegro [FRY S&M]
BUHLER, Bruno, 57 Rue du Rhone, CH–1204 Geneva, Switzerland (individual) [IRAQ]
BULK STAR (f.k.a. JUGOMETAL) (J8FN6) Ore/Bulk/Oil Carrier 79,279GT Saint Vincent Flag (Litalia Shipping S.A.) (vessel) [FRY S&M]
BURGAN INTERNATIONAL, Kuwait [CUBA]
BUSENTI, Marcantonio (a.k.a. BUSENTI, Marcello), Via Alatri 14, Rome, Italy; DOB 30 May 1938 (individual) [LIBYA]
BUSENTI, Marcello (a.k.a. BUSENTI, Marcantonio), Via Alatri 14, Rome, Italy; DOB 30 May 1938 (individual) [LIBYA]
BUSHWESHA, Abdullah (individual) [LIBYA]
BUZURGAN (HNBR) Tanker 36,400DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
BYE LTD., Morley House, 314–322 Regent Street, London W1R 5AE, England [FRY S&M]
C. BLANCO (f.k.a. BIJELO POLJE) (9HSW3) Bulk Carrier 17,460GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
CABALLERO, Roger Montanes (a.k.a. Roger MONTANES; a.k.a. Roger Edward DOOLEY), Panama (individual) [CUBA]
CALTRAM (a.k.a. COMPAGNIE ALGERO–LIBYENNE DE TRANSPORT MARITIME), 21 Rue des Freres Bouadou, Birmandreis, Algiers, Algeria [LIBYA]
CANAPEL, S.A., Panama [CUBA]
CANNED FRUIT AND VEGETABLE PRODUCTION OF PROKUPLJE (a.k.a. HISAR—FABRIKA ZA PRERADU VOCA I POVRCA), Prokuplje, Serbia [FRY S&M]
CARBONICA, S.A., Panama [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Paris, France [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Downsview, Ontario, Canada [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Cologne, Germany [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Tokyo, Japan [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Madrid, Spain [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Moscow, Russia [CUBA]
CARIBBEAN EXPORT ENTERPRISE (a.k.a. CARIBEX; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Milan, Italy [CUBA]
CARIBBEAN HAPPY LINES (a.k.a. CARIBBEAN HAPPY LINES CO.), Panama [CUBA]
CARIBBEAN PRINCESS (Caribbean Princess Shipping, Cyprus) (vessel) [CUBA]
CARIBBEAN PRINCESS SHIPPING, LTD., Limassol, Cyprus [CUBA]
CARIBBEAN QUEEN (Caribbean Queen Shipping, Cyprus) (vessel) [CUBA]
CARIBBEAN QUEEN SHIPPING LTD., Limassol, Cyprus [CUBA]
CARIBBEAN SALVOR (Antillana Salvage Co. Ltd., Malta) (vessel) [CUBA]
CARIBERIA, S.A., Spain [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Milan, Italy [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Moscow, Russia [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Downsview, Ontario, Canada [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Cologne, Germany [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Tokyo, Japan [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Paris, France [CUBA]
CARIBEX (a.k.a. CARIBBEAN EXPORT ENTERPRISE; a.k.a. EMPRESA CUBANA DE PESCADOS Y MARISCOS) Madrid, Spain [CUBA]
CARIBSUGAR INTERNATIONAL TRADERS, S.A., 125–133 Camden High Street, London, NW1 7JR, England [CUBA]
CARIBSUGAR, S.A., Panama [CUBA]
CARISUB, S.A., Panama [CUBA]
CASA DE CUBA, Mexico; Spain [CUBA]
CASA DEL REPUESTO, Panama City, Panama [CUBA]
CASABLANCA (Epamac Shipping Co., Ltd., Malta) (vessel) [CUBA]
CASAS DE CAMBIO, Panama [CUBA]
CASTELL, Osvaldo Antonio (VALDEZ), Panama (individual) [CUBA]
CECOEX, S.A., Panama City, Panama [CUBA]
CENTRAL BANK OF LIBYA, Al–Fatah Street, P.O. Box 1103, Tripoli, Libya [LIBYA]
CENTRAL BANK OF LIBYA, Benghazi, Libya [LIBYA]
CENTRAL BANK OF LIBYA, Sebha, Libya [LIBYA]
CENTRAL COMMERZ CONSULTING ENGINEERING TRADING GMBH, Zeppelinallee 71, 6000 Frankfurt 90, Germany [FRY S&M]
CENTROCOOP (a.k.a. CENTROCOOP EXPORT–IMPORT ENTERPRISE), [FRY S&M]
CENTROCOOP—BELKAMEN, Kavadarci, Serbia [FRY S&M]
CENTROCOOP EXPORT–IMPORT ENTERPRISE (a.k.a. CENTROCOOP), [FRY S&M]

CENTROCOOP FRANCE EXPORT IMPORT, 31 Rue St Ferdinand, 75017 Paris, France [FRY S&M]
CENTROCOOP GMBH, Winkelsfelderstr. 21, 4000 Dusseldorf 30, Germany [FRY S&M]
CENTROCOOP—HLADNJACA BAR, Bar, Montenegro [FRY S&M]
CENTROCOOP—INVEST, Belgrade, Serbia [FRY S&M]
CENTROCOOP ITALIANA (branch office), c/o Intex Srl., Via Della Greppa 4, 34100 Trieste, Italy [FRY S&M]
CENTROCOOP ITALIANA, Via Vitruvio 43, 20124 Milan, Italy [FRY S&M]
CENTROCOOP LTD., 162–168 Regent Street, London W1 5TB, England [FRY S&M]
CENTROCOOP PRAGUE, Gorkeho N16, Prague, Czech Republic [FRY S&M]
CENTROCOOP—PROIZVODNJA, Belgrade, Serbia [FRY S&M]
CENTROCOOP WARSAW, Warsaw, Poland [FRY S&M]
CENTROEXPORT, Belgrade, Serbia [FRY S&M]
CENTROMARKET, Belgrade, Serbia [FRY S&M]
CENTROPRODUCT (a.k.a. YUGOTOURS), Eisenberg Business Center, House Asia, Tel Aviv, Israel [FRY S&M]
CENTROPRODUCT, BARI (a.k.a. YUGOTOURS), Via Principe Amedeo 25, 70121 Bari, Italy [FRY S&M]
CENTROPRODUCT HELLAS S.A.R.L., Xanthou 5, Kolonaki Square, Athens 10673, Greece [FRY S&M]
CENTROPRODUCT, ROME (a.k.a. YUGOTOURS), Via Bissolati 76, 00187, Rome, Italy [FRY S&M]
CENTROPRODUCT S.A., c/Orense 85, Esc. IV, 4A, Madrid, Spain 28020 [FRY S&M]
CENTROPRODUCT, S.A.R.L. (a.k.a. YUGOTOURS S.A.R.L.), 39, Avenue de Firdland, 75008 Paris, France [FRY S&M]
CENTROPRODUCT S.R.L. (a.k.a. YUGOTOURS), Via Agnello 2, 20121 Milan, Italy [FRY S&M]
CENTROPRODUCT, TRIESTE, Via Fabrio Filzi 10, Trieste, Italy [FRY S&M]
CENTROPROJEKT, Belgrade, Serbia [FRY S&M]
CENTROPROM, Knez Mihailova 20, 11000 Belgrade, Serbia [FRY S&M]
CENTROSLAVIJA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
CENTROTEKSTIL, Belgrade, Serbia [FRY S&M]
CENTROTEXTIL AUSSENHANDELS GMBH, Hochstr. 48, 6000 Frankfurt, Germany [FRY S&M]
CENTROTEXTIL AUSSENHANDELS GMBH, Karlstrasse 60, 8000 Munich, Germany [FRY S&M]
CENTROTEXTIL INC., New York, NY, U.S.A. [FRY S&M]
CESTAR (Unknown) RO/RO Cargo/Ferry 121GT Yugoslavia Flag (Mostogradnja–Gradjevno Preduzece) (vessel) [FRY S&M]
CETINJE (n.k.a. PLAYA) (9HSY3) Bulk Carrier 9,028GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
CHAMBER OF ECONOMY OF MONTENEGRO (a.k.a. PRIVREDNA KOMORA CRNE GORE), Podgorica, Montenegro [FRY S&M]
CHAMBER OF ECONOMY OF SERBIA (a.k.a. PRIVREDNA KOMORA SRBIJE), Belgrade, Serbia [FRY S&M]
CHAMBER OF ECONOMY OF YUGOSLAVIA (a.k.a. PRIVREDNA KOMORA JUGOSLAVIJE), Belgrade, Serbia [FRY S&M]
CHAMET IMPORT, S.A., Panama [CUBA]
CHAO, Lazaro R., Executive Director, Havana International Bank, 20 Ironmonger Lane, London EC2V 8EY, England (individual) [CUBA]
CHARALAMBIDES, Kypros, Cyprus (individual) [LIBYA]
CHEMPETROL (a.k.a. CHEMPETROL INTERNATIONAL), 145, Flat 9, Tower Road, Sliema, Malta [LIBYA]
CHEMPETROL INTERNATIONAL (a.k.a. CHEMPETROL), 145, Flat 9, Tower Road, Sliema, Malta [LIBYA]
CHEMPETROL INTERNATIONAL LTD., 28 Lincoln's Inn Fields, London WC2A 3HH, England [LIBYA]
CHEMPETROL INTERNATIONAL LTD., 5th Floor, Quality Court, Chancery Lane, London WC2A 1HP, England [LIBYA]
CHINGUETTY BANK (a.k.a. BALM; BANQUE ARABE LIBYENNE MAURITANIENNE POUR LE COMMERCE EXTERIEUR ET LE DEVELOPPEMENT), Jamal Abdulnasser Street, P.O. Box 262, Nouakchott, Mauritania [LIBYA]
CHOSUNBOHOM (a.k.a. KOREA FOREIGN INSURANCE COMPANY), 1080 Berlin Glinkastrasse 5, Germany [NKOREA]
CHOSUNBOHOM (a.k.a. KOREA FOREIGN INSURANCE COMPANY), 123, Rue des Tennerolles, 92210 Saint–Cloud, Paris, France [NKOREA]
CHOSUNBOHOM (a.k.a. KOREA FOREIGN INSURANCE COMPANY), Unt. Batterieweg 35, CH–4008 Basel, Switzerland [NKOREA]
CICLON (Senanque Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
CIDECO (a.k.a. CORPORACION IBEROAMERICANA DEL COMERCIO), Spain [CUBA]
CIMECO, SRL, Milan, Italy [CUBA]
CIMEX (a.k.a. COMPANIA DE IMPORTACION Y EXPORTACION IBERIA), Spain [CUBA]
CIMEX, Emerson No. 148 Piso 7, 11570 Mexico, D.F. [CUBA]
CIMEX IBERICA, Spain [CUBA]
CIMEX, S.A., Panama [CUBA]
CINEX, Singerstrasse 2/8, 1010 Vienna, Austria [FRY S&M]
CLUB VILLA FENIX, Panama [CUBA]
COIBA (a.k.a. COMERCIAL IBEROAMERICANA, S.A.), Spain [CUBA]
COLL, Gabriel (PRADO), Panama (individual) [CUBA]
COLLOMBEY REFINERY (a.k.a. RSO; a.k.a. RAFFINERIE DU SUD–OUEST), Collombey, Valais, Switzerland [LIBYA]
COLON, Eduardo (BETANCOURT), Panama (individual) [CUBA]
COLONY TRADING, S.A., Panama [CUBA]
COMBICK AUSSENHANDELS GMBH, Luisenstrasse 46, 1040 Berlin, Germany [FRY S&M]
COMBICK AUSSENHANDELS GMBH, Thalkirchener Street 2, 8000 Munich, Germany [FRY S&M]
COMBICK AUSSENHANDELS GMBH, Windmuehlstrasse 1, D–6000, Frankfurt, Germany [FRY S&M]
COMBICK GMBH, Neuer Markt 1, A–1010 Vienna, Austria [FRY S&M]
COMBICK GMBH, Post Office Box 322079, Militaer Street 90, CH–8004 Zurich, Switzerland [FRY S&M]
COMEI, SPA (a.k.a. COMPAGNIA MERCANTILE INTERNAZIONALE), Milan, Italy [CUBA]
COMERCIAL CIMEX, S.A., Panama [CUBA]
COMERCIAL DE RODAJES Y MAQUINARIA, S.A. (a.k.a. CRYMSA), Jose Lazaro Galdeano 6–6, 28016 Madrid, Spain [CUBA]
COMERCIAL IBEROAMERICANA, S.A. (COIBA), Spain [CUBA]
COMERCIAL MURALLA, S.A. (a.k.a. MURALLA, S.A.), Panama City, Panama [CUBA]
COMERCIALIZACION DE PRODUCTOS VARIOS (a.k.a. COPROVA; a.k.a. COPROVA SARL), Paris, France [CUBA]
COMPAGNIA MERCANTILE INTERNAZIONALE (a.k.a. COMEI SPA), Milan, Italy [CUBA]
COMPAGNIE ALGERO–LIBYENNE DE TRANSPORT MARITIME (a.k.a. CALTRAM), 21 Rue des Freres Bouadou, Birmandreis, Algiers, Algeria [LIBYA]
COMPANIA DE COALICION DEL COMERCIO DE COREA, S.A., Panama [NKOREA]
COMPANIA DE IMPORTACION Y EXPORTACION IBERIA (a.k.a. CIMEX), Spain [CUBA]
COMPANIA FENIX INTERNACIONAL, S.A., Caracas, Venezuela [CUBA]
COMPANIA ISTMENA DE AVIACION, Panama [CUBA]
COMPANIA PESQUERA INTERNACIONAL, S.A., Panama [CUBA]
CONTEX, S.A., Panama [CUBA]
CONTRERAS, Miria (a.k.a. Miria Contreras ROPERT), Paris, France (individual) [CUBA]
CONTROLBANK, all offices worldwide [FRY S&M]
COOBAR, Hadi N., Manama, Bahrain (individual) [LIBYA]
COOBAR, Hadi N., Tripoli, Libya (individual) [LIBYA]
COOPERATIVE PODGORICA, Podgorica, Montenegro [FRY S&M]
COOPEX, Vienna, Austria [FRY S&M]
COPIA, S.A. (a.k.a. CORPORACION ARGENTINA DE INGENIERIA Y ARQUITECTURA, S.A.), San Martin 323, 4th Floor, Buenos Aires, Argentina [CUBA]
COPROVA (a.k.a. COPROVA SARL; a.k.a. COMERCIALIZACION DE PRODUCTOS VARIOS), Paris, France [CUBA]
COPROVA SARL (a.k.a. COPROVA; a.k.a. COMERCIALIZACION DE PRODUCTOS VARIOS), Paris, France [CUBA]
CORINTHIA GROUP OF COMPANIES, Head Office, 22, Europa Centre, Floriana, Malta [LIBYA]
CORINTHIA PALACE HOTEL COMPANY LIMITED, De Paula Avenue, Attard, Malta [LIBYA]
CORPORACION ARGENTINA DE INGENIERIA Y ARQUITECTURA, S.A. (a.k.a. COPIA), San Martin 323, 4th Floor, Buenos Aires, Argentina [CUBA]

CORPORACION CIMEX, S.A., Panama [CUBA]
CORPORACION IBEROAMERICANA DEL COMERCIO (a.k.a. CIDECO), Spain [CUBA]
COTEI, Milan, Italy [CUBA]
COTRA BV, J Luykenstraat 12 3HG, 1071 CM Amsterdam, Netherlands [FRY S&M]
COTTY (Heywood Navigation Corp., Panama) (vessel) [CUBA]
CREDIBEL, all offices worldwide [FRY S&M]
CRIOLLO (Senanque Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
CRNA GORA (9HUL3) Bulk Carrier 36,223GT Malta Flag (Zeta Ocean Shipping Ltd.) (vessel) [FRY S&M]
CRNA GORA—NIKSIC, Niksic, Montenegro [FRY S&M]
CRNAGORACOOP, Danilovgrad, Montenegro [FRY S&M]
CRUZ, Antonio Pedro (REYES), Milan, Italy (individual) [CUBA]
CRUZ, Juan M. de la, Director, Banco Nacional de Cuba, Dai–Ichi Bldg. 6th Floor, 10–2 Nihombashi, 2–chome, Chuo–ku, Tokyo 103, Japan (individual) [CUBA]
CRYMSA (a.k.a. COMERCIAL DE RODAJES Y MAQUINARIA, S.A.), Jose Lazaro Galdeano 6–6, 28016 Madrid, Spain [CUBA]
CRYMSA—ARGENTINA, S.A., Buenos Aires, Argentina [CUBA]
CUBACANCUN CIGARS AND GIFT SHOPS, Cancun, Mexico [CUBA]
CUBAEXPORT, Spain [CUBA]
CUBAFRUTAS, Spain [CUBA]
CUBAN CIGARS TRADE, Italy [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Rostock, Germany [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Buenos Aires, Argentina [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Rotterdam, Netherlands [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Varna, Bulgaria [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Moscow, Russia [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Pyongyang, Korea (Peoples Democratic Republic) [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Mexico [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Syczecin, Poland [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Genoa, Italy [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Barcelona, Spain [CUBA]
CUBAN FREIGHT ENTERPRISE (a.k.a. CUFLET; a.k.a. LA EMPRESA CUBANA DE FLETES), Montreal, Canada [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Belas Airport, Luanda, Angola [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), 32 Main Street, Georgetown, Guyana [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), 24 Rue Du Quatre Septembre, Paris, France [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), c/o Anglo–Caribbean Shipping Co. Ltd., Ibex House, The Minories, London EC3N 1DY, England [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Frankfurter TOR 8–A, Berlin, Germany [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Corrientes 545 Primer Piso, Buenos Aires, Argentina [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Dobrininskaya No. 7, Sec 5, Moscow, Russia [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), 1 Place Ville Marie, Suite 3431, Montreal, Canada [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Parizska 17, Prague, Czechoslovakia [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Piarco Airport, Port au Prince, Haiti [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Calle 29 y Avda Justo Arosemena, Panama City, Panama [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Norman Manley International Airport, Kingston, Jamaica [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Paseo de la Republica 126, Lima, Peru [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Melchor Ocampo 469, 5DF Mexico City, Mexico [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Madrid, Spain [CUBA]
CUBANA AIRLINES (a.k.a. EMPRESA CUBANA DE AVIACION), Grantley Adams Airport, Christ Church, Barbados [CUBA]
CUBANATUR, Baja California 255, Edificio B. Oficina 103, Condesa 06500, Mexico, D.F. [CUBA]
CUBATABACO, Spain [CUBA]
CUBATUR (a.k.a. EMPRESA DE TURISMO NACIONAL Y INTERNACIONAL), Buenos Aires, Argentina [CUBA]
CUENCA, Ramon Cesar, Panama [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Genoa, Italy [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Pyongyang, Korea (Peoples Democratic Republic) [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Barcelona, Spain [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Syczecin, Poland [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Buenos Aires, Argentina [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Varna, Bulgaria [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Rostock, Germany [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Moscow, Russia [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Montreal, Canada [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Mexico [CUBA]
CUFLET (a.k.a. LA EMPRESA CUBANA DE FLETES; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Rotterdam, Netherlands [CUBA]
CUMEXINT, S.A., 1649 Adolfo Prieto, Colonia del Valle, Mexico City, Mexico [CUBA]
CUREF METAL PROCESSING BV, Boezembolcht 23, Rotterdam, Netherlands [CUBA]
DAFIMENT BANK, all offices worldwide [FRY S&M]
DAGHIR, Ali Ashour, 2 Western Road, Western Green, Thames Ditton, Surrey, England (individual) [IRAQ]
DAHAIM, Ayad S., Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey (individual) [LIBYA]
DAMASCUS (YIDS) Tug 149DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DAMEN GORINCHEM 5716 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DAMEN GORINCHEM 5717 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DAMEN GORINCHEM 5718 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DAN (f.k.a. GOLD STAR; f.k.a. AVALA) (J8FN7) Bulk Carrier 27,069GT Denmark (Saint Vincent) Flag (Leonela Shipping) ((Sunbow Maritime S.A.)) (vessel) [FRY S&M]
DANILOVGRAD (n.k.a. VEDADO) (9HSZ3) Ore Carrier 15,396GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
DANUBE (a.k.a. DUNAV), Smederevo, Serbia [FRY S&M]
DE BOCCARD, Phillipe, 44 Avenue Krieg, Geneva, Switzerland (individual) [IRAQ]
DE FRANCE, Naomi A., Cubanatur, Baja California 255, Edificio B., Oficina 103, Condesa 06500, Mexico, D.F. (individual) [CUBA]
DELGADO, Antonio (ARSENIO), Panama (individual) [CUBA]
DELVEST HOLDING, S.A. (a.k.a. DELVEST HOLDING COMPANY), Case Postale 236, 10 Bis Rue Du Vieux College 12–11, Geneva, Switzerland [CUBA]
DEPROSA, S.A. (a.k.a. DESARROLLO DE PROYECTOS, S.A.), Panama City, Panama [CUBA]
DES—SUBOTICA, Gavrila Principa 8, 24000 Subotica, Serbia [FRY S&M]
DESARROLLO DE PROYECTOS, S.A. (a.k.a. DEPROSA, S.A.), Panama City, Panama [CUBA]
DESARROLLO INDUSTRIAL CUBANO ESPANOL, S.A. (a.k.a. DICESA), Paseo De La Castellana 157, Madrid, Spain [CUBA]
DESARROLLO INDUSTRIAL CUBANO ESPANOL, S.A. (a.k.a. DICESA), Jose

Lazaro Caldeano, 6–6, 28016 Madrid, Spain [CUBA]
DEYALA (YIBJ) Tug 350DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DIAZ, Rolando (GONZALEZ), Frankfurt, Germany (individual) [CUBA]
DICESA (a.k.a. DESARROLLO INDUSTRIAL CUBANO ESPANOL, S.A.), Jose Lazaro Caldeano, 6–6, 28016, Madrid, Spain [CUBA]
DICESA (a.k.a. DESARROLLO INDUSTRIAL CUBANO ESPANOL, S.A.), Paseo De La Castellana 157, Madrid, Spain [CUBA]
DIJLAH (HNDJ) Tug 356DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DIKOMBAU GMBH (branch office), Flandricher Strasse 13–15, 5000 Koeln, Germany [FRY S&M]
DIKOMBAU GMBH, Lager Weg 16, 6000 Frankfurt, Germany [FRY S&M]
DIMONT GMBH (a.k.a. DIMONT MONTAGE UND BAU GMBH), Wilhelm–Leuschner–Strasse 68, 6000 Frankfurt, Germany [FRY S&M]
DIMONT MONTAGE UND BAU GMBH (a.k.a. DIMONT GMBH), Wilhelm–Leuschner–Strasse 68, 6000 Frankfurt, Germany [FRY S&M]
DINARA, Belgrade, Serbia [FRY S&M]
DIP (a.k.a. DRVNO INDUSTRIJSKO PREDUZECE), Belgrade, Serbia [FRY S&M]
DIVING LAUNCH 1 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DIWANIYA (YIBK) Tug 350DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DOCKAN (YIDN) Tanker 528DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
DOHAN, Anas Malik (a.k.a. AL–HASSAN, Anas; a.k.a. AL–HASSAN, Anas Malik Dohan; a.k.a. DOHAN, Anas; a.k.a. MALIK, Anas), Baghdad, Iraq (individual) [IRAQ]
DOHAN, Anas Malik (a.k.a. AL–HASSAN, Anas; a.k.a. AL–HASSAN, Anas Malik Dohan; a.k.a. DOHAN, Anas; a.k.a. MALIK, Anas), Jordan (individual) [IRAQ]
DOLPHINA BANK, all offices worldwide [FRY S&M]
DOMINGUEZ, Carlos, Vinales Tours, Oaxaca 80, Roma, Mexico, D.F. (individual) [CUBA]
DOMINION INTERNATIONAL, England [IRAQ]
DOOLEY, Michael P., Panama (individual) [CUBA]
DOOLEY, Roger Edward (a.k.a. Roger Montanes CABALLERO; a.k.a. Roger MONTANES), Panama (individual) [CUBA]
DRVNO INDUSTRIJSKO PREDUZECE (a.k.a. DIP), Belgrade, Serbia [FRY S&M]
DRVOIMPEX, Podgorica, Montenegro [FRY S&M]
DUMP BARGE I (J8IY) Service 1,330DWT Gibralter flag (Whale Shipping Ltd., c/o State Org. of Iraqi Ports) (vessel) [IRAQ]
DUMP BARGE II (J8IZ) Service 1,330DWT Gibralter flag (Whale Shipping Ltd., c/o State Org. of Iraqi Ports) (vessel) [IRAQ]
DUMP BARGE III (J8JA) Service 1,330DWT Gibralter flag (Whale Shipping Ltd., c/o State Org. of Iraqi Ports) (vessel) [IRAQ]
DUNAV (a.k.a. DANUBE), Smederevo, Serbia [FRY S&M]
DUNAV TISA DUNAV, Bulevar Marsala Tita 25, 21000 Novi Sad, Serbia [FRY S&M]
DUNAV–TISA–DUNAV, Novi Sad, Vojvodina (Serbia) [FRY S&M]
DUQUE, Carlos Jaen, Panama (individual) [CUBA]
DURAND PROPERTIES LIMITED, Haven Court, 5 Library Ramp, Gibraltar [IRAQ]
DURGACO, London, England [CUBA]
DURMITOR (9HUR3) General Dry Cargo 12,375GT Malta Flag (South Cross Shipping Ltd.) (vessel) [FRY S&M]
DUTY FREE SHOP, Balboa Pier, Panama [CUBA]
DUTY FREE SHOP, Cristobal Pier, Panama [CUBA]
DUTY FREE SHOP, Patilla Airport, Panama [CUBA]
DUTY FREE SHOP, Port of Vacamonte, Panama [CUBA]
DUTY FREE SHOP, Torrijos Airport, Panama [CUBA]
DUVANSKA INDUSTRIJA, Nis, Serbia [FRY S&M]
DUVANSKI KOMBINAT, Podgorica, Montenegro [FRY S&M]
EAST ISLAND SHIPPING CO., LTD., Limassol, Cyprus [CUBA]
EAST ISLANDS (East Island Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
EAST POINT HOLDINGS LIMITED, 8th Floor, Flat 803, 2 Arch Markarios Avenue, Capital Centre, Nicosia, Cyprus [FRY S&M]
ECHEVERRI, German, Panama (individual) [CUBA]
EDICIONES CUBANAS, Spain [CUBA]
EDYJU, S.A., Panama [CUBA]
EGGLETON, Wilfred, Director General, Cubanatur, Baja California 255, Edificio B., Oficina 103, Condesa 06500, Mexico, D.F. (individual) [CUBA]
EL AMIR, Bahjat Fadel, 5 Rowsham Dell, Gifford Park, Milton Keynes Bucks MK14 5JS, England; DOB 1 January 1942 (individual) [LIBYA]
EI BULL HN, Nis, Serbia [FRY S&M]
EI—FABRIKA RADIO CEVI, Nis, Serbia [FRY S&M]
EI—NIS, Nis, Serbia [FRY S&M]
EL–AGELI, Dr. Mukhtar Ali (a.k.a. AL–AGELI, Dr. Muktar Ali; a.k.a. EL–AGELI, Dr. Muktar Ali), Apartment 10, Maida Vale, Little Venice, London, England; 15/17 Lodge Road, St. Johns Wood, London NW8 7JA, England; DOB 23 July 1944 (individual) [LIBYA]
EL BADRI, Abdullah Salim, Tripoli, Libya (individual) [LIBYA]
EL DEPOSITO, Panama [CUBA]
EL FERJANI, Abdalla M., Libya; DOB 3 June 1952 (individual) [LIBYA]
EL–FIGHI, El Hadi M., P.O. Box 1114, Diplomatic Area, Manama, Bahrain (individual) [LIBYA]
EL–FIGHI, El Hadi M., Jamal Abdulnasser Street, P.O. Box 262, Nouakchott, Mauritania (individual) [LIBYA]
EL GHRABLI, Abdudayem, Libya (individual) [LIBYA]
EL HUWEI, Mohamed A., Tripoli, Libya (individual) [LIBYA]
EL KEBIR, Mahmoud I., Libya; DOB 24 December 1948 (individual) [LIBYA]
EL–KHALLAS, Kamel, Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey (individual) [LIBYA] EL–KHOJA, Mustapha Ali, Saied Ibnu Zeid, Tripoli, Libya (individual) [LIBYA]
EL–KIB, Abdullatif, Manama, Bahrain (individual) [LIBYA]
EL–KIB, Abdullatif, Tripoli, Libya (individual) [LIBYA]
EL MILION, Panama [CUBA]
EL NAILI, Smeida El–Hosh, 21 Redlands Drive, Loughton, Milton Keynes Bucks MK5 8EJ, England; DOB 19 February 1944 (individual) [LIBYA]
ELEKTRODISTRIBUCIJA, Belgrade, Serbia [FRY S&M]
ELEKTROMETAL, Belgrade, Serbia [FRY S&M]
ELEKTRONSKA INDUSTRIJA, Bulevar Velijka Vlahovica 80–82, 18000 Nis, Serbia [FRY S&M]
ELEKTROPRIVREDA—PREDUZECE ZA PROIZVODNJU EL. ENERGIJE UGLJA, Belgrade, Serbia [FRY S&M]
ELEKTROPRIVREDA CRNE GORE (a.k.a. MONTENEGRO ELECTRIC POWER COMPANY), Podgorica, Montenegro [FRY S&M]
ELEKTROPRIVREDA KOSOVA (a.k.a. KOSOVO ELECTRIC POWER COMPANY), Pristina, Kosovo (Serbia) [FRY S&M]
ELEKTROPRIVREDA SRBIJE (a.k.a. SERBIA ELECTRIC POWER INDUSTRY), Belgrade, Serbia [FRY S&M]
ELEKTROSRBIJA—DISTRIBUCIJA, Kraljevo, Serbia [FRY S&M]
ELEKTROTIMOK, Zajecar, Serbia [FRY S&M]
ELEKTROVOJVODINA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
ELIND, Valjevo, Serbia [FRY S&M]
EMERALD ISLANDS (Bettina Shipping Co., Ltd., Malta) (vessel) [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), 32 Main Street, Georgetown, Guyana [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), 24 Rue Du Quatre Septembre, Paris, France [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Belas Airport, Luanda, Angola [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Dobrininskaya No. 7, Sec 5, Moscow, Russia [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Corrientes 545 Primer Piso, Buenos Aires, Argentina [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Frankfurter TOR 8–A, Berlin, Germany [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), 1 Place Ville Marie, Suite 3431, Montreal, Canada [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Parizska 17, Prague, Czechoslovakia [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Paseo de la Republica 126, Lima, Peru [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Piarco Airport, Port au Prince, Haiti [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), c/o Anglo–Caribbean Shipping Co. Ltd., Ibex House, The Minories, London EC3N 1DY, England [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Norman Manley International Airport, Kingston, Jamaica [CUBA]

EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Melchor Ocampo 469, 5DF Mexico City, Mexico [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Calle 29 y Avda Justo Arosemena, Panama City, Panama [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Grantley Adams Airport, Christ Church, Barbados [CUBA]
EMPRESA CUBANA DE AVIACION (a.k.a. CUBANA AIRLINES), Madrid, Spain [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Paris, France [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Milan, Italy [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Moscow, Russia [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Madrid, Spain [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Cologne, Germany [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Downsview, Ontario, Canada [CUBA]
EMPRESA CUBANA DE PESCADOS Y MARISCOS (a.k.a. CARIBEX; a.k.a. CARIBBEAN EXPORT ENTERPRISE) Tokyo, Japan [CUBA]
EMPRESA DE TURISMO NACIONAL Y INTERNACIONAL (a.k.a. CUBATUR), Buenos Aires, Argentina [CUBA]
ENDSHIRE EXPORT MARKETING, England [IRAQ]
ENERGOGAS, Novi Beograd, Serbia [FRY S&M]
ENERGOPROJECT INZENJERING, Lenjinor Bulevar, 12 Belgrade, Serbia [FRY S&M]
ENERGOPROJEKT (BOTSWANA) (PTY) LTD., P.O. Box 445, Gabarone, Botswana [FRY S&M]
ENERGOPROJEKT, INC., New York, NY, U.S.A. [FRY S&M]
ENERGOPROJEKT PROMET, Belgrade, Serbia [FRY S&M]
ENTERPRISE FOR CONSTRUCTION MACHINERY—RADOJE DAKIC (a.k.a. RADOJE DAKIC), Podgorica, Montenegro [FRY S&M]
EPAMAC SHIPPING CO., LTD., 60 South St., Valletta, Malta [CUBA]
ETCO INTERNATIONAL COMMODITIES LTD., Devonshire House, 1 Devonshire St., London, England [CUBA]
ETCO INTERNATIONAL COMPANY, LIMITED, Kawabe Building, 1–5 Kanda Nishiki–Cho, Chiyoda–Ku, Tokyo, Japan [CUBA]
EUROMAC EUROPEAN MANUFACTURER CENTER SRL, Via Ampere 5, 20052 Monza, Italy [IRAQ]
EUROMAC, LTD., 4 Bishops Avenue, Northwood, Middlesex, England [IRAQ]
EUROMAC TRANSPORTI INTERNATIONAL SRL, Via Ampere 5, 20052 Monza, Italy [IRAQ]
EXIMKOS (a.k.a. KOSOVO EXPORT IMPORT GMBH; a.k.a. KOSOVO GMBH; a.k.a. OMEGA GMBH), Maillingerstr. 34, 8000 Munich 2, Germany [FRY S&M]
EXPORT IMPORT KOSOVO, Trg Republike 2, 38000 Pristina, Kosovo, Serbia [FRY S&M]
EXPORTADORA DEL CARIBE, Medira, Mexico [CUBA]
F.A. PETROLI S.P.A., Italy [LIBYA]
FABEG, Belgrade, Serbia [FRY S&M]
FABRIKA KABLOVA, Zajecar, Serbia [FRY S&M]
FABRIKA OPREME I DELOVA, Bor, Serbia [FRY S&M]
FABRIKA PUMPI JASTREBAC NIS, 12 Februara Bulevar 82, 18000 Nis, Serbia [FRY S&M]
FABRIKA STAKLA—ZAJECAR, Zajecar, Serbia [FRY S&M]
FABRIKA VENTILA ZA PNEUMATIKU, Bor, Serbia [FRY S&M]
FABRO INVESTMENT, INC., Panama [CUBA]
FACOBATA, Panama [CUBA]
FALCON SYSTEMS, England [IRAQ]
FAM, Krusevac, Serbia [FRY S&M]
FAMESA INTERNATIONAL, S.A., Panama [CUBA]
FAP–FAMOS, Belgrade, Serbia [FRY S&M]
FARTRADE HOLDINGS S.A., Switzerland [IRAQ]
FATTAH, Jum'a Abdul, P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
FC9063 LIMITED (n.k.a. TEKNICA (UK) LIMITED), 15/17 Lodge Road, St. Johns Wood, London NW8 7JA, England; Avon House, 360–366 Oxford Street, London W1N 9HA, England; Tripoli, Libya [LIBYA]
FEDERAL DIRECTORATE OF SUPPLY AND PROCUREMENT, Belgrade, Serbia [FRY S&M]
FERJANI, A.S.A., Tripoli, Libya (individual) [LIBYA]
FERONIKL—GLOGOVAC, Glogovac, Kosovo (Serbia) [FRY S&M]
FERROUS EAST CORPORATION, Elizabeth, NJ [FRY S&M]
FINCOMTRA ESTABLISHMENT, Post Office Box 185, Vaduz, Liechtenstein [FRY S&M]
FIRE BOAT No. 705 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
FIRE BOAT No. 706 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
FIRST CORPORATE BANK, all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
FLIGHT DRAGON SHIPPING, LTD., 171 Old Bakery St., Valletta, Malta [CUBA]
FLYING DRAGON (Flight Dragon Shipping Ltd., Malta) (vessel) [CUBA]
FOREIGN PETROLEUM INVESTMENT CORPORATION (a.k.a. OILINVEST; a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY; a.k.a. OIIC; a.k.a. OILINVEST INTERNATIONAL N.V.), Netherlands Antilles [LIBYA]
FOREIGN PETROLEUM INVESTMENT CORPORATION (a.k.a. OILINVEST; a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY; a.k.a. OIIC; a.k.a. OILINVEST INTERNATIONAL N.V.), Tripoli, Libya [LIBYA]
FOREIGN TRADE INSTITUTE (a.k.a. INSTITUT ZA SPOLJNU TRGOVINU), Belgrade, Serbia [FRY S&M]
FOREL (HNFL) Fish 1,163DWT Iraqi flag (Rafidain Fisheries Co. Ltd., Basrah, Iraq) (vessel) [IRAQ]
FRIGO HISPANIA (Ace Indic Navigation Co., Malta) (vessel) [CUBA]
FRUNI TRADING, S.A., Panama [CUBA]
FUENTES, Fernando (COBA), Cozumel, Mexico (individual) [CUBA]
FURAT (HNFT) Tug 350DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
FURNITURE AMERICANA, Hackensack, NJ [FRY S&M]
GAAC (a.k.a. GAAE; a.k.a. GENERAL ARAB AFRICAN COMPANY; a.k.a. GENERAL ARAB AFRICAN ENTERPRISE), P.O. Box 8059, 219 Mohammed El Megarief Street, Tripoli, Libya [LIBYA]
GAAC (a.k.a. GAAE; a.k.a. GENERAL ARAB AFRICAN COMPANY; a.k.a. GENERAL ARAB AFRICAN ENTERPRISE), Nasser Street, Benghazi, Libya [LIBYA]
GAAE (a.k.a. GAAC; a.k.a. GENERAL ARAB AFRICAN COMPANY; a.k.a. GENERAL ARAB AFRICAN ENTERPRISE), Nasser Street, Benghazi, Libya [LIBYA]
GAAE (a.k.a. GAAC; a.k.a. GENERAL ARAB AFRICAN COMPANY; a.k.a. GENERAL ARAB AFRICAN ENTERPRISE), P.O. Box 8059, 219 Mohammed El Megarief Street, Tripoli, Libya [LIBYA]
GALAX INC. (a.k.a. GALAX TRADING CO., LTD.), 5250 Ferrier St., Montreal, Quebec [CUBA]
GALAX TRADING CO., LTD. (a.k.a. GALAX INC.), 5250 Ferrier St., Montreal, Quebec [CUBA]
GALLO IMPORT, Panama [CUBA]
GARCIA, Daniel, Manager, Promociones Artisticas (PROARTE), Ave. Insurgentes Sur No. 421, Bloque B Despacho 404, C.P. 06100, Mexico, D.F. (individual) [CUBA]
GARCIA SANTAMARINA de la TORRE, Alfredo Rafael (a.k.a. SANTAMARINA DE LA TORRE, Rafael Garcia) Panama (individual) [CUBA]
GAS, Novi Sad, Vojvodina (Serbia) [FRY S&M]
GATOIL SUISSE S.A. (n.k.a. TAMOIL SUISSE S.A.; n.k.a. TAMOIL SWITZERLAND), see listings, Switzerland [LIBYA]
GAZA (YIGZ) Service 2,422DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
GEMEX AUSSENHANDELS GMBH, Hanauer Landstr. 126–128, D–6000, Frankfurt, Main 1, Germany [CUBA]
GENERAL ARAB AFRICAN COMPANY (a.k.a. GAAC; a.k.a. GAAE; a.k.a. GENERAL ARAB AFRICAN ENTERPRISE), P.O. Box 8059, 219 Mohammed El Megarief Street, Tripoli, Libya [LIBYA]
GENERAL ARAB AFRICAN COMPANY (a.k.a. GAAC; a.k.a. GAAE; a.k.a. GENERAL ARAB AFRICAN ENTERPRISE), Nasser Street, Benghazi, Libya [LIBYA]
GENERAL ARAB AFRICAN ENTERPRISE (a.k.a. GAAC; a.k.a. GAAE; a.k.a. GENERAL ARAB AFRICAN COMPANY), P.O. Box 8059, 219 Mohammed El Megarief Street, Tripoli, Libya [LIBYA]
GENERAL ARAB AFRICAN ENTERPRISE (a.k.a. GAAC; a.k.a. GAAE; a.k.a.

GENERAL ARAB AFRICAN COMPANY), Nasser Street, Benghazi, Libya [LIBYA]
GENERAL COMMERCE GMBH, Kaufinger Strasse 35, 8000 Munich 2, Germany [FRY S&M]
GENERAL EST. FOR PUBLICATION DISTRIBUTION & ADVERTISING, P.O. Box 113, Beirut, Lebanon [LIBYA]
GENERAL IKL CORPORATION, Blauvelt, NY, U.S.A. [FRY S&M]
GENERAL MOTORS YU, Belgrade, Serbia [FRY S&M]
GENERALEXPORT (a.k.a. GENEX), Belgrade, Serbia [FRY S&M]
GENERALEXPORT ALEXANDRIA, 43, Saphia Zaghloul Street, Alexandria, Egypt [FRY S&M]
GENERALEXPORT ALMA ATA, Alma Ata, Khazakstan [FRY S&M]
GENERALEXPORT BAGHDAD, P.O. Box 2324 Alwiyah, Sa'adoun Street, Shaheen Building, Dard Al-Pasha, Baghdad, Iraq [FRY S&M]
GENERALEXPORT BEIJING, Unit 08-06/07, Liang Ma Tower, 8 North Dong San Huan Rd., Chao Yang District, Beijing, China [FRY S&M]
GENERALEXPORT BRATISLAVA (a.k.a. YUGOTOURS), Palisady 31/II, 81106 Bratislava, Slovak Republic [FRY S&M]
GENERALEXPORT BUCHAREST, P.O. 22, Bd. N Balcescu Nr. 26, Sector 1, Bucharest, Romania [FRY S&M]
GENERALEXPORT BUDAPEST, Vaci Utca 19-21 (5th Floor), 1052 Budapest V, Hungary [FRY S&M]
GENERALEXPORT CAIRO, 21, Ahmed Heshmet Str. Zamalek, 1st Floor, Suite 4, Cairo, Egypt [FRY S&M]
GENERALEXPORT DAMASCUS, P.O. Box 2883, Tajhiz Street, Kardous Building, Damascus, Syria [FRY S&M]
GENERALEXPORT ISTANBUL (a.k.a. GENERALEXPORT LIASON OFFICE), Dag. Apt. Daire No. 10, Cumhuriyet Cad. No. 10, Elmadag, Istanbul, Turkey [FRY S&M]
GENERALEXPORT KHARTOUM (a.k.a. GENEX LTD. SUDAN; a.k.a. GENERALEXPORT REPRESENTATIVE OFFICE), P.O. Box 6013, El Nugumi Str. 10 Khartoum, Sudan [FRY S&M]
GENERALEXPORT KIEV, Kiev, Ukraine [FRY S&M]
GENERALEXPORT KUWAIT, P.O. Box 1661 Safat, 13017, Safat Al Kuwait [FRY S&M]
GENERALEXPORT LIASON OFFICE (a.k.a. GENERALEXPORT ISTANBUL), Dag. Apt. Daire No. 10, Cumhuriyet Cad. No. 10, Elmadag, Istanbul, Turkey [FRY S&M]
GENERALEXPORT LOME, (a.k.a. GENEX LOME—TOGO), P.O. Box 4410, Lome, Togo [FRY S&M]
GENERALEXPORT MOSCOW, Ul. Raevskogo 4, 121248 Moscow, Russia [FRY S&M]
GENERALEXPORT NORILSK, Norilsk, Russia [FRY S&M]
GENERALEXPORT PRAGUE (a.k.a. YUGOTOURS), Stepanska 57/II, 11000 Prague, Czech Republic [FRY S&M]
GENERALEXPORT REPRESENTATIVE OFFICE (a.k.a. GENERALEXPORT KHARTOUM; a.k.a. GENEX LTD. SUDAN), P.O. Box 6013, El Nugumi Str. 10 Khartoum, Sudan [FRY S&M]
GENERALEXPORT RIGA, Kirowa 21, 2 floor, kv. 4, Riga, Latvia [FRY S&M]
GENERALEXPORT SAINT PETERSBURG, Kirowski Prospekt 26/28 kv 101, St. Petersburg, Russia [FRY S&M]
GENERALEXPORT SOCHI, Pirogowa 30 a, Sochi, Russia [FRY S&M]
GENERALEXPORT SOFIA, Aleksandar Stambolijski 49/III, 1000 Sofia, Bulgaria [FRY S&M]
GENERALEXPORT TASHKENT, Tashkent, Uzbekistan [FRY S&M]
GENERALEXPORT TEHRAN, P.O. Box 11365-7633, Str. Kharim Khane zand No. 1/53, Tehran, Iran [FRY S&M]
GENERALEXPORT ULAN BATOR, 6 Mikrorajon, Dom 41, Kvartira 9/4, Ulan Bator, Mongolia [FRY S&M]
GENERALEXPORT VOLGOGRAD, Chuikowa 37, 4 floor, kv. 4, Volgograd, Russia [FRY S&M]
GENERALEXPORT WARSAW, Ul. Wspolna 35 m. 8, 00-519 Warszawa, Poland [FRY S&M]
GENERALEXPORT YEREVAN, Yerevan, Armenia [FRY S&M]
GENEX (a.k.a. GENERALEXPORT), Belgrade, Serbia [FRY S&M]
GENEX—AGRAR, Post Office Box 636, Vladimira Popovica 8, 11070 Belgrade, Serbia [FRY S&M]
GENEX—ENGINEERING, Post Office Box 636, Vladimira Popovica 8, 11070 Belgrade, Serbia [FRY S&M]
GENEX—INVEST, Post Office Box 636, Vladimira Popovica 8, 11070 Belgrade, Serbia [FRY S&M]
GENEX KRISTAL, Belgrade, Serbia [FRY S&M]
GENEX LTD. SUDAN (a.k.a. GENERALEXPORT KHARTOUM; a.k.a. GENERALEXPORT REPRESENTATIVE OFFICE), P.O. Box 6013, El Nugumi Str. 10 Khartoum, Sudan [FRY S&M]
GENEX MAGREB, Tunisia [FRY S&M]
GENEX—METALS, Post Office Box 636, Narodnih Heroja 43, 11070 Belgrade, Serbia [FRY S&M]
GENEX—PHARM, CHEMICALS AND CRUDE OIL, Post Office Box 636, Vladimira Popovica 8, 11070 Belgrade, Serbia [FRY S&M]
GENEX—REPRESENTATION, Post Office Box 636, Dure Dakovica 31, 11000 Belgrade, Serbia [FRY S&M]
GENEX—TEXTILES, LEATHER AND FOOTWEAR, Post Office Box 636, Vladimira Popovica 8, 11070 Belgrade, Serbia [FRY S&M]
GENEX—TIMBER, PAPER AND PRINTING, Post Office Box 636, Narodnih Heroja 43, 11070 Belgrade, Serbia [FRY S&M]
GEOINSTITUT, Rovinjska 12, 11000 Belgrade, Serbia [FRY S&M]
GHADAMSI, Bashir, Italy (individual) [LIBYA]
GHADBAN, Mohammed Mustafa, P.O. Box 4647, Shuhada Square, Tripoli, Libya (individual) [LIBYA]
GHADBAN, Mohammed Mustafa, P.O. Box 452, Fadiel Abu Omar Square, El-Berkha, Benghazi, Libya (individual) [LIBYA]
GHADBAN, Mohammed Mustafa, Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey (individual) [LIBYA]
GIBRIL, Mustafa Saleh, P.O. Box 3224, Martyr Street, Megrief, Tripoli, Libya (individual) [LIBYA]
GIK KOMGRAP, Podgorica, Montenegro [FRY S&M]
GLIMMER MARITIME S.A., Panama City, Panama, c/o Beogradska Plovidba, Lenjinov Bulevar 165A, Novi Beograd, 11070 Belgrade, Serbia [FRY S&M]
GLOBAL MARINE OVERSEAS, INC., Panama [CUBA]
GLOBAL, Novi Sad, Vojvodina (Serbia) [FRY S&M]
GOLD STAR (n.k.a. DAN; f.k.a. AVALA) (J8FN7) Bulk Carrier 27,069GT Denmark (Saint Vincent) Flag (Leonela Shipping) ((Sunbow Maritime S.A.)) (vessel) [FRY S&M]
GOLDEN COMET NAVIGATION CO., LTD., Panama [CUBA]
GONZALEZ, Carlos Alfonso (a.k.a. Carlos ALFONSO), Panama (individual) [CUBA]
GORNJI IBAR, Rozaje, Montenegro [FRY S&M]
GOSA, 11420 Smederevska Palanka, Industrijska 70, Serbia [FRY S&M]
GOSA, Smederevo, Serbia [FRY S&M]
GRETE (Grete Shipping Co., S.A., Panama) (vessel) [CUBA]
GRETE SHIPPING COMPANY, S.A., Panama [CUBA]
GRUPO ICD-PAMS-SG, Belgrade, Serbia [FRY S&M]
GUACA EXPORT, Panama [CUBA]
GUAMA TOUR (a.k.a. AGENCIA DE VIAJES GUAMA; a.k.a. VIAJES GUAMA TOURS; a.k.a. GUAMATUR, S.A.), Bal Harbour Shopping Center, Via Italia, Panama City, Panama [CUBA]
GUAMAR SHIPPING CO., S.A., Panama [CUBA]
GUAMATUR, Buenos Aires, Argentina [CUBA]
GUAMATUR, S.A. (a.k.a. AGENCIA DE VIAJES GUAMA; a.k.a. VIAJES GUAMA TOURS; a.k.a. GUAMA TOUR), Bal Harbour Shopping Center, Via Italia, Panama City, Panama [CUBA]
GUANA (f.k.a. KOLASIN) (Unknown) Bulk Carrier 9,916GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
GUMAPLAST, Indija, Vojvodina (Serbia) [FRY S&M]
GUTIERREZ REYES, Jose, Vinales Tours, Oaxaca 80, Roma, Mexico, D.F. (individual) [CUBA]
H & H METALFORM GMBH, Postfach 1160, Strontianitstrasse 5, 4406 Drensteinfurt, Germany [IRAQ]
HABANOS TRADING, Geneva, Switzerland [CUBA]
HABIB, Mohammed Turki, Baghdad, Iraq (individual) [IRAQ]
HAMDAN (YIHM) Tug 387DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
HAND, Michael Brian, England [IRAQ]
HANUMAN (f.k.a. BOKA) (9HUQ3) General Dry Cargo 13,688GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
HAVANA INTERNATIONAL BANK, LTD., 20 Ironmonger Lane, London EC2V 8EY, England [CUBA]
HAVANATUR, 54 Rue Richelieu, Paris, France [CUBA]
HAVANATUR, S.A., Hialeah, Florida, U.S.A. [CUBA]
HAVANATUR, S.A., Panama City, Panama [CUBA]

HAVINPEX, S.A. (a.k.a. TRANSOVER, S.Á.) Panama City, Panama [CUBA]
HAYA, Francisco, Panama (individual) [CUBA]
HEET (N/A) Tug-89DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
HELFORD DIRECTORS LIMITED, Haven Court, 5 Library Ramp, Gibraltar [IRAQ]
HELINCO LTD., Amerikis 10, Athens 134, Greece [FRY S&M]
HEMCL (a.k.a. HOLBORN EUROPEAN MARKETING COMPANY LIMITED), Miranda Court No. 1, Ipirou Street, P.O. Box 897, Larnaca, Cyprus [LIBYA]
HEMCL (a.k.a. HOLBORN EUROPEAN MARKETING COMPANY LIMITED), Hofplein 33, 3011 AJ Rotterdam, Netherlands [LIBYA]
HEMOFARM, Vrsac, Vojvodina (Serbia) [FRY S&M]
HEMPRO, Belgrade, Serbia [FRY S&M]
HEMPRO BELGRADE, Mala Stepanska 15, Prague, Czech Republic [FRY S&M]
HEMPRO—BELGRADE REPRESENTATION, Str. Uiliam Gladston 38 fl 1, 1000 Sofia, Bulgaria [FRY S&M]
HEMPRO—EXPORT UND IMPORT GMBH, Luisenstrasse 46 IV, 1040 Berlin, Germany [FRY S&M]
HEMPRO EXPORT UND IMPORT GMBH, Luisenstrasse 46 IV, 1040 Berlin, Germany [FRY S&M]
HEMPRO—JUGOSLAWISCH DEUTSCHE, Eschersheimer Landstrassse 61, 6000 Frankfurt, Germany [FRY S&M]
HEMPRO—JUGOSLAWISCH–DEUTSCHE GMBH, Eschersheimer Landstr. 61, 6000 Frankfurt, Germany [FRY S&M]
HEMPRO, Kutuzovskii Prospekt d 13 kv 2, Moscow, Russia [FRY S&M]
HENDERSON, Paul, 4 Copt Oak Close, Tile Mill, Coventry, Warwickshire, England (individual) [IRAQ]
HER (a.k.a. HOLBORN EUROPA RAFFINERIE GmbH), Moorburger Strasse 16, D–2100 Hamburg 90, Germany [LIBYA]
HER (a.k.a. HOLBORN EUROPA RAFFINERIE GmbH), Rothenbaumchaussee 5, 4th Floor, D–2000 Hamburg 13, Germany [LIBYA]
HERCEG NOVI (9HUN3) General Dry Cargo 9,698GT Malta Flag (South Cross Shipping Ltd.) (vessel) [FRY S&M]
HERMANN (Guamar Shipping Co., S.A., Panama; formerly owned by Hermann Shipping Corp., Inc., Panama) (vessel) [CUBA]
HERMANN SHIPPING CORP., INC., Panama [CUBA]
HERNANDEZ, Alexis Eneilo (CARBALLOSA), Milan, Italy (individual) [CUBA]
HEYWOOD NAVIGATION CORP., Panama [CUBA]
HIBOOB (n.k.a. AL–BAYAA) (HNHB) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
HICL (a.k.a. HOLBORN INVESTMENT COMPANY LIMITED), Miranda Court No. 1, Ipirou Street, P.O. Box 897, Larnaca, Cyprus [LIBYA]
HILLAH (YIAR) Service 6,709DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
HIMREEN (YIHN) Service 508DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
HIP—PETROHEMIJA, Pancevo, Vojvodina (Serbia) [FRY S&M]
HIPOZAL BANKA, all offices worldwide [FRY S&M]
HISAR—FABRIKA ZA PRERADU VOCA I POVRCA (a.k.a. CANNED FRUIT AND VEGETABLE PRODUCTION OF PROKUPLJE), Prokuplje, Serbia [FRY S&M]
HITTIN (HNHT) Tanker 155,210DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
HOLBORN EUROPA RAFFINERIE GmbH (a.k.a. HER), Moorburger Strasse 16, D–2100 Hamburg 90, Germany [LIBYA]
HOLBORN EUROPA RAFFINERIE GmbH (a.k.a. HER), Rothenbaumchaussee 5, 4th Floor, D–2000 Hamburg 13, Germany [LIBYA]
HOLBORN EUROPEAN MARKETING COMPANY LIMITED (a.k.a. HEMCL), Miranda Court No. 1, Ipirou Street, P.O. Box 897, Larnaca, Cyprus [LIBYA]
HOLBORN EUROPEAN MARKETING COMPANY LIMITED (a.k.a. HEMCL), Hofplein 33, 3011 AJ Rotterdam, Netherlands [LIBYA]
HOLBORN INVESTMENT COMPANY LIMITED (a.k.a. HICL), Miranda Court No. 1, Ipirou Street, P.O. Box 897, Larnaca, Cyprus [LIBYA]
HOTEL NACIONAL, Panama [CUBA]
HUNTSLAND (Huntsland Navigation Co., Ltd., Malta) (vessel) [CUBA]
HUNTSLAND NAVIGATION CO., LTD., Valletta, Malta [CUBA]
HUNTSVILLE (Huntsville Navigation Co., Ltd., Malta) (vessel) [CUBA]
HUNTSVILLE NAVIGATION CO., LTD., Valletta, Malta [CUBA]
HURACAN (Senanque Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
HUSSEIN, Udai Saddam, Baghdad, Iraq (individual) [IRAQ]
HYALITE (Whiteswan Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
I.G.C. LTD., 57 Ledra Street No. 7, Nicosia, Cyprus [FRY S&M]
I.P.C. INTERNATIONAL LIMITED, England [IRAQ]
I.P.C. MARKETING LIMITED, England [IRAQ]
I.P.T. COMPANY, INC., Warmister, PA, U.S.A. [FRY S&M]
IBN KHALDOON (HNIN) Service 12,670DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
IBN MAJID 6 (N/A) Service DWT N/A Saudi Arabian Flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
ICN–GALENIKA, Belgrade, Serbia [FRY S&M]
IGALO (YUFC) Ferry 299GT Yugoslavia Flag (Komunalno Poduzece) (vessel) [FRY S&M]
IJLTC (a.k.a. IRAQI–JORDANIAN LAND TRANSPORT COMPANY; a.k.a. IRAQI–JORDANIAN OVERLAND TRANSPORT COMPANY; a.k.a. IRAQ–JORDAN LAND TRANSPORT COMPANY), P.O. Box 5134, 4th Circle, Jabal, Amman, Jordan [IRAQ]
IKARUS, Belgrade, Serbia [FRY S&M]
IKL (a.k.a. INDUSTRIJA KOTRLJAJUCIH LEZAJA), Kneza Danila 23–25, 11000 Belgrade Serbia [FRY S&M]
IMHEJRAN (YIMH) Tug 386DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
IMK 14 OKTOBAR (a.k.a. METALWORKING MACHINES AND COMPONENTS INDUSTRY 14 OCTOBER), Krusevac, Serbia [FRY S&M]
IMLEK, Zajecar, Serbia [FRY S&M]
IMPERATORI, Julio A., Managing Director, Havana International Bank, 20 Ironmonger Lane, London EC2V 8EY, England (individual) [CUBA]
IMPEX OVERSEAS CORPORATION, New York, NY, U.S.A. [FRY S&M]
IMPEXPRODUKT, Wipplingerstr. 36, 1010 Vienna, Austria [FRY S&M]
IMPREGNACIJA DRVETA, Kolasin, Montenegro [FRY S&M]
IMPRISA, S.A., Panama [CUBA]
IMPRISA, Spain [CUBA]
IMR—INDUSTRIJA MOTORA RAKOVICA (a.k.a. MOTOR INDUSTRY OF RAKOVICA), Belgrade, Serbia [FRY S&M]
IMT—INDUSTRIJA MOTORA I TRAKTORA (a.k.a. MACHINES AND TRACTORS INDUSTRY), Belgrade, Serbia [FRY S&M]
INCETRA ETABLISSEMENT S.A., Corso Elvezia 10/II, Lugano, Switzerland [FRY S&M]
INCETRA ETABLISSEMENT S.A., Vaduz, Liechtenstein [FRY S&M]
INDUSTRIAIMPEX, Marka Miljanova 17, 81000 Podgorica, Montenegro [FRY S&M]
INDUSTRIAIMPORT, Vuka Karadzica 41, 81000 Podgorica, Montenegro [FRY S&M]
INDUSTRIJA ALATA, Trebinje, Bosnia–Herzegovina [FRY S&M]
INDUSTRIJA KABLOVA, Svetozarevo, Serbia [FRY S&M]
INDUSTRIJA KOTRLJAJUCIH LEZAJA (a.k.a. IKL), Kneza Danila 23–25, 11000 Belgrade, Serbia [FRY S&M]
INDUSTRIJAIMPORT, Podgorica, Montenegro [FRY S&M]
INEC ENGINEERING CO. LTD., 175 Regent Street, London W1, England [FRY S&M]
INEC UK LTD., R/O Albion Street, London, W2 2AS England [FRY S&M]
INEX (a.k.a INEX–INTEREXPORT LTD.; a.k.a. INTEREXPORT LTD. CO.), 27 Marta 69, Belgrade, Serbia [FRY S&M]
INEX AG Bahnhofquai 15, 8001 Zurich, Switzerland [FRY S&M]
INEX AG Branch office, Istanbul, Turkey [FRY S&M]
INEX BANKA d.d., all offices worldwide [FRY S&M]
INEX FRANCE SARL 40 Rue des Mathurins, 75008 Paris, France [FRY S&M]
INEX GMBH (a.k.a. INEX IMPORT EXPORT GMBH), Filialgeschaefte 1, 4330 Muelheim, Germany [FRY S&M]
INEX GMBH (a.k.a. INEX IMPORT EXPORT GMBH), Niederlassung, Luisenstr. 46, 1040 Berlin, Germany [FRY S&M]
INEX GMBH (a.k.a. INEX IMPORT EXPORT GMBH), Stiftstrasse 30/121, Frankfurt, Germany [FRY S&M]
INEX GMBH (a.k.a. INEX IMPORT EXPORT GMBH), Schwanthaler Street 3W, 8 Munich, Germany [FRY S&M]
INEX IMPORT EXPORT GMBH (a.k.a. INEX GMBH), Stiftstrasse 30/121, Frankfurt, Germany [FRY S&M]
INEX IMPORT EXPORT GMBH (a.k.a. INEX GMBH), Schwanthaler Street 3W, 8 Munich, Germany [FRY S&M]
INEX IMPORT EXPORT GMBH (a.k.a. INEX GMBH), Filialgeschaefte 1, 4330 Muelheim, Germany [FRY S&M]
INEX IMPORT EXPORT GMBH (a.k.a. INEX GMBH), Niederlassung, Luisenstr. 46, 1040 Berlin, Germany [FRY S&M]

INEX–INTEREXPORT 13 MADRID, Palacio de la Prenso, Plaza Callao 4–70 B, Madrid, Spain [FRY S&M]
INEX–INTEREXPORT 81646 BRATISLAVA, Culenova 5/1, Bratislava, Slovak Republic [FRY S&M]
INEX–INTEREXPORT ALEXANDRIA, 12, Mohamed Talaat Nooman Str., Alexandria, Egypt [FRY S&M]
INEX–INTEREXPORT ALGER, 24, Boulevard Youcef Zirout, Alger, Algeria [FRY S&M]
INEX–INTEREXPORT BANANI/DHAKA, Road 7, House 42/F, Banani/Dhaka–13, Bangladesh [FRY S&M]
INEX–INTEREXPORT BEIJING, 4–2–81 Jianguomenwai, Beijing, PR of China [FRY S&M]
INEX–INTEREXPORT BUCUREST, Dumitru Lemnea Nr. 3/3 ap. 7, Bucharest, Romania [FRY S&M]
INEX–INTEREXPORT BUDAPEST VI, Dozsa Gyorgy ut 92/b, Budapest, Hungary [FRY S&M]
INEX–INTEREXPORT CAIRO, 16, Cherif Street app. 21–22, Cairo, Egypt [FRY S&M]
INEX–INTEREXPORT ENGINEERING CAIRO, 4, Shawarbi Str., Apt. 15, Cairo, Egypt [FRY S&M]
INEX–INTEREXPORT HABANA, Linea No. 5e/NyO Vedado, Havana, Cuba [FRY S&M]
INEX–INTEREXPORT HIP DEVELOPMENT AND ENGINEERING CONSORTIUM TRIPOLI, That Al Emad Complex, Tripoli, Libya [FRY S&M]
INEX–INTEREXPORT KARACHI, 6 B (Duplex Annex) Saeet Hail Road, MAC HS, Karachi, Pakistan [FRY S&M]
INEX–INTEREXPORT LTD (a.k.a INTEREXPORT LTD. CO.; a.k.a. INEX), 27 Marta 69, Belgrade, Serbia [FRY S&M]
INEX–INTEREXPORT MOSKVA, Krasnogvardejski Projezd 25, Gostilnica Sojuz II, Moscow, Russia [FRY S&M]
INEX–INTEREXPORT MOSKVA, Kutuzovski Prospekt 7/4, Korpus No. 6 Biro 38, Moscow, Russia [FRY S&M]
INEX–INTEREXPORT PRAHA 3 – KARLIN, Sokolovska 93/III, Prague, Czech Republic [FRY S&M]
INEX–INTEREXPORT SOFIA, U1 Oboriste 9, Sofia, Bulgaria [FRY S&M]
INEX–INTEREXPORT TEHERAN, No. 149, Ave Iranshahr, Shomali Bld. 555, 5th Floor, Tehran, Iran [FRY S&M]
INEX–INTEREXPORT THESSALONIKI, Joanu Igrigoriadou 6 str. 55236, Thessaloniki, Greece [FRY S&M]
INEX–INTEREXPORT TIRANA, Pruga e kongresit e permetit 192–196, Tirana, Albania [FRY S&M]
INEX–INTEREXPORT TIUMEN, Lenjina 2, Tiumen, Russia [FRY S&M]
INEX–INTEREXPORT, Vienna, Austria [FRY S&M]
INEX–INTEREXPORT WARSZAWA, Szpitalna 6, Warsaw, Poland [FRY S&M]
INEX ITALIANA SRL, branch XX Settembre 3/2, 34121 Trieste, Italy [FRY S&M]
INEX ITALIANA SRL, Via Antonio de Recante 4y, 20124 Milan, Italy [FRY S&M]
INEX PETROL AG, Bahnhofquai 15, 8001 Zurich, Switzerland [FRY S&M]
INEX PETROL AG, Karntner Ring 17/15, A–1010 Vienna, Austria [FRY S&M]
INEX TOURS INTERNATIONAL SRL, Via Vittor Pisani, 20124 Milan, Italy [FRY S&M]
INEX TURIST, Belgrade, Serbia [FRY S&M]
INEXAMER COMMERCIAL CORPORATION, New York, NY, U.S.A. [FRY S&M]
INEXPRODUCT LTD., 40–43, Chancery Lane, London W.C. 2, England [FRY S&M]
INFORMATIKA, Belgrade, Serbia [FRY S&M]
INKOTEHNA, Belgrade, Serbia [FRY S&M]
INLIT SRL, V. le Vittorio Veneto 24, 20124 Milan, Italy [FRY S&M]
INOS, Belgrade, Serbia [FRY S&M]
INPEA (OVERSEAS) LTD, 284 Arch. Makarios III Avenue, Fortuna Bld. Block B, 2nd Floor, Limassol, Cyprus [FRY S&M]
INPROM, Podgorica, Montenegro [FRY S&M]
INSTALACIONES INDUSTRIALES PENINSULARES, Calle 35 No. 498–A, ZP 97, Merida, Mexico [CUBA]
INSTITUT MIHAJLO PUPIN, Belgrade, Serbia [FRY S&M]
INSTITUT ZA SISTEME, Belgrade, Serbia [FRY S&M]
INSTITUT ZA SPOLJNU TRGOVINU (a.k.a. FOREIGN TRADE INSTITUTE), Belgrade, Serbia [FRY S&M]
INSTITUTO NACIONAL DE TURISMO DE CUBA, Spain [CUBA]
INTERCONSULT, Panama [CUBA]
INTEREXPORT 1000 BRUXELLES, Bld. E Jacqmain 162, WTC–V19e etage, Brussels, Belgium [FRY S&M]
INTEREXPORT, Belgrade, Serbia [FRY S&M]
INTEREXPORT COMPANY LTD., Mutende Road, Woodlands Residential Area, Lusaka, Zambia [FRY S&M]
INTEREXPORT LTD. CO. (a.k.a. INEX; a.k.a. INEX–INTEREXPORT LTD), 27 Marta 69, Belgrade, Serbia [FRY S&M]
INTERKOMERC, Belgrade, Serbia [FRY S&M]
INTERNATIONAL GENEX BANK, all offices worldwide [FRY S&M]
INTERNATIONAL HOLDING COMPANY, Luxembourg Ville, Luxembourg [LIBYA]
INTERNATIONAL PETROLEUM, S.A., (a.k.a. IPESCO), Colon Free Zone, Panama [CUBA]
INTERNATIONAL TRADE MARKETING, Belgrade, Serbia [FRY S&M]
INTERNATIONAL TRANSPORT CORPORATION, Colon Free Zone, Panama [CUBA]
INTERPROGRESS A.G., Renggerstr. 50 CH–8037, Zurich, Switzerland [FRY S&M]
INTERPROGRESS EUROPE, 16 Avenue Hoche, 75008 Paris, France [FRY S&M]
INTERPROGRESS FRANKFURT (a.k.a. INTERPROGRESS GMBH), Herman–Matern Str. 46/III, Zweigstelle, Berlin, Germany [FRY S&M]
INTERPROGRESS FRANKFURT (a.k.a. INTERPROGRESS GMBH), Reuterweg 93, 6000 Frankfurt, Germany [FRY S&M]
INTERPROGRESS GMBH (a.k.a. INTERPROGRESS FRANKFURT), Herman–Matern Str. 46/III, Zweigstelle, Berlin, Germany [FRY S&M]
INTERPROGRESS GMBH (a.k.a. INTERPROGRESS FRANKFURT), Reuterweg 93, 6000 Frankfurt, Germany [FRY S&M]
INTERPROGRESS IMPORT EXPORT CO. LTD., 63–66 Hatton Garden,EC1N 8LE London, England [FRY S&M]
INTERPROGRESS PRT. LTD., P.O. Box 937, Pymble NSW 2073, Sydney, Australia [FRY S&M]
INTERPROGRESS S.T.R.I., 16 Avenue Hoche, 75008 Paris, France [FRY S&M]
INTERPROGRESS TRADING CORPORATION, New York, NY, U.S.A. [FRY S&M]
INTERSERVIS, Vojvodina (Serbia) [FRY S&M]
INTERTEHNA, Belgrade, Serbia [FRY S&M]
INTYBRA REPRESENTACAO & COMERCIO SA, Rua Visc de Inhauma 134 S/927, Rio de Janeiro, Brazil [FRY S&M]
INVERSIONES LUPAMAR, S.A., (a.k.a. LUPAMAR INVESTMENT COMPANY), Panama [CUBA]
INVEST–COMMERCE SARL, 65 Rue de Paris, 92110 Clichy, France [FRY S&M]
INVEST–IMPORT ALGERIA, 2 Chemin Abdelcrim Dziri Villa, Samarcande El Biar, Algiers, Algeria [FRY S&M]
INVEST IMPORT, Belgrade, Serbia [FRY S&M]
INVEST–IMPORT BURMA, Sule Pagoda Road 136, Rangoon, Burma [FRY S&M]
INVEST–IMPORT CHINA, Embassy of the FRY, Commercial Bureau, 1–22 Diplomatic Office Building, San Li Tun, Beijing, China [FRY S&M]
INVEST–IMPORT CZECH REPUBLIC, Prague, Czech Republic [FRY S&M]
INVEST–IMPORT EGYPT, 21 Ahmed Orabi Str., Mohandessin, Cairo, Egypt [FRY S&M]
INVEST–IMPORT, Herman Matern Str. 46, 104 Berlin, Germany [FRY S&M]
INVEST–IMPORT IRAN, Blvo. No. 202, 4th Floor, Taleghani Avenue Sepahbod Gharani Crossroad, Tehran, Iran [FRY S&M]
INVEST–IMPORT IRAQ, P.O. Box 631, Baghdad, Iraq [FRY S&M]
INVEST–IMPORT LIBYA, Shara Omar Mukatar 310/III, Office 11, Tripoli, Libya [FRY S&M]
INVEST–IMPORT, Soimonovsku per. 1, Moscow, Russia [FRY S&M]
INVEST–IMPORT U. EXPORT GMBH, Graf–Adolf–Str. 72–74, 4000 Duesseldorf 1, Germany [FRY S&M]
INVEST–IMPORT UAE, Arbift Tower, Office No. 1503, Dubai, United Arab Emirates [FRY S&M]
INVESTACAST PRECISION CASTINGS, LTD., 112 City Road, London, England [IRAQ]
INVESTBANKA (a.k.a. OSNOVNA PRIVREDNO–INVESTICIONA BANKA), all offices worldwide (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
INVESTBANKA BELGRADE, all offices worldwide [FRY S&M]
INVESTICIONA BANKA TITOGRAD (a.k.a. MONTENEGROBANKA d.d.), all offices worldwide (Bank is headquartered in Podgorica, Montenegro) [FRY S&M] including, but not limited to:
INVESTICIONA BANKA TITOGRAD (a.k.a. MONTENEGROBANKA d.d.), Bulevar Revolucije 1, P. O. Box 183, 81001 Podgorica, Montenegro [FRY S&M]
INVESTINZENJERING, Belgrade, Serbia [FRY S&M]
IPESCO, Panama (a.k.a. INTERNATIONAL PETROLEUM, S.A.), Colon Free Zone, Panama [CUBA]
IRAQI AIRWAYS, 1211 Avenue of the Americas, New York, New York 10036, U.S.A. [IRAQ]
IRAQI AIRWAYS, 25040 Southfield Road, Southfield, Michigan 48075, U.S.A.[IRAQ]

IRAQI AIRWAYS, 27, Ulica Grojecka, Central Warsaw, Poland [IRAQ]
IRAQI AIRWAYS, 4 Lower Regent Street, London SW1Y 4P, England [IRAQ]
IRAQI AIRWAYS, 5825 W. Sunset Blvd., 1218, Los Angeles, California 90028, U.S.A. [IRAQ]
IRAQI AIRWAYS, Abu Dhabi, United Arab Emirates [IRAQ]
IRAQI AIRWAYS, Ankara, Turkey [IRAQ]
IRAQI AIRWAYS, Belgrade, Serbia [IRAQ]
IRAQI AIRWAYS, Building 68, J.F.K. International Airport, Jamaica, New York 11430, U.S.A.[IRAQ]
IRAQI AIRWAYS, Casablanca, Morocco [IRAQ]
IRAQI AIRWAYS, Copenhagen, Denmark [IRAQ]
IRAQI AIRWAYS, General Service Agent, Bangladeshi–Owned Travel Agency, Dhaka, Bangladesh [IRAQ]
IRAQI AIRWAYS, Jianguomenwai Diplomatic Housing Compound, Building 7–1, 5th Floor, Apartment 4, Beijing, People's Republic of China [IRAQ]
IRAQI AIRWAYS, Main Eisenhuttenplatz 26, Frankfurt 6, Germany [IRAQ]
IRAQI AIRWAYS, Moscow, Russia [IRAQ]
IRAQI AIRWAYS, Nekazanka 3, Prague 1, Czechoslovakia [IRAQ]
IRAQI AIRWAYS, Netherlands [IRAQ]
IRAQI AIRWAYS, Opernring 6, 1010 Wien, Vienna, Austria [IRAQ]
IRAQI AIRWAYS, Prague Airport, Prague, Czechoslovakia[IRAQ]
IRAQI AIRWAYS, Rio de Janeiro, Brazil [IRAQ]
IRAQI AIRWAYS, Rome, Italy [IRAQ]
IRAQI AIRWAYS, Saddam International Airport, Baghdad, Iraq [IRAQ]
IRAQI AIRWAYS, Sanaa, Yemen [IRAQ]
IRAQI AIRWAYS, Tokyo, Japan [IRAQ]
IRAQI AIRWAYS, Tunis, Tunisia [IRAQ]
IRAQI ALLIED SERVICES LIMITED, England [IRAQ]
IRAQI FREIGHT SERVICES LIMITED, England [IRAQ]
IRAQI–JORDANIAN LAND TRANSPORT COMPANY (a.k.a. IJLTC; a.k.a. IRAQI–JORDANIAN OVERLAND TRANSPORT COMPANY; a.k.a. IRAQ–JORDAN LAND TRANSPORT COMPANY), P.O. Box 5134, 4th Circle, Jabal, Amman, Jordan [IRAQ]
IRAQI–JORDANIAN OVERLAND TRANSPORT COMPANY (a.k.a. IJLTC; a.k.a. IRAQI–JORDANIAN LAND TRANSPORT COMPANY; a.k.a. IRAQ–JORDAN LAND TRANSPORT COMPANY), P.O. Box 5134, 4th Circle, Jabal, Amman, Jordan [IRAQ]
IRAQI REINSURANCE COMPANY, 31–35 Fenchurch Street, London EC3M 3D, England [IRAQ]
IRAQI STATE ENTERPRISE FOR FOODSTUFFS TRADING, P.O. Box 2839, Calcutta 700.001, India [IRAQ]
IRAQI STATE ENTERPRISE FOR FOODSTUFFS TRADING, P.O. Box 1308, Colombo 3, Sri Lanka [IRAQ]
IRAQI STATE ENTERPRISE FOR MARITIME TRANSPORT, Amman, Jordan [IRAQ]
IRAQI STATE ENTERPRISE FOR MARITIME TRANSPORT, Bremen, Germany [IRAQ]
IRAQI TRADE CENTER, Dubai, United Arab Emirates [IRAQ]
IRAQ–JORDAN LAND TRANSPORT COMPANY (a.k.a. IJLTC; a.k.a. IRAQI–JORDANIAN LAND TRANSPORT COMPANY; a.k.a. IRAQI–JORDANIAN OVERLAND TRANSPORT COMPANY), P.O. Box 5134, 4th Circle, Jabal, Amman, Jordan [IRAQ]
ITALKOPRODUCT, Piazza Cavour 3, 20121 Milan, Italy [FRY S&M]
ITRANS, Serbia [FRY S&M]
IVANGRAD (n.k.a. BRISA) (9HTB3) General Dry Cargo 13,651GT Malta Flag (Oktoih Overseas Shipping Ltd) (vessel) [FRY S&M]
IVO LOLA RIBAR—Beograd, Belgrade, Serbia [FRY S&M]
J.I.B. INSPECTION LTD. (a.k.a. JUGOINSPEKT LTD.; a.k.a. JUGOINSPEKT (CYPRUS) LTD.), 57 Ledra St, No. 7, Nicosia, Cyprus [FRY S&M]
J.U.B. HOLDINGS LTD, 2 Sofoulis Street, Chanteclair Bld. Office 205, Nicosia, Cyprus [FRY S&M]
JABHA (YIJA) Tug 244DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
JAMAHIRIYA BANK (f.k.a. MASRAF AL–GUMHOURIA), (38 local branches in Libya) [LIBYA]
JAMAHIRIYA BANK (f.k.a. MASRAF AL–GUMHOURIA), Emhemed Megrief Street, Tripoli, Libya [LIBYA]
JAMAHIRIYA BANK (f.k.a. MASRAF AL–GUMHOURIA), P.O. Box 3224, Martyr Street, Megarief, Tripoli, Libya [LIBYA]
JAMAHIRIYA BANK (f.k.a. MASRAF AL–GUMHOURIA), P.O. Box 1291, Benghazi, Libya [LIBYA]
JAMBUR (HNJM) Tanker 35,338DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
JAMHORIA (YIJR) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
JARACO S.A. (a.k.a. SOKTAR; f.k.a. TRADACO S.A.), 45 Route de Frontenex, CH–1207 Geneva, Switzerland [IRAQ]
JARDINE HOUSE, 6 Crutched Friars, London EC3N 2HT, England [LIBYA]
JASIM, Latif Nusayyif, Baghdad, Iraq (individual) [IRAQ]
JAT (a.k.a. JAVNO PREDUZECE ZA VAZDUSNI SAOBRACAJ; a.k.a. JUGOSLOVENSKI AEROTRANSPORT; a.k.a. YUGOSLAV AIRLINES), Belgrade, Serbia [FRY S&M]
JAVNO PREDUZECE PTT SRBIJE (a.k.a. PUBLIC ENTERPRISE OF POST, TELEGRAPH, AND TELEPHONE OF SERBIA), Serbia [FRY S&M]
JAVNO PREDUZECE ZA VAZDUSNI SAOBRACAJ (a.k.a. JAT; a.k.a. JUGOSLOVENSKI AEROTRANSPORT; a.k.a. YUGOSLAV AIRLINES), Belgrade, Serbia [FRY S&M]
JAWABY TECHNICAL SERVICES LIMITED (a.k.a. TEKXEL LIMITED), London, England [LIBYA]
JB INTERNATIONAL SHIPPING AND COMMERCIAL GMBH, Alter Wall 36, 2000 Hamburg 11, Germany [FRY S&M]
JERMA PALACE HOTEL, Maarsancala, Malta [LIBYA]
JIK BANKA d.d. (a.k.a. JUGOSLOVENSKA IZVOZNA I KREDITNA BANKA d.d.; a.k.a. YUGOSLAV EXPORT AND CREDIT BANK GROUP), all offices worldwide [FRY S&M]
JIMINEZ, Gillermo (SOLER), Panama (individual) [CUBA]
JNA (a.k.a. JUGOSLOVENSKA NARODNA ARMIJA; a.k.a. YUGOSLAV NATIONAL ARMY), Belgrade, Serbia [FRY S&M]
JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY (a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), Planning & Logistic Group complex, Port of Zarzis, Tunisia [LIBYA]
JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY (a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), 7th of November offshore field, Gulf of Gabes [LIBYA]
JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY (a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), B.P. 350 Houmt Souk 4180, Djerba Island, Tunisia [LIBYA]
JOINT OIL (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), 7th of November offshore field, Gulf of Gabes [LIBYA]
JOINT OIL (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), B.P. 350 Houmt Souk 4180, Djerba Island, Tunisia [LIBYA]
JOINT OIL (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), Planning & Logistic Group complex, Port of Zarzis, Tunisia [LIBYA]
JOINT OIL TUNISIA (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), Planning & Logistic Group complex, Port of Zarzis, Tunisia [LIBYA]
JOINT OIL TUNISIA (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), 7th of November offshore field, Gulf of Gabes [LIBYA]
JOINT OIL TUNISIA (a.k.a. JOINT EXPLORATION, EXPLOITATION AND

PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), B.P. 350 Houmt Souk 4180, Djerba Island, Tunisia [LIBYA]
JOINT REPRESENTATIVE OFFICE OF YUGOSLAV BANKS, Mosfiljmovskaja 42, 7332 Moscow, Russia [FRY S&M]
JOINT REPRESENTATIVE OFFICE OF YUGOSLAV BANKS, No. 17 2nd Street Pakistan Avenue, Dr. Beheshti Avenue, Teheran, Iran [FRY S&M]
JOINT REPRESENTATIVE OFFICE OF YUGOSLAV BANKS, Piazza Santa Maria Beltrade 2, 20121 Milan, Italy [FRY S&M]
JOINT REPRESENTATIVE OFFICE OF YUGOSLAV BANKS, Ta Yuan Cun—Dipl. Office Bldg. 2–8–1, Beijing, China [FRY S&M]
JOINT TURKISH LIBYAN AGRICULTURAL LIVESTOCK COMPANY, Ankara, Turkey [LIBYA]
JON, Hana Paul, 19 Tudor House, Windsor Way, Brook Green, London, England (individual) [IRAQ]
JOP (a.k.a. JUGOOCEANIJA; a.k.a. JUGOSLAVENSKA OCEANSKA PLOVIDBA; a.k.a. YUGOSLAV OCEAN LINES), BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
JOWFE (a.k.a. NATIONAL COMPANY DRILLING CHEMICAL & EQUIPMENT), NOC Building, Ashjara Square, Benghazi, Libya [LIBYA]
JUGOAGENT, Belgrade, Serbia [FRY S&M]
JUGOAGENT, HAMBURG REPRESENTATIVE OFFICE, Hamburg, Germany [FRY S&M]
JUGOALAT, Novi Sad, Vojvodina (Serbia) [FRY S&M]
JUGOAUTO, Belgrade, Serbia [FRY S&M]
JUGOAZBEST, Milanovac, Serbia [FRY S&M]
JUGOBANKA (a.k.a. BANK FOR FOREIGN TRADE AD; a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), all offices worldwide [FRY S&M] including, but not limited to:
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), P.O. Box 2869, Tripoli, Libya [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Kurfurstenstrasse 106/II, 1000 Berlin 30, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Salisbury House, First Floor (Rooms 378–379), London, EC2M5RT, England [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Kungsgatan 55/3, 11122 Stockholm, Sweden [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Sonnenstrasse 12/III, 8000 Munich, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Konigstrasse 54/8, 7000 Stuttgart 1, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Singel 512, Amsterdam 1017 AX, Netherlands [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Schledusenbrucke 1–4, 2000 Hamburg 36, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Zweierstrasse 169/1, CH–8003 Zurich, Switzerland [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Klosterstrasse 34/I, 4000 Dusseldorf, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), 25, Rue Lauriston, 75116 Paris, France [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Argentinenstrasse 22/II/4–11, A–1040 Vienna, Austria [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Am Plaerer 2, 8500 Nuremberg, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Goether Str. 2/II, 6000 Frankfurt am Main I, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Georgestrasse 36/3, 3000 Hannover, Germany [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), c/o Yugoslav Chamber of Economy, Saadoun Str., Shalen Bld, Baghdad, Iraq [FRY S&M]
JUGOBANKA (a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), c/o BFG M–7 m No 16–17, 6800 Mannheim, Germany [FRY S&M]
JUGOBANKA (a.k.a. BANK FOR FOREIGN TRADE AD—SKOPJE; a.k.a. JUGOBANKA d.d.; a.k.a. YUGOBANKA), Skopje, Former Yugoslav Republic of Macedonia [FRY S&M]
JUGOBROD, Belgrade, Serbia [FRY S&M]
JUGODRVO, Belgrade, Serbia [FRY S&M]
JUGODUVAN, Nis, Serbia [FRY S&M]
JUGOELEKTRO, Belgrade, Serbia [FRY S&M]
JUGOELEKTRO, BERLIN BRANCH OFFICE, Berlin, Germany [FRY S&M]
JUGOEXPORT, Belgrade, Serbia [FRY S&M]
JUGOEXPORT GMBH, Bronnerstr. 17, 6000 Frankfurt 1, Germany [FRY S&M]
JUGOHEMIJA, Belgrade, Serbia [FRY S&M]
JUGOINSPEKT (CYPRUS) LTD. (a.k.a. J.I.B. INSPECTION LTD.; a.k.a. JUGOINSPEKT LTD.), 57 Ledra St, No. 7, Nicosia, Cyprus [FRY S&M]
JUGOINSPEKT LTD. (a.k.a. J.I.B. INSPECTION LTD.; a.k.a. JUGOINSPEKT (CYPRUS) LTD.), 57 Ledra St, No. 7, Nicosia, Cyprus [FRY S&M]
JUGOINSPEKT, Serbia [FRY S&M]
JUGOLABORATORIJA, Belgrade, Serbia [FRY S&M]
JUGOLEK, Belgrade, Serbia [FRY S&M]
JUGOMETAL (f.k.a. BULK STAR) (J8FN8) Ore/Bulk/Oil Carrier 79,279GT Saint Vincent Flag (Litalia Shipping S.A.) (vessel) [FRY S&M]
JUGOMETAL, 92 Arch. Makarios Street, Nicosia, Cyprus [FRY S&M]
JUGOMETAL, Belgrade, Serbia [FRY S&M]
JUGOMONTANA (a.k.a. YUGOMONTANA), Belgrade, Serbia [FRY S&M]
JUGOOCEANIJA (a.k.a. JOP; a.k.a. JUGOSLAVENSKA OCEANSKA PLOVIDBA; a.k.a. YUGOSLAV OCEAN LINES), BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
JUGOOCEANIJA, Kotor, Montenegro [FRY S&M]
JUGOPAPIR, Belgrade, Serbia [FRY S&M]
JUGOPETROL, Belgrade, Serbia [FRY S&M]
JUGOPREVOZ, Belgrade, Serbia [FRY S&M]
JUGOSKANDIA A.B., Noerrebrogade 26, 2200 Copenhagen N, Denmark [FRY S&M]
JUGOSKANDIA AB, Raadhusgt 17, 0158 Oslo 1, Norway [FRY S&M]
JUGOSKANDIA AB, Sveavagen 59, 113 59 Stockholm, Sweden [FRY S&M]
JUGOSKANDIA AB, Topeliuksenkatu 3b, A5, 00260 Helsinki 26, Finland [FRY S&M]
JUGOSKANDIK d.d., all offices worldwide [FRY S&M]
JUGOSLAVENSKA OCEANSKA PLOVIDBA (a.k.a. JOP; a.k.a. JUGOOCEANIJA; a.k.a. YUGOSLAV OCEAN LINES), BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
JUGOSLOVENSKA BANKA ZA MEDJUNARODNU EKONOMSKU SARADNJU (a.k.a. YUBMES; a.k.a. YUGOSLAV BANK FOR INTERNATIONAL ECONOMIC COOPERATION), all offices worldwide [FRY S&M]
JUGOSLOVENSKA IVOZNA I KREDITNA BANKA DD, a.k.a. KREDITNA BANKA BEOGRAD, a.k.a. YUGOSLAV EXPORT AND CREDIT BANK INC., Mohren Strasse 17/III, Berlin, Germany [FRY S&M]
JUGOSLOVENSKA IVOZNA I KREDITNA BANKA DD, a.k.a. KREDITNA BANKA BEOGRAD, a.k.a. YUGOSLAV EXPORT AND CREDIT BANK INC., Via Carducci 20–II, Piano Scala A, 1–34122 Trieste, Italy [FRY S&M]
JUGOSLOVENSKA IZVOZNA I KREDITNA BANKA d.d. (a.k.a. YUGOSLAV EXPORT AND CREDIT BANK GROUP; a.k.a. JIK BANKA d.d.), all offices worldwide [FRY S&M]
JUGOSLOVENSKA NARODNA ARMIJA (a.k.a. JNA; a.k.a. YUGOSLAV NATIONAL ARMY), Belgrade, Serbia [FRY S&M]
JUGOSLOVENSKA POMORSKA AGENCIJA (a.k.a. YUGOSLAV SHIPPING AGENCY), Belgrade, Serbia [FRY S&M]
JUGOSLOVENSKI AEROTRANSPORT (a.k.a. JAT; a.k.a. JAVNO PREDUZECE ZA VAZDUSNI SAOBRACAJ; a.k.a. YUGOSLAV AIRLINES), Belgrade, Serbia [FRY S&M]
JUGOTEHNA, Belgrade, Serbia [FRY S&M]
JUGOVO (n.k.a. BLUE STAR) (J8FN4) Ore/Oil Carrier 53,029GT Saint Vincent Flag (Road Town Shipping S.A.) (vessel) [FRY S&M]
JUHOMONYSNS (CYPRUS) LTD., 2 Sofoules Street, Chanteclair Bld., No. 205, Nicosia, Cyprus [FRY S&M]
JUME'AN, George, P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
KADHUM, Dr. Fadel Jawad, c/o Alvaney Court, 250 Finchley Road, London, England (individual) [IRAQ]
KAELBLE & GMEINDER COMPANY (a.k.a. KAELBLE–GMEINDER GMBH), Maubacher Strasse 100, Postfach 13 20, W–7150 Backnang, Germany [LIBYA]
KAELBLE–GMEINDER GMBH (a.k.a. KAELBLE & GMEINDER COMPANY), Maubacher Strasse 100, Postfach 13 20, W–7150 Backnang, Germany [LIBYA]
KAMENARI (Unknown) RO/RO Cargo/Ferry 161GT Yugoslavia Flag (Komunalno Poduzece) (vessel) [FRY S&M]
KAPETAN MARTINOVIC (9HTY3) General Dry Cargo 8,569GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
KARIC BANKA CYPRUS OFFSHORE BANKING UNIT, Nicosia, Cyprus [FRY S&M]
KARIC BANKA dd BELGRADE, all offices worldwide [FRY S&M]

KARIC BROTHERS (a.k.a. BRACE KARIC), Belgrade, Serbia [FRY S&M]
KASPAR (Kaspar Shipping, S.A., Panama) (vessel) [CUBA]
KASPAR SHIPPING, S.A., Panama [CUBA]
KAT, Podgorica, Montenegro [FRY S&M]
KAVE, S.A., Panama [CUBA]
KEENCLOUD LIMITED, 11 Catherine Place, Westminister, London, England [IRAQ]
KEFAL (HNKL) Fish 1,170DWT Iraqi flag (Rafidain Fisheries Co. Ltd) (vessel) [IRAQ]
KERBALA (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
KHALID IBIN AL WALEED (YIBM) Service 2,235DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
KHANAQIN (HNKQ) Tanker 35,338DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
KHAWLA BINT AL ZAWRA (HNKH) RO/RO 3,985DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
KIRKUK (HNKK) Tanker 35,338DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
KLUZ, Belgrade, Serbia [FRY S&M]
KOIMPEX, Novi Sad, Vojvodina (Serbia) [FRY S&M]
KOL INVESTMENTS, INC., Miami, Florida, U.S.A. [CUBA]
KOLASIN (n.k.a. GUANA) (Unknown) Bulk Carrier 9,916GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
KOLUBARA 1 (Unknown) Dredger 958GT Yugoslavia Flag (Bagersko Brodarsko Preduzece) (vessel) [FRY S&M]
KOMBINAT ALUMINIJUMA PODGORICA (a.k.a. ALUMINUM COOPERATIVE PODGORICA), P.O.B. 22, 81000 Podgorica, Montenegro [FRY S&M]
KOMGRAP (a.k.a. KOMGRAP–GRO), Terazije 4, P.O. Box 468, 11001 Belgrade, Serbia [FRY S&M]
KOMGRAP–GRO (a.k.a. KOMGRAP), Terazije 4, P.O. Box 468, 11001 Belgrade, Serbia [FRY S&M]
KOMOVI (n.k.a. MONTE) (9HTD3) General Dry Cargo 9,183GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
KOMUNALNO PODUZECE, 5, Hercegovacke Brigada, 81340 Herceg–Novi, Montenegro [FRY S&M]
KONSTRUKTOR, Pancevo, Vojvodina (Serbia) [FRY S&M]
KOOPERATIVA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
KOPAONIK, Belgrade, Serbia [FRY S&M]
KOPRODUCT LTD., 2 Albion Place, King's Terrace, Galena Road, London W6 0QT, England [FRY S&M]
KOPRODUKT (a.k.a. KOPRODUKT ZA UNUTRASNJU I SPOLJNU TRGOVINU I ZASTUPANJE STRANIH PREDUZECA), Bulevar M Tita 6, 21000 Novi Sad, Vojvodina, Serbia [FRY S&M]
KOPRODUKT ZA UNUTRASNJU I SPOLJNU TRGOVINU I ZASTUPANJE STRANIH PREDUZECA (a.k.a. KOPRODUKT), Bulevar M Tita 6, 21000 Novi Sad, Vojvodina, Serbia [FRY S&M]
KORDUN (9HSQ3) General Dry Cargo 38,551GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel) [FRY S&M]
KOREA FOREIGN INSURANCE COMPANY (a.k.a. CHOSUNBOHOM), 1080 Berlin Glinkastrasse 5, Germany [NKOREA]
KOREA FOREIGN INSURANCE COMPANY (a.k.a. CHOSUNBOHOM), 123, Rue des Tennerolles, 92210 Saint–Cloud, Paris, France [NKOREA]
KOREA FOREIGN INSURANCE COMPANY (a.k.a. CHOSUNBOHOM), Unt. Batterieweg 35, CH–4008 Basel, Switzerland [NKOREA]
KOSMAJ (9HSP3) Bulk Carrier 38,550GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel) [FRY S&M]
KOSOVO ELECTRIC POWER COMPANY (a.k.a. ELEKTROPRIVREDA KOSOVA), Pristina, Kosovo (Serbia) [FRY S&M]
KOSOVO EXPORT IMPORT GMBH (a.k.a. EXIMKOS; a.k.a. KOSOVO GMBH; a.k.a. OMEGA GMBH), Maillingerstr. 34, 8000 Munich 2, Germany [FRY S&M]
KOSOVO GMBH (a.k.a. EXIMKOS; a.k.a. KOSOVO EXPORT IMPORT GMBH; a.k.a. OMEGA GMBH), Maillingerstr. 34, 8000 Munich 2, Germany [FRY S&M]
KOSOVSKA BANKA, all offices (Bank is headquartered in Pristina, Kosovo, [Serbia]) [FRY S&M]
KOSTIC, Bosko, AY Bank Ltd., 11/15 St. Mary–at–Hill, EC3R8EE London, England (Individual) [FRY S&M]
KOTOR OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
KREDITNA BANKA BEOGRAD, a.k.a. JUGOSLOVENSKA IVOZNA I KREDITNA BANKA DD, a.k.a. YUGOSLAV EXPORT AND CREDIT BANK INC., Via Carducci 20–II, Piano Scala A, 1–34122 Trieste, Italy [FRY S&M]
KREDITNA BANKA BEOGRAD, a.k.a. JUGOSLOVENSKA IVOZNA I KREDITNA BANKA DD, a.k.a. YUGOSLAV EXPORT AND CREDIT BANK INC., Mohren Strasse 17/III, Berlin, Germany [FRY S&M]
KREDITNA BANKA BEOGRAD, all offices worldwide [FRY S&M]
KREDITNA BANKA BEOGRAD CYPRUS OFFSHORE BANKING UNIT, Nicosia, Cyprus [FRY S&M]
KREDITNA BANKA PRISTINA, all offices worldwide [FRY S&M]
KREDITNA BANKA SUBOTICA, all offices worldwide [FRY S&M]
KRUSEVAC PROMET, Krusevac, Serbia [FRY S&M]
KRUSIK, Valjevo, Serbia [FRY S&M]
KUGLEX, Belgrade, Serbia [FRY S&M]
KUPRES (n.k.a. RAMA) (9HUP3) General Dry Cargo 13,688 GT Cyprus (Malta) Flag (New Owner Unknown) ((South Adriatic Bulk Shipping Ltd.)) (vessel) [FRY S&M]
KYOEI INTERNATIONAL COMPANY, LIMITED, Tokyo, Japan [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Pyongyang, Korea (Peoples Democratic Republic) [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Moscow, Russia [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Barcelona, Spain [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Rostock, Germany [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Genoa, Italy [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Syczecin, Poland [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Rotterdam, Netherlands [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Mexico [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Buenos Aires, Argentina [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Montreal, Canada [CUBA]
LA EMPRESA CUBANA DE FLETES (a.k.a. CUFLET; a.k.a. THE CUBAN FREIGHT ENTERPRISE), Varna, Bulgaria [CUBA]
LAFB (a.k.a. LIBYAN ARAB FOREIGN BANK), Dat El Imad Complex Tower No. 2, P.O. Box 2542, Tripoli, Libya [LIBYA]
LAFI TRADE MALTA, 14517 Tower Road, Sliema, Malta [LIBYA]
LAFICO (a.k.a. LIBYAN ARAB FOREIGN INVESTMENT COMPANY), Athens, Greece [LIBYA]
LAFICO (a.k.a. LIBYAN ARAB FOREIGN INVESTMENT COMPANY), Rome, Italy [LIBYA]
LAFICO (a.k.a. LIBYAN ARAB FOREIGN INVESTMENT COMPANY), Malta [LIBYA]
LAFITRADE HOLDINGS BV, De Lairessestraat 133, 1075 HJ Amsterdam, Netherlands; P.O. Box 75265, 1070 AG Amsterdam, Netherlands [LIBYA]
LAHMAR, Mohammed, Dat El Imad Administrative Complex Tower No. 2, P.O. Box 2542, Tripoli, Libya (individual) [LIBYA]
LAKE STAR (n.k.a. SERIFOS; f.k.a SKADARLIJA) (JIFN3) Bulk Carrier 15,847GT Panama (Saint Vincent) Flag (Brilliant Night Shipping S.A.) ((Novi Shipping Company S.A.)) (vessel) [FRY S&M]
LAKSHMI, Panama [CUBA]
LAMEDON TRADING LTD., Evagoras Papachristouforou St., Themis Court Bldg. 1st Floor, P.O. Box 561, Limassol, Cyprus [FRY S&M]
LAMHCO (a.k.a. LIBYAN ARAB MALTESE HOLDING CO. LTD.), St. Mark House, Cappuchan Street, Floriana, Malta [LIBYA]
LAS COLORADOS (Naviera Maritima de Arosa, Spain) (vessel) [CUBA]
LAURA (Aimoros Shipping Co., Malta) (vessel) [CUBA]
LAYAS, Mohammed Hussein, Tripoli, Libya (individual) [LIBYA]
LEBREDO, Jose A., Director, Banco Nacional de Cuba, Zweierstrasse 35, CH–8022 Zurich, Switzerland (individual) [CUBA]
LEPETANE (Unknown) RO/RO Cargo/Ferry 132GT Yugoslavia Flag (Komunalno Poduzece) (vessel) [FRY S&M]
LETEKS—LESKOVAC (a.k.a. WOOL AND TEXTILE INDUSTRY OF LESKOVAC), Leskovac, Serbia [FRY S&M]

LEVERAGE, S.A., San Martin 323, Piso 14, Buenos Aires, Argentina [CUBA]
LEVERYE, S.A., Corrientes 1386, 5th Floor, Buenos Aires, Argentina [CUBA]
LEYBDA CORPORATION, S.A., Panama [CUBA]
LIBERIAN LIBYAN HOLDING COMPANY, Monrovia, Liberia [LIBYA]
LIBYA INSURANCE COMPANY, P.O. Box 2438, Usama Bldg., 1st September St., Tripoli, Libya, (7 main branches and 58 sub-branches in Libya) [LIBYA]
LIBYA INSURANCE COMPANY, Cyprus Office, Nicosia, Cyprus [LIBYA]
LIBYAN AGRICULTURAL BANK (a.k.a. THE AGRICULTURAL BANK; a.k.a. NATIONAL AGRICULTURAL BANK OF LIBYA), 52, Omar El Mokhtar Street, P.O. Box 1100, Tripoli, Libya [LIBYA]
LIBYAN AGRICULTURAL BANK (a.k.a. THE AGRICULTURAL BANK; a.k.a. NATIONAL AGRICULTURAL BANK OF LIBYA), (1 city branch and 27 branches in Libya) [LIBYA]
LIBYAN ARAB AIRLINES (Numerous branch offices and facilities abroad) [LIBYA]
LIBYAN ARAB FOREIGN BANK (a.k.a. LAFB), Dat El Imad Complex Tower No. 2, P.O. Box 2542, Tripoli, Libya [LIBYA]
LIBYAN ARAB FOREIGN INVESTMENT COMPANY (a.k.a. LAFICO), Rome, Italy [LIBYA]
LIBYAN ARAB FOREIGN INVESTMENT COMPANY (a.k.a. LAFICO), Malta [LIBYA]
LIBYAN ARAB FOREIGN INVESTMENT COMPANY (a.k.a. LAFICO), Athens, Greece [LIBYA]
LIBYAN ARAB MALTESE HOLDING CO. LTD. (a.k.a. LAMHCO), St. Mark House, Cappuchan Street, Floriana, Malta [LIBYA]
LIBYAN ARAB UGANDA BANK FOR FOREIGN TRADE AND DEVELOPMENT (n.k.a. TROPICAL AFRICAN BANK LIMITED), P.O. Box 9485, Kampala, Uganda [LIBYA]
LIBYAN ARAB UGANDA HOLDING CO. LTD. (a.k.a. UGANDA LIBYAN HOLDING CO. LTD.), Kampala, Uganda [LIBYA]
LIBYAN-GREEK INVESTMENT COMPANY, Athens, Greece [LIBYA]
LIBYAN NATIONAL OIL CORPORATION (a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Petroleum Research Centre, Al Nasser Street, P.O. Box 6431, Tripoli, Libya [LIBYA]
LIBYAN NATIONAL OIL CORPORATION (a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), (Subsidiaries and joint ventures in Libya and worldwide) [LIBYA]
LIBYAN NATIONAL OIL CORPORATION (a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), P.O. Box 2978, Benghazi, Libya [LIBYA]
LIBYAN NATIONAL OIL CORPORATION (a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Dahra Gas Projects Office, Dahra Street, P.O. Box 12221, Dahra, Tripoli, Libya [LIBYA]
LIBYAN NATIONAL OIL CORPORATION (a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Bashir Saadawi Street, P.O. Box 2655, Tripoli, Libya [LIBYA]
LIBYAN NATIONAL OIL CORPORATION (a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Petroleum Training and Qualifying Institute, Zawia Road, Km. 9, P.O. Box 6184, Tripoli, Libya [LIBYA]
LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY (a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION; a.k.a. OIIC; a.k.a. OILINVEST; a.k.a. OILINVEST INTERNATIONAL N.V.), Tripoli, Libya [LIBYA]
LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY (a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION; a.k.a. OIIC; a.k.a. OILINVEST; a.k.a. OILINVEST INTERNATIONAL N.V.), Netherlands Antilles [LIBYA]
LIBYAN-TUNISIAN EXPLORATION COMPANY (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), 7th of November offshore field, Gulf of Gabes [LIBYA]
LIBYAN-TUNISIAN EXPLORATION COMPANY (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), Planning & Logistic Group complex, Port of Zarzis, Tunisia [LIBYA]
LIBYAN-TUNISIAN EXPLORATION COMPANY (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE), B.P. 350 Houmt Souk 4180, Djerba Island, Tunisia [LIBYA]
LICOREXPORT S.A., Quito, Ecuador [CUBA]
LILAC ISLANDS (Valletta Shipping Corp., Panama) (vessel) [CUBA]
LIRIJA, Prizren, Kosovo (Serbia) [FRY S&M]
LITALIA SHIPPING S.A., Panama City, Panama, c/o Beogradska Plovidba, Lenjinov Bulevar 165A, Novi Beograd, 11070 Belgrade, Serbia [FRY S&M]
LIVNICA, Kikinda, Vojvodina (Serbia) [FRY S&M]
LNOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), (Subsidiaries and joint ventures in Libya and worldwide) [LIBYA]
LNOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), P.O. Box 2978, Benghazi, Libya [LIBYA]
LNOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Dahra Gas Projects Office, Dahra Street, P.O. Box 12221, Dahra, Tripoli, Libya [LIBYA]
LNOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Petroleum Research Centre, Al Nasser Street, P.O. Box 6431, Tripoli, Libya [LIBYA]
LNOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Petroleum Training and Qualifying Institute, Zawia Road, Km. 9, P.O. Box 6184, Tripoli, Libya [LIBYA]
LNOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. NATIONAL OIL CORPORATION; a.k.a. NOC), Bashir Saadawi Street, P.O. Box 2655, Tripoli, Libya [LIBYA]
LOBATO, Julio (a.k.a. PRADO, Julio), Panama (individual) [CUBA]
LOPEZ, Miguel, A., Deputy Chairman, Havana International Bank, 20 Ironmonger Lane, London EC2V 8EY, England (individual) [CUBA]
LOPEZ, Quirino Gutierrez, c/o ANGLO CARIBBEAN SHIPPING CO., LTD., 7th Floor, Ibex House, the Minories, London, EC3N 1DY, England (individual) [CUBA]
LOTUS ISLANDS (Wadena Shipping Corp., Liberia) (vessel) [CUBA]
LOUTH HOLDINGS, S.A., Panama [CUBA]
LOVCEN (9HTU3) General Dry Cargo 12,375GT Malta Flag (South Cross Shipping Ltd.) (vessel) [FRY S&M]
LOVCEN OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Rigel Shipmanagement Ltd., Second Floor, Regency House, Republic Street, Valletta, Malta [FRY S&M]
LUKA BAR—PREDUZECE, 81350 Bar, Montenegro [FRY S&M]
LUPAMAR INVESTMENT COMPANY (a.k.a. INVERSIONES LUPAMAR, S.A.), Panama [CUBA]
LZTK, Kikinda, Vojvodina (Serbia) [FRY S&M]
MACHINE INDUSTRY OF NIS (a.k.a. MIN—MASINSKA INDUSTRIJA), Nis, Serbia [FRY S&M]
MACHINES AND TRACTORS INDUSTRY (a.k.a. IMT—INDUSTRIJA MOTORA I TRAKTORA), Belgrade, Serbia [FRY S&M]
MADAN, Jorge (RIVAS), Frankfurt, Germany (individual) [CUBA]
MADI, Ragiab Saad, P.O. Box 2297, Shoman Street, Fashioum, Tripoli, Libya (individual) [LIBYA]
MAG INTERTRADE, Serbia [FRY S&M]
MAGHREBAN INTERNATIONAL TRADE COMPANY (a.k.a. MITCO), 47, Avenue Kheireddine Pacha, 1002 Tunis, Tunisia [LIBYA]
MAGNOHROM, Kraljevo, Serbia [FRY S&M]
MALIK, Anas (a.k.a. AL-HASSAN, Anas; a.k.a. AL-HASSAN, Anas Malik Dohan; a.k.a. DOHAN, Anas; a.k.a. DOHAN, Anas Malik), Jordan (individual) [IRAQ]
MALIK, Anas (a.k.a. AL-HASSAN, Anas; a.k.a. AL-HASSAN, Anas Malik Dohan; a.k.a. DOHAN, Anas; a.k.a. DOHAN, Anas Malik), Baghdad, Iraq (individual) [IRAQ]
MALIK, Assim Mohammed Rafiq Abdul (a.k.a. ABDULMALIK, Abdul Hameed; a.k.a. RAFIQ, Assem), 14 Almotaz Sad Al Deen Street, Al Nozha, Cairo, Egypt (individual) [IRAQ]
MANA, Salem, Frankfurt, Germany (individual) [LIBYA]
MANA, Salem, Libya (individual) [LIBYA]
MANDALI (f.k.a. ALKADISIYAH) (YIQS) Service 6,977DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
MANZPER CORP., Panama [CUBA]
MAR AZUL (Senanque Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
MARIEL (f.k.a. BEOGRAD) (9HSV3) Bulk Carrier 15,396GT Malta Flag (Lovcen

Overseas Shipping Ltd.) (vessel) [FRY S&M]
MARINE REGISTRATION COMPANY, Panama [CUBA]
MARINEXAM, Panama [CUBA]
MARISCO (or MARISCOS) DE FARALLON, S.A., Panama [CUBA]
MARKETING ASSOCIATES CORPORATION, Calle 52 E, Campo Alegre, Panama City, Panama [CUBA]
MARKONIZONI, Serbia [FRY S&M]
MARYOL ENTERPRISES, INC., Panama [CUBA]
MASINOKOMERC, Belgrade, Serbia [FRY S&M]
MASINOKOMERC, Knez Mihajlova 1–3, P. Fah 232, 11000 Belgrade, Serbia [FRY S&M]
MASRAF AL–GUMHOURIA (n.k.a. JAMAHIRIYA BANK), see listings (38 local branches in Libya) [LIBYA]
MATRIX CHURCHILL CORPORATION, 5903 Harper Road, Cleveland, Ohio 44139, U.S.A. [IRAQ]
MATROZ—CELLULOSE AND PAPER INDUSTRY (a.k.a. MATROZ SREMSKA MITROVICA), Sremska Mitrovica, Vojvodina (Serbia) [FRY S&M]
MATROZ SREMSKA MITROVICA (a.k.a. MATROZ—CELLULOSE AND PAPER INDUSTRY), Sremska Mitrovica, Vojvodina (Serbia) [FRY S&M]
MAYSALOON (YIMY) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
MEASAN (YIMN) Tug 310DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
MEDAVIA (a.k.a. MEDITERRANEAN AVIATION COMPANY, LTD.), Malta [LIBYA]
MEDCHOICE HOLIDAYS LTD. (a.k.a. YUGOTOURS LTD.), Chesham House, 150 Regent Street, London WIR 6BB, England [FRY S&M]
MEDIFINANCE BANK, all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
MEDINA, Anita (a.k.a. Ana Maria MEDINA), Panama (individual) [CUBA]
MEDISA SARAJEVO, Sarajevo, Bosnia–Herzegovina [FRY S&M]
MEDISAN LIMITED, R1 6A, Qasam Industrial, Limiti tai Ricasch, Kalkara, Malta [LIBYA]
MEDITERRANEAN AVIATION COMPANY, LTD. (a.k.a. MEDAVIA), Malta [LIBYA]
MEDITERRANEAN FEED SERVICES S.A., Schutzengasse 25, Zurich CH–8001, Switzerland [LIBYA]
MEDITERRANEAN OIL SERVICES GMBH (a.k.a. MEDITERRANEAN SEA OIL SERVICES GMBH; a.k.a. MEDOIL), P.O. Box 5601, Immermannstrasse 40, Dusseldorf 1, Germany [LIBYA]
MEDITERRANEAN POWER ELECTRIC COMPANY LIMITED, A 18B, Industrial Estate, Marsa, Malta [LIBYA]
MEDITERRANEAN SEA OIL SERVICES GMBH (a.k.a. MEDITERRANEAN OIL SERVICES GMBH; a.k.a. MEDOIL), P.O. Box 5601, Immermannstrasse 40, Dusseldorf 1, Germany [LIBYA]
MEDITRADE LTD., all offices (headquartered in Belgrade, Serbia) [FRY S&M]
MEDOIL (a.k.a. MEDITERRANEAN OIL SERVICES GMBH; a.k.a. MEDITERRANEAN SEA OIL SERVICES GMBH), P.O. Box 5601, Immermannstrasse 40, Dusseldorf 1, Germany [LIBYA]
MEED INTERNATIONAL LIMITED, 3 Mandeville Place, London, England [IRAQ]
MENIL ENSTALT COMPANY, Vaduz, Liechtenstein [LIBYA]
MERCURIUS IMPORT/EXPORT COMPANY, PANAMA, S.A., Calle C, Edificio 18, Box 4048, Colon Free Zone, Panama [CUBA]
MERIMA, Krusevac, Serbia [FRY S&M]
MESOVITA BANKA d.d. (a.k.a. PKB BANKA; a.k.a. POLJOPRIVREDNI KREDITNA BEOGRAD BANKA), all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
METAL AND PLASTIC COMPONENTS PRODUCTION (a.k.a. PROGRES PRIZREN), Prizren, Kosovo (Serbia) [FRY S&M]
METAL UND STAHL HANDELS GMBH, Seilergasse 14, A–1010 Vienna, Austria [FRY S&M]
METAL UND STAHL HANDELS GMBH, Strase Lutherana Corp. D–2, Bucharest, Romania [FRY S&M]
METALAC, Suboticka 23, 11050 Belgrade, Serbia [FRY S&M]
METALCHEM BOMBAY, Yugoslav Trade Commission Office, Vaswani Mansion 1st Floor, 120/4 Dinsha Caccha Road, Bombay, India 400020 [FRY S&M]
METALCHEM DIS TICARET LTD, Iskele Cadd., Iskele Arkasi, Sokak No 13 (Cami Yani), Uskudar–Salacak, Istanbul, Turkey [FRY S&M]
METALCHEM FRANCE S.A.R.L., 16 Avenue Franklin Roosevelt, 75008 Paris, France [FRY S&M]
METALCHEM INTERNATIONAL LTD., 79/83 Great Portland Street, London W1N 5FA, England [FRY S&M]
METALCHEMICAL COMMERCIAL CORPORATION, New York, NY, U.S.A. [FRY S&M]
METALIA S.R.L., Via Vittor Pisani 14, 20124 Milan, Italy [FRY S&M]
METALLIA HANDELS GMBH, Berliner Allee 61, Postf. 20 05 20, 4000 Duesseldorf 1, Germany [FRY S&M]
METALLIA MADRID, Plaza Castillia 3/1702, 28046 Madrid, Spain [FRY S&M]
METALOPLASTIKA, Jevrenova br 111, 15000 Sabac, Serbia [FRY S&M]
METALSERVIS, Belgrade, Serbia [FRY S&M]
METALLURGICAL COOPERATIVE OF SMEDEREVO (a.k.a. MKS—METALURSKI KOMBINAT SMEDEREVO), Smederevo, Serbia [FRY S&M]
METALURSKO METALSKI KOMBINAT NIKSIC, Niksic, Montenegro [FRY S&M]
METALWORKING MACHINES AND COMPONENTS INDUSTRY 14 OCTOBER (a.k.a. IMK 14 OKTOBAF), Krusevac, Serbia [FRY S&M]
METHAQ (YIMQ) Tug 248DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
METROVIA, Switzerland [LIBYA]
METTA TRADING LTD., 79–83 Great Portland Street, London WIN 5FA, England [FRY S&M]
MG NORD TRADING COMPANY, Belgrade, Serbia [FRY S&M]
MIDCO FINANCE S.A. (a.k.a. MIDCO FINANCIAL S.A.; a.k.a. MONTANA MANAGEMENT INC.), 57 Rue du Rhone, CH–1204 Geneva, Switzerland [IRAQ]
MIDCO FINANCE S.A. (a.k.a. MIDCO FINANCIAL S.A.; a.k.a. MONTANA MANAGEMENT INC.), c/o Morgan & Morgan, Edificio Torre Swiss Bank, Piso 16, Calle 53 Este, Marbella, Panama City, Republic of Panama [IRAQ]
MIDCO FINANCIAL S.A. (a.k.a. MIDCO FINANCE S.A.; a.k.a. MONTANA MANAGEMENT INC.), c/o Morgan & Morgan, Edificio Torre Swiss Bank, Piso 16, Calle 53 Este, Marbella, Panama City, Republic of Panama [IRAQ]
MIDCO FINANCIAL S.A. (a.k.a. MIDCO FINANCE S.A.; a.k.a. MONTANA MANAGEMENT INC.), 57 Rue du Rhone, CH–1204 Geneva, Switzerland [IRAQ]
MILENA SHIP MANAGEMENT CO. LTD. (a.k.a. MILENA LINES), Masons Building, 86, The Strand, Sliema, Malta [FRY S&M]
MIN—MASINSKA INDUSTRIJA (a.k.a. MACHINE INDUSTRY OF NIS), Nis, Serbia [FRY S&M]
MINEL, Belgrade, Serbia [FRY S&M]
MINEX AD. CO., 33 Vsegradska Street, Nis, Serbia [FRY S&M]
MINING METALLURGY CHEMICAL COMBINATION OF LEAD AND ZINC (a.k.a. TREPCA—KOSOVSKA MITROVICA), Kosovska Mitrovica, Kosovo (Serbia) [FRY S&M]
MITCO (a.k.a. MAGHREBAN INTERNATIONAL TRADE COMPANY), 47, Avenue Kheireddine Pacha, 1002 Tunis, Tunisia [LIBYA]
MITSUKURA BOEKI K.K. (a.k.a. MITSUKURA BOEKI–KAISHA, LTD.; a.k.a. MITSUKURA CORPORATION; a.k.a. MITSUKURA TRADINC COMPANY LIMITED), 2–26 Isobe–dori, 4–chome, Chuo–Ku Kobe, Japan [CUBA]
MITSUKURA BOEKI K.K. (a.k.a. MITSUKURA BOEKI–KAISHA, LTD.; a.k.a. MITSUKURA CORPORATION; a.k.a. MITSUKURA TRADING COMPANY LIMITED), 4–1–13 Hachiman–dori, Chuo–Ku Kobe, Japan [CUBA]
MITSUKURA BOEKI–KAISHA, LTD. (a.k.a. MITSUKURA BOEKI K.K.; a.k.a. MITSUKURA CORPORATION; a.k.a. MITSUKURA TRADING COMPANY LIMITED), 4–1–13 Hachiman–dori, Chuo–Ku Kobe, Japan [CUBA]
MITSUKURA BOEKI–KAISHA, LTD. (a.k.a. MITSUKURA BOEKI K.K.; a.k.a. MITSUKURA CORPORATION; a.k.a. MITSUKURA TRADING COMPANY LIMITED), 2–26 Isobe–dori, 4–chome, Chuo–Ku Kobe, Japan [CUBA]
MITSUKURA CORPORATION (a.k.a. MITSUKURA BOEKI–KAISHA, LTD.; a.k.a. MITSUKURA BOEKI K.K.; a.k.a. MITSUKURA TRADING COMPANY LIMITED), 2–26 Isobe–dori, 4–chome, Chuo–Ku Kobe, Japan [CUBA]
MITSUKURA CORPORATION (a.k.a. MITSUKURA BOEKI–KAISHA, LTD.; a.k.a. MITSUKURA BOEKI K.K.; a.k.a. MITSUKURA TRADING COMPANY LIMITED), 4–1–13 Hachiman–dori, Chuo–Ku Kobe, Japan [CUBA]
MITSUKURA TRADING COMPANY LIMITED (a.k.a. MITSUKURA BOEKI–KAISHA, LTD.; a.k.a. MITSUKURA BOEKI K.K.; a.k.a. MITSUKURA CORPORATION), 2–26 Isobe–dori, 4–chome, Chuo–Ku Kobe, Japan [CUBA]

MITSUKURA TRADING COMPANY LIMITED (a.k.a. MITSUKURA BOEKI–KAISHA, LTD.; a.k.a. MITSUKURA BOEKI K.K.; a.k.a. MITSUKURA CORPORATION), 4–1–13 Hachiman–dori, Chuo–Ku Kobe, Japan [CUBA]
MJESOVITO, Herceg Novi, Montenegro [FRY S&M]
MKS—METALURSKI KOMBINAT SMEDEREVO (a.k.a. METALLURGICAL COOPERATIVE OF SMEDEREVO), Smederevo, Serbia [FRY S&M]
MOA (f.k.a. VIRPAZAR) (9HTM3) General Dry Cargo 9,201GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
MOBIL OIL LIBYA, LTD. (n.k.a. VEBA OIL LIBYA GMBH; n.k.a. VEBA OIL LIBYAN BRANCH; n.k.a. VEBA OIL OPERATIONS B.V.), see listings (Designation applies only to joint venture located in Libya and office located in the Netherlands) [LIBYA]
MOHAMED, Abdul Kader Ibrahim, Jianguomenwai Diplomatic Housing Compound, Building 7–1, 5th Floor, Apartment 4, Beijing, People's Republic of China (individual) [IRAQ]
MONET TRADING COMPANY, Panama [CUBA]
MONTANA MANAGEMENT INC. (a.k.a. MIDCO FINANCIAL S.A.; a.k.a. MIDCO FINANCE S.A., 57 Rue du Rhone, CH–1204 Geneva, Switzerland), c/o Morgan & Morgan, Edificio Torre Swiss Bank, Piso 16, Calle 53 Este, Marbella, Panama City, Republic of Panama [IRAQ]
MONTANES, Roger (a.k.a. Roger Montanes CABALLERO; a.k.a. Roger Edward DOOLEY), Panama (individual) [CUBA]
MONTANEZ, Michael, Panama (individual) [CUBA]
MONTE (f.k.a. KOMOVI) (9HTD3) General Dry Cargo 9,183GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
MONTENEGRIN RAILROAD TRANSPORTATION ORGANIZATION (a.k.a. ZELEZNICKO TRANSPORTNO PREDUZECE CRNE GORE), Montenegro [FRY S&M]
MONTENEGRO ELECTRIC POWER COMPANY (a.k.a. ELEKTROPRIVREDA CRNE GORE), Podgorica, Montenegro [FRY S&M]
MONTENEGRO EXPORT NIKSIC, 1052 Vaci u 19/21, Budapest, Hungary [FRY S&M]
MONTENEGRO EXPORT YUGOSLAVIA, Kuruclesi ut 19/b, Budapest II, Hungary [FRY S&M]
MONTENEGRO OCEAN SHIPPING (n.k.a. SOUTH CROSS SHIPPING LTD.), Valletta, Malta, c/o Milena Ship Management Co. Ltd., Masons Building, 86, The Strand, Sliema, Malta [FRY S&M]
MONTENEGRO OVERSEAS NAVIGATION LTD., Panama City, Panama, c/o Prekookeanska Plovidba, P.O. Box 87, Marsala Tita 46, 85000 Bar, Montenegro [FRY S&M]
MONTENEGRO POST, TELEGRAPH AND TELEPHONE (a.k.a. PTT CRNE GORE), Montenegro [FRY S&M]
MONTENEGROBANKA COMPANY, Kaiserstrasse 3, Frankfurt, Germany [FRY S&M]
MONTENEGROBANKA d.d. (a.k.a. INVESTICIONA BANKA TITOGRAD), all offices worldwide (Bank is headquartered in Podgorica, Montenegro) [FRY S&M] including, but not limited to:
MONTENEGROBANKA d.d. (a.k.a. INVESTICIONA BANKA TITOGRAD), Bulevar Revolucije 1, P. O. Box 183, 81001 Podgorica, Montenegro [FRY S&M]
MONTENEGROEXPORT PREDSTAVITELSTVO FIRMY , (MONTENEGROEXPORT REPRESENTATIVE OFFICE), B Pereiaslavskaia d 7 kv 118, Moscow, Russia [FRY S&M]
MONTENEGROEXPORT STROIPLOSCADKA JUGOSLAVSKOI FIRMY, 1–i Krasnogvardeiskii pr, Moscow, Russia [FRY S&M]
MONTENEGROEXPRES—BUDVA (a.k.a. TOURIST ENTERPRISE MONTENEGROEXPRES), Budva, Montenegro [FRY S&M]
MONTEX BANKA d.d., all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
MONTEX, Niksic, Montenegro [FRY S&M]
MONTINVEST, Bulevar revolucije 84, P.O.Box 821, 11001 Belgrade, Serbia [FRY S&M]
MONTINVEST, Wilhelm–Leuschner Strasse 68, 6000 Frankfurt 01, Germany [FRY S&M]
MOONEX INTERNATIONAL, S.A., Kingston, Jamaica [CUBA]
MOONEX INTERNATIONAL, S.A., Panama [CUBA]
MORACA (9HTE3) General Dry Cargo 13,651GT Malta Flag (Oktoih Overseas Shipping Ltd.) (vessel) [FRY S&M]
MORAVA, Serbia [FRY S&M]
MOSLAVINA (9HTW3) General Dry Cargo 11,771GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
MOSTOGRADNJA–GRADJEVNO PREDUZECE, Vlajkoviceva 19A, 11000 Belgrade, Serbia [FRY S&M]
MOTOR INDUSTRY OF RAKOVICA (a.k.a. IMR—INDUSTRIJA MOTORA RAKOVICA), Belgrade, Serbia [FRY S&M]
MURALLA, S.A. (a.k.a. COMERCIAL MURALLA, S.A.), Panama City, Panama [CUBA]
N.A.I.B. (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), Avenue Kheireddine Pacha 25, Tunis, Tunisia [LIBYA]
N.A.I.B. (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 485, 1080 Tunis Cedex, Tunisia [LIBYA]
N.A.I.B. (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), 25 Avenue Khereddine Pacha, Tunis, Tunisia [LIBYA]
N.A.I.B. (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. NORTH AFRICA INTERNATIONAL BANK; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 102, Le Belvedere, 1002 Tunis, Tunisia [LIBYA]
NAAS, Mahmoud, Libya (individual) [LIBYA]
NACIONAL, Serbia [FRY S&M]
NACIONAL SHOP, Belgrade, Serbia [FRY S&M]
NAFTAGAS, Novi Sad, Vojvodina (Serbia) [FRY S&M]
NAFTAGAS–PROMET, Novi Sad, Vojvodina (Serbia) [FRY S&M]
NAFTAGAS–REFINERIJA, Pancevo, Vojvodina (Serbia) [FRY S&M]
NAGROOR (N/A) Fish 140DWT Iraqi flag (Government of the Republic of Iraq, Ministry of Agriculture & Agrarian Reform, State Fisheries Company, Baghdad, Iraq) (vessel) [IRAQ]
NAINAWA (YINW) Tug 310DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
NAJAH, Tahor, Manama, Bahrain (individual) [LIBYA]
NAJAH, Tahor, Tripoli, Libya (individual) [LIBYA]
NAMAN, Saalim (a.k.a. NAMAN, Sam), 3343 Woodview Lake Road, West Bloomfield, MI 48323 U.S.A. (individual) [IRAQ]
NAMAN, Saalim (a.k.a. NAMAN, Sam), 5903 Harper Road, Solon, OH 44139, U.S.A. (individual) [IRAQ]
NAMAN, Saalim (a.k.a. NAMAN, Sam), 600 Grant Street, 42nd Floor, Pittsburg, PA 15219, U.S.A. (individual) [IRAQ]
NAMAN, Saalim (a.k.a. NAMAN, Sam), Amman, Jordan (individual) [IRAQ]
NAMAN, Saalim (a.k.a. NAMAN, Sam), Iraq (individual) [IRAQ]
NAMAN, Saalim (a.k.a. NAMAN, Sam), P.O. Box 39, Fletchamstead Highway, Coventry, England (individual) [IRAQ]
NAP–COMBICK OEL GMBH, Windmuhlstrasse 1, D–6000 Frankfurt/M1, Germany [FRY S&M]
NAPETCO (a.k.a. NATIONAL PETROCHEMICALS COMPANY; f.k.a. NATIONAL METHANOL COMPANY), P.O. Box 5324, Garden City, Benghazi, Libya [LIBYA]
NAPETCO (a.k.a. NATIONAL PETROCHEMICALS COMPANY; f.k.a. NATIONAL METHANOL COMPANY), P.O. Box 20812, Marsa Brega, Libya [LIBYA]
NAPETCO (a.k.a. NATIONAL PETROCHEMICALS COMPANY; f.k.a. NATIONAL METHANOL COMPANY), Dusseldorf, Germany (Office Closed) [LIBYA]
NARODNA BANKA CRNE GORE (a.k.a. NATIONAL BANK OF MONTENEGRO), Podgorica, Montenegro [FRY S&M]
NARODNA BANKA JUGOSLAVIJE (a.k.a. BANQUE NATIONALE DE YOUGOSLAVIE; a.k.a. NATIONAL BANK OF YUGOSLAVIA), Belgrade, Serbia [FRY S&M]
NARODNA BANKA SRBIJE (a.k.a. NATIONAL BANK OF SERBIA), Belgrade, Serbia [FRY S&M]
NATIONAL AGRICULTURAL BANK OF LIBYA (a.k.a. THE AGRICULTURAL BANK; a.k.a. LIBYAN AGRICULTURAL BANK), (1 city branch and 27 branches in Libya) [LIBYA]
NATIONAL AGRICULTURAL BANK OF LIBYA (a.k.a. THE AGRICULTURAL

BANK; a.k.a. LIBYAN AGRICULTURAL BANK), 52, Omar El Mokhtar Street, P.O. Box 1100, Tripoli, Libya [LIBYA]
NATIONAL BANK OF CUBA (a.k.a. BANCO NACIONAL DE CUBA, a.k.a. BNC), Dai-Ichi Bldg. 6th Floor, 10-2 Nihombashi, 2-chome, Chuo-ku, Tokyo 103, Japan [CUBA]
NATIONAL BANK OF CUBA (a.k.a. BANCO NACIONAL DE CUBA, a.k.a. BNC), Zweierstrasse 35, CH-8022 Zurich, Switzerland) [CUBA]
NATIONAL BANK OF CUBA (a.k.a. BANCO NACIONAL DE CUBA, a.k.a. BNC), Federico Boyd Ave. & 51 St., Panama City, Panama [CUBA]
NATIONAL BANK OF CUBA (a.k.a. BANCO NACIONAL DE CUBA, a.k.a. BNC), Ave. de Concha Espina 8, E-28036 Madrid, Spain [CUBA]
NATIONAL BANK OF MONTENEGRO (a.k.a. NARODNA BANKA CRNE GORE), Podgorica, Montenegro [FRY S&M]
NATIONAL BANK OF SERBIA (a.k.a. NARODNA BANKA SRBIJE), Belgrade, Serbia [FRY S&M]
NATIONAL BANK OF YUGOSLAVIA (a.k.a. BANQUE NATIONALE DE YOUGOSLAVIE; a.k.a. NARODNA BANKA JUGOSLAVIJE), Belgrade, Serbia [FRY S&M]
NATIONAL COMMERCIAL BANK S.A.L., (22 branches in Libya) [LIBYA]
NATIONAL COMMERCIAL BANK S.A.L., P.O. Box 166, Benghazi, Libya [LIBYA]
NATIONAL COMMERCIAL BANK S.A.L., P.O. Box 4647, Shuhada Square, Tripoli, Libya [LIBYA]
NATIONAL COMPANY DRILLING CHEMICAL & EQUIPMENT (a.k.a. JOWFE), NOC Building, Ashjara Square, Benghazi, Libya [LIBYA]
NATIONAL COMPANY FOR FIELD AND TERMINALS CATERING, Airport Road, Km. 3, P.O. Box 491, Tripoli, Libya [LIBYA]
NATIONAL COMPANY FOR OILFIELD EQUIPMENT, P.O. Box 8707, Tripoli, Libya [LIBYA]
NATIONAL DRILLING COMPANY (a.k.a. NATIONAL DRILLING COMPANY (LIBYA); a.k.a. NATIONAL DRILLING WORKOVER COMPANY), 208 Omar El Mokhtar Street, P.O. Box 1454, Tripoli, Libya [LIBYA]
NATIONAL DRILLING COMPANY (LIBYA) (a.k.a. NATIONAL DRILLING COMPANY; a.k.a. NATIONAL DRILLING WORKOVER COMPANY), 208 Omar El Mokhtar Street, P.O. Box 1454, Tripoli, Libya [LIBYA]
NATIONAL DRILLING WORKOVER COMPANY (a.k.a. NATIONAL DRILLING COMPANY; a.k.a. NATIONAL DRILLING COMPANY (LIBYA)), 208 Omar El Mokhtar Street, P.O. Box 1454, Tripoli, Libya [LIBYA]
NATIONAL GENERAL INSURANCE CO. LTD., Salah Aldin Al Ayubi Street, Deira-Dubai, United Arab Emirates [NKOREA]
NATIONAL METHANOL COMPANY (n.k.a. NAPETCO; n.k.a. NATIONAL PETROCHEMICALS COMPANY), see listings [LIBYA]
NATIONAL OIL CORPORATION (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NOC), (Subsidiaries and joint ventures in Libya and worldwide) [LIBYA]
NATIONAL OIL CORPORATION (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NOC), Petroleum Training and Qualifying Institute, Zawia Road, Km. 9, P.O. Box 6184, Tripoli, Libya [LIBYA]
NATIONAL OIL CORPORATION (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NOC), P.O. Box 2978, Benghazi, Libya [LIBYA]
NATIONAL OIL CORPORATION (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NOC), Dahra Gas Projects Office, Dahra Street, P.O. Box 12221, Dahra, Tripoli, Libya [LIBYA]
NATIONAL OIL CORPORATION (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NOC), Petroleum Research Centre, Al Nasser Street, P.O. Box 6431, Tripoli, Libya [LIBYA]
NATIONAL OIL CORPORATION (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NOC), Bashir Saadawi Street, P.O. Box 2655, Tripoli, Libya [LIBYA]
NATIONAL PETROCHEMICALS COMPANY (a.k.a. NAPETCO; f.k.a. NATIONAL METHANOL COMPANY), P.O. Box 20812, Marsa Brega, Libya [LIBYA]
NATIONAL PETROCHEMICALS COMPANY (a.k.a. NAPETCO; f.k.a. NATIONAL METHANOL COMPANY), Dusseldorf, Germany (Office Closed) [LIBYA]
NATIONAL PETROCHEMICALS COMPANY (a.k.a. NAPETCO; f.k.a. NATIONAL METHANOL COMPANY), P.O. Box 5324, Garden City, Benghazi, Libya [LIBYA]
NAVARRO, Samuel (MARTINEZ), Frankfurt, Germany (individual) [CUBA]
NAVIERA MARITIMA DE AROSA, S.A., Paseo de Pereda 36, Apartado 141, 39004 Santander, Spain [CUBA]
NAVIGABLE WATER CORP., LTD., Panama [CUBA]
NDO (a.k.a. NORDDEUTSCHE OELLEITUNGSGESELLSCHAFT MBH; a.k.a. NORTH GERMAN OIL PIPELINE), Moorburger Strasse 16, D2000 Hamburg-Harburg 90, Germany [LIBYA]
NDO (a.k.a. NORDDEUTSCHE OELLEITUNGSGESELLSCHAFT MBH; a.k.a. NORTH GERMAN OIL PIPELINE), Wilhelmshaven to Hamburg pipeline, Germany [LIBYA]
NESSI, Ferruccio, Piazza Grande 26, 6600 Locarno, Switzerland (individual) [IRAQ]
NEUTRON INTERNATIONAL, Tripoli, Libya [LIBYA]
NIGERIAN ENGINEERING AND CONSTRUCTION CO. LTD., Ebute-Metta, Lagos, Nigeria [FRY S&M]
NIKSA BANKA, all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
NIKSIC (n.k.a. BAYAMO) (9HTF3) Bulk Carrier 9,916GT Malta flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
NIPE (f.k.a. ULCIN)) (9HTL3) Bulk Carrier 9,028GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
NIPPON-CARIBBEAN CO., LTD. Chuo-Ku, Akasaki-Chuo 1-1 Akasaki Bldg., Tokyo, Japan [CUBA]
NIREF, Boezembolcht 23, Rotterdam, Netherlands [CUBA]
NIS—NAFTA INDUSTRIJA SRBIJE (a.k.a. SERBIAN PETROLEUM INDUSTRY), Novi Sad, Vojvodina (Serbia) [FRY S&M]
NISR (YISR) Service 744DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
NISSAL, Bulevar Veljka Vlahovica bb, 18000 Nis, Serbia [FRY S&M]
NO. 1 (N/A) Service 30DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
NO. 2 (N/A) Service 30DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
NOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION), Dahra Gas Projects Office, Dahra Street, P.O. Box 12221, Dahra, Tripoli, Libya [LIBYA]
NOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION), Petroleum Training and Qualifying Institute, Zawia Road, Km. 9, P.O. Box 6184, Tripoli, Libya [LIBYA]
NOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION), Petroleum Research Centre, Al Nasser Street, P.O. Box 6431, Tripoli, Libya [LIBYA]
NOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION), P.O. Box 2978, Benghazi, Libya [LIBYA]
NOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION), Bashir Saadawi Street, P.O. Box 2655, Tripoli, Libya [LIBYA]
NOC (a.k.a. LIBYAN NATIONAL OIL CORPORATION; a.k.a. LNOC; a.k.a. NATIONAL OIL CORPORATION), (Subsidiaries and joint ventures in Libya and worldwide) [LIBYA]
NOLIVEL, Belgrade, Serbia [FRY S&M]
NORDDEUTSCHE OELLEITUNGSGESELLSCHAFT MBH (a.k.a. NDO; a.k.a. NORTH GERMAN OIL PIPELINE), Wilhelmshaven to Hamburg pipeline, Germany [LIBYA]
NORDDEUTSCHE OELLEITUNGSGESELLSCHAFT MBH (a.k.a. NDO; a.k.a. NORTH GERMAN OIL PIPELINE), Moorburger Strasse 16, D2000 Hamburg-Harburg 90, Germany [LIBYA]
NORDSTRAND LTD., Liechtenstein [CUBA]
NORDSTRAND MARITIME AND TRADING COMPANY, 33 Akti Maouli, 185-35 Pireas (Piraeus), Greece [CUBA]
NORIEGA, Manuel Antonio, Panama (individual) [CUBA]
NORTH AFRICA COMMERCIAL BANK S.A.L. (f.k.a. ARAB LIBYAN TUNISIAN BANK S.A.L.), P.O. Box 9575/11, 1st Floor, Piccadily Centre, Hamra Street, Beirut, Lebanon [LIBYA]
NORTH AFRICA INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), 25 Avenue Khereddine Pacha, Tunis, Tunisia [LIBYA]
NORTH AFRICA INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE

DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 102, Le Belvedere, 1002 Tunis, Tunisia [LIBYA]
NORTH AFRICA INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), Avenue Kheireddine Pacha 25, Tunis, Tunisia [LIBYA]
NORTH AFRICA INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICAN INTERNATIONAL BANK), P.O. Box 485, 1080 Tunis Cedex, Tunisia [LIBYA]
NORTH AFRICAN INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK), P.O. Box 485, 1080 Tunis Cedex, Tunisia [LIBYA]
NORTH AFRICAN INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK), Avenue Kheireddine Pacha 25, Tunis, Tunisia [LIBYA]
NORTH AFRICAN INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK), P.O. Box 102, Le Belvedere, 1002 Tunis, Tunisia [LIBYA]
NORTH AFRICAN INTERNATIONAL BANK (a.k.a. BANQUE ARABE D'AFRIQUE DU NORD [BAAN]; a.k.a. BANQUE ARABE DU NORD—BAAN; a.k.a. N.A.I.B.; a.k.a. NORTH AFRICA INTERNATIONAL BANK), 25 Avenue Khereddine Pacha, Tunis, Tunisia [LIBYA]
NORTH GERMAN OIL PIPELINE (a.k.a. NDO; a.k.a. NORDDEUTSCHE OELLEITUNGSGESELLSCHAFT MBH), Wilhelmshaven to Hamburg pipeline, Germany [LIBYA]
NORTH GERMAN OIL PIPELINE (a.k.a. NDO; a.k.a. NORDDEUTSCHE OELLEITUNGSGESELLSCHAFT MBH), Moorburger Strasse 16, D2000 Hamburg–Harburg 90, Germany [LIBYA]
NORTH ISLAND SHIPPING CO., Limassol, Cyprus [CUBA]
NORTH ISLANDS (North Islands Shipping Co., Cyprus) (vessel) [CUBA]
NOVI SAD RAILROAD TRANSPORTATION ORGANIZATION (a.k.a. ZELEZNICKO TRANSPORTNO PREDUZECE NOVI SAD), Novi Sad, Vojvodina (Serbia) [FRY S&M]
NOVI SHIPPING COMPANY S.A., Panama City, Panama, c/o Beogradska Plovidba, Lenjinov Bulevar 165A, Novi Beograd, 11070 Belgrade, Serbia [FRY S&M]
NOVINSKA AGENCIJA TANJUG (a.k.a. TANJUG), Belgrade, Serbia [FRY S&M]
NOVKABEL, Novi Sad, Vojvodina (Serbia) [FRY S&M]
NOVOSADSKA BANKA d.d., all offices (Bank is headquartered in Novi Sad, Vojvodina [Serbia]) [FRY S&M]
NOVOSADSKA FABRIKA KABELA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
NUWAIBI (N/A) Fish 140DWT Iraqi flag (Iraqi State Fisheries Co.) (vessel) [IRAQ]
OBOD (n.k.a. AIRE F) (9HTG3) General Dry Cargo 13,651GT Malta flag (Oktoih Overseas Shipping Ltd.) (vessel) [FRY S&M]
OBOD CETINJE—ELEKTROINDUSTRIJA, Cetinje, Montenegro [FRY S&M]
OCEANIC BULK SHIPPING S.A., Panama City, Panama, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
OCTOBER HOLDING COMPANY (a.k.a. OCTUBRE HOLDING SOCIETE ANONIME) Vaduz, Liechtenstein [CUBA]
OCTUBRE HOLDING SOCIETE ANONIME (a.k.a. OCTOBER HOLDING COMPANY), Vaduz, Liechtenstein [CUBA]
OHOD 5 (N/A) Service DWT N/A Saudi Arabian flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
OHOD 6 (N/A) Service DWT N/A Saudi Arabian flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
OHOD 7 (N/A) Service DWT N/A Saudi Arabian flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
OIIC (a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION; a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY; a.k.a. OILINVEST; a.k.a. OILINVEST INTERNATIONAL N.V.), Tripoli, Libya [LIBYA]
OIIC (a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION; a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY; a.k.a. OILINVEST; a.k.a. OILINVEST INTERNATIONAL N.V.), Netherlands Antilles [LIBYA]
OIL ENERGY FRANCE, France [LIBYA]
OIL ENERGY SPAIN (a.k.a. OILINVEST SPAIN; a.k.a. OILINVEST ESPANOLA), Spain [LIBYA]
OILINVEST (a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION; a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY; a.k.a. OIIC; a.k.a. OILINVEST INTERNATIONAL N.V.), Netherlands Antilles [LIBYA]
OILINVEST (a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION; a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY; a.k.a. OIIC; a.k.a. OILINVEST INTERNATIONAL N.V.), Tripoli, Libya [LIBYA]
OILINVEST (NETHERLANDS) B.V. (a.k.a. OILINVEST HOLLAND B.V.) Museumpln 11, 1071 DJ Amsterdam, Netherlands [LIBYA]
OILINVEST ESPANOLA (a.k.a. OILINVEST SPAIN; a.k.a. OIL ENERGY SPAIN), Spain [LIBYA]
OILINVEST HOLLAND B.V. (a.k.a. OILINVEST NETHERLANDS B.V.), Museumpln 11, 1071 DJ Amsterdam, Netherlands [LIBYA]
OILINVEST INTERNATIONAL N.V. (a.k.a. OILINVEST, a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION, a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY, a.k.a. OIIC), Netherlands Antilles [LIBYA]
OILINVEST INTERNATIONAL N.V. (a.k.a. OILINVEST, a.k.a. FOREIGN PETROLEUM INVESTMENT CORPORATION, a.k.a. LIBYAN OIL INVESTMENTS INTERNATIONAL COMPANY, a.k.a. OIIC), Tripoli, Libya [LIBYA]
OILINVEST SPAIN (a.k.a. OIL ENERGY SPAIN; a.k.a. OILINVEST ESPANOLA), Spain [LIBYA]
OKTOIH OVERSEAS SHIPPING LTD., Valletta, Malta, c/o Rigel Shipmanagement Ltd., Second Floor, Regency House, Republic Street, Valletta, Malta [FRY S&M]
OMEGA GMBH (a.k.a. EXIMKOS; a.k.a. KOSOVO EXPORT IMPORT GMBH; a.k.a. KOSOVO GMBH), Maillingerstr. 34, 8000 Munich 2, Germany [FRY S&M]
OMEISH, Ramadan M., Tripoli, Libya; Abu Dhabi, U.A.E. (individual) [LIBYA]
OMNIAUTO, Belgrade, Serbia [FRY S&M]
OMNIKOMERC, Belgrade, Serbia [FRY S&M]
OMRAN, Karim Dhaidas, Iraq (individual) [IRAQ]
ONYX ISLANDS (Maryol Enterprises, Inc., Panama) (vessel) [CUBA]
OPTIKA—BEOGRAD, Belgrade, Serbia [FRY S&M]
ORE STAR (f.k.a. SMEDERVO) (J8FN9) Ore/Oil Carrier 86,401GT Saint Vincent Flag (Glimmer Maritime S.A.) (vessel) [FRY S&M]
ORIENT SHIPPING LIMITED, Lot 18, Bay Street, Kingstowne, St. Vincent and the Grenadines [IRAQ]
ORJEN (9HSO3) Bulk Carrier 38,551GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel) [FRY S&M]
OROOBA (YIOB) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ORS, Jose Antonio Rego, Tokyo, Japan (individual) [CUBA]
ORTEGA, Dario (PINA) Edificio Saldívar, Panama City, Panama (individual) [CUBA]
ORTIZ, Guadalupe, Cubanatur, Baja California 255, Edificio B, Oficina 103, Condesa 06500, Mexico, D.F. (individual) [CUBA]
OS OILINVEST SERVICES A.G., Loewenstrasse 60, Zurich, Switzerland [LIBYA]
OSBORNE TRADING COMPANY LTD., Berengaria Bldg., 25 Spyrou Araouzou Street, Limassol, Cyprus [FRY S&M]
OSNOVA BANKA POLJOPRIVEDNA BANKA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
OSNOVNA PRIVREDNO–INVESTICIONA BANKA (a.k.a. INVESTBANKA), all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
OTORI MARU No. 2 (N/A) Service DWT N/A (State Org. of Iraqi Ports) (vessel) [IRAQ]
PADRON, Amado (TRUJILLO), Panama (individual) [CUBA]
PAK–LIBYAN HOLDING COMPANY LTD., Karachi, Pakistan [LIBYA]
PALESTINE (YIFN) Service 4,649DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
PALMA MOCHA (Naviera Maritima de Arosa, Spain) (vessel) [CUBA]
PALOMA WEST HANDELS GMBH, Frankfurt, Germany [FRY S&M]
PAMIT C. (Pamit C. Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
PAMIT C. SHIPPING CO., LTD., Limassol, Cyprus [CUBA]
PAMUCNI KOMBINAT YUMKO, Vranje, Serbia [FRY S&M]

PANAMERICAN IMPORT AND EXPORT COMMERCIAL CORPORATION, Panama [CUBA]
PANCEVO HEMIJSKA INDUSTRIJA, Spoljnostarcevacka 80, 26000 Pancevo, Serbia [FRY S&M]
PANDORA SHIPPING CO. S.A., Honduras [IRAQ]
PANOAMERICANA, Panama [CUBA]
PANONSKA BANKA d.d., all offices (Bank is headquartered in Novi Sad, Vojvodina [Serbia]) [FRY S&M]
PARADISSIOTIS, Christoforos Pavlou, 34 Grosvenor Street, London W1X 9FG, England (individual) [LIBYA]
PARADISSIOTIS, Christoforos Pavlou, Larnaca, Cyprus (individual) [LIBYA]
PBS BOSANSKA GRADISKA DD, Bosanska Gradiska, Bosnia–Herzegovina [FRY S&M]
PCL PELCAM TRADE LTD. (a.k.a. UBB INVESTMENTS & FINANCE), 2 Soufoules St., Chanteclair Bldg., No. 205, Nicosia, Cyprus [FRY S&M]
PENA, Jose (TORRES), Panama (individual) [CUBA]
PENA, Victor, Panama (individual) [CUBA]
PEONY ISLANDS (Peony Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
PEONY SHIPPING CO., LTD., Limassol, Cyprus [CUBA]
PERAST (Unknown) RO/RO Cargo/Ferry 131GT Yugoslavia Flag (Komunalno Poduzece) (vessel) [FRY S&M]
PEREZ, Alfonso, Panama (individual) [CUBA]
PEREZ, Manuel Martin, Panama (individual) [CUBA]
PEREZ, Osvaldo (CRUZ), Panama (individual) [CUBA]
PESCABRAVA, S.A., France [CUBA]
PESCABRAVA, S.A., Italy [CUBA]
PESCABRAVA, S.A., Spain [CUBA]
PESCADOS Y MARISCOS DE PANAMA, S.A. (a.k.a. PESMAR; a.k.a. PEZMAR, S.A.), Panama City, Panama [CUBA]
PESMAR (or PEZMAR), S.A. (a.k.a. PESCADOS Y MARISCOS DE PANAMA, S.A.), Panama City, Panama [CUBA]
PETRA NAVIGATION & INTERNATIONAL TRADING CO. LTD., (a.k.a. AL PETRA COMPANY FOR GOODS TRANSPORT LTD.), Hai Al Wahda Mahalat 906, 906 Zulak 50, House 14, Baghdad, Iraq [IRAQ]
PIEX, Panama [CUBA]
PIK BECEJ, Becej, Vojvodina (Serbia) [FRY S&M]
PIK POZAREVAC, Pozrevac, Serbia [FRY S&M]
PIK SIRMIUM, Sremska Mitrovica, Vojvodina (Serbia) [FRY S&M]
PIK SOMBOR, Sombor, Vojvodina (Serbia) [FRY S&M]
PIK TAKOVO, Gornji Milanovac, Serbia [FRY S&M]
PIK TAMIS, Pancevo, Vojvodina (Serbia) [FRY S&M]
PILOT 393 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
PILOT 394 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
PINO DEL AGUA (Naviera Maritima de Arosa, Spain) (vessel) [CUBA]
PIONEER (Tramp Pioneer Shipping Co., Ltd., Panama) (vessel) [CUBA]
PIONEER SHIPPING LTD., 171 Old Bakery Street, Valletta, Malta (c/o Anglo Caribbean Shipping Co., Ltd., 4th Floor, South Phase 2, South Quay Plaza 2, 183 Marsh Wall, London E14 9SH, England) [CUBA]
PIRAMIDE INTERNATIONAL, Panama [CUBA]
PIRANHA NAVIGATION CO., LTD., Limassol, Cyprus [CUBA]
PIVA (n.k.a. RIO B) (9HTH3) General Dry Cargo 9,324GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
PKB (a.k.a. POLJOPRIVREDNI KOMBINAT BEOGRAD), Padinska Skela, Serbia [FRY S&M]
PKB BANKA (a.k.a. MESOVITA BANKA d.d.; a.k.a. POLJOPRIVREDNI KREDITNA BEOGRAD BANKA), all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
PKB COMMERCE, Belgrade, Serbia [FRY S&M]
PKB HERCEG NOVI, Herceg Novi, Montenegro [FRY S&M]
PLAYA (f.k.a. CETINJE) (9HSY3) Bulk Carrier 9,028GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
PLJEVANSKA BANKA, all offices (Bank is headquartered in Podgorica, Montenegro) [FRY S&M]
POCHO NAVIGATION CO., LTD., Limassol, Cyprus [CUBA]
POLICE 1 (N/A) Patrol DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
POLICE 2 (N/A) Patrol DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
POLICE 3 (N/A) Patrol DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
POLIMKA, Ivangrad, Montenegro [FRY S&M]
POLJOPRIVREDNA BANKA OSNOVNA, all offices worldwide [FRY S&M]
POLJOPRIVREDNI KOMBINAT BEOGRAD (a.k.a. PKB), Padinska Skela, Serbia [FRY S&M]
POLJOPRIVREDNI KREDITNA BEOGRAD BANKA (a.k.a. MESOVITA BANKA d.d.; a.k.a. PKB BANKA), all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
POMORAC (3EIE4) Bulk Carrier 20,904GT Panama Flag (Oceanic Bulk Shipping S.A.) (vessel) [FRY S&M]
PONCE DE LEON, Lazaro (GOMEZ), Medira, Mexico (individual) [CUBA]
PRADO, Julio (a.k.a. Julio LOBATO), Panama (individual) [CUBA]
PREDUZECE ZA GAZDOVANJE SUMAMA—SRBIJASUME (a.k.a. PUBLIC FORESTRY ENTERPRISE—SRBIJASUME), Serbia [FRY S&M]
PREDUZETNICKA BANKA d.d., all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
PREKOOKEANSKA PLOVIDBA, P.O. Box 87, Marsala Tita 46, 85000 Bar, Montenegro [FRY S&M]
PRELASA, Mexico [CUBA]
PRENSA LATINA CANADA LTD., 1010 O Rue Ste. Catherine, Montreal PQ H303 IGI, Canada [CUBA]
PRENSA LATINA, Spain [CUBA]
PRESA, S.A., Panama [CUBA]
PRIMA EXPORT/IMPORT, Jamaica [CUBA]
PRIMROSE ISLANDS (Piranha Navigation Co., Ltd., Cyprus) (vessel) [CUBA]
PRISTINSKA BANKA d.d., all offices (Bank is headquartered in Pristina, Kosovo [Serbia]) [FRY S&M]
PRIVATNE PRIVREDE BANKA, all offices (Bank is headquartered in Montenegro) [FRY S&M]
PRIVREDNA BANKA BEOGRAD d.d., all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
PRIVREDNA BANKA NOVI SAD d.d., all offices (Bank is headquartered in Novi Sad, Vojvodina [Serbia]) [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Bijeljina), Bijeljina, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Brcko), Brcko, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Doboj), Doboj, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Foca), Foca, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Prijedor), Prijedor, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Titov Drvar), Titov Drvar, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Trebinje), Trebinje, Bosnia–Herzegovina [FRY S&M]
PRIVREDNA BANKA SARAJEVO DD (Zvornik), Zvornik, Bosnia– Herzegovina [FRY S&M]
PRIVREDNA KOMORA CRNE GORE (a.k.a. CHAMBER OF ECONOMY OF MONTENEGRO), Podgorica, Montenegro [FRY S&M]
PRIVREDNA KOMORA JUGOSLAVIJE (a.k.a. CHAMBER OF ECONOMY OF YUGOSLAVIA), Belgrade, Serbia [FRY S&M]
PRIVREDNA KOMORA SRBIJE (a.k.a. CHAMBER OF ECONOMY OF SERBIA), Belgrade, Serbia [FRY S&M]
PROARTE (a.k.a. PROMOCIONES ARTISTICAS), Mexico [CUBA]
PROGRES BAGHDAD BRANCH OFFICE, Section 929 St., 12 House 35/9/35, Baghdad, Iraq [FRY S&M]
PROGRES, Belgrade, Serbia [FRY S&M]
PROGRES BUCUREST (a.k.a. PROGRES BUCHAREST), B–Dul Balcesku No 32–34/I, Bucharest, Romania [FRY S&M]
PROGRES INTERAGRAR, Belgrade, Serbia [FRY S&M]
PROGRES PRIZREN (a.k.a. METAL AND PLASTIC COMPONENTS PRODUCTION), Prizren, Kosovo (Serbia) [FRY S&M]
PROGRES TRADE REPRESENTATION IN IRAN, Ayattolah Teleghani Ave No. 202/V, Teheran, Iran [FRY S&M]
PROGRESS BEOGRAD (a.k.a. PROGRESS BEOGRAD PREDSTAVITELJSTVO VSSSR), St. Gorkog 56 kv 112, 12 50 47 Moscow, Russia [FRY S&M]
PROGRESS BUDAPEST, Kepviselet 6, Ferenczi Istvan 12/I, 1053 Budapest, Hungary [FRY S&M]
PROGRESS REPRESENTATION OFFICE, Sipka No. 7, Sofia 7, Bulgaria [FRY S&M]
PROGRESS REPRESENTATIVE OFFICE, Szpitalna 6, Przedstawicielstvo w Warsawie, Warsaw, Poland [FRY S&M]
PROITAL S.R.L., Filiale Di Trieste, 34122 Trieste, Italy [FRY S&M]
PROITAL S.R.L., Via napo Torriani 3L/I, Milan, Italy [FRY S&M]

PROMET, Niksic, Montenegro [FRY S&M]
PROMIMPRO EXPORTS AND IMPORTS LTD., 70 Archbishop Makarios III Ave., Afemia Bldg., 3rd Floor, Nicosia, Cyprus [FRY S&M]
PROMOCIONES ARTISTICAS (a.k.a. PROARTE), Ave. Insurgentes Sur No. 421, Bloque B Despacho 404, C.P. 06l00, Mexico, D.F. [CUBA]
PROMOTORA ANDINA, S.A., Quito, Ecuador [CUBA]
PRVA PETROLETKA, Trstenik, Serbia [FRY S&M]
PRVA SRPSKA KOMERCIALJNA BANKA, all offices (Bank is headquartered in Nis, Serbia) [FRY S&M]
PRVI FEBRUAR (9HTZ3) Bulk Carrier 17,233GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
PRVI MAJ, 18300 Pirot, Serbia [FRY S&M]
PRVOBORAC, Niksic, Montenegro [FRY S&M]
PRZEDSTAWICIELSTWO JUGOSLOWIANSKIEJ HANDLU ZAGRANICZNEGO HEMPRO Szpitalna 6 m 16, Warsaw, Poland [FRY S&M]
PTT CRNE GORE (a.k.a. MONTENEGRO POST, TELEGRAPH AND TELEPHONE), Montenegro [FRY S&M]
PTT JUGOSLAVIJE (a.k.a. YUGOSLAV POST, TELEGRAPH AND TELEPHONE) (including all Serbian and Montenegrin affiliates), Belgrade, Serbia [FRY S&M]
PTT SRBIJA (a.k.a. SERBIA POST, TELEGRAPH AND TELEPHONE), Belgrade, Serbia [FRY S&M]
PUBLIC ENTERPRISE OF POST, TELEGRAPH, AND TELEPHONE OF SERBIA (a.k.a. JAVNO PREDUZECE PTT SRBIJE), Serbia [FRY S&M]
PUBLIC FORESTRY ENTERPRISE—SRBIJASUME (a.k.a. PREDUZECE ZA GAZDOVANJE SUMAMA—SRBIJASUME), Serbia [FRY S&M]
PUTNIK, Belgrade, Serbia [FRY S&M]
QUALITY SHOES COMPANY, UB33, Industrial Estate, San Gwann, Malta [LIBYA]
QUIMINTER GMBH, Vienna, Austria [CUBA]
RAD GRADJEVINSKO PREDUZECE, Belgrade, Serbia [FRY S&M]
RADHWA 18 (N/A) Tug DWT N/A Iraqi flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
RADHWA 19 (N/A) Tug DWT N/A Iraqi flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
RADHWA 20 (N/A) Tug DWT N/A Saudi Arabian flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
RADIO SERVICE, S.A., Panama [CUBA]
RADIO TELEVIZIJA BEOGRAD (a.k.a. RTB), Belgrade, Serbia [FRY S&M]
RADIO TELEVIZIJA CRNE GORE (a.k.a. RTV CRNE GORE) (including all affiliates), Podgorica, Montenegro [FRY S&M]
RADIO TELEVIZIJA NOVI SAD (a.k.a. RTV NOVI SAD), Novi Sad, Vojvodina (Serbia) [FRY S&M]
RADIO TELEVIZIJA PRISTINA (a.k.a. RTV PRISTINA), Pristina, Kosovo (Serbia) [FRY S&M]
RADIO TELEVIZIJA SRBIJE (a.k.a. RTV SRBIJE)(including all affiliates), Belgrade, Serbia [FRY S&M]
RADIO VERBO, Panama [CUBA]
RADNIK (3ELK3) Bulk Carrier 17,882GT Panama Flag (Oceanic Bulk Shipping S.A.) (vessel) [FRY S&M]
RADOJE DAKIC (a.k.a. ENTERPRISE FOR CONSTRUCTION MACHINERY—RADOJE DAKIC), Podgorica, Montenegro [FRY S&M]
RAFFINERIE DU SUD–OUEST (a.k.a. RSO; a.k.a. COLLOMBEY REFINERY), Collombey, Valais, Switzerland [LIBYA]
RAFIDAIN BANK, 114 Tahreer Str. Eldukki, P.O.Box 239, Omran Giza, Cairo, Egypt [IRAQ]
RAFIDAIN BANK, 2nd Floor Sadat Tower, P.O. Box 1891, Beirut, Lebanon (2 branches in Lebanon) [IRAQ]
RAFIDAIN BANK, Mafraq, Jordan [IRAQ]
RAFIDAIN BANK, New Banks' Street, P.O. Box 11360, Massarif, Baghdad, Iraq (227 branches in Iraq) [IRAQ]
RAFIDAIN BANK, P.O. Box 10023, Sanaa, Yemen Arab Republic [IRAQ]
RAFIDAIN BANK, P.O. Box 1194, Cinema al–Hussein Street, Amman, Jordan [IRAQ]
RAFIDAIN BANK, P.O. Box 607, Manama, Bahrain (2 branches in Bahrain) [IRAQ]
RAFIDAIN BANK, P.O. Box 685, Aqaba, Jordan [IRAQ]
RAFIDAIN BANK, P.O.Box 815401, Jabal Amman, Jordan [IRAQ]
RAFIDAIN BANK, Rafidain Bank Building, 7–10 Leadenhall Street, London EC3V 1NL, England [IRAQ]
RAFIDAIN BANK, Sheikh Khalifa Street, P.O. Box 2727, Abu Dhabi, United Arab Emirates [IRAQ]
RAFINERIJA, Novi Sad, Vojvodina (Serbia) [FRY S&M]
RAFIQ, Assem (a.k.a. ABDULMALIK, Abdul Hameed; a.k.a. MALIK, Assim Mohammed Rafiq Abdul), 14 Almotaz Sad Al Deen Street, Al Nozha, Cairo, Egypt (individual) [IRAQ]
RAHIM 3 (Pioneer Shipping Ltd., Malta) (vessel) [CUBA]
RAJBROOK LIMITED, England [IRAQ]
RAMA (f.k.a. KUPRES) (9HUP3) General Dry Cargo 13,688 GT Cyprus (Malta) Flag (New Owner Unknown) ((South Adriatic Bulk Shipping Ltd.)) (vessel) [FRY S&M]
RANK XEROX YU, Belgrade, Serbia [FRY S&M]
RAOUF, Khalid Mohammed, Praca Pio X, 54–10o Andar, CEP 20091, Rio de Janeiro, Brazil (individual) [IRAQ]
RAPID, Belgrade, Serbia [FRY S&M]
RAPID CO, Studentski trg 4, 11000 Belgrade, Serbia [FRY S&M]
RAS LANUF OIL AND GAS PROCESSING COMPANY, LTD. (a.k.a. RASCO), Benghazi Complex, P.O. Box 1971, Gamel Abdul Nasser Street, Benghazi, Libya [LIBYA]
RAS LANUF OIL AND GAS PROCESSING COMPANY, LTD. (a.k.a. RASCO), P.O. Box 75071, Tripoli, Libya [LIBYA]
RAS LANUF OIL AND GAS PROCESSING COMPANY, LTD. (a.k.a. RASCO), Ras Lanuf Complex and Terminal, Ghout El Shaal, Libya [LIBYA]
RASCO (a.k.a. RAS LANUF OIL AND GAS PROCESSING COMPANY, LTD.), P.O. Box 75071, Tripoli, Libya [LIBYA]
RASCO (a.k.a. RAS LANUF OIL AND GAS PROCESSING COMPANY, LTD.), Benghazi Complex, P.O. Box 1971, Gamel Abdul Nasser Street, Benghazi, Libya [LIBYA]
RASCO (a.k.a. RAS LANUF OIL AND GAS PROCESSING COMPANY, LTD.), Ras Lanuf Complex and Terminal, Ghout El Shaal, Libya [LIBYA]
RATAR, Podgorica, Montenegro [FRY S&M]
RATKO MITROVIC—BEOGRAD, Belgrade, Serbia [FRY S&M]
RAVENS (Antamallo Shipping Co., Ltd., Malta) (vessel) [CUBA]
RECICLAJE INDUSTRIAL, S.A., Panama [CUBA]
REDESTOS SHIPPING CO., LTD., Limassol, Cyprus [CUBA]
REKORD, Belgrade, Serbia [FRY S&M]
RENT–A–CAR, S.A., Panama [CUBA]
REYES, Guillermo (VERGARA), Panama City, Panama (individual) [CUBA]
REYNOLDS AND WILSON, LTD., 21 Victoria Road, Surbiton, Surrey KT6 4LK, England [IRAQ]
RICKS, Roy, 87 St. Mary's Frice, Benfleet, Essex, England (individual) [IRAQ]
RIECKE, Dr. Hans Guenter, Hamburg, Germany (individual) [LIBYA]
RIGEL SHIPMANAGEMENT LTD., Second Floor, Regency House, Republic Street, Valletta, Malta [FRY S&M]
RIO B (f.k.a. PIVA) (9HTH3) General Dry Cargo 9,324GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
RIO G (f.k.a. TARA) (9HTK3) General Dry Cargo 9,201GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
RISAN (9HUD3) General Dry Cargo 9,698GT Malta Flag (Zeta Ocean Shipping Ltd.) (vessel) [FRY S&M]
ROBIAN (N/A) Fish 129DWT Iraqi flag (Iraqi State Fisheries Company) (vessel) [IRAQ]
ROBNE KUCE BEOGRAD, Belgrade, Serbia [FRY S&M]
ROCHA, Antonio, Panama City, Panama (individual) [CUBA]
RODRIQUEZ, Jesus (BORGES or BORJES), Panama (individual) [CUBA]
RODRIQUEZ, Jose Julio, Chairman, Havana International Bank, 20 Ironmonger Lane, London EC2V 8EY, England (individual) [CUBA]
ROMEO, Charles (a.k.a. Charles Henri Robert ROMEO), Panama (individual) [CUBA]
ROPERT, Miria Contreras (a.k.a. CONTRERAS, Miria), Paris, France (individual) [CUBA]
ROQUE, Roberto (PEREZ), Panama (individual) [CUBA]
ROSE ISLANDS (Shipley Shipping Corp., Panama) (vessel) [CUBA]
ROZAJE, Polimlje, Serbia [FRY S&M]
RSO (a.k.a. RAFFINERIE DU SUD–OUEST; a.k.a. COLLOMBEY REFINERY), Collombey, Valais, Switzerland [LIBYA]
RTB (a.k.a. RADIO TELEVIZIJA BEOGRAD), Belgrade, Serbia [FRY S&M]
RTB BOR, Bor, Serbia [FRY S&M]
RTV CRNE GORE (a.k.a. RADIO TELEVIZIJA CRNE GORE) (including all affiliates), Podgorica, Montenegro [FRY S&M]
RTV NOVI SAD (a.k.a. RADIO TELEVIZIJA NOVI SAD), Novi Sad, Vojvodina (Serbia) [FRY S&M]
RTV PRISTINA (a.k.a. RADIO TELEVIZIJA PRISTINA), Pristina, Kosovo (Serbia) [FRY S&M]
RTV SRBIJE (a.k.a. RADIO TELEVIZIJA SRBIJE)(including all affiliates), Belgrade, Serbia [FRY S&M]

RUBY ISLANDS (Golden Comet Navigation Co., Ltd., Panama) [CUBA]
RUDEX INTERNATIONAL LTD, 37–38 Margaret St, London W1N 8PS, England [FRY S&M]
RUDI CAJAVEC, Banja Luka, Bosnia–Herzegovina [FRY S&M]
RUDIMEX GMBH, Landstrasse Hauptsrasse 1/3–25, 1030 Vienna, Austria [FRY S&M]
RUDNAP, Algiers branch office, 12 Rue Tirman, Algiers, Algeria [FRY S&M]
RUDNAP, Beijing representative office, Beijing, China [FRY S&M]
RUDNAP, Berlin branch office, Berlin, Germany [FRY S&M]
RUDNAP DD (a.k.a. RUDNAP EXPORT–IMPORT), 10 Vuka Karadzica, YU–11001 Belgrade, Serbia [FRY S&M]
RUDNAP EXPORT–IMPORT (a.k.a. RUDNAP DD), 10 Vuka Karadzica, YU–11001 Belgrade, Serbia [FRY S&M]
RUDNAP, Jakarta representative office, Jakarta, Indonesia [FRY S&M]
RUDNAP, Katowice representative office, Katowice, Poland [FRY S&M]
RUDNAP, Moscow representative office, Moscow, Russia [FRY S&M]
RUDNAP, Prague branch office, U Obecniho Dvora 2, Prague 1, Czech Republic [FRY S&M]
RUDNAP, Rio de Janiero branch office, Rio de Janiero, Brazil [FRY S&M]
RUDNAP, Tehran representative office, Tehran, Iran [FRY S&M]
RUDNICI BAKRA I NEMETALA, Bor, Serbia [FRY S&M]
RUDNICI BOKSITA, Niksic, Montenegro [FRY S&M]
RUDNIK BAKRA, Majdanpek, Serbia [FRY S&M]
RUDNIK—GORNJI MILANOVAC, Gornji Milanovac, Serbia [FRY S&M]
RUDNIK UGLJA, Pljevlja, Montenegro [FRY S&M]
RUIZ, Ramon Miguel (POO), Panama (individual) [CUBA]
RUL—LESKOVAC, Leskovac, Serbia [FRY S&M]
RUMAILA (HNRM) Tanker 36,330DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
RUMIJA (9HTI3) General Dry Cargo 8,954GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
RUMIJATRANS, Bar, Montenegro [FRY S&M]
RWR INTERNATIONAL INTERNATIONAL LTD. (n.k.a. A.T.E. INTERNATIONAL LTD.), 3 Mandeville Place, London, England [IRAQ]
S.A.V. MUENCHEN (a.k.a. SAV SYSTEM AGROVOJVODINA VERTRIEBS GMBH; a.k.a. SEVER–AGROVOJVODINA GMBH), Wagenlager Borsigstr. 5–7, 5090 Leverkusen, Germany [FRY S&M]
S.A.V. MUENCHEN (a.k.a. SAV SYSTEM AGROVOJVODINA VERTRIEBS GMBH; a.k.a. SEVER–AGROVOJVODINA GMBH), Augustin Street 33, D–8000 Munich, Germany [FRY S&M]
S.M.I. SEWING MACHINES ITALY S.P.A., Italy [IRAQ]
SABTINA LIMITED, 530–532 Elder House, Elder Gate, Central Milton Keynes MK9 1LR, England [LIBYA]
SAHARA BANK, (22 branches in Libya) [LIBYA]
SAHARA BANK, 10 First September Street, P.O. Box 270, Tripoli, Libya [LIBYA]
SAIF SAAD (N/A) Service 742DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SALGUIDIA (a.k.a. SOCIETE ARABE LIBYO–GUINEENNE POUR LE DEVELOPPEMENT AGRICOLE ET AGRO–INDUSTRIEL), Conakry, Guinea [LIBYA]
SALIMAUREM (a.k.a. SOCIETE ARABE LIBYENNE MAURITANIENNE DES RESSOURCES MARITIMES), Nouadhibou, Mauritania [LIBYA]
SAMARRA (YIBC) Ferry DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SANABUL (n.k.a. ALABID) (HNDB) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
SANAM (YISM) Service 508DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SANITAS, Cetinje, Montenegro [FRY S&M]
SANTAMARINA DE LA TORRE, Rafael Garcia (a.k.a. Alfredo Rafael GARCIA SANTAMARINA DE LA TORRE) Panama (individual) [CUBA]
SANTO, Anabel, Ave. Insurgentes Sur No. 421, Bloque B Despacho 404, C.P. 06l00, Mexico, D.F. (individual) [CUBA]
SARENAC, Slobodan, Inex–Interexport Ltd., 27 Marta 69, Belgrade, Serbia (individual) [FRY S&M]
SAUDI, Abdullah Ammar, Manama, Bahrain (individual) [LIBYA]
SAV SYSTEM AGROVOJVODINA VERTRIEBS GMBH (a.k.a. S.A.V. MUENCHEN; a.k.a. SEVER–AGROVOJVODINA GMBH), Wagenlager Borsigstr. 5–7, 5090 Leverkusen, Germany [FRY S&M]
SAV SYSTEM AGROVOJVODINA VERTRIEBS GMBH (a.k.a. S.A.V. MUENCHEN; a.k.a. SEVER–AGROVOJVODINA GMBH), Augustin Street 33, D–8000 Munich, Germany [FRY S&M]
SAVA, Serbia [FRY S&M]
SAVING AND REAL ESTATE INVESTMENT BANK, P.O. Box 2297, Shoman Street, Fashioum, Tripoli, Libya, (24 branches in Libya) [LIBYA] SBOOR (HRN2) Fish 129DWT Iraqi flag (Iraqi State Fisheries Company) (vessel) [IRAQ]
SBS, Belgrade, Serbia [FRY S&M]
SCHMITT, Rogerio Eduardo, Praca Pio X, 54–10o Andar, CEP 20091, Rio De Janeiro, Brazil (individual) [IRAQ]
SDK (a.k.a. SLUZBA DRUSTVENOG KNJIGOVODSTVA; a.k.a. SOCIAL ACCOUNTING SERVICE), Belgrade, Serbia [FRY S&M]
SEABANK (f.k.a. Iraqi–owned AL–BAHAR AL–ARABI) (HQHR4) Fish/Cargo 6,953DWT Honduras flag (Trading & Maritime Investments, Honduras. Managed by Arab Trans Trade Co. S.A.E., Alexandria, Egypt) (vessel) [IRAQ]
SEABANK (n.k.a. ALBAHR ALARABI; n.k.a. BAROON, MV; f.k.a. BAHAR AL ARABI), a motor vessel registered under the Belizean flag [IRAQ]
SEAMUSIC II (9HYH2) Cargo 26,732DWT Malta flag (Seamusic Shipping Co. Ltd., c/o Thenamaris Ships Management Inc., Athens, Greece. Vessel seized by Government of Iraq) (vessel) [IRAQ]
SEBAA NISSAN (YISN) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SEME, Belgrade, Serbia [FRY S&M]
SENANQUE (Senanque Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
SENANQUE SHIPPING CO., LTD., Limassol, Cyprus [CUBA]SERBIA ELECTRIC POWER COMPANY (a.k.a. ELEKTROPRIVREDA SRBIJE), Belgrade, Serbia [FRY S&M]
SERBIA POST, TELEGRAPH AND TELEPHONE (a.k.a. PTT SRBIJA), Belgrade, Serbia [FRY S&M]
SERBIAN PETROLEUM INDUSTRY (a.k.a. NIS—NAFTA INDUSTRIJA SRBIJE), Novi Sad, Vojvodina (Serbia) [FRY S&M]
SERBIAN RAILROAD TRANSPORTATION ORGANIZATION (a.k.a. ZELEZNICKO TRANSPORTNO PREDUZECE SRBIJE) Belgrade, Serbia [FRY S&M]
SERIFOS (f.k.a. LAKE STAR; f.k.a SKADARLIJA) (JIFN3) Bulk Carrier 15,847GT Panama (Saint Vincent) Flag (Brilliant Night Shipping S.A.) ((Novi Shipping Company S.A.)) (vessel) [FRY S&M]
SERVIMPEX, S.A., Panama [CUBA]
SERVINAVES, S.A., Panama [CUBA]
SERVISIPORT, Podgorica, Montenegro [FRY S&M]
SERVO MIHALJ, Zrenjanin, Vojvodina (Serbia) [FRY S&M]
SEVER–AGROVOJVODINA GMBH (a.k.a. S.A.V. MUENCHEN; a.k.a. SAV SYSTEM AGROVOJVODINA VERTRIEBS GMBH), Augustin Street 33, D–8000 Munich, Germany [FRY S&M]
SEVER–AGROVOJVODINA GMBH (a.k.a. S.A.V. MUENCHEN; a.k.a. SAV SYSTEM AGROVOJVODINA VERTRIEBS GMBH), Wagenlager Borsigstr. 5–7, 5090 Leverkusen, Germany [FRY S&M]
SEVER, Subtica, Vojvodina (Serbia) [FRY S&M]
SEVOJNO OVERSEAS CORPORATION, Englewood, NJ [FRY S&M]
SHABOOT (HNLK) Fish 1,163DWT Iraqi flag (Rafidain Fisheries Co. Ltd.) (vessel) [IRAQ]
SHAHANI AUTO SUPPLIER, Panama [CUBA]
SHALLOUF, Farag Al Amin, P.O. Box 9575/11, 1st Floor, Piccadily Centre, Hamra Street, Beirut, Lebanon; Vali Conagi Cad. No. 10, 80200 Nisantasi, P.O. Box 380, 802323 Sisli, Istanbul, Turkey (individual) [LIBYA]
SHANAB, Tariq Abu, Musherfeh, P.O. Box 766, Zarka, Jordan (individual) [IRAQ]
SHARIF, Bashir M., Dat El Imad Administrative Complex Tower No. 2, P.O. Box 2542, Tripoli, Libya (individual) [LIBYA]
SHARIF, Bashir M., Vali Konagi Cad. No. 10, 80200 Nistantas, Istanbul, Turkey (individual) [LIBYA]
SHERLALA, Kassem M., P.O. Box 2438, Usama Bldg., 1st September St., Tripoli, Libya (individual) [LIBYA]
SHATT AL BASRAH (HNSR) Fish 404DWT Iraqi flag (Iraqi State Fisheries Company) (vessel) [IRAQ]
SHIPLEY SHIPPING CORP., Panama [CUBA]
SHOROOK (YISH) Service 403DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SHU' ALAH (N/A) Tug DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SIAF SA, 11, rue du C Beaux, Casablanca, Morocco [FRY S&M]

SIALA, Mohamed Taher Hammuda, Tripoli, Libya (individual) [LIBYA]
SIBONEY INTERNACIONAL, S.A., Edificio Balmoral, 82 Via Argentina, Panama City, Panama [CUBA]
SIBONEY INTERNACIONAL, S.A., Venezuela [CUBA]
SIEIRO DE NORIEGA, Felicidad, Panama (individual) [CUBA]
SIHAN (YISI) Tug 387DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SILOWAT (n.k.a. ALFIDAA) (HNFD) Barge 1,662DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
SIM, Gilberto F., Praca Pio X, 54–10o Andar, CEP 20091, Rio De Janeiro, Brazil (individual) [IRAQ]
SIMA POGACAREVIC–SIMPO (a.k.a. SIMPO), Vranje, Serbia [FRY S&M]
SIMPO (a.k.a. SIMA POGACAREVIC–SIMPO), Vranje, Serbia [FRY S&M]
SIMPO (UK) LTD., 14–15 Berners St., London, England [FRY S&M]
SIMPO, Berlin Representative Office, 49 Blockdammweg, Berlin C 1157, Germany [FRY S&M]
SIMPO BRD, Moll–Strasse 10, 0–1020 Berlin, Germany [FRY S&M]
SIMPO, Budapest Branch, Roberta Karolya 67, Budapest, Hungary [FRY S&M]
SIMPO FRANCE (f.k.a. BINGO FRANCE), 28 Rue du Puits Dixmes Sennia 606, 94320 Thiais—CEDEX, France [FRY S&M]
SIMPO FURNITURE (CYPRUS) LTD., 1 Myklas St., Flat 303, Nicosia, Cyprus [FRY S&M]
SIMPO FURNITURE (CYPRUS) LTD., Nicosia, Cyprus [FRY S&M]
SIMPO—INDUSTRIJA NAMESTAJA TAPETARIJE, Deuseka 1, Belgrade, Serbia [FRY S&M]
SIMPO INTERNATIONAL (BRANCH OFFICE), Dufourstr. 107, Zurich, Switzerland [FRY S&M]
SIMPO INTERNATIONAL, London, England [FRY S&M]
SIMPO, Limena (Padua) Branch, Via Tre Case 699/A, Limena, Italy [FRY S&M]
SIMPO, Lodz Branch, Ciech–Stomill 7422 Lipcast, Poland [FRY S&M]
SIMPO, London Branch, Staples Corner West 717 North Circular Road, London, England [FRY S&M]
SIMPO, Milan Representative Office, 22 Via S Sofia, Milan 20122, Italy [FRY S&M]
SIMPO, Moscow Branch (c/o GENEX), Kutozovskii pr. 13 Podezd 3, kv. 111, Moscow, Russia [FRY S&M]
SIMPO, Moscow Representative Office, Kv 103, 62 Moskva Dom, Bolshaya Gruzinskaya, Moscow, Russia [FRY S&M]
SIMPO, Paris Representative Office, 2 Rue Ernest Psichari, Paris, France [FRY S&M]
SIMPO, Prague Branch Office, Stepanska 57/11 (c/o GENEX), Prague, Czech Republic [FRY S&M]
SIMPO, Prague Representative Office, 9 Ovenecka, Prague 17000, Czech Republic [FRY S&M]
SIMPO SPOL GMBH, Prague, Czech Republic [FRY S&M]
SIMPO SRL, Bassano Del Vialle Dele Fosse 30, Grappa, Italy [FRY S&M]
SIMPO, Svetonikolski Trg 6, Belgrade 11000, Serbia [FRY S&M]
SIMPO, Szczecin Branch, Rybex–Odroweze 1, Szczecin, Poland [FRY S&M]
SIMPO, Turin Representative Office, Turin, Italy [FRY S&M]
SIMPO, Warsaw Branch, Paged, Warsaw, Poland [FRY S&M]
SIMPO, Warsaw Branch, Podvale 27, Warsaw, Poland [FRY S&M]
SINAI (N/A) Service 1,286DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SINJAR (YIAY) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SINTELON, Bela Palanka, Serbia [FRY S&M]
SIRM HOLDING S.R.L., Rome, Italy [LIBYA]
SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA (a.k.a. SIRTE OIL COMPANY), P.O. Box 2582, Tripoli, Libya [LIBYA]
SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA (a.k.a. SIRTE OIL COMPANY), Benghazi, Libya [LIBYA]
SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA (a.k.a. SIRTE OIL COMPANY), Marsa El Brega, Libya [LIBYA]
SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA (a.k.a. SIRTE OIL COMPANY), Sirte Field, Libya [LIBYA]
SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA (a.k.a. SIRTE OIL COMPANY), P.O. Box 385, Tripoli, Libya [LIBYA]
SIRTE OIL COMPANY (a.k.a. SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA), P.O. Box 2582, Tripoli, Libya [LIBYA]
SIRTE OIL COMPANY (a.k.a. SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA), Benghazi, Libya [LIBYA]
SIRTE OIL COMPANY (a.k.a. SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA), Sirte Field, Libya [LIBYA]
SIRTE OIL COMPANY (a.k.a. SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA), P.O. Box 385, Tripoli, Libya [LIBYA]
SIRTE OIL COMPANY (a.k.a. SIRTE OIL CO. FOR PRODUCTION MANUFACTURING OIL & GAS MARSA EL BREGA), Marsa El Brega, Libya [LIBYA]
SKADARLIJA (n.k.a. SERIFOS; f.k.a. LAKE STAR) (JIFN3) Bulk Carrier 15,84GT Panama (Saint Vincent) Flag (Brilliant Night Shipping S.A.) ((Novi Shipping Company S.A.)) (vessel) [FRY S&M]
SKY SEA (f.k.a. Iraqi–owned ALRAZI) (HNRZ) Cargo 8,334 DWT Honduras flag (Pandora Shipping Co. S.A., Honduras. Managed by Petra Navigation & International Trading Co. Ltd., Amman, Jordan) (vessel) [IRAQ]
SLAVEN (YTMP) Tanker 126GT Yugoslavia Flag (Komunalno Poduzece) (vessel) [FRY S&M]
SLAVIJA BANKA, all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
SLUZBA DRUSTVENOG KNJIGOVODSTVA (a.k.a. SDK; a.k.a. SOCIAL ACCOUNTING SERVICE), Belgrade, Serbia [FRY S&M]
SMEDEREVSKA BANKA d.d., all offices (Bank is headquartered in Belgrade, Serbia) [FRY S&M]
SMEDERVO (n.k.a. ORE STAR) (J8FN9) Ore/Oil Carrier 86,401GT Saint Vincent Flag (Glimmer Maritime S.A.) (vessel) [FRY S&M]
SMIP (a.k.a. SOCIETE MAGHREBINE D'INVESTISSEMENT ET DE PARTICIPATION), 47, Avenue Kheireddine Pacha, 1002 Tunis, Tunisia [LIBYA]
SOCIAL ACCOUNTING SERVICE (a.k.a. SDK; a.k.a. SLUZBA DRUSTVENOG KNJIGOVODSTVA), Belgrade, Serbia [FRY S&M]
SOCIETA COMMERCIA MINERALI E METTALLI, SRL (a.k.a. SOCOMET, SPA), Milan, Italy [CUBA]
SOCIETE AGRICOLE TOGOLAISE ARABE LIBYENNE, Lome, Togo [LIBYA]
SOCIETE ARABE LIBYENNE–CENTRAFRICAINE D'IMPORT–EXPORT, Bangui, Central African Republic [LIBYA]
SOCIETE ARABE LIBYENNE MALIENNE POUR L'AGRICULTURE ET L'ELEVAGE (a.k.a. SOLIMA), Bamako, Mali [LIBYA]
SOCIETE ARABE LIBYENNE MAURITANIENNE DES RESSOURCES MARITIMES (a.k.a. SALIMAUREM), Nouadhibou, Mauritania [LIBYA]
SOCIETE ARABE LIBYO–GUINEENNE POUR LE DEVELOPPEMENT AGRICOLE ET AGRO–INDUSTRIEL (a.k.a. SALGUIDIA), Conakry, Guinea [LIBYA]
SOCIETE ARABE LIBYO–NIGERE POUR LE DEVELOPPEMENT ET LA COMMERCIALISATION DES PRODUITS AGRICOLES, Niamey, Niger [LIBYA]
SOCIETE ARABE LIBYO–TUNISIENNE DE TRANSPORT MARITIME, Tunis, Tunisia [LIBYA]
SOCIETE D'ECONOMIE MIXTE CENTRE AFRICAINE LIBYENNE DES PRODUITS AGRICOLES, Bangui, Central African Republic [LIBYA]
SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYA–TUNISIAN EXPLORATION COMPANY), Planning & Logistic Group complex, Port of Zarzis, Tunisia [LIBYA]
SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY), B.P. Houmt Souk 4180, Djerba Island, Tunisia [LIBYA]
SOCIETE DE RECHERCHE ET D'EXPLOITATION COMMUNE ET DE SERVICE PETROLIERE (a.k.a. JOINT EXPLORATION, EXPLOITATION AND PETROLEUM SERVICES COMPANY; a.k.a. JOINT OIL; a.k.a. JOINT OIL TUNISIA; a.k.a. LIBYAN–TUNISIAN EXPLORATION COMPANY), 7th of November offshore field, Gulf of Gabes [LIBYA]
SOCIETE GENERALE YUGOSLAV BANK d.d., Belgrade, Serbia [FRY S&M]
SOCIETE INTERAFFRICAINE DU BANQUE (a.k.a. BALTEX; a.k.a. BANQUE ARABE LIBYENNE TOGOLAISE DU COMMERCE EXTERIEUR), P.O. Box 4874, Lome, Togo [LIBYA]

SOCIETE LIBYENNE CENTRE AFRICAINE DES MINES, Bangui, Central African Republic [LIBYA]
SOCIETE MAGHREBINE D'INVESTISSEMENT ET DE PARTICIPATION (a.k.a. SMIP), 47, Avenue Kheireddine Pacha, 1002 Tunis, Tunisia [LIBYA]
SOCIETE MIXTE RWANDO–ARABE LIBYENNE DE PROMOTION HOTELIERE ET TOURISTIQUE AU RWANDA, Kigali, Rwanda [LIBYA]
SOCIETE MIXTE RWANDO ARABE LIBYENNE POUR LE DEVELOPPEMENT ET LA COMMERCIALISATION DES PRODUTS AGRICOLES ET D'ELEVAGE, Kigali, Rwanda [LIBYA]
SOCIETE TOGOLAISE ARABE LIBYENNE DE PECHE, Lome, Togo [LIBYA]
SOCOMET, SPA (a.k.a. SOCIETA COMMERCIA MINERALI E METALLI, SRL), Milan, Italy [CUBA]
SOKTAR (a.k.a. JARACO S.A.; f.k.a. TRADACO S.A.), 45 Route de Frontenex, CH–1207 Geneva, Switzerland [IRAQ]
SOLIMA (a.k.a. SOCIETE ARABE LIBYENNE MALIENNE POUR L'AGRICULTURE ET L'ELEVAGE), Bamako, Mali [LIBYA]
SOLNECHNIK (UOJE) Fish 404DWT Iraqi flag (Iraqi State Fisheries Company) (vessel) [IRAQ]
SOMBOR PROMET—AGROSAVEZ, Sombor, Vojvodina (Serbia) [FRY S&M]
SOUTH ADRIATIC BULK SHIPPING LTD., Valletta, Malta, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
SOUTH CROSS SHIPPING LTD. (f.k.a. MONTENEGRO OCEAN SHIPPING), Valletta, Malta, c/o Milena Ship Management Co. Ltd., Masons Building, 86, The Strand, Sliema, Malta [FRY S&M]
SOUTH ISLANDS (South Islands Co., Ltd., Cyprus) (vessel) [CUBA]
SOUTH ISLANDS CO., LTD., Limassol, Cyprus [CUBA]
SOUZA, Francisco Antonio, Praca Pio X, 54–10o Andar, CEP 20091, Rio De Janeiro, Brazil (individual) [IRAQ]
SOZINA (YTCS) Tug 169GT Yugoslavia (Luka Bar—Preduzèce) (vessel) [FRY S&M]
SPECKMAN, Jeanine, England (individual) [IRAQ]
SPLITSKA BANKA DD SPLIT (Knin), Knin, Croatia [FRY S&M]
SRBIJA—KRAGUJEVAC, Kragujevac, Serbia [FRY S&M]
SRBIJATURIST, Nis, Serbia [FRY S&M]
SRBOCOOP, Belgrade, Serbia [FRY S&M]
SRPSKA FABRIKA STAKLA, Paracin, Serbia [FRY S&M]
STANDWEAR (Standwear Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
STANDWEAR SHIPPING CO., LTD., Limassol, Cyprus [CUBA]
STAR 1 (Canapel, S.A., Panama) (vessel) [CUBA]
STAVROU, Stavros, Cyprus (individual) [LIBYA]
STERN, Alfred Kaufman, Prague, Czechoslovakia (individual) [CUBA]
SUKO, Pirot, Serbia [FRY S&M]
SULAIMANIYAH (YIAG) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
SUMADIJA (9HUI3) Bulk Carrier 17,939GT Malta Flag (South Adriatic Bulk Shipping Ltd.) (vessel) [FRY S&M]
SUNBOW MARITIME S.A., Panama City, Panama, c/o Beogradska Plovidba, Lenjinov Bulevar 165A, Novi Beograd, 11070 Belgrade, Serbia [FRY S&M]
SUPERSEGUROS, Panama [CUBA]
SUPLIDORA LATINO AMERICANA, S.A. (a.k.a. SUPLILAT, S.A.), Panama City, Panama [CUBA]
SUPLILAT, S.A., (a.k.a. SUPLIDORA LATINO AMERICANA, S.A.), Panama City, Panama [CUBA]
SURVEY LAUNCH No. 1 (N/A) Research DWT N/A (State Org. of Iraqi Ports) (vessel) [IRAQ]
SURVEY LAUNCH No. 2 (N/A) Research DWT N/A (State Org. of Iraqi Ports) (vessel) [IRAQ]
SURVEY LAUNCH No. 3 (N/A) Research DWT N/A (State Org. of Iraqi Ports) (vessel) [IRAQ]
SUTJESKA (9HSN3) Bulk Carrier 38,551GT Malta Flag (Kotor Overseas Shipping Ltd.) (vessel) [FRY S&M]
SVAJCARSKO–JUGOSLOVENSKA BANKA, all offices (Bank is headquartered in Serbia) [FRY S&M]
SVETI STEFAN (9HTJ3) Pax/RO/RO Cargo/Ferry 1,637GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
SWAN LAUNDRY AND DRY CLEANING COMPANY, LTD., 55, Racecourse Street, Marsa, Malta [LIBYA]
SYLICO (a.k.a. ARAB LIBYAN SYRIAN INDUSTRIAL & AGRICULTURAL INVESTMENT COMPANY; a.k.a. SYRIAN LIBYAN COMPANY—INDUSTRIAL & AGRICULTURAL INVESTMENTS), 9 Mazze, Autostrade, Damascus, Syria [LIBYA]
SYRIAN LIBYAN COMPANY—INDUSTRIAL & AGRICULTURAL INVESTMENTS (a.k.a. ARAB LIBYAN SYRIAN INDUSTRIAL & AGRICULTURAL INVESTMENT COMPANY; a.k.a. SYLICO), 9 Mazze, Autostrade, Damascus, Syria [LIBYA]
T N K FABRICS LIMITED, England [IRAQ]
T.D.G. (a.k.a. TECHNOLOGY AND DEVELOPMENT GROUP LTD.), Centric House 390/391, Strand, London, England [IRAQ]
T.E.G. LIMITED, 3 Mandeville Place, London, England [IRAQ]
T.M.G. ENGINEERING LIMITED, Castle Row, Horticultural Place, Chiswick, London, England [IRAQ]
TACON GROUP, Serbia [FRY S&M]
TADMUR (HNTD) Tanker 3,627DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
TAHREER (YITR) Service 4,649DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
TAKOVO, Belgrade, Serbia [FRY S&M]
TALL, Aktham, P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
TALLER DE REPARACIONES NAVALES, S.A. (a.k.a. TARENA), Panama City, Panama [CUBA]
TAMOIL HUNGARIA, Hungary [LIBYA]
TAMOIL ITALIA S.P.A., Cremona Refinery, Italy [LIBYA]
TAMOIL ITALIA S.P.A., Piazzetta Bossi 3, I–20121 Milan, Italy [LIBYA]
TAMOIL PETROLI ITALIANA S.P.A., (1,977 gasoline retail outlets in Italy) [LIBYA]
TAMOIL PETROLI ITALIANA S.P.A., Milan, Italy [LIBYA]
TAMOIL SUISSE S.A. (a.k.a. TAMOIL SWITZERLAND; f.k.a. GATOIL SUISSE S.A.), Geneva, Switzerland [LIBYA]
TAMOIL SUISSE S.A. (a.k.a. TAMOIL SWITZERLAND; f.k.a. GATOIL SUISSE S.A.), (330 gasoline retail outlets in Switzerland) [LIBYA]
TAMOIL SUISSE S.A. (a.k.a. TAMOIL SWITZERLAND; f.k.a. GATOIL SUISSE S.A.), (RSO refinery in Collombey) [LIBYA]
TAMOIL SUISSE S.A. (a.k.a. TAMOIL SWITZERLAND; f.k.a. GATOIL SUISSE S.A.), Zug, Switzerland [LIBYA]
TAMOIL SWITZERLAND (a.k.a. TAMOIL SUISSE S.A.; f.k.a. GATOIL SUISSE S.A.), (330 gasoline retail outlets in Switzerland) [LIBYA]
TAMOIL SWITZERLAND (a.k.a. TAMOIL SUISSE S.A.; f.k.a. GATOIL SUISSE S.A.), Zug, Switzerland [LIBYA]
TAMOIL SWITZERLAND (a.k.a. TAMOIL SUISSE S.A.; f.k.a. GATOIL SUISSE S.A.), (RSO refinery in Collombey) [LIBYA]
TAMOIL SWITZERLAND (a.k.a. TAMOIL SUISSE S.A.; f.k.a. GATOIL SUISSE S.A.), Geneva, Switzerland [LIBYA]
TAMOIL TRADING LTD. (f.k.a. TAMOIL [UK] LTD.), 25 Schutzengasse CH 8001, Zurich, Switzerland [LIBYA]
TAMOIL TRADING LTD. (f.k.a. TAMOIL [UK] LTD.), 1 St. Paul's Churchyard, London EC4M 8SH, England [LIBYA]
TAMOIL TRADING LTD. (f.k.a. TAMOIL [UK] LTD.), 24 Boulevard Princess Charlotte, Monte Carlo, Monaco [LIBYA]
TAMOIL [UK] LTD. (n.k.a. TAMOIL TRADING LTD.), see listings [LIBYA]
TANJUG (a.k.a. NOVINSKA AGENCIJA TANJUG), Belgrade, Serbia [FRY S&M]
TARA (CETINJA), Cetinje, Montenegro [FRY S&M]
TARA (n.k.a. RIO G) (9HTK3) General Dry Cargo 9,201GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
TARA (PLJEVLJA), Pljevlja, Montenegro [FRY S&M]
TARENA, S.A. (a.k.a. TALLER DE REPARACIONES NAVALES S.A.), Panama [CUBA]
TARIK IBN ZIYAD (HNTZ) Tanker 118,139DWT Iraqi flag (Iraqi Oil Tankers Company) (vessel) [IRAQ]
TARIQ ABU SHANAB EST. FOR TRADE & COMMERCE (a.k.a. TARIQ ABU SHANAB EST.; a.k.a. TARIQ ABU SHANAB METALS ESTABLISHMENT), Musherfeh, P.O. Box 766, Zarka, Jordan [IRAQ]
TARIQ ABU SHANAB EST.TARIQ ABU SHANAB METALS ESTABLISHMENT (a.k.a. TARIQ ABU SHANAB EST. FOR TRADE & COMMERCE; a.k.a. TARIQ ABU SHANAB METALS ESTABLISHMENT), Musherfeh, P.O. Box 766, Zarka, Jordan [IRAQ]
TARIQ ABU SHANAB METALS ESTABLISHMENT (a.k.a. TARIQ ABU SHANAB EST.; a.k.a. TARIQ ABU SHANAB EST. FOR TRADE & COMMERCE), Musherfeh, P.O. Box 766, Zarka, Jordan [IRAQ]
TAVEIRA, A. Arnaldo G., Praca Pio X, 54–10o Andar, CEP 20091, Rio De Janeiro, Brazil (individual) [IRAQ]

TECHNIC DIGEMEX CORP., Calle 34 No. 4–50, Office 301, Panama City, Panama [CUBA]
TECHNIC HOLDING INC., Calle 34 No. 4–50, Office 301, Panama City, Panama [CUBA]
TECHNOLOGY AND DEVELOPMENT GROUP LTD. (a.k.a. T.D.G.), Centric House 390/391, Strand, London, England [IRAQ]
TECNOPROM (CYPRUS) LTD., 57 Ledra Street, No. 7, Nicosia, Cyprus [FRY S&M]
TEHNOGAS, Kraljevo, Serbia [FRY S&M]
TEHNOHEMIJA, Belgrade, Serbia [FRY S&M]
TEHNOPROMET, Belgrade, Serbia [FRY S&M]
TEHNOSERVIS, Belgrade, Serbia [FRY S&M]
TEKING–INVEST, Belgrade, Serbia [FRY S&M]
TEKNICA OIL SERVICES (OVERSEAS) LIMITED, Cyprus [LIBYA]
TEKNICA PETROLEUM SERVICES LIMITED, Suite 1100, 736 Sixth Avenue S.W., Calgary, Alberta T2P 3T7, Canada [LIBYA]
TEKNICA (UK) LIMITED (f.k.a. FC9063 LIMITED), 15/17 Lodge Road, St. Johns Wood, London NW8 7JA, England; Avon House, 360–366 Oxford Street, London W1N 9HA, England; Tripoli, Libya [LIBYA]
TEKNOX, Belgrade, Serbia [FRY S&M]
TEKSTILNI KOMBINAT RASKA, Novi Pazar, Serbia [FRY S&M]
TEKXEL LIMITED (a.k.a. JAWABY TECHNICAL SERVICES LIMITED), London, England [LIBYA]
TELEOPTIK, Belgrade, Serbia [FRY S&M]
TEMIS SHIPPING CO., Panama [CUBA]
TENERIA TAURO, S.A., Panama [CUBA]
TEXTILE INDUSTRY OF GRDELICA (a.k.a. TIG—TEKSTILNA INDUSTRIJA GRDELICA), Grdelica, Serbia [FRY S&M]
THEEQAR (YIAC) Tug 220DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
TIFON (Senanque Shipping Co., Ltd., Cyprus) (vessel) [CUBA]
TIG—TEKSTILNA INDUSTRIJA GRDELICA (a.k.a. TEXTILE INDUSTRY OF GRDELICA), Grdelica, Serbia [FRY S&M]
TIGAR AMERICA, Jacksonville, Florida, U.S.A. [FRY S&M]
TIGAR, Pirot, Serbia [FRY S&M]
TIGRIS TRADING, INC., 2 Stratford Place, London W1N 9AE, England [IRAQ]
TIGRIS TRADING, INC., 5903 Harper Road, Solon, OH 44139 U.S.A. [IRAQ]
TIGRIS TRADING, INC., 600 Grant Street, 42nd Floor, Pittsburg, PA 15219 U.S.A. [IRAQ]
TIVAT (9HUM3) General Dry Cargo 9,698GT Malta FLag (Zeta Ocean Shipping Ltd.) (vessel) [FRY S&M]
TOLEDO, R.F., Managing Director, Havana International Bank, 20 Ironmonger Lane, London EC2V 8EF, England (individual) [CUBA]
TOPOLICA (Unknown) Tug 169GT Yugoslavia (Luka Bar—Preduzece) (vessel) [FRY S&M]
TORRES, Manuel, Representative, Banco Nacional de Cuba, Federico Boyd Ave & 51 St., Panama City, Panama (individual) [CUBA]
TOSCO, Arnaldo (GARCIA), Panama (individual) [CUBA]
TOURIST ASSOCIATION OF YUGOSLAVIA (a.k.a. TURISTICKI SAVEZ JUGOSLAVIJE), Belgrade, Serbia [FRY S&M]
TOURIST ENTERPRISE MONTENEGROEXPRES (a.k.a. MONTENEGROEXPRES—BUDVA), Budva, Montenegro [FRY S&M]
TRADACO S.A. (n.k.a. JARACO S.A.; n.k.a. SOKTAR), 45 Route de Frontenex, CH–1207 Geneva, Switzerland [IRAQ]
TRADING & MARITIME INVESTMENTS, San Lorenzo, Honduras [IRAQ]
TRAMP PIONEER SHIPPING CO., Panama (c/o Anglo Caribbean Shipping Co., Ltd., 4th Floor, South Phase 2, South Quay Plaza, 183 Marsh Wall, London E14 9SH, England [CUBA]
TRANSIT, S.A., Panama [CUBA]
TRANSOVER, S.A. (a.k.a. HAVINPEX, S.A.), Panama City, Panama [CUBA]
TRANSPORT, Kolasin, Montenegro [FRY S&M]
TRANSSERVIS, Bijelo Polje, Montenegro [FRY S&M]
TRAVEL SERVICES, INC., Hialeah, Florida, U.S.A. [CUBA]
TREBJESA, Niksic, Montenegro [FRY S&M]
TREPCA—KOSOVSKA MITROVICA (a.k.a. MINING METALLURGY CHEMICAL COMBINATION OF LEAD AND ZINC), Kosovska Mitrovica, Kosovo (Serbia) [FRY S&M]
TREVISO TRADING CORPORATION, Edificio Banco de Boston, Panama City, Panama [CUBA]
TRGOPRODUKT, Pancevo, Vojvodina (Serbia) [FRY S&M]
TRGOPROMET, Cetinje, Montenegro [FRY S&M]
TRGOVACKA BANKA d.d., Belgrade, Serbia [FRY S&M]
TRGOVINA KOSOVO, Prizren, Kosovo (Serbia) [FRY S&M]
TRINAESTI JULI (a.k.a. 13th JULY) (9HTQ3) Bulk Carrier 17,233GT Malta Flag (Zeta Ocean Shipping Ltd.) (vessel) [FRY S&M]
TROBER, S.A. (a.k.a. TROVER, S.A.), Edificio Saldivar, Panama City, Panama [CUBA]
TROPIC TOURS GMBH (a.k.a. TROPICANA TOURS GMBH), Lietzenburger Strasse 51, Berlin, Germany [CUBA]
TROPICAL AFRICAN BANK LIMITED (f.k.a. LIBYAN ARAB UGANDA BANK FOR FOREIGN TRADE AND DEVELOPMENT), P.O. Box 9485, Kampala, Uganda [LIBYA]
TROPICANA TOURS GMBH (a.k.a. TROPIC TOURS GMBH), Lietzenburger Strasse 51, Berlin, Germany [CUBA]
TROVER, S.A. (a.k.a. TROBER, S.A.), Edificio Saldivar, Panama City, Panama [CUBA]
TRUST IMPORT–EXPORT, S.A., Panama [CUBA]
TULIP ISLANDS (Pocho Navigation Co., Cyprus) (vessel) [CUBA]
TURISTICKI SAVEZ JUGOSLAVIJE (a.k.a. TOURIST ASSOCIATION OF YUGOSLAVIA), Belgrade, Serbia [FRY S&M]
TURKISH–LIBYAN JOINT MARITIME TRANSPORT STOCK COMPANY (a.k.a. TURLIB), Kemeralti Caddesi 99, 80020 Karakoy, Istanbul, Turkey [LIBYA]
TURLIB (a.k.a. TURKISH–LIBYAN JOINT MARITIME TRANSPORT STOCK COMPANY), Kemeralti Caddesi 99, 80020 Karakoy, Istanbul, Turkey [LIBYA]
TWEPICO LTD., 209 Archbishop Makarios III Ave., Fytides Bldg., Apt. 102, Limassol, Cyprus [FRY S&M]
U.I. INTERNATIONAL, England [IRAQ]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.), all offices worldwide [FRY S&M] including, but not limited to:
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) P.O. Box 3502, Harrare, Zimbabwe [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Kungsgaten 32/VI, P.O. Box 7592, 10393 Stockholm, Sweden [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Piazza Velasca 5, Milan, Italy [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Drokstre Str. 14–16, 3000 Hannover 1, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Sokolovska 93/2p, Prague, 8 Karlin, Czech Republic [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Kleine Budergasse 13, 5000 Koln 1, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) 108 Fenchurch Street, London LEC 3M 5 JJ, England [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Landestrasse–Hauptstrasse 1/III, 1030 Vienna, Austria [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Przedstawicielstwo, Aleje Roz 5, Warsaw, Poland [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Karlstrasse 31, 4000 Dusseldorf 1, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Damrak 28–30/IV, Amsterdam, Netherlands [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Sonnenstrasse 12/III. 8000 Munich 2, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) 38 Rue Ali Azil, Algiers, Algeria [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Lange Reihe 66, 2000 Hamburg 1, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a.

BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Alt Moabit 74, 1000 Berlin 21, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) 85–93/IV Zeil, 6000 Frankfurt am Main, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Uranis Strasse 14/III, 8001 Zurich, Switzerland [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) 40 Rue de l'Ecuyer, BTE 8, 1000 Brussels, Belgium [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) Tuebingerstrasse 72, 7000 Stuttgart 1, Germany [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) P.O. Box 2869, Tripoli, Libya [FRY S&M]
UDRUZENA BEOGRADSKA BANKA (a.k.a. ASSOCIATED BELGRADE BANK; a.k.a. BEOBANKA d.d.; a.k.a. BEOGRADSKA BANKA d.d.) 71 Avenue des Champs–Elysees, 75008 Paris, France [FRY S&M]
UDRUZENA KOSOVSKA BANKA (a.k.a. ASSOCIATED BANK OF KOSOVO), all offices worldwide [FRY S&M], including, but not limited to:
UDRUZENA KOSOVSKA BANKA, Rossmarkt 14/111, D–6000 Frankfurt am Main 1, Germany [FRY S&M]
UDRUZENA KOSOVSKA BANKA, Schauenbergstrasse 8, 8046 Zurich, Switzerland [FRY S&M]
UDRUZENJE YU VISA, Belgrade, Serbia [FRY S&M]
UGANDA LIBYAN HOLDING CO. LTD. (a.k.a. LIBYAN ARAB UGANDA HOLDING CO. LTD.), Kampala, Uganda [LIBYA]
UGUETO, Luis David (MOROS), Cyprus (individual) [LIBYA]
ULCINJ (n.k.a. NIPE) (9HTL3) Bulk Carrier 9,028GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
UMM AL–JAWABY OIL SERVICE COMPANY, LTD., 33 Cavendish Square, London W1M 9HF, England [LIBYA]
UMM AL–JAWABY PETROLEUM CO. S.A.L., Nafoora Field, Libya [LIBYA]
UMM AL–JAWABY PETROLEUM CO. S.A.L., P.O. Box 693, Tripoli, Libya [LIBYA]
UMMA BANK S.A.L., (31 branches throughout Libya) [LIBYA]
UMMA BANK S.A.L., 1 Giaddet Omar Mokhtar, P.O. Box 685, Tripoli, Libya [LIBYA]
UNIFARM, Podgorica, Montenegro [FRY S&M]
UNION BANKA d.d., Belgrade, Serbia [FRY S&M]
UNIONPROMET, Novi Sad, Vojvodina (Serbia) [FRY S&M]
UNITED CONSULTING CO. LTD., Cester Ho, Third Fl., Lusaka, Zambia [FRY S&M]
UNITED FAIR AGENCIES, 1202 Carrian Center, 151 Gloucester Rd., Wanchai, Hong Kong [CUBA]
UNIVERZAL, Belgrade, Serbia [FRY S&M]
UNIVERZAL, Mjevrosime 51, 11000 Belgrade, Serbia [FRY S&M]
UR (YIUR) Tug 368DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
UTVA, Pancevo, Vojvodina (Serbia) [FRY S&M]
VALJAONICA ALUMINIJUMA, Sevojno Uzice, Serbia [FRY S&M]
VALLETTA SHIPPING CORP., Panama [CUBA]
VASQUES (or VAZQUEZ), Oscar D., Panama (individual) [CUBA]
VAZ, Jose, Managing Director, Havana International Bank, 20 Ironmonger Lane, London EC2V 8EY, England (individual) [CUBA]
VEBA OIL LIBYA GMBH (a.k.a. VEBA OIL LIBYAN BRANCH; a.k.a. VEBA OIL OPERATIONS B.V.; f.k.a. MOBIL OIL LIBYA, LTD.), P.O. Box 2357, Tripoli, Libya [LIBYA]
VEBA OIL LIBYA GMBH (a.k.a. VEBA OIL LIBYAN BRANCH; a.k.a. VEBA OIL OPERATIONS B.V.; f.k.a. MOBIL OIL LIBYA, LTD.), Al Magharba Street, P.O. Box 690, Tripoli, Libya [LIBYA]
VEBA OIL LIBYA GMBH (a.k.a. VEBA OIL LIBYAN BRANCH; a.k.a. VEBA OIL OPERATIONS B.V.; f.k.a. MOBIL OIL LIBYA, LTD.), The Hague, Netherlands (Designation applies only to joint venture located in Libya and office located in the Netherlands) [LIBYA]
VEBA OIL LIBYAN BRANCH (a.k.a. VEBA OIL LIBYA GMBH; a.k.a. VEBA OIL OPERATIONS B.V.; f.k.a. MOBIL OIL LIBYA, LTD.), Al Magharba Street, P.O. Box 690, Tripoli, Libya (Designation applies only to joint venture located in Libya and office located in the Netherlands) [LIBYA]
VEBA OIL LIBYAN BRANCH (a.k.a. VEBA OIL LIBYA GMBH; a.k.a. VEBA OIL OPERATIONS B.V.; f.k.a. MOBIL OIL LIBYA, LTD.), The Hague, Netherlands (Designation applies only to joint venture located in Libya and office located in the Netherlands) [LIBYA]
VEBA OIL LIBYAN BRANCH (a.k.a. VEBA OIL LIBYA GMBH; a.k.a. VEBA OIL OPERATIONS B.V.; f.k.a. MOBIL OIL LIBYA, LTD.), P.O. Box 2357, Tripoli, Libya (Designation applies only to joint venture located in Libya and office located in the Neterlands) [LIBYA]
VEBA OIL OPERATIONS B.V. (a.k.a. VEBA OIL LIBYAN BRANCH; a.k.a. VEBA OIL LIBYA GMBH; f.k.a. MOBIL OIL LIBYA, LTD.), P.O. Box 2357, Tripoli, Libya (designation applies only to joint venture located in Libya and office located in the Netherlands) [LIBYA]
VEBA OIL OPERATIONS B.V. (a.k.a. VEBA OIL LIBYAN BRANCH; a.k.a. VEBA OIL LIBYA GMBH; f.k.a. MOBIL OIL LIBYA, LTD.), The Hague, Netherlands (Designation applies only to joint venture located in Libya and office located in the Netherlands [LIBYA]
VEBA OIL OPERATIONS B.V. (a.k.a. VEBA OIL LIBYAN BRANCH; a.k.a. VEBA OIL LIBYA GMBH; f.k.a. MOBIL OIL LIBYA, LTD.), Al Magharba Street, P.O. Box 690, Tripoli, Libya (Designation applies only to joint venture located in Libya and office located in the Netherlands) [LIBYA]
VEDADO (f.k.a. DANILOVGRAD) (9HSZ3) Ore Carrier 15,396GT Malta Flag (Lovcen Overseas Shipping Ltd.) (vessel) [FRY S&M]
VELETRGOVINA, Kolasin, Montenegro [FRY S&M]
VELIMIR JAKIC, Pljevlja, Montenegro [FRY S&M]
VERIMPEX GMBH—IMPORT AND EXPORT, Bohmerstrasse 6, 6000 Frankfurt 01, Germany [FRY S&M]
VETPROM, Belgrade, Serbia [FRY S&M]
VIACON INTERNATIONAL, INC., Apartment 7B Torre Mar Building, Punta Paitilla Area, Panama City, Panama [CUBA]
VIACON INTERNATIONAL, INC., France Field, Colon Free Zone, Panama [CUBA]
VIAJES GUAMA, S.A., Spain [CUBA]
VIAJES GUAMA TOURS (a.k.a. AGENCIA DE VIAJES GUAMA; a.k.a. GUAMA TOUR; a.k.a. GUAMATUR, S.A.), Bal Harbour Shopping Center, Via Italia, Panama City, Panama [CUBA]
VINALES TOURS, Cancun, Mexico [CUBA]
VINALES TOURS, Guadalajara, Mexico [CUBA]
VINALES TOURS, Mexico City, Mexico [CUBA]
VINALES TOURS, Monterey, Mexico [CUBA]
VINALES TOURS, Roma, Mexico [CUBA]
VIOLET ISLANDS (Violet Navigation Co., Cyprus) (vessel) [CUBA]
VIOLET NAVIGATION CO., LTD., Limassol, Cyprus [CUBA]
VIRPAZAR (n.k.a. MOA) (9HTM3) General Dry Cargo 9,201GT Malta Flag (Bar Overseas Shipping Ltd.) (vessel) [FRY S&M]
VISCOSE AND CELLULOSE INDUSTRY OF LOZNICA (a.k.a. VISKOZA—LOZNICA), Loznica, Serbia [FRY S&M]
VISKOZA—LOZNICA (a.k.a. VISCOSE AND CELLULOSE INDUSTRY OF LOZNICA), Loznica, Serbia [FRY S&M]
VOCARCOOP—UNION, Belgrade, Serbia [FRY S&M]
VOJVODINA—SREMSKA MITROVICA, Sremska Mitrovica, Vojvodina (Serbia) [FRY S&M]
VOJVODINA TOURS, Novi Sad, Vojvodina (Serbia) [FRY S&M]
VOJVODJANSKA BANKA, a.k.a. BANK OF VOJVODINA, Kaiser Strasse 3, D 6000 Frankfurt am Main, Germany [FRY S&M]
VOJVODJANSKA BANKA, a.k.a. BANK OF VOJVODINA, Langham House, 308 Regent Street, London, W1R 5AL, England [FRY S&M]
VOJVODJANSKA BANKA d.d. (a.k.a. ASSOCIATED BANK OF NOVI SAD), all offices (Bank is headquatered in Novi Sad, Vojvodina [Serbia]) [FRY S&M]
VRSACKA BANKA d.d., Vrsac, Serbia [FRY S&M]
VUCIC, Borka, 2 Knez Mihajlova, 1000 Belgrade, Serbia (individual) [FRY S&M]
VUKOVARSKA BANKA DD, Vukovar, Croatia [FRY S&M]
VULCAN OIL S.P.A., Delta Energy/ERG bunkering service, Genoa, Italy [LIBYA]
VULCAN OIL S.P.A., Milano 2, Centro Direz. Pal. Canova, 20090 Segrate, Milan, Italy [LIBYA]
VULCAN OIL S.P.A., United Kingdom (offshore) [LIBYA]
VUNKO, Bijelo Polje, Montenegro [FRY S&M]

VUP, Danilovgrad, Montenegro [FRY S&M]
WADENA SHIPPING CORP., Monrovia, Liberia [CUBA]
WAHA OIL COMPANY, Inas Building, Omar El Mokhtar Street, Box 395, Tripoli, Libya [LIBYA]
WAHA OIL COMPANY, P.O. Box 1075, Tripoli, Libya [LIBYA]
WAHA OIL COMPANY, P.O. Box 221, Benghazi, Libya [LIBYA]
WAHA OIL COMPANY, Sidi Issa Street, P.O. Box 915, Tripoli, Libya [LIBYA]
WAHDA BANK, (37 branches throughout Libya) [LIBYA]
WAHDA BANK, Jamel Abdul Nasser Street, P.O. Box 452, Fadiel Abu Omar Square, El–Berhka, Benghazi, Libya [LIBYA]
WAHDA BANK, P.O. Box 1320, Benghazi, Libya [LIBYA]
WAHDA BANK, P.O. Box 3427, Tripoli, Libya [LIBYA]
WEST ISLANDS (West Islands Shipping Co., Cyprus) (vessel) [CUBA]
WEST ISLANDS SHIPPING CO., Limassol, Cyprus [CUBA]
WHALE SHIPPING LTD., c/o Government of Iraq, State Organization of Ports, Maqal, Basrah, Iraq [IRAQ]
WHITESWAN SHIPPING CO., LTD., Limassol, Cyprus [CUBA]
WITTGREEN, Carlos (a.k.a. Carlos WITTGREEN Antinori; a.k.a. Carlos WITTGREEN A.; a.k.a. Carlos Antonio WITTGREEN), Panama (individual) [CUBA]
WOOL AND TEXTILE INDUSTRY OF LESKOVAC (a.k.a. LETEKS—LESKOVAC), Leskovac, Serbia [FRY S&M]
WORK BOAT No. 6 (N/A) Barge DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
WORKSHIP 3 (N/A) Service DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
YAM, Melvia Isabel Gallegos, Merida, Mexico (individual) [CUBA]
YAMARU TRADING CO., LTD., Tokyo, Japan [CUBA]
YANBU 31 (N/A) Service DWT N/A Saudi Arabian flag (Iraqi State Company for Oil Projects) (vessel) [IRAQ]
YATZO Group, Serbia [FRY S&M]
YES HOLDING INTERNATIONAL LTD., Archbishop Makarios III Ave., Xenios Commercial Center, 5th Floor, No. 501, Nicosia, Cyprus [FRY S&M]
YESIC LTD., 57 Ledra St., Nicosia, Cyprus [FRY S&M]
YOUGO–ARAB COMPANY LTD, 58–60 Dighenis Akritas Avenue, Ghinis Building, 3rd, 8th, and 9th Floors, P.O. Box 2217, Nicosia, Cyprus [FRY S&M]
YOUSEF, Mohamed T., Libya (individual) [LIBYA]
YOUSIFAN (YIYN) Tug 386DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
YUGO CANADA INC. (a.k.a. YUGOCANADA INC. TORONTO; a.k.a. YUGOTOURS OF CANADA), 100 Adelaide Street W. Ste. 1350, Toronto, Ontario M5H 1S3, Canada [FRY S&M]
YUGO CARS (a.k.a. ZASTAVA (GB) LTD.), Gloucester House, Basingstoke Road, Reading, Berkshire, RG2 OQW England [FRY S&M]
YUGOBANKA (a.k.a. BANK FOR FOREIGN TRADE AD; a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), all offices worldwide [FRY S&M] including, but not limited to:
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Kurfurstenstrasse 106/II, 1000 Berlin 30, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Konigstrasse 54/8, 7000 Stuttgart 1, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Kungsgatan 55/3, 11122 Stockholm, Sweden [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Klosterstrasse 34/I, 4000 Dusseldorf, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Singel 512, Amsterdam 1017 AX, Netherlands [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Schledusenbrucke 1–4, 2000 Hamburg 36, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Salisbury House, First Floor (Rooms 378–379), London, EC2M5RT, England [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), P.O. Box 2869, Tripoli, Libya [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), c/o Yugoslav Chamber of Economy, Saadoun Str., Shalen Bld, Baghdad, Iraq [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), 25, Rue Lauriston, 75116 Paris, France [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Am Plaerer 2, 8500 Nuremberg, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Argentinenstrasse 22/II/4–11, A–1040 Vienna, Austria [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Georgestrasse 36/3, 3000 Hannover, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), c/o BFG M–7 m No 16–17, 6800 Mannheim, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Goether Str. 2/II, 6000 Frankfurt am Main I, Germany [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; JUGOBANKA d.d.), Zweierstrasse 169/1, CH–8003 Zurich, Switzerland [FRY S&M]
YUGOBANKA (a.k.a. JUGOBANKA; JUGOBANKA d.d.), Sonnenstrasse 12/III, 8000 Munich, Germany [FRY S&M]
YUGOBANKA (a.k.a. BANK FOR FOREIGN TRADE AD—SKOPJE; a.k.a. JUGOBANKA; a.k.a. JUGOBANKA d.d.), Skopje, Former Yugoslav Republic of Macedonia [FRY S&M]
YUGOCANADA INC. TORONTO (a.k.a. YUGO CANADA INC.; a.k.a. YUGOTOURS OF CANADA), 100 Adelaide Street W. Ste. 1350, Toronto, Ontario M5H 1S3, Canada [FRY S&M]
YUGOEXPORT, New York, NY, U.S.A. [FRY S&M]
YUGOMONTANA (a.k.a. JUGOMONTANA), Belgrade, Serbia [FRY S&M]
YUGOSLAV AIRLINES (a.k.a. JAT; a.k.a. JAVNO PREDUZECE ZA VAZDUSNI SAOBRACAJ; a.k.a. JUGOSLOVENSKI AEROTRANSPORT), Belgrade, Serbia [FRY S&M]
YUGOSLAV BANK FOR INTERNATIONAL ECONOMIC COOPERATION (a.k.a. JUGOSLOVENSKA BANKA ZA MEDJUNARODNU EKONOMSKU SARADNJU; a.k.a. YUBMES), all offices worldwide [FRY S&M]
YUGOSLAV EXPORT AND CREDIT BANK GROUP (a.k.a. JIK BANKA d.d.; a.k.a. JUGOSLOVENSKA IZVOZNA I KREDITNA BANKA d.d.), all offices worldwide [FRY S&M]
YUGOSLAV EXPORT AND CREDIT BANK INC., a.k.a. KREDITNA BANKA BEOGRAD, a.k.a. JUGOSLOVENSKA IVOZNA I KREDITNA BANKA DD, Via Carducci 20–II, Piano Scala A, 1–34122 Trieste, Italy [FRY S&M]
YUGOSLAV EXPORT AND CREDIT BANK INC., a.k.a. KREDITNA BANKA BEOGRAD, a.k.a. JUGOSLOVENSKA IVOZNA I KREDITNA BANKA DD, Mohren Strasse 17/III, Berlin, Germany [FRY S&M]
YUGOSLAV NATIONAL ARMY (a.k.a. JUGOSLOVENSKA NARODNA ARMIJA; a.k.a. JNA), Belgrade, Serbia [FRY S&M]
YUGOSLAV OCEAN LINES (a.k.a. JOP; a.k.a. JUGOOCEANIJA; a.k.a. JUGOSLAVENSKA OCEANSKA PLOVIDBA), BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
YUGOSLAV POST, TELEGRAPH AND TELEPHONE (a.k.a. PTT JUGOSLAVIJE) (including all Serbian and Montenegrin affiliates), Belgrade, Serbia [FRY S&M]
YUGOSLAV SHIPPING AGENCY (a.k.a. JUGOSLOVENSKA POMORSKA AGENCIJA), Belgrade, Serbia [FRY S&M]
YUGOSLAVIA COMMERCE, Belgrade, Serbia [FRY S&M]
YUGOTOURS (a.k.a. CENTROPRODUCT, BARI), Via Principe Amedeo 25, 70121 Bari, Italy [FRY S&M]
YUGOTOURS (a.k.a. CENTROPRODUCT, ROME), Via Bissolati 76, 00187, Rome, Italy [FRY S&M]
YUGOTOURS (a.k.a. CENTROPRODUCT S.R.L.), Via Agnello 2, 20121 Milan, Italy [FRY S&M]
YUGOTOURS (a.k.a. CENTROPRODUCT), Eisenberg Business Center, House Asia, Tel Aviv, Israel [FRY S&M]
YUGOTOURS (a.k.a. GENERALEXPORT PRAGUE), Stepanska 57/II, 11000 Prague, Czech Republic [FRY S&M]
YUGOTOURS, 39 ave. de Friedland, 75008 Paris, France [FRY S&M]
YUGOTOURS A.B., Sveavagen 59, 113 59 Stockholm, Sweden [FRY S&M]
YUGOTOURS A.G., Militarstr. 90, 8004 Zurich, Switzerland [FRY S&M]
YUGOTOURS AB, P.O. Box 3097, Olof Palmes Gata 24, 10361 Stockholm, Sweden [FRY S&M]
YUGOTOURS B.V., Buikslotermeerplein 6, 1025 EX Amsterdam, Netherlands [FRY S&M]
YUGOTOURS, Belgrade, Serbia [FRY S&M]
YUGOTOURS GMBH, Post Office Box 16848, Windmuhlstrasse 1, D–6000 Frankfurt/Main 1, Germany [FRY S&M]
YUGOTOURS, Huttenstrasse 3, D–4000 Dusseldorf 1, Germany [FRY S&M]
YUGOTOURS LTD., 115 Bath Street, Glasgow, Scotland G2 2SZ [FRY S&M]

YUGOTOURS LTD., 37a Great Charles Street, York House, Birmingham, B3 3JY, England [FRY S&M]
YUGOTOURS LTD. (a.k.a. MEDCHOICE HOLIDAYS LTD.), Chesham House, 150 Regent Street, London WIR 6BB, England [FRY S&M]
YUGOTOURS LTD., Cheshire House, 18/0 Booth Street, Manchester M2 4AN, England [FRY S&M]
YUGOTOURS, Noerrebrogade 26, 2200 Copenhagen N. Denmark [FRY S&M]
YUGOTOURS OF CANADA (a.k.a. YUGOCANADA INC. TORONTO; a.k.a. YUGO CANADA INC.), 100 Adelaide Street W. Ste. 1350, Toronto, Ontario M5H 1S3, Canada [FRY S&M]
YUGOTOURS–REISEN GMBH, Kaerntnerstr. 26, Vienna, Austria [FRY S&M]
YUGOTOURS S.A., Rue de Princes 8–10, 1000 Brussels, Belgium [FRY S&M]
YUGOTOURS S.A.R.L. (a.k.a. CENTROPRODUCT, S.A.R.L.), 39, Avenue de Firdland, 75008 Paris, France [FRY S&M]
YUGOTOURS, Schwanthalerstrasse 83, D–8000 Munich 2, Germany [FRY S&M]
YUGOTOURS, Steinstrasse 15, D–7000 Stuttgart 1, Germany [FRY S&M]
YUGOTOURS, Wilmerdorfer Strasse 134, D–1000 Berlin 12, Germany [FRY S&M]
YUMBES (a.k.a. JUGOSLOVENSKA BANKA ZA MEDJUNARODNU EKONOMSKU SARADNJU; a.k.a. YUGOSLAV BANK FOR INTERNATIONAL ECONOMIC COOPERATION), all offices worldwide [FRY S&M]
YUNIVERSAL, Singer Strasse 2/15, 1010 Vienna, Austria [FRY S&M]
YUSACO, Serbia [FRY S&M]
ZAHRAN, Yousuf, P.O. Box 1318, Amman, Jordan (individual) [IRAQ]
ZAIN AL QAWS(HNZQ) Cargo 9,247DWT Iraqi flag (Iraqi State Enterprise for Water Transport) (vessel) [IRAQ]
ZAJEDNICA JUGOSLOVENSKIH ZELEZNICA (a.k.a. ASSOCIATION OF YUGOSLAV RAILWAYS), Belgrade, Serbia [FRY S&M]
ZAMBIA ENGINEERING AND CONTRACTING CO., Zecco Bldg. Mukwa Rd., Lusaka, Zambia [FRY S&M]
ZAMZAM (YIAZ) Tanker 544DWT Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ZANOOBIA (HNZN) Cargo 3,549DWT Iraqi flag (Iraqi State Enterprise for Water Transport Represented by Ceylon Shipping Co., Colombo, Sri Lanka) (vessel) [IRAQ]
ZASTAVA (a.k.a. AUTOMOBILE INDUSTRY—CRVENA ZASTAVA; a.k.a. ZAVODI CRVENA ZASTAVA—KRAGUJEVAC), Kragujevac, Serbia [FRY S&M]
ZASTAVA (GB) LTD. (a.k.a. YUGO CARS), Gloucester House, Basingstoke Road, Reading, Berkshire, RG2 OQW England [FRY S&M]
ZASTAVA IMPEX, Belgrade, Serbia [FRY S&M]
ZASTAVA JUGO AUTOMOBILI, Kragujevac, Serbia [FRY S&M]
ZASTAVA—PRIVREDNA VOZILA, Kragujevac, Serbia [FRY S&M]
ZAVOD ZA E. EKSP., Belgrade, Serbia [FRY S&M]
ZAVODI CRVENA ZASTAVA—KRAGUJEVAC (a.k.a. AUTOMOBILE INDUSTRY—CRVENA ZASTAVA; a.k.a. ZASTAVA), Kragujevac, Serbia [FRY S&M]
ZCZ/YUGOMEDICA, Kragujevac, Serbia [FRY S&M]
ZDRAVLJE, Leskovac, Serbia [FRY S&M]
ZEBETEX INTERNATIONAL, S.A., Panama [CUBA]
ZECEVIC, Miodrag, Banque Franco Yugoslav, 18 Rue de Tilsitt, 75017 Paris, France (individual) [FRY S&M]
ZELATRANS, Podgorica, Montenegro [FRY S&M]
ZELENGORA, Belgrade, Serbia [FRY S&M]
ZELEZARA BORIS KIDRIC, Niksic, Montenegro [FRY S&M]
ZELEZNICKO TRANSPORTNO PREDUZECE BEOGRAD (a.k.a. BELGRADE RAILROAD TRANSPORTATION ORGANIZATION), Belgrade, Serbia [FRY S&M]
ZELEZNICKO TRANSPORTNO PREDUZECE CRNE GORE (a.k.a. MONTENEGRIN RAILROAD TRANSPORTATION ORGANIZATION), Montenegro [FRY S&M]
ZELEZNICKO TRANSPORTNO PREDUZECE NOVI SAD (a.k.a. NOVI SAD RAILROAD TRANSPORTATION ORGANIZATION), Novi Sad, Vojvodina (Serbia) [FRY S&M]
ZELEZNICKO TRANSPORTNO PREDUZECE SRBIJE (a.k.a. SERBIAN RAILROAD TRANSPORTATION ORGANIZATION) Belgrade, Serbia [FRY S&M]
ZETA (9HTV3) General Dry Cargo 9,862GT Malta Flag (South Cross Shipping Ltd.) (vessel) [FRY S&M]
ZETA OCEAN SHIPPING LTD., Valletta, Malta, c/o Jugoslavenska Oceanska Plovidba BB, Njegoseva, P.O. Box 18, 85330 Kotor, Montenegro [FRY S&M]
ZLITNI, Dr. Abdul Hafid Mahmoud, Abu Dhabi, U.A.E. (individual) [LIBYA]
ZLITNI, Dr. Abdul Hafid Mahmoud, Tripoli, Libya (individual) [LIBYA]
ZORKA, Sabac, Serbia [FRY S&M]
ZTP BELGRADE, Belgrade, Serbia [FRY S&M]
ZTP, Podgorica, Montenegro [FRY S&M]
ZUBAIDY (YIBO) Fish DWT N/A Iraqi flag (State Org. of Iraqi Ports) (vessel) [IRAQ]
ZUEITINA OIL COMPANY, Gas Processing Plants, Tripoli, Libya [LIBYA]
ZUEITINA OIL COMPANY, Mitchell Cotts Building, P.O. Box 2134, Tripoli, Libya [LIBYA]
ZUEITINA OIL COMPANY, Plant at Intisar Field A, Tripoli, Libya [LIBYA]
ZUEITINA OIL COMPANY, Zueitina Building "A," Sidi Issa, Dahra, P.O. Box 2134, Tripoli, Libya [LIBYA]
ZUGHAID, Hassan Senoussi, 15/17 Lodge Road, St. Johns Wood, London NW8 7JA, England (individual) [LIBYA]
ZUPA—KRUSEVAC, Krusevac, Serbia [FRY S&M]

The following are citations for Federal Register notices on Specially Designated Nationals and Blocked Persons:

CUBA

51 FR 44459 (December 10, 1986)
53 FR 44398 (November 3, 1988)
54 FR 3446 (January 24, 1989)
54 FR 9431 (March 7, 1989)
54 FR 14215 (April 10, 1989)
54 FR 38810 (September 20, 1989)
54 FR 45750 (October 31, 1989)
54 FR 49258 (November 29, 1989)
55 FR 2644 (January 26, 1990)
55 FR 12172 (April 2, 1990)
55 FR 24556 (June 18, 1990)
55 FR 31179 (August 1, 1990)
55 FR 38326 (September 18, 1990)

FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO)

57 FR 32051 (July 20, 1992)

IRAQ

56 FR 13584 (April 3, 1991)
56 FR 29120 (June 25, 1991)
56 FR 48104 (September 24, 1991)

LIBYA

56 FR 20540 (May 6, 1991)
56 FR 37156 (August 5, 1991)
56 FR 65993 (December 20, 1991)
57 FR 10798 (March 30, 1992)
57 FR 29424 (July 1, 1992)
57 FR 54176 (November 17, 1992)
59 FR 51106 (October 7, 1994)

NORTH KOREA

54 FR 32064 (August 4, 1989)

Dated: October 28, 1994.

Steven I. Pinter

Acting Director, Office of Foreign Assets Control.

Approved: October 28, 1994.

R. Richard Newcomb

Acting Deputy Assistant Secretary (Law Enforcement).

[FR Doc. 94–28365 Filed 11–14–94; 2:19 pm]

BILLING CODE 4810–25–F

Internal Revenue Service

[Delegation Order No. 42; Rev. 27]

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority to execute consents fixing the period of limitations on assessment or collection under provisions of the 1939, 1954, and 1986 Internal Revenue Codes (26 U.S.C. 6229; 26 CFR 301.6501(c)–1; 26 CFR 301.6502–1; 26 CFR 301.6901–1(d); and 26 CFR 301.7701–9.

EFFECTIVE DATE: October 19, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia J. Deeter, Program Analyst, Office of Employment Tax Administration and Compliance, CP:EX:ET:OETAC, room 2504, 1111

Constitution Avenue, NW, Washington, DC 20224, telephone (816) 926–3445, off-site at Kansas City Service Center (not a toll-free call).

Authority to Execute Consents Fixing the Period of Limitations on Assessment or Collection Under Provisions of the 1939, 1954, and 1986 Internal Revenue Codes

1. Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Order 150–10; 26 USC 6229; 26 CFR 301.6501(c)–1; 26 CFR 301.6502–1; 26 CFR 301.6901–1(d); and 26 CFR 301.7701–9; the authority to sign all consents fixing the period of limitations on assessment or collection is delegated to the following officials:

a. Associate Chief Counsels and Deputy Associate Chief Counsels (for matters under their respective jurisdictions);

b. Assistant Commissioner (International);

c. Assistant Commissioner (Employee Plans and Exempt Organizations) but limited to Form 872–C, Consent Fixing Period of Limitation Upon the Assessment of Tax Under Section 4940 of the Internal Revenue Code;

d. Regional Counsel;

e. Regional Directors of Appeals;

f. Service Center Directors;

g. Director, Austin Compliance Center;

h. Director, Detroit Computing Center; and

i. District Directors

2. This authority may be redelegated but not below the following levels for each activity:

a. Service Center—Chief, Accounting Branch; Chief, Quality Assurance; Chief, Adjustment/Correspondence; Revenue Officers and Collection Branch managers Grade GS–9 or higher; Chief, Classification function; and personnel assigned to the Examination Support Unit, Grade GS–11 or higher;

b. Austin Compliance Center—Underreporter Division—Branch Chiefs; Collection Division—all Branch Chiefs and Chief, Quality Analysis Staff; Examination Division—Chiefs, Examination Branches, Chief, Quality Assurance Staff, Chief, Classification Branch; and personnel assigned to the Windfall Profits Staff, GS–11;

c. Detroit Computing Center—Currency Reporting and Compliance Division managers, GS–9 or higher;

d. Collection—Revenue Officers; Collection Support function managers Grade GS–9 or higher; Automated Collection Branch managers, Grade GS–9 or higher;

e. Examination—Reviewers, Grade GS–11 or higher; Group managers (including large case managers); Chiefs, Planning and Special Programs and personnel assigned thereto Grade GS–11 or higher; Returns Classification Specialists and Returns Classification Officers, Grade GS–11;

f. Criminal Investigation—Chiefs, Criminal Investigation Divisions, except in those districts where the Criminal Investigation Group managers report directly to the District Directors, the authority is limited to the District Director.

g. Appeals—Appeals Officers;

h. Assistant Commissioner (International)—Representatives at foreign posts; Revenue Agents; Tax Auditors, and Special Agents on foreign assignments; and levels indicated in c, d, and e above;

i. EP/EO—For Form 872–C, Exempt Organizations Technical Division Branch Chiefs, Assistants to the Branch Chiefs, Conferee/Reviewers, and Branch Reviewers;

j. District Employee Plans and Exempt Organizations—Reviewers, Grade GS–11 or higher, and Group Managers.

3. No authority is delegated under this Order to the District Counsel.

4. To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified.

5. Delegation Order No. 42 (Rev. 26), effective October 29, 1992, is superseded.

Dated: October 9, 1994.

Approved:

Phil Brand,

Chief Compliance Officer.

[FR Doc. 94–28334 Filed 11–16–94; 8:45 am]

BILLING CODE 4830–01–P

[Delegation Order No. 182; Rev. 6]

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of Authority.

SUMMARY: The authority to execute returns required by any internal law or regulation made thereunder when the person required to file such return fails to do so (26 CFR 301.6020–1(b) and 26 CFR 301.7701–9) is modified to include Detroit Computing Center ETAP (Employment Tax Adjustment Program)/6020(b) Support Manager GS–8 and above.

EFFECTIVE DATE: October 12, 1994.

FOR FURTHER INFORMATION CONTACT: Patricia J. Deeter, Program Analyst, Office of Employment Tax Administration and Compliance, CP:EX:ET:OETAC, room 2504, 1111 Constitution Avenue, NW, Washington, DC 20224; telephone (816) 926–3445, off-site at Kansas City Service Center (not a toll-free call).

The authority granted to the Commissioner of Internal Revenue, by 26 CFR 301.6020–1(b) and 26 CFR 301.7701–9 to execute returns required by any internal revenue law or regulation made thereunder when the person required to file such return fails to do so, is delegated to:

1. Revenue Agents;
2. Tax Auditors;
3. Revenue Officers, GS–9 and above;
4. Collection Support function managers, GS–9 and above;
5. Automated Collection Branch managers; GS–0 and above;
6. Service Center and Austin Compliance Center Collection Branch managers, GS–9 and above; and
7. Detroit Computing Center ETAP (Employment Tax Adjustment Program)/6020(b) Support Managers, GS–8 and above.

The authority delegated herein may not be redelegated.

To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

Delegation Order No. 182 (Rev. 5), effective October 4, 1990, is superseded.

Dated: October 12, 1994.

Approved:

Phil Brand,

Chief Compliance Officer.

[FR Doc. 94–28333 Filed 11–16–94; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

The Edmund S. Muskie Fellowship Program; Request for Proposals

ACTION: Notice.

SUMMARY: The Office of Academic Programs, Academic Exchanges Division, European Branch of the United States Information Agency's Bureau of Education and Cultural Affairs announces opportunities for regionally and professionally accredited U.S. institutions offering degree and executive education programs at the master's level in business administration, economics, law, or public administration, to host graduate students from Armenia, Azerbaijan* (see program overview below), Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzia, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, or Uzbekistan for one- or two-year, degree, certificate, or professional development

programs under the auspices of the 1995 Edmund S. Muskie Fellowship Program. Priority will be given to institutions which can provide academic guidance and professional development support to Fellows and which have experience working with international students. Institutions which are approved to host 1995 Edmund S. Muskie Fellows will automatically be eligible to host 1995 Freedom Support Act (FSA) Graduate Fellows in the same disciplines.

Current Host Campuses

U.S. institutions currently hosting 1993 and/or 1994 Muskie Fellows in degree, certificate, or professional development programs that wish to receive Fellows again in 1995 in the *same* fields of study will not be required to complete the institutional application *providing the 1995 academic program, support services, and cost-sharing level remain consistent with these 1994 programs.* Current host institutions must demonstrate intent to receive 1995 Muskie Fellows in the same field(s) through a separate renewal process outlined below.

Institutions which were approved to host Edmund S. Muskie Fellows through the 1993 or 1994 competitions but which actually hosted only Freedom Support Act (FSA) Graduate Fellows may submit renewal requests as detailed below.

Current host institutions that wish to host Fellows in a different academic field must submit a full application to be eligible to receive students in that discipline. Institutions which hosted only Freedom Support Act (FSA) Graduate Fellows and which were not approved during either the 1993 or 1994 competitions for *Muskie* host institutions are also required to submit a complete application. Any institutions that are unsure which application materials to submit should contact the appropriate contract organization (ACTR/ACCELS, IREX, Soros, or IIE).

DATES: Deadline for proposals: Completed applications must be received at the appropriate office (listed below) by 5 p.m. Eastern Standard Time, on *Tuesday, January 31, 1995.* Faxed documents will not be accepted, nor will documents postmarked on January 31, 1995, but received at a later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

ADDRESSES: The original and three copies of the proposal should be submitted by the deadline and addressed as follows:

For Degree Programs in Business Administration and for Two-Year Degree Programs in Public Administration: The Edmund S. Muskie Fellowship Program, c/o ACTR/ACCELS, 1776 Massachusetts Avenue, NW, Suite 700, Washington, DC 20036.

For Degree, Non-Degree and Certificate Programs in Economics: The Edmund S. Muskie Program, c/o IREX, 1616 H Street, NW, Washington, DC 20006.

For Degree Programs in Law and for One-Year Programs in Public Administration: The Edmund S. Muskie Fellowship Program, c/o The Soros Foundations/The Consortium for Academic Partnerships, 888 Seventh Avenue, 31st Floor, New York, NY 10106.

For Professional Development Programs in Business Administration, Economics, Law, or Public Administration: The Edmund S. Muskie Fellowship Program, c/o The Institute of International Education, 809 United Nations Plaza, New York, NY 10017–3580, Attn: Martha Loerke.

FOR FURTHER INFORMATION CONTACT: Interested U.S. institutions should write ACTR/ACCELS, IIE, IREX or the Soros Foundations to request application packets, which include guidelines and award criteria. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the organizations noted above.

SUPPLEMENTARY INFORMATION: The Edmund S. Muskie Program is administered by USIA through cooperative agreements to the following organizations: The American Council of Teachers of Russian/American Council for Collaboration in Education and Language Study (ACTR/ACCELS), the Institute of International Education (IIE), the International Research & Exchanges Board (IREX), and the Soros Foundations. Under these agreements ACTR/ACCELS, IIE, IREX, and the Soros Foundation are responsible for the recruitment, selection, academic placement, and monitoring of Fellows.

Please Note: The Edmund S. Muskie Fellowship Program is not intended as a precursor to doctoral studies in the United States. At the end of their designated academic and internship programs, Fellows are required to return to their home countries to fulfill the two-year home residency requirement as specified in the Exchange Visitor (J-Visa) regulations.

ACTR, IREX, Soros, and IIE will not approve the transfer of visa sponsorship to universities or the extension of visas for the purpose of Ph.D. programs or other additional academic study.

Overall authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended Public Law 87–256 (Fulbright-Hays Act). The purpose of the Act is "to enable the Government of the United States to increase mutual understanding between the people of the United States and people of other countries by means of educational and cultural exchange, to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus assist in the development of friendly, sympathetic, and peaceful relations between the United States and other countries of the world." Pursuant to the Bureau of Educational and Cultural Affairs authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of the American political, social and cultural life. Programs shall also "maintain their scholarly integrity and shall meet the highest standards of academic excellence or artistic achivement."

Program Overview

The Edmund S. Muskie Program was established in Fiscal Year 1992 to promote democratic and economic development in Armenia, Azerbaijan,* Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzia, Latvia, Lithuania, Moldova, the Russian Federation, Tajikistan, * Turkmenistan, Ukraine, and Uzbekistan. It is an academic program providing graduate level instruction at the master's level in business administration, economics, law, and public administration along with exposure to the concepts of market economics and democratic principles. A professional affiliation experience and networking opportunities are major program components.

***Please note:** Programs with Azerbaijan are subject to restrictions of Section 907 of the Freedom Support Act: Employees of the government of Azerbaijan or any of its instrumentalities are excluded from participation, and no U.S. participant overseas may work for the Government of Azerbijan or any of its instrumentalities. In addition, the Government of Azerbijan or any of its instrumentalities will have no control in the actual selection of participants.

Fellows are identified through a merit-based, open competition and a rigorous selection process implemented by ACTR/ACCELS, IIE, IREX, and the Soros Foundation, in conjunction with USIA, professional associations, and U.S. faculty from the four academic fields. Semi-finalists in all disciplines will take the Test of English as a Foreign Language (TOEFL). Candidates for

degree programs in business administration will take the Graduate Management Admission Test (GMAT), and candidates for degree programs in economics will take the Graduate Record Examination (GRE). Candidates for the law program must have an undergraduate law degree from their home country. Fellows are matched with universities by selection committees composed of graduate admissions officers and faculty in the appropriate disciplines. Placements are determined according to Fellows' academic interests and needs. Fellows may not choose their own academic placements.

To be eligible for a Muskie Fellowship, applicants must be citizens of one of the fifteen countries targeted by the Program, have successfully completed an undergraduate program, be proficient in spoken and written English at the time of application, demonstrate professional aptitude and leadership potential in the field of specialization, and be under the age of 40. Applicants for professional development programs must have a minimum of three years relevant work experience in addition to an undergraduate degree. To be eligible for awards in law candidates must have received an undergraduate diploma in law. Individuals currently enrolled in academic programs in the U.S., persons working or earning a living in the United States, spouses of U.S. citizens, or individuals who have applied for an immigrant visa or political asylum to any country are not eligible for the Muskie Program. Muskie Fellows under the terms of the grant and under the laws governing the student visa required for participation in the Program, must return to their home country for a period of a least two years immediately upon completion of the academic program and internship. Visa sponsorship will not be transferred to universities or other sponsors and visas will not be extended for the purpose of pursuing doctoral or other additional studies in the United States.

No financial support or provision is made for Fellows' dependents under the Muskie Program.

Muskie Fellows receive scholarships for international transportation, domestic transportation within the United States, stipend, health insurance, full or partial tuition, room/board, and other expenses.

Fellows who receive TOEFL scores below 550 will enroll in courses of English as a Second Language (ESL) in summer 1995. Whenever possible, Fellows who receive TOEFL scores above 550 will take part in summer pre-academic programs prior to arrival at their host universities.

Currently 136 students are enrolled at U.S. institutions under the auspices of the 1994 Muskie Program. Approximately 140 Fellows will be selected for participation in the 1995 Muskie Program.

Program Guidelines

The Muskie Fellowship comprises the degree, certificate, and professional development programs outlined below. Fellows will enter U.S. graduate studies in the 1995 fall semester.

Degree and Certificate Programs

In general, Fellows with degree awards in business administration and economics should take part in two-year academic programs leading to the degree of Masters of Business Administration (MBA) or Master of Arts (MA), respectively. Internships should take place during the summer between the first and second years of study. All programs in law must lead to the Master of Laws (LLM) degree. Fellows with awards in law generally participate in nine-month LLM programs followed by a three-month internship; however, longer LLM programs are also admissible. Fellows with degree awards in public administration should take part in one- or two-year programs leading to the Masters of Public Administration (MPA) or Master of Arts (MA) degree. In some cases, certificates may be awarded instead of degrees. Three-month internships should take place during the summer of 1996, after one year or academic study.

Professional Development Programs

The Professional Development awards are specifically designed for mid-career professionals with at least three years substantive work experience prior to application. These non-degree programs in business administration, economics, and public administration generally include two semesters of tailored academic study at the mater's level, followed by up to six months of practical training. The law program for mid-career professionals should lead to the LLM degree with up to six months of practical training after the period of academic study.

Program Requirements and Review Criteria

U.S. institutions may apply to receive Fellows individually or in groups of two to ten people representing one or any combination of the four disciplines. Host institutions for 1995 Muskie Fellows will be selected by ACTR/ACCELS, IIE, IREX, the Soros Foundation, and USIA, based on the following criteria:

a. Strength of academic program—Academic rigor and demonstrated capacity to meet participant needs.

b. Track record—Expericence working with and providing a full range of support services for international students. Recognition of and compliance with the intent, rules, and regulations governing the Muskie Program.

c. Professional support—Ability to facilitate professional affiliations and internships.

d. Academic support—Capacity to assign a faculty advisor and a Muskie Program coordinator to provide academic guidance, logistical support, and assistance in arranging enrichment activities.

e. Cost-effectiveness—Ability to provide a high quality program for lowest costs. A key measure of cost-effectiveness is the host institution's program cost per Fellow. The Agency also reviews the ratio of cost-sharing to program costs exhibited through such means as tuition scholarships, fellowships, or reduced room and board expenses.

f. Geographic diversity—The Agency Seeks to achieve maximum geographic diversity in the selection of host institutions.

g. Evaluation plan—Proposals should outline methods for monitoring the academic progress and integration of Fellows in the campus and community.

h. Adherence of proposed activities to the criteria outlined above and the goals of the Edmund S. Muskie Fellowship Program.

Institutions receiving two or more Fellows are encouraged to provide commensurate cost-sharing for such groups. The academic interests and professional needs of candidates selected as Fellows will be considered in the final designation of U.S. host institutions.

Proposals must be submitted to ACTR/ACCELS, IIE, IREX, or the Soros Foundations, according to discipline and type of program (degree, certificate, or professional development), as indicated above.

Renewal Process for Current Host Institutions

Institutions currently hosting Edmund S. Muskie Fellows under the 1993 and/or 1994 Programs are eligible to submit a renewal application. U.S. institutions currently hosting 1993 or 1994 Freedom Support Act Fellows that applied to and were approved by the 1993 or 1994 Muskie university competitions are also eligible to submit a renewal application.

In order to apply to host Fellows in the same field(s), universities must submit a letter confirming that the academic program, professional and enrichment support, and adherence to other grant requirements will, at a minimum, remain consistent with current levels. The letter must also indicate the desired number of Fellows to be hosted, the type of program in which they will be placed (degree, certificate, or professional development), the name of the Muskie coordinator, the 1995–96 academic calendar, and the amount of cost-sharing provided for each Fellow, adjusted as needed for 1995–96 costs. Current host institutions need to contact the appropriate contract organization (ACTR/ACCELS, IREX, Soros or IIE) to receive the required budget worksheet that must be submitted along with the letter. Original letters must be received by the appropriate contact organization by January 31, 1995.

Please Note: Those institutions currently hosting *only* Freedom Support Act Graduate Fellows and which were not approved through either the 1993 or 1994 Muskie university competition must submit a complete application to be considered to host 1995 Muskie Fellows.

Agency Cost Sharing Guidelines

U.S. institutions hosting Muskie Fellows are strongly encouraged to provide cost-sharing toward tuition and/or room and board expenses, so that greater numbers of students may take part in the program. Cost-sharing may also be in the form of direct program and participant costs. Indirect and administrative costs will not be considered allowable cost sharing items, nor will these costs be covered by the Muskie Program. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110 (Revised), Subpart C.23—Cost-Sharing and Matching and should be described in the proposal. In the event the Recipient does not provide the minimum amount of cost-sharing as stipulated in the Recipient's budget, the Agency's contribution will be reduced in proportion to the Recipient's contribution.

Preference will be given to institutions that provide cost-sharing on *direct participant costs*. While the Agency strongly encourages cost-sharing, it is not a requirement. Institutions unable to offer cost sharing are eligible to apply.

Application Disclaimer

The terms and conditions published in this RFP are binding and may not be modified by any USIA, ACTR/ACCELS, IIE, IREX, or Soros Foundations representative. Explanatory information provided by USIA, ACTR/ACCELS, IIE, IREX, or the Soros Foundation that contradicts published language will not constitute a commitment on the part of the Government or the implementing organization. Final notifications cannot be made until funds have been fully appropriated by Congress, allocated, and committed through internal USIA procedures.

Notification

Applications will be notified in writing of the results of the review process on or about April 15, 1995. Final placement of students at institutions is subject to the specific academic interests and needs of individuals selected as Muskie Fellows.

Please note: USIA retains the right to determine final selection decisions with regard to the competition for institutions to host Muskie Fellows. The Agency also reserves the right to determine final placement decisions. When the needs of the program warrant, the Agency may invite selected institutions to host Fellows whose academic needs require specialized placement.

Options for Renewal

Subject to the availability of funding and the satisfactory performance of host institutions, USIA, on behalf of the Muskie Fellowship Program, may invite grantee organizations to submit proposals for renewal of awards.

Review Process

ACTR/ACCELS, IREX Soros, or IIE will acknowledge receipt of all applications and will review them for technical eligibility. Applications will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Application Package. Eligible applications will be forwarded to panels of USIA officers for advisory review. All eligible applications may also be reviewed by the Agency contracts office, as well as the USIA Office of East European and NIS Affairs, the USIS posts overseas, the Office of General Council, or other Agency elements, where appropriate.

Notification

All applicants will be notified of the results of the review process on or about April 15, 1994.

Dated: November 9, 1994.

John P. Loiello,

Associate Director, Educational and Cultural Affairs.

[FR Doc. 94–28061 Filed 11–16–94; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review: Loan Guaranty: Credit Underwriting Standards and Procedures for Processing VA Guaranteed Loans

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information:

(1) the title of the information collection, and the Department form number(s), if applicable;

(2) a description of the need and its use;

(3) who will be required or asked to respond;

(4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable;

(5) the estimated average burden hours per respondent;

(6) the frequency of response; and

(7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5A), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 273–7011.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, Room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before December 19, 1994.

Dated: November 7, 1994.

By direction of the Secretary:

Barbara H. Epps,

Management Analyst.

Reinstatement

1. Loan Guaranty: Credit Underwriting Standards and Procedures for Processing VA Guaranteed Loans

a. Information Concerning Veteran-Borrower's Rental income (if applicable)

b. Providing VA With Copy of Mortgage Credit Certificate (if applicable)

c. Documentation of all Known Debts and Obligations

d. Information Concerning Job-Related Expenses and Child-Care
e. Submission of Copies of Completed Income Tax Returns (if applicable)
2. Lenders must collect certain specific information concerning the veteran and the veteran's credit history in order to properly underwrite the veteran's loan. The information is needed to insure that applications for VA-guaranteed loans are underwritten in a reasonable and prudent manner.
3. Individuals or households—Businesses or other for-profit
4. 35,383 total hours. VA is requesting 1 hour annual burden for this collection of information since the requirements for the data are customary under mortgage lending practices and are not a requirement peculiar to VA.
5. 11 minutes
6. On occasion
7. 193,000 respondents

[FR Doc. 94–28345 Filed 11–16–94; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 59, No. 221
Thursday, November 17, 1994

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: December 1, 1994, 2:00 p.m. (Eastern Time).

PLACE: Conference Room on the Ninth Floor of the EEOC Office Building, 1801 "L" Street, N.W., Washington, D.C. 20507.

STATUS: Part of the Meeting will be open to the public and part of the Meeting will be closed.

MATTERS TO BE CONSIDERED:

Open Session

1. Announcement of Notation Votes
2. Introductory Remarks by the Chairman
3. Status Report on the Alternative Dispute Resolution (ADR) Pilot Project—Office of Program Operations
4. Update on 1995 Budget—Office of Management

Closed Session

Litigation Authorization: General Counsel Recommendations

Note: Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.) Please telephone (202) 663-7100 (voice) and (202) 663-4077 (TTD) at any time for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer on (202) 663-4070.

This Notice issued November 15, 1994.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 94-28505 Filed 11-15-94; 11:26 am]

BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:02 a.m. on Tuesday, November 15, 1994, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki R. Tigert, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 15, 1994.

Federal Deposit Insurance Corporation.

E. Elizabeth Hayes,

Acting Assistant Executive Secretary.

[FR Doc. 94-28571 Filed 11-15-94; 3:47 pm]

BILLING CODE 6714-0-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of November 14, 1994.

A closed meeting will be held on Thursday, November 17, 1994, at 3:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, November 17, 1994, at 3:30 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Opinion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, pleased contact: The Office of the Secretary (202) 942-7070.

Dated: November 14, 1994.

Jonathan G. Katz,

Secretary.

[FR Doc. 94-28536 Filed 11-15-94; 1:00 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 21, 1994.

An open meeting will be held on Monday, November 21, 1994, at 2:00 p.m., in Room 1C30. A closed meeting will be held on Tuesday, November 22, 1994, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Monday, November 21, 1994, at 2:00 p.m., will be:

The Commission will hold a roundtable discussion with members of the Federal Regulation of Securities Committee of the ABA's Business Law Section on Monday,

November 21, 1994 from 2:00 p.m. until 4:00 p.m., in Room 1C30. The topics discussed may include the development of fiduciary guidelines for mutual fund directors; the relationship between the SEC and securities bar in light of the Supreme Court's decision in *Central Bank of Denver*; and improving the soft information safe harbor. For further information please contact Allan Capute at (202) 942–0901.

The subject matter of the closed meeting scheduled for Tuesday, November 22, 1994, at 10:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.
Settlement of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Opinions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: November 14, 1994.

Jonathan G. Katz,

Secretary.

[FR Doc. 94–28537 Filed 11–15–94; 1:00 pm]

BILLING CODE 8010–01–M

federal register

Thursday
November 17, 1994

Part II

Federal Communications Commission

47 CFR Parts 1 and 22
Public Mobile Services; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 22

[CC Docket Nos. 92–115, 94–46 and 93–116; FCC 94–201]

Public Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission has completely revised its Rules governing the Public Mobile Services. These changes are needed to improve the organization and clarity of the Commission's Rules by eliminating out-dated provisions and unnecessary information collection requirements, streamlining and expediting licensing and processing procedures, and affording licensees greater flexibility in providing service to the public. The intent of these revisions is to stimulate economic growth and expand access to mobile radio networks and services.

EFFECTIVE DATE: January 1, 1995, except for § 22.105(g), which will become effective later. The agency will publish a document in the **Federal Register,** announcing in advance the effective date of that paragraph.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr. and R. Barthen Gorman, Mobile Services Division, Common Carrier Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION: The following is a summary of the Commission's *Report and Order,* adopted August 2, 1994, and released September 9, 1994. The full text of this Commission decision, which includes the Final Regulatory Flexibility Analysis, is available for inspection and copying during normal business hours in the FCC Dockets Branch, (Room 230), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision may be purchased from the Commission's copy contractor, International Transcription Service, Inc.; (202) 857–3800; 2100 M Street, NW., Suite 140, Washington, DC 20037.

Paperwork Reduction

Public reporting burden for the collections of information is estimated as follows:

Section number	Estimated average hours per response	Estimated annual responses
22.5 and 22.7	1	5,000
22.105	3	25,860
22.107	2	10,000
22.108	.25	10,000
22.115	1	10,000
22.119	1	25
22.122	20	30
22.125	1	100
22.128	1	10
22.129	1	200
22.130	10	50
22.132	2	10
22.135	2	10
22.137	.5	100
22.139	1	10
22.142	.084	1,000
22.150	10	40
22.157	1	1,200
22.161	.5	1
22.163	1	1,500
22.165	1	1,500
22.303 (records)*	1	3,000
22.313	1	100
22.313 (records)*	.50	500
22.315	1	100
22.317	.50	100
22.321 (records)*	52	800
22.321	2	800
22.323	.50	100
22.353	.50	100
22.357	1	2
22.369	1	10
22.371	1	10
22.409	13	10
22.411	7.3	116
22.415	2	10
22.529	3	4,000
22.551	.50	10
22.559	2	10,000
22.567	1	10
22.577	.50	10
22.589	2	1,000
22.601	.50	38
22.603	.50	2
22.621	1	10
22.623	.25	10
22.625	1	10
22.655	2	8
22.657	2	1
22.709	3	100
22.711	1	30
22.719	2	10
22.803	2	100
22.865	1	10
22.869	1	6
22.873	.50	6
22.875	40	1
22.901(a)	2	20
22.901(d)	1	10
22.903	2	6
22.907	.50	10
22.911	10	300
22.929	2	4,000
22.935(a)	50	10
22.935(b)	3	10
22.935(d)	10	10
22.935(e)	600	20
22.935(f)(1)–(2)	50	10
22.935(f)(3)	160	20
22.935(f)(5)	160	20
22.936	2	20
22.937	4	4,010
22.939	2	10
22.947(b)	1	100
22.947(c)	6	1,500
22.953	4	10,000
22.1037	1	10
Uncodified one-time showing for CGSA boundaries	1	1,500

*Time allocated for recordkeeping.

Total Annual Burden: 257,616.

Frequency of Response: On occasion, quarterly, semi-annually, and annually.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding this burden estimate or any other aspect of these collections of information to the Federal Communications Commission, Records Management Division, room 234, Paperwork Reduction Project (3060–0508), Washington, DC 20554 and to the Office of Management and Budget, Paperwork Reduction Project (3060–0508), Washington, DC 20503.

Summary of the Report and Order

1. The *Report and Order* is a comprehensive, top-to-bottom rewrite of part 22 of the Commission's Rules. The topics which were the most controversial are treated in the *Report and Order,* while the less controversial changes are explained in Appendix A of the *Report and Order.* Among other things, the *Report and Order* modifies the application processing procedures for 931 MHz paging applications by requiring that applicants specify the channels for which they seek authorization, prescribing a 30-day filing period for initial applications and providing for auctions as the means for selecting the winner among mutually exclusive initial applications. Applications in the Rural Radiotelephone Service, which is a fixed as opposed to a mobile radio service, will be selected on a first-come, first-served basis. The first-come, first-served procedures allow an application to be granted if it is not mutually exclusive with another application filed on the same or on a previous day and if the applicant in question is qualified to be a Commission licensee. Further, under these procedures, mutually exclusive rural radiotelephone applications received on the same day would, absent a negotiated settlement among the parties, be designated for a

comparative hearing to determine which application should be granted.

2. The *Report and Order* also requires that, by the end of their authorized construction periods, licensees of public mobile stations must not only complete construction of their facilities, as is now required, but must also actually commence provision of service to subscribers. In addition, the *Report and Order* eliminates the remaining traffic loading study requirements for Paging and Radiotelephone Services licensees seeking additional channels for traditional two-way mobile radio services and provides technical channel assignment rules for Basic Exchange Telephone Radio Systems (BETRS), which is a radio technology that provides basic telephone service to remote and rural areas.

3. The *Report and Order* explicitly requires that cellular telephones be designed and manufactured in such a way that the electronic serial number is permanently programmed into the equipment at the factory and is physically unalterable. This requirement is intended to help reduce fraud in the use of cellular equipment due to tampering with the electronic serial numbers.

4. The *Report and Order* also removes the existing prohibition against the concurrent use and licensing of Part 22 facilities for both common carrier and non-common carrier services, affirmatively allows the use of multi-channel transmitters, and permits licensees to make certain minor modifications to their stations and add "internal" transmitters to existing systems without notifying the Commission.

Ordering Clauses

Accordingly, it is ordered that the rule changes made herein will become effective on January 1, 1995.

List of Subjects in 47 CFR Part 22

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

47 CFR parts 1 and 22 are revised as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.420 is amended by revising the heading and paragraphs (a) and (b) to read as follows:

§ 1.420 Additional procedures in proceedings for amendment of the FM or TV Tables of Allotments.

(a) Comments filed in proceedings for amendment of the FM Table of Allotments (§ 73.202 of this chapter) or the Television Table of Allotments (§ 73.606 of this chapter) which are initiated on a petition for rule making shall be served on petitioner by the person who files the comments.

(b) Reply comments filed in proceedings for amendment of the FM or Television Tables of Allotments shall be served on the person(s) who filed the comments to which the reply is directed.

* * * * *

§ 1.742 [Amended]

3. In the first sentence of the introductory text of § 1.742, the phrase "Except as specified in § 22.6" is removed and "Except as specified in part 22 of this chapter" is added in its place.

4. Section 1.743 is amended by revising paragraph (a) and adding new paragraph (e) to read as follows:

§ 1.743 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission must be signed by the applicant, if the applicant is an individual; by one of the partners, if the applicant is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities such as states and territories of the United States, their political subdivisions, the District of Columbia, and units of local government, including incorporated municipalities, must be signed by a duly elected or appointed official who is authorized to do so under the laws of the applicable jurisdiction.

* * * * *

(e) "Signed," as used in this section, means an original hand-written signature, except that by public notice in the Federal Register the Common Carrier Bureau may allow signature by any symbol executed or adopted by the applicant with the intent that such symbol be a signature, including symbols formed by computer-generated electronic impulses.

5. Section 1.821 is revised to read as follows:

§ 1.821 Scope.

The provisions of §§ 1.822, 1.823, 1.824 and 1.825 apply as indicated to those applications for permits, licenses or authorizations in the Public Mobile Services, Multichannel Multipoint Distribution Service and Digital Electronic Message Service for which action may be taken by the Chief, Common Carrier Bureau pursuant to delegated authority.

6. Section 1.823 is amended by revising the heading, paragraph (b)(1) and the headings of paragraphs (b)(2) and (b)(3) to read as follows:

§ 1.823 Random selection procedures for the Public Mobile Services.

* * * * *

(b) * * *

(1) *Public Mobile Services other than the Cellular Radiotelephone Service.* Petitions to Deny and other pleadings may be filed against applications but are not reviewed prior to the random selection process. Petitions filed against tentative selectee applications are reviewed after the tentative selectee is announced.

(2) *Cellular Radiotelephone Service, except unserved areas.* * * *

(3) *Cellular Radiotelephone Service, unserved areas.* * * *

* * * * *

§ 1.1105 [Amended]

7. Section 1.1105 is amended by revising the table entries from 2. to 5.n to read as follows:

Action	FCC form No.	Fee amount	Fee type code	Address
* * * * *				
2. Domestic Public Land Mobile Stations [Paging and Radiotelephone Service, Air-ground Radiotelephone Service]:				
a. Application for new or additional facility (per transmitter).	FCC 401, FCC 159	265.00	CMD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. Application for major modification of an existing facility (per transmitter).	FCC 401, FCC 159	265.00	CMD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
c. Notification of additional transmitter (per transmitter).	FCC 489, FCC 159	265.00	CMD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Major amendment of a pending application (per transmitter).	FCC 401, FCC 159	265.00	CMD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
e. Application for assignment of authorization or consent to transfer of control.				
(i) First call sign	FCC 490	265.00	CMD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
(ii) Each additional call sign	same as 2e(i)	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
f. Application for partial assignment of authorization (per call sign).	FCC 401, FCC 159, FCC 490.	265.00	CMD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
g. Application for renewal (per call sign).	FCC 405, FCC 159	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
h. Minor modification (per transmitter.				
(i) Notification of minor modification.	FCC 489, FCC 159	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
(ii) Application for minor modification.	FCC 401, FCC 159	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
i. Request for special temporary authority (per channel/per location).	written request, FCC 159 .	230.00	CLD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
j. Application for extension of construction period (per authorization.	FCC 401, FCC 159	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
k. Notification of commencement of service to subscribers (per notification).	FCC 489, FCC 159	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
l. Application for new or modified auxiliary test transmitter (per transmitter).	FCC 401, FCC 159	230.00	CLD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
m. Application for authority to provide commercial mobile service using broadcast station subcarriers (per application).	FCC 401, FCC 159	115.00	CFD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
n. Application for reinstatement [No longer available].	.....			

Action	FCC form No.	Fee amount	Fee type code	Address
o. Application to combine separate authorizations (per call sign).	FCC 401, FCC 159	230.00	CLD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
p. Application for new or modified standby transmitter (per transmitter/per location).	FCC 401, FCC 159	230.00	CLD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
q. 931 MHz nationwide paging renewal [See 2g].				
r. Application for new, modified or renewal general aviation air-ground mobile license (per application).	FCC 409	45.00	CAD	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
s. Application for 932–932.5/941–941.5 MHz point-to-multipoint channels (per transmitter).	FCC 401, FCC 159	265.00	CMP	Federal Communications Commission, 932/941 MHz Point-to-Multipoint Channels, Common Carrier Land Mobile, P.O. Box 358924, Pittsburgh, PA 15261–5924.
3. Cellular Systems [Cellular Radiotelephone Service]:				
a. Initial application for new cellular system.	FCC 401, FCC 159	265.00	CMC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
b. Application for major modification.	FCC 401, FCC 159	265.00	CMC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
c. Minor modifications				
(i) Application for minor modification.	FCC 401, FCC 159	70.00	CDC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
(ii) Notification of minor modification or commencement of service to subscribers (per notification).	FCC 489, FCC 159	70.00	CDC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
d. Application for full or partial assignment of authorization or consent to transfer of control.	FCC 490	265.00	CMC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
e. Application for renewal	FCC 405, FCC 159	45.00	CAC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
f. Application for extension of construction period.	FCC 401, FCC 159	45.00	CAC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
g. Request for special temporary authority.	written request, FCC 159	230.00	CLC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
h. Request to combine cellular geographic service areas (per system).	written request, FCC 159	60.00	CBC	Federal Communications Commission, Cellular Systems, P.O. Box 358135, Pittsburgh, PA 15251–5135.
4. Rural Radio [Rural Radiotelephone Service]:				
a. Application for new or additional facility (per transmitter).	FCC 401, FCC 159	125.00	CGR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
b. Application for major modification of an existing facility (per transmitter).	FCC 401, FCC 159	125.00	CGR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
c. Major amendment of a pending application (per transmitter).	FCC 401, FCC 159	125.00	CGR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
d. Minor modifications				
(i) Notification of minor modification (per transmitter).	FCC 489, FCC 159	45.00	CAR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
(ii) Application for minor modification (per transmitter).	FCC 401, FCC 159	45.00	CAR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.

Action	FCC form No.	Fee amount	Fee type code	Address
e. Application for assignment of authorization or consent to transfer of control.				
(i) First call sign	FCC 490	125.00	CGR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(ii) Each additional call sign	came as 4e(i)	45.00	CAR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(iii) Partial assignment of authorization (per call sign).	FCC 490, FCC 401, FCC 159.	125.00	CGF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
f. Application for renewal (per call sign).	FCC 405, FCC 159	45.00	CAR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
g. Application for extension of construction period (per application).	FCC 401, FCC 159	45.00	CAR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
h. Notification of commencement of service to subscribers (per notification).	FCC 489, FCC 159	45.00	CAR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
i. Request for special temporary authority (per channel/per location).	written request, FCC 159	230.00	CLR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
j. Application for reinstatement [No longer available].				
k. Application to combine separate authorizations (per call sign).	FCC 401, FCC 159	230.00	CLR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
l. Application for new or modified auxiliary test transmitter (per transmitter).	FCC 401, FCC 159	230.00	CLR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
m. Application for new or modified standby transmitter (per transmitter).	FCC 401, FCC 159	230.00	CLR	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
5. Offshore Radiotelephone Service:				
a. Application for new or additional facility (per transmitter).	FCC 401, FCC 159	125.00	CGF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
b. Application for major modification of an existing facility (per transmitter).	FCC 401, FCC 159	125.00	CGF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
c. Fill-in transmitters [Not available]				
d. Major amendment of a pending application (per transmitter).	FCC 401, FCC 159	125.00	CGF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
e. Minor modifications				
(i) Notification of minor modification (per transmitter).	FCC 489, FCC 159	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(ii) Application for minor modification (per transmitter).	FCC 401, FCC 159	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251-5130.
f. Application for assignment of authorization or consent to transfer of control.				

Action	FCC form No.	Fee amount	Fee type code	Address
(i) First call sign	FCC 490	125.00	CGF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
(ii) Each additional call sign	same as 5f(i)	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
(iii) Partial assignment of authorization (per call sign).	FCC 490, FCC 401, FCC 159.	125.00	CGF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
g. Application for renewal (per call sign).	FCC 405, FCC 159	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
h. Application for extension of construction period (per application).	FCC 401, FCC 159	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
i. Application for reinstatement [No longer available].				
j. Notification of commencement of service to subscribers (per notification).	FCC 489, FCC 159	45.00	CAF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
k. Request for special temporary authority (per channel/per location).	written request, FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
l. Application to combine separate authorizations (per call sign).	FCC 401, FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
m. Application for new or modified auxiliary test transmitter (per transmitter).	FCC 401, FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.
n. Application for new or modified standby transmitter (per transmitter).	FCC 401, FCC 159	230.00	CLF	Federal Communications Commission, Common Carrier Land Mobile, P.O. Box 358130, Pittsburgh, PA 15251–5130.

* * * * *

8. Part 22 is revised to read as follows:

PART 22—PUBLIC MOBILE SERVICES

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Authority: 47 U.S.C. 154, 303, unless otherwise noted.

Subpart A—Scope and Authority

§ 22.1 Basis and purpose.

This section contains a concise general statement of the basis and purpose of the rules in this part, pursuant to 5 U.S.C. 553(c).

(a) *Basis.* These rules are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 *et. seq.*

(b) *Purpose.* The purpose of these rules is to establish the requirements and conditions under which domestic common carrier radio stations may be licensed and used in the Public Mobile Services.

§ 22.3 Authorization required.

Stations in the Public Mobile Services must be used and operated only in accordance with the rules in this part and with a valid authorization granted by the FCC under the provisions of this part.

(a) The holding of an authorization does not create any rights beyond the terms, conditions and period specified in the authorization. Authorizations may be granted upon proper application, provided that the FCC finds that the applicant is qualified in regard to citizenship, character, financial, technical and other criteria, and that the public interest, convenience and necessity will be served. See 47 U.S.C. 301, 308, and 309.

(b) Authority for subscribers to operate mobile or fixed stations in the Public Mobile Services, except for certain stations in the Rural Radiotelephone Service and the Air-Ground Radiotelephone Service, is included in the authorization held by the common carrier providing service to them. Subscribers are not required to apply for, and the FCC does not accept applications from subscribers for, individual mobile or fixed station authorizations in the Public Mobile Services, except as follows:

(1) Individual authorizations are required to operate general aviation airborne mobile stations in the Air-Ground Radiotelephone Service. See § 22.821.

(2) Individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service, except as provided in § 22.703.

§ 22.5 Citizenship.

The rules in this section implement section 310 of the Communications Act of 1934, as amended (47 U.S.C. § 310), in regard to the citizenship of licensees in the Public Mobile Services.

(a) *Foreign governments.* The FCC will not grant an authorization in the Public Mobile Services to any foreign government or any representative thereof.

(b) *Alien ownership or control.* The FCC will not grant an authorization in the Public Mobile Services to:

(1) Any alien or the representative of any alien;

(2) Any corporation organized under the laws of any foreign government;

(3) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country;

(4) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the FCC finds that the public interest will be served by the refusal or revocation of such license.

§ 22.7 General eligibility.

Except as otherwise provided in this part, existing and proposed common carriers are eligible to hold authorizations in the Public Mobile Services. Applications are granted only if the applicant is legally, financially, technically and otherwise qualified to render the proposed service.

§ 22.99 Definitions.

Terms used in this part have the following meanings:

Air-Ground Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

Airborne station. A mobile station in the Air-Ground Radiotelephone Service authorized for use on aircraft while in flight or on the ground.

Antenna structure. A structure comprising an antenna, the tower or other structure that exists solely to support antennas, and any surmounting appurtenances (attachments such as beacons or lightning rods).

Antenna. A device that converts radio frequency electrical energy to radiated electromagnetic energy and vice versa; in a transmitting station, the device from which radio waves are emitted.

Archival quality microfiche. A silver halide master microfiche or a copy made on silver halide film.

Assignment of authorization. A transfer of a Public Mobile Services authorization from one party to another, voluntarily or involuntarily, directly or indirectly, or by transfer of control of the licensee.

Authorization. A written instrument or oral statement issued by the FCC conveying authority to operate, for a specified term, a station in the Public Mobile Services.

Authorized bandwidth. The necessary or occupied bandwidth of an emission, whichever is more.

Authorized spectrum. The spectral width of that portion of the electromagnetic spectrum within which the emission power of the authorized transmitter(s) must be contained, in accordance with the rules in this part. The authorized spectrum comprises one channel bandwidth or the bandwidths of two or more contiguous channels.

Auxiliary test transmitter. A fixed transmitter used to test Public Mobile systems.

Base transmitter. A stationary transmitter that provides radio telecommunications service to mobile and/or fixed receivers, including those associated with mobile stations.

Blanketing interference. Disturbance in consumer receivers located in the immediate vicinity of a transmitter, caused by currents directly induced into the consumer receiver's circuitry by the relatively high field strength of the transmitter.

Build-out transmitters. In the Cellular Radiotelephone Service, transmitters added to the first cellular system authorized on a channel block in a cellular market during the five year build-out period in order to expand the coverage of the system within the market.

Cardinal radials. Eight imaginary straight lines extending radially on the ground from an antenna location in the

following azimuths with respect to true North: 0°, 45°, 90°, 135°, 180°, 225°, 270°, 315°.

Carrier frequency. The frequency of the unmodulated electrical wave at the output of an amplitude modulated (AM), frequency modulated (FM) or phase modulated (PM) transmitter.

Cell. The service area of an individual transmitter location in a cellular system.

Cellular Geographic Service Area. The geographic area served by a cellular system, within which that system is entitled to protection and adverse effects are recognized, for the purpose of determining whether a petitioner has standing. See § 22.911.

Cellular markets. Standard geographic areas used by the FCC for administrative convenience in the licensing of cellular systems. See § 22.909.

Cellular Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide cellular service for hire to the general public. This service was formerly titled Domestic Public Cellular Radio Telecommunications Service.

Cellular repeater. In the Cellular Radiotelephone Service, a stationary transmitter or device that automatically re-radiates the transmissions of base transmitters at a particular cell site and mobile stations communicating with those base transmitters, with or without channel translation.

Cellular service. Radio telecommunication services provided using a cellular system.

Cellular system. An automated high-capacity system of one or more multichannel base stations designed to provide radio telecommunication services to mobile stations over a wide area in a spectrally efficient manner. Cellular systems employ techniques such as low transmitting power and automatic hand-off between base stations of communications in progress to enable channels to be reused at relatively short distances. Cellular systems may also employ digital techniques such as voice encoding and decoding, data compression, error correction, and time or code division multiple access in order to increase system capacity.

Center frequency. The frequency of the middle of the bandwidth of a channel.

Central office transmitter. A fixed transmitter in the Rural Radiotelephone Service that provides service to rural subscriber stations.

CGSA. See *Cellular Geographic Service Area.*

Channel. The portion of the electromagnetic spectrum assigned by the FCC for one emission. In certain circumstances, however, more than one emission may be transmitted on a channel. See, for example, § 22.161.

Channel bandwidth. The spectral width of a channel, as specified in this part, within which 99% of the emission power must be contained.

Channel block. A group of channels that are assigned together, not individually.

Channel pair. Two channels that are assigned together, not individually. In this part, channel pairs are indicated by an ellipsis between the center frequencies.

Communications channel. In the Cellular Radiotelephone and Air-ground Radiotelephone Services, a channel used to carry subscriber communications.

Construction period. The period between the date of grant of an authorization and the date of required commencement of service.

Control channel. In the Cellular Radiotelephone Service and the Air-ground Radiotelephone Service, a channel used to transmit information necessary to establish or maintain communications. In the other Public Mobile Services, a channel that may be assigned to a control transmitter.

Control point. A location where the operation of a public mobile station is supervised and controlled by the licensee of that station.

Control transmitter. A fixed transmitter in the Public Mobile Services that transmits control signals to one or more base or fixed stations for the purpose of controlling the operation of the base or fixed stations, and/or transmits subscriber communications to one or more base or fixed stations that retransmit them to subscribers.

Dead spots. Small areas within a service area where the field strength is lower than the minimum level for reliable service. Service within dead spots is presumed.

Dispatch service. A radiotelephone service comprising communications between a dispatcher and one or more mobile units. These communications normally do not exceed one minute in duration and are transmitted directly through a base station, without passing through mobile telephone switching facilities.

Effective radiated power (ERP). The effective radiated power of a transmitter (with antenna, transmission line, duplexers etc.) is the power that would be necessary at the input terminals of a reference half-wave dipole antenna in order to produce the same maximum field intensity. ERP is usually calculated by multiplying the measured transmitter output power by the specified antenna system gain, relative to a half-wave dipole, in the direction of interest.

Emission. The electromagnetic energy radiated from an antenna.

Emission designator. An internationally accepted symbol for describing an emission in terms of its bandwidth and the characteristics of its modulation, if any. See § 2.201 of this chapter for details.

Emission mask. The design limits imposed, as a condition or type acceptance, on the mean power of emissions as a function of frequency both within the authorized bandwidth and in the adjacent spectrum.

Equivalent isotropically radiated power (EIRP). The equivalent isotropically radiated power of a transmitter (with antenna, transmission line, duplexers etc.) is the power that would be necessary at the input terminals of a reference isotropic radiator in order to produce the same maximum field intensity. An isotropic radiator is a theoretical lossless point source of radiation with unity gain in all directions. EIRP is usually calculated by multiplying the measured transmitter output power by the specified antenna system gain, relative to an isotropic radiator, in the direction of interest.

Extension. In the Cellular Radiotelephone Service, an area within the service area boundary of a cellular system, but outside of the market boundary. See §§ 22.911(c) and 22.912.

Facsimile service. Transmission of still images from one place to another by means of radio.

Fill-in transmitters. Transmitters added to a station, in the same area and transmitting on the same channel or channel block as previously authorized transmitters, that do not expand the existing service area, but are established for the purpose of improving reception in dead spots.

Five year build-out period. A five year period during which the licensee of the first cellular system authorized on each channel block in each cellular market may expand the system within that market. See § 22.947.

Fixed transmitter. A stationary transmitter that communicates with other stationary transmitters.

Frequency. The number of cycles occurring per second of an electrical or electromagnetic wave; a number of representing a specific point in the electromagnetic spectrum.

Ground station. In the Air-ground Radiotelephone Service, a stationary transmitter that provides service to airborne mobile stations.

Height above average terrain (HAAT). The height of an antenna above the

average elevation of the surrounding area.

In-building radiation systems. Supplementary systems comprising low power transmitters, receivers, indoor antennas and/or leaky coaxial cable radiators, designed to improve service reliability inside buildings or structures located within the service areas of stations in the Public Mobile Services.

Initial cellular applications. Applications for authority to construct and operate a new cellular system, excluding applications for interim operating authority.

Interfering contour. The locus of points surrounding a transmitter where the predicted median field strength of the signal from that transmitter is the maximum field strength that is not considered to cause interference at the service contour of another transmitter.

Interoffice transmitter. A fixed transmitter in the Rural Radiotelephone Service that communicates with other interoffice transmitters for the purpose of interconnecting rural central offices.

Meteor burst propagation mode. A long distance VHF radio communication path occurring as a result of the refraction of electromagnetic waves by ionized meteor trails.

Mobile station. One or more transmitters that are capable of operation while in motion.

Necessary bandwidth. The calculated spectral width of an emission. Calculations are made using procedures set forth in part 2 of this chapter. The bandwidth so calculated is considered to be the minimum necessary to convey information at the desired rate with the desired accuracy.

Occupied bandwidth. The measured spectral width of an emission. The measurement determines occupied bandwidth as the difference between upper and lower frequencies where 0.5% of the emission power is above the upper frequency and 0.5% of the emission power is below the lower frequency.

Offshore central transmitter. A fixed transmitter in the Offshore Radiotelephone Service that provides service to offshore subscriber stations.

Offshore Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers on structures in the offshore coastal waters of the Gulf of Mexico.

Offshore subscriber station. One or more fixed and/or mobile transmitters in the Offshore Radiotelephone Service that receive service from offshore central transmitters.

Pager. A small radio receiver designed to be carried by a person and to give an aural, visual or tactile indication when activated by the reception of a radio signal containing its specific code. It may also reproduce sounds and/or display messages that were also transmitted. Some pagers also transmit a radio signal acknowledging that a message has been received.

Paging and Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide paging and radiotelephone service for hire to the general public. This service was formerly titled Public Land Mobile Service.

Paging service. Transmission of coded radio signals for the purpose of activating specific pagers; such transmissions may include messages and/or sounds.

Partitioned cellular market. A cellular market with two or more authorized cellular systems on the same channel block during the five year build-out period, as a result of settlements during initial licensing or contract(s) between the licensee of the first cellular system and the licensee(s) of the subsequent systems. See § 22.947(b).

Public Mobile Services. Radio services in which common carriers are authorized to offer and provide mobile and related fixed radio telecommunication services for hire to the public.

Radio common carrier. A telecommunications common carrier that provides radio communications services but is not engaged in the business of providing landline local exchange telephone service.

Radio telecommunication services. Communication services provided by the use of radio, including radiotelephone, radiotelegraph, paging and facsimile service.

Radiotelegraph service. Transmission of messages from one place to another by means of radio.

Radiotelephone service. Transmission of sound from one place to another by means of radio.

Repeater. A fixed transmitter that retransmits the signals of other stations.

Roamer. A mobile station receiving service from a station or system in the Public Mobile Services other than one to which it is a subscriber.

Rural Radiotelephone Service. A radio service in which common carriers are authorized to offer and provide radio telecommunication services for hire to subscribers in areas where it is not feasible to provide communication services by wire or other means.

Rural subscriber station. One or more fixed transmitters in the Rural Radiotelephone Service that receive service from central office transmitters.

Service area. The geographic area considered by the FCC to be reliably served by a station in the Public Mobile Services.

Service contour. The locus of points surrounding a transmitter where the predicted median field strength of the signal from that transmitter is the minimum field strength that is considered sufficient to provide reliable service to mobile stations.

Service to subscribers. Service to at least one subscriber that is not affiliated with, controlled by or related to the providing carrier.

Station. A station equipped to engage in radio communication or radio transmission of energy (47 U.S.C. 153(k)).

Telecommunications common carrier. An individual, partnership, association, joint-stock company, trust or corporation engaged in rendering radio telecommunications services to the general public for hire.

Temporary fixed station. One or more fixed transmitters that normally do not remain at any particular location for longer than 6 months.

Transfer of control. A transfer of the controlling interest in a Public Mobile Services licensee from one party to another.

Unserved areas. In the Cellular Radiotelephone Service, areas outside of all existing CGSAs (on either of the channel blocks), to which the Communications Act of 1934, as amended, is applicable.

Wireline common carrier. A telecommunications common carrier that is also engaged in the business of providing landline local exchange telephone service.

Subpart B—Application Requirements and Procedures

§ 22.101 Station files.

Applications, notifications, correspondence and other material, and copies of authorizations, comprising technical, legal, and administrative data relating to each station in the Public Mobile Services are maintained by the FCC in individual station files. These files constitute the official records for these stations and supersede any other records, data bases or lists from the FCC or other sources.

§ 22.103 Representations.

Applicants must make full and continuing disclosure as required by § 1.65 of this chapter. Applicants must not make misrepresentations. The signing of an application or notification for new or additional facilities in the Public Mobile Services constitutes a

representation that the applicant intends to use such facilities to provide service to subscribers in accordance with the rules in this part.

§ 22.105 Written applications, standard forms, microfiche, magnetic disks.

Except for authorizations granted under the emergency conditions set forth in section 308 of the Communications Act of 1934, as amended (47 U.S.C. 308), the FCC may grant authorizations only upon written application (FCC Form 401) received by it. A separate written application is required for each authorization. Applicants shall submit any documents, exhibits, or other written statements of fact that the FCC may require in determining whether to grant, deny or dismiss an application.

TABLE B–1.—STANDARD FORMS FOR THE PUBLIC MOBILE SERVICES

Purpose of filing	Form No.	Title of form
• application for new or modified station • major amendment to pending application • application for partial assignment of authorization.	401	Application for Mobile Radio Service Authorization.
• application for renewal of authorization	405	Application for Renewal of Station License.
• application for airborne mobile authorization	409	Application for Airborne Mobile Radiotelephone Authorization.
• application for assignment of authorization	430	Licensee Qualification Report.
• notification of completion of construction • notification of minor modification of station.	489	Notification of Commencement of Service or of Additional or Modified Facilities.
• application for assignment of authorization • application for consent to transfer of control.	490	Application for Assignment of Authorization or Consent to Transfer of Control of Licensee.

(a) *Formal applications, amendments and notifications.* Except as provided in paragraph (b) of this section, applications, amendments and notifications must be filed using the standard forms listed in paragraph (c) of this section.

(b) *Informal applications, amendments and notifications.* Applications, amendments and notifications in letter or document form may be accepted for filing, if none of the standard forms listed in this section are prescribed for or clearly applicable for the intended purpose. Such informal applications, amendments and notifications must be submitted in duplicate, with a caption clearly stating the name of the filer, nature of the filing, the Public Mobile service involved, the call sign of the relevant existing station, if any, and the file number of the relevant pending application, if any, and must contain all necessary technical data and exhibits.

(c) *Standard forms.* Standard forms may be obtained in small quantities from the FCC. Standard forms may be reproduced and the copies used. Computer-generated standard forms may also be used after approval by the FCC staff. Standard forms used for applications, amendments, notifications and reports in the Public Mobile Services are listed in Table B–1 of this section.

(d) *Microfiche required.* All filings and submissions related to stations in the Public Mobile Services, including applications (including exhibits and attachments), notifications, amendments, reports, correspondence and pleadings must be submitted in microfiche form, except as provided in paragraphs (d)(1) and (g) of this section.

(1) Emergency filings, such as requests for special temporary authority, need not be submitted in microfiche form. Filings and submissions (other than standard application forms) that are no longer than three pages need not be submitted in microfiche form. Standard application forms must be submitted in microfiche forms, even if they comprise three pages or less.

(2) Three microfiche copies of each filing or submission must be submitted, except that, for initial Phase I unserved area applications in the Cellular Radiotelephone Service (see § 22.949), two microfiche copies must be submitted. Each microfiche copy must be a complete copy of the signed paper original. Each microfiche must be a 148 mm by 105 mm negative (clear transparent characters appearing on a background providing sufficient contrast to make legible copies) at 24× or 27× reduction. At least one of the microfiche copies must be a silver halide camera master or a copy made on silver halide film such as Kodak Direct Duplicatory Film. Microfiche must be placed in paper microfiche envelopes and submitted in a 5" by 7½" envelope. Applicants must leave Row "A" (the first row for page images) of the first microfiche blank for FCC use.

(3) The following information must be printed on the mailing envelope, the microfiche envelope, and the title area at the top of the microfiche:

(i) For notifications, amendments, reports, correspondence, pleadings and applications, other than initial applications in the Cellular Radiotelephone Service—the name of the applicant, the city and state of the application and the call sign of the station, if the application refers to an existing station.

(ii) For initial applications in the Cellular Radiotelephone Service—the name of the applicant, the market name, the market number, and the channel block.

(4) The microfiche copies of opposition and reply pleadings may be submitted after the required paper originals, in accordance with § 1.45 of this chapter.

(e) *Paper original required.* The paper originals of notifications, amendments, reports, correspondence and applications, other than initial Phase I unserved area applications in the Cellular Radiotelephone Service, must be submitted at the same time as the microfiche required by paragraph (d) of this section. The paper originals of initial Phase I unserved area applications selected in random selection processes must be submitted 7 days after the release of the public notice announcing the tentative selectee. The paper originals of opposition and reply pleadings must be submitted within the time frames established by § 1.45 of this chapter. Each paper original must be stamped "ORIGINAL" on the top page. In addition to the paper original, paper copies of pleadings must be submitted as required by § 1.51 of this chapter.

(f) *Correspondence.* Correspondence concerning a submitted application must clearly identify the name of the filer, nature of the filing, the Public Mobile service involved, the call sign of the relevant existing station, if any, and the file number (if assigned) of the relevant pending application. Correspondence may be sent directly to Mobile Services Division, Common

Carrier Bureau, Federal Communications, Washington, DC 20554.

(g) *Magnetic disks.* To assist the FCC in maintaining an accurate technical licensing database, applicants are encouraged to submit the technical and administrative data contained in applications and notifications on magnetic disks. Applicants may also submit, in lieu of the microfiche required by paragraph (d) of this section, entire applications and notifications on magnetic disks, by including graphics files containing the images of the signed paper originals.

(1) Each application must be submitted on a separate labeled standard 3¼" magnetic disk, formatted to be readable by high-density floppy drives operating under MS–DOS (3.X or later compatible versions). A copy of each disk must also be submitted (2 identical disks per application).

(2) [Reserved]

Note: Paragraph (g) of § 22.105 is not effective until further notice.

§ 22.106 Filing fees; place.

Applications, amendments, notifications and other filings must be submitted to the FCC at the appropriate address, with the appropriate filing fee. The fee amounts and addresses are listed in part 1, subpart G of this chapter (§ 1.1105 in particular), and in the publication "Common Carrier Services Fee Filing Guide" which is available from the Federal Communications Commission, Washington, DC 20554.

§ 22.107 General application requirements.

In general, applications for authorizations, assignments of authorizations, or consent to transfer of control of licensees in the Public Mobile Services must:

(a) Demonstrate the applicant's qualifications to hold an authorization in the Public Mobile services;

(b) State how a grant would serve the public interest, convenience, and necessity;

(c) Contain all information required by FCC rules or application forms;

(d) Propose operation of a facility in compliance with all rules governing the Public Mobile service;

(e) Be amended as necessary to remain substantially accurate and complete in all significant respects, in accordance with the provisions of § 1.65 of this chapter; and,

(f) Be signed in accordance with § 1.743 of this chapter.

§ 22.108 Parties to applications.

Each application for an authorization, assignment of authorization, or for consent to transfer of control in the Public Mobile Service must disclose fully the real party or parties in interest to the application. Such disclosure must include:

(a) A list of the applicant's subsidiaries, if any. For the purposes of this section, a subsidiary is any business for which the applicant or any officer, director, stockholder or key manager of the applicant owns 5% or more of the stock, warrants, options or debt securities. This list must include a description of each subsidiary's principal business and relationship to the applicant.

(b) A list of the applicant's affiliates, if any. For the purposes of this section, an affiliate is:

(1) Any business that holds a 5% or more interest in the applicant; or,

(2) Any business in which a 5% or more interest is held by a business that also holds a 5% or more interest in the applicant.

(c) A list of the names, addresses, citizenship and principal business of any person holding 5% or more of each class of stock, warrants, options or debt securities of the applicant, indicating the amount and percentage held, and providing the name, address, citizenship and principal place of business of any person, if other than the holder, for whose benefit such interest is held. If any such persons are related by blood or marriage, the relationship must be disclosed.

(d) For initial cellular applications, the name and address of each partner, his or her citizenship and the share or interest participation in the partnership. This information must be provided for all partners, regardless of their respective ownership interests in the partnership. A signed and dated copy of the partnership agreement must be included in the application. See § 22.953(a)(5)(v).

§ 22.115 Content of applications.

Applications must contain all applicable information requested on the standard form and any additional information required by the rules in this part.

(a) The following requirements are common to all Public Mobile Services:

(1) *Site availability.* At the time of filing, applicants must have obtained reasonable assurance that all antenna sites specified in their applications are available for the proposed use.

(2) *Antenna structure drawing.* Applications proposing a new antenna structure or a change in the overall height of an existing antenna structure must contain a vertical profile drawing of the antenna structure. (Applications proposing to use an existing structure, without changing the overall height of the structure, need not contain a drawing.) If appropriate, the standard drawings on Schedule F of FCC Form 401 should be used to satisfy this requirement. Otherwise, the applicant may submit an exhibit containing the required drawing. The drawing must be labeled to show the overall structure height including appurtenances, the height of the tip(s) of the proposed antenna(s), the height of any supporting building (or other man-made structure other than an antenna tower), and the ground elevation. Heights must be given in meters above ground level (AGL) and meters above mean sea level (AMSL). The ground elevation must be given in meters AMSL.

(3) *FAA notification.* Before construction of new antenna structures or increases in the height of existing structures is authorized by the FCC, a Federal Aviation Administration (FAA) determination of No Hazard to Air Navigation may be required. To apply for this determination, applicants must notify the FAA of the planned construction. Criteria used to determine whether FAA notification is required for a particular antenna structure are contained in part 17, subpart B of this chapter. Applications proposing a new antenna structure or an increase in the height of an existing antenna structure must state whether FAA notification is required. If available, a copy of the FAA determination should be included in the application. If FAA notification is required, but the FAA determination is not available at the time the application is filed, the application must include the following information in regard to the FAA notification: the name of the person that submitted the notification, the date the notification was submitted, and the location of the FAA office to which the notification was submitted.

(4) *Antenna locations.* Applications for stations at fixed locations must describe each transmitting antenna site by its geographical coordinates and also by its street address, or by reference to a nearby landmark. Geographical coordinates must be specified in degrees, minutes, and seconds to the nearest second of latitude and longitude.

Note to paragraph (a)(4) of § 22.115: The FAA has announced that effective October 15, 1992, it will use geographic coordinates based on the 1983 North American Datum (NAD83). Until further notice, however, the FCC will continue to use geographical coordinates based the 1927 North American Datum (NAD27). Applicants may supply geographical coordinates based on NAD83 in addition to those required (NAD27).

(5) *Environmental concerns.* Each applicant is required to indicate at the time its application is filed whether or not an FCC grant of the application may have a significant environmental effect, as defined by § 1.1307 of this chapter. If answered affirmatively, an Environmental Assessment, required by § 1.1311 of this chapter, must be filed with the application and environmental review by the FCC must be completed prior to construction.

(b) *Reference to material on file.* Questions on application forms that call for specific technical data, or that can be answered yes or no or with another short answer, must be answered on the form. Otherwise, if documents, exhibits, or other lengthy showings already on file with the FCC contain information required in an application, the application may incorporate such information by reference, provided that:

(1) The reference information comprises more than one 8½" x 11" page and is current and accurate in all material respects; and,

(2) The reference states specifically where the referenced information can actually be found, including:

(i) The station call sign or application file number, if the reference is to station files or previously filed applications;

(ii) The title of the proceeding, the docket number, and any legal citations, if the reference is to a docketed proceeding.

(c) *Service specific requirements.* Applications for authorization in the Cellular Radiotelephone Service must contain specific information as required by § 22.929 and § 22.953. Applications for authorization in the Paging and Radiotelephone Service must contain specific information as required by § 22.529, § 22.559 and § 22.589. Applications for authorization in the Rural Radiotelephone Service must contain the information required by § 22.709. Applications for authorization in the Offshore Radio Service must contain the information required by § 22.1037. Applications for authorization in the Air-Ground Radiotelephone Service must contain specific information as required by § 22.803 and § 22.875, as appropriate.

§ 22.117 Content of notifications.

Notifications must contain all applicable information requested on the standard form and any additional information required by the rules in this part. See §§ 22.124, 22.137, 22.142, 22.163, 22.165, 22.941, and 22.946.

§ 22.119 Requests for rule waivers.

The FCC may waive the requirements of rules in this part on its own motion or upon written request.

(a) Requests for waiver of rules must contain a complete explanation as to why the waiver is desired. The FCC may grant a request for waiver if it is shown that:

(1) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or

(2) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or that the applicant has no reasonable alternative.

(b) The FCC, in its discretion, may give public notice of the filing of a waiver request and seek comment from the public or affected parties.

(c) Denial of a rule waiver request associated with an application renders that application defective unless it contains an alternative proposal that fully complies with the rules, in which event the application is processed using the alternative proposal as if the waiver had not been requested. Applications rendered defective may be dismissed without prejudice.

§ 22.120 Application processing; initial procedures.

This section contains rules governing the initial processing of applications for authority to operate a station in the Public Mobile Services.

(a) *File numbers.* Applications received by the FCC are assigned file numbers. Assignment of a file number to an application is for administrative convenience and does not constitute a determination that the application is acceptable for filing. Assignment of a file number does not preclude the subsequent return or dismissal of an application. For administrative efficiency, the FCC, in its discretion, occasionally consolidates separate applications filed simultaneously by the same applicant into a single application (with one file number) and splits applications comprising two or more severable proposals into separate applications (with different file numbers).

(b) *Received date.* The FCC records the date on which each application is received. This date is used to determine compliance with applicable cut-off dates or filing windows and for other purposes.

(c) *Initial review for completeness (prescreening).* Each application is reviewed for completeness. The purpose of this initial review is to identify applications that are defective in an obvious way (e.g. not signed, missing pages, improper or missing fee payment). Applications found to be defective in this review are unacceptable for filing and may be returned to the applicant with a brief statement indicating the nature of the defect(s) found. Applications for which no obvious defects are discovered in the initial review are acceptable for filing.

(d) *Public notice; acceptance for filing.* The FCC periodically issues Public Notices that list applications that are acceptable for filing. The listing of an application on a Public Notice as acceptable for filing provides notices to the public that the application has been filed; it does not preclude dismissal of the application if it is subsequently found to be defective or otherwise subject to dismissal under § 22.128.

§ 22.121 Repetitious, inconsistent or conflicting applications.

Repetitious, inconsistent or conflicting applications are not accepted for filing by the FCC. Unless the FCC in a particular case determines otherwise, such applications are not returned to the applicant.

(a) While an application is pending, any subsequent inconsistent or conflicting application submitted by, on behalf of, or for the benefit of the same applicant, its successor or assignee will not be accepted for filing.

(b) If an applicant has been afforded an opportunity for a hearing with respect to an application for a new station or an enlargement of service area, and the FCC has, after hearing or default, denied the application or dismissed it with prejudice, the FCC will not consider a like application for service of the same type to the same area by that applicant, or by its successor or assignee, or on behalf of or for the benefit of the parties in interest to the original application, until one year after the effective date of the FCC's action on the original application.

(c) If an appeal has been taken from the action of the FCC denying a particular application, a like application for service of the same type to the same area, in whole or in part, filed by that applicant or by its successor or assignee, or on behalf or for the benefit of the parties in interest to the original application, will not be considered until the final disposition of such appeal.

(d) If an authorization is voluntarily cancelled or automatically terminated because of failure to commence service

to subscribers (see § 22.144), the FCC will not consider an application for another authorization to operate a station on the same channel (or, in the case of a 931 MHz paging station, the same frequency range) in the same geographical area by that party, or by its successor or assignee, or on behalf of or for the benefit of the parties in interest to the terminated authorization, until one year after the date the authorization terminated. This paragraph does not apply to authorizations in the Cellular Radiotelephone Service.

§ 22.122 Amendment of applications.

Pending applications may be amended as a matter of right if they have not been designated for hearing or listed in a Public Notice for a random selection or competitive bidding process, except as provided in paragraphs (b) and (c) of this section and in § 22.949.

(a) If a petition to deny or other formal objection has been filed, a copy of any amendment (or other filing) must be served on the petitioner. If the FCC has issued a Public Notice stating that the application appears to be mutually exclusive with another application (or applications), a copy of any amendment (or other filing) must be served on any such mutually exclusive applicant (or applicants).

(b) Amendments to applications that resolve mutual exclusivity may be filed at any time, subject to the requirements of § 22.129.

(c) Amendments to applications designated for hearing may be allowed by the presiding officer and amendments to applications selected in a random selection process may be allowed by the FCC for good cause shown. In such instances, a written petition demonstrating good cause must be submitted and served upon the parties of record.

§ 22.123 Classification of filings as major or minor.

Applications and amendments to applications are classified as major or minor. Categories of major and minor filings are listed in section 309 of the Communications Act of 1934, as amended (47 U.S.C. 309). In general, a major filing is a request for an FCC action that has the potential to affect parties other than the applicant. Filings are minor if they are not classified as major.

(a) *Ownership or control change.* Filings are major if they specify a substantial change in beneficial ownership or control (*de jure* or *de facto*), unless such change is involuntary or if the filing merely amends an application to reflect a change in ownership or control that has already been approved by the FCC.

(b) *Developmental.* Applications are major if they request a developmental authorization pursuant to § 22.409, or a regular authorization for facilities operating under a developmental authorization.

(c) *Renewal.* Applications of renewal of authorizations are major.

(d) *Environmental.* Filings are major if they request authorization for a facility that would have a significant environmental effect, as defined by §§ 1.1301 through 1.1319 of this chapter.

(e) *Paging and Radiotelephone Service.* In the Paging and Radiotelephone Service, filings are major if they:

(1) Request an authorization that would establish for the filer a new service area or fixed transmission path on a request channel;

(2) Request an authorization that would extend the service area of an existing station to include area not served by station(s) authorized to the filer on a requested channel;

(3) Request an authorization that would extend the interfering contours of an existing station beyond the composite interfering contours of station(s) authorized to the filer on a request channel;

(4) Request an authorization that would increase the effective radiated power or antenna height above average terrain in any azimuth from an existing fixed transmitter authorized to the filer;

(5) Request an authorization that would relocate an existing fixed transmitter;

(6) Amend a pending application to change a requested channel;

(7) Amend a pending application in a way that would extend the service area of a station on a requested channel to include area that—

(i) Would not have been served by that station as previously proposed in the application and—

(ii) Is not already served by the station on the requested channel;

(8) Amend a pending application in a way that would extend the interfering contours of a station on a requested channel beyond—

(i) The composite interfering contours of that station as previously proposed in the application and—

(ii) The composite interfering contours of any other stations authorized to the filer on a requested channel;

(9) Amend a pending application to increase the proposed effective radiated power or antenna height above average terrain in any azimuth of a fixed transmitter;

(10) Amend a pending application to change the location of a fixed transmitter from that previously proposed in the application; or,

(11) Amend a pending application for which pre-filing coordination was required (*see* § 22.150) to change the technical proposal substantially from that which was coordinated with other users.

(f) *Rural Radiotelephone Service.* In the Rural Radiotelephone Service, filings are major if they:

(1) Request an authorization for a new central office or subscriber station;

(2) Request an authorization that would extend the interfering contours of an existing station beyond the composite interfering contours of station(s) authorized to the filer on a requested channel;

(3) Request an authorization that would increase the effective radiated power or antenna height above average terrain in any azimuth from an existing transmitter authorized to the filer;

(4) Request an authorization that would relocate an existing transmitter;

(5) Amend a pending application to change a requested channel;

(6) Amend a pending application in a way that would extend the interfering contours of a station on a requested channel beyond—

(i) The composite interfering contours of that station as previously proposed in the application and—

(ii) The composite interfering contours of any other stations authorized to the filer on a requested channel; or,

(7) Amend a pending application to increase the proposed effective radiated power or antenna height above average terrain in any azimuth of a transmitter.

(g) *Cellular Radiotelephone Service.* In the Cellular Radiotelephone Service, filings are major if they:

(1) Request an authorization to operate a new cellular system;

(2) Request an authorization for facilities that would expand the cellular geographic service area (CGSA) of an existing cellular system, except during the applicable five year build-out period, if any;

(3) Request an authorization for facilities that would produce a *de minimis* service area boundary extension (see § 22.911(c)(1));

(4) Request that a CGSA boundary or a portion of a CGSA boundary be determined using an alternative method (see § 22.911(b));

(5) Amend a pending application to change the requested channel block; or,

(6) Amend a pending application by modifying the CGSA of the proposed cellular system to include area that—

(i) Was not included in the CGSA as previously proposed in the application and—

(ii) Is not included in the currently authorized CGSA, if any.

(h) *Air-ground Radiotelephone.* In the Air-ground Radiotelephone Service, filings are major if they:

(1) Request an authorization for a new General Aviation ground station or to relocate an existing General Aviation ground station;

(2) Request the first authorization for a new Commercial Aviation ground station at a location other than those listed in § 22.859;

(3) Request authorization to add a channel to or change a channel of an existing General Aviation ground station; or,

(4) Amend a pending application to change the requested channel or channel block.

(i) *Offshore Radiotelephone.* In the Offshore Radiotelephone Service, filings are major if they:

(1) Request an authorization for a new offshore central or subscriber station;

(2) Request authorization to add a channel to or change a channel of an existing offshore central or subscriber station; or,

(3) Amend a pending application to change the technical proposal substantially from that which was coordinated with other users prior to filing.

(j) *Clerical errors.* Amendments are classified as minor if they only correct typographical, transcription or similar clerical errors that are clearly demonstrated (e.g. by reference to other parts of the application) to be mistakes, and whose discovery and correction does not change information previously listed in a Public Notice.

§ 22.124 Notification processing.

This section contains rules governing the processing of notifications (filed on FCC Form 489) in the Public Mobile Services.

(a) *File numbers.* Notifications received by the FCC are assigned file numbers. Assignment of a file number to a notification is for administrative convenience and does not constitute a determination that the notified action has been examined and not rejected by the FCC. Assignment of a file number does not preclude the return of a notification subsequently found to be defective.

(b) *Defective notifications.* A notification is defective if:

(1) It is unsigned or incomplete with respect to required answers to questions, informational showings, or other matters of a formal character;

(2) It notifies of an action that does not comply with one or more of the FCC rules;

(3) It notifies of an action for which an application for authorization is required;

(4) It is submitted without the required microfiche; or,

(5) It is untimely filed.

(c) *Review.* After a file number is assigned, each notification is reviewed. The purpose of this review is to identify notifications that are unacceptable (e.g. not signed, missing pages, improper or missing fee payment). Notifications found to be unacceptable may be returned to the licensee with a brief statement describing the deficiency. If a notification is found to be unacceptable, the FCC may direct the licensee to return the station to compliance with its previous license terms. Acceptable notifications are added to the appropriate station files.

§ 22.125 Application for special temporary authorizations.

In circumstances requiring immediate or temporary use of Public Mobile Services stations, carriers may request special temporary authority (STA) to operate new or modified equipment. Such requests may be submitted as informal applications (see § 22.105) and must contain complete details about the proposed operation and the circumstances that fully justify and necessitate the grant of STA. Such requests should be filed in time to be received by the FCC at least 10 days prior to the date of proposed operation or, where an extension is sought, 10 days prior to the expiration date of the existing STA. Requests received less than 10 days prior to the desired date of operation may be given expedited considerations only if compelling reasons are given, in writing, for the delay in submitting the request. Otherwise, such late-filed requests are considered in turn, but action might not be taken prior to the desired date of operation. Requests for STAs must be accompanied by the proper filing fee.

(a) *Grant without Public Notice.* STAs may be granted without being listed in a Public Notice, or prior to 30 days after such listing, if:

(1) The STA is to be valid for 30 days or less and the applicant does not plan to file an application for regular authorization of the subject operation;

(2) The STA is to be valid for 60 days or less, pending the filing of an application for regular authorization of the subject operation;

(3) The STA is to allow interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(4) The STA is made upon a finding that there are extraordinary circumstances requiring operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(b) *Limit on STA term.* The FCC may grant STAs valid for a period not to exceed 180 days under the provisions of § 309(f) of the Communications Act of 1934, as amended, (47 U.S.C. 309(f)) if extraordinary circumstances so require, and pending the filing of an application for regular operation. The FCC may grant extensions of STAs for a period of 180 days, but the applicant must show that extraordinary circumstances warrant such an extension.

§ 22.127 Public notices.

Periodically, the FCC issues Public Notices listing major filings and other information of public significance. Categories of Public Notice listings are as follows:

(a) *Accepted for filing.* Acceptance for filing of applications and major amendments thereto.

(b) *Actions.* FCC actions on pending applications previously listed as accepted for filing.

(c) *Informative listings.* Information that the FCC, in its discretion, believes to be of public significance. Such listings do not create any rights to file oppositions or other pleadings.

§ 22.128 Dismissal of applications.

The FCC may dismiss any application for authorization, assignment of authorization, or consent to transfer of control in the Public Mobile Services, upon request by the applicant, or if the application is untimely filed, or if the application is mutually exclusive with another application that is selected or granted in accordance with the rules in this part, or for failure to prosecute, or if the requested spectrum is not available, or if the application is found to be defective. Such dismissal may be "without prejudice," meaning that the FCC may accept from the applicant another application for the same purpose at any later time, or "with prejudice," meaning that the FCC will not accept from the applicant another application for the same purpose for a period of one year. Unless otherwise provided in this part, a dismissed application will not be returned to the applicant.

(a) *Dismissal at request of applicant.* Any applicant may request that its

application be returned or dismissed. A request for the return of an application after it has been listed on Public Notice as tentatively accepted for filing is considered to be a request for dismissal of that application without prejudice.

(1) If the applicant requests dismissal of its application with prejudice, the FCC will dismiss that application with prejudice.

(2) If the applicant requests dismissal of its application without prejudice, the FCC will dismiss that application without prejudice, unless:

(i) It has been designated for comparative hearing;

(ii) It has been selected in a random selection process; or,

(iii) It is an application for which the applicant submitted the winning bid in a competitive bidding process.

(3) If the applicant requests dismissal of its application for which it submitted the winning bid in a competitive bidding process, the FCC will dismiss that application with prejudice. If the applicant requests dismissal of its application after that application has been designated for comparative hearing or selected in a random selection process, it may submit a written petition requesting that the dismissal be without prejudice. Such petition must demonstrate good cause and comply with § 22.129 and be served upon all parties of record. The FCC may grant such petition and dismiss the application without prejudice or deny the petition and dismiss the application with prejudice.

(b) *Dismissal of mutually exclusive applications not granted.* The FCC may dismiss mutually exclusive applications:

(1) For which the applicant did not submit the winning bid in a competitive bidding process;

(2) That are included in a random selection process but are not granted; or,

(3) That receive comparative consideration in a hearing but are not granted by order of the presiding officer.

(c) *Dismissal for failure to prosecute.* The FCC may dismiss applications for failure of the applicant to prosecute or for failure of the applicant to respond substantially within a specified time period to official correspondence or requests for additional information. Such dismissal will generally be without prejudice if the failure to prosecute or respond occurred prior to designation of the application for comparative hearing or prior to selection of the application in a random selection process, but may be with prejudice in cases of non-compliance with § 22.129. Dismissal will generally be with prejudice if the failure to prosecute or respond occurred after designation of the application for comparative hearing or after selection of the application in a random selection process. The FCC may dismiss applications with prejudice for failure of the applicant to comply with requirements related to a competitive bidding process.

(d) *Dismissal as defective.* The FCC may dismiss without prejudice applications that it finds to be defective. Applications for authorization or assignment of authorization are defective if:

(1) They are unsigned or incomplete with respect to required answers to questions, informational showings, or other matters of a formal character; or,

(2) They request an authorization that would not comply with one or more of the FCC rules and do not contain a request for waiver of these rule(s), or in the event that the FCC denies such a waiver request, do not contain an alternative proposal that fully complies with the rules;

(e) *Dismissal because spectrum not available.* The FCC may dismiss applications that request spectrum which is unavailable because:

(1) It is not allocated for assignment in the Public Mobile Services (see Part 2 of this chapter);

(2) It was previously assigned to another licensee on an exclusive basis or cannot be assigned to the applicant without causing interference; or

(3) Reasonable efforts have been made to coordinate the proposed facility with foreign administrations under applicable international agreements, and an unfavorable response (harmful interference anticipated) has been received.

(f) *Dismissal as untimely.* The FCC may dismiss without prejudice applications that are prematurely or late filed, including applications filed prior to the opening date or after the closing date of a filing window, or after the cut-off date for a mutually exclusive application filing group.

§ 22.129 Agreements to dismiss applications, amendments or pleadings.

Parties that have filed an application in the Public Mobile Services that is mutually exclusive with one or more other applications, and then enter into an agreement to resolve the mutual exclusivity by withdrawing or requesting dismissal of the application or an amendment thereto, must obtain the approval of the FCC. Parties that have filed or threatened to file a petition to deny, informal objection or other pleading against a pending application in the Public Mobile Services and then seek to withdraw or request dismissal of, or refrain from filing, the petition, either unilaterally or in exchange for a financial consideration, must obtain the approval of the FCC.

(a) The party withdrawing or requesting dismissal of its application, petition to deny, informal objection or other pleading or refraining from filing a pleading must submit to the FCC a request for approval of the withdrawal or dismissal, a copy of any written agreement related to the withdrawal or dismissal, and an affidavit setting forth:

(1) A certification that neither the party nor its principals has received or will receive any money or other consideration in excess of the legitimate and prudent expenses incurred in preparing and prosecuting the application, petition to deny, informal objection or other pleading in exchange for the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading, or threat to file a pleading, except that this provision does not apply to dismissal or withdrawal of applications pursuant to *bona fide* merger agreements;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading or threat to file a pleading.

(b) In addition, within 5 days of the filing date of the applicant's or petitioner's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the petitioner in exchange for withdrawing or dismissing the application, petition to deny, informal objection or other pleading; and

(2) The terms of any oral agreement relating to the withdrawal or dismissal of the application, petition to deny, informal objection or other pleading.

(c) No person shall make or receive any payments in exchange for withdrawing a threat to file or refraining from filing a petition to deny, informal objection, or any other pleading against an application. For the purposes of this section, reimbursement by an applicant of the legitimate and prudent expenses of a potential petitioner or objector, incurred reasonably and directly in preparing to file a petition to deny, will not be considered to be payment for

refraining from filing a petition to deny or an informal objection. Payments made directly to a potential petitioner or objector, or a person related to a potential petitioner or objector, to implement non-financial promises are prohibited unless specifically approved by the FCC.

(d) For the purposes of this section:

(1) Affidavits filed pursuant to this section must be executed by the filing party, if an individual, a partner having personal knowledge of the facts, if a partnership, or an officer having personal knowledge of the facts, if a corporation or association.

(2) Applications, petitions to deny, informal objections and other pleadings are deemed to be pending before the FCC from the time the application or petition to deny is filed with the FCC until such time as an order of the FCC granting, denying or dismissing the application, petition to deny, informal objection or other pleading is no longer subject to reconsideration by the FCC or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by a party in preparing to file, filing, prosecuting and/or settling its application, petition to deny, informal objection or other pleading for which reimbursement is sought.

(4) "Other consideration" consists of financial concessions, including, but not limited to, the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

§ 22.130 Petitions to deny, responsive pleadings.

Petitions to deny any major filing may be filed by parties able to demonstrate standing to file such petitions. Responsive pleadings to such petitions may be filed in accordance with the provisions of this section.

(a) *Content and requirements.* Petitions to deny and responsive pleadings must:

(1) Clearly identify the pertinent major filing(s);

(2) Comply with all applicable requirements of § 1.41 through § 1.52 of this chapter;

(3) Contain specific allegations of fact which, except for facts of which official notice may be taken, are supported by affidavit of a person or persons with personal knowledge thereof, and which are sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant or other FCC action regarding the major filing would be inconsistent with the public interest;

(4) Be filed within 30 days after the date of the Public Notice listing the major filing; and.

(5) Contain a certificate of service showing that a copy has been mailed to the applicant no later than the date of filing with the FCC.

(b) *Expansion.* Petitions to deny a major amendment to an application may raise only matters directly related to the major amendment that could not have been raised in connection with the application as originally filed. This paragraph does not apply to petitioners who gain standing because of the major amendment.

(c) *Dismissal.* The FCC may, by letter, dismiss any petition to deny a major filing if the petition does not comply with the requirements of this section, if the issues raised become moot, or if the petitioner or his/her attorney fails to appear at a settlement conference pursuant to § 22.135. The reason(s) for the dismissal are stated in the letter. When a petition to deny is dismissed, any related responsive pleadings are also dismissed.

§ 22.131 Mutually exclusive applications.

Two or more pending applications are mutually exclusive if the grant of one application would effectively preclude the grant of one or more of the others under the rules governing the Public Mobile service involved.

(a) *Procedures.* Procedures for disposing of mutually exclusive applications are prescribed in the subparts of this part governing the individual Public Mobile Services and in part 1 of this chapter. The FCC may first dismiss any applications that are untimely filed or otherwise subject to dismissal under § 22.128. If any remaining applications continue to be mutually exclusive, the FCC may grant one of the mutually exclusive applications and dismiss the rest pursuant to § 22.128. In selecting the application to grant, the FCC may use competitive bidding, random selection processes or comparative hearings, depending on the nature of the mutually exclusive applications involved.

(b) *Separate applications.* Applicants that file an application, knowing that it will be mutually exclusive with one or more applications, should not include in the mutually exclusive application a request for other channels of facilities that would not, by themselves, render the application mutually exclusive with those other applications. Instead, the request for such other channels or facilities should be filed in a separate application.

§ 22.132 Grant of applications.

Applications for authorization may be granted thirty days after the issuance date of a Public Notice listing an application or the latest filed major amendment thereto as acceptable for filing.

(a) *Criteria for grants.* The FCC grants applications without a hearing if, after examination of the application and consideration of any petitions or other pleadings and of such other matters as it may officially notice, the FCC finds that:

(1) A grant will serve the public interest, convenience, and necessity;

(2) There are no substantial and material questions of fact presented;

(3) The applicant is eligible and qualified under applicable FCC regulations and policies;

(4) The application is acceptable for filing, and complies with the FCC rules and other applicable requirements;

(5) The application has not been designated for a hearing after being selected in a random selection process;

(6) There are no applications entitled to comparative consideration with the application being granted; and

(7) Operation of the proposed station would not cause interference to any authorized station(s).

(b) *Grant of petitioned applications.* The FCC may grant, without a formal hearing, applications against which petitions to deny has been filed. If any petition(s) to deny are pending (i.e. have not been dismissed pursuant to § 22.130(c) or withdrawn by the petitioner) when an application is granted, the FCC denies the petition(s) and issues a concise statement of the reason(s) for the denial, disposing of all substantive issues raised in the petitions.

(c) *Partial and conditional grants.* The FCC may grant applications in part, and/or subject to conditions other than those normally applied to authorizations of the same type. When the FCC does this, it will inform the applicant of the reasons therefor. Such partial or conditional grants are final unless the FCC revises its action in response to a petition for reconsideration. Such petitions for reconsideration must be filed by the applicant within thirty days after the date of the letter or order stating the reasons for the partial or conditional grant, and must reject the partial or conditional grant and return the instrument of authorization.

(d) *Designation for hearing.* The FCC may designate applications for a hearing, specifying with particularity the matters in issue, if, after consideration of the application, any

petitions or other pleadings, and other matters which it may officially notice, the FCC is unable to make one or more of the findings listed in paragraph (a) of this section. The FCC may grant, deny or take other action with respect to applications designated for a hearing.

§ 22.135 Settlement conference.

Parties are encouraged to use alternative dispute resolution procedures to settle disputes (see subpart E of part 1 of this chapter). In any contested proceeding, the FCC, in its discretion, may direct the parties or their attorneys to appear before it for a conference.

(a) The purposes of such conferences are:

(1) To obtain admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(2) To consider the necessity for or desirability of amendments to the pleadings, or of additional pleadings or evidentiary submissions;

(3) To consider simplification or narrowing of the issues;

(4) To encourage settlement of the matters in controversy by agreement between the parties; and

(5) To consider other matters that may aid in the resolution of the contested proceeding.

(b) Conferences are scheduled by the FCC at a time and place it may designate, to be conducted in person or by telephone conference call.

(c) The failure of any party or attorney, following reasonable notice, to appear at a scheduled conference will be deemed a failure to prosecute, subjecting that party's application or petition to dismissal by the FCC pursuant to § 22.128(c) or § 22.130(c).

§ 22.137 Assignment of authorization; transfer of control.

Authorizations in the Public Mobile Services may be assigned by the licensee to another party, voluntarily or involuntarily, directly or indirectly, or by transfer of control of a licensee holding such authorizations, only upon approval by the FCC. The assignee is responsible for ascertaining that the station facilities are and will remain in compliance with the terms and conditions of the authorization to be assigned.

(a) *Application required.* The assignor or transferor must file an application for approval of assignment or transfer of control (FCC Form 490). In the case of involuntary assignment, such application must be filed no later than 30 days after the event causing the assignment. The assignee or transferee must file a report qualifying it as a common carrier (FCC Form 430) unless a current report is already on file with the FCC.

(b) *Notification of completion.* Assignments and transfers of control must be completed within 60 days of FCC approval. The assignee or transferee must notify the FCC by letter of the date of completion of the assignment or transfer of control. If an assignment or transfer of control is not completed within this time, the assignor or transferor must so notify the FCC by letter, and the assignee or transferee must submit the authorization(s) to the FCC for cancellation or request an extension of time to complete the assignment or transfer of control. If the assignment or transfer of control is not completed, the authorization(s) remain with the assignor or transferor.

(c) *Partial assignment of authorization.* If the authorization for some, but not all, of the facilities of a Public Mobile Services station is assigned to another party, voluntarily or involuntarily, such action is a partial assignment of authorization.

(1) To request FCC approval of a partial assignment of authorization, the following must be filed in addition to the forms required by paragraph (a) of this section:

(i) The assignor must notify the FCC (FCC Form 489) of the facilities to be deleted from its authorization upon completion of the assignment.

(ii) The assignee must apply for authority (FCC Form 401) to operate a new station including the facilities for which authorization is assigned, or to modify the assignee's existing station to include the facilities for which authorization was assigned.

(2) Partial assignments must be completed within 60 days of FCC approval. If an approved partial assignment is not completed within this time, the assignor must notify the FCC (FCC Form 489), and the assignee must submit the authorization(s) to the FCC for cancellation or request an extension of time to complete the assignment. If the assignment is not completed, the authorization(s) remain with the assignor.

(d) *Limitations.* The FCC may deny applications for assignment of authorization or consent to transfer of control if:

(1) The FCC is unable to make the findings contained in § 22.132(a) with respect to both parties to the assignment or transfer;

(2) The authorization was obtained for the principal purpose of speculation or profitable resale, rather than provision of common carrier telecommunication services to the public; or,

(3) The authorization is for a commercial aviation system in the Air-ground Radiotelephone Service or an unserved area cellular system in the Cellular Radiotelephone Service and the system has not been constructed or operated, or has been operated for less than one year.

(i) Licensees must not enter into agreements (e.g. option agreements or management contracts) to assign authorizations before or during the first year of operation, even if the assignment is to take place after the first year of operation.

(ii) Notwithstanding the introductory texts of paragraphs (d) and (d)(3) of this section, the FCC may grant applications for *pro forma* assignments during the first year of operation.

§ 22.139 Trafficking.

Carriers must not obtain or attempt to obtain an authorization in the Public Mobile services for the principal purpose of speculation or profitable resale of the authorization, but rather for the provision of common carrier telecommunication services to the public.

(a) Applications for approval of assignment of authorization may be reviewed by the FCC to determine if the circumstances indicate trafficking in Public Mobile services authorizations.

(b) The FCC may require submission of an affirmative, factual showing, supported by affidavit of persons with personal knowledge thereof, to demonstrate that the assignor did not acquire the authorization for the principal purpose of speculation or profitable resale of the authorization. This showing may include, for example, a demonstration that the proposed assignment is due to changed circumstances (described in detail) affecting the licensee after the grant of the authorization, or that the proposed assignment is incidental to a sale of other facilities or a merger of interests.

§ 22.142 Commencement of service; notification requirement.

Stations must begin providing service to subscribers no later than the date of required commencement of service specified on the authorization. If service to subscribers has not begun by the date of required commencement of service, the authorization terminates, in whole or in part, without action by the FCC, pursuant to § 21.144. Additional requirements for construction of facilities apply to cellular systems (see § 22.946) and commercial aviation air-ground systems (see § 22.873).

(a) *Construction period.* The period between the date of grant of an

authorization and the date of required commencement of service is referred to as the construction period. The terms of construction periods are given in the subparts of this part governing each Public Mobile Service.

(b) *Notification requirement.* Licensees must notify the FCC (FCC Form 489) of commencement of service to subscribers. The notification must be mailed or delivered to the filing place (see § 22.106) no later than 15 days after service begins.

(1) The notification must state whether the station was constructed exactly as authorized or with minor changes.

(2) If service to subscribers has begun using some, but not all, of the authorized transmitters, the notification must show to which specific transmitters it applies. Additional notifications must be filed if and when other transmitters commence providing service to subscribers. If the licensee no longer intends to construct and/or operate the remaining authorized transmitters, the notification should so state.

(3) This section does not require licensees to notify the FCC of facilities added or modified pursuant to the provisions of §§ 22.163 and 22.165. It applies only to facilities specifically listed in authorizations for which a construction period is provided.

(c) *Requests for extension.* Before the date of required commencement of service, licensees may file an application (FCC Form 401) requesting an extension of the construction period.

(1) The FCC may grant applications for extension of the construction period if the licensee shows that failure to commence providing service to subscribers is due to causes beyond its control.

(2) The FCC does not grant applications for extension of the construction period if failure to commence providing service to subscribers is due to delays caused by lack of financing, failure to obtain an antenna site, or failure to order equipment in a timely manner. If the licensee orders equipment within 90 days of authorization grant, a presumption of diligence is created.

(3) The FCC does not grant applications for extension of the construction period if the licensee fails to commence providing service to subscribers because it intends to assign the authorization. The FCC does not grant applications for extension of the construction period solely to allow an assignee to complete facilities the assignor failed to construct.

(d) *Automatic extension for relocation.* If, prior to the end of the construction period, a licensee files an application (FCC Form 401) to relocate a transmitter because of involuntary loss of the proposed site or for other reasons due to causes beyond the licensee's control, the construction period is automatically extended pending disposition of that application.

(1) Extension of the construction period for one transmitter under this paragraph does not extend the construction period for other transmitter under the same authorization that are not to be relocated.

(2) The filing of applications for modifications other than involuntary relocation does not automatically extend the construction period.

§ 22.143 Construction prior to grant of application.

Applicants may construct facilities in the Public Mobile services prior to grant of their applications, subject to the provisions of this section, but must not operate such facilities until the FCC grants an authorization. If the conditions stated in this section are not met, applicants must not begin to construct facilities in the Public Mobile Services.

(a) *When applicants may begin construction.* An applicant may begin construction of a facility 35 days after the date of the Public Notice listing the application for that facility as acceptable for filing, except that an applicant whose application to operate a new cellular system was selected in a random selection process may begin construction of that new cellular system 35 days after the date of the Public Notice listing it as the tentative selectee.

(b) *Notification to stop.* If the FCC for any reason determines that construction should not be started or should be stopped while an application is pending, and so notifies the applicant, orally (followed by written confirmation) or in writing, the applicant must not begin construction or, if construction has begun, must stop construction immediately.

(c) *Assumption of risk.* Applicants that begin construction pursuant to this section before receiving an authorization do so at their own risk and have no recourse against the United States for any losses resulting from:

(1) Applications that are not granted;

(2) Errors or delays in issuing Public Notices;

(3) Having to alter, relocate or dismantle the facility; or

(4) Incurring whatever costs may be necessary to bring the facility into compliance with applicable laws, or FCC rules and orders.

(d) *Conditions.* Except as indicated, all pre-grant construction is subject to the following conditions:

(1) The application is not mutually exclusive with any other application, except for successful bidders and tentative selectees in the Cellular Radiotelephone Service;

(2) No petitions to deny the application have been filed;

(3) The application does not include a request for a waiver of one or more FCC rules;

(4) For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, the licensee has notified the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1), filed a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325;

(5) The applicant has indicated in the application that the proposed facility would not have a significant environmental effect, in accordance with §§ 1.1301 through 1.1319 of this chapter; and,

(6) Under applicable international agreements and rules in this part, individual coordination of the proposed channel assignment(s) with a foreign administration is not required.

§ 22.144 Termination of authorizations.

Authorizations in the Public Mobile Services remain valid until terminated in accordance with this section, except that the FCC may revoke an authorization pursuant to section 312 of the Communications Act of 1934, as amended (47 U.S.C. 312).

(a) *Expiration.* Authorizations automatically terminate, without specific FCC action, on the expiration date specified therein, unless a timely application for renewal is filed (see § 22.145). No authorization granted under the provisions of this part shall be for a longer term than ten years. See 47 U.S.C. 307(c).

(b) *Failure to commence providing service to subscribers.* Authorizations automatically terminate, in whole or in part, without specific FCC action, on the date of required commencement of service, if service to subscribers is not commenced by that date (see § 22.142), except as provided in paragraph (b)(1) of this section.

(1) Authorizations do not terminate while a timely filed application for extension of the construction period is pending (see § 22.142(c)).

(2) If a timely filed application for extension of the construction period is dismissed or denied, the authorization automatically terminates, in whole or in part, without specific FCC action, on the day after the applicant or the applicant's attorney is notified of the FCC's action dismissing or denying the application for extension of the construction period.

(c) *Service discontinued.* Authorizations automatically terminate, without specific FCC action, if service is permanently discontinued as provided in § 22.317.

(d) *STAs.* Special Temporary Authorizations (STAs) automatically terminate, without specific FCC action, at the end of the period specified therein, except as provided in paragraph (d)(1) of this section, or upon failure to comply with the terms and conditions therein.

(1) STAs do not terminate while a timely filed request for an extension of the STA term, in accordance with § 22.125(b), is pending.

(2) If a timely filed request for extension of the STA term is dismissed or denied, the STA automatically terminates, without specific FCC action, on the day after the applicant or the applicant's attorney is notified of the FCC's action dismissing or denying the request for extension.

(e) *Cancellation.* Authorizations submitted by licensees for cancellation terminate when the FCC gives Public Notice of such action.

§ 22.145 Renewal application procedures.

Applications for renewal (FCC Form 405) of expiring authorizations must be filed by the licensee prior to, but no earlier than 30 days before, the expiration date of the authorization. A separate application is required for each authorization (call sign). Competing applications from parties wishing to challenge the renewal must be filed during the same 30 day period. Additional renewal requirements applicable only to specific Public Mobile Services are set forth in the subparts governing those services.

§ 22.150 Standard pre-filing technical coordination procedure.

For operations on certain channels in the Public Mobile Services, carriers must attempt to coordinate the proposed use of spectrum with other spectrum users prior to filing an application for authority to operate a station. Rules requiring this procedure for specific channels and types of stations are contained in the subparts governing the individual Public Mobile Services.

(a) Coordination comprises two steps—notification and response. Each step may be accomplished orally or in writing.

(b) Notification must include relevant technical details of the proposal. At minimum, this should include the following:

(1) Geographical coordinates of the antenna site(s).

(2) Transmitting and receiving channels to be added or changed.

(3) Transmitting power, emission type and polarization.

(4) Transmitting antenna pattern and maximum gain.

(5) Transmitting antenna height above ground level.

(c) Applicants and licensees receiving notification must respond promptly, even if no channel usage conflicts are anticipated. If any notified party fails to respond within 30 days, the applicant may file the application without a response from that party.

(d) The 30-day period begins on the date of receipt of the notification by the party being notified. If the notification is by mail, this date may be ascertained by:

(1) The return receipt on certified mail,

(2) The enclosure of a card to be dated and returned by the party being notified, or

(3) A reasonable estimate of the time required for the mail to reach its destination. In this case, the date when the 30-day period will expire must be stated in the notification.

(e) All channel usage conflicts discovered during the coordination process should be resolved prior to filing of the application. If the applicant is unable or unwilling to resolve a particular conflict, the application may be accepted for filing if it contains a statement describing the unresolved conflict and a brief explanation of the reasons why a resolution was not achieved.

(f) If a number of changes in the technical parameters of a proposed facility become necessary during the course of the coordination process, an attempt should be made to minimize the number of separate notifications. If the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(g) In situations where subsequent changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. If the applicant believes a shorter response time is reasonable and appropriate, it should so indicate in the notice and suggest a response date.

(h) If a subsequent change in the technical parameters of a proposed facility could not affect the facilities of one or more of the parties that received an initial notification, the applicant is not required to coordinate that change with these parties. However, these parties must be advised of the change and of the opinion that coordination is not required.

§ 22.157 Distance computation.

The method given in this section must be used to compute the distance between any two locations, except that, for computation of distance involving stations in Canada and Mexico, methods for distance computation specified in the applicable international agreement, if any, must be used instead. The method set forth in this paragraph is considered to be sufficiently accurate for distances not exceeding 475 km (295 miles).

(a) Convert the latitudes and longitudes of each reference point from degree-minute-second format to degree-decimal format by dividing minutes by 60 and seconds by 3600, then adding the results to degrees.

$$LATX_{dd} = DD + \frac{MM}{60} + \frac{SS}{3600}$$

$$LONX_{dd} = DDD + \frac{MM}{60} + \frac{SS}{3600}$$

(b) Calculate the mean geodetic latitude between the two reference points by averaging the two latitudes:

$$ML = \frac{LAT1_{dd} + LAT2_{dd}}{2}$$

(c) Calculate the number of kilometers per degree latitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$$KPD_{lat} = 111.13209 - 0.56605 \cos 2ML + 0.00120 \cos 4ML$$

(d) Calculate the number of kilometers per degree of longitude difference for the mean geodetic latitude calculated in paragraph (b) of this section as follows:

$$KPD_{lon} = 111.41513 \cos ML - 0.09455 \cos 3ML + 0.00012 \cos 5ML$$

(e) Calculate the North-South distance in kilometers as follows:

$$NS = KPD_{lat} \times (LAT1_{dd} - LAT2_{dd})$$

(f) Calculate the East-West distance in kilometers as follows:

$$EW = KPD_{lon} \times (LONI_{dd} - LON2_{dd})$$

(g) Calculate the distance between the locations by taking the square root of the sum of the squares of the East-West and North-South distances:

$$DIST = \sqrt{NS^2 + EW^2}$$

(h) Terms used in this section are defined as follows:

(1) $LAT1_{dd}$ and $LON1_{dd}$ are the coordinates of the first location in degree-decimal format.

(2) $LAT2_{dd}$ and $LON2_{dd}$ are the coordinates of the second location in degree-decimal format.

(3) ML is the mean geodetic latitude in degree-decimal format.

(4) KPD_{lat} is the number of kilometers per degree of latitude at a given mean geodetic latitude.

(5) KPD_{lon} is the number of kilometers per degree of longitude at a given mean geodetic latitude.

(6) NS is the North-South distance in kilometers.

(7) DIST is the distance between the two locations, in kilometers.

§ 22.159 Computation of average terrain elevation.

Average terrain elevation must be calculated by computer using elevations from a 30 second point or better topographic data file. The file must be identified. If a 30 second point data file is used, the elevation data must be processed for intermediate points using interpolation techniques; otherwise, the nearest point may be used. In cases of dispute, average terrain elevation determinations can also be done manually, if the results differ significantly from the computer derived averages.

(a) Radial average terrain elevation is calculated as the average of the elevation along a straight line path from 3 to 16 kilometers (2 and 10 miles) extending radially from the antenna site. If a portion of the radial path extends over foreign territory or water, such portion must not be included in the computation of average elevation unless the radial path again passes over United States land between 16 and 134 kilometers (10 and 83 miles) away from the station. At least 50 evenly spaced data points for each radial should be used in the computation.

(b) Average terrain elevation is the average of the eight radial average terrain elevations (for the eight cardinal radials).

(c) For locations in Dade and Broward Counties, Florida, the method prescribed above may be used or average terrain elevation may be assumed to be 3 meters (10 feet).

§ 22.161 Application requirements for ASSB.

Applications for base stations employing amplitude compandored single sideband modulation (ASSB) must contain the following information:

(a) The application must describe fully the modulation characteristics, emission and occupied bandwidth, and specify the center frequency of the emission for each channel, carrier frequency, and pilot channels, if any. The emission must fall completely within a channel assignable for two-way operation in the Paging and Radiotelephone Service, Rural Radiotelephone Service or Offshore Radiotelephone Service.

(b) The application must contain interference studies between stations within an authorized bandwidth, whether FM-to-ASSB, ASSB-to-FM, or ASSB-to-ASSB in accordance with the following: For ASSB stations, the transmitter nearest to the protected station must be used. The effective radiated power in the direction of the protected station must be the sum of the peak effective radiated power of all transmitters in the group, in the direction of the protected station. The antenna center of radiation height above average terrain must be the highest antenna center of radiation height of any transmitter in the group in the direction of the protected station. The channel of the group is assumed to be the same as that of the protected station (co-channel), and studies must be made in accordance with § 22.567.

§ 22.163 Minor modifications to existing stations.

Licensees may make modifications to existing stations without obtaining prior Commission approval provided:

(a) *Classification as minor.* The modifications must be minor. Modifications to a station are minor if an application filed solely for the purpose of obtaining authorization for such modifications would not be classified as major in accordance with § 22.123.

(b) *International coordination.* The modifications are limited to those for which individual coordination of the channel assignment(s) with a foreign administration, under applicable international agreements and rules in this part, is not required.

(c) *Antenna structure clearance required.* For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, licensees must notify the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1) and file a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325.

(d) *Provision of information upon request.* Licensees must supply administrative or technical information concerning the modified facilities upon request by the FCC. At the time modifications are made pursuant to this section, licensees must make a record of the pertinent technical and administrative information so that such information is readily available. See § 22.303.

(e) *Notification required for modifications affecting CGSA.* Licensees in the Cellular Radiotelephone Service must notify the FCC (FCC Form 489) of any modifications made under this section that cause a change in the Cellular Geographic Service Area boundary (including the removal of a transmitter or transmitters). The notification must include full size and reduced maps, and supporting engineering, as described in § 22.953(a)(5) (ii) through (iii). If the modification involves a contract service area boundary (SAB) extension (see § 22.912), the notification must include a statement as to whether the five year build-out period for the system on the relevant channel block in the market into which the SAB extends has elapsed, and whether the SAB extends into any unserved area in that market. The notification must be mailed or delivered to the filing place (see § 22.106) no later than 15 days after the modification is made.

§ 22.165 Additional transmitters for existing systems.

A licensee may operate additional transmitters at additional locations on the same channel or channel block as its existing system without obtaining prior Commission approval provided:

(a) *International coordination.* The locations and/or technical parameters of the additional transmitters are such that individual coordination of the channel assignment(s) with a foreign administration, under applicable international agreements and rules in this part, is not required.

(b) *Antenna structure clearance required.* For any construction or alteration that would exceed the requirements of § 17.7 of this chapter, licensees must notify the appropriate Regional Office of the Federal Aviation Administration (FAA Form 7460–1) and file a request for antenna height clearance and obstruction marking and lighting specifications (FCC Form 854) with the FCC, PRB, Support Services Branch, Gettysburg, PA 17325.

(c) *Environmental.* The additional transmitters must not have a significant environmental effect as defined by §§ 1.1301 through 1.1319 of this chapter.

(d) *Paging and Radiotelephone Service.* The provisions in this paragraph apply for stations in the Paging and Radiotelephone Service.

(1) The service area and interfering contours of the additional transmitter(s) must be totally encompassed by the composite service area contour and predicted interfering contour, respectively, of the existing station on the same channel; except that this limitation does not apply to nationwide network paging stations or in-building radiation systems.

(2) Additional transmitters in the 43 MHz frequency range operate under developmental authority, subject to the conditions set forth § 22.411.

(3) The additional transmitters must not operate on control channels in the 72–76 MHz, 470–512 MHz, 928 MHz, 932 MHz, 941 MHz or 959 MHz frequency ranges.

(e) *Cellular Radiotelephone Service.* During the five year build-out period, the service area boundaries of the additional transmitters, as calculated by the method set forth in § 22.911(a), must remain within the market, except that the service area boundaries may extend beyond the market boundary into area that is part of the CGSA or is already encompassed by the service area boundaries of previously authorized facilities. After the five year build-out period, the service area boundaries of the additional transmitters, as calculated by the method set forth in § 22.911(a), must remain within the CGSA. Licensees must notify the FCC (FCC Form 489) of any transmitters added under this section that cause a change in the CGSA boundary. The notification must include full size and reduced maps, and supporting engineering, as described in § 22.953(a)(5) (i) through (iii). If the addition of transmitters involves a contract service area boundary (SAB) extension (see § 22.912), the notification must include a statement as to whether the five year build-out period for the system on the relevant channel block in the market into which the SAB extends has elapsed, and whether the SAB extends into any unserved area in the market. The notification must be mailed or delivered to the filing place (see § 22.106) no later than 15 days after the addition is made.

(f) *Air-ground Radiotelephone Service.* Ground stations may be added to Commercial Aviation air-ground systems at previously established ground station locations, pursuant to § 22.859, subject to compliance with the applicable technical rules. This section does not apply to General Aviation air-ground stations.

(g) *Rural Radiotelephone Service.* A "service area" and "interfering contours" must be determined using the same method as for stations in the Paging and Radiotelephone Service. The service area and interfering contours so determined for the additional transmitter(s) must be totally encompassed by the similarly determined composite service area contour and predicted interfering contour, respectively, of the existing station on the same channel. This section does not apply to Basic Exchange Telecommunications Radio Systems.

(h) *Offshore Radiotelephone Service.* This section does not apply to stations in the Offshore Radiotelephone Service.

(i) *Provision of information upon request.* Upon request by the FCC, licensees must supply administrative or technical information concerning the additional transmitters. At the time transmitters are added pursuant to this section, licensees must make a record of the pertinent technical and administrative information so that such information is readily available. See § 22.303.

§ 22.169 International coordination of channel assignments.

Channel assignments under this part are subject to the applicable provisions and requirements of treaties and other international agreements between the United States government and the governments of Canada and Mexico.

Subpart C—Operational and Technical Requirements

Operational Requirements

§ 22.301 Station inspection.

The licensee of any station authorized in the Public Mobile Services must make the station and station records available for inspection by representatives of the FCC at any reasonable hour.

§ 22.303 Retention of station authorizations; identifying transmitters.

The current authorization for each station, together with current administrative and technical information concerning modifications to facilities pursuant to § 22.163 and added facilities pursuant to § 22.165 must be retained as a permanent part of the station records. A clearly legible photocopy of the authorization must be available at each regularly attended control point of the station, or in lieu of this photocopy, licensees may instead make available at each regularly attended control point the address or location where the licensee's current authorization and other records may be found. The station call sign must be clearly and legibly marked on or near every transmitting facility, other than mobile transmitters, of the station.

§ 22.305 Operator and maintenance requirements.

FCC operator permits and licenses are not required to operate, repair or maintain equipment authorized in the Public Mobile Services. Station licensees are responsible for the proper operation and maintenance of their stations, and for compliance with FCC rules.

§ 22.307 Operation during emergency.

Licensees of stations in the Public Mobile services may, during a period of emergency in which normal communications facilities are disrupted as a result of hurricane, flood, earthquake or other natural disaster, civil unrest, widespread vandalism, national emergencies or emergencies declared by Executive Order of the President, use their stations to temporarily provide emergency communications services in a manner or configuration not normally allowed by this part, provided that such operations comply with the provisions of this section.

(a) *Technical limitations.* Public Mobile stations providing temporary emergency communications service must not transmit:

(1) On channels other than those authorized for normal operations.

(2) With power in excess of that authorized for normal operations;

(3) Emission types other than those authorized for normal operations.

(b) *Discontinuance.* Temporary emergency use of Public Mobile stations must be discontinued as soon as normal communication facilities are restored. The FCC may, at any time, order the discontinuance of any such emergency communication services.

§ 22.313 Station identification.

The licensee of each station in the Public Mobile Services must ensure that the transmissions of that station are identified in accordance with the requirements of this section.

(a) Station identification is not required for transmission by:

(1) Stations in the Cellular Radiotelephone Service;

(2) General aviation ground stations in the Air-ground Radiotelephone Service;

(3) Rural subscriber stations using meteor burst propagation mode communications in the Rural Radiotelephone Service;

(4) Rural subscriber stations using Basic Exchange Telephone Radio Systems in the Rural Radiotelephone Service.

(b) For all other stations in the Public Mobile Services, station identification must be transmitted at the end of each transmission or series of transmissions. During prolonged or continuous series of transmissions, station identification must be transmitted at periodic intervals not to exceed thirty minutes; however, transmission of such periodic station identification may be temporarily delayed to avoid interrupting the continuity of any public communication in progress, provided that station identification is transmitted at the conclusion of that public communication.

(c) Station identification must be transmitted by telephone using the English language or by telegraphy using the international Morse code, and in a form that can be received using equipment appropriate for the modulation type employed, and understood without the use of unscrambling devices. Station identification comprises transmission of the call sign assigned by the FCC to the station, however, the following may be used in lieu of the call sign:

(1) For transmissions from subscriber operated transmitters, the telephone number or other designation assigned by the carrier, provided that a written record of such designations is maintained by the carrier;

(2) For general aviation airborne mobile stations in the Air-ground Radiotelephone Service, the official FAA registration number of the aircraft;

(3) For stations in the Paging and Radiotelephone Service, a call sign assigned to another station within the same system.

§ 22.315 Duty to respond to official communications.

Licensees in the Public Mobile services must respond to official communications from the FCC with reasonable dispatch and according to the tenor of the communication. Failure to do so may be considered by the FCC to reflect adversely on a carrier's qualifications to hold FCC authorizations, and may also create liabilities for other sanctions.

(a) Any person receiving official notice of an apparent or actual violation of a federal statute, international agreement, Executive Order, or regulation pertaining to communications shall respond in writing within 10 days to the office of the FCC originating the notice. If a response can not be sent within 10 days, an acknowledgement shall be sent, followed by a response as soon as possible explaining the reason for the delay.

(b) Responses to official communications must be complete and self-contained without reference to other communications unless copies of such other communications are attached to the response.

§ 22.317 Discontinuance of station operation.

If the operation of a Public Mobile Services station is permanently discontinued, the licensee shall send the authorization for cancellation to: Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington DC 20554. For purposes of this section, any station that has not provided service to subscribers for 90 continuous days is considered to have been permanently discontinued, unless the applicant notified the FCC otherwise prior to the end of the 90 day period and provided a date on which operation will resume, which date must not be in excess of 30 additional days.

§ 22.321 Equal employment opportunities.

Public Mobile Services licensees shall afford equal opportunity in employment to all qualified persons, and personnel must not be discriminated against in employment because of sex, race, color, religion, or national origin.

(a) *Equal employment opportunity program.* Each licensee shall establish, maintain, and carry out a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice.

(1) Under the terms of its program, each licensee shall:

(i) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(ii) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(iii) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion or national origin, and solicit their recruitment assistance on a continuing basis.

(iv) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensee's personnel policies and practices and working conditions.

(v) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to ensure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(2) The program must reasonably address specific concerns through policies and actions as set forth in this paragraph, to the extent that they are appropriate in consideration of licensee size, location and other factors.

(i) *To assure nondiscrimination in recruiting.* (A) Posting notices in the licensee's offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission (EEOC), the Federal Communications Commission (FCC), or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans, such notice should be posted in both Spanish and English.

(B) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion or national origin is prohibited, and that they may notify the EEOC, the FCC or other appropriate agency if they believe they have been discriminated against.

(C) Placing employment advertisements in media which have significant circulation among minority groups in the recruiting area.

(D) Recruiting through schools and colleges with significant minority group enrollments.

(E) Maintaining systematic contacts with minority and human relations organizations, leaders and spokespersons to encourage referral of qualified minority or female applicants.

(F) Encouraging present employees to refer minority or female applicants.

(G) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) *To assure nondiscrimination in selection and hiring.* (A) Instructing employees of the licensee who make hiring decisions that all applicants for

all jobs are to be considered without discrimination.

(B) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(C) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iii) *To assure nondiscriminatory placement and promotion.* (A) Instructing employees of the licensee who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(B) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(C) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(D) Avoiding use of selection techniques or tests that have the effect of discriminating against minority groups or females.

(iv) *To assure nondiscrimination in other areas of employment practices.* (A) Examining rates of pay and fringe benefits for present employees with equivalent duties and adjusting any inequities found.

(B) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority groups or female employees.

(b) *EEO statement.* Each licensee having 16 or more full-time employees shall file with the FCC, no later than May 31st following the grant of that licensee's first Public Mobile Services authorization, a statement describing fully its current equal employment opportunity program, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religion or national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff and termination. Any licensee having 16 or more full-time employees that changes its existing equal employment opportunity program shall file with the FCC, no later than May 31st thereafter, a revised statement reflecting the change(s).

Note to paragraph (b) of § 22.321: Licensees having 16 or more full-time employees that were granted their first Public Mobile Services authorization prior to January 1, 1995, and do not have a current EEO statement on file with the FCC, must file such statement, required by paragraph (b) of this section, no later than May 31, 1995.

(c) *Report of complaints filed against licensees.* Each licensee, regardless of how many employees it has, shall submit an annual report to the FCC no later than May 31st of each year indicating whether any complaints regarding violations by the licensee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(1) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(2) Any licensee who has filed such information with the EEOC may file a notification of such filing with the FCC in lieu of a report.

(d) *Complaints of violations of Equal Employment Programs.* Complaints alleging employment discrimination against a common carrier licensee are considered by the FCC in the following manner:

(1) If a complaint raising an issue of discrimination is received against a licensee who is within the jurisdiction of the EEOC, it is submitted to that agency. The FCC maintains a liaison with that agency that keeps the FCC informed of the disposition of complaints filed against common carrier licensees.

(2) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the FCC to the respective State agency.

(3) Complaints alleging employment discrimination against a common carrier licensee who does not fall under the jurisdiction of the EEOC or an appropriate State law, are accorded appropriate treatment by the FCC.

(4) The FCC will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees with the principles of equal employment as set forth herein.

(5) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee that is required to file an employment report to the FCC under § 1.815(a) of this chapter are investigated by the FCC.

(e) *FCC records.* A copy of every annual employment report, equal employment opportunity program statement, reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the FCC.

(f) *Licensee records.* Each licensee required to file annual employment reports (pursuant to § 1.815(a) of this chapter), equal employment opportunity program statements, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain for public inspection a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the licensee and the FCC pertaining to the reports after they have been filed and all documents incorporated therein by reference. The documents must be retained for a period of 2 years.

§ 22.323 Incidental communication services.

Carriers authorized to operate stations in the Public Mobile radio services may use these stations to provide other communications services incidental to the primary public mobile service for which the authorizations were issued, provided that:

(a) The costs and charges of subscribers who do not wish to use incidental services are not increased as a result of provision of incidental services to other subscribers;

(b) The quality of the primary public mobile service does not materially deteriorate as a result of provision of incidental services, and neither growth nor availability of the primary public mobile service is significantly diminished as a result of provision of incidental services;

(c) The provision of the incidental services is not inconsistent with the Communications Act of 1934, as amended, or with FCC rules and policies; and

(d) The licensee notifies the FCC by letter before providing the incidental services. This notification must include a complete description of the incidental services.

§ 22.325 Control points.

Each station in the Public Mobile Services must have at least one control point and a person on duty who is responsible for station operation. This section does not require that the person on duty be at the control point or continuously monitor all transmissions of the station. However, the control point must have facilities that enable the person on duty to turn off the transmitters in the event of a malfunction.

Technical Requirements

§ 22.351 Channel assignment policy.

The channels allocated for use in the Public Mobile Services are listed in the applicable subparts of this part. Channels and channel blocks are assigned in such a manner as to facilitate the rendition of service on an interference-free basis in each service area. Except as otherwise provided in this part, each channel or channel block is assigned exclusively to one common carrier in each service area. All applicants for, and licensees of, stations in the Public Mobile Services shall cooperate in the selection and use of channels in order to minimize interference and obtain the most efficient use of the allocated spectrum.

§ 22.352 Protection from interference.

Public Mobile Services stations operating in full accordance with applicable FCC rules and the terms and conditions of their authorizations are normally considered to be non-interfering. If the FCC determines, however, that interference which significantly interrupts or degrades a radio service is being caused, it may, after notice and an opportunity for a hearing, require modifications to any Public Mobile station as necessary to eliminate such interference.

(a) *Failure to operate as authorized.* Any licensee causing interference to the service of other stations by failing to operate its station in full accordance with its authorization and applicable FCC rules shall discontinue all transmissions, except those necessary for the immediate safety of life or property, until it can bring its station into full compliance with the authorization and rules.

(b) *Intermodulation interference.* Licensees should attempt to resolve such interference by technical means.

(c) *Situations in which no protection is afforded.* Except as provided elsewhere in this part, no protection from interference is afforded in the following situations:

(1) *Interference to base receivers from base or fixed transmitters.* Licensees should attempt to resolve such interference by technical means or operating arrangements.

(2) *Inteference to mobile receivers from mobile transmitters.* No protection is provided against mobile-to-mobile interference.

(3) *Interference to base receivers from mobile transmitters.* No protection is provided against mobile-to-base interference.

(4) *Interference to fixed stations.* Licensees should attempt to resolve such interference by technical means or operating arrangements.

(5) *Anomalous or infrequent propagation modes.* No protection is provided against interference caused by tropospheric and ionospheric propagation of signals.

(6) *Facilities for which the FCC not notified.* No protection is provided against interference to the service of any additional or modified transmitter operating pursuant to § 22.163 or § 22.165, unless and until the licensee notifies the FCC (FCC Form 489) of the additional or modified transmitter.

(7) *In-building radiation systems.* No protection is provided against interference to the service of in-building radiation systems (see § 22.383).

§ 22.353 Blanketing interference.

Licensees of Public Mobile Services stations are responsible for resolving cases of blanketing interference in accordance with the provisions of this section.

(a) Except as provided in paragraph (c) of this section, licensees must resolve any cases of blanketing interference in their area of responsibility caused by operation of their transmitter(s) during a one-year period following commencement of service from new or modified transmitter(s). Interference must be resolved promptly at no cost to the complainant.

(b) The area of responsibility is that area in the immediate vicinity of the transmitting antenna of stations where the field strength of the electromagnetic radiation from such stations equals or exceeds 115 dBμV/m. To determine the radial distance to the boundary of this area, the following formula must be used:

$$d = 0.394 \times \sqrt{p}$$

where d is the radial distance to the boundary, in kilometers

p is the radial effective radiated power, in kilowatts

The maximum effective radiated power in the pertinent direction, without consideration of the antenna's vertical radiation pattern or height, must be used in the formula.

(c) Licensees are not required to resolve blanketing interference to mobile receivers or non-RF devices or blanketing interference occurring as a result of malfunctioning or mistuned receivers, improperly installed consumer antenna systems, or the use of high gain antennas or antenna booster amplifiers by consumers.

(d) Licensees that install transmitting antennas at a location where there are already one or more transmitting antennas are responsible for resolving any new cases of blanketing interference in accordance with this section.

(e) Two or more licensees that concurrently install transmitting antennas at the same location are jointly responsible for resolving blanketing interference cases, unless the FCC can readily determine which station is causing the interference, in which case the licensee of that station is held fully responsible.

(f) After the one year period of responsibility to resolve blanketing interference, licensees must provide upon request technical information to complainants on remedies for blanketing interference.

§ 22.355 Frequency tolerance.

Except as otherwise provided in this part, the carrier frequency of each transmitter in the Public Mobile Services must be maintained within the tolerances given in Table C–1 of § 22.357.

§ 22.357 Emission types.

Any authorized station in the Public Mobile services may transmit the standard emission types set forth in this section, regardless of whether they are listed on the station authorization. Before using any emission type(s) other than those set forth in this section (*e.g.*, amplitude compandored single sideband), licensees must apply for (FCC Form 401) and obtain authority to do so, and must explain in detail the reason why such authority is needed. An explanation of the standard international emission designators used

throughout the FCC rules is contained in subpart C of part 2 of this chapter.

TABLE C–1.—FREQUENCY TOLERANCE FOR TRANSMITTERS IN THE PUBLIC MOBILE SERVICES

Frequency range	Base, fixed	Mobile>watts	Mobile<=3 watts
25 to 50 MHz	20.0 ppm	20.0 ppm	50.0 ppm
50 to 450 MHz	5.0 ppm	5.0 ppm	50.0 ppm
450 to 512 MHz	2.5 ppm	5.0 ppm	5.0 ppm
821 to 896 MHz	1.5 ppm	2.5 ppm	2.5 ppm
928 to 929 MHz	5.0 ppm	n/a	n/a
929 to 960 MHz	1.5 ppm	n/a	n/a
2110 to 2220 MHz	10.0 ppm	n/a	n/a

(a) Any station in the Public Mobile Services may transmit unmodulated emissions (NON) for short periods for equipment testing.

(b) Any station in the Paging and Radiotelephone Service, Rural Radiotelephone Service or Offshore Radiotelephone Service may transmit:

(1) Emissions of the following types: 15K0F2D, 16K0F3E, 16K0F3C, 16K0F1D, and 16K0F1E;

(2) Emissions resulting from modulation of transmitters by sub-audible tones or other signals used to establish and/or maintain communications;

(3) Continuous unmodulated emissions (NON), with a power at least 10 dB less than that authorized, to prevent false indication of channel occupation.

(c) Any station in the Cellular Radiotelephone Service may transmit emissions of the following types: 40K0F3E, 40K0F3D and 40K0F1D. See also §§ 22.901 and 22.917.

(d) Basic Exchange Telephone Radio Systems in the Rural Radiotelephone Service may transmit emissions of the following type: 20K0D7W.

(e) The frequency deviation must not exceed 12 kHz for frequency modulated emissions with a bandwidth of 40 kHz, and 5 kHz for frequency modulated emissions with a bandwidth of 16 kHz.

§ 22.359 Emission masks.

Unless otherwise indicated in the rules governing a specific radio service, all transmitters intended for use in the Public Mobile Services must be designed to comply with the emission masks outlined in this section. If an emission outside of the authorized bandwidth causes harmful interference, the FCC may, at its discretion, require greater attenuation than specified in this section.

(a) *Analog modulation.* For transmitters other than those employing digital modulation techniques, the mean or peak envelope power of adjacent channel emissions must be attenuated below the output mean or peak envelope power of the total emission (P, in Watts) in accordance with the following schedule:

(1) On any frequency removed from the center frequency of the assigned channel by more than 50 percent up to and including 100 percent of the authorized bandwidth:

at least 25 dB:

(2) On any frequency removed from the center frequency of the assigned channel by more than 100 percent up to and including 250 percent of the authorized bandwidth:

at least 35 dB:

(3) On any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth:

at least 43 + 10 log P dB, or 80 dB, whichever is the lesser attenuation.

(b) *Digital modulation.* For transmitters not equipped with an audio low pass filter and for transmitters employing digital modulation techniques, the mean or peak envelope power of sideband emissions must be attenuated below the mean or peak envelope power of the total emission (P, in Watts) in accordance with the following schedule:

(1) For transmitters that operate in the frequency ranges 35 to 44 MHz, 72 to 73 MHz, 75.4 to 76.0 MHz and 152 to 159 MHz,

(i) On any frequency removed from the center frequency of the assigned channel by a displacement frequency f_d (in kHz) of more than 5 kHz but not more than 10 kHz:

at least 83 log (f_d÷5) dB;

(ii) On any frequency removed from the center frequency of the assigned channel by a displacement frequency f_d (in kHz) of more than 10 kHz but not more than 250 percent of the authorized bandwidth:

at least 29 log f_d^2÷11) dB or 50 dB, whichever is the lesser attenuation;

(iii) On any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth:

at least 43 + 10 log P dB, or 80 dB, whichever is the lesser attenuation.

(2) For transmitters that operate in the frequency ranges 450 to 512 MHz and 929 to 932 MHz,

(i) On any frequency removed from the center frequency of the assigned channel by a displacement frequency f_d (in kHz) of more than 5 kHz but not more than 10 kHz:

at least 83 log (f_d÷5) dB;

(ii) On any frequency removed from the center frequency of the assigned channel by a displacement frequency f_d (in kHz) of more than 10 kHz but not more than 250 percent of the authorized bandwidth:

at least 116 log (f_d÷6.1) dB, or 50 + 10 log P dB, or 70 dB, whichever is the lesser attenuation;

(iii) On any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth:

at least 43 + 10 log P dB, or 80 dB, whichever is the lesser attenuation.

(c) *Measurement procedure.* Either peak or average power may be used, provided that the same technique is used for both the adjacent channel or sideband emissions and the total emission. The resolution bandwidth of the measuring instrument must be set to 300 Hz for measurements on any frequency removed from the center frequency of the assigned channel by no more than 250 percent of the authorized bandwidth and 30 kHz for measurements on any frequency removed from the center frequency of the assigned channel by more than 250 percent of the authorized bandwidth.

§ 22.361 Standby facilities.

Licensees of stations in the Public Mobile Services may install standby transmitters for the purpose of continuing service in the event of failure or during required maintenance of regular transmitters without obtaining

separate authorization, provided that operation of the standby transmitters would not increase the service areas or interference potential of the stations, and that such standby transmitters use the same antenna as the regular transmitters they temporarily replace.

TABLE C–2.—TECHNICAL REQUIREMENTS FOR DIRECTIONAL ANTENNAS

Frequency range	Maximum beamwidth	Suppression
35 to 512 MHz	80°	10 dB
512 to 1500 MHz	20°	13 dB
1500 to 2500 MHz	12°	13 dB

§ 22.363 Directional antennas.

Fixed transmitters for point-to-point operation must use a directional transmitting antenna with the major lobe of radiation in the horizontal plane directed toward the receiving antenna or passive reflector of the station for which the transmissions are intended. Directional antennas used in the Public Mobile Services must meet the technical requirements given in Table C–2 to § 22.361.

(a) Maximum beamwidth is for the major lobe at the half power points.

(b) Suppression is the minimum attenuation for any secondary lobe referenced to the main lobe.

(c) An omnidirectional antenna may be used for fixed transmitters where there are two or more receive locations at different azimuths.

§ 22.365 Antenna structures; air navigation safety.

Licensees must not allow antenna structures to become a hazard to air navigation.

(a) *Marking and lighting.* Antenna structures must be marked, lighted and maintained in accordance with part 17 of this chapter and all applicable rules and requirements of the Federal Aviation Administration. Lighting and marking specifications are contained in FCC Form 715 and FCC Form 715a.

(b) *Maintenance contracts.* Licensees may enter into a contract with an entity to monitor and carry out necessary maintenance of antenna structures. Licensees that make such contractual arrangements, including situations in which a common antenna structure is used, continue to be responsible for the maintenance of antenna structures in regard to air navigation safety.

§ 22.367 Wave polarization.

Public mobile station antennas must be of the correct type and properly installed such that the electromagnetic emissions have the polarization required by this section.

(a) *Vertical.* Waves radiated by the following must be vertically polarized:

(1) Base, mobile, dispatch, and auxiliary test transmitters in the Paging and Radiotelephone Service;

(2) Transmitters in the Offshore Radiotelephone Service;

(3) Transmitters on channels in the 72–76 MHz frequency range;

(4) Base, mobile and auxiliary test transmitters in the Cellular Radiotelephone Service;

(5) Control and repeater transmitters on channels in the 900–960 MHz frequency range;

(6) Rural subscriber stations communicating with base transmitters in the Paging and Radiotelephone Service pursuant to § 22.563.

(7) Ground and airborne mobile transmitters in the Air-ground Radiotelephone Service.

(b) *Horizontal.* Waves radiated by transmitters in the Public Mobile Services, other than transmitters required by paragraph (a) of this section to radiate a vertically polarized wave must be horizontally polarized, except as otherwise provided in paragraphs (c) and (d) of this section.

(c) *Circular.* If communications efficiency would be improved and/or interference reduced, the FCC may authorize transmitters other than those listed in paragraphs (a)(1) through (a)(7) of this section to radiate a circularly polarized wave.

(d) *Any polarization.* Public Land Mobile stations transmitting on channels higher than 960 MHz are not limited as to wave polarization.

§ 22.369 Quiet zones.

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to interference. The areas involved and procedures required are as follows:

(a) *NRAO, NRRO.* The requirements of this paragraph are intended to minimize possible interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia.

(1) Carriers planning to construct and operate a new or modified Public Mobile Services station at a permanent fixed location within the area bounded by N.39°15′ on the north, W.78°30′ on the east, N.37°30′ on the south, and W.80°30′ on the west must notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical details of the proposed operation. The notification must include the geographical coordinates of the antenna location, the antenna height, antenna directivity (if any), the channel, the emission type and power.

(2) When an application for authority to operate a station is filed with the FCC, the notification required in paragraph (a)(1) of this section should be sent at the same time. The application must state the date that notification in accordance with paragraph (a)(1) of this section was made. After receipt of such applications, the FCC will allow a period of 20 days for comments or objections in response to the notifications indicated.

(3) If an objection is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the FCC will, after consideration of the record, take whatever action is deemed appropriate.

(b) *Table Mountain.* The requirements of this paragraph are intended to minimize possible interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado.

(1) Carriers planning to construct and operate a new or modified Public Mobile Services station at a permanent fixed location in the vicinity of Boulder County, Colorado are advised to give consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (in the vicinity of coordinates 40°07′50″ North Latitude, 105°14′40″ West Longitude) resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the values given in Table C–3 of this section.

TABLE C–3.—FIELD STRENGTH LIMITS FOR TABLE MOUNTAIN

Frequency range	Field strength	Power flux density
1.6 to 470 MHz	10 mV/m	−65.8 dBW/m²
470 to 890 MHz	30 mV/m	−56.2 dBW/m²
890 to 3000 MHz	1 mV/m	−85.8 dBW/m²

Note: Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7 Ω (120π Ω).

(2) Advance consultation is recommended, particularly for applicants that have no reliable data to indicate whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities. In general, coordination is recommended for:

(i) Stations located within 2.4 kilometers (1.5 miles);

(ii) Stations located within 4.8 kilometers (3 miles) transmitting with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations located with 16 kilometers (10 miles) transmitting with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations located within 80 kilometers (50 miles) transmitting with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(3) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services NOAAR/E5X2, Boulder Laboratories, Boulder, CO 80303; telephone (303) 497–6548, in advance of filing their applications with the FCC.

(4) The FCC will not screen applications to determine whether advance consultation has taken place. However, such consultation may avoid the filing of objections from the Department of Commerce or institution of proceedings to modify the authorizations of stations that radiate signals with a field strength or power flux density at the site in excess of those specified herein.

(c) *Federal Communications Commission protected field offices.* The requirements of this paragraph are intended to minimize possible interference to FCC monitoring activities.

(1) Carriers planning to construct and operate a new or modified Public Mobile Services station at a permanent fixed location in the vicinity of an FCC protected field office are advised to give consideration, prior to filing applications, to the need to avoid interfering with the monitoring activities of that office. FCC protected field offices are listed in § 0.121 of this chapter.

(2) Applications for stations (except mobile stations) that could produce on any channel a direct wave fundamental field strength of greater than 10 mV/m (−65.8 dBW/m² power flux density assuming a free space characteristic impedance of 120π Ω) in the authorized bandwidth at the protected field office may be examined to determine the potential for interference with monitoring activities. After consideration of the effects of the predicted field strength of the proposed station, including the cumulative effects of the signal from the proposed station with other ambient radio field strength levels at the protected field office, the FCC may add a condition restricting radiation toward the protected field office to the station authorization.

(3) In the event that the calculated field strength exceeds 10 mV/m at the protected field office site, or if there is any question whether field strength levels might exceed that level, advance consultation with the FCC to discuss possible measures to avoid interference to monitoring activities should be considered. Prospective applicants may communicate with: Chief, Field Operations Bureau, Federal Communications Commission, Washington, DC 20554.

(4) Advance consultation is recommended for applicants that have no reliable data to indicate whether the field strength or power flux density figure indicated would be exceeded by their proposed radio facilities. In general, coordination is recommended for:

(i) Stations located within 2.4 kilometers (1.5 miles);

(ii) Stations located within 4.8 kilometers (3 miles) with 50 watts or more average effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the protected field offices.

(iii) Stations located within 16 kilometers (10 miles) with 1 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the protected field office;

(iv) Stations located within 80 kilometers (50 miles) with 25 kW or more average ERP in the primary plane of polarization in the azimuthal direction of the protected field office;

(5) Advance coordination for stations transmitting on channels above 1000 MHz is recommended only if the proposed station is in the vicinity of a protected field office designated as a satellite monitoring facility in § 0.121 of this chapter.

(6) The FCC will not screen applications to determine whether advance consultation has taken place. However, such consultation may serve to avoid the need for later modification of the authorizations of stations that interfere with monitoring activities at protected field offices.

§ 22.371 Disturbance of AM broadcast station antenna patterns.

Public Mobile Service licensees that construct or modify towers in the immediate vicinity of AM broadcast stations are responsible for measures necessary to correct disturbance of the AM station antenna pattern which causes operation outside of the radiation parameters specified by the FCC for the AM station, if the disturbance occurred as a result of such construction or modification.

(a) *Non-directional AM stations.* If tower construction or modification is planned within 1 kilometer (0.6 mile) of a non-directional AM broadcast station tower, the Public Mobile Service licensee must notify the licensee of the AM broadcast station in advance of the planned construction or modification. Measurements must be made to determine whether the construction or modification affected the AM station antenna pattern. The Public Mobile Service licensee is responsible for the installation and continued maintenance of any detuning apparatus necessary to restore proper non-directional performance of the AM station tower.

(b) *Directional AM stations.* If tower construction or modification is planned within 3 kilometers (1.9 miles) of a directional AM broadcast station array,

the Public Mobile Service licensee must notify the licensee of the AM broadcast station in advance of the planned construction or modification. Measurements must be made to determine whether the construction or modification affected the AM station antenna pattern. The Public Mobile Service licensee is responsible for the installation and continued maintenance of any detuning apparatus necessary to restore proper performance of the AM station array.

§ 22.373 Access to transmitters.

Unless otherwise provided in this part, the design and installation of transmitters in the Public Mobile Services must meet the requirements of this section.

(a) Transmitters and control points, other than those used with in-building radiation systems, must be installed such that they are readily accessible only to persons authorized by the licensee to operate or service them.

(b) Transmitters must be designed and installed such that any adjustments or controls that could cause the transmitter to deviate from its authorized operating parameters are readily accessible only to persons authorized by the licensee to make such adjustments.

(c) Transmitters (other than hand-carried or pack-carried mobile transmitters) and control points must be equipped with a means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.

(d) Transmitters must be designed such that they can be turned off independently of any remote control circuits.

(e) Transmitters used with in-building radiation systems must be installed such that, to the extent possible, they are readily accessible only to persons authorized by the licensee to access them.

(f) Transmitters used with in-building radiation systems must be designed such that, in the event an unauthorized person does gain access, that person can not cause the transmitter to deviate from its authorized operating parameters in such a way as to cause interference to other stations.

§ 22.377 Type-acceptance of transmitters.

Except as provided in paragraph (b) of this section, transmitters used in the Public Mobile services must be type-accepted for use in the services regulated under this part. Transmitters must be type accepted when the station is ready for service, not necessarily at the time of filing an application.

(a) The FCC may list as type-accepted only transmitters that are capable of meeting all technical requirements of the rules governing the service in which they will operate. The procedure for obtaining type-acceptance is set forth in part 2 of this chapter.

(b) Transmitters operating under a developmental authorization (see subpart D of this part) do not have to be type-accepted.

(c) Type-accepted transmitters are listed in the FCC's "Radio Equipment List," which is available for public inspection at the FCC in Washington, DC, and its field offices.

(d) In addition to the technical standards contained in this part, transmitters intended for operation in the Cellular Radiotelephone Service must be designed to comply with the technical requirements contained in the cellular system compatibility specification (see § 22.933) and the electronic serial number rule (see § 22.919).

§ 22.379 Replacement of equipment.

Licensees may replace any equipment in Public Mobile Service stations without applying for authorization or notifying the FCC, provided that:

(a) If a transmitter is replaced, the replacement transmitter must be type-accepted for use in the Public Mobile Services;

(b) The antenna structure must not become a hazard to air navigation and its height must not be not increased;

(c) The interference potential of the station must not be increased;

(d) The Effective radiated power, emission type, antenna radiation pattern and center of radiation height above average terrain are not changed.

§ 22.381 Auxiliary test transmitters.

Auxiliary test transmitters may be used only for testing the performance of fixed receiving equipment located remotely from the control point. Auxiliary test transmitters may transmit only on channels designated for mobile transmitters.

§ 22.383 In-building radiation systems.

Licensees may install and operate in-building radiation systems without applying for authorization or notifying the FCC, provided that the locations of the in-building radiation systems are within the protected service area of the licensee's authorized transmitter(s) on the same channel or channel block.

Subpart D—Developmental Authorizations

§ 22.401 Description and purposes of developmental authorizations.

Communications common carriers may apply for, and the FCC may grant, authority to construct and operate one or more transmitters subject to the rules in this subpart and other limitations, waivers and/or conditions that may be prescribed. Authorizations granted on this basis are developmental authorizations. In general, the FCC grants developmental authorizations in situations and circumstances where it cannot reasonably be determined in advance whether a particular transmitter can be operated or a particular service can be provided without causing interference to the service of existing stations. For example, the FCC may grant developmental authorizations for:

(a) Field strength surveys to evaluate the technical suitability of antenna locations for stations in the Public Mobile Services;

(b) Experimentation leading to the potential development of a new Public Mobile Service or technology; or,

(c) Stations transmitting on channels in certain frequency ranges, to provide a trial period during which it can be individually determined whether such stations can operate without causing excessive interference to existing services.

§ 22.403 General limitations.

The provisions and requirements of this section are applicable to all developmental authorizations.

(a) Developmental authorizations are granted subject to the condition that they may be cancelled by the FCC at any time, upon notice to the licensee, and without the opportunity for a hearing.

(b) Except as otherwise indicated in this subpart, developmental authorizations normally terminate one year from the date of grant. The FCC may, however, specify a different term.

(c) Stations operating under developmental authorizations must not interfere with the services of regularly authorized stations.

(d) A grant of a developmental authorization does not provide any assurance that the FCC will grant an application for regular authorization to operate the same transmitter(s), even if operation during the developmental period has not caused interference and/or the developmental program is successful.

§ 22.409 Developmental authorization for a new Public Mobile Service or technology.

The FCC may grant applications for developmental authority to construct and operate transmitters for the purpose of developing a new Public Mobile Service or a new technology not regularly authorized under this part, subject to the requirements of this section. Such applications may request the use of any portion of the spectrum allocated for Public Mobile Services in the Table of Frequency Allocations contained in part 2 of this chapter, regardless of whether that spectrum is regularly available under this part. Requests to use any portion of the spectrum for a service or purpose other than that indicated in the Table of Frequency Allocations in part 2 of this chapter may be made only in accordance with the provisions of part 5 of this chapter.

(a) *Preliminary determination.* The FCC will make a preliminary determination with respect to the factors in paragraphs (a)(1) through (a)(3) of this section before acting on an application for developmental authority pursuant to this section. These factors are:

(1) That the public interest, convenience or necessity warrants consideration of the establishment of the proposed service or technology;

(2) That the proposal appears to have potential value to the public that could warrant the establishment of the new service or technology;

(3) That some operational data should be developed for consideration in any rule making proceeding which may be initiated to establish such service or technology.

(b) *Petition required.* Applications for developmental authorizations pursuant to this section must be accompanied by a petition for rule making requesting the FCC to amend its rules as may be necessary to provide for the establishment of the proposed service or technology.

(c) *Application requirements.* Authorizations for developmental authority pursuant to this section will be issued only upon a showing that the applicant has a definite program of research and development which has reasonable promise of substantial contribution to the services authorized by this part. The application must contain an exhibit demonstrating the applicant's technical qualifications to conduct the research and development program, including a description of the nature and extent of engineering facilities that the applicant has available for such purpose. Additionally, the FCC may, in its discretion, require a showing of financial qualification.

(d) *Communication service for hire prohibited.* Stations authorized under developmental authorizations granted pursuant to this section must not be used to provide communication service for hire, unless otherwise specifically authorized by the FCC.

(e) *Adherence to program.* Carriers granted developmental authorization pursuant to this section must substantially adhere to the program of research and development described in their application for developmental authorization, unless the FCC directs otherwise.

(f) *Report requirements.* Upon completion of the program of research and development, or upon the expiration of the developmental authorization under which such program was permitted, or at such times during the term of the station authorization as the FCC may deem necessary to evaluate the progress of the developmental program, the licensee shall submit a comprehensive report, containing:

(1) A description of the progress of the program and a detailed analysis of any result obtained;

(2) Copies of any publications produced by the program;

(3) A listing of any patents applied for, including copies of any patents issued;

(4) Copies of any marketing surveys or other measures of potential public demand for the new service;

(5) A description of the carrier's experiences with operational aspects of the program including—

(i) The duration of transmissions on each channel or frequency range and the technical parameters of such transmissions; and,

(ii) Any interference complaints received as a result of operation and how these complaints were investigated and resolved.

(g) *Confidentiality.* Normally, applications and developmental reports are a part of the FCC's public records. However, an applicant or licensee may request that the FCC withhold from public records specific exhibits, reports and other material associated with a developmental authorization.

(h) *Renewal.* Expiring developmental authorizations issued pursuant to this section may be renewed if the carrier—

(1) Shows that further progress in the program of research and development requires additional time to operate under developmental authorization;

(2) Complied with the reporting requirements of paragraph (e) of this section; and,

(3) Immediately resolved to the FCC's satisfaction all complaints of interference caused by the station operating under developmental authority.

§ 22.411 Developmental authorization of 43 MHz paging transmitters.

Because of the potential for interference to the intermediate frequency stages of receivers in broadcast television sets and video recorders, 43 MHz paging channels are assigned only under developmental authorizations subject to the requirements of this section, except as provided in paragraph (d) of this section.

(a) *Carrier responsibility.* Carriers so authorized shall operate the 43 MHz paging service under developmental authority for a period of two years. During the two year developmental period, carriers must resolve any broadcast television receiver intermediate frequency interference problems that may occur as a result of operation of the 43 MHz paging transmitter(s). Carriers shall inform subscribers receiving service on the channels assigned under developmental authority during the developmental period that this service could be terminated by the FCC on short notice if such action were to become necessary to eliminate interference. Carriers shall notify the appropriate FCC Field Office, in advance, of the date on which service to subscribers is to begin.

(b) *Periodic surveys.* To determine the extent of any interference to broadcast television receivers resulting from operation of 43 MHz paging stations authorized pursuant to this section, carriers shall conduct semi-annual surveys during the first two years of operation. The first such survey is to begin on the date when service to subscribers commences. For each survey, the carrier shall contact at least 25 television viewers to determine whether they have experienced interference.

(1) The carrier shall contact viewers located throughout the geographic area encompassed by a 3 kilometer (2 mile) radius of the 43 MHz paging transmitter antenna site. The carrier must not attempt to obtain a misleading survey by contacting only viewers less likely to be experiencing interference. For example, the carrier must not contact only the viewers located most distant from the paging transmitter antenna site. Instead, the carrier shall contact viewers located near the paging transmitter antenna site.

(2) The carrier shall not, in subsequent surveys, contact viewers who were contacted in a previous survey; provided that, in the event that all of the viewers within 3 kilometers (2

miles) have been contacted, viewers located near the paging transmitter antenna site shall be contacted again.

(c) *Periodic reports.* Following each survey, the carrier shall submit to the FCC a written report disclosing and evaluating the extent of any interference. These reports must include:

(1) The number of the report (1 to 4);

(2) The station call sign;

(3) The file number of the application that resulted in the developmental authorization;

(4) An exact description of the transmitter location(s);

(5) The date(s) and time of day when the survey was conducted;

(6) The survey method used (e.g. telephone, on-site, etc.);

(7) The names, addresses and telephone numbers of the viewers contacted;

(8) If interference resulted from operation of the 43 MHz paging station, a summary of how the interference problem was resolved;

(9) The names and telephone numbers of any technical personnel consulted and/or employed to resolve interference problems.

(d) *Exceptions.* The FCC may grant a regular authorization in the Paging and Radiotelephone Service for a 43 MHz paging station in the following circumstances:

(1) After the two-year developmental period, provided that broadcast TV interference complaints have been resolved by the carrier in a satisfactory manner. Licensees that hold a developmental authorization for a 43 MHz paging station and wish to request a regular authorization must file an application (FCC Form 401) prior to the expiration of the developmental period.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a 43 MHz paging station in the Paging and Radiotelephone Service, provided that the station has been in continuous operation providing service with no substantial interruptions.

§ 22.413 Developmental authorization of 72–76 MHz fixed transmitters.

Because of the potential for interference with the reception by broadcast television sets and video recorders of full service TV stations transmitting on TV Channels 4 and 5, 72–76 MHz channels are assigned for use within 16 kilometers (10 miles) of the antenna of any full service TV station transmitting on TV Channel 4 or 5 only under developmental authorizations subject to the requirements of this section, except as provided in paragraph (b) of this section.

(a) *Carrier responsibility.* Carriers so authorized shall operate the 72–76 MHz fixed station under developmental authority for a period of at least six months. During the developmental period, carriers must resolve any broadcast television receiver interference problems that may occur as a result of operation of the 72–76 MHz transmitter(s).

(b) *Exceptions.* The FCC may grant a regular authorization in the Paging and Radiotelephone Service for a 72–76 MHz fixed station under the following circumstances:

(1) After six months of operation under developmental authorization, and provided that broadcast TV interference complaints have been resolved by the carrier in a satisfactory manner, the FCC may grant a regular authorization. Licensees that hold a developmental authorization for a 72–76 MHz fixed station and wish to request a regular authorization must file an application (FCC Form 401) prior to the expiration of the developmental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a 72–76 MHz fixed station in the Paging and Radiotelephone Service, the FCC may grant such assignment or consent to such transfer of control provided that the station has been in continuous operation providing service with no substantial interruptions.

(3) If a proposed 72–76 MHz fixed transmitter antenna is to be located within 50 meters (164 feet) of the antenna of the full service TV station transmitting on TV Channel 4 or 5, the FCC may grant a regular authorization instead of a developmental authorization.

§ 22.415 Developmental authorization of 928–960 MHz fixed transmitters.

Channels in the 928–929 MHz and 952–960 MHz ranges may be assigned under developmental authorizations to fixed transmitters in point-to-multipoint systems at locations that are short-spaced (i.e. do not meet the 113 kilometer (70 mile) separation requirement of § 22.625), subject to the requirements of this section.

(a) *Carrier responsibility.* Applications for developmental authorizations pursuant to this section must contain an engineering analysis that shows that no interference will be caused or received. Carriers so authorized shall operate the short-spaced transmitter for a period of one year.

(b) *Exceptions.* The FCC may grant a regular authorization in the Paging and Radiotelephone Service for a short-spaced fixed station under the following circumstances:

(1) After one year of operation under developmental authorization, and provided that no interference has been caused, the FCC may grant a regular authorization. Licensees that hold a developmental authorization and wish to request a regular authorization must file an application (FCC Form 401) prior to the expiration of the developmental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a short-spaced fixed station in the Paging and Radiotelephone Service, the FCC may grant such assignment or consent to such transfer of control provided that the station has been in continuous operation providing service and no interference has been caused.

§ 22.417 Developmental authorization of meteor burst systems.

Because of the potential for interference to other 42–46 MHz operations, central office and rural subscriber stations in Alaska are authorized to use meteor burst propagation modes to provide rural radiotelephone service only under developmental authorizations subject to the requirements of this section, except as provided in paragraph (b) of this section. See also §§ 22.725(c) and 22.729.

(a) *Carrier responsibility.* Carriers and subscribers so authorized shall operate the station under developmental authority for a period of at least one year.

(b) *Exceptions.* The FCC may grant a regular authorization in the Rural Radiotelephone Service for a central office or rural subscriber to use meteor burst propagation modes to provide rural radiotelephone service under the following circumstances:

(1) After one year of operation under developmental authorization, and provided that no interference has been caused to other operations, the FCC may grant a regular authorization. Licensees that hold a developmental authorization to use meteor burst propagation modes to provide rural radiotelephone service and wish to request a regular authorization must file an application (FCC Form 401) prior to the expiration of the developmental authorization.

(2) In the case of the assignment of or a transfer of control of a regular authorization of a central office or rural subscriber station authorizing the use of meteor burst propagation modes in the Rural Radiotelephone Service, the FCC may grant such assignment or consent to

such transfer of control provided that the station has been in operation providing service with no substantial interruptions.

Subpart E—Paging and Radiotelephone Service

§ 22.501 Scope.

The rules in this subpart govern the licensing and operation of public mobile paging and radiotelephone stations. The licensing and operation of these stations are also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. However, in case of conflict, the rules in this subpart govern.

§ 22.507 Number of transmitters per station.

This section concerns the number of transmitters licensed under each station authorization in the Paging and Radiotelephone Service. Each station must have at least one transmitter. There is no limit to the number of transmitters that a station may comprise. However, transmitters within a station should be operationally related and/or should serve the same general geographical area. Operationally related transmitters are those that operate together as a system (e.g. trunked systems, simulcast systems), rather than independently. Furthermore, the FCC may split wide-area systems into two or more stations for administrative convenience. Except for nationwide paging and other operationally related transmitters, transmitters that are widely separated geographically are not licensed under a single authorization. The FCC may consolidate separately authorized stations upon request (FCC Form 401) of the licensee, if appropriate under this section.

Note to § 22.507: Notwithstanding the provisions of § 22.507, until further notice there can be no more than 99 transmitters per station.

§ 22.511 Construction period for the Paging and Radiotelephone Service.

The construction period for stations in the Paging and Radiotelephone Service is one year.

§ 22.515 Permissible communications paths.

Mobile stations may communicate only with and through base stations. Base stations may communicate only with mobile stations and receivers on land or surface vessels.

§ 22.529 Application requirements for the Paging and Radiotelephone Service.

In addition to information required by subparts B and D of this part, applications for authorization to operate a transmitter in the Paging and Radiotelephone Service must contain the applicable supplementary information described in this section.

(a) *Administrative information.* The following information is required by FCC Form 401, Schedule B.

(1) The number of transmitter sites for which authorization is requested.

(2) The call sign(s) of other facilities in the same area that are ultimately controlled by the real party in interest to the application.

(b) *Technical information.* The following information required by FCC Form 401, Schedule B.

(1) Location description, city, county, state, geographical coordinates correct to ±1 second, the datum used (NAD 27 or NAD 83), site elevation above mean sea level, proximity to adjacent market boundaries and international borders;

(2) Antenna manufacturer, model number and type, antenna height to tip above ground level, the height of the center of radiation of the antenna above the average terrain, the height of the antenna center of radiation above the average elevation of the terrain along each of the 8 cardinal radials, antenna gain in the maximum lobe, the beamwidth of the maximum lobe of the antenna, a polar plot of the horizontal gain pattern of the antenna, the electric field polarization of the wave emitted by the antenna when installed as proposed;

(3) The center frequency of each channel requested, the maximum effective radiated power, the effective radiated power in each of the cardinal radial directions, any non-standard emission types to be used, including bandwidth and modulation type, the transmitter classification (e.g. base, fixed, mobile), and the locations, if any, of any points of communication.

One-Way Paging Operation

§ 22.531 Channels for one-way paging operation.

The following channels are allocated for assignment to base transmitters that provide one-way public paging service. Unless otherwise indicated, all channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

Low VHF Channels

35.20	35.46	43.20	43.46
35.22	35.50	43.22	43.50
35.24	35.54	43.24	43.54
35.26	35.56	43.26	43.56
35.30	35.58	43.30	43.58
35.34	35.60	43.34	43.60
35.38	35.62	43.38	43.62
35.42	35.66	43.42	43.66

High VHF Channels

152.24	152.84	158.10	158.70

UHF Channels

931.0125	931.2625	931.5125	931.7625
931.0375	931.2875	931.5375	931.7875
931.0625	931.3125	931.5625	931.8125
931.0875	931.3375	931.5875	931.8375
931.1125	931.3625	931.6125	931.8625
931.1375	931.3875	931.6375	931.8875
931.1625	931.4125	931.6625	931.9125
931.1875	931.4375	931.6875	931.9375
931.2125	931.4625	931.7125	931.9625
931.2375	931.4875	931.7375	931.9875

(a) The 43 MHz channels may be assigned under developmental authorizations, pursuant to the requirements of § 22.411.

(b) Channels 931.8875, 931.9125, and 931.9375 MHz may be assigned only to transmitters providing nationwide network paging service.

(c) Upon application (FCC Form 401), common carriers may be authorized to provide one-way paging service using the leased subcarrier facilities of broadcast stations licensed under part 73 of this chapter.

(d) Occasionally in case law and other formal and informal documents, the low VHF channels have been referred to as "lowband" channels, and the high VHF channels have been referred to as "guardband" channels.

(e) Pursuant to the U.S.-Canada Interim Coordination Considerations for 929–932 MHz, as amended, only the following UHF channels may be assigned in the continental United States North of Line A or in the State of Alaska East of Line C, within the indicated longitudes:

(1) From longitude W.73° to longitude W.75° and from longitude W.78° to longitude W.81°:

931.0125	931.1125	931.1875	931.2625
931.0375	931.1375	931.2125	931.8625
931.0625	931.1625	931.2375	

(2) From longitude W.81° to longitude W.85°:

931.0125	931.2125	931.3875	931.5875
931.0375	931.2375	931.4125	931.6125
931.0625	931.2625	931.4625	931.6375
931.1125	931.2875	931.4875	931.8625
931.1375	931.3125	931.5125	
931.1625	931.3375	931.5375	
931.1875	931.3625	931.5625	

(3) Longitudes other than specified in paragraphs (e)(1) and (e)(2) of this section:

931.0125	931.1625	931.2875	931.4125
931.0375	931.1875	931.3125	931.4625
931.0625	931.2125	931.3375	931.8625
931.1125	931.2375	931.3625	
931.1375	931.2625	931.3875	

(4) At any longitude, with authorization condition requiring coordinated, shared use and equal access by licensees in both countries:

931.4375	931.8875	931.9125	931.9375

§ 22.535 Effective radiated power limits.

The effective radiated power (ERP) of base transmitters operating on the channels listed in § 22.531 must not exceed the limits in this section.

(a) *Maximum ERP.* The ERP must not exceed the applicable limits in this paragraph under any circumstances.

Frequency range (MHz)	Maximum ERP (Watts)
35–36	600
43–44	500
152–159	1400
931–932	3500

(b) *Basic power limit.* Except as provided in paragraph (d) of this section, the ERP of transmitters on the VHF channels must not exceed 500 Watts.

(c) *Height-power limit.* Except as provided in paragraph (d) of this section, the ERP of transmitters on the VHF channels must not exceed the amount that would result in an average distance to the service contour of 32.2 kilometers (20 miles). The average distance to the service contour is calculated by taking the arithmetic mean of the distances determined using the procedures specified in § 22.537 for the eight cardinal radial directions, excluding cardinal radial directions for which 90% or more of the distance so calculated is over water.

(d) *Encompassed interfering contour areas.* Transmitters are exempt from the basic power and height-power limits of this section if the area within their interfering contours is totally encompassed by the interfering contours of operating co-channel base transmitters controlled by the same licensee. For the purpose of this paragraph, operating transmitters are authorized transmitters that are providing service to subscribers.

(e) *Adjacent channel protection.* The ERP of transmitters must not exceed 500 Watts if they:

(1) Transmit on a channel in the 152–159 MHz frequency range and are located less than 5 kilometers (3.1 miles) from any station licensed in the Private Radio Services that receives on an adjacent channel; or,

(2) Transmit on channel 158.10 or 158.70 MHz and are located less than 5 kilometers (3.1 miles) from any station licensed in the Public Mobile Services that receives on either of the following adjacent channels: 158.07 MHz or 158.67 MHz.

§ 22.537 Technical channel assignment criteria.

The rules in this section establish technical assignment criteria for the channels listed in § 22.531. These criteria permit channel assignments to be made in a manner such that reception by public paging receivers of signals from base transmitters, within the service area of such base transmitters, is protected from interference caused by the operation of independent co-channel base transmitters.

(a) *Contour overlap.* The FCC may grant an application requesting assignment of a channel to a proposed base transmitter only if:

(1) The interfering contour of the proposed transmitter does not overlap the service contour of any protected co-channel transmitter controlled by a carrier other than the applicant, unless that carrier has agreed in writing to accept any interference that may result from operation of the proposed transmitter; and,

(2) The service contour of the proposed transmitter does not overlap the interfering contour of any protected co-channel transmitter controlled by a carrier other than the applicant, unless the applicant agrees to accept any interference that may result from operation of the protected co-channel transmitter; and,

(3) The area and/or population to which service would be provided by the proposed transmitter is substantial, and service gained would exceed that lost as a result of agreements to accept interference.

(b) *Protected transmitter.* For the purposes of this section, protected transmitters are authorized transmitters for which there is a current FCC public record and transmitters proposed in prior-filed pending applications.

(c) *VHF service contour.* For paging stations transmitting on the VHF channels, the distance from the transmitting antenna to the service contour along each cardinal radial is calculated as follows:

$d=1.243\times h^{0.40}\times p^{0.20}$

where d is the radial distance in kilometers

h is the radial antenna HAAT in meters

p is the radial ERP in Watts

(1) Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula.

(2) The value used for p in the above formula must not be less than 27 dB less than the maximum ERP in any direction or 0.1 Watt, whichever is more.

(3) The distance from the transmitting antenna to the service contour along any radial other than the eight cardinal radials is routinely calculated by linear interpolation of distance as a function of angle. However, in resolving petitions to deny, the FCC may calculate the distance to the service contour using the formula in paragraph (c) of this section with actual HAAT and ERP data for the inter-station radial and additional radials above and below the inter-station radial at 2.5° intervals.

(d) *VHF interfering contour.* For paging stations transmitting on the VHF channels, the distance from the transmitting antenna to the interfering contour along each cardinal radial is calculated as follows:

$d=6.509\times h^{0.28}\times p^{0.17}$

where d is the radial distance in kilometers

h is the radial antenna HAAT in meters

p is the radial ERP in Watts

(1) Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula.

(2) The value used for p in the above formula must not be less than 27 dB less than the maximum ERP in any direction or 0.1 Watt, whichever is more.

(3) The distance from the transmitting antenna to the interfering contour along any radial other than the eight cardinal radials is routinely calculated by linear interpolation of distance as a function of angle. In resolving petitions to deny, however, the FCC may calculate the distance to the interfering contour using the formula in paragraph (d) of this section with actual HAAT and ERP data for the inter-station radial and additional radials above and below the inter-station radial at 2.5° intervals.

(e) *931 MHz service contour.* For paging stations transmitting on the 931 MHz channels, the service contour is a circle, centered on the transmitting antenna, with a radius determined from Table E–1 of this section.

TABLE E–1.—931 MHZ PAGING SERVICE RADII

Service radius km (miles)	Effective radiated power (Watts)					
Antenna HAAT meters (feet)	0–125	126–250	251–500	501–1000	1001–1860	1861–3500
0–177	32.2 (20)	32.2 (20)	32.2 (20)	32.2 (20)	32.2 (20)	32.2 (20)

TABLE E–1.—931 MHz PAGING SERVICE RADII—Continued

Service radius km (miles)	Effective radiated power (Watts)					
Antenna HAAT meters (feet)	0–125	126–250	251–500	501–1000	1001–1860	1861–3500
(0–581) 178–305	32.2 (20)	32.2 (20)	32.2 (20)	32.2 (20)	37.0 (23)	41.8 (26)
(582–1001) 306–427	32.2 (20)	32.2 (20)	37.0 (23)	41.8 (26)	56.3 (35)	56.3 (35)
(1002–1401) 428–610	32.2 (20)	37.0 (23)	41.8 (26)	56.3 (35)	56.3 (35)	56.3 (35)
(1402–2001) 611–861	37.0 (23)	41.8 (26)	41.8 (26)	56.3 (35)	83.7 (52)	83.7 (52)
(2002–2825) 862–1219	41.8 (26)	56.3 (35)	56.3 (35)	83.7 (52)	83.7 (52)	83.7 (52)
(2826–3999) 1220+ (4000+)	56.3 (35)	56.3 (35)	83.7 (52)	83.7 (52)	83.7 (52)	83.7 (52)

(f) *931 MHz interfering contour.* For paging stations transmitting on the 931 MHz channels, the interfering contour is a circle, centered on the transmitting antenna, with a radius determined from Table E–2 of this section.

TABLE E–2.—931 MHz PAGING INTERFERING RADII

Interfering radius km (miles)	Effective radiated power (Watts)					
Antenna HAAT meters (feet)	0–125	126–250	251–500	501–1000	1001–1860	1861–3500
0–177 (0–581)	80.5 (50)	80.5 (50)	80.5 (50)	80.5 (50)	80.5 (50)	80.5 (50)
178–305 (582–1001)	80.5 (50)	80.5 (50)	80.5 (50)	80.5 (50)	88.5 (55)	96.6 (60)
306–427 (1002–1401)	80.5 (50)	80.5 (50)	88.5 (55)	96.6 (60)	130.4 (81)	130.4 (81)
428–610 (1402–2001)	80.5 (50)	88.5 (55)	96.6 (60)	130.4 (81)	130.4 (81)	130.4 (81)
611–861 (2002–2825)	88.5 (55)	96.6 (60)	96.6 (60)	130.4 (81)	191.5 (119)	191.5 (119)
862–1219 (2826–3999)	96.6 (60)	130.4 (81)	130.4 (81)	191.5 (119)	191.5 (119)	191.5 (119)
1220+ (4000+)	130.4 (81)	130.4 (81)	191.5 (119)	191.5 (119)	191.5 (119)	191.5 (119)

(g) *In-building radiation systems.* The locations of in-building radiation systems must be within the service contour(s) of the licensee's authorized transmitter(s) on the same channel. In-building radiation systems are not protected facilities, and therefore do not have service or interfering contours.

§ 22.539 Additional channel policies.

The rules in this section govern the processing of applications for a paging channel when the applicant has applied for or been granted an authorization for other paging channels in the same geographic area. This section applies to applications proposing to use the channels listed in § 22.531, excluding the nationwide network paging channels and broadcast station subcarriers, or the channels listed in § 22.561, where the application proposes to use those channels to provide paging service only. The general policy of the FCC is to assign one paging channel in an area to a carrier per application cycle. That is, a carrier must apply for one paging channel, receive the authorization, construct the station, provide service to subscribers, and notify the FCC of commencement of service to subscribers (FCC Form 489) before applying for an additional paging channel in that area.

(a) *VHF transmitters in same area.* Any transmitter on any VHF channel listed in § 22.531 is considered to be in the same geographic area as another transmitter on any other VHF channel listed in § 22.531 if:

(1) One transmitter location is within the service area of the other transmitter; or,

(2) the area within the overlap of the service contours of the two transmitters constitutes 50 percent or more of the service area of either of the transmitters.

(b) *931 MHz transmitters in same area.* Any transmitter on any 931 MHz channel is considered to be in the same geographic area as another transmitter on any channel listed in § 22.531 if it is located less than 64.4 kilometers (40 miles) from the transmitter. Likewise, any transmitter on any channel listed in § 22.531 is considered to be in the same geographic area as another transmitter on any 931 MHz channel if it is located less than 64.4 kilometers (40 miles) from that transmitter.

(c) *Initial channel.* The FCC will not assign more than one channel for new paging stations. Paging stations are considered to be new if there are no authorized transmitters on any channel listed in § 22.531 controlled by the applicant in the same geographic area.

(d) *Additional channel.* Applications for transmitters to be located in the same geographic area as an authorized station controlled by the applicant, but to operate on a different channel, are considered as requesting an additional channel for the authorized station, unless paragraph (e) of this section applies.

(e) *Additional transmitters on same channel.* Notwithstanding other provisions of this section, applications for transmitters to be located in the same geographic area as an authorized

station controlled by the applicant, and to operate on the same paging channel, are not considered to be requests for an additional paging channel.

(f) *Amendment of pending application.* If the FCC receives and accepts for filing an application for a transmitter to be located in the same geographic area as a transmitter proposed in a pending application previously filed by the applicant, but on a different channel, the subsequent application is considered as a major amendment to change the technical proposal of the prior application, unless paragraph (e) applies. The filing date of any application so amended is the date the FCC received the subsequent application.

(g) *Dismissal of premature applications for additional channel.* If the FCC receives an application requesting an additional channel for an authorized station prior to receiving notification that the station is providing service to subscribers on the authorized channel(s), the FCC may dismiss that application without prejudice in accordance with § 22.128.

§ 22.541 Procedures for mutually exclusive 931 MHz paging applications.

Mutually exclusive 931 MHz applications are processed in accordance with the rules in this section.

(a) *Filing groups.* Pending mutually exclusive applications are processed in filing groups. Mutually exclusive applications in a filing group are given concurrent consideration. The FCC may dismiss as defective (pursuant to § 22.128) any mutually exclusive application(s) whose filing date is outside of the date range for inclusion in the filing group. The type of filing groups used in day-to-day application processing are specified in paragraph (b)(3) of this section. A filing group is one of the following types:

(1) *Renewal filing group.* A renewal filing group comprises a timely-filed application for renewal of an authorization and all timely-filed mutually exclusive competing applications.

(2) *Same-day filing group.* A same-day filing group comprises all mutually exclusive applications whose filing date is the same day, which is normally the filing date of the first-filed application(s).

(3) *Thirty-day notice and cut-off filing group.* A thirty-day notice and cut-off filing group comprises mutually exclusive applications whose filing date is no later than 30 days after the date of the Public Notice listing the first-filed application(s) (according to the filing dates) as acceptable for filing.

(4) *Window filing group.* A window filing group comprises mutually exclusive applications whose filing date is within an announced filing window. An announced filing window is a period of time between and including two specific dates, which are the first and last dates on which applications (or amendments) for a particular purpose may be accepted for filing. In the case of a one-day filing window, the two dates are the same. The dates are made known to the public in advance.

(b) *Procedures.* Generally, the FCC may grant one application in a filing group of mutually exclusive applications and dismiss other application(s) in the filing group that are excluded by that grant, pursuant to § 22.128.

(1) *Selection methods.* In selecting the application to grant, the FCC may use competitive biding or comparative hearings, depending on the type of applications involved.

(2) *Dismissal of applications.* The FCC may dismiss any application in a filing group that is defective or otherwise subject to dismissal under § 22.128, either before or after employing selection procedures.

(3) *Type of filing group used.* Except as otherwise provided in this part, the type of filing group used in processing of two or more mutually exclusive applications depends on the purpose(s) of the applications.

(i) If one of the mutually exclusive applications is a timely-filed application for renewal of an authorization, a renewal filing group is used.

(ii) If any mutually exclusive application filed on the earliest filing date is an application for modification and none of the mutually exclusive applications is a timely-filed application for renewal, a same-day filing group is used.

(iii) If all of the mutually exclusive applications filed on the earliest filing date are applications for initial authorization, a thirty-day notice and cut-off filing group is used.

(4) *Disposition.* If there is only one application in any type of filing group, the FCC may grant that application and dismiss without prejudice any applications excluded by the grant (i.e. not in the filing group). If there is more than one mutually exclusive application in a filing group, the FCC disposes of these applications as follows:

(i) *Applications in a renewal filing group.* All mutually exclusive applications in a renewal filing group are designated for comparative consideration in a hearing.

(ii) *Applications in a thirty-day notice and cut-off filing group.* (A) If all of the mutually exclusive applications in a thirty-day notice and cut-off filing group are applications for initial authorization, the FCC administers competitive bidding procedures in accordance with Subpart Q of Part 1 of this chapter. After such procedures, the application of the successful bidder may be granted and the other applications may be dismissed without prejudice.

(B) If any of the mutually exclusive applications in a thirty-day notice and cut-off filing group is an application for modification, the FCC may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the FCC may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(iii) *Applications in a same-day filing group.* If there are two or more mutually exclusive applications in a same-day filing group, the FCC may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the FCC may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(iv) *Applications in a window filing group.* Applications in a window filing group are processed in accordance with the procedures for a thirty-day notice and cut-off filing group in paragraph (b)(4)(ii) of this section.

(c) *Terminology.* For the purposes of this section, terms have the following meanings:

(1) The "filing date" of an application is the date on which that application was received in a condition acceptable for filing or the date on which the most recently filed major amendment to that application was received, whichever is later, excluding major amendments in the following circumstances:

(i) The major amendment reflects only a change in ownership or control found by the FCC to be in the public interest; or,

(ii) The major amendment as received is defective or otherwise found unacceptable for filing.

(2) An "application for initial authorization" is:

(i) Any application requesting an authorization for a new station;

(ii) Any application requesting authorization for an existing station to operate on an additional channel;

(iii) Any application requesting authorization for a new transmitter at a location more than 2 kilometers (1.2 miles) from any existing transmitters of the applicant licensee on the requested channel.

(3) An "application for modification" is any application other than an application for initial authorization or renewal.

§ 22.551 Nationwide network paging service.

The rules in this section govern the application for and provision of nationwide network paging service on the channels reserved specifically for such service in § 22.531(b).

(a) *Nationwide network organizers.* If and when a nationwide network paging channel becomes available for assignment, the FCC will issue a Public Notice inviting applications from carriers seeking to organize a nationwide network paging service. The Public Notice will provide complete details regarding application requirements and procedures.

(c) *Affiliated local carriers.* Parties seeking to become affiliated local carriers in a nationwide network paging service must have specific completed contracts with the network organizer with which they are proposing to affiliate. Applications may contain a letter, in lieu of the contracts, indicating that the applicant has a completed contract with the organizer.

(d) *Liability for technical operation.* Nationwide network organizers and affiliated local carriers are jointly and severally liable for the technical operation of the local network stations.

§ 22.559 One-way paging application requirements.

In addition to information required by Subparts b and d of this part and § 22.529, applications for authorization to operate a paging transmitter on the channels listed in § 22.531 must contain the applicable supplementary information described in this section.

(a) *Interference exhibit.* Except as provided in paragraph (b) of this section, an exhibit demonstrating compliance with § 22.537 with regard to protected transmitters is required for applications to operate a transmitter on the VHF channels. This exhibit must:

(1) Identify each protected transmitter located within 109 kilometers (68 miles) of the proposed transmitter in directions in which the distance to the interfering contour is 76.5 kilometers (47.5 miles) or less, and within 178 kilometers (111 miles) of the proposed transmitter in directions in which the distance to the interfering contour exceeds 76.5 kilometers (47.5 miles).

(2) For each protected transmitter identified, show the results of distance calculations indicating that there would be no overlap of service and interfering contours, or alternatively, indicate that the licensee of or applicant for the protected transmitter and/or the applicant, as required, have agreed in writing to accept any interference resulting from operation of the proposed transmitter.

(b) *Encompassment exhibit.* An exhibit showing that the area within the interfering contour of the proposed transmitter would be totally encompassed by interfering contours of operating co-channel base transmitters controlled by the applicant is required for applications to operate a transmitter with ERP exceeding the basic power and height-power limits of § 22.535. For VHF transmitters, this encompassment exhibit may substitute for the interference exhibit required in paragraph (a) of this section.

One-Way or Two-Way Mobile Operation

§ 22.561 Channels for one-way or two-way mobile operation.

The following channels are allocated for paired assignment to transmitters that provide (or support other transmitters that provide) one-way or two-way public land mobile service. These channels may be assigned for use by mobile or base transmitters as indicated, and to fixed transmitters (including control, repeater or other fixed transmitters). The mobile channels may also be assigned for use by base or fixed transmitters under certain circumstances (see § 22.567(h)). Unless otherwise indicated, all channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

Base	Mobile
VHF Channels	
152.03	158.49
152.06	158.52
152.09	158.55
152.12	158.58
152.15	158.61
152.18	158.64
152.21	158.67
152.51	157.77
152.54	157.80
152.57	157.83
152.60	157.86
152.63	157.89
152.66	157.92
152.69	157.95
152.72	157.98
152.75	158.01
152.78	158.04
152.81	158.07
UHF Channels	
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350
454.375	459.375
454.400	459.400
454.425	459.425
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

§ 22.563 Provision of rural radiotelephone service upon request.

Channels in the frequency ranges 152.03–152.81, 157.77–158.67, 454.025–454.650 and 459.025–459.650 MHz, inclusive, are also allocated for assignment in the Rural Radiotelephone Service. Stations in the Paging and Radiotelephone Service that provide two-way public mobile service on these channels must also provide rural radiotelephone service upon request from a subscriber.

§ 22.565 Transmitting power limits.

The transmitting power of base, mobile and fixed transmitters operating on the channels listed in § 22.561 must not exceed the limits in this section.

(a) *Maximum ERP.* The effective radiated power (ERP) of base and fixed transmitters must not exceed the applicable limits in this paragraph under any circumstances.

Frequency range (MHz)	Maximum ERP (watts)
152–153	1400
157–159	150
454–455	3500
459–460	150

(b) *Basic power limit.* Except as provided in paragraph (d) of this section, the ERP of base transmitters must not exceed 500 Watts.

(c) *Height-power limits.* Except as provided in paragraph (d) of this section, the ERP of base transmitters must not exceed the amount that would

result in an average distance to the service contour of 41.6 kilometers (26 miles) for VHF channels or 30.7 kilometers (19 miles) for UHF channels. The average distance to the service contour is calculated by taking the arithmetic mean of the distances determined using the procedures specified in § 22.567 for the eight cardinal radial directions, excluding cardinal radial directions for which 90% or more of the distance so calculated is over water.

(d) *Encompassed interfering contour areas.* Base transmitters are exempt from the basic power and height-power limits of this section if the area within their interfering contours is totally encompassed by the interfering contours of operating co-channel based transmitters controlled by the same licensee. For the purpose of this paragraph, operating transmitters are authorized transmitters that are providing service to subscribers.

(e) *Adjacent channel protection.* The ERP of base and fixed transmitters must not exceed 500 Watts if they transmit on channel 454.025 MHz and are located less than 7 kilometers (4.3 miles) from any Private Radio Services station receiving on adjacent channel 454.0000 MHz.

(f) *Mobile transmitters.* The transmitter output power of mobile transmitters must not exceed 60 watts.

(g) *Other transmitters.* The ERP of dispatch and auxiliary test transmitters must not exceed 100 watts.

§ 22.567 Technical channel assignment criteria.

The rules in this section establish technical assignment criteria for the channels listed in § 22.561. The criteria in paragraphs (a) through (f) of this section permit channel assignments to be made in a manner such that reception by public mobile receivers of signals from base transmitters, within the service area of such base transmitters, is protected from interference caused by the operation of independent co-channel base and fixed transmitters in the Paging and Radiotelephone Service and central office stations, including Basic Exchange Telephone Radio Systems (BETRS), in the Rural Radiotelephone Service. Additional criteria in paragraph (g) of this section permit channel assignments to be made in a manner such that BETRS communications are protected from interference caused by the operation of independent co-channel base and fixed transmitters in the Paging and Radiotelephone Service and other central office stations in the Rural Radiotelephone Service. Separate criteria in paragraph (h) of this section apply only to assignment of the channels designated in § 22.561 as mobile channels to base and fixed transmitters, and permit these channel assignments to be made in a manner such that reception by public base and fixed receivers of signals from associated mobile and fixed transmitters is protected from interference caused by the operation of independent co-channel base and fixed transmitters.

(a) *Contour overlap.* The FCC may grant an application requesting assignment of a channel to a proposed base, fixed or central office station transmitter only if:

(1) The interfering contour of the proposed transmitter does not overlap the service contour of any protected co-channel transmitter controlled by a carrier other than the applicant, unless that carrier has agreed in writing to accept any interference that may result from operation of the proposed transmitter; and

(2) The service contour of the proposed transmitter does not overlap the interfering contour of any protected co-channel transmitter controlled by a carrier other than the applicant, unless the application contains a statement that the applicant agrees to accept any interference that may result from operation of the protected co-channel transmitter; and

(3) The area and/or population to which service would be provided by the proposed transmitter is substantial, and service gained would exceed that lost as a result of agreements to accept interference.

(b) *Protected transmitter.* For the purposes of this section, protected transmitters are authorized transmitters for which there is a current FCC public record and transmitters proposed in prior-filed pending applications, in the Paging and Radiotelephone Service and the Rural Radiotelephone Service.

(c) *VHF service contour.* For base stations transmitting on the VHF channels, the radial distance from the transmitting antenna to the service contour along each cardinal radial is calculated as follows:

$$d=1.609\times h^{0.40}\times p^{0.20}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(1) Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula.

(2) The value used for p in the above formula must not be less than 27 dB less than the maximum ERP in any direction, or 0.1 Watt, whichever is more.

(3) The distance from the transmitting antenna to the service contour along any radial other than the eight cardinal radials is routinely calculated by linear interpolation of distance as a function of angle. However, in resolving petitions to deny, the FCC may calculate the distance to the service contour using the formula in paragraph (c) of this section with actual HAAT and ERP data for the inter-station radial and additional radials above and below the inter-station radial at 2.5° intervals.

(d) *VHF interfering contour.* For base and fixed stations transmitting on the VHF channels, the radial distance from the transmitting antenna to the interfering contour along each cardinal radial is calculated as follows:

(1) If the radial antenna HAAT is less than 150 meters:

$$d=8.577\times h^{0.24}\times p^{0.19}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula.

(2) If the radial antenna HAAT is 150 meters or more:

$$d=12.306\times h^{0.23}\times p^{0.14}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(3) The value used for p in the above formulas must not be less than 27 dB less than the maximum ERP in any direction, or 0.1 Watt, whichever is more.

(4) The distance from the transmitting antenna to the interfering contour along any radial other than the eight cardinal radials is routinely calculated by linear interpolation of distance as a function of angle. However, in resolving petitions to deny, the FCC may calculate the distance to the interfering contour using the appropriate formula in paragraph (d) of this section with actual HAAT and ERP data for the inter-station radial and additional radials above and below the inter-station radial at 2.5° intervals.

(e) *UHF service contour.* For base stations transmitting on the UHF channels, the radial distance from the transmitting antenna to the service contour along each cardinal radial is calculated as follows:

$$d=1.726\times h^{0.35}\times p^{0.18}$$

where:

d is the radial distance in kilometers

h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(1) Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula.

(2) The value used for p in the above formula must not be less than 27 dB less than the maximum ERP in any direction, or 0.1 Watt, whichever is more.

(3) The distance from the transmitting antenna to the service contour along any radial other than the eight cardinal radials is routinely calculated by linear interpolation of distance as a function of angle. However, in resolving petitions to deny, the FCC may calculate the distance to the service contour using the formula in paragraph (e) of this section with actual HAAT and ERP data for the inter-station radial and addition radials above and below the below the inter-station radial at 2.5° intervals.

(f) *UHF interfering contour.* For base and fixed stations transmitting on the UHF channels, the radial distance from the transmitting antenna to the interfering contour along each cardinal radial is calculated as follows:

(1) If the radial antenna HAAT is less than 150 meters:

$$d=9.471\times h^{0.23}\times p^{0.15}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula.

(2) If the radial antenna HAAT is 150 meters or more:

$$d=6.336\times h^{0.31}\times p^{0.15}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(3) The value used for p in the above formula must not be less than 27 dB less than the maximum ERP in any direction, or 0.1 Watt, whichever is more.

(4) The distance from the transmitting antenna to the interfering contour along any radial other than the eight cardinal radials is routinely calculated by linear interpolation of distance as a function of angle. However, in resolving petitions to deny, the FCC may calculate the distance to the interfering contour using the appropriate formula in paragraph (f) of this section with actual HAAT and ERP data for the inter-station radial and additional radials above and below the inter-station radial at 2.5° intervals.

(g) *Protection for BETRS.* In applying the provisions of paragraph (a) of this section, if either or both of the transmitters involved is a BETRS central office station, the following contour substitutions must be used:

(1) The service contour of the BETRS central office station(s) is a circle, centered on the central office station antenna, with a radius of 40 kilometers (25 miles).

(2) The interfering contour of any station of any type, when determining whether it would overlap the service contour of a BETRS central office station, is calculated as follows:

$$d=36.364\times h^{0.2}\times p^{0.1}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

Whenever the actual HAAT is less than 30 meters (98 feet), 30 must be used as the value for h in the above formula. The value used for p in the above formula must not be less than 27 dB less than the maximum ERP in any direction, or 0.1 Watt, whichever is more.

(h) *Assignment of mobile channels to base or fixed transmitters.* Mobile channels may be assigned to base or fixed transmitters if the following criteria are met:

(1) The paired base channel, as designated in § 22.561, is assigned to base transmitters in the same geographical area operated by the same licensee.

(2) The authorization is granted subject to the condition that no interference be caused to fixed receivers in use on or prior to the date of the grant.

§ 22.569 Additional channel policies.

The rules in this section govern the processing of applications for a mobile channel when the applicant has applied or been granted an authorization for other mobile channels in the same geographic area. This section applies to applications proposing to use the channels listed in § 22.561, except applications that propose to use these channels to provide paging service only, which are subject to § 22.539, instead of this section. The general policy of the FCC is to assign no more than two channels in an area to a carrier per application cycle. That is, a carrier must apply for no more than two channels, receive the authorization, construct the station, provide service to subscribers, and notify the FCC of commencement of service to subscribers (FCC Form 489) before applying for additional mobile channels in that area.

(a) *Transmitters in same area.* Any transmitter on any channel listed in § 22.561 is considered to be in the same geographic area as another transmitter or any other channel listed in § 22.561 if:

(1) One transmitter location is within the service area of the other transmitter; or,

(2) The area within the overlap of the service contours of the two transmitters constitutes 50 percent or more of the service area of either of the transmitters.

(b) *Initial channel.* The FCC will not assign more than two channels for new stations. Stations are considered to be new if there are no authorized transmitters on any channel listed in § 22.561 controlled by the applicant in the same geographic area.

(c) *Additional channel.* Applications for transmitters to be located in the same geographic area as an authorized station controlled by the applicant, but to operate on a different channel, are considered as requests for an additional channel for the authorized station, unless paragraph (d) of this section applies.

(d) *Additional transmitters on same channel.* Notwithstanding other provisions of this section, applications for transmitters to be located in the same geographic area as an authorized station controlled by the applicant, and to operate on the same channel, are not considered as requests for an additional channel.

(f) *Dismissal of application constituting cumulative request for more than two channels.* If the FCC receives an application for a transmitter to be located in the same geographic area as a transmitter proposed in a pending application previously filed by the applicant, but on different channels such that, considered together, the applications would constitute a request for more than two channels, the FCC may dismiss the subsequent application without prejudice.

(g) *Dismissal of premature applications for additional channel.* If the FCC receives an application requesting two additional channels (or one additional channel) for an authorized station prior to receiving notification that the station is providing service to subscribers on all (or all except one) of the authorized channels, the FCC may dismiss that application without prejudice.

§ 22.571 Responsibility for mobile stations.

Mobile stations that are subscribers in good standing to a two-way service in the Paging and Radiotelephone Service, when receiving service from that station, are considered to be operating under the authorization of that station.

Licensees are responsible for exercising effective operational control over mobile stations receiving service through their stations. Mobile stations that are subscribers in good standing to a two-way service in the Paging and Radiotelephone Service, while receiving service from a different station, are considered to be operating under the authorization of such different station. The licensee of such different station is responsible, during such temporary period, for exercising effective operational control over such mobile stations as if they were subscribers to it.

§ 22.573 Use of base transmitters as repeaters.

As an additional function, base transmitters may be used as repeaters. Licensees must be able to turn the base transmitter on or off from the control point regardless of whether a subscriber-operated transmitter is transmitting.

§ 22.575 Use of mobile channel for remote control of station functions.

Carriers may remotely control station functions (e.g. shut down or reactivate base transmitters, turn aviation obstruction warning lights on or off, etc.) using a control transmitter operating on a mobile channel, subject to the conditions in this section and in § 22.567(h).

(a) The control transmitter must be capable of overriding transmissions from subscriber-operated transmitters if necessary. Subscriber-operated transmitters must not be capable of being used to deliberately or accidentally prevent the licensee from controlling the station.

(b) The licensee must implement measures designed to prevent station functions from being controlled by persons not authorized by the licensee to control the station.

(c) The control transmitter location must be within the composite service contour of the licensee's authorized station on the paired base channel.

§ 22.577 Grandfathered dispatch service.

No new dispatch transmitters or dispatch points are authorized. Carriers that were authorized to provide dispatch service prior to January 1, 1982, and have provided such service continuously since that date may continue to provide such service.

(a) *Installation.* A grandfathered station licensee may install a dispatch transmitter for one or more subscribers without applying for specific authorization, provided that the following conditions are met.

(1) The dispatch transmitter must use the mobile channel that is paired with the channel used by the grandfathered base station.

(2) The dispatch transmitter antenna must not exceed the criteria in § 17.7 of this chapter that determine whether the FAA must be notified of the proposed construction.

(3) The output power of the dispatch transmitter must not exceed 10 Watts.

(4) The dispatch transmitter must be incapable of overriding the functioning of any control transmitter that may be using the same channel.

(5) The dispatch transmitter must be under the continuous supervision of the licensee.

(b) *Notification.* Licensees must notify the FCC by letter whenever a dispatch transmitter is installed pursuant to paragraph (a) of this section. The notification must include the name and address of the subscriber(s) for which the dispatch transmitter was installed, the location of the dispatch transmitter, the height of antenna structure above ground and above mean sea level, the channel(s) used, and the call sign and location of the grandfathered base station.

(c) *Termination without hearing.* Operation of a dispatch transmitter pursuant to paragraphs (a) and (b) of this section may be terminated by the FCC without a hearing upon notice to the licensee.

(d) *Dispatch transmitters requiring authorization.* A dispatch transmitter that does not meet the requirements of paragraph (a) of this section may be installed only upon grant of an application for authorization therefor.

(e) *Permissible communications.* A dispatch transmitter operated by a subscriber may communicate only with mobile transmitters operated by that subscriber through the associated base transmitter.

§ 22.579 Operation of mobile transmitters across U.S.-Canada border.

Mobile stations licensed by Canada may receive two-way service while in the United States from stations licensed under this part, after authorization has been granted by the FCC. Mobile stations that normally operate under the authority of base stations licensed under this part may receive two-way service while in Canada from stations licensed under this part or by Canada, upon authorization by Canada.

§ 22.589 One-way or two-way application requirements.

In addition to information required by subparts B and D of this part and § 22.529, applications for authorization to operate a transmitter on the channels listed in § 22.561 must contain the applicable supplementary information described in this section.

(a) *Interference exhibit.* Except as provided in paragraph (b) of this section, an exhibit demonstrating compliance with § 22.567 with regard to protected transmitters is required. This exhibit must:

(1) For UHF channels, identify each protected transmitter located within 108 kilometers (67 miles) of the proposed transmitter in directions in which the distance to the interfering contour is 76.4 kilometers (47.5 miles) or less, and within 178 kilometers (111 miles) of the proposed transmitter in directions in which the distance to the interfering contour exceeds 76.4 kilometers (47.5 miles); and identify each protected Basic Exchange Telephone Radio System central office transmitter in the Rural Radiotelephone Service within 231 kilometers (144 miles),

(2) For VHF channels, identify each protected transmitter located within 135 kilometers (84 miles) of the proposed transmitter in directions in which the distance to the interfering contour is 93.3 kilometers (58 miles) or less, and within 178 kilometers (111 miles) of the proposed transmitter in directions in which the distance to the interfering contour exceeds 93.3 kilometers (58 miles).

(3) For each protected transmitter identified, show the results of distance calculations indicating that there would be no overlap of service and interfering contours, or alternatively, indicate that the licensee of or applicant for the protected transmitter and/or the applicant, as required, have agreed in writing to accept any interference resulting from operation of the proposed transmitter.

(b) *Encompassment exhibit.* An exhibit showing that the area within the interfering contour of the proposed transmitter would be totally encompassed by interfering contours of operating co-channel base transmitters controlled by the applicant is required for applications to operate a transmitter with ERP exceeding the basic power and height-power limits of § 22.565. This encompassment exhibit may substitute for the interference exhibit required in paragraph (a) of this section.

Point-to-Point Operation

§ 22.591 Channels for point-to-point operation.

The following channels are allocated for assignment to fixed transmitters that support other transmitters that provide public mobile service. Unless otherwise indicated, all channels have a bandwidth of 20 kHz and are designated

by their center frequencies in MegaHertz.

VHF Channels

72.02	72.36	72.80	75.66
72.04	72.38	72.82	75.68
72.06	72.40	72.84	75.70
72.08	72.42	72.86	75.72
72.10	72.46	72.88	75.74
72.12	72.50	72.90	75.76
72.14	72.54	72.92	75.78
72.16	72.58	72.94	75.80
72.18	72.62	72.96	75.82
72.20	72.64	72.98	75.84
72.22	72.66	75.42	75.86
72.24	72.68	75.46	75.88
72.26	72.70	75.50	75.90
72.28	72.72	75.54	75.92
72.30	72.74	75.58	75.94
72.32	72.76	75.62	75.96
72.34	72.78	75.64	75.98
72.10	72.46	72.88	75.74
72.12	72.50	72.90	75.76
72.14	72.54	72.92	75.78
72.16	72.58	72.94	75.80
72.18	72.62	72.96	75.82
72.20	72.64	72.98	75.84
72.22	72.66	75.42	75.86
72.24	72.68	75.46	75.88
72.26	72.70	75.50	75.90
72.28	72.72	75.54	75.92
72.30	72.74	75.58	75.94
72.32	72.76	75.62	75.96
72.34	72.78	75.64	75.98

UHF Channels—State of Hawaii

488.250	491.250	489.750	492.750
488.750	491.750	490.250	493.250
489.250	492.250	490.750	493.750

MICROWAVE CHANNELS

[Bandwidth individually assigned]

2110.1	2160.1
2110.2	2160.2
2110.3	2160.3
2129.9	2179.9

(a) The 72–76 MHz channels may be assigned under developmental authority pursuant to the requirements of § 22.413. The 72–76 MHz channels may also be used in point-to-multipoint configurations. The 72–76 MHz channels are also allocated for assignment in the Private Radio Services (see Part 90 of this chapter).

(b) Channels in the frequency ranges 2110–2130 and 2160–2180 MHz are also allocated for assignment in the broadband Personal Communications Service (see part 24 of this chapter), the Multipoint Distribution Service and the Point-to-Point Microwave Radio Service (see part 21 of this chapter). Assignment of channels in these ranges is subject to the transition rules in § 22.602.

(c) Channels in the frequency ranges 488.250–490.750 and 491.250–493.750 MHz may be assigned only to inter-island fixed stations located in the State of Hawaii.

§ 22.593 Effective radiated power limits.

The effective radiated power of fixed stations operating on the channels listed in § 22.591 must not exceed 150 Watts. The equivalent isotropic radiated power of fixed stations operating in the frequency ranges 2110–2130 and 2160–2180 MHz must not exceed the limits set forth in Part 21 of this chapter for stations operating in these frequency ranges.

§ 22.599 Assignment of 72–76 MHz channels.

Because of the potential for interference to the reception of TV Channels 4 and 5 by broadcast television sets and video recorders, assignments of the 72–76 MHz channels are subject to the following conditions:

(a) Assignments of 72–76 MHz channels for use within 129 kilometers (80 miles) of a full service TV station transmitting on TV Channel 4 or 5 are subject to the condition that the licensee must eliminate any interference caused to television reception on TV Channels 4 and 5. If the FCC notifies the licensee of an interference problem and the licensee does not resolve the problem within 90 days of such notification, operation of the interfering 72–76 MHz fixed station must be immediately discontinued.

(b) 72–76 MHz channels may be assigned for use within 16 kilometers (10 miles) of a full service TV station transmitting on TV Channel 4 or 5 under a developmental authorization, pursuant to § 22.413. However, for use within 50 meters (164 feet) of a TV station transmitting on TV Channel 4 or 5, 72–76 MHZ channels may be assigned under a regular authorization, rather than a developmental authorization.

§ 22.601 Assignment of microwave channels.

Assignment of the microwave channels listed in § 22.591 is subject to the transition rules in § 22.602. No new systems will be authorized under this part.

(a) *Coordination required.* Before filing applications for authority to modify existing stations on these channels or major amendments to such applications, carriers must coordinate the planned channel usage, using the procedure outlined in § 22.150, with affected parties in this radio service and the Point-to-Point Microwave Service and the Multipoint Distribution Service. Affected parties are licensees and other applicants with previously filed pending applications whose stations could affect or be affected by the proposed modification of the existing station in terms of interference.

(b) *System parameters.* In designing a system modification, the applicant must select sites, equipment and channels that will avoid harmful interference to other users. All parties must cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, a party receiving notification is not obligated to suggest changes or redesign a proposal in cases involving conflicts. The applicant must identify in the application all parties with which the technical proposal was coordinated. In the event that technical problems are not resolved or if an affected party does not respond to coordination efforts within 30 days after notification, an explanation must be contained in the application. Where technical conflicts are resolved by an agreement between the parties that requires special procedures to reduce the likelihood of harmful interference (such as the use of artificial site shielding), or would result in a reduction of quality or capacity of either system, the details thereof must be contained in the application.

(c) *Bandwidth.* Applicants must request the minimum emission bandwidth necessary. The FCC does not authorize bandwidths larger than 800 kHz under this part.

§ 22.602 Transition of the 2110–2130 and 2160–2180 MHz channels to emerging technologies.

The microwave channels listed in § 22.591 have been allocated for use by emerging technologies services (ETS). No new systems will be authorized under this part. The rules in this section provide for a transition period during which existing Paging and Radiotelephone Service (PARS) licensees using these channels may relocate operations to other media or to other fixed channels, including those in other microwave bands. For PARS licensees relocating operations to other microwave bands, authorization must be obtained under part 21 of this chapter.

(a) Licensees proposing to implement ETS may negotiate with PARS licensees authorized to use these channels, for the purpose of agreeing to terms under which the PARS licensees would—

(1) Relocate their operations to other fixed microwave bands or other media, or alternatively,

(2) Accept a sharing arrangement with the ETS licensee that may result in an otherwise impermissible level of interference to the PARS operations.

(b) PARS operations on these channels will continue to be co-primary with other users of this spectrum until two years after the FCC commences acceptance of applications for ETS, and until one year after an ETS licensee

initiates negotiations for relocation of the fixed microwave licensee's operations.

(c) After the periods specified in paragraph (b) of this section, existing PARS operations become secondary to ETS operations, provided that:

(1) The ETS applicant, provider, licensee or representative guarantees payment of all relocation costs, including all engineering, equipment, site and FCC fees, as well as any reasonable additional costs that the PARS licensee might incur as a result of relocation to another fixed band or migration to another medium;

(2) The ETS applicant, provider, licensee or representative completes all activities necessary for implementing the replacement facilities, including engineering and cost analysis of the relocation procedure and, if radio facilities are involved, identifying and obtaining, on the incumbent's behalf, new channels and frequency coordination; and

(3) The ETS applicant, provider, licensee or representative builds the replacement system and tests it for comparability with the existing 2 GHz system.

(d) The PARS licensee is not required to relocate until the alternative facilities are available to it for a reasonable time to make adjustments, determine comparability, and ensure a seamless handoff.

(e) If, within one year after the relocation to new facilities, the PARS licensee demonstrates that the new facilities are not comparable to the former facilities, the ETS applicant, provider, licensee or representative must remedy the defects or pay to relocate the PARS licensee back to its former (or equivalent) 2 GHz channels.

§ 22.603 488–494 MHz fixed service in Hawaii.

Before filing applications for authorization of inter-island control and/or repeater stations, applicants must coordinate the planned channel usage with existing licensees and other applicants with previously filed applications, using the procedure outlined in § 22.150. Applicants and licensees shall cooperate fully and make reasonable efforts to resolve any channel usage conflicts. In situations where technical solutions to such conflicts cannot be devised, the FCC may select a channel or channels to assign or may designate the application(s) for hearing. To be acceptable for filing, applications and major technical amendments must contain a certification that coordination has been completed and an exhibit listing the name(s) of the licensees and applicants with which the planned channel usage has been coordinated.

Point-to-Multipoint Operation

§ 22.621 Channels for point-to-multipoint operation.

The following channels are allocated for assignment to transmitters utilized within point-to-multipoint systems that support transmitters that provide public mobile service. Unless otherwise indicated, all channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

Public Mobile Pool

(25 kHz bandwidth)

928.8625	959.8625	928.9375	959.9375
928.8875	959.8875	928.9625	959.9625
928.9125	959.9125	928.9875	959.9875

(12.5 kHz bandwidth)

928.85625	959.85625	928.93125	959.93125
928.86875	959.85625	928.94375	959.94375
928.88125	959.88125	928.95625	959.95625
928.89375	959.89375	928.96875	959.96875
928.90625	959.90625	928.98125	959.98125
928.91875	959.91875	928.99375	959.99375

Private Radio General Access Pool

(25 kHz bandwidth)

956.2625	956.3125	956.3625	956.4125
956.2875	956.3375	956.3875	956.4375
928.0125	952.0125	928.1875	952.1875
928.0375	952.0375	928.2125	952.2125
928.0625	952.0625	928.2375	952.2375
928.0875	952.0875	928.2625	952.2625
928.1125	952.1125	928.2875	952.2875
928.1375	952.1375	928.3125	952.3125
928.1625	952.1625	928.3375	952.3375

(12.5 kHz bandwidth)

956.25625	956.30625	956.35625	956.40625
956.26875	956.31875	956.36875	956.41875
956.28125	956.33125	956.38125	956.43125
956.29375	956.34375	956.39375	956.44375
928.00625	952.00625	928.18125	952.18125
928.01875	952.01875	928.19375	952.19375
928.03125	952.03125	928.20625	952.20625
928.04375	952.04375	928.21875	952.21875
928.05625	952.05625	928.23125	952.23125
928.06875	952.06875	928.24375	952.24375
928.08125	952.08125	928.25625	952.25625
928.09375	952.09375	928.26875	952.26875
928.10625	952.10625	928.28125	952.28125
928.11875	952.11875	928.29375	952.29375
928.13125	952.13125	928.30625	952.30625
928.14375	952.14375	928.31875	952.31875
928.15625	952.15625	928.33125	952.33125
928.16875	952.16875	928.34375	952.34375

Private Radio Power Pool

(25 kHz bandwidth)

928.3625	952.3625	928.6125	952.6125
928.3875	952.3875	928.6375	952.6375
928.4125	952.4125	928.6625	952.6625
928.4375	952.4375	928.6875	952.6875
928.4625	952.4625	928.7125	952.7125
928.4875	952.4875	928.7375	952.7375
928.5125	952.5125	928.7625	952.7625
928.5375	952.5375	928.7875	952.7875
928.5625	952.5625	928.8125	952.8125
928.5875	952.5875	928.8375	952.8375

(12.5 kHz bandwidth)

928.35625	952.35625	928.60625	952.60625
928.36875	952.36875	928.61875	952.61875
928.38125	952.38125	928.63125	952.63125
928.39375	952.39375	928.64375	952.64375
928.40625	952.40625	928.65625	952.65625
928.41875	952.41875	928.66875	952.66875
928.43125	952.43125	928.68125	952.68125
928.44375	952.44375	928.69375	952.69375
928.45625	952.45625	928.70625	952.70625
928.46875	952.46875	928.71875	952.71875
928.48125	952.48125	928.73125	952.73125
928.49375	952.49375	928.74375	952.74375
928.50625	952.50625	928.75625	952.75625
928.51875	952.51875	928.76875	952.76875
928.53125	952.53125	928.78125	952.78125
928.54375	952.54375	928.79375	952.79375
928.55625	952.55625	928.80625	952.80625
928.56875	952.56875	928.81875	952.81875
928.58125	952.58125	928.83125	952.83125
928.59375	952.59375	928.84375	952.84375

Public, Private, Government Shared Pool

(12.5 kHz bandwidth)

932.00625	941.00625	932.25625	941.25625
932.01875	941.01875	932.26875	941.26875
932.03125	941.03125	932.28125	941.28125
932.04375	941.04375	932.29375	941.29375
932.05625	941.05625	932.30625	941.30625
932.06875	941.06875	932.31875	941.31875
932.08125	941.08125	932.33125	941.33125
932.09375	941.09375	932.34375	941.34375
932.10625	941.10625	932.35625	941.35625
932.11875	941.11875	932.36875	941.36875
932.13125	941.13125	932.38125	941.38125
932.14375	941.14375	932.39375	941.39375
932.15625	941.15625	932.40625	941.40625
932.16875	941.16875	932.41875	941.41875
932.18125	941.18125	932.43125	941.43125
932.19375	941.19375	932.44375	941.44375
932.20625	941.20625	932.45625	941.45625
932.21875	941.21875	932.46875	941.46875
932.23125	941.23125	932.48125	941.48125
932.24375	941.24375	932.49375	941.49375

UHF Channels in Specified Urban Areas

Boston

470.0125	473.0125	482.0125	485.0125
470.0375	473.0375	482.0375	485.0375
470.0625	473.0625	482.0625	485.0625
470.0875	473.0875	482.0875	485.0875
470.1125	473.1125	482.1125	485.1125
470.1375	473.1375	482.1375	485.1375
470.1625	473.1625	482.1625	485.1625
470.1875	473.1875	482.1875	485.1875
470.2125	473.2125	482.2125	485.2125
470.2375	473.2375	482.2375	485.2375
470.2625	473.2625	482.2625	485.2625
470.2875	473.2875	482.2875	485.2875

Chicago, Cleveland

470.0125	473.0125	476.0125	479.0125
470.0375	473.0375	476.0375	479.0375
470.0625	473.0625	476.0625	479.0625
470.0875	473.0875	476.0875	479.0875
470.1125	473.1125	476.1125	479.1125
470.1375	473.1375	476.1375	479.1375
470.1625	473.1625	476.1625	479.1625
470.1875	473.1875	476.1875	479.1875
470.2125	473.2125	476.2125	479.2125
470.2375	473.2375	476.2375	479.2375
470.2625	473.2625	476.2625	479.2625
470.2875	473.2875	476.2875	479.2875

New York-Northeastern New Jersey

470.0125	470.1625	476.0125	476.1625
470.0375	470.1875	476.0375	476.1875
470.0625	470.2125	476.0625	476.2125
470.0875	470.2375	476.0875	476.2375
470.1125	470.2625	476.1125	476.2625
470.1375	470.2875	476.1375	476.2875

Dallas-Forth Worth

482.0125	482.1625	485.0125	485.1625
482.0375	482.1875	485.0375	485.1875
482.0625	482.2125	485.0625	485.2125
482.0875	482.2375	485.0875	485.2375
482.1125	482.2625	485.1125	485.2625
482.1375	482.2875	485.1375	485.2875

Detroit

476.0125	479.0125	482.0125	485.0125

476.0375	479.0375	482.0375	485.0375
476.0625	479.0625	482.0625	485.0625
476.0875	479.0875	482.0875	485.0875
476.1125	479.1125	482.1125	485.1125
476.1375	479.1375	482.1375	485.1375
476.1625	479.1625	482.1625	485.1625
476.1875	479.1875	482.1875	485.1875
476.2125	479.2125	482.2125	485.2125
476.2375	479.2375	482.2375	485.2375
476.2625	479.2625	482.2625	485.2625
476.2875	479.2875	482.2875	485.2875
Houston			
488.1625	491.1625	488.2375	491.2375
488.1875	491.1875	488.2625	491.2625
488.2125	491.2125	488.2875	491.2875
Los Angeles			
470.0125	473.0125	506.0625	509.0625
470.0375	473.0375	506.0875	509.0875
506.0125	509.0125	506.1125	509.1125
506.0375	509.0375		
Miami			
470.0125	470.1625	473.0125	473.1625
470.0375	470.1875	473.0375	473.1875
470.0625	470.2125	473.0625	473.2125
470.0875	470.2375	473.0875	473.2375
470.1125	470.2625	473.1125	473.2625
470.1375	470.2875	473.1375	473.2875
Philadelphia			
500.0125	503.0125	506.0125	509.0125
500.0375	503.0375	506.0375	509.0375
500.0625	503.0625	506.0625	509.0625
500.0875	503.0875	506.0875	509.0875
500.1125	503.1125	506.1125	509.1125
500.1375	503.1375	506.1375	509.1375
500.1625	503.1625	506.1625	509.1625
500.1875	503.1875	506.1875	509.1875
500.2125	503.2125	506.2125	509.2125
500.2375	503.2375	506.2375	509.2375
500.2625	503.2625	506.2625	509.2625
500.2875	503.2875	506.2875	509.2875
Pittsburgh			
470.0125	470.1625	473.0125	473.1625
470.0375	470.1875	473.0375	473.1875
470.0625	470.2125	473.0625	473.2125
470.0875	470.2375	473.0875	473.2375
470.1125	470.2625	473.1125	473.2625
470.1375	470.2875	473.1375	473.2875
San Francisco			
482.0125	485.0125	488.0125	491.0125
482.0375	485.0375	488.0375	491.0375
482.0625	485.0625	488.0625	491.0625
482.0875	485.0875	488.0875	491.0875
482.1125	485.1125	488.1125	491.1125
482.1375	485.1375	488.1375	491.1375
482.1625	485.1625	488.1625	491.1625
482.1875	485.1875	488.1875	491.1875
482.2125	485.2125	488.2125	491.2125
482.2375	485.2375	488.2375	491.2375
482.2625	485.2625	488.2625	491.2625
482.2875	485.2875	488.2875	491.2875
Washington, DC			
488.0125	491.0125	494.0125	497.0125
488.0375	491.0375	494.0375	497.0375
488.0625	491.0625	494.0625	497.0625
488.0875	491.0875	494.0675	497.0875
488.1125	491.1125	494.1125	497.1125
488.1375	491.1375	494.1375	497.1375
488.1625	491.1625	494.1625	497.1625
488.1875	491.1875	494.1875	497.1875
488.2125	491.2125	494.2125	497.2125
488.2375	491.2375	494.2375	497.2375
488.2625	491.2625	494.2625	497.2625
488.2875	491.2875	494.2875	497.2875

(a) Channels in the Private Radio General Access Pool and the Private Radio Power Pool may be assigned only if the applicant shows that none of the channels in the Public Mobile Pool are available for the proposed use.

(b) Channels in the Public, Private, Government Shared Pool are allocated for assignment in the Private Operational-Fixed Microwave Service (47 CFR part 94) and to U.S. government fixed stations.

§ 22.623 System configuration.

This section requires a minimum configuration for point-to-multipoint systems using the channels listed in § 22.621.

(a) *928–960 MHz.* The channels may be assigned, individually or paired, only to fixed transmitters in a system that controls at least four public mobile base transmitters that transmit on the same channel. If a 932–933 MHz channel and a 941–942 MHz channel are assigned as a pair, the 941–942 MHz channel must be assigned only to control transmitters; the 932–933 MHz channel may be assigned to control or fixed relay transmitters.

(b) *470–512 MHz.* These channels may be assigned only individually (unpaired), to control transmitters that directly control at least four public mobile base transmitters that transmit on the same channel. Fixed relay transmitters are not authorized.

(c) *Selection and assignment.* The FCC selects and assigns a channel when granting applications for authorization to operate a new station to transmit in the 470–512, 932–933 and 941–942 MHz frequency ranges. Applicants having a preference may request the assignment of a specific channel or channel pair, but the FCC may in some cases be unable to satisfy such requests.

§ 22.625 Transmitter locations.

This section governs where point-to-multipoint transmitters on the channels listed in § 22.621 may be located.

(a) *928–960 MHz.* In this frequency range, the required minimum distance separation between co-channel fixed transmitters is 113 kilometers (70 miles). However, this requirement may be waived if the applicant submits an engineering analysis that shows that no interference would be caused to either system. In such a case, a developmental authorization may be issued (see § 22.415). If no interference is experienced during the term of the developmental authorization, the licensee may apply for a regular authorization.

(b) *470–512 MHz.* The purpose of the rule in paragraph (b)(1) of this section is to define the areas in which the 470–512 MHz channels are allocated for public mobile use. The purpose of the rules in paragraphs (b)(2) and (b)(3) of this section is to reduce the likelihood that interference to television reception from public mobile operations on these channels will occur.

(1) *Control transmitter locations.* Control transmitter locations must be within 80 kilometers (50 miles) of the designated locations in this paragraph.

Urban area	N. latitude	W. longitude
Boston, MA	42°21'24"	71°03'24"
Chicago, IL	41°52'28"	87°38'22"
Cleveland, OH	41°29'51"	81°41'50"
Dallas, TX	32°47'09"	96°47'37"
Detroit, MI	42°19'48"	83°02'57"
Houston, TX	29°45'26"	95°21'37"
Los Angeles, CA	34°03'15"	118°14'28"
Miami, FL	25°46'37"	80°11'32"
New York, NY	40°45'06"	73°59'39"
Philadelphia, PA	39°56'58"	75°09'21"
Pittsburgh, PA	40°26'19"	80°00'00"
San Francisco-Oakland, CA	37°46'39"	122°24'40"
Washington, DC	38°53'51"	77°00'33"

(2) *Protection from intermodulation interference.* Control transmitter locations must be at least 1.6 kilometers (1 mile) from the main transmitter locations of all TV stations transmitting on TV channels separated by 2, 3, 4, 5, 7, or 8 TV channels from the TV channel containing the frequencies on which the control station will transmit. This requirement is intended to reduce the likelihood of intermodulation interference.

(3) *Co-channel protection from control transmitters with high antennas.* This paragraph applies only to control transmitters that utilize an antenna height of more than 152 meters (500 feet) above average terrain. The distance between the location of such a control transmitter and the applicable protected TV station location specified in this paragraph must equal or exceed the sum of the distance from the control transmitter location to the radio horizon in the direction of the specified location and 89 kilometers (55 miles—representing the distance from the main transmitter location of the TV station to its Grade B contour in the direction of the control transmitter). The protected TV station locations in this paragraph are the locations of record as of September 1974, and these do not change even though the TV stations may have been subsequently relocated.

(i) The protected TV station locations are as follows:

Control transmitter frequency range	Protected TV station location		
470–476 MHz.	Washington, 77°00′17″	DC	38°57′17″
476–482 MHz.	Lancaster, 76°27′49″	PA	40°15′45″

(ii) The distance to the radio horizon is calculated using the following formula:

$$d = \sqrt{17 \times h}$$

where

d is the distance to the radio horizon in kilometers

h is the height of the antenna center of radiation above ground level in meters

§ 22.627 Effective radiated power limits.

The effective radiated power (ERP) of transmitters operating on the channels listed in § 22.621 must not exceed the limits in this section.

(a) *Maximum ERP.* The ERP must not exceed the applicable limits in this paragraph under any circumstances.

Frequency range (MHz)	Maximum ERP (watts)
470–512	1000
928–929	50
932–933	30
941–942	600
952–960	150

(b) *470–512 MHz limits.* The purpose of the rules in paragraphs (b)(1) through (b)(3) of this section is to reduce the likelihood that interference to television receiption from public mobile operations on these channels will occur. The protected TV station locations specified in this section are the locations of record as of September 1974, and these do not change even though the TV stations may have been subsequently relocated.

(1) *Co-channel protection.* The ERP of control transmitters must not exceed the limits in the tables in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section. The limits depend upon the height above average terrain of the control transmitter antenna and the distance between the control transmitter and the nearest protected TV station location in paragraph (b)(1)(i) of this section.

(i) The protected TV station locations are as follows:

Control transmitter frequency range	Protected TV station location
470–476 MHz Jacksonville, IL 39°45′52″.	90°30′39″.
Mt. Pleasant, MI 43°34′24″	84°46′21″.
Oxford, OH 39°30′26″	84°44′09″.
Washington, DC 38°57′17″	77°00′17″.
476–482 MHz Champaign, IL 40°04′11″.	87°54′45″.
Madison, WI 43°03′01″	89°29′15″.
Parkersburg, WV 39°20′50″	81°33′56″.
Fort Wayne, IN 41°05′35″	85°10′42″.
Lancaster, PA 40°15′45″	76°27′49″.
482–488 MHz South Bend, IN 41°36′26″.	86°27′48″.
488–494 MHz Philadelphia, PA 40°02′30″.	75°14′24″.
494–500 MHz	None.
500–506 MHz Johnstown, PA 40°19′47″.	78°53′45″.
506–512 MHz Washington, DC 38°57′49″.	77°06′18″.
Waterbury, CT 41°31′02″	73°01′00″.

(ii) Table E–3 and E–4 apply to control transmitters in the New York–Northeastern New Jersey and Cleveland urban areas that transmit on channels in the 476–482 MHz range and to control transmitters in the Detroit urban area that transmit on channels in the 482–488 MHz range.

(iii) Tables E–5 and E–6 apply to all control transmitters except those to which Tables E–3 and E–4 apply.

(2) *Adjacent channel protection.* The ERP of control transmitters must not exceed the limits in Table E–7. The limits depend upon the height above average terrain of the control transmitter antenna and the distance between the control transmitter and the nearest protected TV station location listed in this paragraph. The protected TV station locations are as follows:

Control transmitter frequency range	Protected TV station location	TV channel
470–476 MHz:	Hanover, NH 43°42′30″ 72°09′16″	(15)
	Madison, WI 43°03′01″ 89°29′15″	(15)
	Champaign, IL 40°04′11″ 87°54′45″	(15)
	San Diego, CA 32°41′48″ 116°56′10″	(15)
	Lancaster, PA 40°15′45″ 76°27′49″	(15)
	Parkersburg, WV 39°20′50″ 81°33′56″	(15)
476–482 MHz:	South Bend, IN 41°36′20″ 86°12′44″	(16)
	Pittsburgh, PA 40°26′46″ 79°57′51″	(16)
	Mt. Pleasant, MI 43°34′24″ 84°46′21″	(14)
	Scranton, PA 41°10′58″ 75°52′21″	(16)
482–488 MHz:	Hanover, NH 43°42′30″ 72°09′16″	(15)
	Fort Wayne, IN 41°05′35″ 85°10′42″	(15)
488–494 MHz:	Salisbury, MD 38°24′15″ 75°34′45″	(16)
494–500 MHz:	Philadelphia, PA 40°02′30″ 75°14′24″	(17)
500–506 MHz:	Washington, DC 38°57′49″ 77°06′18″	(20)
506–512 MHz:	Harrisburg, PA 40°20′44″ 76°52′09″	(21)

(c) *Los Angeles area.* This paragraph applies only to control transmitters in the Los Angeles urban area that utilize an antenna height of 457 or more meters (1500 or more feet) above mean sea level. The ERP of such transmitters must not exceed the following limits:

Antenna height AMSL in meters (feet)	ERP (Watts)
457 (1500) to 610 (2000)	155
611 (2001) to 762 (2500)	100
763 (2501) to 914 (3000)	70
915 (3001) to 1067 (3500)	50
1068 (3501) to 1219 (4000)	40
1220 (4001) to 1372 (4500)	30
1373 (4501) and above	25

TABLE E–3.—MAXIMUM ERP (WATTS) FOR CONTROL TRANSMITTERS (HAAT 152 METERS OR LESS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)									
	15 (50)	30 (100)	46 (150)	61 (200)	76 (250)	91 (300)	107 (350)	122 (400)	137 (450)	152 (500)
209 (130)	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
201 (125)	1000	1000	1000	1000	1000	1000	1000	850	750	725
193 (120)	1000	1000	1000	1000	900	750	675	600	550	500
185 (115)	1000	1000	800	725	600	525	475	425	375	350
177 (110)	850	700	600	500	425	375	325	300	275	225
169 (105)	600	475	400	325	275	250	225	200	175	150
161 (100)	400	325	275	225	175	150	140	125	110	100
153 (95)	275	225	175	125	110	95	80	70	60	50
145 (90)	175	125	100	75	50	.....	.....	.....	.....	.....

See §22.627(b)(1)(ii). This table is for antenna heights of 152 meters (500 feet) or less above average terrain. For antenna heights between those in the table, use the next higher antenna height. For distances between those in the table, use the next lower distance.

TABLE E–4.—MAXIMUM ERP (WATTS) FOR CONTROL TRANSMITTERS (HAAT MORE THAN 152 METERS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)					
	152 (500)	305 (1000)	457 (1500)	610 (2000)	762 (2500)	914 (3000)
209 (130)	1000	447	219	117	71	46
193 (120)	500	209	95	50	30	19
177 (110)	225	91	35	19	11	8
161 (100)	100	30	10	5	3	2
153 (95)	50	13	5	3	2	1

See §22.627(b)(1)(ii). This table is for antenna heights of more than 152 meters (500 feet) above average terrain. For intermediate values of height and/or distance, use linear interpolation to obtain the maximum permitted ERP.

TABLE E–5.—MAXIMUM ERP (WATTS) FOR CONTROL TRANSMITTERS (HAAT 152 METERS OR LESS)

Distance to protected TV station in kilometers (miles)	Antenna Height Above Average Terrain in meters (feet)									
	15 (50)	30 (100)	46 (150)	61 (200)	76 (250)	91 (300)	107 (350)	122 (400)	137 (450)	152 (500)
261 (162)	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
257 (160)	1000	1000	1000	1000	1000	1000	1000	1000	1000	800
249 (155)	1000	1000	1000	1000	1000	875	775	700	625	575
241 (150)	1000	1000	950	775	725	625	550	500	450	400
233 (145)	850	750	650	575	500	440	400	350	320	300
225 (140)	600	575	465	400	350	300	275	250	230	225
217 (135)	450	400	335	300	255	240	200	185	165	150
209 (130)	350	300	245	200	185	160	145	125	120	100
201 (125)	225	200	170	150	125	110	100	90	80	75
193 (120)	175	150	125	105	90	80	70	60	55	50

See §22.627(b)(1)(iii). This table applies for antenna heights of 152 meters (500 feet) or less above average terrain. For antenna heights between those in the table, use the next higher antenna height. For distances between those in the table, use the next lower distance.

TABLE E–6.—MAXIMUM ERP (Watts) FOR CONTROL TRANSMITTERS (HAAT MORE THAN 152 METERS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)					
	152 (500)	305 (1000)	457 (1500)	610 (2000)	762 (2500)	914 (3000)
261 (162)	1000	501	282	170	110	71
241 (150)	400	209	110	60	36	23
225 (140)	225	102	50	28	16	10
209 (130)	100	48	21	11	7	5
193 (120)	50	19	9	5	3	2

See §22.627(b)(1)(iii). This table is for antenna heights of more than 152 meters (500 feet) above average terrain. For intermediate values of height and/or distance, use linear interpolation to obtain the maximum permitted ERP.

TABLE E–7.—MAXIMUM ERP (WATTS) FOR CONTROL TRANSMITTERS

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)								
	30 (100)	46 (150)	61 (200)	76 (250)	91 (300)	107 (350)	122 (400)	137 (450)	152 (500)
108 (67)	1000	1000	1000	1000	1000	1000	1000	1000	1000
106 (66)	1000	1000	1000	1000	1000	1000	1000	1000	750
105 (65)	1000	1000	1000	1000	1000	1000	825	650	600
103 (64)	1000	1000	1000	1000	1000	775	625	500	400
101 (63)	1000	1000	1000	1000	440	400	350	320	300
100 (62)	1000	1000	1000	525	375	250	200	150	125
98 (61)	1000	700	450	250	200	125	100	75	50
97 (60)	1000	425	225	125	100	75	50	.....	.....

See §22.627(b)(2). This table applies to control transmitters in the Boston, Chicago, Cleveland, Detroit, Los Angeles, New York-Northeastern New Jersey, Philadelphia, Pittsburgh and Washington, DC urban areas. This table is for antenna heights of 152 meters (500 feet) or less above average terrain. For antenna heights between those in the table, use the next higher antenna height. For distances between those in the table, use the next lower distance.

470–512 MHz Trunked Mobile Operation

§22.651 470–512 MHz channels for trunked mobile operation.

The following channels are allocated for assignment to transmitters providing trunked public mobile service within the specified urban areas. All channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

Houston

488.0125	491.0125	488.0875	491.0875
488.0375	491.0375	488.1125	491.1125
488.0625	491.0625	488.1375	491.1375

New York-Northern New Jersey

473.0125	479.0125	473.1625	479.1625
473.0375	479.0375	473.1875	479.1875
473.0625	479.0625	473.2125	479.2125
473.0875	479.0875	473.2375	479.2375
473.1125	479.1125	473.2625	479.2625
473.1375	479.1375	473.2875	479.2875

§22.653 Eligibility.

Only licensees already authorized to provide trunked mobile service or their successors in interest are eligible to apply for additional use of these channels for trunked mobile service, and then only in the urban areas already authorized.

§22.655 Channel usage.

The FCC is redesignating the public mobile channels in the 470–512 MHz range from trunked mobile operation to point-to-multipoint operation as the demand for trunked mobile service decreases.

(a) The licensees in each market shall measure channel usage at least once every 3 months. These measurements shall be reported to the FCC within 30 days. Measurements shall be taken during the busiest 12-hour periods on 3 days (within a 7-day period) having normal usage. The information must be reported separately for each of the 3 days selected, must be reported by dates, and must disclose the following:

(1) The number of mobile units in service during each of the days specified;

(2) The number of calls completed each hour;

(3) The total number of minutes during each hour that the channels were utilized for communications by the mobile units;

(4) The average channel usage for the busiest hour for the 3 days measured; and

(5) Any additional information that more accurately reflects channel usage.

(b) If the measured probability of blocking decreases below 25%, the FCC will redesignate channels not needed to maintain blocking at 25% or less. The number of channels needed to maintain blocking below 25% will be determined from the channel usage reports and the Erlang C tables.

(c) Although two or more channels are necessary to provide trunked service, the FCC may, pursuant to this section, reduce to one the number of channels assigned. In such cases, the licensee may provide non-trunked two-way public mobile service on the one remaining channel.

§22.657 Transmitter locations.

The purpose of the rules in paragraphs (a) and (b) of this section is to define the areas in which the 470–512 MHz channels are allocated for public mobile use. The purpose of the rules in paragraphs (c) through (f) of this section is to reduce the likelihood that interference to television reception from public mobile operations on these channels will occur. The protected TV station locations specified in paragraphs (d), (e)(1) and (f) of this section are the locations of record as of September 1974, and these do not change even though the TV stations may have been subsequently relocated.

(a) *Base transmitter locations.* Base transmitter locations must be within 80 kilometers (50 miles) of the designated locations in this paragraph. Mobile transmitters must not be operated at locations more than 129 kilometers (80 miles) from the designated locations in this paragraph.

Urban area	N. latitude	W. longitude
Houston, TX	29°45'26"	95°21'37"
New York, NY–NE NJ	40°45'06"	73°59'39"

(b) *Mobile area of operation.* Mobile transmitters must not be operated at locations more than 48 kilometers (30 miles) from all associated base stations.

(c) *Protection from intermodulation interference.* Base transmitter locations must be at least 1.6 kilometers (1 mile) from the current main transmitter locations of all TV stations transmitting on TV channels separated by 2, 3, 4, 5, 7, or 8 TV channels from the TV channel containing the frequencies on which the base station will transmit. This requirement is intended to reduce the likelihood of intermodulation interference.

(d) *Adjacent channel protection from mobile transmitters.* Base transmitter locations must be at least 145 kilometers (90 miles) from the applicable protected TV station locations specified in this paragraph. This requirement is intended to provide a 0 dB minimum desired to undesired signal strength ratio at the Grade B contour of an adjacent channel TV station.

Mobile transmitter frequency range	Protected TV station location	TV channel
470–476 MHz	Lancaster, PA 40°15′45″ 76°27′49″	(15)
476–482 MHz	Scranton, PA 41°10′58″ 75°52′21″	(16)

(e) *Co-channel protection from mobile transmitters.* Base transmitter locations must be at least the distance specified in paragraph (e)(2) of this section from the applicable protected TV station locations specified in paragraph (e)(1) of this section. This requirement is intended to provide a 40 dB minimum desired to undesired signal strength ratio at the Grade B contour of a co-channel TV station.

(1) The protected TV station locations are as follows:

Mobile transmitter frequency range	Protected TV station location		
470–476 MHz.	Washington, 77°00′17″.	DC	38°57′17″
476–482 MHz.	Lancaster, 76°27′49″.	PA	40°15′45″

(2) The required minimum distance depends upon the effective radiated power (ERP) of the most powerful mobile transmitter(s) in the system:

Mobile unit ERP (watts)	Minimum distance	
	Kilometers	Miles
60	193	(120)
50	185	(115)
25	177	(110)
10	169	(105)
5	161	(100)

(f) *Co-channel protection from base transmitters with high antennas.* This paragraph applies only to base transmitter locations in the New York-Northeastern New Jersey urban area that utilize an antenna height of more than 152 meters (500 feet) above average terrain. The distance between the location of such a base transmitter and the applicable protected TV station location specified in this paragraph must equal or exceed the sum of the distance from the base transmitter location to the radio horizon in the direction of the specified location and 89 kilometers (55 miles—representing the distance from the main transmitter location of the TV station to its Grade B contour in the direction of the base transmitter). The distance to the radio horizon is calculated as follows:

$$d = \sqrt{17 \times h}$$

where

d is the distance to the radio horizon in kilometers

h is the height of the antenna center of radiation above ground level in meters

Base transmitter frequency range	Protected TV station location		
470–476 MHz.	Washington, 77°00′17″.	DC	38°57′17″
476–482 MHz.	Lancaster, 76°27′49″.	PA	40°15′45″

(g) The FCC may waive specific distance separation requirements of paragraphs (d) through (f) of this section if the applicant submits an engineering analysis which demonstrates that terrain effects and/or operation with less effective radiated power would satisfy the applicable minimum desired to undesired signal strength ratios at the Grade B contours of the protected TV stations. For this purpose, the Grade B contour of a TV station is deemed to be a circle with a 89 kilometer (55 mile) radius, centered on the protected TV station location, and along which the median TV signal field strength is 64 dBμV/m. In any showing intended to demonstrate compliance with the minimum desired to undesired signal ratio requirements of this section, all predicted field strengths must have been determined using the UHF TV propagation curves contained in part 73 of this chapter.

§ 22.659 Effective radiated power limits.

The purpose of the rules in this section, which limit effective radiated power (ERP), is to reduce the likelihood that interference to television reception from public mobile operations on these channels will occur. The protected TV station locations specified in this section are the locations of record as of September 1974, and these do not change even though the TV stations may have been subsequently relocated.

(a) *Maximum ERP.* The ERP of base transmitters must not exceed 100 Watts under any circumstances. The ERP of mobile transmitters must not exceed 60 Watts under any circumstances.

(b) *Co-channel protection from base transmitters.* The ERP of base transmitters in the New York-Northeastern New Jersey urban area must not exceed the limits in the tables referenced in paragraphs (b)(2) and (b)(3) of this section. The limits depend upon the height above average terrain of the base transmitter antenna and the distance between the base transmitter and the nearest protected TV station location in paragraph (b)(1) of this section.

(1) The protected TV station locations are as follows:

Base transmitter frequency range	Protected TV station location		
470–476 MHz.	Washington, 77°00′17″.	DC	38°57′17″
476–482 MHz.	Lancaster, 76°27′49″.	PA	40°15′45″

(2) Tables E–8 and E–9 of this section apply to base transmitters in the New York-Northeastern New Jersey urban area that transmit on channels in the 476–482 MHz range.

(3) Tables E–10 and E–11 of this section apply to base transmitters in the New York-Northeastern New Jersey urban area that transmit on channels in the 470–476 MHz range.

(c) *Adjacent channel protection from base transmitters.* The ERP of base transmitters must not exceed the limits in Table E–12 of this section. The limits depend upon the height above average terrain of the base transmitter antenna and the distance between the base transmitter and the nearest protected TV station location specified in paragraph (c)(1) of this section.

(1) The protected TV station locations are as follows:

Base transmitter frequency range	Protected TV station location	TV channel
470–476 MHz	Hanover, NH 43°42′30″ 72°09′16″	(15)
	Lancaster, PA 40°15′45″ 76°27′49″	(15)

Base transmitter frequency range	Protected TV station location	TV channel
476–482 MHz	Scranton, PA 41°10'58" 75°52'21"	(16)
482–488 MHz	Hanover, NH 43°42'30" 72°09'16"	(15)

(2) Table E–12 of this section applies to base transmitters in the New York-Northeastern New Jersey urban area.

TABLE E–8.—MAXIMUM ERP (WATTS) FOR BASE TRANSMITTERS (HAAT 152 METERS OR LESS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)									
	15 (50)	30 (100)	46 (150)	61 (200)	76 (250)	91 (300)	107 (350)	122 (400)	137 (450)	152 (500)
209 (130)	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
201 (125)	1000	1000	1000	1000	1000	1000	1000	850	750	725
193 (120)	1000	1000	1000	1000	900	750	675	600	550	500
185 (115)	1000	1000	800	725	600	525	475	425	375	350
177 (110)	850	700	600	500	425	375	325	300	275	225
169 (105)	600	475	400	325	275	250	225	200	175	150
161 (100)	400	325	275	225	175	150	140	125	110	100
153 (95)	275	225	175	125	110	95	80	70	60	50
145 (90)	175	125	100	75	50	.....	.....	.....	.....	.....

See §22.659(b)(2). This table is for antenna heights of 152 meters (500 feet) or less above average terrain. For antenna heights between those in the table, use the next higher antenna height. For distances between those in the table, use the next lower distance.

TABLE E–9.—MAXIMUM ERP (WATTS) FOR BASE TRANSMITTERS (HAAT MORE THAN 152 METERS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)					
	152 (500)	305 (1000)	457 (1500)	610 (2000)	762 (2500)	914 (3000)
209 (130)	1000	447	219	117	71	46
193 (120)	500	209	95	50	30	19
177 (110)	225	91	35	19	11	8
161 (100)	100	30	10	5	3	2
153 (95)	50	13	5	3	2	1

See §22.659(b)(2). This table is for antenna heights of more than 152 meters (500 feet) above average terrain. For intermediate values of height and/or distance, use linear interpolation to obtain the maximum permitted ERP.

TABLE E–10.—MAXIMUM ERP (WATTS) FOR BASE TRANSMITTERS (HAAT 152 METERS OR LESS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)									
	15 (50)	30 (100)	46 (150)	61 (200)	76 (250)	91 (300)	107 (350)	122 (400)	137 (450)	152 (500)
261 (162)	1000	1000	1000	1000	1000	1000	1000	1000	1000	1000
257 (160)	1000	1000	1000	1000	1000	1000	1000	1000	1000	800
249 (155)	1000	1000	1000	1000	1000	875	775	700	625	575
241 (150)	1000	1000	950	775	725	625	550	500	450	400
233 (145)	850	750	650	575	500	440	400	350	320	300
225 (140)	600	575	465	400	350	300	275	250	230	225
217 (135)	450	400	335	300	255	240	200	185	165	150
209 (130)	350	300	245	200	185	160	145	125	120	100
201 (125)	225	200	170	150	125	110	100	90	80	75
193 (120)	175	150	125	105	90	80	70	60	55	50

See §22.659(b)(3). This table applies for antenna heights of 152 meters (500 feet) or less above average terrain. For antenna heights between those in the table, use the next higher antenna height. For distances between those in the table, use the next lower distance.

TABLE E–11.—MAXIMUM ERP (WATTS) FOR BASE TRANSMITTERS (HAAT More Than 152 METERS)

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)					
	152 (500)	305 (1000)	457 (1500)	610 (2000)	762 (2500)	914 (3000)
261 (162)	1000	501	282	170	110	71
241 (150)	400	209	110	60	36	23
225 (140)	225	102	50	28	16	10
209 (130)	100	48	21	11	7	5

TABLE E–11.—MAXIMUM ERP (WATTS) FOR BASE TRANSMITTERS (HAAT More Than 152 METERS)—Continued

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)					
	152 (500)	305 (1000)	457 (1500)	610 (2000)	762 (2500)	914 (3000)
193 (120)	50	19	9	5	3	2

See §22.659(b)(3). This table is for antenna heights of more than 152 meters (500 feet) above average terrain. For intermediate values of height and/or distance, use linear interpolation to obtain the maximum permitted ERP.

TABLE E–12.—MAXIMUM ERP (WATTS) FOR BASE TRANSMITTERS

Distance to protected TV station in kilometers (miles)	Antenna height above average terrain in meters (feet)								
	30 (100)	46 (150)	61 (200)	76 (250)	91 (300)	107 (350)	122 (400)	137 (450)	152 (500)
108 (67)	1000	1000	1000	1000	1000	1000	1000	1000	1000
106 (66)	1000	1000	1000	1000	1000	1000	1000	1000	750
105 (65)	1000	1000	1000	1000	1000	1000	825	650	600
103 (64)	1000	1000	1000	1000	1000	775	625	500	400
101 (63)	1000	1000	1000	1000	440	400	350	320	300
100 (62)	1000	1000	1000	525	375	250	200	150	125
98 (61)	1000	700	450	250	200	125	100	75	50
97 (60)	1000	425	225	125	100	75	50	.....	.....

See §22.659(c)(2). This table applies to base transmitters in the New York-Northeastern New Jersey urban areas. This table is for antenna heights of 152 meters (500 feet) or less above average terrain. For antenna heights between those in the table, use the next higher antenna height. For distances between those in the table, use the next lower distance.

Subpart F—Rural Radiotelephone Service

§22.701 Scope.

The rules in this subpart govern the licensing and operation of stations and systems in the Rural Radiotelephone Service. The licensing and operation of these stations and systems is also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. In case of conflict, however, the rules in this subpart govern.

§22.702 Eligibility.

Existing and proposed communications common carriers are eligible to hold authorizations to operate conventional central office, interoffice and rural stations in the Rural Radiotelephone Service. Only local exchange carriers that have been state certified to provide basic exchange telephone service (or others having state approval to provide such service) in the pertinent area are eligible to hold authorizations for Basic Exchange Telephone Radio Systems (BETRS). Subscribers are also eligible to hold authorizations to operate rural subscriber stations in the Rural Radiotelephone Service.

§22.703 Separate rural subscriber station authorization not required.

A separate authorization is not required for rural subscriber stations for which the effective radiated power does not exceed 60 Watts and for which FAA notification of construction or alteration of the antenna structure is not required (see criteria in § 17.7 of this chapter). Authority to operate such rural subscriber stations is conferred by the authorization of the central office or base station from which they receive service.

§22.705 Rural radiotelephone system configuration.

Stations in the Rural Radiotelephone Service are authorized to communicate as follows:

(a) Rural subscriber stations are authorized to communicate with and through the central office station(s) with which they are associated. However, where the establishment of a central office station in this service is not feasible, rural subscriber stations may be authorized to communicate with and through a base station in the Paging and Radiotelephone Service.

(b) Central office stations may communicate only with rural subscriber stations.

(c) Interoffice stations may communicate only with other interoffice stations.

§22.709 Rural radiotelephone service application requirements.

In addition to information required by subparts B and D of this part, applications for authorization to operate a station in the Rural Radiotelephone Service must contain the applicable supplementary information described in this section.

(a) *Interoffice stations.* Applications for authority to operate a new interoffice station or to add transmitters or points of communications to an existing interoffice station must contain an exhibit demonstrating that the requested facilities would be used only for interconnecting central office stations and explaining why the use of alternative existing radio or wire facilities is not feasible.

(b) *Technical information required.* For each transmitter in the Rural Radiotelephone Service, the following information is required by FCC Form 401 Schedule B:

(1) Location description; city; county; state; geographical coordinates correct to ±1 second, the datum used (NAD 27 or NAD 83), site elevation above mean sea level, proximity to adjacent market boundaries and international borders;

(2) Antenna manufacturer, model number and type, antenna height to tip above ground level, the height of the center of radiation of the antenna above the average terrain, the height of the antenna center of radiation above the average elevation of the terrain along each of the 8 cardinal radials, antenna gain in the maximum lobe, the beamwidth of the maximum lobe of the antenna, a polar plot of the horizontal gain pattern of the antenna, the electric field polarization of the wave emitted by the antenna when installed as proposed;

(3) The center frequency of each channel requested, the maximum effective radiated power, the effective radiated power in each of the cardinal

radial directions, any non-standard emission types to be used, including bandwidth and modulation type, the transmitter classification (e.g. central office), and the locations and call signs, if any, of any fixed points of communication.

(c) *No landline facilities.* Each application for a central office station must contain an exhibit showing that it is impracticable to provide the required communication service by means of landline facilities.

(d) *Interference exhibit.* Applications for central office, interoffice and relay stations must include an exhibit identifying co-channel facilities and demonstrating, in accordance with § 22.715 that the proposed station, if authorized, would not cause interference to the service of those co-channel facilities. This exhibit must:

(1) For UHF channels, identify each protected transmitter located within 108 kilometers (67 miles) of the proposed transmitter in directions in which the distance to the interfering contour is 76.4 kilometers (47.5 miles) or less, and within 178 kilometers (111 miles) of the proposed transmitter in directions in which the distance to the interfering contour exceeds 76.4 kilometers (47.5 miles); and identify each protected Basic Exchange Telephone Radio System central office transmitter in the rural Radiotelephone Service within 231 kilometers (144 miles).

(2) For VHF channels, identify each protected transmitter located within 135 kilometers (84 miles) of the proposed transmitter in directions in which the distance to the interfering contour is 93.3 kilometers (58 miles) or less, and within 178 kilometers (111 miles) of the proposed transmitter in directions in which the distance to the interfering contour exceeds 93.3 kilometers (58 miles).

(3) For each protected transmitter identified, show the results of distance calculations indicating that there would be no overlap of service and interfering contours, or alternatively, indicate that the licensee of or applicant for the protected transmitter and/or the applicant, as required, have agreed in writing to accept any interference resulting from operation of the proposed transmitter.

(e) *Blocking probability.* Applications for authority to operate basic exchange telephone radio systems (BETRS) that request more than two channel pairs must include an exhibit containing calculations showing that the number of channels requested is the minimum necessary to achieve the required grade of service (in terms of blocking probability), and that there will be adequate spectrum available in the area to meet realistic estimates of current and future demand for paging, two-way mobile and rural radiotelephone services (see § 22.719(c)). Applications for authority to operate new conventional rural radiotelephone systems that request more than two channel pairs must include a statement explaining why BETRS technology is not being proposed.

§ 22.711 Provision of information to applicants.

Licensees in the Rural Radio Service must, upon request by a *bona-fide* prospective applicant, provide to such applicant the information required by § 22.709 regarding the portion of the licensee's operations that potentially could affect, or be affected by, the prospective applicant's proposed station, if such information is not already on file with the FCC. This information must be provided to the *bona-fide* prospective applicant no later than 30 days after receipt of the information request.

§ 22.713 Construction period for rural radiotelephone stations.

The construction period for stations in the Rural Radiotelephone Service is 12 months.

§ 22.715 Technical channel assignment criteria for rural radiotelephone stations.

Channels are assigned in the Rural Radiotelephone Service using the procedures in § 22.567.

§ 22.717 Procedure for mutually exclusive applications in the Rural Radiotelephone Service.

Mutually exclusive applications in the Rural Radiotelephone Service, including those that are mutually exclusive with applications in the Paging and Radiotelephone Service, are processed in accordance with the rules in this section.

(a) *Filing groups.* Pending mutually exclusive applications are processed in filing groups. Mutually exclusive applications in a filing group are given concurrent consideration. The FCC may dismiss as defective (pursuant to § 22.128) any mutually exclusive application(s) whose filing date is outside of the date range for inclusion in the filing group. The types of filing groups used in day-to-day application processing are specified in paragraph (b)(3) of this section. A filing group is one of the following types:

(1) *Renewal filing group.* A renewal filing group comprises a timely-filed application for renewal of an authorization and all timely-filed mutually exclusive competing applications.

(2) *Same-day filing group.* A same-day filing group comprises all mutually exclusive applications whose filing date is the same day, which is normally the filing date of the first-filed application(s).

(3) *Thirty-day notice and cut-off filing group.* A thirty-day notice and cut-off filing group comprises mutually exclusive applications whose filing date is no later than 30 days after the date of the Public Notice listing the first-filed application(s) (according to the filing dates) as acceptable for filing.

(4) *Window filing group.* A window filing group comprises mutually exclusive applications whose filing date is within an announced filing window. An announced filing window is a period of time between and including two specific dates, which are the first and last dates on which applications (or amendments) for a particular purpose may be accepted for filing. In the case of a one-day filing window, the two dates are the same. The dates are made known to the public in advance.

(b) *Procedures.* Generally, the FCC may grant one application in a filing group of mutually exclusive applications and dismiss other application(s) in the filing group that are excluded by that grant, pursuant to § 22.128.

(1) *Selection methods.* In selecting the application to grant, the FCC may use comparative hearings.

(2) *Dismissal of applications.* The FCC may dismiss any application in a filing group that is defective or otherwise subject to dismissal under § 22.128, either before or after employing selection procedures.

(3) *Type of filing group used.* Except as otherwise provided in this part, the type of filing group used in processing of two or more mutually exclusive applications depends on the purpose(s) of the applications.

(i) If one of the mutually exclusive applications is a timely-filed application for renewal of an authorization, a renewal filing group is used.

(ii) If any mutually exclusive application filed on the earliest filing date is an application for modification and none of the mutually exclusive applications is a timely-filed application for renewal, a same-day filing group is used.

(iii) If all of the mutually exclusive applications filed on the earliest filing date are applications for initial authorization, a thirty-day notice and cut-off filing group is used.

(4) *Disposition.* If there is only one application in any type of filing group,

the FCC may grant that application and dismiss without prejudice any applications excluded by that grant (i.e. not in the filing group). If there is more than one mutually exclusive application in a filing group, the FCC disposes of these applications as follows:

(i) *Applications in a renewal filing group.* All mutually exclusive applications in a renewal filing group are designated for comparative consideration in a hearing.

(ii) *Applications in a thirty-day notice and cut-off filing group.* For applications in a thirty-day notice and cut-off filing group, the FCC may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the FCC may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(iii) *Applications in a same-day filing group.* If there are two or more mutually exclusive applications in a same-day filing group, the FCC may attempt to resolve the mutual exclusivity by facilitating a settlement between the applicants. If a settlement is not reached within a reasonable time, the FCC may designate all applications in the filing group for comparative consideration in a hearing. In this event, the result of the hearing disposes all of the applications in the filing group.

(iv) *Applications in a window filing group.* Applications in a window filing group are processed in accordance with the procedures for a thirty-day notice and cut-off filing group in paragraph (b)(4)(ii) of this section.

(c) *Terminology.* For the purposes of this section, terms have the following meanings:

(1) The "filing date" of an application is the date on which that application was received in a condition acceptable for filing or the date on which the most recently filed major amendment to that application was received, whichever is later, excluding major amendments in the following circumstances:

(i) The major amendment reflects only a change in ownership or control found by the FCC to be in the public interest; or,

(ii) The major amendment as received is defective or otherwise found unacceptable for filing.

(2) An "application for initial authorization" is:

(i) Any application requesting an authorization for a new system or station;

(ii) Any application requesting authorization for an existing station to operate on an additional channel, unless the additional channel is for paired two-way radiotelephone operation, is in the same frequency range as the existing channel(s), and will be operationally integrated with the existing channel(s) such as by trunking; or,

(iii) Any application requesting authorization for a new transmitter at a location more than 2 kilometers (1.2 miles) from any existing transmitters of the applicant licensee on the requested channel.

(3) An "application for modification" is any application other than an application for initial authorization or renewal.

§ 22.719 Additional channel policy for rural radiotelephone stations.

The rules in this section govern the processing of applications for central office stations that request a rural radiotelephone channel pair when the applicant has applied for or been granted an authorization for other rural radiotelephone channel pairs in the same area. The general policy of the FCC is to promote effective use of the spectrum by encouraging the use of spectrum-efficient technologies (i.e. BETRS) and by assigning the minimum number of channels necessary to provide service.

(a) *Transmitters in same area.* Any central office station transmitter on any channel pair listed in § 22.725 is considered to be in the same area as another central office station transmitter on any other channel pair listed in § 22.725 if the transmitting antennas are located within 10 kilometers (6.2 miles) of each other.

(b) *Initial channel pairs.* The FCC does not assign more than two channel pairs for new central office stations, unless there are more than eight rural subscriber stations to be served. Stations are considered to be new if there are no authorized transmitters on any channel listed in § 22.725 controlled by the applicant in the same geographic area.

(c) *Additional channel pairs.* Applications for central office station transmitters to be located in the same area as an authorized central office station controlled by the applicant, but to operate on a different channel pair(s) are considered as requests for additional channel pair(s) for the authorized central office station. The FCC may grant applications for additional channel pairs provided that the need for each additional channel pair (after the first two) is established and fully justified in terms of achieving the required grade of service (blocking probability), and the applicant demonstrates that there will still be adequate spectrum available in the area to meet realistic estimates of current and future demand for paging, two-way mobile and rural radiotelephone services. In the case of conventional rural radiotelephone central office stations, an explanation must be provided as to why BETRS technology is not being used instead of additional channel pairs.

Conventional Rural Radiotelephone Stations

§ 22.725 Channels for conventional rural radiotelephone stations.

The following channels are allocated for paired assignment to transmitters that provide conventional rural radiotelephone service. These channels may be assigned for use by central office or rural subscriber stations as indicated, and interoffice stations. These channels may be assigned also for use by relay stations in systems where it would be impractical to provide rural radiotelephone service without the use of relay stations. All channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

Central office	Rural subscriber
VHF Channels	
152.03	158.49
152.06	158.52
152.09	158.55
152.12	158.58
152.15	158.61
152.18	158.64
152.21	158.67
152.51	157.77
152.54	157.80
152.57	157.83
152.60	157.86
152.63	157.89
152.66	157.92
152.69	157.95
152.72	157.98
152.75	158.01
152.78	158.04
152.81	158.07
UHF Channels	
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350
454.375	459.375
454.400	459.400
454.425	459.425

Central office	Rural subscriber
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

(a) The channels listed in this section are also allocated for assignment in the Paging and Radiotelephone Service.

(b) In Puerto Rico and the Virgin Islands, channels in the 154.04–154.46 MHz and 161.40–161.85 MHz frequency ranges may be assigned to transmitters providing rural radiotelephone service; channels in these ranges are also allocated for assignment in the International Fixed Public and Aeronautical Fixed radio services.

(c) In Alaska, channels 42.40, 44.10, 44.20 and 45.90 MHz are allocated for assignment to transmitters providing rural radiotelephone service using meteor burst propagation modes, subject to the provisions of § 22.729.

§ 22.727 Power limits for conventional rural radiotelephone transmitters.

The transmitting power of transmitters operating on the channels listed in § 22.725 must not exceed the limits in this section.

(a) *Maximum ERP.* The effective radiated power (ERP) of central office and rural subscriber station transmitters must not exceed the applicable limits in this paragraph under any circumstances.

Frequency range (MHz)	Maximum ERP (watts)
152–153	1400
157–159	150
454–455	3500
459–460	150

(b) *Basic power limit.* Except as provided in paragraph (d) of this section, the ERP of central office station transmitters must not exceed 500 Watts.

(c) *Height-power limits.* Except as provided in paragraph (d) of this section, the ERP of central office station transmitters must not exceed the amount that would result in an average distance to the "service contour" of 41.6 kilometers (26 miles) for VHF channels or 30.7 kilometers (19 miles) for UHF channels. The average distance to the "service contour" is calculated by taking the arithmetic mean of the distances determined using the procedures specified in § 22.567 for the eight cardinal radial directions, excluding cardinal radial directions for which 90% or more of the distance so calculated is over water.

(d) *Encompassed interfering contour areas.* Central office station transmitters are exempt from the basic power and height-power limits of this section if the area within their interfering contours is totally encompassed by the interfering contours of operating co-channel central office station transmitters controlled by the same licensee. For the purpose of this paragraph, operating transmitters are authorized transmitters that are providing service to subscribers.

(e) *Adjacent channel protection.* The ERP of central office station transmitters must not exceed 500 Watts if they transmit on channel 454.025 MHz and are located less than 7 kilometers (4.3 miles) from any Private Radio Services station receiving on adjacent channel 454.000 MHz.

(f) *Meteor burst stations.* The transmitter output power for stations using meteor burst propagation modes must not exceed 2000 Watts for central office stations and 500 Watts for rural subscriber stations.

§ 22.729 Meteor burst propagation modes.

The rules in this section govern stations in this service that use meteor burst propagation modes to provide rural radiotelephone service in Alaska.

(a) *Channel assignments.* The channels 42.40 and 44.10 MHz may be assigned to central office stations and rural subscriber stations, respectively, on a primary basis. The channels 44.20 and 45.90 MHz may be assigned to central office and rural subscriber stations, respectively, on a secondary basis to Private Radio services stations using meteor burst propagation modes.

(b) *Transmitting power.* The transmitter output power must not exceed 2000 Watts for central office stations and 500 Watts for rural subscriber stations.

(c) *Station locations.* Co-channel central office stations of different licensees must be at least 241 kilometers (150 miles) apart. A rural subscriber station and a central office station of different licensees must be at least 241 kilometers (150 miles) apart if the rural subscriber stations of the different licensees operate on the same channel. The FCC may waive the requirements of this paragraph if the affected users agree to a cooperative sharing arrangement.

(d) *Emission type.* Only type F1D emission is authorized.

(e) *Bandwidth.* The authorized bandwidth is 20 kHz.

(f) *Station identification.* Station identification is required only for the central office station.

(g) *Interference.* Stations authorized under the provisions of this section must not cause harmful interference to the service of stations in other radio services.

(h) *Developmental authorization.* Meteor burst communications systems may be authorized under developmental authorizations pursuant to § 22.419.

§ 22.731 Emission limitations.

Upon application for multichannel operation, the FCC may authorize emission bandwidths wider than those specified in § 22.357, provided that spectrum utilization is equal to or better than that achieved by single channel operation.

§ 22.733 Priority of service.

Within the Rural Radiotelephone Service, the channels listed in § 22.725 are intended primarily for use in rendition of public message service between rural subscriber and central office stations and to provide radio trunking facilities between central offices. The channels may also be used, however, for the rendition of private leased-line communication service provided that such usage would not reduce or impair the extent or quality of communication service that would be available, in the absence of private leased-line service, to the general public receiving or subsequently requesting public message service from a central office.

§ 22.737 Temporary fixed stations.

The FCC may, upon proper application therefor, authorize the construction and operation of temporary fixed stations. Temporary fixed stations are to be used as rural subscriber, interoffice, or central office stations when those stations are unavailable or when service from those stations is disrupted by storms or emergencies.

(a) *Six month limitation.* If it is necessary for a temporary fixed station to remain at the same location for more than six months, the licensee of that station must apply for authorization to operate the station at the specific location at least 30 days before the end of the six month period.

(b) *International communications.* Communications between the United States and Canada or Mexico must not be carried using a temporary fixed station without prior authorization from the FCC. Licensees desiring to carry such communications should apply sufficiently in advance to allow for the time necessary to coordinate with Canada or Mexico.

Basic Exchange Telephone Radio Systems

§ 22.757 Channels for basic exchange telephone radio systems.

The channels listed in § 22.725 are also allocated for paired assignment to transmitters in basic exchange telephone radio systems. In addition, the following channels are allocated for paired assignment to transmitters in basic exchange telephone radio systems. All channels have a bandwidth of 20 kHz and are designed by their center frequencies in MegaHertz.

UHF CHANNELS—SHARED WITH PRIVATE RADIO SERVICES

Rural subscriber	Central office
816.2375	861.2375
817.2375	862.2375
818.2375	863.2375
819.2375	864.2375
820.2375	865.2375
816.2125	861.2125
817.2125	862.2125
818.2125	863.2125
819.2125	864.2125
820.2125	865.2125
816.1875	861.1875
817.1875	862.1875
818.1875	863.1875
819.1875	864.1875
820.1875	865.1875
816.1625	861.1625
817.1625	862.1625
818.1625	863.1625
819.1625	864.1625
820.1625	865.1625
816.1375	861.1375
817.1375	862.1375
818.1375	863.1375
819.1375	864.1375
820.1375	865.1375
816.1125	861.1125
817.1125	862.1125
818.1125	863.1125
819.1125	864.1125
820.1125	865.1125
816.0875	861.0875
817.0875	862.0875
818.0875	863.0875
819.0875	864.0875
820.0875	865.0875
816.0625	861.0625
817.0625	862.0625
818.0625	863.0625
819.0625	864.0625
820.0625	865.0625
816.0375	861.0375
817.0375	862.0375
818.0375	863.0375
819.0375	864.0375
820.0375	865.0375
816.0125	861.0125
817.0125	862.0125
818.0125	863.0125
819.0125	864.0125
820.0125	865.0125

(a) Channels are assigned in groups, as listed in this section.

(b) Channel groups in the 816–865 Mhz frequency range are not assigned to Rural Radio Service stations located:

(1) Within 161 kilometers (100 miles) of the borders of the largest 54 MSAs (see § 22.909).

(2) North of Line A or East of Line C; or,

(3) Within 110 kilometers (68 miles) of the Mexican border.

(c) Channel groups in the 816–865 MHz frequency range are not assigned to central office stations located within 113 kilometers (70 miles) of another station authorized to operate on the same channels or on channels with center frequencies offset by 12.5 kHz.

(d) Technical parameters governing the use of these channels are contained in subpart S of part 90 of this chapter.

(e) The Common Carrier Bureau coordinates the availability of channels in the 816–865 MHz frequency range with the Private Radio Bureau.

§ 22.759 Power limit for BETRS.

The effective radiated power of central office and rural subscriber station transmitters used in basic exchange telephone radio systems must not exceed the limits in this section.

(a) *Maximum ERP.* The effective radiated power (ERP) of central office and rural subscriber station transmitters in BETRS must not exceed the applicable limits in this paragraph under any circumstances.

Frequency range (MHz)	Maximum ERP (watts)
152–153	1400
157–159	150
454–455	3500
459–460	150

(b) *Height-power limit.* The ERP of central office stations in BETRS must not exceed the amount calculated as follows:

$ERP_w = 557{,}418 \div h_m^2$

where ERP_w is the effective radiated power in Watts

h_m is the average (eight cardinal radial) antenna height above average terrain in meters

Subpart G—Air-ground Radiotelephone Service

§ 22.801 Scope.

The rules in this subpart govern the licensing and operation of public air-ground radiotelephone stations and systems. The licensing and operation of these stations and systems is also subject to rules elsewhere in this part that apply generally to the Public Mobile services. In case of conflict, however, the rules in this subpart govern.

§ 22.803 Air-ground application requirements.

In addition to information required by Subparts B and D of this part, applications for authorization to operate an air-ground station or system in the Air-ground Radiotelephone Service must contain the applicable supplementary information described in this section.

(a) *Administrative information.* The following information is required by FCC Form 401, Schedule B or C (as applicable).

(1) The number of transmitter sites for which authorization is requested.

(2) The call sign(s) of other facilities in the same area that are ultimately controlled by the real party in interest to the application.

(b) *Technical information.* The following information is required by FCC Form 401, Schedule B.

(1) Location description, city; county; state; geographical coordinates correct to ±1 second, the datum used (NAD 27 or NAD 28), site elevation above mean sea level, proximity to adjacent market boundaries and international borders;

(2) Antenna manufacturer, model number and type, antenna height to tip above ground level, antenna gain in the maximum lobe, the electric field polarization of the wave emitted by the antenna when installed as proposed;

(3) The center frequency of each channel requested, the maximum effective radiated power, any non-standard emission types to be used, including bandwidth and modulation type and the transmitter classification (e.g. ground or signaling).

General Aviation Air-Ground Stations

§ 22.805 Channels for general aviation air-ground service.

The following channels are allocated for the provision of radiotelephone service to airborne mobile subscribers in general aviation aircraft. These channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

SIGNALLING CHANNEL PAIR

Ground	Airborne mobile
454.675	459.675

COMMUNICATION CHANNEL PAIRS

Ground	Airborne mobile
454.700	459.700
454.725	459.725
454.750	459.750
454.775	459.775
454.800	459.800

COMMUNICATION CHANNEL PAIRS—Continued

Ground	Airborne mobile
454.825	459.825
454.850	459.850
454.875	459.875
454.900	459.900
454.925	459.925
454.950	459.950
454.975	459.975

(a) Channel 454.675 MHz is assigned to each and every ground station, to be used only for automatically alerting airborne mobile stations of incoming calls.

(b) All airborne mobile channels are assigned for use by each and every airborne mobile station.

§ 22.809 Transmitting power limits.

The transmitting power of ground and airborne mobile transmitters operating on the channels listed in § 22.805 must not exceed the limits in this section.

(a) *Ground station transmitters.* The effective radiated power of ground stations must not exceed 100 Watts and must not be less than 50 Watts, except as provided in § 22.811.

(b) *Airborne mobile transmitters.* The transmitter power output of airborne mobile transmitters must not exceed 25 Watts and must not be less than 4 Watts.

§ 22.811 Idle tone.

Whenever a ground station transmitter authorized to transmit on any of the communications channels listed in § 22.805 is available for service but is not providing service, a modulated signal must be continuously transmitted on the communication channel assigned to that transmitter. While this modulated signal is transmitted, the transmitter power must be between 10 and 20 dB lower than the normal transmitting power.

§ 22.813 Technical channel pair assignment criteria.

The rules in this section establish technical assignment criteria for the channel pairs listed in § 22.805. These criteria are intended to provide substantial service volumes over areas that have significant local and regional general aviation activity, while maintaining the continuous nationwide in-route coverage of the original geographical layout.

(a) *Distance separation for co-channel ground stations.* The FCC may grant an application requesting assignment of a communication channel pair to a proposed ground transmitter only if the proposed antenna location is at least 800 kilometers (497 miles) from the antenna location of the nearest co-channel ground transmitter in the United States, its territories and possessions; and 1000 kilometers (621 miles) from the antenna location of the nearest co-channel ground transmitter in Canada.

(b) *Dispersion.* The FCC may grant an application requesting assignment of a communication channel pair to a proposed ground transmitter only if there are no more than five different communication channel pairs already assigned to ground transmitters with antenna locations within a 320 kilometer (199 mile) radius of the proposed antenna location.

§ 22.815 Construction period for general aviation ground stations.

The construction period (see § 22.142) for general aviation ground stations is 12 months.

§ 22.817 Additional channel policies.

The rules in this section govern the processing of applications for authority to operate a ground station transmitter on any ground station communication channel listed in § 22.805 when the applicant has applied or been granted an authorization for other ground station communication channels in the same area. The general policy of the FCC is to assign one ground station communication channel in an area to a carrier per application cycle, up to a maximum of six ground station communication channels per area. That is, a carrier must apply for one ground station communication channel, receive the authorization, construct the station, and notify the FCC of commencement of service before applying for an additional ground station communication channel in that area.

(a) *Air-ground transmitters in same area.* Any transmitter on any of the ground station channels listed in § 22.805 is considered to be in the same area as another transmitter on any ground station channel listed in § 22.805 if it is located less than 350 kilometers (217 miles) from that transmitter.

(b) *Initial channel.* The FCC will not assign more than one ground station communication channel for new ground stations. Ground stations are considered to be new if there are no authorized ground station transmitters on any channel listed in § 22.805 controlled by the applicant in the same area.

(c) *Additional channel.* Applications for ground transmitters to be located in the same area as an authorized ground station controlled by the applicant, but to operate on a different ground station communication channel, are considered as requesting an additional channel for the authorized station.

(d) *Amendment of pending application.* If the FCC receives and accepts for filing an application for a ground station transmitter to be located in the same area as a ground station transmitter proposed in a pending application previously filed by the applicant, but on a different ground station communication channel, the subsequent application is treated as a major amendment to change the technical proposal of the prior application. The filing date of any application so amended is the date the FCC received the subsequent application.

(e) *Dismissal of premature applications for additional channel.* If the FCC receives an application requesting an additional ground station communication channel for an authorized ground station prior to receiving notification that the station is providing service to subscribers on the authorized channel(s), the FCC may dismiss that application without prejudice.

(f) *Dismissal of applications for seventh channel.* If the FCC receives an application requesting an additional ground station communication channel for an authorized ground station which would, if granted, result in that station being assigned more than six ground station communication channels in the same area, the FCC may dismiss that application without prejudice.

§ 22.819 AGRAS compatibility requirement.

Except as provided in paragraph (a) of this section, stations transmitting on the channels listed in § 22.805 must operate in compliance with the technical and operational requirements contained in the document, "Technical Reference, Air-ground Radiotelephone Automated Service (AGRAS), System Operation and Equipment Characteristics", dated April 12, 1985.

(a) Until January 1, 1996, stations may continue to operate in compliance with the previous standard adopted in Docket 16073.

(b) Copies of the document referenced in this section may be obtained from the FCC's copying contractor.

§ 22.821 Authorization for airborne mobile stations.

An authorization separate from any ground station authorization is required for each airborne mobile station that operates on the channels listed in § 22.805. The operator of the airborne mobile station must apply for the authorization (FCC Form 409). The

application must contain an affirmative representation that the applicant has made definite arrangements with a wireline common carrier for service and billing.

Commercial Aviation Air-Ground Systems

§ 22.857 Channel plan for commercial aviation air-ground systems.

The 849–851 and 894–896 MHz frequency ranges are allocated for block assignment to nationwide air-ground systems providing radiotelephone service to passengers aboard commercial aircraft. These frequency ranges may also be used to provide service to persons in general aviation or other aircraft. Ground stations transmit on channels in the 849–851 MHz range. Airborne mobile stations transmit on channels in the 894–896 MHz range. Systems using these channels must conform to the channel plan described in this section.

(a) *Channel blocks.* The spectrum allocated for commercial aviation air-ground systems is divided into ten channel blocks, numbered 1 through 10. All ground stations in each geographical area must use the same channel block for communication with airborne mobile stations in flight, in accordance with § 22.859.

(1) Each channel block is subdivided into 6 control channels labeled P–1 through P–6, and 29 communications channels labeled C–1 through C–29.

(2) The authorized channel bandwidths are as follows:

(i) Each control channel has a bandwidth of 3.2 kHz.

(ii) Each communications channel has a bandwidth of 6 kHz.

(b) The center frequencies (in MegaHertz) of the communications and control channels are listed in Tables G–1 and G–2 of this section.

TABLE G–1.—GROUND STATION CHANNELS

	Channel block									
	10	9	8	7	6	5	4	3	2	1
C–1	849.0055	849.2055	849.4055	849.6055	849.8055	850.0055	850.2055	850.4055	850.6055	850.8055
C–2	849.0115	849.2115	849.4115	849.6115	849.8115	850.0115	850.2115	850.4115	850.6115	850.8115
C–3	849.0175	849.2175	849.4175	849.6175	849.8175	850.0175	850.2175	850.4175	850.6175	850.8175
C–4	849.0235	849.2235	849.4235	849.6235	849.8235	850.0235	850.2235	850.4235	850.6235	850.8235
C–5	849.0295	849.2295	849.4295	849.6295	849.8295	850.0295	850.2295	850.4295	850.6295	850.8295
C–6	849.0355	849.2355	849.4355	849.6355	849.8355	850.0355	850.2355	850.4355	850.6355	850.8355
C–7	849.0415	849.2415	849.4415	849.6415	849.8415	850.0415	850.2415	850.4415	850.6415	850.8415
C–8	849.0475	849.2475	849.4475	849.6475	849.8475	850.0475	850.2475	850.4475	850.6475	850.8475
C–9	849.0535	849.2535	849.4535	849.6535	849.8535	850.0535	850.2535	850.4535	850.6535	850.8535
C–10	849.0595	849.2595	849.4595	849.6595	849.8595	850.0595	850.2595	850.4595	850.6595	850.8595
C–11	849.0655	849.2655	849.4655	849.6655	849.8655	850.0655	850.2655	850.4655	850.6655	855.8655
C–12	849.0715	849.2715	849.4715	849.6715	849.8715	850.0715	850.2715	850.4715	850.6715	850.8715
C–13	849.0775	849.2775	849.4775	849.6775	849.8775	850.0775	850.2775	850.4775	850.6775	850.8775
C–14	849.0835	849.2835	849.4835	849.6835	849.8835	850.0835	850.2835	850.4835	850.6835	850.8835
C–15	849.0895	849.2895	849.4895	849.6895	849.8895	850.0895	850.2895	850.4895	850.6895	850.8895
C–16	849.0955	849.2955	849.4955	849.6955	849.8955	850.0955	850.2955	850.4955	850.6955	850.8955
C–17	849.1015	849.3015	849.5015	849.7015	849.9015	850.1015	850.3015	850.5015	850.7015	850.9015
C–18	849.1075	849.3075	849.5075	849.7075	849.9075	850.1075	850.3075	850.5075	850.7075	850.9075
C–19	849.1135	849.3135	849.5135	849.7135	849.9135	850.1135	850.3135	850.5135	850.7135	850.9135
C–20	849.1195	849.3195	849.5195	849.7195	849.9195	850.1195	850.3195	850.5195	850.7195	850.9195
C–21	849.1255	849.3255	849.5255	849.7255	849.9255	850.1255	850.3255	850.5255	850.7255	850.9255
C–22	849.1315	849.3315	849.5315	849.7315	849.9315	850.1315	850.3315	850.5315	850.7315	850.9315
C–23	849.1375	849.3375	849.5375	849.7375	849.9375	850.1375	850.3375	850.5375	850.7375	850.9375
C–24	849.1435	849.3435	849.5435	849.7435	849.9435	850.1435	850.3435	850.5435	850.7435	850.9435
C–25	849.1495	849.3495	849.5495	849.7495	849.9495	850.1495	850.3495	850.5495	850.7495	850.9495
C–26	849.1555	849.3555	849.5555	849.7555	849.9555	850.1555	850.3555	850.5555	850.7555	850.9555
C–27	849.1615	849.3615	849.5615	849.7615	849.9615	850.1615	850.3615	850.5615	850.7615	850.9615
C–28	849.1675	849.3675	849.5675	849.7675	849.9675	850.1675	850.3675	850.5675	850.7675	850.9675
C–29	849.1735	849.3735	849.5735	849.7735	849.9735	850.1735	850.3735	850.5735	850.7735	850.9735
P–6	849.1813	849.3813	849.5813	849.7813	849.9813	850.1813	850.3813	850.5813	850.7813	850.9813
P–5	849.1845	849.3845	849.5845	849.7845	849.9845	850.1845	850.3845	850.5845	850.7845	850.9845
P–4	849.1877	849.3877	849.5877	849.7877	849.9877	850.1877	850.3877	850.5877	850.7877	850.9877
P–3	849.1909	849.3909	849.5909	849.7909	849.9909	850.1909	850.3909	850.5909	850.7909	850.9909
P–2	849.1941	849.3941	849.5941	849.7941	849.9941	850.1941	850.3941	850.5941	850.7941	850.9941
P–1	849.1973	849.3973	849.5973	849.7973	849.9973	850.1973	850.3973	850.5973	850.7973	850.9973

TABLE G–2.—AIRBORNE MOBILE STATION CHANNELS

	Channel block									
	10	9	8	7	6	5	4	3	2	1
C–1	894.0055	894.2055	894.4055	894.6055	894.8055	895.0055	895.2055	895.4055	895.6055	895.8055
C–2	894.0115	894.2115	894.4115	894.6115	894.8115	895.0115	895.2115	895.4115	895.6115	895.8115
C–3	894.0175	894.2175	894.4175	894.6175	894.8175	895.0175	895.2175	895.4175	895.6175	895.8175
C–4	894.0235	894.2235	894.4235	894.6235	894.8235	895.0235	895.2235	895.4235	895.6235	895.8235
C–5	894.0295	894.2295	894.4295	894.6295	894.8295	895.0295	895.2295	895.4295	895.6295	895.8295
C–6	894.0355	894.2355	894.4355	894.6355	894.8355	895.0355	895.2355	895.4355	895.6355	895.8355
C–7	894.0415	894.2415	894.4415	894.6415	894.8415	895.0415	895.2415	895.4415	895.6415	895.8415
C–8	894.0475	894.2475	894.4475	894.6475	894.8475	895.0475	895.2475	895.4475	895.6475	895.8475
C–9	894.0535	894.2535	894.4535	894.6535	894.8535	895.0535	895.2535	895.4535	895.6535	895.8535

TABLE G–2.—AIRBORNE MOBILE STATION CHANNELS—Continued

	Channel block									
	10	9	8	7	6	5	4	3	2	1
C–10	894.0595	894.2595	894.4595	894.6595	894.8595	895.0595	895.2595	895.4595	895.6595	895.8595
C–11	894.0655	894.2655	894.4655	894.6655	894.8655	895.0655	895.2655	895.4655	895.6655	895.8655
C–12	894.0715	894.2715	894.4715	894.6715	894.8715	895.0715	895.2715	895.4715	895.6715	895.8715
C–13	894.0775	894.2775	894.4775	894.6775	894.8775	895.0775	895.2775	895.4775	895.6775	895.8775
C–14	894.0835	894.2835	894.4835	894.6835	894.8835	895.0835	895.2835	895.4835	895.6835	895.8835
C–15	894.0895	894.2895	894.4895	894.6895	894.8895	895.0895	895.2895	895.4895	895.6895	895.8895
C–16	894.0955	894.2955	894.4955	894.6955	894.8955	895.0955	895.2955	895.4955	895.6955	895.8955
C–17	894.1015	894.3015	894.5015	894.7015	894.9015	895.1015	895.3015	895.5015	895.7015	895.9015
C–18	894.1075	894.3075	894.5075	894.7075	894.9075	895.1075	895.3075	895.5075	895.7075	895.9075
C–19	894.1135	894.3135	894.5135	894.7135	894.9135	895.1135	895.3135	895.5135	895.7135	895.9135
C–20	894.1195	894.3195	894.5195	894.7195	894.9195	895.1195	895.3195	895.5195	895.7195	895.9195
C–21	894.1255	894.3255	894.5255	894.7255	894.9255	895.1255	895.3255	895.5255	895.7255	895.9255
C–22	894.1315	894.3315	894.5315	894.7315	894.9315	895.1315	895.3315	895.5315	895.7315	895.9315
C–23	894.1375	894.3375	894.5375	894.7375	894.9375	895.1375	895.3375	895.5375	895.7375	895.9375
C–24	894.1435	894.3435	894.5435	894.7435	894.9435	895.1435	895.3435	895.5435	895.7435	895.9435
C–25	894.1495	894.3495	894.5495	894.7495	894.9495	895.1495	895.3495	895.5495	895.7495	895.9495
C–26	894.1555	894.3555	894.5555	894.7555	894.9555	895.1555	895.3555	895.5555	895.7555	895.9555
C–27	894.1615	894.3615	894.5615	894.7615	894.9615	895.1615	895.3615	895.5615	895.7615	895.9615
C–28	894.1675	894.3675	894.5675	894.7675	894.9675	895.1675	895.3675	895.5675	895.7675	895.9675
C–29	894.1735	894.3735	894.5735	894.7735	894.9735	895.1735	895.3735	895.5735	895.7735	895.9735
P–6	894.1813	894.3813	894.5813	894.7813	894.9813	895.1813	895.3813	895.5813	895.7813	895.9813
P–5	894.1845	894.3845	894.5845	894.7845	894.9845	895.1845	895.3845	895.5845	895.7845	895.9845
P–4	894.1877	894.3877	894.5877	894.7877	894.9877	895.1877	895.3877	895.5877	895.7877	895.9877
P–3	894.1909	894.3909	894.5909	894.7909	894.9909	895.1909	895.3909	895.5909	895.7909	895.9909
P–2	894.1941	894.3941	894.5941	894.7941	894.9941	895.1941	895.3941	895.5941	895.7941	895.9941
P–1	894.1973	894.3973	894.5973	894.7973	894.9973	895.1973	895.3973	895.5973	895.7973	895.9973

§ 22.859 Geographical channel block layout.

Except as provided in paragraphs (a) and (b) of this section, ground station locations must be within 1.61 kilometers (one mile) of the locations listed in this paragraph. The channel block allotted for each location must be used to provide service to airborne mobile stations in flight and may be used to provide service to airborne mobile stations on ground.

Location	N. latitude	W. longitude	Channel block
Alaska:			
Anchorage	61°11'06"	149°54'42"	8
Cordova	60°33'00"	145°43'00"	5
Ketchikan	55°21'20"	131°42'33"	5
Juneau	58°21'18"	134°34'30"	4
Sitka	57°03'30"	135°22'01"	7
Yakutat	59°30'30"	142°30'00"	8
Alabama: Birmingham	33°23'24"	86°39'59"	2
Arizona:			
Phoenix	33°35'39"	112°05'12"	4
Winslow	35°01'17"	110°43'02"	6
Arkansas: Pine Bluff	34°10'56"	91°56'18"	8
California:			
Blythe	33°36'39"	114°42'24"	10
Eureka	40°42'59"	124°12'09"	8
Los Angeles	33°56'45"	118°23'03"	4
Oakland	37°51'12"	122°12'30"	1
San Francisco	37°41'15"	122°26'01"	6
Visalia	36°19'36"	119°23'22"	7
Colorado:			
Colorado Springs	38°44'39"	104°51'46"	8
Denver	39°46'45"	104°50'49"	1
Hayden	40°29'04"	107°13'08"	6
Florida:			
Miami	25°48'27"	80°16'30"	4
Orlando	28°26'53"	81°22'00"	2
Tallahassee	30°24'02"	84°21'18"	7
Georgia:			
Atlanta	33°39'05"	84°25'54"	5
St. Simon Island	31°09'22"	81°23'14"	6
Hawaii: Mauna Kapu	21°24'24"	158°06'02"	5
Idaho:			

Location	N. latitude	W. longitude	Channel block
Blackfoot	43°11'34"	112°20'57"	8
Caldwell	43°38'45"	116°38'44"	10
Illinois:			
Chicago	41°46'49"	87°45'20"	3
Kewanee	41°12'05"	89°57'33"	5
Schiller Park	41°57'18"	87°52'57"	2
Indiana: Fort Wayne	40°59'16"	85°11'31"	7
Iowa: Des Moines	41°31'58"	93°38'54"	1
Kansas:			
Garden City	37°59'35"	100°54'04"	3
Wichita	37°37'24"	97°27'15"	7
Kentucky: Fairdale	38°04'48"	85°47'33"	6
Louisiana:			
Kenner	30°00'44"	90°13'30"	3
Shreveport	32°27'09"	93°49'38"	5
Massachusetts: Boston	42°23'15"	71°01'03"	7
Michigan:			
Bellville	42°12'17"	83°29'09"	8
Flint	42°58'21"	83°44'22"	9
Sault Saint Marie	46°28'45"	84°21'31"	6
Minnesota: Bloomington	44°51'30"	93°13'19"	9
Mississippi: Meridian	32°19'10"	88°41'33"	9
Missouri:			
Kansas City	30°18'37"	94°41'07"	6
St Louis	38°42'45"	90°19'19"	4
Springfield	37°14'28"	93°22'54"	9
Montana:			
Lewistown	47°02'56"	109°27'27"	5
Miles City	46°25'30"	105°52'30"	8
Missoula	47°01'05"	114°00'41"	3
Nebraska:			
Grand Island	40°58'00"	98°19'11"	2
Ogallala	41°07'11"	101°45'37"	4
Nevada:			
Las Vegas	36°05'35"	115°10'25"	1
Reno	39°25'13"	119°55'52"	3
Tonopah	38°03'43"	117°13'24"	9
Winnemucca	41°00'39"	117°45'58"	4
New Mexico:			
Alamogordo	32°54'46"	105°56'41"	8
Albuquerque	35°03'05"	106°37'13"	10
Aztec	36°48'42"	107°53'48"	9
Clayton	36°27'29"	103°11'16"	5
New Jersey: Woodbury	39°50'01"	75°09'21"	3
New York:			
E. Elmhurst	40°46'21"	73°52'42"	1
Schuyler	43°09'09"	75°07'50"	2
Staten Island	40°36'05"	74°06'35"	9
North Carolina:			
Greensboro	36°05'54"	70°56'42"	9
Wilmington	34°16'10"	77°54'24"	3
North Dakota: Dickinson	46°51'05"	102°47'35"	7
Ohio: Pataskala	40°04'38"	82°41'57"	1
Oklahoma:			
Warner	35°29'31"	95°18'25"	4
Woodward	36°24'42"	99°28'50"	9
Oregon:			
Albany	44°38'24"	123°03'36"	5
Klamath Falls	42°06'30"	121°38'00"	2
Pendleton	45°35'45"	118°31'02"	7
Pennsylvania:			
Coraopolis	40°30'33"	80°13'27"	4
New Cumberland	40°11'30"	76°52'02"	8
South Carolina: Charleston	32°54'10"	80°01'20"	4
South Dakota:			
Aberdeen	45°27'21"	98°25'26"	6
Rapid City	44°02'36"	103°03'36"	5
Tennessee:			
Elizabethton	36°26'04"	82°08'06"	7
Memphis	35°01'44"	89°56'15"	10
Nashville	36°08'44"	86°41'31"	3
Texas:			

Location	N. latitude	W. longitude	Channel block
Austin	30°16'37"	97°49'34"	2
Bedford	32°50'19"	97°08'03"	1
Houston	29°54'37"	95°24'39"	9
Lubbock	33°37'06"	101°52'14"	7
Monahans	31°34'58"	102°54'18"	6
Utah:			
Abajo Peak	37°50'21"	109°27'42"	7
Delta	39°23'15"	112°30'44"	2
Escalante	37°45'19"	111°52'27"	5
Green River	38°57'54"	110°13'40"	3
Salt Lake City	40°39'11"	112°12'06"	1
Virginia: Arlington	38°52'55"	77°06'18"	6
Washington:			
Seattle	47°26'08"	122°17'35"	4
Cheney	47°33'14"	117°43'35"	1
West Virginia: Charleston	38°19'47"	81°39'36"	2
Wisconsin: Stevens Point	44°33'06"	89°25'27"	8
Wyoming: Riverton	43°03'37"	108°27'23"	9

(a) Carriers authorized to construct and operate air-ground radiotelephone systems on the channels listed in § 22.857 may also construct and operate low power ground stations designed to provide service to airborne mobile stations on the ground, provided that no interference is caused to service provided by ground stations located in accordance with the geographical channel block layout or with paragraph (b) of this section. The antenna location of each such low power ground station may be anywhere that is at least 483 kilometers (300 miles) from all antenna locations of ground stations using the same channel block(s) in accordance with the geographical channel block layout or with paragraph (b) of this section.

(b) Ground station locations may be more than 1.61 kilometers (one mile) from all of the locations listed in this section, provided that they are at least 885 kilometers (550 miles) from all antenna locations of ground stations using the same channel block(s) in accordance with the geographical channel block layout or with this paragraph.

§ 22.861 Emission limitations.

Any appropriate emission type may be used to provide air-ground radiotelephone service on the channels listed in § 22.857, provided that the emission limitations of this section are met.

(a) *Emission mask.* The emission mask described in this paragraph applies instead of those in § 22.359. The power of any emission in each of the adjacent channels must be at least 30 dB below the power of the total emission. The power of any emission in any of the channels other than the one being used and the adjacent channels must be at least 50 dB below the power of the total emission.

(b) *Airborne mobile transmitters.* The power of any emission in each of the adjacent channels must not exceed −130 dBm at any ground station receiver, assuming a 0 dBi receive antenna. The power of any emission in any of the channels other than the one being used and the adjacent channels must not exceed −148 dBm at any ground station receiver, assuming a 0 dBi receive antenna.

(c) *Ground station transmitters.* The effective radiated power (ERP) of any emission outside of the frequency ranges set forth in § 22.857 must not exceed −10 dBm. The ERP of any emission in each of the adjacent channels must not exceed +10 dBm. The ERP of any emission in any of the channels other than the one being used and the adjacent channels must not exceed −5 dBm.

(d) If an emission on any frequency outside of the authorized bandwidth causes harmful interference, the FCC may require greater attenuation of that emission than required in paragraph (a) of this section.

§ 22.863 Transmitter frequency tolerance.

Ground station transmitter frequencies must be maintained within 0.1 parts per million (ppm) of the channel reference or center frequencies. Doppler shift correction must be used to ensure that the frequencies of the signals of airborne mobile stations received at ground stations remain within 0.2 ppm of the channel reference or center frequencies.

§ 22.865 Automatic channel selection procedures.

Operation of stations using the channels listed in § 22.857 must be in accordance with the procedures in this section.

(a) A communications channel is not available for use by a ground station if it is already in use by another ground station at the same location. Ground station equipment must automatically determine whether channels are in use by other ground stations at the same location, and may employ radio frequency signal monitoring to do so. For example, a communications channel may be determined to be in use if the received signal power on that channel at the ground station exceeds −115 dBm, which, assuming a 0 dB gain 895 MHz receive antenna, corresponds to a field strength of approximately 19 dBμV/m. Ground stations may employ an alternative method of determining whether a communications channel is in use provided that such procedure is at least as reliable as radio frequency signal monitoring.

(b) Data indicating which communications channels are available for use are transmitted by ground stations on the assigned control channels.

(c) A call is originated when an airborne mobile station selects a communications channel based on the received data from ground stations and other factors, and transmits an identification code (which identifies the specific ground station from which service is requested) on the selected communications channel. The ground station from which service has been requested may then obtain any necessary billing information and complete the call.

(d) A ground station may not transmit on a communications channel unless it has received the proper identification code. After a ground station has begun

to transmit on a communications channel, that channel is not available to ground stations other than the one from which service has been requested until the call is terminated.

(e) A call is terminated by the ground station when either a hang-up signal is transmitted by the airborne mobile station, or the signal from the airborne mobile station on the communications channel is lost for a period of 15 continuous seconds. The hang-up signal is the on-off keying (50% duty cycle) of an unmodulated carrier over a period of one second with pulse duration of 5 milliseconds. However, if all carriers authorized to operate air-ground systems using the channels listed in § 22.857 agree that an alternative hang-up signal and/or procedure would be more efficient or beneficial, such alternative hang-up signal and/or procedure may be used. The carriers must jointly give prior notification to the FCC if an alternative hang-up signal and/or procedure is used.

§ 22.867 Effective radiated power limits.

The effective radiated power (ERP) of ground and airborne stations operating on the channels listed in § 22.857 must not exceed the limits in this section.

(a) The ERP of airborne mobile station transmitters must not exceed 30 Watts.

(b) The ERP of ground station transmitters must not exceed 100 Watts.

(c) The ERP of low power ground station transmitters operating pursuant to paragraph (a) of § 22.859 must not exceed 1 Watt.

§ 22.869 Assignment of control channels.

The FCC selects and assigns exclusively one control channel to each commercial aviation air-ground licensee.

§ 22.871 Control channel transition period.

The rules in this section provide for a period of transition during which the experimental air-ground system operating on the channels listed in § 22.857 will be discontinued and replaced by a system operating in full compliance with the rules in this subpart. The experimental system may continue to exclusively use a 3.2 kHz control channel contained within the bandwidth of communications channel C–2 of each channel block until September 9, 1996. After that date communications channel C–2 will be available for use by all carriers authorized to operate an air-ground system on the channels listed in § 22.857.

§ 22.873 Construction period for commercial aviation air-ground systems.

Construction of a new commercial aviation air-ground system is considered to be completed for the purpose of this section and § 22.142 when the number of ground stations specified in this section are constructed and operational.

(a) *Stage I.* At least 25 ground stations must be constructed and operational within 3 years. Licensees must notify the FCC (FCC Form 489) as soon as this requirement is met. Service to subscribers may commence as soon as the notification is mailed. If service to subscribers is not commenced at that time, the notification must contain a statement to this effect.

(b) *Stage II.* At least 50 ground stations must be constructed and operational within 5 years. Nationwide service to subscribers must commence within 5 years. Licensees must notify the FCC (FCC Form 489) as soon as these requirements are met.

§ 22.875 Commercial aviation air-ground system application requirements.

Existing and prospective common carriers may file applications for authority to construct and operate a new nationwide air-ground system on the channels listed in § 22.857 only during window filing periods that may be announced by the FCC in Public Notices. In addition to the requirements elsewhere in this part, such applications must contain the following exhibits:

(a) *Written agreement.* A signed agreement between the applicant and at least one airline or airline organization, authorizing the applicant to provide air-ground service on its aircraft.

(b) *Financial qualifications.* At the time of filing its application an applicant must demonstrate that it has either a firm financial commitment or available financial resources necessary to construct 50 ground stations and operate for one year after initiation of nationwide air-ground service its proposed air-ground system.

(1) The demonstration of commitment must include and be sufficient to cover the realistic and prudent estimated costs of construction of 50 ground stations, operation and other initial expenses for one year after initiation of nationwide air-ground service. The estimated costs, operation costs and other initial expenses must be itemized. The estimated costs must include the anticipated costs of construction of each ground station.

(2) The firm financial commitment required above must be obtained from a state or federally chartered bank or savings and loan association, or the financial affiliate or subsidiary of an equipment supplier, and must contain a statement that the lender:

(i) Has examined the financial condition of the applicant including audited financial statements, and has determined that the applicant is credit worthy;

(ii) That the lender is committed to providing a sum certain to the particular applicant;

(iii) That the lender's willingness to enter into the commitment is based solely on its relationship with the applicant; and

(iv) That the commitment is not in any way guaranteed by any entity other than the applicant.

(3) Applicants intending to rely on personal or internal resources must submit:

(i) Audited financial statements certified within one year of the date of the application, indicating the availability of sufficient net liquid assets to construct and operate the proposed air-ground system for one year.

(A) The auditors must be certified public accountants.

(B) Net liquid assets is considered to be the excess of current assets (readily converted to cash) over current liabilities. In order to demonstrate ready convertibility into cash, the identity, liquidity and value of listed assets must be demonstrated. Non-liquid assets can be relied on if the marketability of those assets is documented.

(ii) An audited balance sheet, current within 60 days of filing, which clearly shows the continued availability of sufficient net liquid assets to construct and operate the proposed air-ground system for one year after nationwide service begins.

(c) *Service Plan.* A service plan containing:

(1) A map or other description of the planned geographic coverage area, including air space over the continental United States, Alaska, Hawaii and other United States territories.

(2) A schedule for construction of 50 ground stations and provision of nationwide service to subscribers within 5 years from the grant of the initial authorization.

(3) A description of how the system will interconnect with the landline telephone network and be integrated with other air-ground systems, including a statement as to whether the system will be interconnected with international air-ground systems.

(d) *Technical Exhibit.* A technical description of the proposed system demonstrating compliance with all applicable technical requirements and describing how the proposed system would operate, if authorized. This

exhibit must provide the following information:

(1) The number of ground stations to be used, their locations, and the type and quantity of equipment proposed for the system;

(2) A complete description of the procedures and data protocols to be used on the control channel;

(3) The modulation types to be used and their spectral characteristics;

(4) The effective radiated power and transmitter peak envelope power for all transmitters at each ground station location, and the effective radiated power of the airborne mobile stations;

(5) Antenna information as follows:

(i) For airborne mobile stations, the antenna type(s) to be used;

(ii) For ground stations, vertical and horizontal radiation patterns, antenna heights above ground level, antenna support structure heights above ground level, ground elevation above mean sea level and any relevant information (e.g. FAA approval) that may be helpful in determining whether ground station antennas require marking and lighting;

(6) Analytical data, including calculations, of potential interference within and without the spectrum for the air-ground system;

(7) A statement in compliance with the National Environmental Policy Act of 1969. See §§ 1.1301 through 1.1319 of this chapter.

Subpart H—Cellular Radiotelephone Service

§ 22.900 Scope.

The rules in this subpart govern the licensing and operation of cellular radiotelephone systems. Licensing and operation of these systems are also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. In case of conflict, however, the rules in this subpart govern.

§ 22.901 Cellular service requirements and limitations.

Cellular system licensees must provide cellular mobile radiotelephone service upon request to all cellular subscribers in good standing, including roamers, while such subscribers are located within any portion of the authorized cellular geographic service area (see § 22.911) where facilities have been constructed and service to subscribers has commenced. A cellular system licensee may refuse or terminate service, however, subject to any applicable state or local requirements for timely notification, to any subscriber who operates a cellular telephone in an airborne aircraft in violation of § 22.925 or otherwise fails to cooperate with the licensee in exercising operational control over mobile stations pursuant to § 22.927.

(a) *Service area information.* Licensees must inform prospective subscribers of the area in which reliable service can be expected.

(b) *Lack of capacity.* If a licensee refuses a request for cellular service because of a lack of system capacity, it must report that fact to the FCC in writing, explaining how it plans to increase capacity.

(c) *Dispatch service.* Cellular systems must not offer or provide dispatch service.

(d) *Alternative technologies and auxiliary services.* Licensees of cellular systems may use alternative cellular technologies and/or provide auxiliary common carrier services, including personal communications services (as defined in part 24 of this chapter) on the communication channels in their assigned channel block, provided that cellular service is available to subscribers whose mobile equipment conforms to the cellular system compatibility specification (see § 22.933).

(1) Licensees must perform or obtain an engineering analysis to ensure that interference to the service of other cellular systems will not result from the implementation of auxiliary services or alternative cellular technologies.

(2) Alternative technology and auxiliary service operations are exempt from the channeling requirements of § 22.905, the modulation requirements of § 22.915, the wave polarization requirements of § 22.367, the compatibility specification in § 22.933 and the emission limitations of §§ 22.357 and 22.917, except for emission limitations that apply to emissions outside the assigned channel block.

(e) *Provision of resale capacity.* Each cellular system licensee must permit unrestricted resale of its service, except that a licensee may apply resale restrictions to licensees of cellular systems on the other channel block in its market after the five year build-out period for licensees on the other channel block has expired.

§ 22.903 Conditions applicable to former Bell Operating Companies.

Ameritech Corporation, Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation, U.S. West, Inc., their successors in interest and affiliated entities (BOCs) may engage in the provision of cellular service only in accordance with the conditions in this section, unless otherwise authorized by the FCC. BOCs may, subject to other provisions of law, have a controlling or lesser interest in or be under common control with separate corporations that provide cellular service only under the following conditions:

(a) *Access to landline facilities:* BOCs must not sell, lease or otherwise make available to the separate corporation any transmission facilities that are used in any way for the provision of its landline telephone services, except on a compensatory, arm's-length basis. Separate corporations must not own any facilities for the provision of landline telephone service. Access to landline exchange and transmission facilities for the provision of cellular service must be obtained by separate corporations on the same terms and conditions as those facilities are made available to other entities.

(b) *Independence.* Separate corporations must operate independently in the provision of cellular service. Each separate corporation must—

(1) Maintain its own books of account;

(2) Have separate officers;

(3) Employ separate operating, marketing, installation and maintenance personnel; and,

(4) Utilize separate computer and transmission facilities in the provision of cellular services.

(c) *Research or development.* Any research or development performed by BOCs for separate corporations, either separately or jointly, must be on a compensatory basis.

(d) *Transactions.* All transactions between the separate corporation and the BOC or its affiliates that involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or any things of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered between such entities with regard to interconnection with landline network exchange and transmission facilities must be filed with the FCC within thirty days after the contract, agreement, or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the FCC. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(e) *Promotion.* BOCs must not engage in the sale or promotion of cellular service on behalf of the separate corporation. However, this does not

prohibit joint advertising or promotional efforts by the landline carrier and its cellular affiliate.

(f) *Proprietary information.* BOCs must not provide to any such separate corporation any customer proprietary information, unless such information is publicly available on the same terms and conditions.

(g) *Provision of other Public Mobile services.* Separate corporations may include, as part of their operations, the provision of other Public Mobile services.

§ 22.905 Channels for cellular service.

The following channels are allocated for block assignment in the Cellular Radiotelephone Service. All channels have a bandwidth of 40 kHz and are designed by their center frequencies in MegaHertz.

Base	Mobile
CHANNEL BLOCK A	
416 communication channel pairs	
869.040	824.040
869.070	824.070
879.990	834.990
890.010	845.010
890.040	845.040
891.480	846.480
21 control channel pairs	
834.390	879.390
834.420	879.420
834.990	879.990
CHANNEL BLOCK B	
416 communication channel pairs	
880.020	835.020
880.050	835.050
889.980	844.980
891.510	846.510
981.540	846.540
893.970	848.970
21 control channel pairs	
835.020	880.020
835.050	880.050
835.620	880.620

(a) Each channel block is assigned exclusively to one licensee for use in that licensee's cellular geographic service area (see § 22.911).

(b) Licensees may use any channel pair from the assigned channel block at any of their transmitter locations, subject to the prior coordination requirements of § 22.907.

§ 22.907 Coordination of channel usage.

Licensees in the Cellular Radiotelephone Service must coordinate, with the appropriate parties, channel usage at each transmitter location within 121 kilometers (75 miles) of any transmitter locations authorized to other licensees or proposed by tentative selectees or other applicants, except those with mutually exclusive applications.

(a) Licensees must cooperate and make reasonable efforts to resolve technical problems that may inhibit effective and efficient use of the cellular radio spectrum; however, licensees are not obligated to suggest extensive changes to or redesign other licensees' cellular systems. Licensees must make reasonable efforts to avoid blocking the growth of other cellular systems that are likely to need additional capacity in the future.

(b) If technical problems are addressed by an agreement or operating arrangement between the licensees that would result in a reduction of quality or capacity of either system, the licensees must notify the FCC by letter.

§ 22.909 Cellular markets.

Cellular markets are standard geographic areas used by the FCC for administrative convenience in the licensing of cellular systems. Cellular markets comprise Metropolitan Statistical Areas (MSAs) and Rural Service Areas (RSAs). All cellular markets and the counties they comprise are listed in Public Notice Report No. CL–92–40 "Common Carrier Public Mobile Services Information, Cellular MSA/RSA Markets and Counties", dated January 24, 1992, DA 92–109, 7 FCC Rcd 742 (1992).

(a) *MSAs.* Metropolitan Statistical Areas are 306 areas, including New England County Metropolitan Areas and the Gulf of Mexico Service Area (water area of the Gulf of Mexico, border is the coastline), defined by the Office of Management and Budget, as modified by the FCC.

(b) *RSAs.* Rural Service Areas are 428 areas, other than MSAs, established by the FCC.

§ 22.911 Cellular geographic service area.

The Cellular Geographic Service Area (CGSA) of a cellular system is the geographic area considered by the FCC to be served by the cellular system. The CGSA is the area within which cellular systems are entitled to protection and within which adverse effects for the purpose of determining whether a petitioner has standing are recognized.

(a) *CGSA determination.* The CGSA is the composite of the service areas of all of the cells in the system, excluding any area outside the cellular market boundary, except as provided in paragraph (c) of this section, and excluding any area within the CGSA of another cellular system. The service area of a cell is the area within its service area boundary (SAB). The distance to the SAB is calculated as a function of effective radiated power (ERP) and antenna center of radiation height above average terrain (HAAT), height above sea level (HASL) or height above mean sea level (HAMSL).

(1) Except as provided in paragraphs (a)(2) and (b) of this section, the distance from a cell transmitting antenna to its SAB along each cardinal radial is calculated as follows:

$$d=2.531\times h^{0.34}\ xp^{0.17}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(2) For the cellular systems authorized to serve the Gulf of Mexico MSA, the distance from a cell transmitting antenna to its SAB along each cardinal radial is calculated as follows:

$$d=6.895\times h^{0.30}\ xp^{0.15}$$

where:

d is the radial distance in kilometers
h is the radial antenna HAAT in meters
p is the radial ERP in Watts

(3) The value used for h in the formula in paragraph (a)(2) of this section must not be less than 8 meters (26 feet) HASL (or HAMSL, as appropriate for the support structure). The value used for h in the formula in paragraph (a)(1) of this section must not be less than 30 meters (98 feet) HAAT, except that for unserved area applications proposing a cell with an ERP not exceeding 10 Watts, the value for h used in the formula in paragraph (a)(1) of this section to determine the service area boundary for that cell may be less than 30 meters (98 feet) HAAT, but not less than 3 meters (10 feet) HAAT.

(4) The value used for p in the formulas in paragraphs (a)(1) and (a)(2) of this section must not be less than 0.1 Watt or 27 dB less than (1/500 of) the maximum ERP in any direction, whichever is more.

(5) Whenever use of the formula in paragraph (a)(1) of this section pursuant to the exception contained in paragraph (a)(3) of this section results in a calculated distance that is less than 5.4 kilometers (3.4 miles), the radial distance to the service area boundary is deemed to be 5.4 kilometers (3.4 miles).

(6) The distance from a cell transmitting antenna to the SAB along any radial other than the eight cardinal radials is calculated by linear interpolation of distance as a function of angle.

Note to paragraph (a) of § 22.911: On May 13, 1994, the United States Court of Appeals for the District of Columbia Circuit instructed the FCC to vacate the provisions of old § 22.903(a), now § 22.911(a), insofar as they

apply to cellular systems licensed to serve the Gulf of Mexico MSA (GMSA), pending reconsideration of an issue remanded to the FCC in that decision. See *Petroleum Communications, Inc.* v. *Federal Communications Commission*, No. 92–1670 and *RVC Services, Inc., D/B/A Coastel Communications Company* v. *Federal Communications Commission*, No. 93–1016, ____ F.2d ____, ____ (D.C. Cir. 1994). Accordingly, notwithstanding the provisions of § 22.911(a), until further notice, the authorized CGSAs of the cellular systems licensed to serve the GMSA are those which were authorized prior to January 11, 1993.

(b) *Alternative CGSA determination.* If a carrier believes that the method prescribed in paragraph (a) of this section produces a CGSA that departs significantly (±20% in the service area of any cell) from the geographical area where reliable cellular service is actually provided, the carrier may submit, as an exhibit to an application for modification of the CGSA (FCC Form 401), a depiction of what the carrier believes the CGSA should be. Such submissions must be accompanied by one or more supporting propagation studies using methods appropriate for the 800–900 MHz frequency range, including all supporting data and calculations, and/or by extensive field strength measurement data. For the purpose of such submissions, cellular service is considered to be provided in all areas, including "dead spots", between the transmitter location and the locus of points where the predicted or measured median field strength finally drops to 32 dBμV/m (i.e. does not exceed 32 dBμV/m further out). If, after consideration of such submissions, the FCC finds that adjustment to a CGSA is warranted, the FCC may grant the application.

(1) The alternative CGSA determination must define the CGSA in terms of distances from cell sites to cell SABs along the eight cardinal radials, with other points along the SAB determined in accordance with paragraph (a)(6) of this section. The distances used for the cardinal radials must be representative of the coverage within the 45° sectors, as depicted by the alternative CGSA determination.

(2) If an uncalibrated predictive model is used to depict the CGSA, the alternative CGSA determination must identify factors (e.g. terrain roughness or features) that could plausibly account for the difference between actual coverage and that defined by the formula in paragraph (a)(1) of this section. If actual measurements or a measurement-calibrated predictive model are used to depict the CGSA, and this fact is disclosed in the alternative CGSA determination, it is not necessary to offer an explanation of the difference between actual coverage and that defined by the formula in paragraph (a)(1) of this section. If the formula in paragraph (a)(1) of this section is clearly inapplicable for the cell(s) in question (e.g. for microcells), this should be disclosed in the alternative CGSA determination.

(3) The provision for alternative CGSA determinations was made in recognition that the formula in paragraph (a)(1) of this section is a general model that provides a reasonable approximation of coverage in most land areas, but may substantially under-predict or over-predict coverage in specific areas with unusual terrain roughness or features, and may be inapplicable for certain purposes, e.g. cells with a radial distance to the SAB less than 8 kilometers (5 miles). In such cases, alternative methods that utilize more specific models are appropriate. Accordingly, the FCC does not consider use of the formula in paragraph (a)(1) of this section with parameters outside of the limits in paragraphs (a)(3), (a)(4) and (a)(5) of this section or with data for radials other than the cardinal radials to be a valid alternative method for determining the CGSA of a cellular system.

(c) *CGSA extension areas.* SAB extensions (areas outside of the cellular market boundary, but within the service area as calculated using the methods of paragraph (a) of this section) are part of the CGSA only under the following circumstances:

(1) During the five year build-out period of the system in the cellular market containing the extension, the licensees of systems on the same channel block in adjacent cellular markets may agree that the portion of the service area of one system that extends into unserved areas in the other system's cellular market is part of the CGSA of the former system.

(2) At the end of the five year build-out period of the system in the cellular market containing the extension, the portion of the service area that extends into unserved areas in another cellular market becomes part of the CGSA, provided that the licensee of the system so extended files a system information update in accordance with § 22.947(c).

(3) For original systems in MSAs, extensions of the CGSA authorized by the FCC are part of the CGSA to the extent authorized.

(d) *Protection afforded.* Within the CGSA determined in accordance with this section, cellular systems are entitled to protection from co-channel and first-adjacent channel interference and from capture of subscriber traffic by adjacent systems on the same channel block.

(1) Licensees must cooperate in resolving co-channel and first-adjacent channel interference by changing channels used at specific cells or by other technical means.

(2) Protection from capture of subscriber traffic is applied and limited in accordance with the following:

(i) Subscriber traffic is captured if an SAB of one cellular system overlaps the CGSA of another operating cellular system. Therefore, cellular licensees must not begin to operate any facility that would cause an SAB to overlap the existing CGSA of another cellular system on the same channel block, without first obtaining the written consent of the licensee of that system. However, cellular licensees may continue to operate existing facilities that produce an SAB overlapping a subsequently-authorized portion of the CGSA of another cellular system on the same channel block until the licensee of that system requests that the SAB be removed from its CGSA. Such request may be made directly to the licensee of the overlapping system or to the FCC. In the event such request is made, the licensee of the overlapping system must reduce the transmitting power or antenna height (or both) at the pertinent cell site as necessary to remove the SAB from the CGSA of the other system, unless a written consent from the licensee of the other system allowing the SAB to remain is obtained. Cellular licensees may enter into contracts with the licensees of other cellular systems on the same channel block to allow SABs to overlap CGSAs.

(ii) Cellular licensees are at most entitled to have a CGSA free of SABs from other cellular systems on the same channel block.

(e) *Unserved areas.* Unserved areas are areas outside of all existing CGSAs (on either of the channel blocks), to which the Communications Act of 1934, as amended, is applicable.

§ 22.912 Service area boundary extensions.

This section contains rules governing service area boundary (SAB) extensions. SAB extensions are areas outside of the cellular market boundary, but within the service area as calculated using the methods of § 22.911(a). Cellular systems must be designed to comply with the rules in this section. Applications proposing systems that would not comply with the rules in this section are defective. Service within SAB extensions is not protected from interference or capture under § 22.911(d) unless and until the area

within the SAB extension becomes a part of the cellular geographic service area (CGSA) in accordance with § 22.911(c).

(a) *De minimis extensions.* Except as restricted in paragraph (d) of this section, SABs may extend into adjacent cellular markets if such extensions are *de minimis*, are demonstrably unavoidable for technical reasons of sound engineering design, and do not extend into the CGSA of any other licensee's cellular system on the same channel block (unless the licensee of such other system consents to the extension) or into any adjacent cellular market on a channel block for which the five year build-out period has expired.

(b) *Contract extensions.* Except as restricted in paragraph (d) of this section, licensees of cellular systems on the same channel block in adjacent cellular markets may, at any time, enter into contracts with applicants or other licensees to allow SAB extensions into their CGSA only (not into unserved areas). Except as restricted in paragraph (d) of this section, licensees of the first authorized cellular systems on the same channel block in adjacent cellular markets may agree to allow SAB extensions into their CGSA and/or unserved areas in their cellular markets during the five year build-out period of the market into which the SAB extends.

(c) *Same applicant/licensee.* Except as restricted in paragraph (d) of this section, licensees of cellular systems that are also an applicant or licensee on the same channel block in adjacent cellular markets may, at any time, allow or propose SAB extensions from their adjacent market system into their CGSH only (not into unserved areas). Except as restricted in paragraph (d) of this section, licensees of the first authorized cellular systems that are also an applicant or licensee on the same channel block in adjacent cellular markets may allow or propose SAB extensions from their adjacent market system into their CGSA and/or unserved areas in their cellular markets during the five year build-out period of the market into which the SAB extends.

(d) *Unserved area systems.* Phase I initial cellular applications must not propose SAB extensions. Phase I sole major modification applications and Phase II applications may propose SAB extensions, subject to the conditions in this section.

§ 22.913 Effective radiated power limits.

The effective radiated power (ERP) of transmitters in the Cellular Radiotelephone Service must not exceed the limits in this section.

(a) *Maximum ERP.* The effective radiated power (ERP) of base transmitters and cellular repeaters must not exceed 500 Watts. The ERP of mobile transmitters and auxiliary test transmitters must not exceed 7 Watts.

(b) *Height-power limit.* The ERP of base transmitters must not exceed the amount that would result in an average distance to the service area boundary of 79.1 kilometers (49 miles) for cellular systems authorized to serve the Gulf of Mexico MSA and 40.2 kilometers (25 miles) for all other cellular systems. The average distance to the service area boundary is calculated by taking the arithmetic mean of the distances determined using the procedures specified in § 22.911 for the eight cardinal radial directions.

(c) *Coordination exemption.* Licensees need not comply with the height-power limit in paragraph (b) of this section if the proposed operation is coordinated with the licensees of all affected cellular systems on the same channel block within 121 kilometers (75 miles) and concurrence is obtained.

§ 22.915 Modulation requirements.

Cellular systems must be capable of providing service using the types of modulation described in the cellular system compatibility specification.

(a) *Non-voice modulating signals.* Modulating signals other than voice signals, such as data signals, may be transmitted, provided the resulting modulated emission exhibits spectral characteristics not exceeding those resulting from voice modulation.

(b) *Modulation levels.* The levels of the modulating signals must be set to the values specified in this paragraph, and must be maintained within ±10% of those values.

(1) The instantaneous frequency deviation resulting from the main modulating signal must be ±12 kHz.

(2) The instantaneous frequency deviation resulting from the supervisory audio tones must be ±2 kHz.

(3) The instantaneous frequency deviation resulting from the signaling tone must be ±8 kHz.

(4) The instantaneous frequency deviation resulting from wideband data signals must be ±8 kHz.

(c) *Deviation limitation circuitry.* Cellular transmitters must be equipped with circuitry that automatically prevents modulation levels for voice transmissions from exceeding the limits specified in this section.

(d) *Audio filter characteristics.* Except as provided in § 22.917, radiotelephony signals applied to the modulator from the modulation limiter must be attenuated as a function of frequency as specified in this paragraph.

(1) For mobile stations, these signals must be attenuated, relative to the level at 1 kHz, as follows:

(i) In the frequency ranges of 3.0 to 5.9 kHz and 6.1 to 15.0 kHz, signals must be attenuated by at least 40 log (f÷3) dB, where f is the frequency of the signal in kHz.

(ii) In the frequency range of 5.9 to 6.1 kHz, signals must be attenuated at least 35 dB.

(iii) In the frequency range above 15 kHz, signals must be attenuated at least 28 dB.

(2) For base stations, these signals shall be attenuated, relative to the level at 1 kHz, as follows:

(i) In the frequency range of 3 to 15 kHz, signals must be attenuated by at least 40 log (f÷3) dB, where f is the frequency of the signal in kHz.

(ii) In the frequency range above 15 kHz, signals must be attenuated by at least 28 dB.

(3) Filtering is not required for the supervisory audio tones, signaling tones or wideband data signals.

§ 22.917 Emission limitations for cellular.

The rules in this section govern the spectral characteristics of emissions in the Cellular Radiotelephone Service.

(a) *Analog radiotelephony emissions.* F3E emissions must be used only on the communication channels.

(b) *F3E/F3D emission mask for use with audio filter.* For F3E and F3D emissions, except as provided in paragraph (c) of this section, the mean power of emissions must be attenuated below the mean power of the unmodulated carrier wave (P) as follows:

(1) On any frequency removed from the carrier frequency by more than 20 kHz but not more than 45 kHz:

at least 26 dB;

(2) On any frequency removed from the carrier frequency by more than 45 kHz, up to the first multiple of the carrier frequency:

at least 60 dB or 43 + 10 log P dB, whichever is the lesser attenuation.

(c) *Alternative F3E/F3D emission mask.* For F3E and F3D emissions, transmitters may comply with the emission limitations in this paragraph in lieu of compliance with paragraph (b) of this section and the audio filter requirement of § 22.915.

(1) The mean power of any emission removed from the carrier frequency by a displacement frequency (f_d in kHz) must be attenuated below the mean power of the unmodulated carrier (P) as follows:

(i) On any frequency removed from the carrier frequency by more than 12 kHz but not more than 20 kHz:

at least 117 log (f_d÷12) dB;

(ii) On any frequency removed from the carrier frequency by more than 20 kHz, up to the first multiple of the carrier frequency:

at least 100 log (f_d÷11) dB or 60 dB or 43 + 10 log P dB, whichever is the lesser attenuation;

(2) For mobile stations, modulating signals other than the supervisory audio tone in the frequency range of 5.9 to 6.1 kHz must be attenuated, relative to the level at 1 kHz, at least 35 dB.

(d) *F1D emission mask.* For F1D emissions, the mean power of emissions must be attenuated below the mean power of the unmodulated carrier (P) as follows:

(1) On any frequency removed from the carrier frequency by more than 20 kHz but not more than 45 kHz:

at least 26 dB;

(2) On any frequency removed from the carrier frequency by more than 45 kHz but not more than 90 kHz:

at least 45 dB;

(3) On any frequency removed from the carrier frequency by more than 90 kHz, up to the first multiple of the carrier frequency:

at least 60 dB or 43+10 log P dB, whichever is the lesser attenuation.

(e) *Out of band emissions.* The mean power of emissions must be attenuated below the mean power of the unmodulated carrier (P) on any frequency twice or more than twice the fundamental frequency by:

at least 43+10 log P dB.

(f) *Mobile emissions in base frequency range.* The mean power of any emissions appearing in the base station frequency range from cellular mobile transmitters operated must be attenuated to a level not to exceed −80 dBm at the transmit antenna connector.

(g) *Interference from spurious emissions.* If any emission from a transmitter operating in this service results in interference to users of another radio service, the FCC may require a greater attenuation of that emission than specified in this section.

(h) *Measurement procedure.* The following spectrum analyzer bandwidth settings should be used for measurement of spurious emissions:

(1) When operating in the radiotelephony mode or the supervisory audio tone mode:

(i) For any emission not more than 45 kHz removed from the carrier frequency: 300 Hz;

(ii) For any emission more than 45 kHz removed from the carrier frequency: 30 kHz.

(2) When operating in the wideband data mode or the signaling tone mode:

(i) For any emission not more than 60 kHz removed from the carrier frequency: 300 Hz;

(ii) For any emission more than 60 kHz removed from the carrier frequency: 30 kHz.

§ 22.919 Electronic serial numbers.

The Electronic Serial Number (ESN) is a 32 bit binary number that uniquely identifies a cellular mobile transmitter to any cellular system.

(a) Each mobile transmitter in service must have a unique ESN.

(b) The ESN host component must be permanently attached to a main circuit board of the mobile transmitter and the integrity of the unit's operating software must not be alterable. The ESN must be isolated from fraudulent contact and tampering. If the ESN host component does not contain other information, that component must not be removable, and its electrical connections must not be accessible. If the ESN host component contains other information, the ESN must be encoded using one or more of the following techniques:

(1) Multiplication or division by a polynomial;

(2) Cyclic coding;

(3) The spreading of ESN bits over various non-sequential memory locations.

(c) The ESN must be factory set and must not be alterable, transferable, removable or otherwise able to be manipulated. Cellular mobile equipment must be designed such that any attempt to remove, tamper with, or change the ESN chip, its logic system, or firmware originally programmed by the manufacturer will render the mobile transmitter inoperative.

§ 22.923 Cellular system configuration.

Mobile stations communicate with and through base transmitters only. Base transmitters communicate with mobile stations directly or through cellular repeaters. Auxiliary test stations may communicate with base or mobile stations for the purpose of testing equipment.

§ 22.925 Prohibition on airborne operation of cellular telephones.

Cellular telephones installed in or carried aboard airplanes, balloons or any other type of aircraft must not be operated while such aircraft are airborne (not touching the ground). When any aircraft leaves the ground, all cellular telephones on board that aircraft must be turned off. The following notice must be posted on or near each cellular telephone installed in any aircraft:

"The use of cellular telephones while this aircraft is airborne is prohibited by FCC rules, and the violation of this rule could result in suspension of service and/or a fine. The use of cellular telephones while this aircraft is on the ground is subject to FAA regulations."

§ 22.927 Responsibility for mobile stations.

Mobile stations that are subscribers in good standing to a cellular system, when receiving service from that cellular system, are considered to be operating under the authorization of that cellular system. Cellular system licensees are responsible for exercising effective operational control over mobile stations receiving service through their cellular systems. Mobile stations that are subscribers in good standing to a cellular system, while receiving service from a different cellular system, are considered to be operating under the authorization of such different system. The licensee of such different system is responsible, during such temporary period, for exercising effective operational control over such mobile stations as if they were subscribers to it.

§ 22.929 Application requirements for the Cellular Radiotelephone Service.

In addition to information required by subparts B and D of this part, applications for authorization in the Cellular Radiotelephone Service must contain the applicable supplementary information described in this section. Initial applications for new cellular systems must also comply with § 22.953.

(a) *Administrative information.* The following information is required either by FCC Form 401, Schedule C, or as an exhibit.

(1) The number of transmitter sites for which authorization is requested;

(2) The call sign(s) of other facilities in the same area that are ultimately controlled by the real party in interest to the application;

(3) If the application involves a service area boundary (SAB) extension (see § 22.912), a statement as to whether the five year build-out period for the system on the relevant channel block in the market into which the SAB extends has elapsed, and whether the SAB extends into any unserved area in that market.

(b) *Technical information.* The following information is required by FCC Form 401, Schedule C.

(1) Location description; city; county; state; geographical coordinates correct

to ±1 second, the datum used (NAD 27 and NAD 83), site elevation above mean sea level, proximity to adjacent market boundaries and international borders;

(2) Antenna manufacturer, model number and type, antenna height to tip above ground level, the height of the center of radiation of the antenna above the average terrain, the height of the antenna center of radiation above the average elevation of the terrain along each of the 8 cardinal radials, antenna gain in the maximum lobe, the beamwidth of the maximum lobe of the antenna, a polar plot of the horizontal gain pattern of the antenna, the electric field polarization of the wave emitted by the antenna when installed as proposed;

(3) The channel block requested, the maximum effective radiated power, the effective radiated power in each of the cardinal radial directions.

(c) *Maps.* If the application proposes a change in the CGSA, it must include full size and reduced maps, and supporting engineering, as described in § 22.953(a)(5)(i) through (iii).

§ 22.933 Cellular system compatibility specification.

Except as provided in § 22.901(d), equipment used in the Cellular Radiotelephone Service must be designed in compliance with the technical specifications for compatibility of mobile and base stations in the Cellular Radiotelephone Service contained in "Cellular System Mobile Station-Land Station Compatibility Specification" (April 1981 Ed.), Office of Engineering and Technology Bulletin No. 53. This bulletin is contained in Appendix D to the *Report and Order* in CC Docket No. 79–318, and was published in the **Federal Register** of May 21, 1981. Copies may be obtained from the FCC's copying contractor. Special operational features that have been developed by joint industry consensus through the Telecommunications Industry Association (TIA) and established as a TIA standard may be activated at the option of the cellular licensee, provided that the compatibility of equipment within the Cellular Radiotelephone Service as specified in OET Bulletin No. 53 is not adversely affected.

§ 22.935 Procedures for comparative renewal proceedings.

The procedures in this section apply to comparative renewal proceedings in the Cellular Radiotelephone Service.

(a) If one or more applications competing with an application for renewal of a cellular authorization are filed, the renewal applicant must file with the FCC an original and four copies of its renewal expectancy showing. This filing must be submitted no later than 60 days after the date of the Public Notice listing as acceptable for filing the renewal application and the competing applications.

(b) Interested parties may file petitions to deny any of the mutually exclusive applications. Any such petitions to deny must be filed no later than 30 days after the date that the renewal applicant submitted its renewal expectancy showing. Applicants may file replies to any petitions to deny applications that are filed. Any such replies must be filed no later than 15 days after the date that the petition(s) to deny was filed. No further pleadings will be accepted.

(c) In most instances, the renewal application and any competing applications will be designated for a two-step procedure. An Administrative Law Judge (Presiding Judge) will conduct a threshold hearing (step one), in which both the licensee and the competing applicants will be parties, to determine whether the renewal applicant deserves a renewal expectancy. If the order designating the applications for hearing specifies any basic qualifying issues against the licensee, those issues will be tried in this threshold hearing. If the Presiding Judge determines that the renewal applicant is basically qualified and due a renewal expectancy, the competing applicants will be found ineligible for further consideration and their applications will be denied. If the Presiding Judge determines that the renewal applicant does not merit a renewal expectancy but is otherwise qualified, then all of the applications will be considered in a comparative hearing (step two).

(d) Any competing applicant may request a waiver of the threshold hearing (step one), if such applicant demonstrates that its proposal so far exceeds the service already being provided that there would be no purpose in making a threshold determination as to whether the renewal applicant deserved a renewal expectancy vis-a-vis such a competing applicant. Any such waiver request must be filed at the time the requestor's application is filed. Petitions opposing such waiver requests may be filed. Any such petitions must be filed no later than 30 days after the date that the renewal applicant submitted its renewal expectancy showing. Replies to any petitions opposing such waiver requests may be filed. Any such replies must be filed no later than 15 days after the date that the petition(s) were filed. No further pleadings will be accepted. Any waiver request submitted pursuant to this paragraph will be acted upon prior to designating the applications for hearing. If a request to waive the threshold hearing (step one) is granted, the renewal expectancy issue will be designated as part of the comparative hearing (step two), and will remain the most important comparative factor in deciding the case, as provided in § 22.940(a).

(e) If the Presiding Judge issues a ruling in the threshold (step one) that denies the licensee a renewal expectancy, all of the applicants involved in the proceeding will be allowed to file direct cases no later than 90 days after the release date of the Presiding Judge's ruling. Rebuttal cases must be filed no later than 30 days after the date that the direct cases were filed.

(f) The Presiding Judge shall use the expedited hearing procedures delineated in this paragraph in both threshold (step one) and comparative (step two) hearings conducted in comparative cellular renewal proceedings.

(1) The Presiding Judge will schedule a first hearing session as soon as practicable after the date for filing rebuttal evidence. This first session will be an evidentiary admission session at which each applicant will identify and offer its previously circulated direct and rebuttal exhibits, and each party will have an opportunity to lodge objections.

(2) After accepting the exhibits into evidence, the Presiding Judge will entertain motions to cross-examine and rule whether any sponsoring witness needs to be produced for cross-examination.

Determination of what, if any, cross-examination is necessary is within the sound judicial discretion of the Presiding Judge, the prevailing standard being whether the person requesting cross-examination has persuasively demonstrated that written evidence is ineffectual to develop proof. If cross-examination is necessary, the Presiding Judge will specify a date for the appearance of all witnesses. In addition, if the designation order points out an area where additional underlying data is needed, the Presiding Judge will have the authority to permit the limited use of discovery procedures. Finally, the Presiding Judge may find that certain additional testimony or cross-examination is needed to provide a complete record for the FCC. If so, the Presiding Judge may schedule a further session.

(3) After the hearing record is closed, the Presiding Judge may request Proposed Findings of Fact and Conclusions of Law to be filed no later

than 30 days after the final hearing session. Replies are not permitted except in unusual cases and then only with respect to the specific issues named by the Presiding Judge.

(4) The Presiding Judge will then issue an Initial Decision, preferably within 60 days of receipt of the last pleadings. If mutually exclusive applications are before the Presiding Judge, the Presiding Judge will determine which applicant is best qualified. The Presiding Judge may also rank the applicants in order of merit if there are more than two.

(5) Parties will have 30 days in which to file exceptions to the Initial Decision. The Common Carrier Bureau has authority to determine, at the time of designation for hearing, that such exceptions will be taken directly to the FCC rather than to the Review Board.

§ 22.936 Dismissal of applications in cellular renewal proceedings.

Any applicant that has filed an application in the Cellular Radiotelephone Service that is mutually exclusive with an application for renewal of a cellular authorization (competing application), and seeks to resolve the mutual exclusivity by requesting dismissal of its application, must obtain the approval of the FCC.

(a) If a competing applicant seeks to dismiss its application prior to the Initial Decision stage of the hearing on its application, it must submit to the FCC a request for approval of the dismissal of its application, a copy of any written agreement related to the withdrawal or dismissal, and an affidavit setting forth:

(1) A certification that neither the petitioner nor its principals has received or will receive any money or other consideration in excess of legitimate and prudent expenses in exchange for the withdrawal or dismissal of the application, except that this provision does not apply to dismissal or withdrawal of applications pursuant to *bona fide* merger agreements;

(2) The exact nature and amount of any consideration received or promised;

(3) An itemized accounting of the expenses for which it seeks reimbursement; and

(4) The terms of any oral agreement related to the withdrawal or dismissal of the application.

(b) In addition, within 5 days of the filing date of the applicant or petitioner's request for approval, each remaining party to any written or oral agreement must submit an affidavit setting forth:

(1) A certification that neither the applicant nor its principals has paid or will pay money or other consideration in excess of the legitimate and prudent expenses of the petitioner in exchange for withdrawing or dismissing the application; and

(2) The terms of any oral agreement relating to the withdrawal or dismissal of the application.

(c) For the purposes of this section:

(1) Affidavits filed pursuant to this section must be executed by the filing party, if an individual, a partner having personal knowledge of the facts, if a partnership, or an officer having personal knowledge of the facts, if a corporation or association.

(2) Applications are deemed to be pending before the FCC from the time the application is filed with the FCC until such time as an order of the FCC granting, denying or dismissing the application is no longer subject to reconsideration by the FCC or to review by any court.

(3) "Legitimate and prudent expenses" are those expenses reasonably incurred by a party in preparing to file, filing, prosecuting and/or settling its application for which reimbursement is sought.

(4) "Other consideration" consists of financial concessions, including, but not limited to, the transfer of assets or the provision of tangible pecuniary benefit, as well as non-financial concessions that confer any type of benefit on the recipient.

§ 22.937 Demonstration of financial qualifications.

Except as provided in paragraphs (g) and (h) of this section, each applicant for a new cellular system must demonstrate that it has, at the time the application is filed, either a separate market-specific firm financial commitment or available financial resources sufficient to construct and operate for one year the proposed cellular system. Each application of reassignment of license or consent to transfer of control must demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities.

(a) *Estimated costs.* The demonstration required by this section must include a realistic and prudent estimate of the costs of construction, operating and other initial expenses for one year.

(b) *Source of financing.* The firm financial commitment must be obtained from a state or federally chartered bank or savings and loan association, another recognized financial institution, or the financial arm of a capital equipment supplier. The firm financial commitment may be contingent upon the applicant's obtaining an authorization.

(c) *Lender's statement.* The firm financial commitment must contain a statement that:

(1) The lender has examined the financial condition of the applicant, including audited financial statements if applicable, and has determined that the applicant is creditworthy;

(2) The lender has examined the financial viability of each proposal for which the applicant intends to use the commitment;

(3) The lender is committed to providing a sum certain to the particular applicant;

(4) The lender's willingness to enter into the commitment is based solely on its relationship with the applicant; and,

(5) The commitment is not in any way guaranteed by any entity other than the applicant.

(d) *Showings of financial resources.* Applicants relying upon personal or internal financial resources must submit the following:

(1) Audited financial statements, certified within one year of the date of the cellular application, that show the availability of sufficient net current assets to construct and operate for one year the proposed cellular system;

(2) A balance sheet current within 60 days of the date of filing that shows the continued availability of sufficient net current assets to construct and operate for one year the proposed cellular system; and,

(3) A certification by the applicant or an officer of the applicant organization attesting to the validity of the unaudited balance sheet.

(e) *Parent corporation financing.* Applicants relying upon financing obtained from parent corporations must submit the showings listed in paragraph (d) of this section as the information pertains to the parent corporation.

(f) *Notice upon default.* In addition to the disclosures required by paragraph (c) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed cellular system must include a provision for a minimum of ten (10) days prior written notification to the licensee, and to the FCC, before any such equipment may be repossessed under default provision of the agreement.

(g) *Competing applications in cellular renewal proceedings.* Initial cellular applications that are competing against a cellular renewal application are subject to the rules in this paragraph instead of the rules in paragraphs (a) through (f) of this section.

(1) Any applicant filing a competing application against a cellular renewal application must demonstrate, at the time it files its application, that it has either:

(i) A firm financial commitment, an irrevocable letter of credit or performance bond in the amount of its realistic and prudent estimated costs of construction and any other expenses to be incurred during the first year of operating its proposed system (the irrevocable letter of credit or performance bond must be from the type of financial institution described in paragraph (g)(3) of this section); or,

(ii) Available resources, as defined in paragraph (g)(4) of this section, necessary to construct and operate its proposed cellular system for one year.

(2) The firm financial commitment may be contingent on the applicant obtaining an authorization. The applicant must also list all of its realistic and prudent estimated costs of construction and any other expenses to be incurred during the first year of operating its proposed system.

(3) The firm financial commitment required above shall be obtained from a state or federally chartered bank or savings and loan association, another recognized financial institution, or the financial arm of a capital equipment supplier; shall specify the terms of the loan or other form of credit arrangement, including the amount to be borrowed, the interest to be paid, the amount of the commitment fee and the fact that it has been paid, the terms of repayment and any collateral required; and shall contain a statement:

(i) That the lender has examined the financial conditions of the applicant, including audited financial statements where applicable, and has determined that the applicant is creditworthy;

(ii) That the lender has examined the financial viability of the proposal for which the applicant intends to use the commitment;

(iii) That the lender is committed to providing a sum certain to the particular applicant;

(iv) That the lender's willingness to enter into the commitment is based solely on its relationship with the applicant; and,

(v) That the commitment is not in any way guaranteed by an entity other than the applicant.

(4) Applicants intended to rely on personal or internal resources must submit:

(i) Audited financial statements certified within one year of the date of the cellular application, indicating the availability of sufficient net current assets to construct and operate the proposed cellular system for one year;

(ii) A balance sheet current within 60 days of the date of filing its application that clearly shows the continued availability of sufficient net current assets to construct and operate the proposed cellular system for one year; and,

(iii) A certification by the applicant or an officer of the applicant organization attesting to the validity of the unaudited balance sheet.

(5) Applicant intending to rely upon financing obtained through a parent corporation must submit the information required by paragraph (g)(4) of this section, as the information pertains to the parent corporation.

(6) As an alternative to relying upon a firm financial commitment, an irrevocable letter of credit, or a performance bond from a financial institution as described in paragraph (g)(3) of this section, an applicant may state that it has placed in an escrow account sufficient cash to meet its construction and first-year operating expenses. Such a statement must specify the amount of cash, the escrow account number and the financial institution where the escrow account is located.

(7) Any competing application filed against the renewal application of an incumbent cellular licensee that does not demonstrate, at the time it is initially filed, that the competing applicant has sufficient funds to construct and operate for one year its proposed cellular system will be dismissed.

(h) *Exemptions.* Any licensee applying for an unserved area adjacent to its existing cellular system, to integrate such area into the existing system, is exempt from the financial demonstration requirements of this section. In addition, modification applications and *pro forma* assignment and transfer of control applications are exempt from the financial demonstration requirements of this section.

§ 22.939 Site availability requirements for applications competing with cellular renewal applications.

In addition to the other requirements set forth in this part for initial cellular applications, any application competing against a cellular renewal application must contain, when initially filed, appropriate documentation demonstrating that its proposed antenna site(s) will be available. Competing applications that do not include such documentation will be dismissed. If the competing applicant does not own a particular site, it must, at a minimum demonstrate that the site is available to it by providing a letter from the owner of the proposed antenna site expressing the owner's intent to sell or lease the proposed site to the applicant. If any proposed antenna site is under U.S. Government control, the applicant must submit written confirmation of the site's availability from the appropriate Government agency. Applicants which file competing applications against incumbent cellular licensees may not rely on the assumption that an incumbent licensee's antenna sites are available for their use.

§ 22.940 Criteria for comparative cellular renewal proceedings.

This section sets forth criteria to be used in comparative cellular renewal proceedings. The ultimate issue in comparative renewal proceedings will be to determine, in light of the evidence adduced in the proceeding, what disposition of the applications would best serve the public interest, convenience and necessity.

(a) *Renewal expectancies.* The most important comparative factor to be considered in a comparative cellular renewal proceeding is a major preference, commonly referred to as a "renewal expectancy."

(1) The cellular renewal applicant involved in a comparative renewal proceeding will receive a renewal expectancy, if its past record for the relevant license period demonstrates that:

(i) The renewal applicant has provided "substantial" service during its past license term. "Substantial" service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal; and

(ii) The renewal applicant has substantially compiled with applicable FCC rules, policies and the Communications Act of 1934, as amended.

(2) In order to establish its right to a renewal expectancy, a cellular renewal applicant involved in a comparative renewal proceeding must submit a showing explaining why it should receive a renewal expectancy. At a minimum, this showing must include.

(i) A description of its current service in terms of geographic coverage and population served, as well as the system's ability to accommodate the needs of roamers;

(ii) An explanation of its record of expansion, including a timetable of the construction of new cell sites to meet changes in demand for cellular service;

(iii) A description of its investments in its cellular system; and

(iv) Copies of all FCC orders finding the licensee to have violated the Communications Act or any FCC rule or policy; and a list of any pending proceedings that relate to any matter described in this paragraph.

(3) In making its showing of entitlement to a renewal expectancy, a renewal applicant may claim credit for any system modification applications that were pending on the date it filed its renewal application. Such credit will not be allowed if the modification application is dismissed or denied.

(b) *Additional comparative issues.* The following additional comparative issues will be included in comparative cellular renewal proceedings, if a full comparative hearing is conducted pursuant to § 22.935(c).

(1) To determine on a comparative basis the geographic areas and population that each applicant proposes to serve; to determine and compare the relative demand for the services proposed in said areas; and to determine and compare the ability of each applicant's cellular system to accommodate the anticipated demand for both local and roamer service;

(2) To determine on a comparative basis each applicant's proposal for expanding its system capacity in a coordinated manner in order to meet anticipated increasing demand for *both* local and roamer service;

(3) To determine on a comparative basis the nature and extent of the service proposed by each applicant, including each applicant's proposed rates, charges, maintenance, personnel, practices, classifications, regulations and facilities (including switching capabilities); and

(4) To determine on a comparative basis each applicant's past performance in the cellular industry or another business of comparable type and size.

(c) *Additional showings for competing applications.* With respect to evidence introduced pursuant to paragraph (b)(3) of this section, any applicant filing a competing application against a cellular renewal application (competing applicant) who claims a preference for offering any service not currently offered by the incumbent licensee must demonstrate that there is demand for that new service and also present a business plan showing that the competing applicant can operate the system economically. Any competing applicant who proposes to replace analog technology with digital technology will receive no credit for its proposal unless it submits a business plan showing how it will operate its system economically and how it will provide more comprehensive service than does the incumbent licensee with existing and implemented cellular technology.

§ 22.941 System identification numbers.

System identification numbers (SIDs) are 15 bit binary numbers assigned to cellular systems. SIDs are transmitted by the cellular systems so that cellular mobile stations can determine whether the system through which they are communicating is a system to which they subscribe, or whether they are considered by the system to be roamers.

(a) The FCC assigns one SID to each cellular system on its initial authorization. Cellular systems may transmit only their assigned SID(s) and/or the SIDs assigned to other cellular systems. A cellular system may transmit the SID assigned to another cellular system only if the licensee of that system concurs with such use of its assigned SID.

(b) Licensees must notify the FCC (FCC Form 489) if their cellular systems transmit SIDs assigned to other cellular systems. The notification must indicate the concurrence of the licensee(s) of such other systems with this use of their assigned SID(s). The notification must be mailed or delivered to the filing place (see § 22.106) no later than 15 days after the system begins transmitting the SID(s).

(c) Licensees may request that an additional (previously unassigned) SID be assigned to their system by filing an application for minor modification of station (FCC Form 401).

§ 22.942 Limitations on interests in licensees for both channel blocks in an area.

No person may have a direct or indirect ownership interest in licensees for both channel blocks in overlapping cellular geographic service areas (CGSAs), unless such interests pose no substantial threat to competition. A licensee, a person that owns a controlling interest in a licensee, or a person that actually controls a licensee for one channel block in a CGSA must not have any direct or indirect ownership interest in the licensee, a person that owns a controlling interest in a licensee, or a person that actually controls a licensee for the other channel block in an overlapping CGSA.

(a) A direct or indirect ownership interest of 5% or less in both systems is automatically excluded from the general rule prohibiting multiple ownership interests. Interests of less than 5% are considered and are not excluded from the general rule prohibiting multiple ownership interests in cases of persons or entities that own a small percentage of the licensee but nonetheless actually control the licensee, a person that owns a controlling interest in the licensee, or a person that actually controls the licensee.

(b) Divestiture of interests as a result of a transfer of control or assignment of authorization must occur prior to consummating the transfer or assignment.

§ 22.943 Limitations on assignments and transfers of cellular authorizations.

The following limitations apply to applications for consent to transfer of control or assignment of authorizations in the Cellular Radiotelephone Service.

(a) *Trafficking.* Applications for consent to transfer of control or assignment of authorization in the Cellular Radiotelephone Service are subject to the provisions of § 22.139, except for:

(1) Applications reflecting the trading of an ownership interest in an authorized but unconstructed cellular system in one market for a commensurate interest in a cellular system in another market; and,

(2) Applications for consent to transfer of control or assignment of a cellular authorization obtained by random selection, after commencement of service.

(b) *Unserved area systems.* Except as otherwise provided in paragraph (b)(2) of this section, the FCC does not accept applications for consent to transfer of control or assignment of the authorization of a cellular system licensed to serve an unserved area until the system has provided service to subscribers for at least one year.

(1) Licensees must not enter into any agreement (e.g. option agreement or management contract) to transfer control of the licensee of the system until the system has provided service to subscribers for one year.

(2) The FCC may accept that grant applications for consent to transfer of control or for assignment of authorization if the transfer or assignment is *pro forma* and does not involve a change in ownership.

(c) *Systems authorized as result of comparative renewal proceeding.* Except as otherwise provided in paragraphs (c)(1), (c)(2) and (c)(3) of this section, the FCC does not accept applications for consent to transfer of control or for assignment of the authorization of a cellular system that has been acquired by the current licensee for the first time as a result of a comparative renewal proceeding until the system has

provided service to subscribers for at least three years.

(1) The FCC may accept and grant applications for consent to transfer of control or for assignment of the authorization of a cellular system that is to be transferred as a part of a *bona fide* sale of an on-going business to which the cellular operation is incidental.

(2) The FCC may accept and grant applications for consent to transfer of control or for assignment of the authorization of a cellular system that is to be transferred as a result of the death of the licensee.

(3) The FCC may accept and grant applications for consent to transfer of control or for assignment of authorization if the transfer or assignment is *pro forma* and does not involve a change in ownership.

§ 22.944 Transfers of interests in applications.

This section governs transfers of interest in applicants having a pending application for a new cellular system. For the purposes of this section, "interest in an application" means interest in the applicant.

(a) Except as provided in paragraph (b) of this section, the transfer of any interest in any application for initial authorization to operate a cellular system is prohibited. For the purposes of this section, transfer of interest means the sale, assignment, placement of equity or convertible debt, grant of an option or future share or participation in the applicant or any interest thereof.

(b) The following types of transfers of interest in cellular applications are permitted:

(1) Transfers that are necessary to raise capital, including the placement of debt or equity, to finance a *bona fide* business need of the applicant or an affiliated company, not related to the cellular application or financing of the cellular system proposed therein;

(2) Transfers that are part of a *bona fide* sale of an ongoing business to which the cellular applications are merely adjunct or incidental;

(3) Transfers required by a court-ordered decree granting a divorce or enforcing a spousal separation agreement;

(4) Transfers necessitated by the death of the applicant;

(5) Transfers involving the routine trading of shares in a publicly traded corporation that do not constitute a transfer of control of the applicant;

(6) Transfers resulting from *pro forma* transfers of control of the applicant, not involving changes in ownership;

(7) Transfers involving only the transfer of interest by one existing partner in a partnership applicant to another existing partner in that same partnership, or between existing shareholders in a closely-held corporation, which does not effect a transfer of control of the applicant;

(8) Transfers resulting from the alienation or exercise of stock warrants or stock options that existed prior to the filing of the application.

§ 22.945 Interests in multiple applications.

This section governs interests in applicants with mutually exclusive applications for a new cellular system. For the purposes of this section, "interest in an application" means interest in the applicant.

(a) *General.* Except as otherwise provided in this section, parties must not have any interest, direct or indirect, in more than one application for authority to operate a new cellular system in the same cellular market.

(b) *Abutting CGSAs.* Licensees of existing systems whose cellular geographic service area (CGSA) abuts a proposed CGSA may each file one application that is mutually exclusive with the applications of other such licensees, even though they share common owners, provided that such licensees do not thereby acquire a simultaneous interest in applications for both channel blocks in any geographical area.

(c) *Publicly traded corporate applicants.* Parties must not have any interest, direct or indirect, in more than one mutually exclusive initial application for which the applicant is a publicly traded corporation, except that ownership interests of less than 5% are not considered. Ownership and other interests in applicants are attributed to their holder and deemed cognizable as set forth below.

(1) *Passive investors.* Investment companies, as defined in 15 U.S.C. 80a–3, insurance companies and banks holding stock through their trust departments in trust accounts are deemed to have a cognizable interest in a publicly traded cellular applicant only if they hold 10% or more of the stock of the applicant. This provision applies only if an applicant in which such parties hold an interest certifies in its application that no such party has exerted or attempted to exert any influence or control over the officers of the applicant.

(2) *Multiplier.* Attribution of ownership interests in a publicly traded cellular applicant that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50 percent, it is not included in the multiplication.

§ 22.946 Service commencement and construction periods for cellular systems.

This section specifies the service commencement and construction periods and related requirements for cellular systems.

(a) *Commencement of service.* New cellular systems must be at least partially constructed and begin providing cellular service to subscribers within the service commencement periods specified in Table H–1 of this section. Service commencement periods begin on the date of grant of the initial authorization, and are not extended by the grant of subsequent authorizations for the cellular system (such as for major modifications).

TABLE H–1.—COMMENCEMENT OF SERVICE

Type of cellular system	Required to commence service within
The first system authorized on each channel block in markets 1–90.	36 months.
The first system authorized on each channel block in all other markets and any subsequent systems authorized pursuant to contracts in partitioned markets.	18 months.
All other systems	12 months.

(1) To satisfy the requirement of paragraph (a) of this section, a cellular system must be interconnected with the public switched telephone network (PSTN) and must be providing service to mobile stations operated by its subscribers and roamers. A cellular system is not considered to be providing service to subscribers if mobile stations can not make telephone calls to landline telephones and receive telephone calls from landline telephones through the PSTN, or if the system intentionally serves only roamer stations.

(2) The licensee must notify the FCC (FCC Form 489) no later than 15 days after the requirements of paragraph (a) of this section are met.

(b) *Construction period for specific facilities.* The construction period applicable to specific new or modified cellular facilities for which an authorization has been granted is one year from the date the authorization is granted. Failure to comply with this requirement results in termination of

the authorization for the specific new or modified facility, pursuant to § 22.144(b).

§ 22.947 Five year build-out period.

The licensee of the first cellular system authorized on each channel block in each cellular market is afforded a five year period, beginning on the date the initial authorization for the system is granted, during which it may expand the system within that market.

(a) *Exclusive right to expand within market.* Except as provided in paragraph (b) of this section, the FCC does not accept applications for authority to operate a new cellular system in any unserved area in a market on a channel block during the five year build-out period.

(b) *Partitioned markets.* During the five year build-out period, the licensee of the first cellular system on each channel block in each market may enter into contracts with eligible parties, allowing such parties to apply (FCC Form 401) for a new cellular system on that channel block within the market. The FCC may grant such applications if they are in compliance with the rules in this part. Markets with two or more authorized cellular systems on the same channel block during the five year build-out period are referred to (with respect to the affected channel block) as "partitioned markets".

(1) Partitioning contracts must define the CGSA of the subsequent cellular system in accordance with § 22.911, including any expansion rights ceded. If not exercised, any such expansion rights terminate at the end of the five year build-out period.

(2) The five year build-out period begins on the date the initial authorization for the first cellular system is granted, and is not extended or affected in any way by the initial authorization of any subsequent cellular systems pursuant to paragraph (b) of this section.

(c) *System information update.* Sixty days before the end of the five year build-out period, the licensee of each cellular system authorized on each channel block in each cellular market must file, in triplicate, a system information update (SIU), comprising a full size map, a reduced map, and an exhibit showing technical data relevant to determination of the system's CGSA. Separate maps must be submitted for each market into which the CGSA extends, showing the extension area in the adjacent market. Maps showing extension areas must be labeled (i.e. marked with the market number and channel block) for the market into which the CGSA extends. SIUs must accurately depict the relevant cell locations and coverage of the system at the end of the five year build-out period. SIUs must be filed at the Mobile Services Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554. If any changes to the system occur after the filing of the SIU, but before the end of the five year build-out period, the licensee must file, in triplicate, additional maps and/or data as necessary to insure that the cell locations and coverage of the system as of the end of the five year build-out period are accurately depicted.

(1) The scale of the full-size map must be 1:500,000, regardless of whether any different scale is used for the reduced map. The map must have a legend, a distance scale and correctly labeled latitude and longitude lines. The map must be clear and legible. The map must accurately show the cell sites (transmitting antenna locations) which determine the CGSA, the entire CGSA, any extension of the composite service are boundary beyond the CGSA (see § 22.911) and the relevant portions of the cellular market boundary. The date on which the map depictions are accurate must appear on the map.

(2) The reduced map must be a proportional reduction, to 8½×11 inches, of the full-size map required in paragraph (c)(1) of this section, unless it proves to be impractical to depict the entire market by reducing the full-size map. In such instance, an 8½×11 inch map of a different scale may be substituted, provided that the required features of the full-size map are clearly depicted and labeled.

§ 22.949 Unserved area licensing process.

This section sets forth the process for licensing unserved areas in cellular markets on channel blocks for which the five year build-out period has expired. This process has two phases: Phase I and Phase II.

(a) *Phase I.* Phase I is a one-time process that provides an opportunity for eligible parties to file competing applications for authority to operate a new cellular system in or to expand an existing cellular system into unserved areas (Phase I initial applications) as soon as these areas become available. In addition, each licensee whose Phase I initial application is granted is afforded one opportunity during the Phase I process to file an application proposing major modifications to the cellular system authorized by that grant (a Phase I major modification application), without being subject to competing applications.

(1) Phase I initial applications must be filed on the 31st day after the expiration of the five year build-out period of the authorized system(s) on the channel block requested in the market containing the unserved area.

(i) Each Phase I application must request authorization for one and only one cellular geographic service area (CGSA) in one and only one cellular market.

(ii) Applicants must not file more than one Phase I initial application for any cellular market.

(iii) Phase I initial applications must not propose any *de minimis* or contract service area boundary (SAB) extensions.

(2) Only one Phase I initial application is granted on each channel block in each market. Consequently, whenever two or more acceptable Phase I initial applications are timely-filed in the same market on the same channel block, such Phase I initial applications are mutually exclusive, regardless of any other considerations such as the technical proposals. In order to determine which of such mutually exclusive Phase I initial applications to grant, the Commission administers random selection procedures in accordance with part 1 of this chapter. After such procedures, the application of the tentative selectee may be granted and the applications excluded by that grant may be dismissed without prejudice.

(3) Phase I major modification applications (applications filed during Phase I that propose major modifications to cellular systems authorized by the grant of Phase I initial applications) must be filed no later than 90 days after the grant of the Phase I initial application. Each Phase I licensee may file only one Phase I major modification application. The FCC will not accept any competing applications in response to a Phase I major modification application. Phase I licensees may not sell to a third party any rights to apply for unserved area.

(i) Phase I major modification applications may propose *de minimis* or contract SAB extensions; provided that a contract SAB extension into an adjacent market may be proposed only if, at the time the Phase I major modification application is filed, the licensee in the adjacent market (on the requested channel block) has the right to enter into such a contract (see § 22.912(c)).

(ii) Phase I major modification application may propose a CGSA that is not contiguous with the authorized or proposed CGSA, provided that the non-contiguous CGSA meets the minimum coverage requirement of § 22.951.

(4) Phase I licensees may also file applications for or notifications of minor modifications to its system. However, such minor modifications may not reduce the size of the CGSA below the minimum coverage requirement of § 22.951.

(b) *Phase II.* Phase II is an open-ended filing process that allows eligible parties to apply for any unserved areas that may remain in a market after the Phase I process is complete.

(1) If a Phase I initial application is granted for a market and channel block, Phase II applications (applications for authority to operate a cellular system in any remaining unserved area) for that market and channel block may be filed on or after the 121st day after the Phase I application was granted. If no Phase I initial applications are granted for a market and channel block, Phase II applications for that market and channel block may be filed on or after the 31st day after the FCC dismissed the last pending Phase I application. If no Phase I initial applications are received for a market and channel block, Phase II applications for that market and channel block may be filed on or after the 32nd day after the expiration of the relevant five-year build-out period.

(2) There is no limit the number of Phase II applications that may be granted on each channel block in each market. Consequently, Phase II applications are mutually exclusive only if the proposed CGSAs would overlap. Furthermore, only mutually exclusive Phase II applications with the same filing date are entitled to inclusion in a random selection process. Where all mutually exclusive Phase II applications have different filing dates, the FCC may grant the earliest-filed application and dismiss all applications excluded by that grant. For the purposes of this section, the filing date of an application is the date on which that application was received or the date on which the most recently filed major amendment to that application was received.

(3) Phase II applications may propose a CGSA covering more than one cellular market. Each Phase II application must request authorization for one and only one CGSA. Phase II applications may propose *de minimis* and contract SAB extensions.

(c) *Settlements.* Settlements among some, but not all, applicants with mutually exclusive applications for unserved areas (partial settlements) are prohibited. Settlements among all applicants with mutually exclusive applications (full settlements) are allowed and must be filed no later than 15 business days before the random selection process is scheduled to take place.

(d) *Limitations on amendments.* Notwithstanding the provisions of § 22.122, Phase I applications are subject to the following additional limitations in regard to the filing of amendments.

(1) The FCC will not accept amendments (of any type) to mutually exclusive Phase I applications prior to the conclusion of the random selection process.

(2) The FCC will not accept major amendments to Phase I applications.

(3) Minor amendments required by § 1.65 of this chapter must be filed no later than 30 days after public notice announcing the results of the random selection process.

§ 22.951 Minimum coverage requirement.

Applications for authority to operate a new cellular system in an unserved area, other than those filed by the licensee of an existing system that abuts the unserved area, must propose a contiguous cellular geographical service area (CGSA) of at least 130 square kilometers (50 square miles). Area within contract SAB extensions counts toward the minimum coverage requirement. However, area within *de minimis* SAB extensions does not count toward the minimum coverage requirement. Applications for authority to operate a new cellular system in an unserved area, other than those filed by the licensee of an existing system that abuts the unserved area, must not propose coverage of water areas only (or water areas and uninhabited islands or reefs only), except for unserved areas in the Gulf of Mexico MSA.

§ 22.953 Content and form of applications.

Applications for authority to operate a cellular system in an unserved area must comply with the specifications in this section.

(a) *New systems.* Forms, pages and exhibits must be prepared exactly as described and assembled in the order listed in this section.

(1) *Application cover.* The paper original of each application must be enclosed in a stiff cover fastened securely along the left edge, without exposed sharp edges.

(2) *Transmittal sheet.* The first page after the front cover of the application must be the transmittal sheet.

(i) Copies of the required transmittal sheet may be obtained by contacting the Consumer Assistance Office, Federal Communications Commission, 1919 M Street NW, Washington, DC 20554.

(ii) On the transmittal sheet, the following information is required: the name of the applicant, the channel block, and the market number or numbers and the market name or names in which the proposed CGSA is located. This information on the transmittal sheet must match exactly the information on the jacket of the microfiche and the cover of the application.

(iii) The transmittal sheet also contains a certification. Applicants must certify to the following:

I hereby certify that this application for an authorization in the Cellular Radiotelephone Service is complete in every respect and contains all of the information required by FCC Form 401 and the Federal Communications Commission's rules governing this service. I acknowledge that, if upon examination by the FCC, this certification is found to be incorrect, the FCC will dismiss this application without further consideration.

I certify that I am the real party-in-interest in this application and there are no agreements or understandings other than those, if any, disclosed in this application, which provide that someone other than the applicant has a direct or indirect interest in the application. I also certify that the applicant intends to construct and operate the station as proposed and that there are no agreements or understandings that are inconsistent with that intent.

I declare, under penalty of perjury, that I am the authorized representative of the above-named applicant in the matter of this application, that I have read the foregoing certification, and that the matter and things therein stated are true and correct.

(iv) The certification must be signed and dated in accordance with the requirements of § 1.743 of this chapter. The certification must be signed in ink. Mechanical reproductions of the signature must not be used. The name of and position held by the person signing must be typed or clearly and legibly printed beneath the signature.

(3) *Table of contents.* The table of contents must list all of the exhibits to the application.

(4) *FCC Form 401.* All information required for cellular applications on FCC Form 401 must be supplied.

(5) *Exhibits.* The following exhibits must be set off by tabs and numbered as follows:

(i) Exhibit I—full-size map. The scale of the full-size map must be 1:500,000, regardless of whether any different scale is used for the reduced map required in Exhibit II. The map must have a legend, a distance scale and correctly labeled latitude and longitude lines. The map must be clear and legible. The map must accurately show the cell sites (transmitting antenna locations), the entire CGSA, any extension of the composite service area boundary beyond the CGSA (see § 22.911) and the

relevant portions of the cellular market boundary.

(ii) Exhibit II—reduced map. This map must be a proportional reduction, to 8½ × 11 inches, of the full-size map required for Exhibit I, unless it proves to be impractical to depict the entire cellular market by reducing the full-size map. In such instance, an 8½ × 11 inch map of a different scale may be substituted, provided that the required features of the full-size map are clearly depicted and labeled.

(iii) Exhibit III—engineering. This exhibit must contain the data and methodology used to calculate the CGSA and service area boundary.

(iv) Exhibit IV—channel plan. This exhibit must show which specific channels (or groups) are to be used at each cell site. Any necessary table for converting channel numbers to center frequencies must be provided.

(v) Exhibit V—ownership information. This exhibit must contain the information required by § 22.108. Additionally, individual applicants must disclose, in this exhibit, all interests (including those less than 5%) in publicly traded corporation(s) that have applications which are mutually exclusive with the individual's application.

(vi) Exhibit VI—service proposal. This exhibit must describe the services proposed for subscribers and roamers, including the proposed method for handling complaints.

(vii) Exhibit VII—cellular design. This exhibit must show that the proposed system design complies with cellular system design concepts, and must describe the method proposed to expand the system in a coordinated fashion as necessary to address changing demand for cellular service.

(viii) Exhibit VIII—blocking level. This exhibit must disclose the blocking probability or other criteria to be used to determine whether it is necessary to take measures to increase system capacity to maintain service quality.

(ix) Exhibit IX—start-up expenses. This exhibit must disclose in detail the projected cost of construction and other initial expenses of the proposed system, and how the applicant intends to meet these expenses and the costs of operation for the first year.

(x) Exhibit X—interconnection arrangements. This exhibit is required for applicants that provide public landline message telephone service in any portion of the proposed CGSA. This exhibit must describe exactly how the proposed system would interconnect with the landline network. The description must be of sufficient detail to enable a competitor to connect with the landline system in exactly the same manner, if the competitor so chooses.

(b) *Existing systems.* Applications for changes to existing systems need only contain the form required by paragraph (a)(4) of this section and the exhibits required by paragraphs (a)(5)(i) through (iii) of this section.

§ 22.955 Canadian condition.

Pursuant to an agreement between the FCC and the Department of Communications in Canada, authorizations for cellular systems within 72 kilometers (45 miles) of the U.S.-Canadian border must have the following condition attached:

This authorization is subject to the condition that, in the event that cellular systems using the same channel block as granted herein are authorized in adjacent territory in Canada, coordination of any of your transmitter installations which are within 72 kilometers (45 miles) of the U.S.-Canadian border shall be required to eliminate any harmful interference that might otherwise exist and to insure continuance of equal access to the channel block by both countries.

§ 22.957 Mexican condition.

Pursuant to an agreement between the United States and Mexico, FCC authorizations for cellular systems within 72 kilometers (45 miles) of the United States-Mexican border must have the following condition attached:

This authorization is subject to the condition that, in the event cellular systems using the same frequencies granted herein are authorized in adjacent territory in Mexico, coordination of your transmitter installations which are within 72 kilometers (45 miles) of the United States-Mexico border shall be required to eliminate any harmful interference that might otherwise exist and to ensure continuance of equal access to the frequencies by both countries. The operator of this system shall not contract with customers in Mexico, and further, users of the system must be advised that operation of a mobile unit in Mexico is not permitted at this time without the express permission of the Mexican government. The above conditions are subject to modification pending further notice from the FCC.

§ 22.959 Rules governing processing of applications for initial systems.

Pending applications for authority to operate the first cellular system on a channel block in an MSA or RSA market continue to be processed under the rules governing the processing of such applications that were in effect when those applications were filed, unless the Commission determines otherwise in a particular case.

Subpart I—Offshore Radiotelephone Service

§ 22.1001 Scope.

The rules in this subpart govern the licensing and operation of offshore radiotelephone stations. The licensing and operation of these stations and systems is also subject to rules elsewhere in this part that apply generally to the public mobile services. However, in case of conflict, the rules in this subpart govern.

§ 22.1003 Eligibility.

Offshore central station licenses may be licensed to communications common carriers. Offshore subscriber stations may be licensed to common carriers or users of the service.

§ 22.1005 Priority of service.

Facilities in the Offshore Radiotelephone Service are intended primarily for rendition of public message service between offshore subscriber and central stations. However, they may also be used to render private leased line communication service, provided that such usage does not reduce or impair the extent or quality of communication service which would be available, in the absence of private leased line service, to the general public receiving or subsequently requesting public message service from an offshore central station.

§ 22.1007 Channels for offshore radiotelephone systems.

The channels listed in this section are allocated for paired assignment to transmitters located in the specified geographical zones that provide offshore radiotelephone service. All channels have a bandwidth of 20 kHz and are designated by their center frequencies in MegaHertz.

(a) *Zone A—Southern Louisiana.* The geographical area in Zone A is bounded as follows:

From longitude W.87°45′ on the East to longitude W.94°00′ on the West and from the 4.8 kilometer (3 mile) limit along the Gulf of Mexico shoreline on the North to the limit of the Outer Continental Shelf on the South.

(1) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for voice-grade general communications:

Central	Subscriber
488.025	491.025
488.050	491.050
488.075	491.075
488.100	491.100
488.125	491.125

Central	Subscriber
488.150	491.150
488.175	491.175
488.200	491.200
488.225	491.225
488.250	491.250
488.275	491.275
488.300	491.300
488.325	491.325
488.350	491.350
488.375	491.375
488.400	491.400

(2) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for voice-grade general communications and private line service:

Central	Subscriber
488.425	491.425
488.450	491.450
488.475	491.475
488.500	491.500
488.525	491.525
488.550	491.550
488.575	491.575
488.600	491.600
488.625	491.625
488.650	491.650
488.675	491.675
488.700	491.700

(3) These channels may be assigned for use by relay stations in systems where it would be impractical to provide offshore radiotelephone service without the use of relay stations.

Central	Subscriber
488.725	491.725
488.750	491.750
488.775	491.775
488.800	491.800

(4) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for emergency communications involving protection of life and property.

Central	Subscriber
488.825	491.825
488.850	491.850
488.875	491.875
488.900	491.900

(5) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for emergency auto alarm and voice transmission pertaining to emergency conditions only.

Central	Subscriber
488.950	491.950

(6) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for emergency shut-off remote control telemetry, environmental data acquisition and disseminations, or facsimile transmissions.

Central	Subscriber
489.000	492.000
489.025	492.025
489.050	492.050
489.075	492.075
489.100	492.100
489.125	492.125
489.150	492.150
489.175	492.175
489.200	492.200
489.225	492.225
489.250	492.250
489.275	492.275
489.300	492.300
489.325	492.325
489.350	492.350
489.375	492.375

(7) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for private line service:

Central	Subscriber
489.400	492.400
489.425	492.425
489.450	492.450
489.475	492.475
489.500	492.500
489.525	492.525
489.550	492.550
489.575	492.575
489.600	492.600
489.625	492.625
489.650	492.650
489.675	492.675
489.700	492.700
489.725	492.725
489.750	492.750
489.775	492.775
489.800	492.800
489.825	492.825
489.850	492.850
489.875	492.875
489.900	492.900
489.925	492.925
489.950	492.950
489.975	492.975
490.000	493.000

(8) *Interstitial channels.* Interstitial channels are those with center frequencies offset by ±12.5 kHz from the listed center frequencies. The FCC may assign interstitial channels to offshore stations in Zone A subject to the following conditions:

(i) Offshore stations transmitting on interstitial channels must be located east of W.92° longitude.

(ii) Operations on interstitial channels are considered to be secondary to operations on channels with the listed center frequencies.

(iii) Offshore stations operating on interstitial channels must be used only for voice grade general communications or to provide for private line service.

Note to paragraph (a) of § 22.1007: These channels are contained in UHF TV Channel 17.

(b) *Zone B—Southern Louisiana—Texas.* (1) The geographical area in Zone B is bounded as follows:

From longitude W.87°45' on the East to longitude W.95°00' on the West and from the 4.8 kilometer (3 mile) limit along the Gulf of Mexico shoreline on the North to the limit of the Outer Continental Shelf on the South.

(2) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for voice-grade general communications and private line service:

Central	Subscriber
485.025	482.025
485.050	482.050
485.075	482.075
485.100	482.100
485.125	482.125
485.150	482.150
485.175	482.175
485.200	482.200
485.225	482.225
485.250	482.250
485.275	482.275
485.300	482.300
485.325	482.325
485.350	482.350
485.375	482.375
485.400	482.400
485.425	482.425
485.450	482.450
485.475	482.475
485.500	482.500
485.525	482.525
485.550	482.550
485.575	482.575
485.600	482.600
485.625	482.625
485.650	482.650
485.675	482.675
485.700	482.700
485.725	482.725
485.750	482.750
485.775	482.775
485.800	482.800
485.825	482.825
485.850	482.850
485.875	482.875
485.900	482.900
485.925	482.925
485.950	482.950
485.975	482.975
486.000	483.000

Central	Subscriber
486.025	483.025
486.050	483.050
486.075	483.075
486.100	483.100
486.125	483.125
485.150	483.150
486.175	483.175
486.200	483.200
486.225	483.225
486.250	483.250
486.275	483.275
486.300	483.300
486.325	483.325
486.350	483.350
486.375	483.375
486.400	483.400
486.425	483.425
486.450	483.450
486.475	483.475
486.500	483.500
486.525	483.525
484.550	483.550
486.575	483.575
486.600	483.600
486.625	483.625
486.650	483.650
486.675	483.675
486.700	483.700
486.725	483.725
486.750	483.750
486.775	483.775
486.800	483.800
486.825	483.825
486.850	483.850
486.875	483.875
486.900	483.900
486.925	483.925
486.950	483.950
486.975	483.975
487.050	480.050

Note to paragraph (b) of § 22.1007: These channels are contained in UHF TV Channel 16.

(c) *Zone C—Southern Texas.* The geographical area in Zone C is bounded as follows:

Longitude W.94°00′ on the East, the 4.8 kilometer (3 mile) limit on the North and West, a 282 kilometer (175 mile) radius from the reference point at Linares, N.L., Mexico on the Southwest, latitude N.26°00′ on the South, and the limits of the outer continental shelf on the Southeast.

(1) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for emergency auto alarm and voice transmission pertaining to emergency conditions only.

Central	Subscriber
476.950	479.950

(2) These channels may be assigned for use by offshore central (base/fixed) or subscriber stations (fixed, temporary fixed, surface and/or airborne mobile) as indicated, for voice-grade general communications and private line service:

476.025	479.025
476.050	479.050
476.075	479.075
476.100	479.100
476.125	479.125
476.150	479.150
476.175	479.175
476.200	479.200
476.225	479.225
476.250	479.250
476.275	479.275
476.300	479.300
476.325	479.325
476.350	479.350
476.375	479.375
476.400	479.400
476.425	479.425
476.450	479.450
476.475	479.475
476.500	479.500
476.525	479.525
476.550	479.550
476.575	479.575
476.600	479.600
476.625	479.625
476.650	479.650
476.675	479.675
476.700	479.700
476.725	479.725
476.750	479.750
476.775	479.775
476.800	479.800
476.825	479.825
476.850	479.850
476.875	479.876
476.900	479.900
477.000	480.000
477.025	480.025
477.075	480.075
477.100	480.100
477.125	480.125
477.150	480.150
477.175	480.175
477.200	480.200
477.225	480.225
477.250	480.250
477.275	480.275
477.300	480.300
477.325	480.325
477.350	480.350
477.375	480.375
477.400	480.400
477.425	480.425
477.450	480.450
477.475	480.475
477.500	480.500
477.525	480.525
477.550	480.550
477.575	480.575
477.600	480.600
477.625	480.625
477.650	480.650
477.675	480.675
477.700	480.700
477.725	480.725
477.750	480.750
477.775	480.775
477.800	480.800
477.825	480.825
477.850	480.850
477.875	480.875
477.900	480.900
477.925	480.925
477.950	480.950
477.975	480.975

§ 22.1009 Transmitter locations.

The rules in this section establish limitations on the locations from which stations in the Offshore Radiotelephone Service may transmit.

(a) *All stations.* Offshore stations must not transmit from locations outside the boundaries of the appropriate zones specified in § 22.1007. Offshore stations must not transmit from locations within 241 kilometers (150 miles) of any full-service television station that transmits on the TV channel containing the channel on which the offshore station transmits.

(b) *Airborne subscriber stations.* Airborne subscriber stations must not transmit from altitudes exceeding 305 meters (1000 feet) above mean sea level. Airborne mobile stations in Zone A must not transmit from locations within 129 kilometers (80 miles) of Lake Charles, Louisiana. Airborne mobile stations in Zone B must not transmit from locations within 129 kilometers (80 miles) of Lafayette, Louisiana. Airborne mobile stations in Zone C must not transmit from locations within 129 kilometers (80 miles) of Corpus Christi or locations within 129 kilometers (80 miles) of Houston, Texas.

§ 22.1011 Antenna height limitations.

The antenna height of offshore stations must not exceed 61 meters (200 feet) above mean sea level. The antenna height of offshore surface mobile stations must not exceed 10 meters (30 feet) above the waterline.

§ 22.1013 Effective radiated power limitations.

The effective radiated power (ERP) of transmitters in the Offshore Radiotelephone Service must not exceed the limits in this section.

(a) *Maximum power.* The ERP of transmitters in this service must not exceed 1000 Watts under any circumstances.

(b) *Mobile transmitters.* The ERP of mobile transmitters must not exceed 100 Watts. The ERP of mobile transmitters, when located within 32 kilometers (20 miles) of the 4.8 kilometer (3 mile) limit, must not exceed 25 Watts. The ERP of airborne mobile stations must not exceed 1 Watt.

(c) *Protection for TV Reception.* The ERP limitations in this paragraph are intended to reduce the likelihood that interference to television reception from offshore radiotelephone operations will occur.

(1) *Co-channel protection.* The ERP of offshore stations must not exceed the limits in Table I–1 of this section. The

limits depend upon the height above mean sea level of the offshore transmitting antenna and the distance between the antenna location of the offshore transmitter and the antenna location of the main transmitter of the nearest full-service television station that transmits on the TV channel containing the channel on which the offshore station transmits.

(2) *Adjacent channel protection.* The ERP of offshore stations located within 128.8 kilometers (80 miles) of the main transmitter antenna of a full service TV station that transmits on a TV channel adjacent to the TV channel which contains the channel on which the offshore station transmits must not exceed the limits in the Table I–2 of § 22.1015. The limits depend upon the height above mean sea level of the offshore transmitting antenna and the distance between the location of the offshore transmitter and the 4.8 kilometer (3 mile) limit.

TABLE I–1.—MAXIMUM ERP (WATTS)

Distance	30 meters (100 feet)	45 meters (150 feet)	61 meters (200 feet)
338 km (210 mi)	1000	1000	1000
330 km (205 mi)	1000	900	800
322 km (200 mi)	800	710	630
314 km (195 mi)	590	520	450
306 km (190 mi)	450	400	330
298 km (185 mi)	320	280	240
290 km (180 mi)	250	210	175
282 km (175 mi)	180	150	130
274 km (170 mi)	175	110	100
266 km (165 mi)	95	80	70
258 km (160 mi)	65	55	50
249 km (155 mi)	50	40	35
241 km (150 mi)	35	30	25

§ 22.1015 Repeater operation.

Offshore central stations may be used as repeater stations provided that the licensee is able to maintain control of the station, and in particular, to turn the transmitter off, regardless of whether associated subscriber stations are transmitting at the time.

TABLE I–2.—MAXIMUM ERP (WATTS)

Distance from the 4.8 km (3 mi) limit	30 meters (100 feet)	61 meters (200 feet)
6.4 km (4 mi)	25	6
8.0 km (5 mi)	40	10
9.7 km (6 mi)	65	15
11.3 km (7 mi)	100	25
12.9 km (8 mi)	150	35
14.5 km (9 mi)	215	50
16.1 km (10 mi)	295	70
17.7 km (11 mi)	400	100
19.3 km (12 mi)	530	130
20.9 km (13 mi)	685	170
22.5 km (14 mi)	870	215
24.1 km (15 mi)	1000	270
25.7 km (16 mi)	1000	415
27.4 km (17 mi)	1000	505
29.0 km (18 mi)	1000	610
30.6 km (19 mi)	1000	730
32.2 km (20 mi)	1000	865
33.8 km (21 mi)	1000	1000

§ 22.1025 Permissible communications.

Offshore central stations must communicate only with subscriber stations (fixed, temporary-fixed, mobile and airborne). Offshore subscriber stations must normally communicate only with and through offshore central stations. Stations in the Offshore Radiotelephone Service may communicate through relay stations authorized in this service.

§ 22.1031 Temporary fixed stations.

The FCC may, upon proper application therefor, authorize the construction and operation of temporary fixed stations in the Offshore Radiotelephone service to be used only when the service of permanent fixed stations is disrupted by storms or emergencies or is otherwise unavailable.

(a) *Six month limitation.* If it is necessary for a temporary fixed station to remain at the same location for more than six months, the licensee of that station must apply for authorization to operate the station at the specific location at least 30 days before the end of the six month period.

(b) *International communications.* Communications between the United States and Mexico must not be carried using a temporary fixed station without prior authorization from the FCC. Licensees desiring to carry such communications should apply sufficiently in advance to allow for the time necessary to coordinate with Canada or Mexico.

§ 22.1035 Construction period.

The construction period (see § 22.142) for offshore stations is 18 months.

§ 22.1037 Application requirements for offshore stations.

Applications for new Offshore Radiotelephone Service stations must contain an exhibit showing that:

(a) The applicant has notified all licensees of offshore stations located within 321.8 kilometers (200 miles) of the proposed offshore station, by providing the following data, at least 30 days before filing the application:

(1) The name, business address, channel coordinator, and telephone number of the applicant;

(2) The location and geographical coordinates of the proposed station;

(3) The channel and type of emission;

(4) The height and type of antenna;

(5) The bearing of the main lobe of the antenna; and,

(6) The effective radiated power.

(b) The proposed station will not interfere with the primary ORS channels by compliance with the following separations:

(1) Co-channel to a distance of 241.4 kilometers (150 miles).

(2) If interstitial channels are used, adjacent channels (±12.5 kHz) to a distance of 80.5 kilometers (50 miles).

(3) Third order intermodulation channels (±12.5 kHz) to a distance of 32.2 kilometers (20 miles).

(4) If the proposed transmitting antenna site is located west of longitude W.93°40′, and within 32.2 kilometers (20 miles) of the shoreline, and proposed use of the channels listed in § 22.1007(b), no third-order intermodulation interference would be caused to any base or mobile station using the channels between 488 and 494 MHz.

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Part III

Department of Education

34 CFR Parts 75 and 76
Direct Grant Programs and State-Administered Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 75 and 76

RIN 1880–AA50

Direct Grant Programs and State-Administered Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Department's regulations on direct grant programs and State-administered programs to clarify the requirements and procedures for establishing and applying indirect cost rates under programs administered by the Department.

EFFECTIVE DATE: These regulations take effect on December 19, 1994.

FOR FURTHER INFORMATION CONTACT: Glenn Riley, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3636, ROB–3, Washington, D.C. 20202–4700. Telephone: (202) 708–7640. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 14, 1994, the Secretary published in the **Federal Register** (59 FR 2480) a notice of proposed rulemaking (NPRM) proposing to revise certain sections in the Education Department General Administrative Regulations (EDGAR) on indirect cost rates. These proposed revisions were intended to improve the administration of discretionary grants and to clarify for grantees the procedures and requirements of the Department.

The proposed regulations addressed a number of problems in this area of grants administration, including the computation and use of restricted indirect cost rates in programs with a statutory supplement-not-supplant requirement, the definition of a training grant, and the use of indirect costs as matching or cost-sharing.

Significant differences between the NPRM and this final regulation include changes to §§ 75.561 and 76.561 to allow State educational agencies to approve multi-year indirect cost rates for local educational agencies, the deletion of research training programs from the definition of a training grant in § 75.562, and the inclusion of a definition of "modified total direct cost base," also in § 75.562.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 21 parties submitted comments on the proposed regulations. An analysis of the comments and of the resulting changes in the regulations follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 75.560 General Indirect Cost Rates; Exceptions

Since the Department recently adopted the revised OMB Circular A–110 as 34 CFR Part 74, references in this section have been revised to be consistent with the new Part 74.

Comments: Several parties commented on the requirement that a recipient have a current indirect cost rate agreement to charge indirect costs to a grant, asking what should happen if a recipient has submitted an indirect cost proposal but has not received approval from the Department. One suggested that the Department should assign an indirect cost rate based on the applicant's last approved rate and another thought the applicant should be allowed to use its proposed rate.

Discussion: The Department now allows six months to review a rate proposal and negotiate a new rate, which is generally adequate time to complete the process. If for some reason a rate has not been approved on time, the use of a temporary rate would be considered by the Department. Since other changes to these regulations give the Department authority to establish temporary rates, no additional changes concerning temporary rates are necessary.

Changes: None.

Comments: Another commenter asked about the effect of the proposed regulations on contractors under a grant and whether this section requires contractors to obtain a rate, including a temporary rate if necessary, from the Department.

Discussion: Many contractors already have a negotiated indirect cost rate because they are direct recipients of Federal funds. Under current procedures State and local governments are expected to assign an indirect cost rate to a contractor or other lower tier organization that does not already have one. Thus State educational agencies assign rates to their local educational agencies (see § 75.561). These regulations do nothing to change these practices and contractors or other lower tier organizations are not expected to negotiate a rate with the Department.

Changes: None.

Section 75.561 Approval of indirect cost rates.

Comments: Several commenters were confused by the statement in § 75.561(c) that the Secretary approves indirect cost rate agreements, an apparent conflict with the practice of the cognizant agency negotiating a rate with an applicant.

Discussion: The Secretary does negotiate indirect cost rates with applicants, but only when the Department is the cognizant agency. A change has been made to clarify this paragraph.

Changes: Section 75.561(a) has been revised to make it clear that the Secretary approves indirect cost rates for applicants when the Department is the cognizant agency.

Comments: One commenter suggested that State educational agencies have the same flexibility to approve multi-year indirect cost rates as the proposed revision to § 75.561 would give the Secretary. The commenter observed that it would be more cost-effective, particularly for small local educational agencies, to have rates in effect for more than one year.

Discussion: The Secretary agrees with this comment and has made a change.

Changes: Section 75.561(b) has been revised to allow State educational agencies to approve indirect cost rates—for local educational agencies—that are in effect for more than one year.

Section 75.562 Indirect cost rates for educational training projects.

Comments: A commenter objected to the inclusion of research training programs in the proposed definition of an educational training grant, observing that OMB Circular A–21 specifies that research training is part of an institution's sponsored research activities.

Discussion: OMB Circular A–21, in Section B, Definition of Terms, states that the term "sponsored research" includes "activities involving the training of individuals in research techniques (commonly called research training) * * *." In order to be consistent with this circular, the Secretary has made a change in the definition of an educational training grant.

Changes: The phrase "including special research training programs" has been deleted from the definition of an educational training grant in § 75.562(a).

Comments: A few commenters thought that the definition of a training grant was ambiguous and too broad. One suggested that it be limited to grants that were designated as training

grants by statute or where the grant includes such costs as tuition and fees (so-called "flow-through" funds) that are used by the recipient to cover a portion of its indirect costs. Another asked if the Secretary would be using this definition in determining which grants are training grants, as stated in § 75.562(b).

Discussion: The fact that the proposed definition of a training grant is broad and comprehensive is a reflection of the great variety of grants administered by the Department that are training grants. The definition suggested by the commenter would overly limit the designation of training grants and exclude certain programs that clearly are primarily for the provision of training. The intent of the definition is to provide the public with the criteria used by the Secretary in determining what is a training grant and a change has been made to make this clear.

Changes: Section 75.562(b) has been revised to indicate that the Secretary does use the definition of a training grant in paragraph (a) in determining which grants are educational training grants.

Comments: Several commenters objected to the Department's use of the eight percent limit on training grants and thought the rate negotiated by the recipient with its cognizant agency should be employed instead.

Discussion: Since its inception, the Department has consistently maintained the necessity of limiting the indirect cost rate on training grants. This policy was originally established when the Department was a component of the Department of Health, Education, and Welfare, now the Department of Health and Human Services (HHS). This policy is still in effect at HHS and is intended in part to maximize the number of projects funded under these programs. In addition, a number of training projects contain significant amounts of flow-through funds and therefore do not carry the same burden of overhead or administrative costs as do other projects. The Secretary does not agree that the recipients of training grants should be reimbursed at their full negotiated rates and no change in this section has been made.

Changes: None.

Comments: Nine comments were received on the proposed revision to § 75.562(c) that would require the training rate of eight percent to be applied to a modified total direct cost base, instead of using a base of total direct costs as in the current regulation. Commenters opposed this change on grounds that it would further reduce a grantee's ability to recover legitimate indirect costs under training grants and reduce the number of organizations that could afford to apply for those grants. Several commenters also asked for a definition of "modified total direct cost base."

Discussion: There is general agreement in the grants community that indirect costs should not be charged to activities that do not have significant administrative costs associated with them, such as "flow-through funds" (e.g., tuition, fees, and stipends). The Secretary proposed to revise these regulations to be consistent with this principle and to clarify for all interested parties what base should be used in computing indirect costs under a training grant. Though this change will reduce the indirect costs charged to the Department's grants for some recipients, the Secretary does not agree that the indirect cost base for training grants should include activities or costs that do not generate significant administrative expenses. However, the Secretary has made a change to clarify the term "modified total direct cost base."

Changes: Section 75.562(c) has been revised to include a definition of "modified total direct cost base." It has also been reworded to make it clearer that the paragraph is referring to the lesser amount of funds, not the lesser rate.

Comments: One commenter stated that the eight percent limitation should not apply to contractors under training grants, as required by § 75.562(c)(1), since not all contractors are in a position to absorb the costs not covered by the limited rate.

Discussion: If the contractor is not conducting training activities, the eight percent limitation would not apply and the contractor could use its negotiated rate. However, a contractor that is conducting training under a training grant would still be subject to the limitation of eight percent. No change has been made in this paragraph.

Changes: None.

Comments: Thirteen commenters objected to the requirement in § 75.562(c)(3) that indirect costs in excess of the eight percent limitation may not be used to satisfy cost-sharing or matching requirements. Many cited the new provision in OMB Circular A–110 that allows the use of unrecovered indirect costs for this purpose, with the approval of the granting agency. Commenters were concerned that this limitation would make it difficult for many competent applicants to qualify for grants that require cost-sharing or matching.

Discussion: The Department has a long-standing practice not to allow the use of unrecovered indirect costs under training grants as matching or cost-sharing. This practice was required because under a previous version of OMB Circular A–110 and the Department's implementing regulations in 34 CFR Part 74, only allowable costs could be used for matching or cost-sharing purposes. Since training grants are limited to an eight percent indirect cost rate, all indirect costs over that limit were considered unallowable and thus could not be used as matching or cost-sharing. The practice also had the result of maximizing the funds that support project activities, because the use of unrecovered indirect costs to meet matching or cost-sharing requirements would reduce the amount of direct cost funds being put into the project by the recipient.

The Department recently revised 34 CFR Part 74 to implement revisions to OMB Circular A–110. The circular and Part 74 now allow institutions of higher education, non-profit organizations, and hospitals that receive funds under Federal programs to use unrecovered indirect costs for matching or cost-sharing, but only with the approval of the awarding agency. In light of this change and in response to the concerns expressed by commenters, the Secretary re-examined this practice but decided not to change it because it maximizes the impact of the limited funds available for training grant programs.

Changes: None.

Comments: The Department received comments suggesting that applicants be notified as early as possible in the application process that a program is subject to the training rate or to the restricted rate based on a statutory supplement-not-supplant requirement. Commenters thought this information should be included in the application packages and also on the grant award notices.

Discussion: Many programs already include this information in application packages and notices, but, in an effort to assist applicants as much as possible, the Department will do this for the other programs as well. The issue is somewhat complicated by the fact that some, but not all, grants awarded under certain programs may be training grants. In this case the Department will include in the application package and notice a statement that some grants awarded under the program could be training grants subject to the eight percent limitation on indirect costs, depending upon the type of project proposed. The Department is already taking steps to include information in the Catalog of Federal Domestic Assistance that identifies those programs subject to the

restricted rate based on the supplement-not-supplant requirement. As for placing the information on the award notices, the Department is currently redesigning its core financial systems, including the grants management system, and this information will be on award notices produced under the new system. These notification issues were not addressed in the proposed regulations and no change has been made to include them in the final regulations.

Changes: None.

Comments: A few commenters thought that the Department should exclude training grants and their indirect costs from the process used by the Department to establish indirect cost rates. This would have the effect of increasing the organization's negotiated rate and would offset somewhat the loss of indirect costs under the training grants.

Discussion: This issue was not included in the proposed regulations but will be considered by the Department during its periodic reviews of administrative procedures.

Changes: None.

Section 75.563 Restricted Indirect Cost Rate—Programs Covered

Comments: One commenter said that the restricted rates applicable to programs with the supplement-not-supplant requirement should not be applied to universities that have a negotiated indirect cost rate. They suggested that §§ 75.563 and 75.564(f) be deleted.

Discussion: The Department applies a restricted rate only to grants made under programs that have a statutory requirement that Federal funds be used to supplement, not supplant, institutional funds. If a recipient happens to be an institution of higher education, the restricted rate must be applied—the Department has no choice on the matter because the rate implements a statutory limitation. However, as a matter of practice, the recipients of grants under these programs are predominately State educational agencies or local educational agencies; very few institutions of higher education receive grants under restricted rate programs.

Changes: None.

Section 75.564 Reimbursement of Indirect Costs

Comments: Several commenters thought the language in § 75.564(a) was confusing and contradicts § 75.564(b) and § 75.560(d). They thought § 75.564(a) should be revised to make it clear that the Department accepts the rate negotiated with an applicant's cognizant agency.

Discussion: This section addresses the issue of reimbursement of indirect costs and the opening paragraph is a general statement of the Department's policies in this area. As stated in the first sentence, there are administrative and statutory restrictions that affect the reimbursement of indirect costs under programs administered by ED. There are also situations, though infrequent, when indirect costs are not reimbursed due to a lack of funds. This usually occurs when a grantee is seeking reimbursement of indirect costs because the applicable rate was adjusted upwards during or after the performance of the grant. The Secretary agrees that the second sentence in this section is somewhat confusing and has made a change.

Changes: The second sentence in § 75.564(a), "The extent to which indirect costs are reimbursed is a matter for determination between the Secretary and the grantee," has been deleted from the final regulation.

Comments: The Department received comments that construction grants and grants in support of conferences should not be included in the list of grants in § 75.564(c) for which indirect costs are unallowable. The commenters think these types of grants do carry considerable administrative costs and ED should reimburse recipients for their indirect costs. One commenter suggested that the language concerning conferences be revised to apply to grants made exclusively to support conferences.

Discussion: The Department does not agree that construction grants carry the same administrative costs as other types of grants. Most of the construction work funded by those grants is carried out under subcontracts, a practice which results in recipients incurring relatively little overhead expense in comparison to other types of grants. Also, unlike other products of grant-supported activities, the costs of a building can be recovered through depreciation or use allowances. Therefore no change has been made concerning construction grants, but the language on grants for conferences has been revised.

Changes: Section 75.564(c)(6) has been revised to apply to grants made exclusively to support conferences.

Comments: Several commenters thought § 75.564(e) prohibits the use of indirect costs to satisfy matching or cost-sharing requirements and so should be revised or deleted as inconsistent with OMB Circulars A–21 and A–110.

Discussion: The OMB circulars that serve as cost principles or administrative guidance for grant recipients all contain the requirement that only allowable costs may be charged to a Federal grant as either direct or indirect costs. The same principle applies to funds used for matching or cost-sharing. However, the re-statement of this principle in these regulations has caused some confusion, particularly since a change to OMB Circular A–110, recently adopted by the Department as 34 CFR Part 74, gives granting agencies the option of approving unrecovered indirect costs to satisfy matching or cost-sharing requirements. The Department has therefore decided to delete the proposed § 75.564(e) from the final regulations.

As discussed elsewhere in this document, the Department is continuing its practice of prohibiting the use of unrecovered indirect costs to satisfy matching or cost-sharing requirements under training and restricted rate grants. For grantees subject to 34 CFR Part 74, the Department will consider on a case-by-case basis requests to use unrecovered indirect costs as matching or cost-sharing when the grant in question is not a training grant or a grant subject to a restricted indirect cost rate.

Changes: The proposed § 75.564(e) has been deleted.

Comments: The Department received one comment that § 75.564(f) should be deleted and each member of a group of eligible parties be allowed to apply its own indirect cost rate to its portion of the grant funds.

Discussion: It has been the Department's policy on certain indirect cost matters—for example, the eight percent training rate—to maximize the Federal funds going to support program activities. If the official recipient of the grant applies its rate to the full award amount and each member of the group applies its full rate to its portion of the grant, as has happened in such situations, a disproportionate amount of the grant is spent on indirect costs. Since the Department wishes to maximize the funds supporting the direct costs of a project, it is limiting the indirect costs for grants made to groups of eligible parties to the rate of the official grant recipient, the fiscal agent for the group. The members of the group can decide among themselves how the funds should be divided within the group.

Changes: No change was made to the text of this paragraph, but, since the proposed § 75.564(e) has been deleted, this paragraph has been redesignated as § 75.564(e) in these final regulations.

Section 76.560 General indirect cost rates; exceptions.

Since the Department recently adopted the revised OMB Circular A–110 as 34 CFR Part 74, references in this section have been revised to be consistent with the new 34 CFR Part 74.

Section 76.561 Approval of indirect cost rates.

The Department has revised this section to be consistent with the corresponding section of 34 CFR Part 75 so that State educational agencies may approve multi-year indirect cost rates for recipients subject to 34 CFR Part 76.

Section 76.564 Restricted indirect cost rate—formula.

The Department has made a revision to this section to make its requirements consistent with similar requirements in 34 CFR Part 75. Specifically, § 76.564(d) has been revised to prohibit the use of unrecovered indirect costs under a restricted rate grant to satisfy matching or cost-sharing requirements. This change is consistent with current departmental practices and with the restriction placed on training grants in § 75.562(c)(3).

Section 76.565 General management costs—restricted rate.

Comments: Several commenters found the language in § 76.565 concerning organization-wide activities to be unclear. Some of the commenters thought that the proposed regulations did not make it clear that some activities considered divisional administration may in fact be organization-wide activities, such as payroll or personnel functions.

Discussion: The Department agrees with these commenters and has changed the wording in an attempt to make the final version clearer to readers.

Changes: The wording of § 76.565(a) has been changed to clarify the meaning of the term organization-wide. Section 76.565(c) has been revised to clarify the use of the term divisional administration.

Comments: One commenter said a deputy chief executive officer who oversees general management activities should not be excluded as required in § 76.565 (c) and (d). Another said that chief executive officers should be excluded only if their activities are limited to one component.

Discussion: Chief executive officers and their deputies are positions that would exist whether or not the organization received Federal funds. To support them with Federal funds would be supplanting, which is prohibited under restricted rate programs.

Changes: None.

Comments: One commenter disagreed with the definition of component in § 76.565(d)(2), saying it conflicts with the generally accepted accounting standard that an agency is a component of a State. The commenter maintains that the proposed definition of a component as an organizational unit within an agency would prohibit States from charging legitimate administrative costs to a grant.

Discussion: As stated in § 76.563, this section applies to "agencies of State and local governments," most commonly the State educational agency, not to the State itself. In this context, the component would be an organizational unit within a State agency, as described in the regulation. No change has been made in this section.

Changes: None.

Section 76.567 Other expenditures—restricted rate.

Comments: The Department received one comment that subgrants should be excluded from other expenditures, since their inclusion would distort the indirect cost calculation and subgrants are already excluded from the base in the formula in § 76.569.

Discussion: The Department agrees with this comment and has made a change.

Changes: Section 76.567(b) has been revised to exclude subgrants from other expenditures.

Section 76.568 Occupancy and space maintenance costs—restricted rate.

Comments: One commenter thought the last two sentences of § 76.568(c) should be deleted as inconsistent with other Federal guidance in OMB Circular A–87 and OASC–10, that States cannot afford to pay for the office space occupied by Federal program staff.

Discussion: The sentences in question are not intended to indicate that the costs of office space for Federal program staff must be borne by the States, nor are they inconsistent with other Federal guidance. Costs of space can be charged as indirect or direct costs as appropriate, but Federal funds cannot be used to supplant local funds under programs with statutory prohibitions of supplanting. The last sentence merely reiterates the standard practice that the Secretary approves the budgets of projects supported by grant funds. No changes have been made to this section.

Changes: None.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects 34 CFR Part 75

Education Department, Grant programs—education, Grant administration, Incorporation by reference.

List of Subjects in 34 CFR Part 76

Education Department, Grant programs—education, Grant administration, Intergovernmental relations, State-administered programs.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: November 10, 1994.

Richard W. Riley,

Secretary of Education.

The Secretary amends Parts 75 and 76 of Title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

1. The authority citation for Part 75 continues to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1) and 3474, unless otherwise noted.

2. Section 75.129 is amended by revising paragraphs (a) (1) and (2) and adding paragraph (a)(3), to read as follows:

§ 75.129 Legal responsibilities of each member of the group.

(a) * * *

(1) The use of all grant funds;

(2) Ensuring that the project is carried out by the group in accordance with Federal requirements; and

(3) Ensuring that indirect cost funds are determined as required under § 75.564(e).

* * * * *

3. Section 75.560 is amended by revising paragraphs (a) (1), (2), (3), (4), and (5), by revising paragraph (b), by adding new paragraphs (c) and (d), by and revising the authority citation at the end of the section, to read as follows:

§ 75.560 General indirect cost rates; exceptions.

(a) * * *

(1) Institutions of higher education, at 34 CFR 74.27;

(2) Hospitals, at 34 CFR 74.27;

(3) Other nonprofit organizations, at 34 CFR 74.27;

(4) Commercial (for-profit) organizations, at 34 CFR 74.27; and

(5) State and local governments and federally-recognized Indian tribal organizations, at 34 CFR 80.22.

(b) A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. To obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency and negotiate an indirect cost rate agreement.

(c) The Secretary may establish a temporary indirect cost rate for a grantee that does not have an indirect cost rate agreement with its cognizant agency.

(d) The Secretary accepts an indirect cost rate negotiated by a grantee's cognizant agency, but may establish a restricted indirect cost rate for a grantee to satisfy the statutory requirements of certain programs administered by the Department.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

4. Section 75.561 is revised to read as follows:

§ 75.561 Approval of indirect cost rates.

(a) If the Department of Education is the cognizant agency, the Secretary approves an indirect cost rate for a grantee other than a local educational agency. For the purposes of this section, the term local educational agency does not include a State agency.

(b) Each State educational agency, on the basis of a plan approved by the Secretary, shall approve an indirect cost rate for each local educational agency that requests it to do so. These rates may be for periods longer than a year if rates are sufficiently stable to justify a longer period.

(c) The Secretary generally approves indirect cost rate agreements annually. Indirect cost rate agreements may be approved for periods longer than a year if the Secretary determines that rates will be sufficiently stable to justify a longer rate period.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

5. Section 75.562 is revised to read as follows:

§ 75.562 Indirect cost rates for educational training projects.

(a) Educational training grants provide funding for training or other educational services. Examples of the work supported by training grants are summer institutes, training programs for selected participants, the introduction of new or expanded courses, and similar instructional undertakings that are separately budgeted and accounted for by the sponsoring institution. These grants do not usually support activities involving research, development, and dissemination of new educational materials and methods. Training grants largely implement previously developed materials and methods and require no significant adaptation of techniques or instructional services to fit different circumstances.

(b) The Secretary uses the definition in paragraph (a) to determine which grants are educational training grants.

(c) Indirect cost reimbursement on a training grant is limited to the recipient's actual indirect costs, as determined by its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For the purposes of this section, a modified total direct cost base is defined as total direct costs less stipends, tuition and related fees, and capital expenditures of $5,000 or more.

(1) The eight percent limit also applies to cost-type contracts under grants, if these contracts are for training as defined in this section.

(2) The eight percent limit does not apply to agencies of State or local governments, including federally recognized Indian tribal governments, as defined in 34 CFR 80.3.

(3) Indirect costs in excess of the eight percent limit may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

(d) A grantee using the training rate of eight percent is required to have documentation available for audit that shows that its negotiated indirect cost rate is at least eight percent.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

6. Section 75.563 is revised to read as follows:

§ 75.563 Restricted indirect cost rate—programs covered.

If a grantee decides to charge indirect costs to a program that has a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds, the grantee shall use a restricted indirect cost rate computed under 34 CFR 76.564 through 76.569.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

7. Sections 75.564 through 75.568 are removed.

8. A new § 75.564 is added to read as follows:

§ 75.564 Reimbursement of indirect costs.

(a) Reimbursement of indirect costs is subject to the availability of funds and statutory or administrative restrictions.

(b) The application of the rates and the determination of the direct cost base by a grantee must be in accordance with the indirect cost rate agreement approved by the grantee's cognizant agency.

(c) Indirect cost reimbursement is not allowable under grants for—

(1) Fellowships and similar awards if Federal financing is exclusively in the form of fixed amounts such as scholarships, stipend allowances, or the tuition and fees of an institution;

(2) Construction grants;

(3) Grants to individuals;

(4) Grants to organizations located outside the territorial limits of the United States;

(5) Grants to Federal organizations; and

(6) Grants made exclusively to support conferences.

(d) Indirect cost reimbursement on grants received under programs with statutory restrictions or other limitations on indirect costs must be made in accordance with the restrictions in 34 CFR 76.564 through 76.569.

(e) Indirect costs for a group of eligible parties (see §§ 75.127–75.129) are limited to the amount derived by applying the rate of the applicant, or a restricted rate when applicable, to the grant in keeping with the terms of the applicant's indirect cost rate agreement.

(Authority: 20 U.S.C. 1221e–3(a)(1) and 3474)

PART 76—STATE-ADMINISTERED PROGRAMS

9. The authority citation for Part 76 continues to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474, unless otherwise noted.

10. Section 76.560 is amended by revising paragraphs (a)(1), (2), (3), (4), and (5), by revising paragraph (b), by adding new paragraphs (c) and (d), and revising the authority citation at the end of the section, to read as follows:

§ 76.560 General indirect cost rates; exceptions.

(a) * * *

(1) Institutions of higher education, at 34 CFR 74.27;

(2) Hospitals, at 34 CFR 74.27;

(3) Other nonprofit organizations, at 34 CFR 74.27;

(4) Commercial (for-profit) organizations, at 34 CFR 74.27; and

(5) State and local governments and federally-recognized Indian tribal organizations, at 34 CFR 80.22.

(b) A grantee must have a current indirect cost rate agreement to charge indirect costs to a grant. To obtain an indirect cost rate, a grantee must submit an indirect cost proposal to its cognizant agency and negotiate an indirect cost rate agreement.

(c) The Secretary may establish a temporary indirect cost rate for a grantee that does not have an indirect cost rate agreement with its cognizant agency.

(d) The Secretary accepts an indirect cost rate negotiated by a grantee's cognizant agency, but may establish a restricted indirect cost rate for a grantee to satisfy the statutory requirements of certain programs administered by the Department.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

11. Section 76.561 is revised to read as follows:

§ 76.561 Approval of indirect cost rates.

(a) If the Department of Education is the cognizant agency, the Secretary approves an indirect cost rate for a State agency and for a subgrantee other than a local educational agency. For the purposes of this section, the term local educational agency does not include a State agency.

(b) Each State educational agency, on the basis of a plan approved by the Secretary, shall approve an indirect cost rate for each local educational agency that requests it to do so. These rates may be for periods longer than a year if rates are sufficiently stable to justify a longer period.

(c) The Secretary generally approves indirect cost rate agreements annually. Indirect cost rate agreements may be approved for periods longer than a year if the Secretary determines that rates will be sufficiently stable to justify a longer rate period.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2381(a), and 3474)

12. Section 76.563 is revised to read as follows:

§ 76.563 Restricted indirect cost rate—programs covered.

Sections 76.564 through 76.569 apply to agencies of State and local governments that are grantees under programs with a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds, and to their subgrantees under these programs.

(Authority: 20 U.S.C. 1221e(a)(1), 2831(a), 2974(b), and 3474)

13. A new § 76.564 is added to read as follows:

§ 76.564 Restricted indirect cost rate—formula.

(a) An indirect cost rate for a grant covered by § 76.563 or 34 CFR 75.563 is determined by the following formula:

Restricted indirect cost rate = (General management costs + Fixed costs) + (Other expenditures)

(b) General management costs, fixed costs, and other expenditures must be determined under §§ 76.565 through 76.567.

(c) Under the programs covered by § 76.563, a subgrantee of an agency of a State or a local government (as those terms are defined in 34 CFR 80.3) or a grantee subject to 34 CFR 75.563 that is not a State or local government agency may use—

(1) An indirect cost rate computed under paragraph (a) of this section; or

(2) An indirect cost rate of eight percent unless the Secretary determines that the subgrantee or grantee would have a lower rate under paragraph (a) of this section.

(d) Indirect costs that are unrecovered as a result of these restrictions may not be charged directly, used to satisfy matching or cost-sharing requirements, or charged to another Federal award.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

14. A new § 76.565 is added to read as follows:

§ 76.565 General management costs—restricted rate.

(a) As used in § 76.564, *general management costs* means the costs of activities that are for the direction and control of the grantee's affairs that are organization-wide. An activity is not organization-wide if it is limited to one activity, one component of the grantee, one subject, one phase of operations, or other single responsibility.

(b) General management costs include the costs of performing a service function, such as accounting, payroll preparation, or personnel management, that is normally at the grantee's level even if the function is physically located elsewhere for convenience or better management. The term also includes certain occupancy and space maintenance costs as determined under § 76.568.

(c) The term does not include expenditures for—

(1) Divisional administration that is limited to one component of the grantee;

(2) The governing body of the grantee;

(3) Compensation of the chief executive officer of the grantee;

(4) Compensation of the chief executive officer of any component of the grantee; and

(5) Operation of the immediate offices of these officers.

(d) For purposes of this section—

(1) The chief executive officer of the grantee is the individual who is the head of the executive office of the grantee and exercises overall responsibility for the operation and management of the organization. The chief executive officer's immediate office includes any deputy chief executive officer or similar officer along with immediate support staff of these individuals. The term does not include the governing body of the grantee, such as a board or a similar elected or appointed governing body; and

(2) Components of the grantee are those organizational units supervised directly or indirectly by the chief executive officer. These organizational units generally exist one management level below the executive office of the grantee. The term does not include the office of the chief executive officer or a deputy chief executive officer or similar position.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

15. A new § 76.566 is added to read as follows:

§ 76.566 Fixed costs—restricted rate.

As used in § 76.564, *fixed costs* means contributions of the grantee to fringe benefits and similar costs, but only those associated with salaries and wages that are charged as indirect costs, including—

(a) Retirement, including State, county, or local retirement funds, Social Security, and pension payments;

(b) Unemployment compensation payments; and

(c) Property, employee, health, and liability insurance.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

16. A new § 76.567 is added to read as follows:

§ 76.567 Other expenditures—restricted rate.

(a) As used in § 76.564, *other expenditures* means the grantee's total expenditures for its federally- and non-federally-funded activities in the most recent year for which data are available. The term also includes direct occupancy and space maintenance costs as determined under § 76.568 and costs related to the chief executive officers of the grantee and components of the grantee and their offices (see § 76.565(c) and (d)).

(b) The term does not include—

(1) General management costs determined under § 76.565;

(2) Fixed costs determined under § 76.566;
(3) Subgrants;
(4) Capital outlay;
(5) Debt service;
(6) Fines and penalties;
(7) Contingencies; and
(8) Election expenses. However, the term does include election expenses that result from elections required by an applicable Federal statute.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

17. A new § 76.568 is added to read as follows:

§ 76.568 Occupancy and space maintenance costs—restricted rate.

(a) As used in the calculation of a restricted indirect cost rate, *occupancy and space maintenance costs* means such costs as—
(1) Building costs whether owned or rented;
(2) Janitorial services and supplies;
(3) Building, grounds, and parking lot maintenance;
(4) Guard services;
(5) Light, heat, and power;
(6) Depreciation, use allowances, and amortization; and
(7) All other related space costs.

(b) Occupancy and space maintenance costs associated with organization-wide service functions (accounting, payroll, personnel) may be included as general management costs if a space allocation or use study supports the allocation.

(c) Occupancy and space maintenance costs associated with functions that are not organization-wide must be included with other expenditures in the indirect cost formula. These costs may be charged directly to affected programs only to the extent that statutory supplanting prohibitions are not violated. This reimbursement must be approved in advance by the Secretary.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

18. A new § 76.569 is added to read as follows:

§ 76.569 Using the restricted indirect cost rate.

(a) Under the programs referenced in § 76.563, the maximum amount of indirect costs under a grant is determined by the following formula:

Indirect costs=(Restricted indirect cost rate)×(Total direct costs of the grant minus capital outlays, subgrants, and other distorting or unallowable items as specified in the grantee's indirect cost rate agreement)

(b) If a grantee uses a restricted indirect cost rate, the general management and fixed costs covered by that rate must be excluded by the grantee from the direct costs it charges to the grant.

(Authority: 20 U.S.C. 1221e–3(a)(1), 2831(a), 2974(b), and 3474)

[FR Doc. 94–28368 Filed 11–16–94; 8:45 am]
BILLING CODE 4000–01–P

federal register

Thursday
November 17, 1994

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1994.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of November 1, 1994, of seven deferrals contained in the first Special Message for FY 1995. This message was transmitted to Congress on October 18, 1994.

Rescissions

As of November 1, 1994, no rescission proposals were pending before the Congress.

Deferrals (Table A and Attachment A)

As of November 1, 1994, $3,470.1 million in budget authority was being deferred from obligation. Attachment A shows the status of each deferral reported during FY 1995.

Information From Special Message

The special message containing information on the deferrals that are covered by this cumulative report is printed in the **Federal Register** cited below:

59 FR 54066, Thursday, October 27, 1994.

Alice M. Rivlin,

Director.

BILLING CODE 3110–01–M

TABLE A

STATUS OF FY 1995 DEFERRALS
(in millions of dollars)

	BUDGETARY RESOURCES
Deferrals proposed by the President.....	3,525.1
Routine Executive releases through November 1, 1994	-55.0
Overturned by the Congress.....	---
Currently before the Congress.....	3,470.1

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BILLING CODE 3110-01-C

ATTACHMENT A
Status of FY 1995 Deferrals - As of November 1, 1994
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 11-1-94
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D95-1	53,300		10-18-94					53,300
Foreign military financing grants	D95-2	3,139,279		10-18-94					3,139,279
Foreign military financing program account	D95-3	47,917		10-18-94					47,917
Military-to-military contact program	D95-4	2,000		10-18-94					2,000
Agency for International Development									
International disaster assistance, executive	D95-5	169,998		10-18-94	54,994				115,004
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Social Security Administration									
Limitation on administrative expenses	D95-6	7,319		10-18-94					7,319
DEPARTMENT OF STATE									
Bureau for Refugee Programs									
United States emergency refugee and migration assistance fund	D95-7	105,300		10-18-94					105,300
TOTAL, DEFERRALS		**3,525,113**			**54,994**				**3,470,118**

federal register

Thursday
November 17, 1994

Part V

Securities and Exchange Commission

17 CFR Part 240
Municipal Securities Disclosure; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–34961; File No. S7–5–94]

RIN 3235–AG13

Municipal Securities Disclosure

AGENCY: Securities and Exchange Commission.

ACTION: Final Rule.

SUMMARY: The Securities and Exchange Commission ("SEC" or "Commission") is adopting amendments to Rule 15c2–12 under the Securities Exchange Act of 1934 ("Exchange Act") to deter fraud and manipulation in the municipal securities market by prohibiting the underwriting and subsequent recommendation of securities for which adequate information is not available. The amendments prohibit a broker, dealer, or municipal securities dealer ("Participating Underwriter") from purchasing or selling municipal securities unless the Participating Underwriter has reasonably determined that an issuer of municipal securities or an obligated person has undertaken in a written agreement or contract for the benefit of holders of such securities to provide certain annual financial information and event notices to various information repositories; and prohibit a broker, dealer, or municipal securities dealer from recommending the purchase or sale of a municipal security unless it has procedures in place that provide reasonable assurance that it will receive promptly any event notices with respect to that security.

DATES: *Effective Date:* This rule is effective on July 3, 1995 except for § 240.15c2–12(c) which is effective on January 1, 1996.

Compliance Date: Sections 240.15c2–12(b)(5)(i)(A) and 240.15c2–12(b)(5)(i)(B) shall not apply with respect to fiscal years ending prior to January 1, 1996; and §§ 240.15c2–12(d)(2)(ii) and 240.15c2–12(d)(2)(iii) shall not apply to an Offering of municipal securities commencing prior to January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel, Janet W. Russell-Hunter, Attorney, or Paula R. Jenson, Senior Counsel (concerning the rule and release generally), (202) 942–0073, Office of Chief Counsel, Division of Market Regulation, Mail Stop 7–10; Gautam S. Gujral, Attorney (concerning information repositories) (202) 942–0175, Office of Market Supervision, Division of Market Regulation, Mail Stop 5–1, and David A. Sirignano, Senior Legal Adviser to the Director (202) 942–2870, or Amy Meltzer Starr, Attorney (concerning annual financial information, obligated persons, and material events generally), (202) 942–1875, Division of Corporation Finance, Mail Stop 7–6 Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction and Summary

The Commission has long been concerned with disclosure in both the primary and secondary markets for municipal securities.[1] As part of the Securities Acts Amendments of 1975, Congress established a limited regulatory scheme for the municipal securities market. This limited regulatory scheme included mandatory registration of municipal securities brokers and dealers, and the creation of the Municipal Securities Rulemaking Board ("MSRB"). In 1989, acting in response to consistently slow dissemination of information in connection with primary offerings of municipal securities, the Commission, pursuant to its authority under Exchange Act Section 15(c)(2),[2] adopted Rule 15c2–12[3] and an accompanying interpretation concerning the due diligence obligations of underwriters of municipal securities.[4] In 1993, the Commission's Division of Market Regulation conducted a comprehensive review of many aspects of the municipal securities market, including secondary market disclosure.[5] Findings in the September, 1993 *Staff Report on the Municipal Securities Market* ("*Staff Report*") regarding the growing participation of individual investors, who may not be sophisticated in financial matters, as well as the proliferation of complex derivative municipal securities, underscored the need for improved disclosure practices in both the primary and secondary municipal securities markets.[6] Information about the issuer and other obligated persons is as critical to the secondary market,[7] where little

[1] Both the Securities Act and the Exchange Act were enacted with broad exemptions for municipal securities from all of their provisions except the antifraud provisions of the Securities Act Section 17(a) and Exchange Act Section 10(b). Municipal securities received special exemptions not only based on considerations of federal-state comity, but also due to the lack of perceived abuses, at the time of enactment, in the municipal securities market as compared with the corporate market. Furthermore, until recently, the typical purchasers of municipal securities were institutional investors with financial expertise.

[2] Section 15(c)(2) of the Exchange Act prohibits municipal securities dealers from effecting any transaction in, or inducing or attempting to induce the purchase or sale of, any municipal security by means of a "fraudulent, deceptive, or manipulative act or practice," and authorizes the Commission, by rules and regulations, to define and prescribe means reasonably designed to prevent such acts and practices. Exchange Act Section 15(c)(2), 15 U.S.C. 78*o*(c)(2). Rule 15c2–12 also was adopted pursuant to the Commission's authority under Exchange Act Section 2, 3, 10, 15, 15B, and 23; 15 U.S.C. 78b, 78c, 78j, 78*o*, 78*o*–4, 78q, and 78w.

[3] 17 CFR 240.15c2–12. Rule 15c2–12 was proposed for adoption in 1988, and adopted in 1989. *See* Securities Exchange Act Release No. 26100 (Sept. 22, 1988), 53 FR 37778 ("1988 Release"); Securities Exchange Act Release No. 26985 (June 28, 1989), 54 FR 28799 ("1989 Release"). Rule 15c2–12 requires an underwriter of municipal securities (1) to obtain and review an issuer's official statement that, except for certain information, is "deemed final" by an issuer prior to making a purchase, offer, or sale of municipal securities; (2) in negotiated sales, to provide the issuer's most recent preliminary official statement (if one exists) to potential customers; (3) to deliver to customers, upon request, copies of the final official statement for a specified period of time; and (4) to contract to receive, within a specified time, sufficient copies of the issuer's final official statement to comply with the rule's delivery requirement, and the requirements of the rules of the MSRB.

[4] The 1989 Release also stated that issuers are primarily responsible for the content of their disclosure documents, and may be held primarily liable under the federal securities laws for misleading disclosure. *See* 1989 Release at n. 84.

[5] Since September, 1993, other initiatives related to the municipal securities market have been taken. On April 7, 1994, the Commission approved changes to MSRB rule G–19 concerning suitability of recommendations, and rule G–8 concerning recordkeeping. Securities Exchange Act Release No. 33869 (April 7, 1994), 59 FR 17632. These changes are designed to ensure that dealers, before making recommendations to customers, take appropriate steps to determine that the transaction is suitable. Concurrently, the Commission approved MSRB rule G–37 relating to the linkage between political contributions and the municipal securities business. Securities Exchange Act Release No. 33868 (April 7, 1994), 59 FR 17621. The rule seeks to end "pay to play" abuses in the municipal securities market by prohibiting dealers from conducting certain types of business with an issuer within two years after any contribution by the dealer or certain affiliated persons of the issuer who could influence the awarding of municipal securities business. On June 20, 1994, the MSRB filed with the Commission a proposal to amend MSRB rule G–14 concerning reports of sales or purchases, and procedures for reporting inter-dealer transactions. Securities Exchange Act Release No. 34458 (July 28, 1994), 59 FR 39803. The proposed rule change is a first step to increase transparency in the municipal securities market by collecting and disseminating information on interdealer transactions. On December 19, 1993, the Commission issued a release proposing for public comment amendments to the rule regulating money market funds, Rule 2a–7 under the Investment Company Act of 1940. Investment Company Act Release No. 19959 (Dec. 28, 1993), 58 FR 68585.

[6] By 1993, individual investors, including those holding through mutual funds and money market funds, held approximately 76% of municipal debt outstanding, as compared with 44% in 1983. *The Bond Buyer*, "Holders of Municipal Debt," (July 1, 1994) at 5.

[7] The municipal securities market is not the only market for debt securities that suffers from information inefficiencies. For that reason, the Commission also is exploring means to increase the amount of information concerning issuers of corporate debt securities. *See* Securities Exchange Act Release No. 34139 (June 7, 1994), 59 FR 29453.

information about municipal issuers and obligated persons is regularly disseminated, as it is in primary offerings, where, as a general matter, good disclosure practices exist. As one industry group testified, today "secondary market information is difficult to come by even for professional municipal analysts, to say nothing of retail investors."[8]

Notwithstanding voluntary industry initiatives to improve disclosure, particularly primary market disclosure, the *Staff Report* recommended that the Commission use its interpretive authority to provide guidance regarding the disclosure obligations of municipal securities participants under the antifraud provisions of the federal securities laws, and that the Commission amend Rule 15c2–12 to prohibit municipal securities dealers from recommending outstanding municipal securities unless the issuer has committed to make available ongoing information regarding its financial condition. In order to assist issuers, brokers, dealers, and municipal securities dealers in meeting their obligations under the antifraud provisions, in March, 1994, the Commission published the *Statement of the Commission Regarding Disclosure Obligations of Municipal Securities Issuers and Others* ("Interpretive Release"),[9] which outlined its views with respect to the disclosure obligations of market participants under the antifraud provisions of the federal securities laws in connection with both primary and secondary market disclosure.

Concurrent with the publication of the Interpretive Release, the Commission published Securities Exchange Act Release No. 33742 ("Proposing Release"),[10] which requested comment on amendments to Rule 15c2–12 ("Proposed Amendments") designed to enhance the quality, timing, and dissemination of disclosure in the municipal securities market by placing certain requirements on brokers, dealers, and municipal securities dealers. In proposing the amendments, the Commission intended to further deter fraud by preventing the underwriting and recommendation of transactions in municipal securities about which little or no current information exists. Brokers, dealers, and municipal securities dealers serve as the link between the issuers whose securities they sell and the investors to whom they recommend securities. Investors, especially individual investors, place their reliance on these securities professionals for their recommendations of municipal securities.

The amendments to Rule 15c2–12 ensure that brokers, dealers, and municipal securities dealers will review the secondary market disclosure practices of issuers and other obligated persons at the time of an offering of municipal securities.[13] This scrutiny at the time of initial issuance of municipal securities will result in the dissemination of important information by issuers and other obligated persons throughout the term of the municipal securities. As a result of the amendments, brokers, dealers, and municipal securities dealers will be better able to satisfy their obligation under the federal securities laws to have a reasonable basis on which to recommend municipal securities, as well as their obligations under the rules of the MSRB.

The availability of secondary market disclosure to all municipal securities market participants will enable investors to better protect themselves from misrepresentation or other fraudulent activities by brokers, dealers, and municipal securities dealers. A lack of consistent secondary market disclosure impairs investors' ability to acquire information necessary to make intelligent, informed investment decisions, and thus, to protect themselves from fraud.

In the Proposing Release, comment was requested on each aspect of the Proposed Amendments, as well as on standards for recognition of nationally recognized municipal securities information repositories ("NRMSIRs"). In response to the request for comments, the Commission received over 390 comment letters representing over 475 groups and individuals. The commenters represented all types of participants in the municipal securities market, including issuers, underwriters, investors, counsel, analysts, financial advisers, banks, insurance providers, disclosure services, and the MSRB.[14] The comment letters presented a variety of thoughtful views on the issues raised by the Proposing Release.[15] The Commission has determined to adopt amendments to Rule 15c2–12, with certain modifications that are designed to address concerns expressed by commenters.[16] In addition, the suggestions of a group of industry participants that cooperated to assist the Commission in its efforts to improve disclosure in the municipal securities market have been valuable.[17]

Commenters across a broad range of market participants supported the goal of improved secondary market disclosure for the municipal securities market, but emphasized that flexibility is necessary, given the diversity that exists in the municipal securities market.[18] As adopted, the amendments

[8] Statement of Gerald McBride, Chairman, Municipal Securities Division, Public Securities Association, Before the House Committee on Energy and Commerce, Telecommunications and Finance Subcommittee (October 7, 1993) at 5.

[9] Securities Act Release No. 7049 (March 9, 1994), 59 FR 12748.

[10] Securities Exchange Act Release No. 33742 (March 9, 1994), 59 FR 12759. Also on March 9, the Commission published Securities Exchange Act Release No. 33743, which proposed the adoption of Rule 15c2–13. Proposed Rule 15c2–13 would have required brokers, dealers, and municipal securities dealers to disclose mark-up information in riskless principal transactions in municipal securities; and to disclose when a particular municipal security is not rated by a nationally recognized statistical rating organization ("NRSRO"). Due to the recent development of proposals by the MSRB and market participants to make pricing information available to investors, the Commission has determined to defer the riskless principal mark-up proposal for six months. In addition, the portion of proposed Rule 15c2–13 that would require disclosure if a municipal security is not rated by an NRSRO has been deferred, and will be withdrawn if the MSRB acts to adopt similar amendments to its confirmation rule, Rule G–15. *See* Securities Exchange Act Release No. 34962 (November 10, 1994).

[13] Participating Underwriters generally maintain a market in an issue of municipal securities in the period following an offering. Failure by a Participating Underwriter to receive assurances with respect to undertakings to provide secondary market disclosure will increase the difficulty of its formulation of a reasonable basis on which to recommend a municipal security during this period of secondary market trading.

[14] Among others, the Commission received 232 letters representing the views of 242 issuers and issuer associations; 52 letters representing the views of 57 brokers, dealers, and municipal securities dealers; and 8 letters representing the views of 8 investors and investor associations.

[15] The Commission has given consideration to the views of some commenters who questioned the Commission's authority to adopt the amendments to Rule 15c2–12. *See, e.g.*, Letter of ABA Business Law Section; Letter of Hawkins Delafield & Wood; Letter of NABL. The Commission believes that it has ample authority to adopt the amendments.

[16] The comment letters and a summary of the comment letters prepared by Commission staff are contained in Public File No. S7–5–94. *See also* Public File No. S7–4–94.

[17] *See* Joint Response to the Securities Exchange Commission on Releases Concerning Municipal Securities Market Disclosure prepared by American Bankers Association's Corporate Trust Committee, American Public Power Association, Association of Local Housing Finance Agencies, Council of Infrastructure Financing Authorities, Government Finance Officers Association, National Association of Counties, National Association of State Auditors, Comptrollers and Treasurers, National Council of State Housing Agencies, National Federation of Municipal Analysts, Public Securities Association ("Joint Response").

[18] *See, e.g.*, Joint Response; Letter of Chapman and Cutler; Letter of Florida Division of Bond Finance of the State Board of Administration; Letter of J.P. Morgan Securities, Inc.; Letter of National

Continued

to Rule 15c2–12 will further that goal by prohibiting underwritings unless there are commitments to provide ongoing disclosure, while, at the same time, providing issuers with significant flexibility to determine the appropriate nature of that disclosure. The amendments retain the requirement that a Participating Underwriter ascertain that an issuer or obligated person has undertaken to provide secondary market disclosure, including notices of material events, to information repositories, but rely on the parties to the transaction to establish who will provide secondary market disclosure, and what information is material to an understanding of the security being offered.

The amendments build upon and reinforce current market practices that have provided, as a general matter, good quality disclosure in official statements, and extend those practices to the secondary market. As is currently the practice, under the amendments, the participants in an underwriting would continue to determine which persons are material to an understanding of the Offering. Information concerning those persons would be included in the final official statement. Financial information and operating data that is material to an offering at the outset generally remains material throughout the life of the securities. Under the amendments, that information would be provided on an annual basis. Put simply, the amendments reflect the belief that purchasers in the secondary market need the same level of financial information and operating data in making investment decisions as purchasers in the underwritten offering.

The Proposed Amendments would have prohibited a broker, dealer, or municipal securities dealer from recommending the purchase or sale of a municipal security, unless it had reviewed the annual and event information provided pursuant to the undertaking. Commenters anticipated that such a prohibition would have a considerable negative impact on secondary market liquidity. Furthermore, brokers, dealers, and municipal securities dealers considered the proposed recommendation prohibition to be problematic from a compliance perspective. The Commission has modified this provision to require instead that brokers, dealers, and municipal securities dealers recommending municipal securities in the secondary market have procedures to obtain material event notices. Because under existing law brokers, dealers, and municipal securities dealers are required to use information disseminated into the marketplace in forming a reasonable basis for recommending securities to investors, the rule does not impose mechanical review requirements on a trade-by-trade basis.

The amendments contain an exemption to minimize the effect on small issuers. Offerings in which neither the issuer nor any obligor is obligated with respect to more than $10 million dollars in municipal securities outstanding following an offering will be exempt from the amendments, on the condition that there is a limited undertaking to provide upon request, or annually to a state information depository, at least the financial information or operating data they customarily prepare, and that is publicly available. In addition, the undertaking must meet the amendment's requirement regarding notices of material events.

II. Description of Amendments To Rule 15c2–12

A. Amendments With Respect to the Underwriting of Municipal Securities

Under the amendments to Rule 15c2–12, a broker, dealer, or municipal securities dealer ("Participating Underwriter") [19] will be prohibited, subject to certain exemptions, from purchasing or selling municipal securities in connection with a primary offering of municipal securities with an aggregate principal amount of $1,000,000 or more ("Offering"),[20] unless the Participating Underwriter has made certain determinations.[21] Specifically, the Participating Underwriter must reasonably determine that an issuer of municipal securities or an obligated person, either individually or in combination with other issuers of such municipal securities or other obligated persons,[22] has undertaken in a written agreement or contract for the benefit of holders of such securities, to provide, either directly or indirectly through an indenture trustee or a designated agent, certain annual financial information and event notices to various information repositories.[23]

The "reasonable determination" required by the amendments to Rule 15c2–12 must be made by the Participating Underwriter prior to its purchasing or selling municipal securities in connection with an Offering. A Participating Underwriter would, therefore, need to receive assurances from the issuer or obligated persons that such undertakings would be made before agreeing to act as an underwriter. A dealer could look to provisions in the underwriting agreement or bond purchase agreement that describe the undertakings for the benefit of bondholders made elsewhere, such as in a trust indenture, bond resolution, or separate written agreement.[24] In a competitively bid offering, such assurances also might be found in a notice of sale. Of course, representations concerning commitments to provide secondary market disclosure, like any other key representations by an issuer, are subject to specific verification, such that a Participating Underwriter has a reasonable basis to believe that such representations are true and accurate. Thus, investigation of an issuer's or obligated person's undertakings to provide secondary market disclosure would be an element of the Participating Underwriter's professional review of offering documents.[25]

Because the amendments prohibit Participating Underwriters from purchasing or selling securities in the absence of undertakings in a written agreement or contract, such agreement or contract would have to be in place at the time the issuer delivers the securities to the Participating Underwriter.[26] As discussed below, in conditioning the closing of an Offering on the existence of an agreement or contract, this provision of the amendments permits flexibility as to where undertakings for continuing disclosure are memorialized.[27]

Association of Bond Lawyers ("NABL"); Letter of Orrick, Herrington & Sutcliffe ("Orrick Herrington"); Letter of Public Securities Association ("PSA").

[19] *See* Rule 15c2–12(a).

[20] The amendments also include an exemption for small and infrequent issuers. *See* Section II.D.1., *infra*.

[21] Rule 15c2–12(b)(5)(i).

[22] These concepts are discussed in Section II.A.1.b., *infra*.

[23] Information repositories are discussed in Section II.C., *infra*.

[24] *See* Letter of Merrill Lynch, Pierce, Fenner & Smith ("Merrill Lynch").

[25] As noted in the 1988 Release, the obligations of managing underwriters and underwriters participating in an offering differ. An underwriter participating in an offering need not duplicate the efforts of the managing underwriter, but must satisfy itself that the managing underwriter reviewed the accuracy of the information in the official statement in a professional manner and therefore had a reasonable basis for its recommendation. Underwriters participating in offerings, however, have a duty to notify the managing underwriter of any factors that suggest inaccuracies in disclosure, or signal the need for additional investigation. *See* 1988 Release at n. 87.

[26] *See* Letter of Kutak Rock; Letter of Section of Urban, State and Local Government Law, American Bar Association ("ABA Urban Law Section"); Letter of Colorado Municipal Bond Supervisory Board.

[27] In contrast to the requirement in Rule 15c2–12(b)(5) that Participating Underwriters reasonably

The amendments to the definition of final official statement will affect the obligations of Participating Underwriters under Rule 15c2–12. Rule 15c2–12(b)(1) requires that a Participating Underwriter, prior to bidding for, purchasing, offering, or selling municipal securities, obtain and review a DFOS.[28] The Commission expects that Participating Underwriters will review the DFOS with a view to ascertaining that it contains information satisfying the definition of final official statement in Rule 15c2–12.[29] The Commission further expects that the quality of disclosure in the DFOS will improve in a manner that is commensurate with the changes in final official statement disclosure.[30]

Rule 15c2–12(b)(2) requires, for all except competitively bid offerings, from the time a Participating Underwriter has reached an understanding with an issuer of municipal securities that it will act as a Participating Underwriter, until the final official statement is available, that the Participating Underwriter send, to any potential customer, no later than the next business day, a copy of the most recent POS, if any. The Commission expects that the Participating Underwriters' obligations with respect to dissemination of the POS will not change.

1. Determining the Required Scope of the Undertaking to Provide Secondary Market Disclosure

Under the amendments as adopted, the financial information and operational data to be provided on an annual basis pursuant to the undertaking will mirror the financial information and operating data contained in the final official statement with respect to both the issuers and obligated persons that will be the subject of the ongoing disclosure, and the type of information provided. The amendments govern the core financial and operational data to be provided. It does not address the textual disclosure typically provided in annual reports, leaving the scope of that disclosure to market practice.[31] To clarify the intended quantitative focus of the rule, as adopted, the rule uses the term "financial information and operating data."

a. *The Starting Point—Definition of Final Official Statement*—(1) *Information Concerning Persons Material to an Evaluation of the Offering.* The Proposed Amendments would have revised the definition of final official statement to require that financial and operating information, including audited annual financial statements, regarding the issuer and any significant obligor be included in order to provide a fair presentation of the issuer's and significant obligor's financial condition, results of operations, and cash flow.

Commenters objected to various aspects of the proposed definition, including the general requirement that financial and operating information be presented in the final official statement.[32] Commenters also objected that the use of the term "the issuer," in specifying whose financial information should be included in the final official statement, failed to take into account a variety of situations in which the governmental issuer does not have any repayment obligations on the municipal securities (as with conduit issuers), as well as other situations (such as revenue bonds) in which the payments will be derived from entities, enterprises, funds and accounts that do not prepare separate financial statements. Some commenters took the position that in certain instances, inclusion of the financial statements of the general municipal issuer of which the enterprise is a part may be misleading.[33]

In view of these comments, the definition of final official statement has been revised to require that financial information and operating data be provided for those persons, entities, enterprises, funds, and accounts that are material to an evaluation of the offering.[34] Thus, the definition eliminates the reference to "the" issuer. In addition, the definition no longer requires that the official statement provide information about specific "significant obligors." It leaves to the parties (including the issuer and Participating Underwriters) the determination of whose financial information is material to the offering (including, without limitation, the credit supporting the securities being offered).

The definition does not set its own form and content requirements on the financial information and operating data to be included; in particular, the proposed requirement for audited financial statements has not been adopted. Instead, it provides the flexibility that many commenters asserted is necessary in determining the content and scope of the disclosed financial information and operating data, given the diversity among types of issuers, types of issues, and sources of repayment.[35]

The fact that the amendments rely on the final official statement to set the standard for ongoing disclosure should not serve as an incentive for issuers to reduce existing disclosure practices in the preparation of the final official

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determine that issuers or obligated persons have undertaken to provide secondary market disclosure prior to the time they "purchase or sell" municipal securities, Rule 15c2–12(b)(1) requires Participating Underwriters to obtain and review an official statement deemed final by the issuer ("DFOS") prior to the time they "bid for, purchase, offer, or sell" securities. Thus, under Rule 15c2–12(b)(1), in a competitive underwriting, a Participating Underwriter must obtain and review the DFOS prior to placing a bid on an issue of municipal securities. Because the term "offer" encompasses the distribution of a preliminary official statement, as well as oral solicitations of indications of interest, in a negotiated underwriting, a Participating Underwriter is required to obtain and review the DFOS prior to the time it distributes the preliminary official statement to potential investors. If no offers are made, the Participating Underwriter is required to obtain and review the DFOS by the earlier of the time it agrees (whether in principle or by signing the bond purchase agreement) to purchase the bonds, or the first sale of bonds. *See* Mudge Rose Guthrie Alexander & Ferdon (April 4, 1990); Interpretive Release at Section III.C.6.

[28] Information regarding the offering price, interest rate, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, any other terms or provisions required by an issuer of such securities to be specified in a competitive bid, ratings, other terms of the securities depending on such matters, and the identity of the underwriters, may be omitted from the official statement reviewed by the Participating Underwriter for purposes of Rule 15c2–12(b)(1).

[29] Whether information is in fact known or not reasonably ascertainable at the time the Participating Underwriter must obtain and review the DFOS pursuant to the rule is best determined in the context of each offering by the issuer, the Participating Underwriter, and their respective counsel. *See* Public Securities Association (May 29, 1992)

[30] As a practical matter, the DFOS and the preliminary official statement ("POS") are often the same document. *See* Mudge Rose Guthrie Alexander & Ferdon (April 4, 1990).

[31] *See* Association of Local Housing Finance Agencies, *Guidelines for Information Disclosure to the Secondary Market* (1992); Government Finance Officers Association, *Disclosure Guidelines for State and Local Government Securities* (Jan. 1991); Healthcare Financial Management Association, Principles and Practices Board, *Statement Number 18—Public Disclosure of Financial and Operating Information by Healthcare Providers* (May 1994); National Council of State Housing Agencies, *Quarterly Reporting Format for State Housing Finance Agency Single Family Housing Bonds* (1989) and *Multi-family Disclosure Format* (1991); National Federation of Municipal Analysts, *Disclosure Handbook for Municipal Securities 1992 Update* (Nov. 1992).

[32] *See, e.g.*, Letter of Indiana Bond Bank; Letter of Kutak Rock; Letter of NABL; Letter of Texas Public Finance Authority; Letter of Goldman Sachs & Co. ("Goldman Sachs").

[33] *See, e.g.*, Letter of Department of Community Trade and Economic Development, State of Washington; Letter of American Public Power Association ("APPA"); Letter of Municipal Treasurer's Association; Letter of Orrick Herrington.

[34] *See* Rule 15c2–12(f)(3).

[35] *See, e.g.*, Letter of Association of Local Housing Financing Agencies ("ALHFA"); Letter of Treasurer, State of Connecticut Office of the Treasurer ("Treasurer of the State of Connecticut"); Letter of Council of Development Finance Agencies ("CDFA"); Joint Response; Letter of Securities Industry Association ("SIA"); Letter of Morgan Stanley & Co., Inc. ("Morgan Stanley").

statement. Market discipline and regulatory requirements should ensure that those practices continue at current or improved levels. While issuers remain primarily responsible for the content and accuracy of their disclosures,[36] as noted, Participating Underwriters must review the DFOS in a manner consistent with their obligations.

As the Commission recognized in the Interpretive Release,[37] the extensive voluntary guidelines issued by the Government Finance Officers' Association, and the industry specific guidelines published by industry groups such as the National Federation of Municipal Analysts, are followed widely in the preparation of official statements.[38] The Commission anticipates that such sound practices will continue and develop beyond that mandated by the amendments. Although those guidelines are not mandatory, the Commission encourages market participants to continue to refer to those voluntary guidelines and the Commission's Interpretive Release in preparing disclosure documents. In addition, as noted in the Interpretive Release,[39] final official statements are subject to the prohibition against false or misleading statements of material facts, including the omission of material facts necessary to make the statements made, in light of the circumstances in which they are made, not misleading.

(2) *Use of cross references to publicly available information.* The Proposing Release requested comment on the appropriateness of satisfying disclosure needs through a reference to other externally prepared and located documents. In response, a number of commenters stated that the concept of incorporation of information should be explicitly included in the rule,[40] and that the ability to incorporate information should not be conditioned on a minimum dollar amount of securities in the hands of the public—commonly known as "public float."[41] Some commenters also suggested that any limitation of this practice to "seasoned issuers" should include all investment grade issuers.[42] Some commenters further noted that the final official statement should not have to set forth information that has been filed with the Commission in accordance with its periodic reporting requirements.[43] The commenters suggested one significant prerequisite for permitting cross referencing—the availability of the information in some public repository.[44]

The definition of final official statement has been revised to make explicit [45] that a final official statement may include financial information and operating data either by setting forth the information in the document or set of documents composing the final official statement, or by including a specific reference to documents already prepared and previously made publicly available.[46] For purposes of the amendments, documents will be considered to be publicly available if they have been submitted to each NRMSIR and to the appropriate state information depository or, if the information concerns a reporting company, filed with the Commission. If the document is a final official statement, it must be available from the MSRB.

If cross referencing is used, for purposes of determining the appropriate scope of the ongoing information undertaking, the final official statement will be deemed to include all information and documents that have been cross referenced.[47] The amendment does not place limitations on the type of issuer that may use cross referencing. This approach is consistent with the goal of making the repositories the principal source of information concerning municipal securities. Once received by a repository, the referenced information should be readily available regardless of the nature of the issuer.

As commenters noted, permitting cross referencing to other externally prepared and available information should result in official statements that are clear and concise, yet provide information material to the Offering.[48] Moreover, the use of cross referencing also should ease some expressed apprehension about the ability of some issuers to obtain information about parties not within their control, to the extent that information about these parties is made available to the repositories or, if a reporting company, filed with the Commission.[49]

(3) *Description of information undertakings.* The definition of final official statement also has been changed from the Proposed Amendments to include a requirement that the undertakings provided pursuant to the rule be described in the final official statement.[50] As the Commission recognized in the Interpretive Release [51] and a number of commenters echoed,[52] it is important for investors and the market to know the scope of any ongoing disclosure. By including a description of the undertaking in the final official statement, market participants will know the identity of the entities about which information will be provided, and the type of information to be provided. By reviewing the final official statement, investors in the secondary market will be able to ascertain the scope of that undertaking and whether it has been satisfied.

Critical to any evaluation of a covenant is the likelihood that the issuer or obligated person will abide by the undertaking. The definition of final official statement thus has been

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[36] *See* 1989 Release.

[37] Interpretive Release at Section III.B. The Interpretive Release is cited in the Preliminary Note to Rule 15c2–12 as a source of guidance as to the disclosure obligations of issuers of municipal securities, as well as the role of brokers, dealers, and municipal securities dealers.

[38] *See* note 31, *supra.*

[39] *See* Interpretive Release at Section III.A.

[40] *See* Joint Response.

[41] *See* Letter of ABA Urban Law Section; Letter of Bose McKinney & Evans; Joint Response; Letter of Mudge Rose Guthrie Alexander & Ferdon ("Mudge Rose"); Letter of Dormitory Authority of the State of New York ("New York Dormitory Authority").

[42] *See* Letter of Mudge Rose; Letter of New York Dormitory Authority.

[43] *See* Letter of ABA Urban Law Section; Letter of Kutak Rock; Letter of Texas Public Finance Authority.

[44] *See, e.g.*, Letter of Bose McKinney & Evans; Joint Response. One commenter also stated that if cross referencing was permitted, there should be a delay between the distribution of the official statement and the offering. The delay would enable potential purchasers and others to obtain any materials that were referenced in the official statement and make an informed investment decision. *See* Letter of Prudential Investment Corp.

[45] *See* 1989 Release (discussing the definition of "final official statement" in Rule 15c2–12 as originally adopted, and stating that the definition recognizes that the issuer's final official statement may be composed of one or more documents).

[46] Rule 15c2–12(f)(3). To avoid confusion with the technical aspects of incorporation by reference for registrants under the Commission's registration rules, the amended rule does not use that term.

At least two states, New York and Texas, have prepared a standard disclosure document for state information.

[47] Participating Underwriters and other market participants must keep in mind their obligations under the rule with respect to the DFOS and final official statement, and under the antifraud provisions of the federal securities laws. To the extent that cross references are used, the DFOS should be disseminated in sufficient time for review by Participating Underwriters, and the POS should be made available in time to enable prospective purchasers to make informed investment decisions based upon the referenced materials. *See* Interpretive Release at Section III.C.6.

[48] *See, e.g.*, Letter of New York Dormitory Authority; Letter of the Treasurer of the State of Connecticut.

[49] *See, e.g.*, Letter of Fieldman, Rolapp & Associates; Letter of State of Florida, Office of Auditor General; Letter of San Francisco International Airport; Letter of Texas Water Development Board; Letter of State of Washington, Office of the Treasurer.

[50] Rule 15c2–12(f)(3).

[51] *See* Interpretive Release at Section III.C.4.

[52] *See, e.g.*, Letter of Chemical Securities, Inc. ("Chemical Securities"); Letter of Ferris Baker Watts; Letter of National Federation of Municipal Analysts ("NFMA").

modified to require disclosure of all instances in the previous five years in which any person providing an undertaking failed to comply in all material respects with any previous informational undertakings called for by the amendments.[53] This information is important to the market, and should, therefore, be disclosed in the final official statement. The requirement should provide an additional incentive for issuers and obligated persons to comply with their undertakings to provide secondary market disclosure, and will ensure that Participating Underwriters and others are able to assess the reliability of disclosure representations.[54]

The amendments do not prohibit Participating Underwriters from underwriting an Offering of municipal securities if an issuer or obligated person has failed to comply with previous undertakings to provide secondary market disclosure. However, if a failure to comply with such previous undertakings has not been remedied as of the start of the Offering, or if the party has a history of persistent and material breaches, it is doubtful whether a Participating Underwriter could form a reasonable basis for relying on the accuracy of the issuer's or obligated person's ongoing disclosure representations.

b. *Entities about which information must be provided to the secondary market.* It is critical that current financial information and operating data is provided to the secondary market about the persons that would be important to investors in evaluating the security. The Proposed Amendments would have required the Participating Underwriter to determine that the issuer had committed to provide, at least annually, current financial information concerning the issuer of the municipal securities and any significant obligor.[55] The identity of persons about which information should be provided to the secondary market was the subject of a substantial number of comment letters.[56] As with the proposed definition of final official statement, a large number of commenters expressed particular concern about the provision of information on a continuing basis for conduit issuers who have no ongoing liability for repayment of municipal securities.[57] There also were a significant number of comments received critiquing the concept of significant obligor.[58]

Under the amendments as revised, the identity of the persons for which information must be provided on an annual basis is determined by the information included in the final official statement. If the final official statement includes financial information or operating data on a person, information about that person must continue to be provided to the secondary market if the person is committed by contract or other arrangement to support payment of the obligations on the municipal securities.[59] Thus, the obligation to provide ongoing information relates to those persons for which financial information or operating data is included in the final official statement *and* that have a contractual or other connection to repayment of the municipal obligations.

(1) *The obligated person concept.* The Proposed Amendments defined a significant obligor as "any person who, directly or indirectly, is the source of 20 percent or more of the cash flow servicing the obligations on the municipal security." The proposed definition generated a significant amount of comment, including concerns that it could be interpreted to include significant taxpayers and customers,[60] credit enhancers (including banks that are letter of credit providers and insurers providing bond insurance),[61] providers of guaranteed investment contracts,[62] as well as state and federal governments that provide revenue sharing, grant, state and local aid and other cofinancing arrangements.[63] Commenters raised technical concerns as to the appropriate percentage of repayment obligation necessary to trigger inclusion in the definition of significant obligor,[64] and when the percentages were to be measured.[65] Some commenters also expressed concern that, in the bond pool context, the definition of significant obligor may not have permitted sufficient flexibility in determining which obligors in a pool would be the subject of the requirement to provide information on an ongoing basis.[66]

Commenters suggested a number of modifications to the significant obligor concept. First, a number of commenters indicated that the definition of significant obligor should include a requirement that a contractual relationship exist between the obligor and the repayment of the obligation before a continuing information obligation is imposed.[67] Second, commenters recommended modifying the definition to include different percentages of cash flow, ranging from a low of no threshold to a high of 50% of cash flow.[68] Third, some commenters suggested replacing the entire definition of significant obligor with the concept of materiality, in which the issuer and the other offering participants would determine, on a continuing basis, whose information would be provided.[69]

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[53] *See* Rule 15c2–12(f)(3).

[54] *See* Letter of PSA.

[55] Paragraph (b)(5)(i)(A) of the Proposed Amendments.

[56] *See, e.g.*, Letter of Fidelity Management and Research Company; Letter of First Albany Corporation; Letter of Maine Municipal Bond Bank; Letter of NABL; Letter of National Council of Health Facilities Finance Authorities ("NCHFFA"); Letter of Realvest Capital Corporation; Letter of South Carolina Economic Developers Association, Inc.

[57] *See, e.g.*, Letter of ABA Urban Law Section; Letter of Gilmore & Bell, P.C. ("Gilmore & Bell"); Letter of New York State Housing Finance Agency, State of New York Mortgage Agency, New York State Medical Care Facilities Finance Agency ("New York State Housing Finance Agency"); Letter of Orrick Herrington.

[58] *See, e.g.*, Letter of Section of Business Law, American Bar Association ("ABA Business Law Section"); Letter of Treasurer of the State of California ("Treasurer of the State of California"); Letter of Goldman Sachs; Letter of IDS Financial Corporation; Joint Response; Letter of Kutak Rock; Letter of Morgan Stanley; Letter of National Association of State Treasurers ("NAST").

[59] Providers of bond insurance, letters of credit, and liquidity facilities have been excepted from the definition of obligated person to eliminate the need to separately obtain and disseminate annual information about such providers. *See* Section II.A.1.b.(1). *infra*.

[60] *See, e.g.*, Letter of American Municipal Power—Ohio, Inc. ("AMP—Ohio"); Letter of Gilmore & Bell; Letter of Treasurer of the State of California.

[61] *See, e.g.*, Letter of Financial Guaranty Insurance Company ("FGIC"); Letter of Goldman Sachs; Letter of Hawkins Delafield & Wood; Letter of Thacher Proffitt & Wood.

[62] *See, e.g.*, Letter of Kutak Rock.

[63] *See, e.g.*, Letter of ABA Urban Law Section; Letter of Kutak Rock; Letter of State of Washington, Office of the Treasurer.

[64] *See, e.g.*, Letter of APPA; Letter of George K. Baum & Co.; Letter of CDFA; Letter of Eaton Vance Management; Letter of NCHFFA.

[65] *See, e.g.*, Letter of ABA Business Law Section; Letter of Electricities, Inc.; Letter of Hawkins Delafield & Wood; Letter of Kutak Rock; Letter of Mudge Rose; Letter of San Francisco International Airport.

[66] *See, e.g.*, Letter of ABA Urban Law Section; Letter of A.G. Edwards & Sons, Inc.; Letter of Council of Infrastructure Financing Authorities ("CIFA"); Letter of Hawkins Delafield & Wood; Letter of Program Administration Services, Inc.

[67] *See, e.g.*, Letter of ABA Business Law Section; Letter of APPA; Letter of City of Everett, Washington; Letter of Goldman Sachs; Letter of Hawkins Delafield & Wood; Letter of Merrill Lynch; Letter of Morgan Stanley; Letter of Mudge Rose; Letter of Orrick Herrington. Certain of these commenters noted that by including a contractual or similar relationship between the entity making payments and the financing, customers and taxpayers, having no connection to or responsibility in connection with the financing would not inadvertently be swept within the scope of the definition.

[68] *See, e.g.*, Letter of APPA; Letter of George K. Baum & Co.; Letter of City of Everett, Washington; Letter of IDS Financial Corporation; Letter of Standish, Ayer & Wood, Inc.

[69] *See, e.g.*, Letter of ABA Business Law Section; Letter of ALHFA; Letter of PSA.

As suggested by a number of commenters, the amendments eliminate the reference to significant obligor.[70] Instead, the amendments include a definition of "obligated person," which means a person (including an issuer of separate securities) that is committed by contract or other arrangement structured to support payment of all or part of the obligations on the municipal securities.[71] By including a nexus to the financing through a commitment that is structured to support the payment obligations, the amendments address concerns raised by many commenters that the term "source of cash flow" in the definition of significant obligor was overbroad and could encompass persons with no relationship to the financing.[72] The requirement for a contractual or other arrangement will assist Participating Underwriters in identifying the persons for which information should be provided pursuant to an undertaking.

Some commenters recommended that the commitment with respect to payment of the obligation on the securities consist of a contractual obligation to and enforceable by bondholders.[73] Instead, the definition includes a broader notion of a contract or arrangement that is structured to "support payment," without specifying that it run to bondholders. The definition is intended to include contracts or arrangements where payments are made either to bondholders, to issuers to be used to pay obligations on municipal securities, or through conduit structures.[74]

Similarly, the reference to "obligations on municipal securities" is intended to be broad enough to cover debt obligations, lease payments and any other repayment obligation on or resulting from the municipal securities.

As was the case with the proposed significant obligor concept, the term "obligated persons" includes, but is broader than, the concept of issuers of separate securities under Rule 131 pursuant to the Securities Act of 1933 ("Securities Act")[75] and Exchange Act Rule 3b–5.[76] Also, in response to comments raised that the terms "issuer" or "significant obligor" do not sufficiently address financings in which the source of repayment is not a separate person or entity, but a dedicated revenue stream from a specified project, segregated tax revenues or other enterprise, fund or account,[77] the definition includes persons which are obligated generally, such as with full recourse to the person, or, in a more limited manner, such as through an enterprise, fund or account of such person, including a dedicated revenue stream. As noted above, the obligation to provide information must cover all such enterprises, funds or accounts, whether or not there is a separate entity. In such a case, the information undertaking could be provided by the governmental unit or financing authority of which the enterprise, fund or account is a part.[78] For example, a Participating Underwriter could accept an information undertaking from a state issuing bonds secured solely by funds collected under a special tax, to report financial information relating to the special tax; for issues supported both by contracts of assistance of separate authorities or funds in addition to the issuer's own revenues, undertakings from the separate authorities, as well as the issuer could be provided. Accordingly, although the definition of significant obligor has been eliminated, that modification does not reflect a change in the Commission's assessment of the importance of ongoing information concerning the ultimate sources of payment on the securities.

Unlike the significant obligor concept in the Proposed Amendments, there is no need to include a specified percentage of payment in the definition of obligated person, because the issuer and other participants will determine at the time of preparation of the final official statement which obligated persons are material to an Offering.[79] In making that materiality determination, the parties to a financing will evaluate the facts of the Offering.[80]

Determining the obligated persons in pooled financings requires more flexibility, because the composition of the pool may vary over time. Rather than identifying the specific persons for which information will be provided on a continuing basis, under the amendments, bond pools must describe in their official statements, and the undertaking, the objective criteria (presumably including percentage of payment support) they will apply consistently, both in the final official statement and on a continuing basis, in determining whether information concerning an obligated person will be provided.[81] The amendments permit, but do not require this approach for non-pooled issuers. The objective criteria approach ensures that financial information and operating data will be provided about those persons that, at the time of disclosure, meet the objective standards described in the undertakings. Obligated persons could commit to the issuer, at the time of initial participation in a pooled financing, through an undertaking to provide information when and if they

[70] *See, e.g.*, Letter of FGIC; Joint Response; Letter of NABL; Letter of PSA.

[71] *See* Rule 15c2–12(f)(10).

[72] *See, e.g.*, Letter of Bose McKinney & Evans; Letter of Mudge Rose; Letter of New York Dormitory Authority; Letter of Orrick Herrington.

[73] *See, e.g.*, Letter of Bose McKinney & Evans; Letter of Goldman Sachs; Letter of Indiana Bond Bank; Letter of Hawkins Delafield & Wood.

[74] For example, if all or a portion of a project financed by bonds is used by a party that has committed, by contract or other arrangement (written or oral) to pay for such use, and such payments support payment of debt service on the bonds (as structured at the time of issuance), continuing information on the party would be appropriate. Accordingly, parties that support debt service through payments under a lease, loan, installment sale agreement, or other contract relating to use of a project are included in the definition, regardless of whether the financing is a conduit arrangement (such as a non-recourse loan to a manufacturer to finance acquisition of a new facility or to a hospital to acquire equipment) or system or project financing (such as a lease to a particular carrier of a terminal in an airport system or sale of the output of a facility pursuant to a take-or-pay (or take-and-pay) contract). Major customers purchasing power from a municipal light department that, in turn, is under a take-or-pay contract with a joint action public power agency would not be included in the definition, although the municipal light department would likely be included in the definition. Similarly, major taxpayers in a municipal general obligation issue would not be included in the definition; however, an undertaking covering a developer that is the sole landowner in a development district assessment financing in which the future collection of assessments to service the borrowing is dependent upon the developer as part of the structure of the financing may be appropriate.

[75] 17 CFR 239.131.

[76] 17 CFR 240.3b-5

[77] *See, e.g.*, Letter of Fidelity Management and Research Company; Letter of Mudge Rose; Letter of NABL; Letter of Texas Public Finance Authority.

[78] *See* Rule 15c2–12(b)(5)(i).

[79] Under the revised amendments, the concerns of some commenters that the definition of significant obligor failed to take into account short term arrangements (*i.e.* the arrangements with persons providing cash flow were shorter than the term of the securities) is also alleviated in two ways. First, the issuer determines at the outset if an obligated person is material to the offering. Second, assuming an obligated person is included in the final official statement, the undertaking to continue to provide information on such obligated person may be terminated once it no longer has liability for any obligation on or relating to repayment of the municipal securities. *See* Rule 15c2–12(b)(5)(iii); Letter of APPA; Letter of Hawkins Delafield & Wood.

[80] Guidelines and practices that have developed in other contexts may be useful in analyzing both the materiality of an obligated person to the municipal financing and the appropriate level of disclosure relating to such obligated person. For example, in connection with securitization of non-recourse commercial mortgage loans, the 10 percent and 20 percent property assets concentration tests described in Staff Accounting Bulletins 71 and 71A are applied. These percentages are applied by analogy in other asset-backed financings.

[81] Although the amendments do not specify the scope of the objective criteria, the criteria description should be clear as to when and how they are applied.

satisfy that criteria. Obligated persons that no longer meet the objective criteria will no longer need to provide ongoing information. In order to ensure that the selection method is incorporated into the undertaking, the amendments require that Participating Underwriters reasonably determine that the undertakings identify those persons for which the information will be provided, either by name or by the objective criteria to be used to select such persons.[82]

Commenters were divided on whether providers of bond insurance, letters of credit, and other liquidity facilities, should be excluded from the definition of significant obligor.[83] The concept of "obligated person" encompasses these entities because they are committed, at least conditionally, to support payment of principal and interest obligations. Moreover, these persons normally are material to an understanding of the security, and, therefore, official statements should contain financial information concerning such persons either directly or by reference to publicly available materials. A number of commenters stated, however, that it would be inappropriate to put the onus on the issuer to provide information on such providers on an annual basis, particularly where that information is otherwise available to investors either upon request or in public reports that have been submitted to appropriate regulatory authorities.[84]

Commenters indicated a willingness by providers of bond insurance, letters of credit, and other liquidity facilities to deposit publicly available reports in a repository, or otherwise note where such reports may be easily obtained.[85] The issuer or other obligated person providing the undertaking may then refer to such reports in their annual financial information and indicate the location where any such current annual reports can be obtained. Based upon such representations, providers of bond insurance, letters of credit, and liquidity facilities have been excepted from the definition of obligated person to eliminate the need to separately obtain and disseminate annual information about such providers.

The Commission encourages industry participants to work together to adopt appropriate disclosure practices, both with respect to information concerning the provider contained in primary offering materials and on an ongoing basis in the annual financial information. The Commission will monitor developments in this area regarding the nature and quality of information made available about credit enhancers and liquidity providers, and the manner in which information is made available to determine whether further steps are necessary to assure access to this important body of information.

(2) *Who must undertake.* A related question to whose information must be given is who must provide the information undertaking; the person providing the undertaking may not necessarily be the person about which the information relates. The Proposed Amendments would have required that the continuing information undertaking be provided by the issuer. A significant number of commenters raised concerns about which of potentially several persons that could be considered an issuer of municipal securities[86] would be expected to provide the undertaking and who would make that determination.[87] This was a particular concern in light of the potential liability of the issuer providing the undertaking for the provision and the content of information regarding other issuers and significant obligors—persons not necessarily under their control. Commenters made a number of suggestions to address these perceived ambiguities, including requiring that each issuer of a municipal security and each significant obligor undertake to provide the information only with respect to itself.[88]

In response to these concerns, and consistent with the general approach to affording underwriting participants significant flexibility, the undertaking provision has been revised to provide that the undertaking may be made by any issuer of the municipal securities being offered, or by any obligated person for which information is provided in the final official statement. An issuer of a municipal security may provide the undertaking, regardless of whether it is obligated on the municipal security. In addition, obligated persons may provide the undertaking regardless of whether they are deemed an issuer of municipal securities. These obligated persons may be the main, if not the only, credit source for repayment of the obligations on the municipal securities. This approach should allow the governmental issuer to shift to the obligated person the responsibility to provide information on a continuing basis.

Thus, a Participating Underwriter need only reasonably determine that an issuer of municipal securities or an obligated person for which financial information or operating data is presented in the final official statement has agreed to provide the information called for by the rule; it will not be necessary to obtain an undertaking from all possible issuers and obligated persons. Moreover, to respond to the expressed concern that separate undertakings should be permitted, the amendments have been revised to recognize that undertakings may be provided in combination with other issuers and other obligated persons. In all cases, however, the undertakings, either individually or collectively, must constitute a commitment to provide information with respect to all the persons about which information must be provided on an annual basis.

The amendments have been revised to clarify that dissemination

[82] *See* Rule 15c2–12(b)(5)(ii).

[83] *See, e.g.*, Letter of ABA Urban Law Section; Letter of Blackwell Industrial Authority, Blackwell, Oklahoma; Letter of Davis Polk & Wardwell; Letter of IDS Financial Corporation; Letter of Kutak Rock; Letter of Oregon Economic Development Department; Letter of Realvest Capital Corporation; Letter of Thacher Proffitt & Wood. Some commenters also were concerned as to whether the definition would encompass providers of guaranteed investment contracts and other investments. *See, e.g.*, Letter of ABA Urban Law Section; Letter of Kutak Rock, on behalf of AMBAC Indemnity Corporation, Capital Markets Assurance Corporation, Capital Reinsurance Company, Enhance Reinsurance Company, Financial Guaranty Insurance Company, Financial Security Assurance, Inc., and Municipal Bond Investors Assurance Corporation ("Kutak Rock on behalf of Financial Guaranty Insurers"). A functional approach determines whether providers of investments should provide ongoing information. For example, if the proceeds of an Offering are invested in guaranteed investment contracts ("GICs"), and the income from the GICs is the predominant source of revenue to repay the obligations on the securities, information about the provider may be material to the Offering, including on an ongoing basis. If, however, other sources of revenue are committed to support payment of the obligations, the relative importance of the provider of the GIC to investors may be diminished.

[84] *See, e.g.*, Letter of ABA Urban Law Section; Letter of Smith, Gambrell & Russell; Letter of Texas Water Development Board. Some commenters noted difficulty in obtaining information from credit enhancers. *See* Letter of Association of Bay Area Governments; Letter of New York State Housing Finance Agency; Letter of State of Washington, Office of the Treasurer.

[85] *See, e.g.*, Memorandum of August 10, 1994 Meeting with Davis, Polk and Wardwell and Various Banks; Letter of Kutak Rock on Behalf of Financial Guaranty Insurers. One commenter recommended that bond insurers and banks providing letters of credit, who are not subject to periodic reporting requirements of the federal securities laws, send publicly available reports to the repositories. *See* Letter of ABA Urban Law Section.

[86] The term "issuer of municipal securities," as defined in Rule 15c2–12, includes issuers of separate securities as well.

[87] *See, e.g.*, Letter of ALHFA; Letter of Hawkins Delafield & Wood; Letter of Kutak Rock; Letter of National State Auditors Association; Letter of the Treasurer of the State of North Carolina.

[88] *See, e.g.*, Letter of ABA Urban Law Section; Letter of ALHFA; Letter of Kutak Rock; Letter of NABL.

responsibilities may be delegated to designated agents or to indenture trustees. As commenters pointed out, there are circumstances in which third parties may be effective in assisting issuers and obligated persons in disseminating the information.[89] Moreover, indenture trustees have expressed concerns about being considered "designated agents" in performing any dissemination role, based on the scope of, and standards affecting, their responsibilities as indenture trustees.[90] The language has been revised in response to clarify that, in addition to designated agents, issuers or obligated persons may contractually empower indenture trustees to disseminate information that an issuer or obligated person has agreed to provide. The parties may authorize an indenture trustee to provide certain information through specific instruction or on its own initiative upon becoming aware of particular facts.

c. *Scope of financial information and operating data to be provided on an annual basis*—(1) *Definition of annual financial information.* The amendments provide a definition of the term "annual financial information,"[91] a concept that was used, without definition, in the Proposed Amendments. The definition of annual financial information specifies both the timing of the information—that is, once a year—and, by referring to the final official statement, the type of financial information and operating data that is to be provided to the repositories. If financial information or operating data concerning an obligated person (or category of obligated persons in the case of financings using the objective criteria approach) is included in the final official statement, then annual financial information would consist of the same type of financial information or operating data. For example, if anticipated cash flow information is provided in the final official statement for a revenue bond financing, cash flow data reflecting actual operations must continue to be provided on an annual basis. Only the annual financial information called for by the undertakings need be sent to the repositories; other types of financial information and reports that may be prepared by the issuer or obligated persons are not subject to the rule's dissemination provisions.

Many commenters addressed the issue of whether the rule should specify form and content of the information that should be provided on an annual basis, as well as for event specific information.[92] Some commenters argued that the rule should include specified formats for information to be provided, including financial statements and certain industry reporting formats,[93] while other commenters contended that no form or content should be specified and that the parties should be permitted to make determinations based on materiality alone.[94] As discussed below, the flexibility afforded by the concept of annual financial information addresses these concerns by providing a minimum standard for ongoing disclosure, but allowing the parties to define that standard with respect to each Offering of municipal securities.

(2) *Financial information.* The proposal to mandate audited financial statements produced considerable comment. As with the proposed definition of final official statement, commenters expressed concern with the availability of audited financial statements on an annual basis, as well as the relevance of financial statements for certain types of financings.

Some commenters indicated that some municipalities were not required by law to have independently audited financial statements, and any such requirement would impose a significant new expense.[95] A number of commenters also expressed doubt as to whether audited financial information could be delivered on an annual basis, because audits may not be completed for a number of years following the close of the fiscal year.[96] Commenters noted that in some cases, financial statements for certain types of entities were audited every year, and in other cases every 2–3 years.[97] Therefore, some of these commenters argued that the requirement for annual audited financial statements would have an adverse impact on an issuer's ability to access the public securities markets or increase its costs of financing.[98]

A number of commenters also raised concerns regarding the availability of full financial statements for certain issuers, whether or not audited.[99] As examples, commenters noted that some issuing entities do not have their own financial statements and may be included in the financial statements of a larger issuer or entity.[100] Commenters from two states indicated that governmental units of the states may be encompassed in the state's comprehensive annual financial report and that there may be only supplemental schedules that described the governmental units.[101]

Some commenters raised the point that financial statements of a general governmental unit may not necessarily be relevant in certain project and structured financings.[102] As an example, one commenter noted that in some asset backed financings, information about the governmental issuer may be relevant only with respect to its experience in managing programs of loan pools.[103]

Commenters proposed a number of alternatives to the requirement to provide annual audited financial statements. Among the alternatives was a suggestion that financial statements be required in the form customarily prepared by the issuer promptly upon becoming available and that audited financial statements be provided to the extent available.[104] Other suggestions included limiting the requirement to those entities required by state or federal law to have audited financial statements.[105]

[89] *See, e.g.*, Letter of Bond Investors Association; Letter of PSA; Letter of Texas Public Finance Authority.

[90] *See, e.g.*, Letter of Bank One Corporation; Letter of Reliance Trust Company; Letter of State Street Bank and Trust Company.

[91] Rule 15c2–12(f)(9).

[92] *See, e.g.*, Letter of Dean Witter Reynolds, Inc. ("Dean Witter"); Letter of National League of Cities; Letter of NFMA; Joint Response; Letter of PSA; Letter of Tillinghast, Collins & Graham; Letter of the Treasurer of the State of Connecticut.

[93] *See, e.g.*, Letter of Dain Bosworth, Inc.; Letter of First Albany Corporation; Letter of MSRB; Letter of NFMA; Letter of Standish, Ayer & Wood, Inc.

[94] *See, e.g.*, Letter of CDFA; Letter of Chapman and Cutler; Letter of CIFA; Joint Response; Letter of H.M. Quackenbush; Letter of NABL.

[95] *See, e.g.* Letter of Texas Water Development Board; Letter of State of Washington, Office of the Treasurer.

[96] *See, e.g.*, Letter of City of Barling; Letter of Dain Bosworth, Inc.; Letter of Friday, Eldridge & Clark.

[97] *See, e.g.*, Letter of AMP—Ohio; Letter of State of Indiana, State Board of Accounts; Letter of State of Montana, Department of Natural Resources and Conservation; Letter of Washington Finance Officers Association.

[98] *See, e.g.*, Letter of AMP—Ohio; Letter of Washington Finance Officers Association.

[99] *See, e.g.*, Letter of ABA Business Law Section; Letter of Florida Division of Bond Finance; Letter of Gust & Rosenfeld; Letter of Office of the State Auditor, Texas ("Texas Office of the State Auditor").

[100] *See, e.g.*, Letter of Treasurer of the State of North Carolina; Letter of Texas Office of the State Auditor.

[101] *See, e.g.*, Letter of the Treasurer of the State of North Carolina; Letter of Texas Office of the State Auditor.

[102] *See, e.g.*, Letter of ABA Urban Law Section; Letter of APPA; Letter of Goldman Sachs; Letter of Gust & Rosenfeld; Letter of The Hospital & Higher Education Facilities Authority of Philadelphia; Letter of Morgan Stanley; Letter of NABL; Letter of New York State Housing Finance Agency.

[103] *See* Letter of ABA Urban Law Section.

[104] *See, e.g.*, Letter of ABA Business Law Section; Letter of Association of Bay Area Governments; Letter of North East Independent School District; Letter of PSA; Letter of Washington Finance Officers Association.

[105] *See, e.g.*, Letter of the Treasurer of the State of North Carolina; Letter of Washington Finance Officers Association.

In view of the comments received, the amendments do not adopt the proposal to mandate audited financial statements on an annual basis with respect to each issuer and significant obligor. Instead, the amendments continue to require annual financial information, which may be unaudited, and may, where appropriate and consistent with the presentation in the final official statement, be other than full financial statements. While it is anticipated that full financial statements will be provided for entities with ongoing revenues and operating expenses, it is possible that in the case of dedicated revenue streams and certain types of structured financings, other types of special purpose financial statements, project operating statements or reports may be used to reflect the financial position of the credit source for the financing. However, if audited financial statements are prepared, then when and if available, such audited financial statements will be subject to the undertaking and must be submitted to the repositories.[106] Thus, as suggested by a number of commenters, the undertaking must include audited financial statements only in those cases where they otherwise are prepared.

The amendments adopt the proposed requirement that the undertaking specify the accounting principles pursuant to which the financial information provided as part of the annual financial information will be prepared.[107] As discussed in the Proposing Release, it is important that financial information be prepared on a consistent basis to enable market participants to evaluate results and perform year to year comparisons.[108] The undertaking also must specify whether audited financial statements will be provided as part of the annual financial information.[109]

The amendments do not establish a standardized format for presentation of financial information, or any specification of the content of the information, other than by reference to the final official statement. The annual financial information may be presented through any disclosure document or set of documents, whatever their form or principal purpose, that include the necessary information. The amendments, as adopted, contemplate that sequential final official statements prepared by frequent issuers may meet the standards of the rule. As in the case of final official statements, annual financial information submitted to a repository also may reference other information already submitted to repositories or the MSRB, or filed with the Commission.[110]

(3) *Operating data.* The Proposed Amendments[111] would have required that the undertaking call for pertinent operating information, and that the parties specify the pertinent operating information to be provided on an annual basis. The basic concern of commenters regarding this provision, in addition to issues of specification of form and content discussed above, was that the use of the term "pertinent" did not provide sufficient guidance as to who would determine what was pertinent and what independent obligations Participating Underwriters would have with respect to such evaluation.[112]

The amendments have been modified to respond to these comments. The phrase "pertinent" has been deleted from the reference to operating information and the word "data" is used to emphasize the intended quantitative nature of the information. Operating data is included as a subset of annual financial information, and the operating data to be provided annually also is determined by reference to the type of operating data presented in the final official statement. Thus, the parties will determine at the outset, presumably with the assistance of applicable industry guidelines, what operating data will be provided both initially and on an ongoing basis. For example, in a conduit health care financing, under current industry practice, an official statement typically provides information relating to the obligated party—the hospital—in an appendix. In addition to a discussion describing the hospital, its administration and management, economic base and service area, and capital plan, operating statistics such as bed utilization, admissions and type, patient days, and payor utilization often is provided. Under the amendments, in this type of transaction, parties at the outset of a transaction will determine which operating data will be included in the hospital appendix; such information, in turn, will be the type of "operating data" to be provided annually.

Some commenters expressed concern that the Proposed Amendments were not sufficiently flexible to permit parties to address changing conditions because the undertaking would have to describe the financial and pertinent operating information to be provided in the future.[113] Nonetheless, the requirement that the undertaking specify in reasonable detail the type of data that will be provided on an ongoing basis, including the identity of the persons (or category of persons) about which the information will relate has been retained. As is the case with financial information, the intent of the amendments is to give investors and market participants the ability to evaluate the security through comparisons of the quantitative operating data provided. Contrary to the suggestion of some commenters, the undertaking would be meaningless if issuers and obligated persons could unilaterally determine that certain types of information were no longer necessary or meaningful to investors.

Because the amendments require that the undertaking specify only the general type of information to be supplied, there should be sufficient flexibility to accommodate subsequent developments that may require adjustments in the financial information and operating data that should be provided annually. Of course, nothing in the undertaking will prevent a party from providing additional information, particularly where such disclosure may be necessary to avoid liability under the antifraud provisions of the federal securities laws. Similarly, the amendments make specific provision for adjusting the persons about which information is provided. As required in the case of pooled financings, parties may identify the persons covered by reference to objective selection criteria that will be applied on a consistent basis between the offering statements and with regard to annual financial information. Moreover, the party providing the undertaking need not continue to provide information concerning persons that are no longer obligated persons with respect to the municipal securities.

A new provision has been added to the amendments which permits the written agreement or contract to have a

[106] *See* Rule 15c2–12(b)(5)(i)(B).

[107] *See* Rule 15c2–12(b)(5)(ii)(B).

[108] *See* Proposing Release. A number of commenters responded to the request for comment on specification of the use of generally accepted accounting principles ("GAAP") and generally accepted auditing standards ("GAAS"). *See, e.g.*, Letter of Comptroller of the State of California; Letter of Government Accounting Standards Board ("GASB"); Letter of NAST; Letter of National State Auditors Association; Letter of Prudential Investment Corp. The amendments as adopted do not mandate the use of either GAAP or GAAS.

[109] *See* Rule 15c2–12(b)(5)(ii)(B).

[110] Of course, any required information must be the subject of an undertaking, and if the information cross referenced has not been submitted to a repository or the MSRB, or filed with the Commission, the undertaking will not have been complied with.

[111] Paragraph (b)(5)(i)(A) of the Proposed Amendments.

[112] *See, e.g.*, Letter of APPA; Letter of Fidelity Management and Research Company; Letter of Hawkins Delafield & Wood.

[113] *See, e.g.*, Letter of Chapman and Cutler; Joint Response; Letter of Kutak Rock.

termination provision with respect to any obligated person that is no longer directly or indirectly liable for repayment of any of the obligations on the municipal securities.[114] Once an obligated person no longer has any liability for repayment of the municipal securities, whether through termination or expiration of its commitment to support payment, or as a result of a defeasance of the municipal securities with no remaining liability, then the obligation to provide annual financial information and notices of events may terminate.

2. Notice of Material Events

Commenters generally agreed that issuers and obligors should be subject to an undertaking to provide event information to the market.[115] Brokers, dealers and municipal securities dealers supported these provisions of the Proposed Amendments, because the use of a list provides guidance as to what events should be covered.[116] Other commenters, however, felt that the list should be deleted from the rule and that the concept of materiality should be relied upon to determine what events should be the subject of notices.[117] Some commenters believed that the list of eleven events should be expanded to include a provision that would cover any other event that might reasonably be expected to have a material adverse effect on the holders of the bonds.[118]

The list of eleven events has been retained in the amendments.[119] As indicated in the Proposing Release, the list of eleven events was proposed in response to requests for guidance to issuers and other participants in the municipal securities markets as to those events that normally would reflect on the credit supporting the municipal securities, as well as on the terms of the securities that they issue, and thus normally would be considered material. Under the amendments, only the occurrence of one of the specified events will, if material, create an obligation to send a notice to the repository.

The determination of whether other events also should be the subject of notification pursuant to the information undertaking is left to the parties. For example, some commenters requested that the list of events be expanded to address circumstances when the notified events have been cured or rectified, as well as other favorable developments.[120] The parties would be free to add such matters to the undertaking. Issuers also may wish to send information regarding material developments to the repositories, to ensure equal access to that information by all investors and participants in the market, regardless of whether the particular development is subject to the undertaking.[121]

Some commenters were concerned that permitting issuers and obligors to send any notices or information they wished would flood the repositories. Given the fact that event notices generally are short, it appears that the repositories would be able to handle the flow of notices. The Commission will, however, monitor developments in this area.

Some commenters expressed concern that the event described as "matters affecting collateral" was too broad.[122] In response to such observations, that reference has been revised to reflect more clearly the types of events relating to collateral that could affect the creditworthiness of the security being offered. For instance, the item was not intended to require disclosure in the event of a drop in revenues or receipts securing payment. Rather, as more clearly indicated in the revised amendments, it is intended to encompass the release, substitution, or sale of property securing repayment of the securities being offered.[123]

Commenters also questioned whether the event relating to adverse tax opinions or events affecting the tax-exempt status of the security would include events not specific to an issuer, such as tax law changes which may affect a multitude of issuances and which are broadly reported.[124] They argued that there is no need for each issuer to make that disclosure, which may overwhelm the repositories. The amendments do not include a uniform requirement for notification of events having widespread impact that are widely reported. Frequently, individual issuer disclosure may not affect the total "mix" of information available to investors, for example where Congress amends tax rates or alternative minimum tax rules that could affect an investor's yield. On the other hand, it may not be clear, absent individual disclosure, which classes of outstanding securities are affected by the general events, for example, where the tax law change affects a particular type of municipal security or financing structure.

It is possible that an "event" affecting the tax-exempt status of the security may include the commencement of litigation and other legal proceedings, including an audit by the Internal Revenue Service, when an issuer determines, based on the status of the proceedings and their likely impact on holders of the municipal securities, among other things, that such events may be material to investors.

Commenters expressed concern that the party providing the undertaking may not have knowledge of the occurrence of events affecting other parties that might be called for by the provisions of the rule.[125] This concern should be addressed by the revised approach of enabling the parties to the transaction to determine who will provide the undertakings. For example, in the conduit context, the covenant could be provided by the person that is committed by contract or other arrangement to support payment of debt service, rather than the conduit issuer.

[114] *See* Rule 15c2-12(b)(5)(iii).

[115] *See* paragraph (b)(5)(i)(B) of the Proposed Amendments. *See also*, Letter of A.G. Edwards; Letter of Chemical Securities; Letter of J.J. Kenny Co., Inc. ("J.J. Kenny Co."); Letter of MSRB.

[116] *See, e.g.*, Letter of Chemical Securities; Letter of Goldman Sachs; Letter of George K. Baum; Letter of PSA.

[117] *See, e.g.*, Letter of CDFA; Letter of Gust & Rosenfeld; Joint Response; Letter of Municipal Treasurers Association; Letter of Rauscher Pierce Refsnes, Inc.; Letter of Standish Ayer & Wood, Inc.

[118] *See, e.g.*, Letter of Chemical Securities; Letter of Edward D. Jones & Co.; Letter of Finance Authority of Maine; Letter of Ferris Baker Watts; Letter of Norwest Investment Services, Inc.; Letter of Prudential Investment Corp.

[119] The introduction to the list also has been clarified to indicate that the events relate specifically to the securities being offered. *See* Rule 15c2-12(b)(5)(i)(C).

[120] *See, e.g.*, Letter of NAST; Letter of the Treasurer of State of California.

[121] Several commenters have expressed concern that statements by various elected officials made in a political context relating to an issuer must now be included in information provided to a repository. The amendments contain no such requirement. Moreover, these concerns appear to be based upon a misunderstanding of the reminder to issuers in the Interpretive Release that investors may rely on a variety of formal and informal sources for continuing information on municipal issuers, including public statements and press releases concerning an entity's fiscal affairs made by municipal officials, particularly in the absence of a more standardized mechanism for disseminating information about the municipal issuer to the market as a whole. The caution contained in the Interpretive Release that the antifraud provisions may apply to releases of information to the public reasonably expected to reach investors and the trading market does not mean, as some commenters inferred, that such statements are *per se* material; nor do the amendments require that such statements, even where material, be provided to the repositories.

[122] *See, e.g.*, Letter of ABA Business Law Section; Letter of ABA Urban Law Section; Letter of NABL; Letter of NCHFFA; Letter of New York State Housing Finance Agency; Letter of Orrick Herrington.

[123] *See* Rule 15c2-12(b)(5)(i)(C)(10).

[124] *See, e.g.*, Letter of ABA Urban Law Section; Letter of Kutak Rock; Letter of Orrick Herrington.

[125] *See, e.g.*, Letter of First Southwest Company; Letter of New York Dormitory Authority; Letter of the Treasurer of the State of North Carolina; Letter of City of Pullman, Washington.

The timing for providing the notification has not been changed from the Proposed Amendments, which required that the notice be provided on a "timely" basis. The amendments do not establish a specific time frame as "timely," because of the wide variety of events and issuer circumstances. In general, this determination must take into consideration the time needed to discover the occurrence of the event, assess its materiality, and prepare and disseminate the notice.

A new paragraph has been added to the amendments[126] that would require a Participating Underwriter to reasonably determine that the undertaking includes an agreement to notify the appropriate repository if the annual financial information is not provided in the stated time frame. Given the expressed concerns of some commenters regarding the difficulty that they would face in determining whether an issuer or other person was in compliance with any of its undertakings,[127] this provision will help inform market participants if annual financial information for such persons has not been made available in the agreed upon time frame.

3. Location of Undertaking in a Written Agreement or Contract

The Proposed Amendments called for the undertaking to be contained in a written agreement or contract for the benefit of holders of municipal securities. Commenters provided a variety of views as to where the undertakings should be memorialized, who should be parties to such undertakings, and the need for flexibility to modify undertakings in the future. Commenters suggested, for instance, that the undertakings could be included in the trust indenture, bond resolution, ordinance, or other legislation, a separate written agreement, or the underwriting agreement or bond purchase agreement.

As discussed in the Proposing Release, many offerings of municipal securities are issued pursuant to a trust indenture setting out the covenants of the issuer for the benefit of the holders of the municipal securities. If there is no trust indenture as part of an offering, as is the case with general obligation and certain other types of bonds, there may be a bond resolution, ordinance, or other legislation. Most commenters addressing this issue considered the trust indenture, bond resolution, ordinance, or other legislation to be appropriate for undertakings to provide secondary market disclosure, because they would create a direct obligation by issuers to bondholders.[128] Commenters also suggested the use of a separate written agreement between the issuer and the trustee as an appropriate method of memorializing undertakings.[129]

Several commenters suggested that the inclusion of the undertakings in an underwriting agreement or bond purchase agreement would be sufficient for purposes of Rule 15c2–12,[130] though another commenter suggested that a promise running to the benefit of the underwriter, whether in a bond purchase agreement or in a separate agreement, would be enforceable by existing and future bondholders only on the basis of a third party beneficiary theory, the availability of which may vary from state to state.[131]

Because commenters were supportive of leaving the determination of the location of the undertaking to the parties, the relevant language of the Proposed Amendments, requiring a Participating Underwriter to look to "undertakings in a written agreement or contract for the benefit of holders of such securities" has been adopted as proposed. Therefore, undertakings may be included in a trust indenture, bond resolution or other legislation, or a separate written agreement. Undertakings also may be included in the bond form itself. This general requirement will create a direct obligation to bondholders, yet will be flexible to address variations in state law, as well as the wide variety of types and structures of offerings in the municipal securities market.

The Commission also recognizes that an issuer's ability to contract may be limited under state law. To the extent that issuers are restricted by statute from entering into long-term contractual arrangements, the undertaking may include a qualifier to its obligation, such as that it is subject to appropriation.[132]

Commenters generally took the view that, while a statement in the final official statement describing any undertakings to provide secondary market disclosure would be an important addition to undertakings in a written agreement or contract, in order to make clear that the undertaking is an obligation of the issuer or obligated person that is enforceable on behalf of bondholders, the undertaking should be in a writing signed by the issuer or obligated person.[133] Statements regarding an issuer's or obligated person's provision of secondary market disclosure made exclusively in an official statement would not satisfy the terms of Rule 15c2–12(b)(5) because they would not create a contract enforceable on behalf of bondholders.

Commenters addressing the inclusion of undertakings in various documents were concerned that the failure to provide continuing disclosure pursuant to the undertakings could be deemed a potential event of default on the securities.[134] Though a failure to comply with the undertaking would be a breach of contract, the rule does not specify the consequences of an issuer's breach of its undertakings to provide secondary market disclosure. As called for by the Joint Response, as well as other commenters, remedies for breach of any undertaking under applicable state law are a subject for negotiation between the parties to the Offering. To avoid uncertainties of enforcement, the parties

[126] *See* Rule 15c2–12(b)(5)(i)(D).

[127] *See, e.g.*, Letter of Gust & Rosenfeld.

[128] *See, e.g.*, Letter of Merrill Lynch. Certain commenters considered that undertakings in a trust indenture could prove inflexible, as well as difficult to modify if they became inappropriate in the future. Letter of ABA Business Law Section. Other commenters considered that the issue of flexibility could be addressed through careful drafting. Letter of Morgan Stanley; Letter of Rauscher, Pierce, Refsnes, Inc.

[129] *See* Letter of Chapman and Cutler (suggesting that an agreement could be made between an issuer and a trustee or between the issuer and a NRMSIR); Letter of Rauscher, Pierce, Refsnes, Inc. These commenters noted that such agreements provide flexibility for the future modification of the type, timing, or presentation of secondary market disclosure, as well as remedies in the event of a breach of the agreement.

[130] *See e.g.*, Letter of Mudge Rose.

[131] *See* Letter of Morgan Stanley. Morgan Stanley also suggested that an underwriting agreement was an unsatisfactory vehicle for undertakings to provide secondary market disclosure because an underwriter of a specific bond issue should not be the recipient of a long-term contract of this type. *See* Letter of Morgan Stanley. Other commenters agreed that undertakings should be for the benefit of holders of municipal securities, and that there should be no requirement that undertakings be made for the benefit of Participating Underwriters. *See, e.g.*, Letter of Merrill Lynch (noting that "the holders of the securities have the greatest interest in enforcing the covenant to provide information and are in the best position to evaluate whether affirmative efforts to enforce the covenant should be undertaken").

[132] Some commenters were concerned that in some jurisdictions, an issuer's ability to agree to provide information beyond a one year period might be restricted by state law. To address such concerns, inclusion of a condition subsequent in the covenant, such as subject to appropriation, might be appropriate. It is anticipated, however, that should funds that would enable the issuer to provide the agreed upon information not be appropriated, disclosure of such fact would be made by notice to the repositories pursuant to Rule 15c2–12(b)(5)(i)(D).

[133] *See, e.g.*, Letter of Chemical Securities; Letter of Dain Bosworth, Inc.; Letter of Dillon, Read & Co., Inc.

[134] Commenters argued that an issuer's failure to comply with undertakings to provide secondary market disclosure should not result in an event of default. *See, e.g.*, Letter of ABA Urban Law Section; Letter of State of Washington, Office of the Treasurer; Letter of Colorado Municipal Bond Supervision Advisory Board.

to a transaction are encouraged to enumerate the consequences in the undertaking, including the available remedies, for breach of the information undertaking.

B. Recommendation of Transactions in Municipal Securities

The Proposed Amendments would have prohibited any broker, dealer, or municipal securities dealer from recommending the purchase or sale of a municipal security unless it had specifically reviewed the information the issuer of such municipal security had undertaken to provide.[135] The purpose of this provision of the Proposed Amendments was to assist dealers in satisfying their obligation to have a reasonable basis to recommend municipal securities by requiring them to consider the most current information before making a recommendation.

In view of the importance of secondary market liquidity in municipal issues, the Commission requested comment on whether the Proposed Amendments would have a substantial or long-lasting effect on market liquidity. This request for comment was based on concerns raised about whether municipal securities dealers would be willing to effect secondary market transactions in a broad range of municipal securities if review was required on a recommendation by recommendation basis.

Many commenters strongly criticized this provision of the Proposed Amendments. The majority of commenters responded that requiring the review of information prior to making a recommendation on the purchase or sale of a municipal security would create substantial compliance burdens for dealers.[136] Commenters also noted that the specific requirement to review information either would impel dealers to hire larger research and analysis staffs,[137] or, more likely, would cause dealers to restrict the issuers whose municipal securities they would trade to a smaller number of large and frequent issuers.[138] Commenters predicted that, as a result, liquidity for all but the largest and most frequent issuers would be reduced.[139]

Commenters proposed alternatives to the recommendation prohibition, including basing the type of review of a municipal security, and disclosure about such review, on whether the investor was an institutional or retail investor,[140] or on the type of municipal security recommended.[141] Other commenters suggested the continued reliance on the reasonable basis standard inherent in the MSRB's suitability rule, G–19, and the antifraud provisions, as discussed by the Commission in the 1988 and 1989 Releases proposing and adopting Rule 15c2–12, as well as the Interpretive Release.[142]

As adopted, this provision has been modified in a number of respects to respond to concerns expressed by commenters. In particular, the amendments replace the proposed review standard with a requirement that dealers have procedures in place that provide reasonable assurance that they will receive promptly any notices of material events regarding the securities that they recommend. The events are any of the eleven events disclosed as described in Rule 15c2–12(b)(5)(i)(C), or the notice of failure to provide annual financial information in accordance with an undertaking as described in Rule 15c2–12(b)(5)(i)(D) with respect to that security. Many dealers currently subscribe to electronic reporting systems that give notice of significant events made public by municipal issuers. To comply with the rule's requirement, these dealers should make certain that these systems receive, directly or indirectly, material event notices for issues the dealer recommends. In addition, dealers should develop procedures to ensure that notices of such events will be available to the staff responsible for making recommendations.

In the Commission's view, the recommendation provision, as modified, should substantially reduce the concerns of commenters with respect to compliance burdens and effects on liquidity. It also will help ensure that dealers will consider the material event notices that issuers produce, thus enabling them to have an adequate basis on which to recommend[143] municipal securities.

Moreover, even though the amendments do not require that dealers directly review an issuer's ongoing disclosure before making each recommendation, the Commission agrees with those commenters that said that additional information made available by issuers will be taken into account by dealers making recommendations regarding that security, under the MSRB's fair dealing and suitability rules, and the antifraud provisions.[144] In addition to the Commission's past interpretations of the responsibilities of dealers to have a reasonable basis for their recommendations, the MSRB repeatedly has emphasized that secondary market disclosure information publicized by issuers must be taken into account by dealers to meet the investor protection standards imposed by its investor protection rules. Specifically, MSRB rule G–17 requires dealers to disclose material facts of a transaction to the customer; MSRB rule G–19 requires dealers to ensure that any transaction recommended to the customer is suitable for that customer; and MSRB rule G–30 requires dealers to ensure that the prices set for customer transactions are fair and reasonable. In its comment letter, the MSRB noted that "[i]f a dealer is not aware of major financial and other material developments affecting an issuer's securities, it is difficult or impossible for the dealer to comply with these requirements."[145]

For example, if a dealer reviews an electronic reporting system for material events relating to a security, and finds that an issuer has submitted a notice that it has failed to provide annual financial information on or before the date specified in the written agreement or contract,[146] that fact would be a

[135] *See* paragraph (c) of the Proposed Amendments.

[136] *See* Letter of PSA (noting that paragraph (c) would require dealers to create records showing that they had reviewed municipal securities).

[137] *See, e.g.*, Letter of Chapman and Cutler (brokers with fewer analysts will be at a competitive disadvantage); Letter of Morgan Stanley (noting that in order to comply with paragraph (c) as proposed, reliance on third-party service providers for information analysis would be required).

[138] *See, e.g.*, Joint Response; Letter of PSA; Letter of Gabriel, Hueglin & Cashman.

[139] *See, e.g.*, Joint Response; Letter of PSA.

[140] Letter of Investment Company Institute ("ICI"). *See also* Letter of MSRB; Letter of NABL. NABL suggested disclosure by dealers as to whether a party has committed to provide secondary market disclosure, and if not, the consequences of investing in the securities.

[141] *See, e.g.*, Letter of Edward D. Jones & Co. (suggesting application of the Proposed Amendments only to non-rated or special assessment bonds); Letter of NABL (suggesting exemptions from the amendments to Rule 15c2–12 for issuers that obtain and maintain an investment grade rating, and for general obligation bonds and revenue bonds issued to finance essential government purposes).

[142] *See, e.g.*, Letter of PSA; Letter of A.G. Edwards & Sons, Inc. (reviewing issuer's disclosure is not the only way to form the basis for a recommendation).

[143] As noted in the Proposing Release, most situations in which a dealer brings a municipal security to the attention of a customer involve an implicit recommendation of the security to the customer.

[144] *See, e.g.*, Letter of MSRB (emphasizing that, in the Board's view, dealers would be responsible for continuing disclosure information available in NRMSIRs even without the specific "review" requirement); Letter of Paine Webber.

[145] Letter of MSRB (noting the requirements of the MSRB's rules in commenting that the Proposed Amendment's requirement to review periodic information is not a practical option for dealers).

[146] *See* Rule 15c2–12(b)(5)(i)(D).

significant factor to be taken into account when the dealer formulates the basis for a recommendation of such securities. While the dealer would not be prohibited *per se* from recommending such municipal securities, notice that the issuer has failed to provide annual financial information would be the type of material information required to be disclosed to the customer pursuant to MSRB rule G–17.[147] Such a notice also would trigger a further inquiry by the dealer to assure itself that it is cognizant of the condition of the issuer or obligated persons, despite the absence of promised information. This also would be true if a dealer attempts to obtain an issuer's annual financial information, finds that it has not been submitted to any repository, and the dealer had no record of the issuer submitting a notice to this effect. In such cases, further research may be necessary or advisable prior to making a recommendation in the issuer's securities.

C. Information Repositories

1. Background

Under Rule 15c2–12, as adopted in 1989, NRMSIRs essentially serve the function of disseminators of official statements on behalf of Participating Underwriters.[148] The option of Participating Underwriters to transfer their final official statement delivery obligations to NRMSIRs has encouraged the development of NRMSIRs.[149] The three existing NRMSIRs are private vendors that gather and disseminate final official statements pursuant to Rule 15c2–12. In addition, although not required under existing provisions of the rule, they provide other current information about municipal issuers to the primary and secondary municipal securities markets.[150]

As a result of the amendments, NRMSIRs will play an expanded role in the collection and dissemination of secondary market information. In addition to the collection and dissemination of final official statements, they will collect and disseminate annual financial information, as well as notices of material events. The Commission is sensitive to the need of NRMSIRs for flexibility, especially with respect to the timing requirements for the dissemination of notices of material events. The Commission will monitor developments in the municipal securities market as participants adapt to the changes in Rule 15c2–12, and fully expects that the current and potential NRMSIRs are capable of adjusting to their expanded role. The Commission is of the view that NRMSIRs, as private information vendors, will have sufficient economic incentives to serve their expanded functions resulting from the amendments to Rule 15c2–12, even in the absence of the more specific review requirement of the recommendation prohibition of the Proposed Amendments.[151]

2. Definition of Nationally Recognized Municipal Securities Information Repository

The Commission requested comment on whether the term "NRMSIR" should be defined in Rule 15c2–12, and whether specific standards should be established for NRMSIRs. If standards were to be established in the rule, the Commission requested comment on whether proposed standards set forth in the release were adequate.[152] The majority of state-based information gatherers and disseminators, and other NRMSIRs that addressed the issue of defining the term "NRMSIR" supported maintaining the guidelines already established by the Commission in the 1989 Release.[153] After reviewing the comment letters, the Commission has determined that the guidance established in the 1989 Release for NRMSIRs should be modified only as necessary to reflect the amendments to Rule 15c2–12. In determining whether a particular entity is a NRMSIR the Commission will now consider, among other things, whether the repository:

(1) Is national in scope;

[147] *See* MSRB Manual (CCH) ¶ 3581.30 (interpreting MSRB rule G–17 to require that a dealer disclose, at or prior to a sale, all material facts concerning the transaction, including a complete description of the security). *See also* 1988 Release at n. 50 and accompanying text.

[148] Under Rule 15c2–12(b)(4), underwriters must deliver final official statements to potential customers for a 90 day period after the close of the underwriting period. The underwriters' 90 day delivery obligation is shortened to 25 days if the final official statement can be obtained from a NRMSIR.

[149] Since the Commission adopted Rule 15c2–12, the Division of Market Regulation issued three no-action letters recognizing national information vendors as NRMSIRS, based on the standards set out in the July 1989 Release. *See* Letters from Richard G. Ketchum, Director, Division of Market Regulation to: Joseph V. Riccobono, Executive Vice-President, American Banker-Bond Buyer (Jan. 4, 1990); J. Kevin Kenny, President, Chief Executive Officer, J.J. Kenny Co. (Jan. 4, 1990); and Michael R. Bloomberg, President, Bloomberg, L.P. (Jan. 11, 1990). Recently, the Commission has received inquiries from additional information vendors desiring to be recognized as NRMSIRs.

[150] NRMSIRs are not the only source of information in the municipal market. The MSRB has developed its Municipal Securities Information Library ("MSIL") system, which presently collects information and disseminates it to market participants and information vendors. The Official Statement and Advance Refunding Document-Paper Submission System ("OS/ARD") of the MSIL collects and makes available on magnetic tape and on paper official statements and advance refunding notices. Securities Exchange Act Release No. 29298 (June 13, 1991), 56 FR 28194. As a part of the MSIL system, the MSRB commenced operation of its Continuing Disclosure Information ("CDI") pilot system in January, 1993. The CDI system is a central repository for voluntarily submitted official continuing disclosure documents relating to outstanding municipal securities issues. Securities Exchange Act Release No. 30556 (April 6, 1992) 57 FR 12534. Neither the MSIL OS/ARD system nor the CDI system is a NRMSIR; the Commission has previously indicated that it would consider the competitive implications of a MSRB request for NRMSIR status. *See* Securities Exchange Act Release No. 28081 (June 1, 1990), 55 FR 23333, 23337 n.26.

[151] *See, e.g.*, Letter of PSA (noting that the suggestion made by some market participants that municipal securities dealers will not utilize information they have long sought is implausible), Letter of Ferris Baker Watts (information will be used if it is available).

[152] The Commission suggested that NRMSIRs (a) maintain current, accurate information about municipal securities, including final official statements, the issuer's annual final information, and issuer's notices of material events; (b) have effective systems for the timely collection, indexing, storage and retrieval of these documents; and (c) be capable of national dissemination of final official statements, annual financial information, and notices of material events through electronic dissemination systems, in response to telephone inquiries, and hard copy delivery via facsimile, by mail and by messenger service. The Commission also stressed the importance of timely public availability upon receipt of information by a NRMSIR.

[153] *See, e.g.*, Letter of Bloomberg L.P.; Letter of Cypress Capital Corp. (a dealer chosen by the Louisiana Municipal Association to assist it in developing a repository to collect and disseminate information on Louisiana issuers of municipal securities). In discussing NRMSIRs in the 1989 Release, the Commission noted that in determining whether a particular entity is a NRMSIR, it would look, among other things, at whether the repository: (1) is national in scope; (2) maintains current, accurate information about municipal offerings in the form of official statements; (3) has effective retrieval and dissemination systems; (4) places no limit on the issuers from which it will accept official statements or related information; (5) provides access to the documents deposited with it to anyone willing and able to pay the applicable fees; and (6) charges reasonable fees. *See* 1989 Release at n. 65.

(2) Maintains[154] current, accurate[155] information about municipal offerings in the form of official statements, and annual financial information, notices of material events, and notices of a failure to provide annual financial information undertaken to be provided in accordance with Rule 15c2–12;

(3) Has effective retrieval and dissemination systems;

(4) Places no limits on the persons from which it will accept official statements, and annual financial information, notices of material events, and notices of a failure to provide annual financial information undertaken to be provided in accordance with Rule 15c2–12;

(5) Provides access to the documents deposited with it to anyone willing and able to pay the applicable fees; and

(6) Charges reasonable fees.

While NRMSIRs may charge reasonable fees[156] for the dissemination of information, they may not charge issuers for accepting information provided by issuers in accordance with Rule 15c2–12.[157] In response to concerns raised by commenters, the Commission also notes that giving preferential treatment to certain brokers, dealers, and municipal securities dealers by giving them market information before it is made available to all customers would be wholly inconsistent with recognition as a NRMSIR.[158]

Comment also was requested on the ability and willingness of both potential NRMSIRs, and those presently operating under no-action letters, to meet the dissemination standards discussed in the Proposing Release. NRMSIRs responded that they can meet these standards.[159] In order to implement these standards, the Commission has determined that existing NRMSIRs should reapply for recognition from the Commission under the revised criteria to continue to function as NRMSIRs.

3. State Information Depositories

The Commission also requested comment on whether a state-based depository could serve as an effective means to disseminate information to the market for a nationally traded security, thus enabling the appropriate parties to fulfill their disclosure obligations using a state-based depository. Commenters expressed divergent views on this issue.[160] No state responded directly in response to the Commission's request for comment on whether states are willing to make the necessary financial commitment to create a state-based system. The Comptroller of the State of New York pointed out, however, that his office already collects financial data from local governments, and that there "is an appropriate and important function which the states may perform in the secondary market disclosure process."[161] A number of third party state-based information collectors also stated that they were in the process of creating state-based repositories.[162] Other such third party state-based information collectors pointed out that they already had working depositories in place.[163]

Based on these comments, and in light of existing disclosure mechanisms and recent legislation in several states designed to enhance secondary market disclosure,[164] it appears that states can play a beneficial role in enhancing disclosure in the municipal securities market.[165] State-based depositories will be in a special relationship with filers of disclosure information to provide for convenient and efficient dissemination. The Commission therefore encourages states to develop state-based depositories.

To encourage the development of state-based depositories, the Commission has amended Rule 15c2–12 to require that Participating Underwriters reasonably determine that the information undertaken to be provided, in addition to being submitted to the NRMSIRs, or, in some cases, to the MSRB, will be submitted to a state information depository ("SID"), if an appropriate SID has been established in that state. Further, as discussed below,[166] an exemption conditioned on making annual financial information available upon request or to a SID, and providing notices of material events to each NRMSIR or the MSRB, and to a SID, has been adopted. An appropriate SID would be a depository operated or designated[167] by the state that receives information from all issuers within the state, and makes this information available promptly to the public on a contemporaneous basis.[168] The Commission staff is prepared to provide guidance in particular instances regarding a SID's qualification for purposes of the rule.

4. Information Delivery Requirements

The Proposing Release asked to whom the required information should be

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[154] In the past, the Division of Market Regulation has required that each NRMSIR maintain copies of all disclosure documents. In view of recent requests from information collectors and disseminators, the Division of Market Regulation will review, on a case by case basis, NRMSIR proposals to satisfy the requirement to maintain copies of disclosure documents through a contract with another entity (including the MSRB) that will maintain copies. *See* Letters from Laurence M. Landau, Vice President, Dow Jones Telerate, to Elizabeth MacGregor, Division of Market Regulation, SEC, (July 18, 1994) and to Gautam S. Gujral, Division of Market Regulation, SEC (August 4, 1994). *See also* Letter of Storch & Brenner (on behalf of R.R. Donnelly Financial). This flexible approach, requested by industry participants, may allow NRMSIRs to reduce the cost at which they can collect and disseminate disclosure information to broker-dealers and investors.

[155] It should be noted that NRMSIRs are not being required to verify the accuracy of the information provided them. NRMSIRs are required to accurately convey the information provided to them.

[156] *See* 1989 Release.

[157] *See, e.g.*, Letter of Maine Municipal Bond Bank; Letter of National Association of Independent Public Financial Advisers (NRMSIR users, not issuers, should pay the NRMSIR costs).

[158] *See, e.g.*, Letter of Colonial Management Associates, Inc.

[159] Letter of Bloomberg L.P.; Letter of J.J. Kenny Co.; Letter of The Bond Buyer.

[160] With one notable exception, national information vendors generally did not see a need for state-based repositories and argued that state-based repositories would indeed add to the complexity of collecting and disseminating information. *See, e.g.*, Letter of J.J. Kenny Co. Some state-based information gatherers and disseminators, however, argued that they already had created mechanisms for the collection and dissemination of information, and their systems are working well. The National Association of State Auditors, Comptrollers and Treasurers ("NASACT") pointed out that issuers and other obligors will probably file with state-based repositories, with whom they are accustomed to working and with whom they typically must file in any event for regulatory purposes unrelated to secondary market disclosure. NASACT argued that while the state repositories do not wish to compete with NRMSIRs, state-based repositories can serve an important role in enhancing the accessibility of disclosure information for repackaging by the NRMSIRs. *See* Letter of NASACT.

[161] *See* Letter of the Office of the State Comptroller, State of New York.

[162] *See, e.g.*, Letter of Cypress Capital Corporation (Louisiana Municipal Security Disclosure Board "intends to be in a position to comply with the standards developed by the Commission for NRMSIRs").

[163] *See* Letter of Municipal Advisory Council of Texas; Letter of Ohio Municipal Advisory Council.

[164] South Carolina recently enacted legislation requiring issuers to agree in a bond indenture to file an annual independent audit within a specified number of days of the issuer's receipt thereof and certain event information with a central repository. South Carolina Senate Bill 1182, (effective September 1, 1994) to be codified in S.C. Code Ann. Chapter 1, Title 11, Section 11–1–85 (1976). Similarly, Tennessee recently adopted legislation authorizing the adoption of rules to facilitate secondary market disclosure by any public entity, including the form and content of that disclosure. Tenn. Code Ann. Sec. 9–21–151 (a) and (b)(2).

[165] *See, e.g.*, Letter of the Office of the State Comptroller, State of New York.

[166] *See* Section II.D.1. *infra*.

[167] There is no requirement that SIDs be instrumentalities of a state. A number of private organizations already function as state-based repositories, at times at no cost to the taxpayer. The Commission defers to each state's determination whether to have a private or public entity be its SID.

[168] As with NRMSIRs, for a SID to give preferential treatment to a NRMSIR by giving it market information before it is made available to other NRMSIRs would be wholly inconsistent with functioning as a SID.

delivered. It also requested comment on the feasibility of requiring NRMSIRs to inform the MSRB when they receive disclosure information from issuers, and whether such information also should be required to be placed with the MSRB, in addition to or in lieu of a NRMSIR. The NRMSIRs did not address the issue of requiring them to inform the MSRB whenever they received disclosure information from an issuer, although one commenter argued that designating the MSRB as a repository only would add an unnecessary layer to the dissemination process.[169] Other commenters suggested designating a single central repository.[170] Similarly, some commenters suggested imposing a requirement that disclosure information be delivered to all NRMSIRs,[171] while others suggested that NRMSIRs be required to share the information received with other NRMSIRs,[172] and a third group preferred the establishment of a central index.[173] State-based information gatherers and disemminators had diverging views on this issue.[174]

Based on these comments, the Commission has determined to require that annual financial information undertaken to be provided be deposited with each NRMSIR and the appropriate SID in the issuer's state. Any audited financial statements submitted in accordance with the undertakings also must be delivered to each NRMSIR and to the SID in the issuer's state, if such a depository has been established. The requirement to have annual financial information and audited financial statements delivered to all NRMSIRs and the appropriate SID is a modification of the Proposed Amendments. This modification will ensure that all NRMSIRs receive disclosure information directly. It also permits the Commission to adopt the amendments without a delay for the creation of a central index or a system of information sharing among NRMSIRs.[175] The requirement to send information to all NRMSIRs rather than a single NRMSIR of the issuer's or obligated person's choice, should not impose significant burdens or costs, other than duplication and mailing costs. Furthermore, this requirement to deliver disclosure to the NRMSIRs and the appropriate SID also allays the anti-competitive concerns raised by the creation of a single NRMSIR.

In contrast to annual financial information, under the amendments, notices of material events, as well as notices of a failure by an issuer or other obligated person to provide annual financial information must be delivered to each NRMSIR or the MSRB, and the appropriate SID. The Commission is of the view that permitting issuers and obligated persons to file such notices either with each NRMSIR or with the MSRB (as well as the appropriate SID) will facilitate prompt and wide disclosure. The amendments reflect the preference of some commenters for filing such notices in one central place, such as the MSRB, rather than having to file with multiple NRMSIRs. The Commission expects that if notices are filed with the MSRB, the MSRB will make these notices available to all NRMSIRs on a prompt and contemporaneous basis.

5. Timing of Dissemination

Due to the time sensitive nature of notices of material event and failures to provide annual financial statements, it is important that such notices are disseminated quickly. These market requirements will dictate that disseminators have a system in place by which information vendors can make such notices available to broker-dealers and investors quickly and contemporaneously.

NRMSIRs and other information vendors have indicated in their comment letters that under certain circumstances a 15 minute turnaround[176] time for notices of material events, and a 24 hour turnaround period for annual financial information may be feasible, and, in some instances, already is in place.[177] Nonetheless, because the ultimate scope of the information undertakings was not known to the existing and potential NRMSIRs at the time they submitted their comments, the Commission intends to discuss with the NRMSIRs during the recognition process appropriate and practicable turnaround standards for information re-dissemination. Because SIDs are alternative sources of information for every type of disclosure, the Commission does not intend to impose strict turnaround times for SIDs. Instead, SIDs should provide the Commission and users with a clear statement of turnaround times that they will meet consistently.

6. Technological Considerations

The Commission also received many suggestions from information gatherers and vendors on streamlining the filing of disclosure information. These suggestions included requiring electronic filing of disclosure information, providing filings on computer disks and providing information to NRMSIRs as images of original source documents rather than exclusively as coded text.[178] Rather than dictate standards, the Commission encourages municipal securities market participants to coordinate their requirements and preferences on an industry-wide basis.

D. Exemptions

The Proposed Amendments contained two new exemptions, which are being

[169] Letter of Bloomberg L.P.

[170] *See, e.g.*, Artemis Capital Group, Ltd. (proposing that the Commission designate the MSRB's MSIL system as the single central repository); Letter of Chapman and Cutler (there should be one central source of information).

[171] *See, e.g.*, Letter of J.J. Kenny Co.; Letter of National Association of Independent Public Financial Advisers.

[172] *See, e.g.*, Letter of MSRB; Letter of Richard A. Ciccarone.

[173] Letter of Storch & Brenner (on behalf of R.R. Donnelly Financial); Letter of The Bond Buyer.

[174] The Ohio Municipal Advisory Council stated that it is feasible to require repositories to inform the MSRB as to which issuers have released information to it. Under Cypress Capital Corporation's proposal, the indexing party would receive descriptions of all materials received by the Louisiana Repository. *But see*, Letter of NASACT (requirement that a repository be required to notify a central index each time an item of information is received by the repository is unduly burdensome and unnecessary).

[175] Some commenters expressed an interest in creating a central index and an information sharing system. Letter of Storch & Brenner (on behalf of R.R. Donnelly Financial); Letter of Dow Jones Telerate, Inc. The Commission is prepared to review such mechanisms for centralized collection and dissemination if requested to do so.

[176] The Commission considers "turnaround time" or "turnaround period" to mean the time between which a NRMSIR initially receives information, and the time when such information is made available to the public. NRMSIRs will be required to make available the full text of notices of material events, and post the receipt and availability of other documents within the designated turnaround time period.

[177] The Bond Buyer stated that it broadcasts, through its Munifacts News product, material events and time critical announcements within 15 minutes of their receipt to municipal market participants throughout the country. It stated that it also posts documents within 24 hours of a document's receipt to the Bond Buyer's On-line Index which is updated throughout the day. Letter of The Bond Buyer. Similarly, Dow Jones Telerate stated that electronic dissemination will allow the turnaround time of 24 hours for an official statement and 15 minutes for secondary disclosure documents on material events to be feasible. Letter of Dow Jones Telerate. Material information is electronically disseminated on a "real time" basis by Bloomberg L.P. Letter of Bloomberg L.P.

[178] J.J. Kenny Co. requested that documents be required to be filed as images of original source documents rather than exclusively as coded text. Dow Jones Telerate requested that Official statements be filed along with one electronic disk copy of the original Word Processing/Desktop publishing file with the label marked as to which software and version was used. For secondary market disclosure documents, Telerate advises using the NFMA proposed worksheets. The Bond Buyer stated that "collection would be most efficient if documents were in ASCII and a common word processing or publishing format"

adopted with certain modifications. A third new exemption from the annual financial information requirement, for short-term securities, also is being adopted. In addition, Rule 15c2–12's limitation to primary offerings of municipal securities with an aggregate principal amount of $1,000,000 or more, and its existing exemptions, also apply to the amendments.[179]

1. Small Issuer Exemption

The Proposed Amendments would have exempted from the provisions of the undertaking and recommendation prohibitions of the rule municipal securities issued in Offerings by issuers that had (i) less than $10,000,000 in principal amount of securities outstanding, including the offered securities and (ii) issued less than $3,000,000 in aggregate amount of municipal securities in the most recent 48 months preceding the offering.

A number of commenters discussed the appropriateness of the proposed dollar exemption, with comments ranging from a call for increased thresholds to no thresholds at all.[180] Some commenters believed that the thresholds should be increased, because many small municipalities would exceed these thresholds if they delay their financings in order to issue a greater amount of bonds at one time. The commenters argued that these are small, infrequent issuers with limited trading in the secondary market and the cost of compliance would outweigh the benefits received from improved secondary market disclosure.[181]

Other commenters took exception to the proposed thresholds because they were too high. These commenters argued that the exemption as proposed would exclude from coverage of the rule the types of issuers who have historically had deficient disclosure practices and disproportionate numbers of defaults.[182] A number of commenters also argued that the $3 million/48 month component of the threshold was too complex.[183]

As adopted,[184] the exemption retains the aggregate $10,000,000 limitation, but eliminates the $3,000,000 threshold. Instead, in addition to falling under the $10,000,000 in outstanding securities threshold, the exemption is conditioned upon an issuer or obligated person providing a limited disclosure undertaking. Under this undertaking, financial information and operating data concerning each obligor for which financial information or operating data is presented in the final official statement, must be provided upon request to any person, or be provided at least annually to the appropriate SID. The undertaking would specify the type of financial information and operating data that will be made available annually, which must include financial information and operating data that is customarily prepared by the obligated person and is publicly available. The final official statement must describe where and how the financial information and operating data can be obtained.

Financial information and operating data of governmental issuers generally are subject to freedom of information laws, and thus would be publicly available for purposes of this condition of the exemption. Conduit borrowers generally provide annual financial information to trustees, credit enhancers, or the financing agency that issued the municipal securities, and thus would have no difficulty complying with this standard if that information is made publicly available. To the extent that an obligated person does not currently publicly disclose that information, they are free to specify the type of information they are undertaking to provide on an ongoing basis, but they must agree to provide some information. That information need not be the same type of information presented in the official statement. Nor would these exempt persons have to release their audited financial statements, unless they otherwise customarily prepare and make their audited financial statements publicly available. Moreover, the limited disclosure undertaking need only cover those obligors for which financial information or operating data is provided in the official statement.

In addition to providing financial information and operating data annually, notices of material events must be sent to each NRMSIR or to the MSRB, and the appropriate SID. This public information condition has been adopted in response to comments highlighting the need for information regarding small issuers accessing the public debt market.[185]

The threshold of $10,000,000 has been retained, notwithstanding comments that it was too high or too low. According to statistics provided by one commenter,[186] in 1993, 71% of the approximately 52,000 municipal issuers had under $10,000,000 in outstanding municipal securities. Accordingly, the amendments as proposed already provided significant exemptive relief for small issuers. Indeed, the fact that a majority of issuers fall below that threshold supports conditioning the exemption on a commitment to provide a limited amount of secondary market information from exempt issuers. Even with that condition, a significant percentage of offerings would remain totally exempt from the amendments as adopted, because over 20% of the total issuances in 1993 were under $1,000,000.[187] As these statistics demonstrate, the exemption should exclude a large percentage of small infrequent issuers.

Commenters also questioned how the aggregate thresholds were measured, including whose securities would be included and whether the exemption applied only to outstanding securities that were sold in Offerings subject to the rule.[188] Many commenters indicated that the thresholds should be separately applied to each issuer of municipal securities and each underlying obligor.[189] Thus, in the case of conduit issuers that have no liability on the municipal securities, commenters argued that the thresholds should be determined by reference to the persons who are the beneficiaries of the

[179] Former paragraph (c) of Rule 15c2–12 was proposed to be, and has been redesignated as paragraph (d)(1). This paragraph exempts primary offerings of municipal securities in authorized denominations of $100,000 or more, if such securities: (1) are sold to no more than 35 investors, each of whom the underwriter reasonably believes is capable of evaluating the investment and who is not purchasing with a view to distribution; (2) have a maturity of nine months or less or; (3) at the option of the holder may be tendered to an issuer at least as frequently as every nine months.

[180] *See, e.g.* Letter of ALHFA; Letter of CDFA; Letter of NFMA; Letter of National Association of Independent Public Finance Advisors; Letter of Prudential Investment Corp.; Letter of PSA; Letter of Washington State Auditor.

[181] *See, e.g.*, Letter of NAST; Letter of SIA.

[182] *See, e.g.* Letter of Chemical Securities; Letter of Eaton Vance Management; Letter of Edward D. Jones & Co.; Letter of Morgan Stanley; Letter of National Association of Independent Public Finance Advisors; Letter of Norwest Investment Services.

[183] *See, e.g.*, Letter of APPA; Letter of The Bank of New York; Joint Response.

[184] *See* Rule 15c2–12(d)(2).

[185] *See* Joint Response. A number of other commenters expressed concern about the lack of information on issuers in market segments in which the higher proportion of defaults have occurred. *See* note 182, *supra* and accompanying text. The effective date for this information undertaking condition on the small issuer exemption will be delayed until January 1, 1996. *See* Section II.E., *infra*.

[186] *See* Letter of The Bond Buyer.

[187] *See* Letter of The Bond Buyer. The requirements of Rule 15c2–12, as amended, may not be avoided by breaking up an offering into several offerings of less than $1,000,000, where the offerings are of the same class of securities and are for the same purpose.

[188] *See, e.g.*, Letter of ABA Urban Law Section; Letter of CIFA; Letter of Colorado Municipal Bond Supervision Advisory Board.

[189] *See, e.g.*, Letter of ALHFA; Letter of CDFA; Letter of Hawkins Delafield & Wood.

financing.[190] Some commenters argued that those issuers that had different types of financings that relied on separate revenue streams for repayment, such as dedicated tax revenues, should not be foreclosed from relying on the small issuer exemption for each financing.[191]

To address the first of these concerns, the amendments have been revised to clarify that the availability of the exemption turns on the amount of outstanding municipal securities for which an issuer or obligated person also is an obligated person. An issuer of municipal securities would need to satisfy the threshold only if it were an obligated person with respect to the security being offered. Under this approach, if a financing agency that is offering obligations that have some recourse to the agency, only those outstanding securities of the agency that likewise are recourse would count toward the threshold. If the financing agency does not issue recourse securities, the exemption will be unavailable only if a conduit borrower obligated on the municipal securities being offered is an obligated person with respect to more than $10,000,000 in outstanding municipal securities. If any one obligated person in an Offering exceeds the threshold, then the entire Offering, including all obligated persons, will be subject to the rule. Subsequent non-recourse offerings by the financing agency would not be affected, but would be subject to a similar test.

With respect to the second concern, however, the amendments require that an obligated person aggregate all its outstanding obligations, even if some are payable from separate dedicated revenue sources. For example, a city or county that issues securities for a number of different purposes could not qualify as a small and infrequent issuer merely because its outstanding securities are payable from separate revenue streams. Thus, while a governmental issuer's outstanding obligations need not be aggregated with that of non-governmental obligated persons, a governmental issuer could not avoid aggregation of its securities by restricting repayment to separate revenue streams.[192]

Commenters also discussed a related issue of what securities would be included in the calculation. Commenters contended that only publicly offered securities should be included in the calculation. Other commenters questioned how short term obligations such as bond anticipation notes, refunded bonds and installment/lease purchase agreements would be treated. Several commenters suggested that the threshold should be measured only against publicly offered, long-term bonds.[193]

The amendments have been clarified in this respect to exclude from the threshold calculation securities that were offered in transactions exempt from Rule 15c2–12 because they were otherwise exempt as private placements and short term financings. In addition, to the extent that an issuer or obligated person is no longer liable for repayment on bonds, as with certain defeased bonds, then such bonds would not be included in the calculation of the threshold for such issuer or obligated person.

A number of commenters indicated that an exemption should be available based on the number of holders of the municipal securities.[194] However, in accordance with concerns voiced by other commenters regarding the difficulty in ascertaining the number of holders due to the fact that most municipal securities are held in street name through a very limited number of depositories,[195] the amendments do not adopt any exemption based on the number of holders of the municipal securities.

A variety of other comments were raised relating to exemptions, and a number of alternative exemptions were proposed, including exemptions based on the type of issuer or the existence of an investment grade rating.[196] Commenters also believed that an exemption should be available for securities covered by bond insurance or other credit enhancement, such as bank letters of credit.[197] Except as described above, the exemptions have not been revised to adopt these suggestions. Commenters, including some bond insurance providers,[198] expressed the view that the existence of credit enhancement does not necessarily eliminate the need for information regarding the underlying credit.

A number of commenters also argued that new exemptions should be added that would mirror exemptions under the Securities Act.[199] Some commenters argued that exemptions should be included for non-profit entities that would have their own exemption from registration under the Securities Act.[200] The Commission is not including any exclusion in the amendments for any such issuers. Issuers accessing the tax-exempt public securities markets have obligations to promote the integrity and efficiency of those markets. As the Commission noted in the Interpretive Release, the high level of defaults in sectors such as healthcare, lifecare, retirement homes and multifamily housing, relative to other market sectors,[201] and the past problems with the sufficiency of information in many of these sectors, weighs heavily against adopting such exclusions

2. Exemption from the Annual Financial Information Requirement for Short-term Securities

A new exemption has been added to exempt from the requirement for an undertaking calling for annual financial information, Offerings of securities with an 18 month or shorter maturity.[202] The new exemption is in response to comments suggesting that the rule not

[190] *See, e.g.*, Letter of Alaska Municipal Bond Bank; Letter of Bose, McKinney & Evans; Letter of CDFA; Letter of Oregon Economic Development Department.

[191] *See, e.g.*, Letter of ABA Business Law Section; Letter of Chapman and Cutler; Letter of NABL.

[192] Significant indicia of whether an issuer in a revenue-type financing is in fact a part of a larger municipality would be whether the issuer's accounts are reflected in the municipality's financial statements and whether the municipality's officials or personnel manage the separate financing programs.

[193] *See, e.g.*, Letter of ABA Business Law Section; Letter of Day Berry & Howard; Joint Response; Letter of Kutak Rock; Letter of the Treasurer of the State of North Carolina.

[194] *See, e.g.*, Letter of ABA Business Law Section; Letter of Kutak Rock; Letter of Mudge Rose; Letter of National League of Cities.

[195] *See, e.g.*, Letter of Bank One Corporation; Letter of Reliance Trust Company.

[196] *See, e.g.*, Letter of ICI; Letter of McDonald & Company Securities; Letter of NABL; Letter of National League of Cities; Letter of NFMA; Letter of New York Dormitory Authority; Letter of Putnam Investment Management; Letter of State of Utah, Office of the State Treasurer; Letter of State of Washington, Office of the State Treasurer.

[197] *See, e.g.*, Letter of Delaware County Industrial Development Authority; Letter of Financial Security Assurance; Letter of McNair & Sanford; Letter of Smith, Gambrell & Russell.

[198] As some commenters indicated, the existence of credit enhancement or other programmatic enhancement features does not eliminate the need for information on underlying obligated persons, particularly where there is a long term guarantee, because of the potential impact of a default on the pricing of the securities. *See* Letter of Kutak Rock on behalf of Financial Guaranty Insurers; Letter of FGIC; Letter of Prudential Investment Corp. *See also* Securities and Exchange Commission, *Report by the Securities and Exchange Commission on the Financial Guaranty Market: The Use of the Exemption In Section 3(a)(2) of the Securities Act for Securities Guaranteed by Banks and the Use of Insurance Policies to Guarantee Debt Securities* (August 28, 1987).

[199] *See, e.g.*, Letter of ABA Business Law Section; Letter of Goldman Sachs; Letter of Morgan Stanley; Letter of Mudge Rose; Letter of Thacher Proffitt & Wood.

[200] *See, e.g.*, Letter of Morgan Stanley; Letter of Mudge Rose; Letter of New York Dormitory Authority.

[201] Interpretive Release at Section III.D. *See also* Letter of The Bond Buyer.

[202] Rule 15c2–12(d)(3).

require annual financial information in situations where the securities would mature shortly after, or possibly even before, the annual financial information would be due.[203] The provisions of the amended rule relating to notices of material events, however, would apply to these Offerings absent some other Rule 15c2–12 exemption.

3. Exemptions from the Recommendation Prohibition

The Proposed Amendments also included a new exemption,[204] which would have permitted the recommendation in the secondary market of securities that were not subject to the underwriting prohibition, either because they were sold in a primary offering[205] of municipal securities with an aggregate principal amount of less than $1,000,000, or came within the existing exemptions for limited placements, short-term securities, and securities with demand features,[206] or within the new exemption for small, infrequent issuers.[207] This exemption has been adopted as proposed,[208] with the exception that securities sold in an exempt Offering that is subject to the limited undertaking condition,[209] are not exempt from the application of the recommendation prohibition. Pursuant to this element of the small issuer exemption, dealers must have in place procedures to receive notices of material events.[210]

4. Transactional Exemption

The existing Rule 15c2–12 transactional exemption[211] permits the Commission to exempt any Participating Underwriter from any requirement of the rule. Because Rule 15c2–12, as amended, places requirements on brokers, dealers, and municipal securities dealers in the secondary market, the transactional exemption has been amended to clarify that the Commission has exemptive authority with respect to both Participating Underwriters, in connection with Offerings, and with respect to brokers, dealers, and municipal securities dealers recommending transactions in the secondary market.[212]

E. Transitional Provision

The rule as amended contains a transitional provision for the amendments to Rule 15c2–12.[213] The underwriting prohibition applies to a Participating Underwriter that has contractually committed to act as an underwriter in an Offering on or after the effective date of the rule, July 3, 1995; provided that issuers need not undertake to provide annual financial information for fiscal years ending prior to January 1, 1996. The recommendation prohibition will become effective on January 1, 1996. The Commission is of the view that this delay of six months beyond the effective date of the amendment relating to the underwriting of municipal securities is sufficient to permit participants in the municipal securities market to design procedures for compliance with the provisions of Rule 15c2–12. Brokers, dealers and municipal securities dealers must, therefore, have procedures in place to comply with the recommendation prohibition on or before January 1, 1996. Finally, the limited undertaking condition to the small issuer exemption need not be satisfied for offerings commencing prior to January 1, 1996.

III. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Exchange Act[214] requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of those rules, if any, and to balance that impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendments to Rule 15c2–12 in light of the standard cited in Section 23(a)(2) and believes the adoption of the amendments will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

In addition, the Commission has prepared a final regulatory flexibility analysis ("FRFA"), pursuant to the requirements of the Regulatory Flexibility Act[215] regarding the proposed amendments to Rule 15c2–12. The Commission requested comment on the extent to which current practice deviates from the requirements of the proposed amendments, and the extent to which additional costs may be imposed on small issuers, brokers, dealers, and municipal securities dealers if the amendments are adopted as proposed. The FRFA indicates that the amendments to the rule could impose some additional costs on small broker-dealers and municipal issuers. Nonetheless, the Commission is of the view that many of the substantive requirements of the amendments already are observed, absent access to the continuing information provided by the amendments, by issuers, brokers, dealers, and municipal securities dealers as a matter of business practice, or to fulfill their existing obligations under the antifraud provisions of the federal securities laws. To the extent that the Proposed Amendments would have imposed additional costs on small issuers, brokers, dealers, and municipal securities dealers, in response to commenters' concerns, the Commission has modified the amendments as described.

A copy of the FRFA may be obtained from Janet W. Russell-Hunter, Attorney, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street NW., Mail Stop 7–10, Washington, DC 20549, (202) 942–0073.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Amendments to Rule 15c2–12

In accordance with the foregoing, Title 17, Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78*m*, 78*n*, 78*o*, 78*p*, 78*q*, 78*s*, 78*w*, 78*x*, 78*ll*(d), 79q, 79t, 80a–20, 80a–

[203] *See, e.g.*, Letter of ABA Urban Law Section; Letter of Chemical Securities; Letter of Day, Berry & Howard; Letter of Kutak Rock; Letter of Maryland Department of Economic and Employment Development.

[204] *See* paragraph (d)(3) of the Proposed Amendments.

[205] This exemption has been modified to clarify that the recommendation prohibition will not apply to primary or secondary market trading where municipal securities are exempt at the time of their original issuance. Several commenters noted that the inclusion of the term "a primary offering of" created confusion, based on the stated purpose of the exemption in the Proposing Release. *See, e.g.*, Letter of Kutak Rock; Letter of ABA Urban Law Section; Letter of Colorado Municipal Bond Supervision Advisory Board; Letter of Day, Berry & Howard. The exemption has been modified to delete that term, thus giving the exemption its intended meaning.

[206] *See* paragraph (d)(1) of the Proposed Amendments.

[207] *See* paragraph (d)(2) of the Proposed Amendments.

[208] Rule 15c2–12(d)(4).

[209] *See* Rule 15c2–12(d)(2).

[210] *See* Rule 15c2–12(b)(5)(i)(C).

[211] Former paragraph (d) of Rule 15c2–12.

[212] The transactional exemption also has been redesignated as paragraph (e) of Rule 15c2–12.

[213] *See* Rule 15c2–12(g).

[214] 15 U.S.C. 78w(a)(2).

[215] 5 U.S.C. 604.

23, 80a–29, 80a–27, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.15c2–12 is amended by adding a Preliminary Note preceding paragraph (a); revising paragraph (a); adding paragraph (b)(5); redesignating paragraph (c) through paragraph (f) as paragraph (d) through paragraph (g); adding paragraph (c); revising newly designated paragraph (d), paragraph (e), and paragraph (f)(3); adding paragraph (f)(9) and paragraph (f)(10); and adding four sentences to the end of newly designated paragraph (g) to read as follows:

§ 240.15c2–12 Municipal securities disclosure.

Preliminary Note: For a discussion of disclosure obligations relating to municipal securities, issuers, brokers, dealers, and municipal securities dealers should refer to Securities Act Release No. 7049, Securities Exchange Act Release No. 33741, FR–42 (March 9, 1994). For a discussion of the obligations of underwriters to have a reasonable basis for recommending municipal securities, brokers, dealers, and municipal securities dealers should refer to Securities Exchange Act Release No. 26100 (Sept. 22, 1988) and Securities Exchange Act Release No. 26985 (June 28, 1989).

(a) *General.* As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer (a "Participating Underwriter" when used in connection with an Offering) to act as an underwriter in a primary offering of municipal securities with an aggregate principal amount of $1,000,000 or more (an "Offering") unless the Participating Underwriter complies with the requirements of this section or is exempted from the provisions of this section.

* * * * *

(b) *Requirements.* * * *

(5)(i) A Participating Underwriter shall not purchase or sell municipal securities in connection with an Offering unless the Participating Underwriter has reasonably determined that an issuer of municipal securities, or an obligated person for whom financial or operating data is presented in the final official statement has undertaken, either individually or in combination with other issuers of such municipal securities or obligated persons, in a written agreement or contract for the benefit of holders of such securities, to provide, either directly or indirectly through an indenture trustee or a designated agent:

(A) To each nationally recognized municipal securities information repository and to the appropriate state information depository, if any, annual financial information for each obligated person for whom financial information or operating data is presented in the final official statement, or, for each obligated person meeting the objective criteria specified in the undertaking and used to select the obligated persons for whom financial information or operating data is presented in the final official statement, except that, in the case of pooled obligations, the undertaking shall specify such objective criteria;

(B) If not submitted as part of the annual financial information, then when and if available, to each nationally recognized municipal securities information repository and to the appropriate state information depository, audited financial statements for each obligated person covered by paragraph (b)(5)(i)(A) of this section;

(C) In a timely manner, to each nationally recognized municipal securities information repository or to the Municipal Securities Rulemaking Board, and to the appropriate state information depository, if any, notice of any of the following events with respect to the securities being offered in the Offering, if material:

(*1*) Principal and interest payment delinquencies;

(*2*) Non-payment related defaults;

(*3*) Unscheduled draws on debt service reserves reflecting financial difficulties;

(*4*) Unscheduled draws on credit enhancements reflecting financial difficulties;

(*5*) Substitution of credit or liquidity providers, or their failure to perform;

(*6*) Adverse tax opinions or events affecting the tax-exempt status of the security;

(*7*) Modifications to rights of security holders;

(*8*) Bond calls;

(*9*) Defeasances;

(*10*) Release, substitution, or sale of property securing repayment of the securities;

(*11*) Rating changes; and

(D) In a timely manner, to each nationally recognized municipal securities information repository or to the Municipal Securities Rulemaking Board, and to the appropriate state information depository, if any, notice of a failure of any person specified in paragraph (b)(5)(i)(A) of this section to provide required annual financial information, on or before the date specified in the written agreement or contract.

(ii) The written agreement or contract for the benefit of holders of such securities also shall identify each person for whom annual financial information and notices of material events will be provided, either by name or by the objective criteria used to select such persons, and, for each such person shall:

(A) Specify, in reasonable detail, the type of financial information and operating data to be provided as part of annual financial information;

(B) Specify, in reasonable detail, the accounting principles pursuant to which financial statements will be prepared, and whether the financial statements will be audited; and

(C) Specify the date on which the annual financial information for the preceding fiscal year will be provided, and to whom it will be provided.

(iii) Such written agreement or contract for the benefit of holders of such securities also may provide that the continuing obligation to provide annual financial information and notices of events may be terminated with respect to any obligated person, if and when such obligated person no longer remains an obligated person with respect to such municipal securities.

(c) *Recommendations.* As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer to recommend the purchase or sale of a municipal security unless such broker, dealer, or municipal securities dealer has procedures in place that provide reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of this section with respect to that security.

(d) *Exemptions.* (1) This section shall not apply to a primary offering of municipal securities in authorized denominations of $100,000 or more, if such securities:

(i) Are sold to no more than thirty-five persons each of whom the Participating Underwriter reasonably believes:

(A) Has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of the prospective investment; and

(B) Is not purchasing for more than one account or with a view to distributing the securities; or

(ii) Have a maturity of nine months or less; or

(iii) At the option of the holder thereof may be tendered to an issuer of such securities or its designated agent for redemption or purchase at par value or more at least as frequently as every nine months until maturity, earlier redemption, or purchase by an issuer or its designated agent.

(2) Paragraph (b)(5) of this section shall not apply to an Offering of municipal securities if, at such time as an issuer of such municipal securities delivers the securities to the Participating Underwriters:

(i) No obligated person will be an obligated person with respect to more than $10,000,000 in aggregate amount of outstanding municipal securities, including the offered securities and excluding municipal securities that were offered in a transaction exempt from this section pursuant to paragraph (d)(1) of this section;

(ii) An issuer of municipal securities or obligated person has undertaken, either individually or in combination with other issuers of municipal securities or obligated persons, in a written agreement or contract for the benefit of holders of such municipal securities, to provide:

(A) Upon request to any person or at least annually to the appropriate state information depository, if any, financial information or operating data regarding each obligated person for which financial information or operating data is presented in the final official statement, as specified in the undertaking, which financial information and operating data shall include, at a minimum, that financial information and operating data which is customarily prepared by such obligated person and is publicly available; and

(B) In a timely manner, to each nationally recognized municipal securities information repository or to the Municipal Securities Rulemaking Board, and to the appropriate state information depository, if any, notice of events specified in paragraph (b)(5)(i)(C) of this section with respect to the securities that are the subject of the Offering, if material; and

(iii) the final official statement identifies by name, address, and telephone number the persons from which the foregoing information, data, and notices can be obtained.

(3) The provisions of paragraph (b)(5) of this section, other than paragraph (b)(5)(i)(C) of this section, shall not apply to an Offering of municipal securities, if such municipal securities have a stated maturity of 18 months or less.

(4) The provisions of paragraph (c) of this section shall not apply to municipal securities:

(i) Sold in an Offering to which paragraph (b)(5) of this section did not apply, other than Offerings exempt under paragraph (d)(2)(ii) of this section; or

(ii) Sold in an Offering exempt from this section under paragraph (d)(1) of this section.

(e) *Exemptive Authority.* The Commission, upon written request, or upon its own motion, may exempt any broker, dealer, or municipal securities dealer, whether acting in the capacity of a Participating Underwriter or otherwise, that is a participant in a transaction or class of transactions from any requirement of this section, either unconditionally or on specified terms and conditions, if the Commission determines that such an exemption is consistent with the public interest and the protection of investors.

(f) *Definitions.* * * *

(3) The term *final official statement* means a document or set of documents prepared by an issuer of municipal securities or its representatives that is complete as of the date delivered to the Participating Underwriter(s) and that sets forth information concerning the terms of the proposed issue of securities; information, including financial information or operating data, concerning such issuers of municipal securities and those other entities, enterprises, funds, accounts, and other persons material to an evaluation of the Offering; and a description of the undertakings to be provided pursuant to paragraph (b)(5)(i), paragraph (d)(2)(ii), and paragraph (d)(2)(iii) of this section, if applicable, and of any instances in the previous five years in which each person specified pursuant to paragraph (b)(5)(ii) of this section failed to comply, in all material respects, with any previous undertakings in a written contract or agreement specified in paragraph (b)(5)(i) of this section. Financial information or operating data may be set forth in the document or set of documents, or may be included by specific reference to documents previously provided to each nationally recognized municipal securities information repository, and to a state information depository, if any, or filed with the Commission. If the document is a final official statement, it must be available from the Municipal Securities Rulemaking Board.

* * * * *

(9) The term *annual financial information* means financial information or operating data, provided at least annually, of the type included in the final official statement with respect to an obligated person, or in the case where no financial information or operating data was provided in the final official statement with respect to such obligated person, of the type included in the final official statement with respect to those obligated persons that meet the objective criteria applied to select the persons for which financial information or operating data will be provided on an annual basis. Financial information or operating data may be set forth in the document or set of documents, or may be included by specific reference to documents previously provided to each nationally recognized municipal securities information repository, and to a state information depository, if any, or filed with the Commission. If the document is a final official statement, it must be available from the Municipal Securities Rulemaking Board.

(10) The term *obligated person* means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person committed by contract or other arrangement to support payment of all, or part of the obligations on the municipal securities to be sold in the Offering (other than providers of municipal bond insurance, letters of credit, or other liquidity facilities).

* * * * *

(g) *Transitional Provision.* * * * Paragraph (b)(5) of this section shall not apply to a Participating Underwriter that has contractually committed to act as an underwriter in an Offering of municipal securities before July 3, 1995; *except that* paragraph (b)(5)(i)(A) and paragraph (b)(5)(i)(B) shall not apply with respect to fiscal years ending prior to January 1, 1996. Paragraph (c) shall become effective on January 1, 1996. Paragraph (d)(2)(ii) and paragraph (d)(2)(iii) of this section shall not apply to an Offering of municipal securities commencing prior to January 1, 1996.

Dated: November 10, 1994.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–28448 Filed 11–16–94; 8:45 am]

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Thursday
November 17, 1994

Part VI

Securities and Exchange Commission

17 CFR Part 240
Confirmation of Transactions; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-34962; File No. S7-6-94]

RIN 3235-AF84

Confirmation of Transactions

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting amendments to Rule 10b-10 under the Securities Exchange Act of 1934 that will require brokers and dealers to provide customers immediate written notification of information relevant to their securities transactions. Consistent with the Commission's investor protection mandate and in keeping with innovations in securities products and markets, the amendments will require brokers and dealers to provide information concerning customer transaction costs in specified NASDAQ and exchange-listed securities, the status of certain unrated debt securities, the status of certain non-SIPC member broker-dealers, and the availability of information regarding asset-backed securities.

EFFECTIVE DATE: April 3, 1995.

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel, C. Dirk Peterson, Senior Counsel, or Terry R. Young, Attorney (202/942-0073), Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Mail Stop 7-10, Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction and Summary

A. Price Transparency

During the past year, the Commission has initiated efforts to further improve the efficiency of, and to protect investors in, the municipal securities and other debt markets. In September 1993, the Commission's Division of Market Regulation published the *Staff Report on the Municipal Securities Market* ("Staff Report"),[1] which contained several recommendations to improve the municipal securities market. The Staff Report recommended, among other things, riskless principal mark-up disclosure as a means of providing greater information to investors purchasing municipal securities.[2] The Staff Report noted that, unlike the equity markets where mark-ups and mark-downs[3] are disclosed to investors in non-market maker riskless principal transactions and principal transactions in "reported securities,"[4] mark-ups are not disclosed in any principal transaction in municipal securities.[5] Thus, investors of municipal securities are constrained in their ability to compare transaction costs among broker-dealers and across markets. The Staff Report identified this ability as one of the benefits of mark-up disclosure.[6]

In addition to enhanced confirmation disclosure, the Staff Report discussed the overall benefits of price transparency and the need for greater transparency in the municipal securities market.[7] Notably, price transparency enhances market liquidity and depth, and fosters investor confidence,[8] while a lack of price information impairs market pricing mechanisms, weakens competition, and prevents investors from monitoring the quality of their executions.[9]

To address some of the recommendations contained in the Staff Report, on March 9, 1994, the Commission issued for comment proposed Rule 15c2-13 under the Securities Exchange Act of 1934 ("Exchange Act")[10] to require disclosure of mark-ups in riskless principal transactions in municipal securities. Because the same benefits of mark-up disclosure apply to other debt transactions, the Commission proposed amendments to Rule 10b-10 ("Rule") under the Exchange Act that would require riskless principal mark-up disclosure for debt securities other than municipal securities.[11]

Since the Proposing Release was issued for comment on March 9, 1994, municipal market participants have proposed significant new ways of making pricing information more widely available to investors. The Municipal Securities Rulemaking Board ("MSRB") has taken the first step toward a system that will make publicly available price information for municipal securities transactions on a next day basis. Recently, the MSRB stated that its "ultimate goal for the [transparency] program is to collect and make available transaction information in a comprehensive and contemporaneous manner (footnote omitted) * * * [and] wishe[d] to reiterate to the Commission its commitment to these goals."[12] The Public Securities Association ("PSA") also has proposed a system to publicize municipal securities price information. These proposals will create the infrastructure necessary to enhance transparency in the market, and when fully implemented, will provide last sale reporting for virtually all municipal securities transactions.

The Commission is encouraged by these developments, and after careful consideration, has determined to defer the riskless principal mark-up proposal for six months[13] in anticipation of meaningful progress by the industry toward enhanced price transparency in the municipal securities market. The riskless principal mark-up proposals would provide better information only to a certain segment of transactions in the debt markets. The industry's efforts to improve transparency, on the other hand, ultimately will result in enhanced price disclosure for *all* transactions. Moreover, better dissemination of price information will benefit investors by providing them with useful information at the time they are making their investment decision, rather than after-the-fact when the confirmation is received. If, at the end of the six-month

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[1] *Staff Report on the Municipal Securities Market* (September 1993).

[2] Staff Report, at 16 and 18.

[3] For purposes of this release, references to mark-ups also will apply to mark-downs or commission equivalents.

[4] *See infra* note 71 for a discussion of "reported securities."

[5] Staff Report, at 15-16.

[6] *Id.* at 16.

[7] Staff Report, at 20 and 36.

[8] Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning International Markets and Individuals Before the Committee on Banking, Housing, and Urban Affairs, U.S. Senate, September 28, 1994.

[9] *See* Brandon Becker, Director, Division of Market Regulation, Address at 19th International Organization of Securities Commissions Annual Conference (1994).

[10] Securities Exchange Act Release No. 33743 (March 9, 1994), 59 FR 12767 ("Proposing Release").

[11] The Commission previously proposed disclosure requirements of mark-ups in riskless principal transactions on three other occasions. *See* Securities Exchange Act Release No. 15220 (Oct. 6, 1978), 43 FR 47538 (proposing mark-up disclosure for riskless principal transactions in municipal securities); Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (proposing mark-up disclosure by non-market makers in riskless principal equity and debt securities, but not municipal securities); and Securities Exchange Act Release No. 12806 (Sept. 16, 1976), 41 FR 41432 (proposing mark-up disclosure by non-market makers in riskless principal transactions involving equity and debt securities).

[12] Letter from Robert H. Drysdale, Chairman, MSRB, to Arthur Levitt, Chairman, SEC (Nov. 3, 1994), at pp. 1-2. Available in Public Reference File No. S7-6-94.

[13] Recently, the MSRB set forth a tentative schedule for the completion of each of the four phases of its proposal: phase one (inter-dealer transactions, January 1, 1995); phase two (addition of time of trade and institutional customer transactions, December 1995); phase three (addition of retail customer transactions, November 1996); and phase four (more contemporaneous trade reporting, April 1997). *See* Letter from Robert H. Drysdale, Chairman, MSRB, to Arthur Levitt, Chairman, SEC, (Nov. 3, 1994), at pp. 3-7. Available in Public Reference File No. S7-6-94.

period, industry initiatives to improve price transparency have not progressed to the Commission's satisfaction, however, the Commission may reconsider the riskless principal mark-up proposal in light of existing alternatives.

B. Other Disclosures

In addition to the riskless principal mark-up proposals, the Commission proposed several other amendments designed to improve confirmation disclosure so that customers can better evaluate their securities transactions. Specifically, the Commission proposed amendments to Rule 10b–10 that would require broker-dealers to disclose (1) mark-ups in connection with transactions in certain NASDAQ and regional exchange-listed securities; (2) if they are not members of the Securities Investor Protection Corporation ("SIPC"); (3) information relevant to certain types of collateralized debt instruments; and (4) if a debt security has not been rated by a nationally recognized statistical rating organization ("NRSRO"). Proposed Rule 15c2–13 contained a similar provision requiring broker-dealers to disclose the unrated status of a municipal security.

The Commission also requested comment on the broader issue of whether the shortened settlement period of three days ("T+3 Settlement") will have an effect on the future utility of the confirmation and whether some information currently required in the confirmation could be shifted to an account statement.[14] In addition, the Commission proposed adding a preliminary statement to Rule 10b–10 designed to clarify that the Rule is not intended as a safe harbor from the general antifraud provisions of the federal securities laws.[15]

In response to the request for comment, the Commission received 344 comment letters, the majority of which addressed the mark-up disclosure proposals for riskless principal transactions. Commenters included regional and national broker-dealers, industry associations, financial institutions, law firms, insurance companies, and individual investors.[16] The comments presented a range of views with respect to the proposals and the effects that the proposed disclosure requirements may have on broker-dealers, investors, and markets.

After a review of the comments, the Commission is adopting the proposed amendments to Rule 10b–10 that require disclosure if a debt security is not rated by an NRSRO, with a modification to exclude all government securities from the disclosure requirement; mark-up disclosure in connection with transactions in certain NASDAQ and regional exchange-listed securities; disclosure if a broker-dealer is not a member of SIPC, except for certain transactions in investment company shares by non-SIPC member firms that do not handle customer funds or securities; and disclosure with respect to the availability of information with respect to transactions in collateralized debt securities. The Commission also is adopting the preliminary note to Rule 10b–10. To allow firms the appropriate time to adapt their systems to accommodate these disclosure requirements, the proposals will become effective April 3, 1995.

In addition, that portion of Rule 15c2–13 that would require disclosure if a municipal security was not rated by an NRSRO has been deferred and will be withdrawn if the MSRB acts to adopt similar amendments to its confirmation rule, Rule G–15.[17] The MSRB recently reiterated its willingness to amend Rule G–15 to require disclosure if a municipal security is not rated by an NRSRO.[18]

II. Description of Amendments

A. Role of the Confirmation

The Commission's confirmation rule, Rule 10b–10[19] under the Exchange Act,[20] generally requires a broker-dealer effecting a customer transaction in securities (other than U.S. Savings Bonds or municipal securities) to provide written notification to its customer, at or before completion of a transaction, that discloses information specific to the transaction. The confirmation requires, among other things, the disclosure of: The date, time, identity, and number of shares bought or sold;[21] the capacity of the broker-dealer;[22] the net dollar price and yield of a debt security;[23] and, under specified circumstances, the amount of compensation paid to the broker-dealer and whether payment for order flow is received.[24] For over 50 years, the customer confirmation has served basic investor protection functions by conveying information allowing investors to verify the terms of their transactions; alerting investors to potential conflicts of interest with their broker-dealers; acting as a safeguard against fraud; and providing investors the means to evaluate the costs of their transactions and the quality of their broker-dealer's execution.

1. T+3 Settlement

In the Proposing Release, the Commission requested comment on the future utility of the confirmation once T+3 Settlement is implemented on June 7, 1995.[25] Rule 10b–10 requires that a confirmation be sent at or before completion of a customer transaction.[26] Commenters noted that T+3 Settlement will diminish the confirmation's usefulness as a customer invoice and questioned the practicability of requiring the disclosure of additional information on a document that an investor will receive after already having made his or her investment decision and tendering funds or securities.[27]

Notwithstanding the shortened settlement period of T+3 and the possibility that an investor may receive the confirmation after payment has been made, the Commission believes that the confirmation will continue to serve important investor protection functions. T+3 Settlement's implementation merely may mean that the confirmation may take on a different role. Some firms may continue to use the confirmation as

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[14] *See* Proposing Release, *supra* note 10, at 59 FR 12767–68.

[15] *Id.* at 59 FR 12772.

[16] The comment letters and a summary of comments have been placed in Public Reference File No. S7–6–94, which is available for inspection in the Public Reference Room.

[17] MSRB Rule G–15, MSRB Manual (CCH) ¶ 3571.

[18] Letter from Robert H. Drysdale, Chairman, MSRB, to Arthur Levitt, Chairman, SEC (Nov. 3, 1994). Available in Public Reference File No. S7–6–94.

[19] 17 CFR 240.10b–10.

[20] 15 U.S.C. 78a *et seq.*

[21] 17 CFR 240.10b–10(a)(2).

[22] 17 CFR 240.10b–10(a)(1).

[23] 17 CFR 240.10b–10(a)(4)(i); and 17 CFR 240.10b–10(a)(5).

[24] 17 CFR 240.10b–10(a)(7) (ii) and (iii); 17 CFR 240.10b–10(a)(8)(i)(A); and 17 CFR 240.10b–10(a)(8)(i)(B).

Recently, the Commission proposed for comment additional disclosures relevant to payment for order flow, which would include for monetary payment for order flow, the range of payments received on a per share basis and on an aggregate basis annually. For non-monetary payment for order flow, the Commission proposed requiring disclosure of an estimate of the range of payment for order flow on a per share basis and on an aggregate basis annually. *See* Securities Exchange Act Release No. 34903 (Oct. 27, 1994), 59 FR 55014.

[25] T+3 Settlement was adopted in Securities Exchange Act Release No. 33023 (Oct. 6, 1993), 58 FR 52891.

[26] Rule 15c1–1 under the Exchange Act defines "the completion of the transaction." 17 CFR 240.15c1–1(b).

[27] *See, e.g.*, Letters from A. George Saks, Executive Vice President, Secretary, and General Counsel, Smith Barney (Aug. 1, 1994); Robert M. Sweeney, Vice President/Assistant Comptroller, Gibraltar Securities Co. (June 14, 1994); William J. Jester, Jr., Chemical Banking Corp. (June 14, 1994); and Kurt D. Halvorson, Vice President & Controller, AmeriTrade (May 27, 1994), to Jonathan G. Katz, Secretary, SEC.

a customer invoice, while financing positions when customer payment is received after settlement date. For other firms, the confirmation may not continue to serve in all circumstances as an invoice of a transaction because ordinary confirmation delivery and transfer of customer funds and securities may not be feasible within a three-day settlement cycle.[28] Rather, the confirmation may serve primarily as written evidence of the contract between the customer and broker-dealer.[29] As a written record of the transaction, the confirmation will continue to provide investors the necessary information to assist them in evaluating the quality and accuracy of their trades while assisting them in correcting mistakes and verifying the terms of their transactions. Accordingly, while T+3 Settlement may affect the mechanics of settlement, it will not eliminate the confirmation's investor protection functions.

2. Periodic Account Statement

The Commission also requested comment on the feasibility of transferring information currently disclosed on the confirmation to a periodic account statement.[30] Many commenters addressing this issue opposed such a use of the periodic account statement and noted that it was not the appropriate document to convey particularized trade information.[31] Rather, as one commenter indicated, account statements are intended to summarize the activity and status of an account; they are not intended to convey information regarding the features and risks of each individual securities transaction.[32] Other commenters, however, noted that, as investors increasingly rely upon periodic account statements, the confirmation will diminish as a primary disclosure device.[33] At this time, the Commission has determined to retain the confirmation as the basic transaction disclosure document and use the account statement, the account opening document, or annual disclosure requirements as needed to supplement or summarize confirmation disclosures.

The Commission noted in the Proposing Release, however, that a customer may waive the receipt of an immediate confirmation in the context where a fiduciary has discretion over the customer's account.[34] The Commission noted that, in its view, the account, rather than the fiduciary, was the customer for purposes of Rule 10b–10. To effect a valid waiver, the broker-dealer must (1) obtain from the customer a written agreement that the fiduciary receive the immediate confirmation; and (2) send to the customer a periodic report, not less frequently than quarterly, containing the same information that would have been contained in an immediate confirmation.[35] The customer may not waive this periodic report.[36]

The requirement to send a periodic report is intended to ensure that the *beneficial owner* of the account receives material information needed to verify the transaction in the account.[37] As the

[28] One commenter suggested that the Commission reevaluate the meaning of "give or send" under Rule 10b–10 in light of T+3 Settlement and current technology, such as electronic messaging, E-mail, direct computer links, telefax, and fax modems. *See* Letter from Sullivan & Cromwell, to Jonathan G. Katz, Secretary, SEC (July 15, 1994).

In the Proposing Release, the Commission recognized the use of a facsimile machine to send customer confirmations. *See* Proposing Release, *supra* note 10, at 59 FR 12767 n.5. To the extent that a customer has a facsimile machine, a broker-dealer would fulfill its confirmation delivery obligation if it sent the confirmation via facsimile transmission. The staff also has allowed, under specified conditions, confirmations to be sent by other electronic means. *See Letter regarding Thomson Financial Services, Inc.* (Oct. 8, 1993).

The Commission agrees that T+3 Settlement may encourage alternatives to the mail system for sending confirmations and that a flexible approach may be necessary to accommodate T+3 Settlement with existing technology. The Commission, however, believes that each approach should be viewed on a case-by-case basis, as has been previous practice, to ensure the safety and reliability of the confirmation transmission.

[29] Under the current text of the Uniform Commercial Code, the confirmation serves as a written record of the transaction, thus satisfying the statute of frauds. Uniform Commercial Code Section 8–319 states that a "contract for the sale of securities is not enforceable by way of action or defense unless * * * there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker, sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price." A confirmation, bearing the broker-dealer's letterhead or some other identifying marking, generally fulfills that requirement. Revised Article 8 of the Uniform Commercial Code, which was endorsed recently by both the American Law Institute and the National Conference of Commissioners on Uniform State Laws, would omit current Section 8–319. Due to the prior difficulties in applying Section 8–319 to the sale of securities over the telephone and the more common use of electronic means for securities transactions, proposed Section 8–113 states that "[a] contract or modification for the sale or purchase of a security is enforceable whether or not there is a writing signed or record authenticated by a party against whom enforcement is sought, even if the contract or modification is not capable of performance within one year of its making."

[30] See Proposing Release, *supra* note 10, at 59 FR 12768.

[31] *See, e.g.*, Letters from A. George Saks, Executive Vice President, Secretary, and General Counsel, Smith Barney (Aug. 1, 1994); Barry H. Zucker, President & CEO, J.B. Hanauer & Co. (June 20, 1994); and Jon S. Corzine, Goldman, Sachs & Co. (June 15, 1994), to Jonathan G. Katz, Secretary, SEC.

[32] *See, e.g.*, Letter from Donald E. Walter, Compliance Director/Principal, Edward D. Jones & Co., to Jonathan G. Katz, Secretary, SEC (July 15, 1994). Another commenter noted that transferring confirmation information to an account statement may clutter the account statement and make it less readable. *See* Letter from Barry H. Zucker, President & CEO, J.B. Hanauer & Co., to Jonathan G. Katz, Secretary, SEC (June 20, 1994).

[33] *See, e.g.*, Letters from Robert M. Sweeney, Vice President/Assistant Comptroller, Gibraltar Securities Co. (June 14, 1994); William J. Jester, Jr., Chemical Banking Corp. (June 14, 1994); and Kurt Halvorson, Vice President & Comptroller, AmeriTrade (May 27, 1994), to Jonathan G. Katz, Secretary, SEC.

[34] *See* Proposing Release, *supra* note 10, at 59 FR 12767 n.3.

[35] To satisfy this requirement, a broker-dealer may deliver, directly to its customer, duplicate confirmations representing each of the customer's transactions for the prior period, together with the customer's account statement. This procedure would allow investors to rely on the account statement to monitor their accounts, while referring to the confirmation for the details of each specific trade. Investors already look to old confirmations for details which are not present on the account statement, and this procedure would allow investors to continue to rely on their confirmations and their account statements in substantially the same way.

[36] Some concerns have been raised with respect to the application of this policy and its relationship with Rule 409 of the New York Stock Exchange ("NYSE"). *See, e.g.*, letter from Kevin J. Mackay, President/Compliance and Legal Division, Securities Industry Association ("SIA"), to Jonathan G. Katz, Secretary, SEC (July 22, 1994). Specifically, Rule 409(b) permits NYSE member firms to send a confirmation to a *non-member* person holding power of attorney over a customer account if "either (A) the customer has instructed the member organization in writing to send such confirmations, statements, or other communications in care of such person, or (B) duplicate copies are sent to the customer at some other address designated in writing by him." NYSE Rule 409, 2 NYSE Guide (CCH) ¶ 2409.

Under the Commission's position articulated above, a customer who waived receipt of the immediate confirmation would receive more information with his quarterly account statement than that currently required under NYSE Rule 409. To the extent the rules of the NYSE, or any self-regulatory organization, conflict with the Commission's stated policy, the more restrictive requirement would govern. Thus, a NYSE member wishing to take advantage of a waiver would be required to adhere to these Commission requirements in addition to any obligations imposed by Rule 409.

The SIA argued that this position would (1) lead to duplicative efforts on the part of broker-dealers because broker-dealers already will have sent trade information to the fiduciary in an immediate confirmation; (2) depart from standard industry practice; and (3) require expensive system changes to comply with the position. The Commission emphasizes that this substitution of quarterly statements for the immediate confirmation is optional. No broker-dealer is required in the first instance to include all relevant trade information in a quarterly statement; however, if the broker-dealer, with the written authorization of the customer, wishes to omit sending the customer an immediate confirmation and instead send it to the account fiduciary, then the requirements of written instructions from the customer and a non-waiveable periodic report, as described above, must be satisfied in order to effect a valid waiver. These requirements are necessary to allow investors to monitor their accounts in the absence of a transaction-by-transaction report in the confirmation.

[37] The requirement to send a periodic report to the customer, if the customer has requested in

Commission noted in the release originally adopting Rule 10b–10, the Rule is not intended to require a broker-dealer dealing with the trustee of a plan to deliver statements to plan participants where the trustee is the shareholder of record of the securities being purchased or sold. In those instances, the Rule would require the broker-dealer to deliver a confirmation, or upon written request, a periodic report, only to the trustee.[38] A beneficiary of the trust would be required to receive an immediate confirmation, or upon written request, the periodic report, only if that beneficiary was a beneficial owner of the trust assets on the books of the broker-dealer, enjoying the rights and privileges of beneficial ownership.

The Commission also believes that the broker-dealer can satisfy its obligation to send a confirmation to the customer if it sends the confirmation to a custodian of the customer authorized to receive securities and disburse funds for the customer.[39] The custodian in question must not be affiliated with a broker-dealer or an investment adviser or have any role in choosing the broker-dealer or investment adviser used;[40] and the customer must retain the right to request that the confirmation be sent directly to the customer, at no extra charge by the custodian or broker-dealer. Moreover, an account custodian may not choose to receive a periodic report in place of an immediate confirmation.

3. Preliminary Note

The Commission proposed adding a preliminary note to Rule 10b–10 clarifying that the Rule is not intended as a safe harbor from disclosure obligations imposed by the general antifraud provisions of the federal securities laws.[41] This note is intended to respond to claims made by litigants that Rule 10b–10 prescribes all the necessary disclosure relevant to a customer's securities transaction.[42] A few commenters addressed the inclusion of the preliminary note to Rule 10b–10, with equal support for[43] and opposition to[44] the note. One supporter suggested that the Commission could accomplish the same purpose of clarification in an interpretative release.[45] One opponent of the preliminary note argued that its existence would lead to frivolous claims against broker-dealers.[46]

After reviewing the comments, the Commission is adopting the preliminary note to Rule 10b–10. The Commission is not persuaded that the existence of the preliminary note would lead to any additional litigation against broker-dealers. The preliminary note is merely making explicit a longstanding position that the antifraud provisions of the federal securities laws may impose, given the circumstances, greater disclosure than what may be required by a specific rule or regulation.[47]

B. Mark-Up and Mark-Downs in Riskless Principal Transactions in Debt Securities

The majority of comment letters addressed the proposed amendments to Rule 10b–10 and the portion of proposed Rule 15c2–13 that would require mark-up disclosure of riskless principal trades in debt securities.[48] Generally, most commenters opposed the proposals on the grounds that the requirements would have detrimental effects on competition and market liquidity; would cause compliance difficulties; would create customer confusion; and are not based upon findings of abusive practices in the debt market.

It has been argued by some commenters that greater price transparency in the municipal market could achieve similar goals as riskless principal mark-up disclosure without the alleged negative effects purported to result from mark-up disclosure.[49] Since the proposals were published for comment in March, progress has been made to develop price transparency in the debt markets. In particular, the MSRB has proposed a program that ultimately would provide same day price reporting of all transactions in municipal securities, including same day reporting of retail trades. This program is to be implemented in four phases. As proposed, the first phase of the MSRB program will collect reports of interdealer transactions and make available to the public daily high-low and average price figures for the most frequently traded issues (initially defined as those trading at least four times during the day).[50] These

writing that the immediate confirmation be sent to the customer's fiduciary, applies only if the broker-dealer has an existing duty under Rule 10b–10 to send an immediate confirmation directly to the customer in the absence of such a written request. This requirement therefore would not apply to paragraph 10b–10(b), which governs purchases and sales of securities in a money market fund, as defined in newly amended paragraph 10b–10(b)(1), a periodic plan, as defined in paragraph 10b–10(d)(5), and an investment company plan, as defined in paragraph 10b–10(d)(6). Paragraph (b) of Rule 10b–10 permits, upon written request of the customer, written statements containing the information specified in that paragraph to be sent not less frequently than quarterly, directly to the customer or some other person designated by the customer for distribution to the customer.

Because there are circumstances, not enumerated specifically in Rule 10b–10, that would make compliance with the rule unduly burdensome, paragraph 10b–10(f) authorizes the Commission to exempt broker-dealers from the rule's requirements with regard to specific transactions or specific classes of transactions for which the broker or dealer will provide alternative procedures to effect the purposes of Rule 10b–10. This authority has been delegated to the Division of Market Regulation. 17 CFR 200.30–3(a)(32).

[38] Securities Exchange Act Release No. 13508 (May 5, 1977), at n.24.

[39] The custodian must not hold itself out as a broker-dealer or an investment adviser. *But see* Investment Advisers Act Release No. 1406 (March 16, 1994), 59 FR 13464 (proposing a rule to require investment advisers to ensure that custodians of investment adviser client accounts provide the client or its designee with account statements not less than quarterly).

[40] Securities orders must be placed by the customer or the customer's investment adviser, not the custodian.

[41] *See* Proposing Release, *supra* note 10, at 59 FR 12772.

[42] *See, e.g.*, Shivangi v. Dean Witter Reynolds, Inc., 637 F. Supp. 1001 (S.D. Miss. 1986), *aff'd*, 825 F.2d 885 (5th Cir. 1987); Krome v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 637 F. Supp. 910, 915–16 (S.D.N.Y. 1986); and Ettinger v. Merrill Lynch, Pierce, Fenner & Smith, Fed. Sec. L. Rep. (CCH) ¶ 93,102 (E.D. Pa. 1986), *rev'd*, 835 F.2d 1031 (3d Cir. 1987).

[43] *See, e.g.*, Letters from Donald E. Walter, Compliance Director/Principal, Edward D. Jones & Co. (July 11, 1993); and Douglas L. Kelly, Director/Law & Compliance Division, A.G. Edwards & Sons, Inc. (June 13, 1994), to Jonathan G. Katz, Secretary, SEC.

[44] *See, e.g.*, Letters from A.B. Krongard, Chief Executive Officer, Alex. Brown & Sons, Incorporated (July 14, 1994); and Jeffrey Rubin, President, InterCapital Assets, Inc. (June 13, 1994), to Jonathan G. Katz, Secretary, SEC.

[45] Letter from Douglas L. Kelly, Director/Law & Compliance Division, A.G. Edwards & Sons, Inc., to Jonathan G. Katz, Secretary, SEC (June 13, 1994). This commenter also suggested that if a note were added to Rule 10b–10, a similar note also should precede Rule 15c2–13. At this time, the Commission is not adopting Rule 15c2–13.

[46] Letter from A.B. Krongard, Chief Executive Officer, Alex. Brown & Sons, Incorporated, to Jonathan G. Katz, Secretary, SEC (July 14, 1994).

[47] *See supra* note 42. One commenter argued that the preliminary note provides no useful guidance because the Commission has not articulated a set of guidelines concerning disclosure requirements in addition to those required in a prospectus and under the Exchange Act. *See* Letter from Sullivan & Cromwell, to Jonathan G. Katz, Secretary, SEC (July 15, 1994), at pp. 2–3.

The Commission does not intend to specify key disclosure items under the antifraud provisions of the federal securities laws. Each circumstance is different and determining the materiality of any particular item of disclosure depends on the facts and circumstances of each case.

[48] Of the 344 comment letters received, 313 addressed the mark-up disclosure proposals.

[49] *See, e.g.*, Letters from A.B. Krongard, Chief Executive Officer, Alex. Brown & Sons, Incorporated (July 14, 1994); James D. McKinney, Partner and Manager of Fixed Income Dept., William Blair & Company (July 13, 1994); Thomas W. Masterson, Chairman, Masterson Moreland Sauer Whisman, Inc. (July 13, 1994); G. Frederick Kasten, Jr., President and Chief Executive Officer, Robert W. Baird & Co., Incorporated (June 15, 1994); and Rauscher Pierce Refnes, Inc. (June 14, 1994), to Jonathan G. Katz, Secretary, SEC.

[50] To implement phase one, the MSRB, pursuant to Rule 19b–4 of the Exchange Act, has filed with the Commission a proposed rule change to amend Rule G–14 of the MSRB Rules, which, once

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requirements will be expanded in phase two to include institutional customer transactions. The third phase will expand the daily reporting requirements to include retail customer transactions, and phase four will advance reporting times closer in time to the transaction, such as by the end of day or within a specified time period following the trade. In the initial phases of the MSRB's proposal, information regarding the prices and volume of transactions in approximately 80 to 240 issues would be reported each day. As each phase is implemented, the MSRB will review closely this information and system operations, with a view toward reflecting a greater number of issues and transactions in the reports.

In addition to the proposal by the MSRB, the PSA has proposed two initiatives to convey municipal securities pricing information to retail investors. First, the PSA proposes to develop a generic scale and yield curve for AAA-insured revenue bonds. This information, which will be made available to daily newspapers, is intended to provide customers with grade information on the price and yield of a representative range of bonds. Second, the PSA proposes to establish a 900-number which investors could call to obtain price information regarding particular municipal securities.

Although the MSRB's initiative is in a developmental stage, the Commission believes it ultimately could provide the public with improved information about the price of municipal securities. If widely published, this information would allow investors to better assess the prices provided by their broker-dealers in a municipal securities trade. In light of these proposals, the Commission has decided to defer for a period of six months adoption of that part of Rule 15c2–13 requiring the disclosure of mark-ups for riskless principal transactions in municipal securities.

The Commission has deferred adoption of the riskless principal mark-up disclosure proposal in order to ascertain whether the proposed price information systems can provide more meaningful benefits to investors in the long-term and to assess the progress of the industry in developing the proposed systems. Price transparency, if fully developed, will provide better market information to investors on a timely basis (e.g., before the transaction). Potentially, price transparency also could provide investors the ability to determine the value of their municipal securities purchased in principal transactions. The proposed mark-up disclosure, on the other hand, would have provided cost information to investors only in riskless principal transactions and would not have applied to other principal transactions, the majority of transactions in the debt market. Price transparency, if fully developed, meets investors' need for information without focusing on only one portion of the market, which commenters argued could lead to a deleterious restructuring of the market, thus reducing market liquidity and narrowing the available choices of securities sold to customers.[51]

The Commission recognizes that these benefits depend on the sound design and successful implementation of transparency proposals. Their value to investors further depends on widespread availability of the information, and customer understanding of how it should be used. At the end of six months, the Commission will assess the need for further action based upon the prospects for the availability of meaningful pricing information to a broad range of investors about a full range of securities. If such information is not likely to be available, the Commission will explore alternatives to better provide information to fixed income investors. To this end, the Commission similarly is deferring the proposed amendment to Rule 10b–10 requiring mark-up disclosure for other debt securities. While the Commission believes it is appropriate to address transparency in municipal securities initially because of the presence of a large proportion of individual investors in that market, during the deferral, the Commission expects the industry to address the extent to which customer price information can be increased in debt markets other than the municipal securities market. The Commission recognizes that the government, corporate, and mortgage securities markets have different levels of price information publicly available. For example, GovPx, a joint venture of primary dealers and interdealer brokers formed in 1990, provides to investors real-time quotations, trade prices, and volume information for U.S. Treasury and other government securities via a worldwide network of 12,000 terminals. In addition, the National Association of Securities Dealers, Inc. ("NASD") developed the Fixed Income Pricing System ("FIPS"), which collects, processes, and disseminates real-time firm quotations for 30 to 50 of the most liquid, high yield bonds traded in the over-the-counter market.[52] The Commission expects the industry to review the availability of information to investors in each of these markets and consider methods of increasing transparency as an alternative to riskless principal disclosure in these markets.

Even though the Commission is deferring the adoption of riskless principal mark-up disclosure, the Commission continues to believe that, absent transparency in the debt markets, the disclosure of the dealer's cost along with the mark-up would be of use to customers in assessing the value of their debt securities. In the absence of progress on transparency, the Commission will revisit its riskless principal proposal. The Commission also may consider whether to require the disclosure of all mark-ups in principal transactions based on the underlying inventory costs,[53] or the prevailing market price[54] or to mandate alternative price transparency systems.

The Commission strongly believes that real progress is needed in a timely fashion to achieve the goal of better customer information for market prices in the debt market. Achievement of this goal will add strength to and confidence in the debt markets, to the benefit of both broker-dealers and investors.

C. Disclosure of Unrated Securities

The Commission also published for comment a requirement to disclose, if applicable, that certain debt securities have not been rated by an NRSRO.[55] The proposal excluded government securities defined under Section 3(a)(42)(A) and (B) of the Exchange Act,[56] but

approved, will require the reporting of interdealer municipal securities transactions to a designee (e.g., the National Securities Clearing Corporation) for compilation in a daily report and for use by regulators.

[51] *See, e.g.*, Letters from Philip T. Colton, Maun & Simon (June 14, 1994); Lawrence T. Lewis, III, Managing Director, Clark Melvin Securities Corporation (June 8, 1994); and Adam Crews, President/Chief Executive Officer, Crews & Associates, Inc. (June 1, 1994), to Jonathan G. Katz, Secretary, SEC.

[52] *See* Securities Exchange Act Release No. 32019 (March 19, 1993), 58 FR 16428 for a discussion of the order approval allowing the NASD to implement FIPS.

[53] To comply with this disclosure, broker-dealers would have to assign a value to a security bought into inventory on either a last in, first out or first in, first out accounting basis.

[54] *See* 17 CFR 240.15g–4 and Securities Exchange Act Release No. 30608 (April 13, 1992), 57 FR 19022 for a discussion of compensation disclosure requirements for transactions in penny stocks.

[55] *See* Proposing Release, *supra* note 10, at 59 FR 12770.

[56] Securities exempt from the proposed rating disclosure would include (1) securities that are direct obligations of the U.S., or in which the U.S. has guaranteed the principal or interest; or (2) securities which are issued or guaranteed by corporations in which the U.S. has a direct or indirect interest and which the Secretary of

requested specific comment on whether other securities should be excluded from this disclosure.[57] In addition, specific comment was requested whether the MSRB should implement the disclosure requirement with respect to municipal securities, rather than the Commission.[58]

Of the 43 commenters that addressed this disclosure proposal, 24 supported the proposal.[59] Some commenters believed that the disclosure requirement did not go far enough and indicated that specific ratings also should be disclosed on the confirmation.[60] In particular, commenters believed that the confirmation should bear all ratings of securities, particularly those rated below investment grade.[61]

Ten commenters opposed the disclosure requirement on the grounds that requiring this disclosure may be unhelpful to investors. They argued that such disclosure may cause investors to believe that unrated securities are inferior to rated securities, when the unrated security may pose less risk than a rated security, particularly a security rated below investment grade.[62] They noted that such disclosure does not explain the reasons why a security may not have a credit rating—notably that smaller, but no less sound, issuers may not wish to bear the expense of obtaining a credit rating.[63] Commenters also questioned why the Commission excluded from the disclosure requirement only government securities defined under Section 3(a)(42)(A) and (B) of the Exchange Act.[64] In particular, Freddie Mac argued that securities issued by government sponsored enterprises ("GSEs"), including those issued by Freddie Mac, also should be excluded from the disclosure requirement. Freddie Mac argued that, because of the market's assessment of the creditworthiness of GSEs, it makes little economic sense for a GSE to bolster its creditworthiness with an independent rating.[65] Finally, some commenters believed that the MSRB should adopt any rule affecting the municipal securities market; other commenters were neutral whether the Commission or the MSRB implemented rulemaking.

After considering the comments, the Commission is adopting the proposed amendments to Rule 10b-10 requiring disclosure if a debt security, other than a government security, has not been rated by an NRSRO. Such disclosure would be more meaningful to the investor if it is made together with the description of the security. As noted in the Proposing Release, this disclosure is intended to alert customers that they may wish to obtain further information or clarification from their broker-dealers. In most cases, this disclosure should verify information that was disclosed to the investor prior to the transaction. If a customer was not previously informed of the security's unrated status, then confirmation disclosure may prompt a dialogue between the customer and broker-dealer.

The Commission agrees with commenters that all "government securities" should be excluded from the unrated debt disclosure requirement, not just those defined under Section 3(a)(42)(A) and (B) of the Exchange Act.[67] Therefore, government securities meeting the definition under sub-paragraphs (C) and (D) of Section 3(a)(42), which includes securities issued by GSEs, will be exempt from the disclosure requirement. The Commission, however, does not intend to expand the class of securities subject to the exclusion beyond those defined as government securities in Section 3(a)(42).

The non-rated debt proposal for municipal securities was contained in proposed Rule 15c2–13. In its comment letter, the MSRB stated that, "[t]he Board agrees with the Commission that, while the fact that a bond is unrated is not necessarily indicative of problems, disclosure of the fact would be helpful to investors."[68] The MSRB also noted that, if the Commission determined that such information was needed by investors in debt securities, it would amend its confirmation rule, Rule G–15, and require disclosure if a municipal security has not been rated by an NRSRO.[69] Inasmuch as other confirmation requirements for municipal securities are currently set forth in Rule G–15 of the MSRB, the Commission is willing to defer this portion of the proposal to allow the MSRB to adopt the requirement as part of its rules, and will withdraw it after the MSRB has taken action.

D. Disclosure of Mark-Ups and Mark-Downs in Certain NASDAQ and Exchange-Listed Securities

As part of the amendments to Rule 10b-10, the Commission proposed requiring the disclosure of mark-up information for principal transactions in

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Treasury has designated for exemption. 15 U.S.C. 78c(a)(42)(A) and (B).

[57] Proposing Release, *supra* note 10, at 59 FR 12770.

[58] *Id.*

[59] *See, e.g.*, Letters from A.B. Krongard, Chief Executive Officer, Alex. Brown & Sons, Incorporated (July 14, 1994); David C. Clapp, Chairman, MSRB (June 15, 1994); and Douglas L. Kelly, Director, Law and Compliance, A.G. Edwards & Sons, Inc. (June 13, 1994), to Jonathan G. Katz, Secretary, SEC.

Alex. Brown & Sons, Incorporated sought clarification that a bond rated by a single NRSRO, but not necessarily other NRSROs, nonetheless would be excluded from the disclosure requirement. (Letter from A.B. Krongard, Chief Executive Officer, Alex. Brown, to Jonathan G. Katz, Secretary, SEC (July 14, 1994), at p.6). The rule language states that a broker-dealer would be required to disclose when a security was not rated by an NRSRO. Accordingly, if a single NRSRO has rated a security, then it follows that no disclosure would be required.

[60] *See, e.g.*, Letters from Grant T. Callery, Vice President/General Counsel, NASD (July 26, 1994); and Robert Reeves, Sr. Vice President, Ferris Baker Watts, Incorporated (June 14, 1994), to Jonathan G. Katz, Secretary, SEC.

[61] One commenter argued that disclosure of ratings, and in particular ratings below investment grade, would better assist investors in comparing an unrated security that may be of a high credit quality with one that, while rated, may be of lesser credit quality. *See* Letter from James H. Morgan, President/Chief Operating Officer, Interstate/Johnson Lane, to Jonathan G. Katz, Secretary, SEC (June 14, 1994). The Commission will revisit the issue of whether Rule 10b-10 should require the disclosure of ratings for corporate debt securities once commenters have responded to a recent Commission proposal addressing the feasibility of disclosing ratings in a prospectus. See Securities Act Release No. 7086, (Aug. 31, 1994), 59 FR 46304.

[62] *See, e.g.*, Letters from Sullivan & Cromwell (July 15, 1994); R. Fenn Putman, Chairman, PSA (June 20, 1994); and Jon S. Corzine, Goldman, Sachs & Co. (June 15, 1994), to Jonathan G. Katz, Secretary, SEC.

[63] One commenter noted that rural issuers would be harmed by the disclosure requirement because the size of a rural issue makes bearing the expense of obtaining a rating economically impractical. See Letter from Ian B. Davidson, Chairman, and Kreg A. Jones, Chief Operating Officer, D.A. Davidson & Co., to Jonathan G. Katz, Secretary, SEC (June 14, 1994).

[64] *See, e.g.*, Letter from Mitchell Delk, Vice President/Government and Industry Relations, Freddie Mac, to Jonathan G. Katz, Secretary, SEC (June 15, 1994).

[65] Freddie Mac also described the anomalous situation in which, on the one hand, GSE securities would be subject to the disclosure requirement, but on the other hand, rated private label asset-backed securities would not, even though the underlying securities were GSE securities and primarily responsible for the rating. See Letter from Mitchell Delk, Vice President/Government and Industry Relations, Freddie Mac, to Jonathan G. Katz, Secretary, SEC (June 15, 1994), at pp. 2–3.

[66] Nevertheless unrated municipal bonds, which make up approximately 33% of the market, in the aggregate have a higher default rate than do rated bonds. *See Municipal Bond Defaults—The 1980's Decade in Review* 1–2, at 1, J.J. Kenny Co., Inc. (1993). According to this study on default rates between January 1, 1980 to December 31, 1991, 628 unrated issues defaulted compared with 98 rated issues. According to data provided by the Securities Data Company, unrated debt defaults make up approximately 75% of all defaults. *See also* Public Securities Association, *An Examination of Non-Rated Municipal Defaults 1986–1991* 4 (Jan. 8, 1993).

[67] 15 U.S.C. 78c(a)(42).

[68] Letter from David C. Clapp, Chairman, MSRB, to Jonathan G. Katz, Secretary, SEC (June 15, 1994).

[69] *Id.*

certain securities quoted on NASDAQ or listed on regional exchanges.[70] This proposal covered securities that are subject to last sale reporting, but are not technically "reported securities" under Rule 11Aa3–1 of the Exchange Act.[71] As noted in the Proposing Release, the NASD adopted amendments to its confirmation rule requiring the disclosure of mark-up information in principal transactions in securities that are not NASDAQ/NMS securities—*i.e.*, NASDAQ Small Cap Securities.[72] The purpose of the proposed amendment is to consolidate disclosures already required under NASD rules. Because last sale information is available for regional exchange-listed securities, the Commission proposed to extend the disclosure requirements to those securities, in addition to Small Cap Securities. By adopting this proposal, the confirmation rule will treat all equity securities subject to last sale reporting similarly, irrespective of their trading markets.

The two comments that addressed this requirement supported the proposal.[73] Accordingly, under Rule 10b-10, broker-dealers effecting principal transactions in Small-Cap NASDAQ and regional exchange-listed securities that are subject to last-sale reporting will be required to disclose on the confirmation the reported trade price, price to the customer, and the difference, if any, between the two prices.

[70] *See* Proposing Release, supra note 10, 59 FR 12770.

[71] 17 CFR 240.11Aa3–1(a)(4). This provision defines "reported security" as any exchange-listed equity security or NASDAQ security for which transaction reports are made available on a real-time basis pursuant to an effective transaction reporting plan. An "effective transaction reporting plan" refers to a transaction reporting plan that the Commission has approved pursuant to Rule 11Aa3–1. 17 CFR 240.11Aa3–1(a)(3).

Reported securities currently include:

1. NASDAQ securities that meet standards set forth in the National Market System Securities Designation Plan ("NASDAQ/NMS securities).

2. Certain securities listed on a national securities exchange that meet standards of the transaction reporting plan known as the Restated Consolidated Tape Association Plan. This would include securities that are registered or admitted to unlisted trading privileges on a national securities exchange, including securities listed on various regional exchanges, and that substantially meet NYSE or American Stock Exchange, Inc. original listing criteria.

[72] NASD Schedule to By-Laws, Schedule D, pt. XI, Section 3, NASD Manual (CCH) ¶ 1867D.

[73] *See* Letters from Robert F. Price, Chairman/Federal Regulation Committee, SIA (July 15, 1994); and Kurt D. Halvorson, Vice President/Controller, AmeriTrade (May 27, 1994), to Jonathan G. Katz, Secretary, SEC.

E. Disclosure of Coverage by the Securities Investor Protection Corporation

In order to reduce investor confusion concerning a firm's SIPC coverage,[74] the Commission proposed to amend Rule 10b–10 to require affirmative disclosure, if applicable, when a broker-dealer is not a member of SIPC and when an account is carried by a non-SIPC-member broker or dealer. Generally, the Securities Investor Protection Act of 1970 requires broker-dealers registered with the Commission under Section 15(b) of the Exchange Act to be members of SIPC. Certain types of broker-dealers registered under Section 15(b), as well as all broker-dealers registered as government securities brokers and dealers under Section 15C of the Exchange Act, are excluded from SIPC membership.[75]

Many commenters addressing this issue supported the Commission's proposal to inform customers when their broker-dealers are not SIPC members.[76] Other commenters generally agreed with requiring the disclosure, but disagreed that the confirmation was the appropriate disclosure medium and suggested that non-membership status in SIPC be disclosed in a periodic account statement or opening account document.[77] Commenters opposing the disclosure initiative argued that the disclosure would be misleading to investors in that they would believe that they are at greater risk when dealing with a non-SIPC firm.[78] The Investment Company Institute ("ICI") argued that requiring "negative disclosure" concerning the lack of SIPC coverage is contrary to the reasons certain persons are exempted from the membership requirement in the first instance—namely, excluded broker-dealers present limited risks to investors because they do not hold customer funds.[79]

The Commission, consistent with its authority under the Government Securities Act Amendments of 1993,[80] is adopting the proposed amendment to ensure that customers are not led to believe that their accounts are subject to protection beyond what actually is the case.[81] This disclosure is relevant and meaningful to investors. Further, the confirmation is the best vehicle to convey this information to customers on a transaction-specific basis, particularly in situations where a customer is dealing with affiliated broker-dealers and one or more of the affiliates is not a SIPC member.

The Commission agrees, however, that certain instances exist where this disclosure should not apply.[82] For instance, the ICI stated that in some cases when a broker-dealer contracts with an investment company for the distribution of fund shares, customers purchasing such shares will send their purchase money directly to the fund's

[74] SIPC, a non-profit, membership corporation, was established under the Securities Investor Protection Act of 1970. SIPC is funded by assessments on its members and interest earned on fund assets. The fund is used to protect securities customers of SIPC-member broker-dealers that fail financially. 15 U.S.C. 78aaa *et seq.* For example, in the event of the failure of a SIPC member firm, SIPC provides protection up to $500,000 for claims for cash and securities (although claims solely for cash are limited to $100,000) of each customer. 15 U.S.C. 78fff–3(a)(1).

[75] In addition to government securities brokers and dealers, the following broker-dealers are not required to be members of SIPC: (1) Persons whose principal business in the determination of SIPC (and with Commission approval) is conducted outside the U.S.; and (2) persons whose business consists exclusively of (a) the distribution of shares of registered open-end investment companies or unit investment trusts, (b) the sale of variable annuities, (c) the business of insurance, or (d) the business of rendering investment advisory services to registered investment companies or insurance company separate accounts. 15 U.S.C. 78ccc(a)(2)(A) and 78lll(12).

[76] *See, e.g.*, Letters from Ronald S. Plaine, President, Comerica Securities (undated); David M. Beckius, Vice President/Sr. Attorney, Dean Witter Reynolds, Inc. (July 14, 1994); and William E. Kramer, Assistant Vice President, Nomura Securities International, Inc. (July 15, 1994), to Jonathan G. Katz, Secretary, SEC.

[77] *See, e.g.*, Letters from William E. Kramer, Assistant Vice President, Nomura Securities International, Inc. (July 15, 1994); A.B. Krongard, Chief Executive Officer, Alex. Brown & Sons, Incorporated (July 14, 1994); and R. Fenn Putman, Chairman, PSA (June 21, 1994), to Jonathan G. Katz, Secretary, SEC.

[78] *See, e.g.*, Letters from Lawrence J. Latto, Shea & Gardner (June 17, 1994); and Peter C. Clapman, Sr. Vice President/Chief Counsel, College Retirement Equities Fund (June 15, 1994); to Jonathan G. Katz, Secretary, SEC.

[79] *See* Letter from Paul Schott Stevens, General Counsel, ICI, to Jonathan G. Katz, Secretary, SEC (June 15, 1994). *See also* Letter from Fred J. Franklin, Vice President/Chief Compliance Officer, Aetna Life Insurance and Annuity Co., to Jonathan G. Katz, Secretary, SEC (June 14, 1994).

[80] 15 U.S.C. 78O–5(a)(4).

[81] The legislative history of the Government Securities Act Amendments of 1993 discussed SIPC coverage and the exemption from SIPC coverage afforded to government securities brokers and dealers. The Government Accounting Office noted that the gap in SIPC coverage could be confusing to investors and recommended, among other things, that the lack of SIPC coverage be disclosed. The amendments ultimately took a disclosure approach and authorized the Commission to require disclosure of non-SIPC status of government securities brokers and dealers. S. Rep. No. 422, 103rd Cong., 1st Sess. 16 (1993). The same reasons to require this disclosure of government securities brokers and dealers applies to other broker-dealers that are exempt from SIPC coverage.

[82] Some commenters believed that the proposed disclosure was inconsistent with a letter, *Letter regarding Benjamin M. Vandegrift* (Dec. 21, 1993), issued by the Division of Investment Management. The disclosure requirement adopted today recognizes the position taken in the letter, reserving the right to revisit SIPC-related disclosure issues.

transfer agent.[83] The transfer agent then will issue shares to the customer against receipt of the purchase money and send the money to the fund's custodian bank. In this situation, customer funds are not handled by the broker-dealer. In addition, the ICI argued that the transfer agent or fund underwriter, when sending the confirmation on behalf of the broker-dealer, may not know the SIPC status of a particular broker-dealer. Accordingly, the disclosure provision contains an exclusion that is intended to apply only in cases where the non-SIPC broker-dealer does not receive or handle in any form customer funds or securities in connection with a purchase or redemption of registered open-end investment company or unit investment trust shares and the customer sends its purchase money or securities to the fund, its transfer agent, its custodian, or its designated agent, none of whom are associated persons of the broker-dealer. Furthermore, checks may not be made payable to the broker-dealer, and the broker-dealer may not handle any customer checks in connection with the transaction. Otherwise, the broker-dealer would be required to disclose its non-SIPC status. Therefore, if a broker-dealer, including a fund underwriter, receives customer funds or securities and promptly forwards funds or securities to the investment company, transfer agent, custodian, or other designated agent, the confirmation would have to disclose the non-SIPC status of the broker-dealer.

F. Disclosures Relating to Asset-Backed Securities

In 1983, the Commission adopted amendments to Rule 10b–10 to require disclosure of yield information on a customer confirmation, recognizing that such information is important to investors when evaluating the merits of investing in various debt securities.[84] Currently, Rule 10b–10 requires the disclosure of (1) the yield to maturity, if the transaction is effected on the basis of dollar price;[85] (2) the dollar price calculated from yield, if the transaction is effected on a yield basis;[86] and (3) if effected on a basis other than dollar price or yield to maturity, and the yield to maturity will be less than the represented yield, then both the yield to maturity and the represented yield.[87]

Rule 10b–10 exempts from the yield disclosure requirements any instrument that is a "participation interest in notes secured by liens upon real estate continuously subject to prepayment."[88] Since the adoption of the yield disclosure requirements, structured financings have expanded to include securities backed by mortgage notes, automobile loans, computer leases, consumer debt, and other receivables. These asset-backed securities raised similar problems of variable yield. Accordingly, the Commission proposed to expand the range of securities subject to the exemptions from yield disclosure to include asset-backed securities that are not insulated from prepayment risk or susceptible to an accurate forecast of yield.[89]

In addition, the Commission proposed to require particularized disclosures in connection with transactions in collateralized mortgage obligations ("CMOs").[90] Specifically, the Commission proposed amendments that would require broker-dealers to disclose on the confirmation the particular CMO's (1) estimated yield; (2) weighted average life; and (3) prepayment assumptions underlying the yield.[91]

Some commenters supported the Commission's proposal to require disclosure of CMO information and noted that such disclosures were provided to investors as a matter of course, either in a confirmation or other disclosure statements.[92] Other commenters opposed confirmation disclosure of the estimated yield, weighted average life, and prepayment assumptions on the grounds that the confirmation is not an appropriate disclosure vehicle to convey the information.[93] In addition, commenters opposed disclosing such complex information in a confirmation because it could not be accomplished in a meaningful way due to the document's limited size and space.[94] Many commenters noted that detailed discussions concerning particular aspects of CMOs are contained in the prospectus or other offering documents that are sent to investors prior to the time in which they make their investment decisions.[95]

No comments were received regarding the proposal to expand the range of instruments that would be exempted from the yield disclosure requirements. Because some instruments are not subject to predictable forecasts of the yield, the Commission is adopting amendments exempting asset-backed instruments that are continuously subject to prepayment. The exemption would apply only to those instruments that are not insulated from prepayment risk or otherwise susceptible to an accurate forecast of yield.[96]

In addition, in light of the comments concerning the proposed CMO disclosure, the Commission is modifying the amendment requiring the disclosure of prepayment assumptions, weighted average life, and estimated yield of a CMO. The Commission recognizes that broker-dealers intend confirmations to be brief, and thus size limitations may affect the detail of disclosure that may be practically and meaningfully conveyed to the customer.

[83] *See* Letter from Paul Schott Stevens, General Counsel, ICI, to Jonathan G. Katz, Secretary, SEC (June 15, 1994), at 2, n.5.

[84] *See* Securities Exchange Act Release No. 19687 (Apr. 18, 1983), 48 FR 17583.

[85] 17 CFR 240.10b–10(a)(4)(ii) and (5)(i).

[86] 17 CFR 240.10b–10(a)(5)(ii).

[87] 17 CFR 240.10b–10(a)(5)(iii).

[88] 17 CFR 240.10b–10(a)(4)(ii) and (5)(iii). Essentially, this exemption was aimed at mortgage pass-through notes that were issued or guaranteed by the Government National Mortgage Association, Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

[89] *See* Proposing Release, *supra* note ———, at 59 FR 12771.

[90] CMOs are collateralized pools of residential mortgage loans that are divided into multiple tranches (sometimes as many as 15 to 20) which can be tailored to a broad spectrum of investors or particularized to the cash flow needs of a single or discrete group of investors. Like other asset-backed securities, the rate of prepayment on the underlying collateral of CMOs is influenced by changes in interest rates and shifts in the general economy, which in turn may affect the actual maturities of CMOs as prepayment speeds accelerate or decrease. CMOs are priced on the basis of the estimated weighted average life of individual CMO tranches. As interest rates decline, prepayments increase, with a corresponding shortening of weighted average life. Conversely, an increase in interest rates results in a lengthening of maturity.

[91] Proposing Release, *supra* note ———, at 59 FR 12771.

[92] *See, e.g.*, Letters from David M. Beckius, Vice President/Sr. Attorney, Dean Witter Reynolds, Inc. (July 14, 1994); Silas L. Matthies, Sr. Vice President, Norwest Securities, Inc. (June 14, 1994); Rauscher Pierce Refsnes, Inc. (June 14, 1994); and Bill Duepree, Jr., President, Morgan Keegan & Co., Inc. (June 1, 1994), to Jonathan G. Katz, Secretary, SEC.

[93] Commenters noted that investors receive disclosure documents containing numerous models depicting different prepayment assumptions. These commenters questioned which of the multiple assumptions would be disclosed in the confirmation. *See, e.g.*, Letters from Robert F. Price, Chairman/Federal Regulation Committee, SIA (July 15, 1994); and R. Fenn Putman, Chairman, PSA (June 21, 1994), to Jonathan G. Katz, Secretary, SEC.

[94] *See, e.g.*, Letters from Robert F. Price, Chairman, Federal Regulation Committee, SIA (July 15, 1994); R. Fenn Putman, Chairman, PSA (June 21, 1994); and Mitchell Delk, Vice President Government and Industry Relations, Freddie Mac, (June 15, 1994), to Jonathan G. Katz, Secretary, SEC.

[95] *See, e.g.*, Letters from Kathryn S. Reimann, Sr. Vice President, Lehman Brothers, Inc. (July 14, 1994); R. Fenn Putman, Chairman, PSA (June 21, 1994); and Mitchell Delk, Vice President/ Government and Industry Relations, Freddie Mac (June 15, 1994), to Jonathan G. Katz, Secretary, SEC.

[96] This position codifies a no-action position in *Letter regarding Merrill Lynch, Pierce, Fenner & Smith* (Oct. 19, 1988), granting no-action with respect to the yield disclosure requirements for those mortgage and asset-backed securities that are not subject to an accurate forecast of yield. The staff noted that if an accurate forecast of yield could be made, then the yield should be disclosed in the confirmation.

Thus, while yield information is important to investors of CMOs, as well as all mortgage and asset-backed securities, the Commission agrees that these securities contain complexities that are difficult to explain using single figures in a confirmation. Accordingly, rather than require the disclosure in the confirmation of specific numbers identifying the estimated yield, weighted average life, and prepayment assumptions underlying the yield, the Commission is adopting a requirement that broker-dealers include on the confirmation a statement alerting investors that their yields are subject to fluctuation depending on the speed in which the underlying note or receivable prepays and that specific information is available upon written request of the customer.[97]

While information concerning prepayment assumptions and pricing of CMOs and other asset-backed securities may be contained in disclosure documents at the offering stage, this type of detailed information has not been as readily available in the secondary market for some asset-backed securities and to some investors.[98] Under the Rule, as adopted, such information would be required to be sent to customers upon written request. In addition, if in fact a CMO or other asset-back security is sold solely on the basis of one yield amount, the yield and underlying assumptions should be disclosed on the confirmation, as well as the legend stating that these items may vary.[99] This is consistent with those commenters that noted that they disclose yield information in CMO transactions as a matter of course.[100] The antifraud provisions of the federal securities laws would require that any information provided upon request reflect changes or developments in the characteristics of the asset-backed security.

III. Effects on Competition and Regulatory Flexibility Act Considerations

Section 23(a)(2) of the Exchange Act[101] requires that the Commission, when adopting rules under the Exchange Act, consider the anticompetitive effects of those rules, if any, and balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission believes that adoption of the amendments to Rule 10b–10 will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The Commission has prepared a Final Regulatory Flexibility Analysis ("FRFA") regarding the amendments to Rule 10b–10, in accordance with 5 U.S.C. 604. The FRFA notes the potential initial costs of operational and procedural changes that may be necessary to comply with the amendments. In addition, the FRFA notes the benefits to investors of increased disclosure that will result from these amendments. The Commission believes that the benefits of added disclosure outweigh the costs that will be incurred by industry participants in complying with these amendments.

A copy of the FRFA will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Statutory Basis and Text of Amendments

For the reasons set forth in the preamble, the Commission hereby amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78i, 78j, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.10b–10 is amended by adding a preliminary note prior to paragraph (a), revising paragraphs (a) and (b), removing paragraph (c), redesignating paragraphs (d) through (f) as paragraphs (c) through (e), adding a heading to newly designated paragraph (d), revising the introductory text of paragraph (d) and the introductory text of paragraph (d)(6), and adding paragraph (d)(10) to read as follows:

§ 240.10b–10 Confirmation of transactions.

Preliminary Note. This section requires broker-dealers to disclose specified information in writing to customers at or before completion of a transaction. The requirements under this section that particular information be disclosed is not determinative of a broker-dealer's obligation under the general antifraud provisions of the federal securities laws to disclose additional information to a customer at the time of the customer's investment decision.

(a) *Disclosure Requirement.* It shall be unlawful for any broker or dealer to effect for or with an account of a customer any transaction in, or to induce the purchase or sale by such customer of, any security (other than U.S. Savings Bonds or municipal securities) unless such broker or dealer, at or before completion of such transaction, gives or sends to such customer written notification disclosing:

(1) The date and time of the transaction (or the fact that the time of the transaction will be furnished upon written request to such customer) and the identity, price, and number of shares or units (or principal amount) of such security purchased or sold by such customer; and

(2) Whether the broker or dealer is acting as agent for such customer, as agent for some other person, as agent for both such customer and some other person, or as principal for its own account; and if the broker or dealer is acting as principal, whether it is a market maker in the security (other than by reason of acting as a block positioner); and

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[97] This approach builds upon an alternative suggested by one commenter that rather than the proposed disclosure, the Commission impose a requirement that a broker-dealer print a legend on the confirmation. *See* Letter from Mitchell Delk, Vice President/Government and Industry Relations, Freddie Mac, to Jonathan G. Katz, Secretary, SEC (June 15, 1994).

[98] The Commission recognizes the positive efforts made to educate and provide information to investors in the CMO market. For example, the PSA developed a brochure entitled, "Investors Guide to Real Estate Mortgage Investment Conduits (REMICs)," which is approved by the NASD as an investor education tool. In addition, one commenter stated that prepayment information and interest rate information are available to dealers and investors in the secondary market through various vendors and proprietary services. This commenter also indicated that for those market participants that do not have access to this information, they should be able to obtain it from the selling broker-dealer. *See* Letter from Mitchell Delk, Vice President/Government and Industry Relations, Freddie Mac, to Jonathan G. Katz, Secretary, SEC (June 15, 1994).

[99] 17 CFR 240.10b–10(a)(5)(i). *See also* Securities Exchange Act Release No. 19687 (Apr. 18, 1983), 48 FR 17583. The Commission is concerned that in some cases asset-backed securities may be sold to retail investors on the basis of a single yield figure, without adequate disclosure that this yield can vary based upon prepayment speeds. This inadequate disclosure would potentially violate self-regulatory organization and Commission antifraud rules. In addition, to make this disclosure complete, a broker-dealer would need to disclose that the single yield may vary.

[100] *See supra* note 92.

[101] 15 U.S.C. 78w(a)(2).

(i) If the broker or dealer is acting as agent for such customer, for some other person, or for both such customer and some other person:

(A) The name of the person from whom the security was purchased, or to whom it was sold, for such customer or the fact that the information will be furnished upon written request of such customer; and

(B) The amount of any remuneration received or to be received by the broker from such customer in connection with the transaction unless remuneration paid by such customer is determined pursuant to written agreement with such customer, otherwise than on a transaction basis; and

(C) For a transaction in any subject security as defined in § 240.11Ac1–2 or a security authorized for quotation on an automated interdealer quotation system that has the characteristics set forth in Section 17B of this Act (15 U.S.C. 78q-2), a statement whether payment for order flow is received by the broker or dealer for transactions in such securities and the fact that the source and nature of the compensation received in connection with the particular transaction will be furnished upon written request of the customer; and

(D) The source and amount of any other remuneration received or to be received by the broker in connection with the transaction: *Provided, however,* that if, in the case of a purchase, the broker was not participating in a distribution, or in the case of a sale, was not participating in a tender offer, the written notification may state whether any other remuneration has been or will be received and the fact that the source and amount of such other remuneration will be furnished upon written request of such customer; or

(ii) If the broker or dealer is acting as principal for its own account:

(A) In the case where such broker or dealer is not a market maker in that security and, if, after having received an order to buy from a customer, the broker or dealer purchased the security from another person to offset a contemporaneous sale to such customer or, after having received an order to sell from a customer, the broker or dealer sold the security to another person to offset a contemporaneous purchase from such customer, the difference between the price to the customer and the dealer's contemporaneous purchase (for customer purchases) or sale price (for customer sales); or

(B) In the case of any other transaction in a reported security, or an equity security that is quoted on NASDAQ or traded on a national securities exchange and that is subject to last sale reporting, the reported trade price, the price to the customer in the transaction, and the difference, if any, between the reported trade price and the price to the customer.

(3) Whether any odd-lot differential or equivalent fee has been paid by such customer in connection with the execution of an order for an odd-lot number of shares or units (or principal amount) of a security and the fact that the amount of any such differential or fee will be furnished upon oral or written request: *Provided, however,* that such disclosure need not be made if the differential or fee is included in the remuneration disclosure, or exempted from disclosure, pursuant to paragraph (a)(2)(i)(B) of this section; and

(4) In the case of any transaction in a debt security subject to redemption before maturity, a statement to the effect that such debt security may be redeemed in whole or in part before maturity, that such a redemption could affect the yield represented and the fact that additional information is available upon request; and

(5) In the case of a transaction in a debt security effected exclusively on the basis of a dollar price:

(i) The dollar price at which the transaction was effected, and

(ii) The yield to maturity calculated from the dollar price: *Provided, however,* that this paragraph (a)(5)(ii) shall not apply to a transaction in a debt security that either: (A) Has a maturity date that may be extended by the issuer thereof, with a variable interest payable thereon; or

(B) Is an asset-backed security, that represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment; and

(6) In the case of a transaction in a debt security effected on the basis of yield:

(i) The yield at which the transaction was effected, including the percentage amount and its characterization (*e.g.*, current yield, yield to maturity, or yield to call) and if effected at yield to call, the type of call, the call date and call price; and

(ii) The dollar price calculated from the yield at which the transaction was effected; and

(iii) If effected on a basis other than yield to maturity and the yield to maturity is lower than the represented yield, the yield to maturity as well as the represented yield; *Provided, however,* that this paragraph (a)(6)(iii) shall not apply to a transaction in a debt security that either:

(A) Has a maturity date that may be extended by the issuer thereof, with a variable interest rate payable thereon; or

(B) Is an asset-backed security, that represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment; and

(7) In the case of a transaction in a debt security that is an asset-backed security, which represents an interest in or is secured by a pool of receivables or other financial assets that are subject continuously to prepayment, a statement indicating that the actual yield of such asset-backed security may vary according to the rate at which the underlying receivables or other financial assets are prepaid and a statement of the fact that information concerning the factors that affect yield (including at a minimum estimated yield, weighted average life, and the prepayment assumptions underlying yield) will be furnished upon written request of such customer; and

(8) In the case of a transaction in a debt security, other than a government security, that the security is unrated by a nationally recognized statistical rating organization, if such is the case; and

(9) That the broker or dealer is not a member of the Securities Investor Protection Corporation (SIPC), or that the broker or dealer clearing or carrying the customer account is not a member of SIPC, if such is the case: *Provided, however,* that this paragraph (a)(9) shall not apply in the case of a transaction in shares of a registered open-end investment company or unit investment trust if:

(i) The customer sends funds or securities directly to, or receives funds or securities directly from, the registered open-end investment company or unit investment trust, its transfer agent, its custodian, or other designated agent, and such person is not an associated person of the broker or dealer required by paragraph (a) of this section to send written notification to the customer; and

(ii) The written notification required by paragraph (a) of this section is sent on behalf of the broker or dealer to the customer by a person described in paragraph (a)(9)(i) of this section.

(b) *Alternative Periodic Reporting.* A broker or dealer may effect transactions for or with the account of a customer without giving or sending to such customer the written notification described in paragraph (a) of this section if:

(1) Such transactions are effected pursuant to a periodic plan or an investment company plan, or effected in shares of any open-end management investment company registered under

the Investment Company Act of 1940 that holds itself out as a money market fund and attempts to maintain a stable net asset value per share: *Provided, however,* that no sales load is deducted upon the purchase or redemption of shares in the money market fund; and

(2) Such broker or dealer gives or sends to such customer within five business days after the end of each *quarterly* period, for transactions involving investment company and periodic plans, and after the end of each *monthly* period, for other transactions described in paragraph (c)(1) of this section, a written statement disclosing each purchase or redemption, effected for or with, and each dividend or distribution credited to or reinvested for, the account of such customer during the month; the date of such transaction; the identity, number, and price of any securities purchased or redeemed by such customer in each such transaction; the total number of shares of such securities in such customer's account; any remuneration received or to be received by the broker or dealer in connection therewith; and that any other information required by paragraph (a) of this section will be furnished upon written request: *Provided, however,* that the written statement may be delivered to some other person designated by the customer for distribution to the customer; and

(3) Such customer is provided with prior notification in writing disclosing the intention to send the written information referred to in paragraph (c)(1) of this section in lieu of an immediate confirmation.

* * * * *

(d) *Definitions.* For the purposes of this section:

* * * * *

(6) *Investment company plan* means any plan under which securities issued by an open-end investment company or unit investment trust registered under the Investment Company Act of 1940 are purchased by a customer (the payments being made directly to, or made payable to, the registered investment company, or the principal underwriter, custodian, trustee, or other designated agent of the registered investment company), or sold by a customer pursuant to:

* * * * *

(10) *Asset-backed security* means a security that is primarily serviced by the cashflows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time period plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to the security holders.

* * * * *

By the Commission.

Dated: November 10, 1994.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 94–28450 Filed 11–16–94; 8:45 am]

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Part VII

Department of Health and Human Services

Health Care Financing Administration

42 CFR Part 440, et al.
Medicaid Program; Inpatient Psychiatric Services for Individuals Under Age 21; Proposed Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 440, 441, 447 and 483

[MB–60–P]

RIN: 0938–AF73

Medicaid Program; Inpatient Psychiatric Services for Individuals Under Age 21

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend our regulations to establish psychiatric residential treatment facilities as a new category of Medicaid facility, and establish standards that these facilities would have to meet; and specify that psychiatric units of general hospitals may be used for acute psychiatric care for individuals under age 21. It also would improve the regulatory implementation of the statutory requirements for State development of a comprehensive mental health program and coordination of various State authorities concerned with provision of mental health and related services. In addition, this proposed rule would ensure that representatives from agencies providing services to an individual develop and manage a coordinated plan of care whenever feasible.

This rule would implement section 4755(a) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508).

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, and must be received no later than 5:00 p.m. on January 17, 1995.

ADDRESSES: Mail written comments (one original and two copies) to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: MB–60–P, P.O. Box 7518, Baltimore, Maryland 21207–0518.

If you prefer, you may deliver your written comments (one original and two copies) to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Due to staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmissions.

In commenting, please refer to file code MB–60–P. Written comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309–G of the Department's offices at 200 Independence Ave., SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 690–7890).

If you wish to submit written comments on the information collection requirements contained in this proposed rule, you may submit written comments to:

Laura Oliven, HCFA Desk Officer, Office of Information and Regulatory Affairs, Room 3001, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Winona Hocutt, (410) 966–4625.

SUPPLEMENTARY INFORMATION:

I. Background

Medicaid is the Federally assisted State program authorized under title XIX of the Social Security Act (the Act) to provide funding for medical care provided to certain needy aged, blind and disabled persons, families with dependent children, and low-income pregnant women and children. Each State determines the scope of its program, within limitations and guidelines established by the law and the implementing regulations at 42 CFR chapter IV, subchapter C. Each State submits a State plan that, when approved by HCFA, provides the basis for granting Federal funds to cover part of the expenditures incurred by the State for medical assistance and the administration of the program.

Section 1902(a) of the Act specifies the eligibility requirements that individuals must meet in order to receive Medicaid. Other sections of the Act describe the eligibility groups in detail and specify limitations on what may be paid for as "medical assistance."

II. Statutory and Regulatory History—Inpatient Psychiatric Hospital Services Benefit for Individuals Under Age 21

The Social Security Amendments of 1972 (Public Law 92–603) amended the Medicaid statute to, among other things, allow States the option of covering inpatient psychiatric hospital services for individuals under age 21. In this preamble, we will refer to inpatient psychiatric hospital services for individuals under age 21 as the "psychiatric\21 benefit." Originally the statute required that the psychiatric\21 benefit be provided by psychiatric hospitals that were accredited by the Joint Commission on Accreditation of Hospitals. This organization is now called the Joint Commission on Accreditation of Healthcare Organizations. We will refer to this organization as the "Joint Commission."

In 1976 the Social and Rehabilitation Service, one of the agencies that later merged to form HCFA, published final regulations in the 45 CFR part 249 implementing the psychiatric\21 benefit. These regulations allowed the coverage of this benefit in psychiatric facilities that were accredited by the Joint Commission. The term "psychiatric facility" was used rather than the statutory term "psychiatric hospital" because the Joint Commission had modified its accrediting practices to encompass a broader range of settings providing psychiatric services. Since the statute at that time required Joint Commission accreditation, HCFA desired to keep its requirements consistent with Joint Commission practices.

In 1981 HCFA received comments from the Joint Commission expressing concern about HCFA's regulatory requirement for Joint Commission accreditation. The Joint Commission indicated that this Federal requirement was in conflict with Joint Commission policy that facilities should seek accreditation voluntarily. In response, HCFA noted that the regulatory requirement for Joint Commission accreditation could not be removed because it was required by statute.

In 1984, the Congress amended section 1905(h) of the Act, removing the requirement for Joint Commission accreditation and adding the requirement that providers of the psychiatric\21 benefit meet the definition of a "psychiatric hospital" under the Medicare program as specified in section 1861(f) of the Act (section 2340 of the Deficit Reduction Act of 1984 (Public Law 98–369)).

Despite this statutory change, based on our understanding of Congressional intent, we did not remove the requirement for Joint Commission accreditation from HCFA regulations, which are in subpart D of 42 CFR part 441. Our reliance on Joint Commission accreditation was the only basis for coverage of the psychiatric\21 benefit in psychiatric facilities other than psychiatric hospitals. Our decision to retain the regulatory requirement for Joint Commission accreditation was based on the fact that, in enacting the 1984 amendment, the Congress gave no indication that it intended to narrow the

psychiatric\21 benefit or alter HCFA policy that had been in effect since 1976.

On November 5, 1990, the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508, was enacted. Consistent with HCFA's interpretation reflected in 42 CFR 441 *et seq.*, section 4755 of OBRA '90 amended section 1905(h) of the Act to specify that the psychiatric\21 benefit can be provided in psychiatric hospitals that meet the definition of that term in section 1861(f) of the Act "or in another inpatient setting that the Secretary has specified in regulations." This amendment, which was effective as if it had been enacted earlier as part of the Deficit Reduction Act of 1984, affirmed and effectively ratified preexisting HCFA policy as articulated in subpart D of 42 CFR part 441, which interpreted sections 1905(a)(16) and 1905(h) of the Act as not being limited solely to psychiatric hospital settings. OBRA '90, therefore, provides authority for HCFA to specify inpatient settings in addition to the psychiatric hospital setting for the psychiatric\21 benefit without continuing to require that providers obtain Joint Commission accreditation.

III. Related Provisions

Under section 1905(a) of the Act, Medicaid payment is generally not available for any services provided to individuals under age 65 who are patients in "institutions for mental diseases" (IMDs). This statutory preclusion of Medicaid payment is commonly known as the "IMD exclusion." The term "IMD", as defined in section 1905(i) of the Act, includes hospitals, nursing facilities, or other institutions of more than 16 beds that are primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

The psychiatric\21 benefit, at section 1905(a)(16) of the Act, is the only statutory exception to the IMD exclusion. The psychiatric\21 benefit is optional, and it is currently covered under 41 State plans. The psychiatric\21 benefit must, however, be provided in all States to those individuals who are determined during the course of an Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) screen to need this type of inpatient psychiatric care. Under the EPSDT provisions at section 1905(r)(5) of the Act, as amended by section 6403 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239, States must provide any service listed in section 1905(a) of the Act that is needed to correct or ameliorate defects and physical and mental conditions discovered by EPSDT screening services, whether or not the service is covered under the State plan.

While some inpatient psychiatric services can be provided in the psychiatric units of general hospitals as "inpatient hospital services" under section 1905(a)(1) of the Act, the services provided under the psychiatric\21 benefit, and which meet the regulatory requirements in subpart D of part 441, must also be available for children and adolescents who are determined to need these services as a result of an EPSDT screen. Because of the section 1905(r)(5) requirement, even States that do not elect to include the optional psychiatric\21 benefit in their State plans must be aware of its provisions so that inpatient psychiatric services can be provided to EPSDT-eligible individuals who are determined to require them.

Under current law, Medicaid payment for psychiatric services can be available under a variety of services and settings listed in section 1905(a) of the Act. Optional inpatient psychiatric services are available for individuals age 65 or over in IMDs which are inpatient hospitals or nursing facilities (section 1905(a)(14) of the Act). Payment is available for medically necessary inpatient psychiatric services provided to Medicaid recipients of all ages in general hospitals, since such hospitals are typically not IMDs. Outpatient psychiatric services can be covered in the outpatient hospital setting or under the optional clinic or rehabilitative services benefits (see sections 1905(a)(2)(A), 1905(a)(9) and 1905(a)(13) of the Act). Finally, the physicians' service benefit under section 1905(a)(5)(A) of the Act can include psychiatrists' services.

Under section 1905(a) of the Act, Medicaid payment is available for case management services, as defined in section 1915(g)(2) of the Act, which can be used to coordinate needed mental health services. Case management services assist individuals in gaining access to needed medical, social, educational, and other services. Moreover, under section 1915(g)(1), such case management services may be targeted to chronically mentally ill persons. Although coverage of case management services is generally optional for States, the case management services under section 1905(a)(19) must be provided under the EPSDT authority cited above if the need for these services is discovered during an EPSDT screen (see section 1905 (r)(5)).

Section 4722 of OBRA '90 amended section 1905(a) of the Act to provide that no service shall be excluded from the definition of "medical assistance" solely because it is provided as a treatment service for alcoholism or drug dependency. (Under the International Classification of Diseases, which HCFA relies on for classification purposes, alcoholism and chemical dependency are classified as mental disorders.) This provision does not override the IMD exclusion, nor does it require a State to include chemical dependency treatment under any other optional benefit unless it chooses to do so.

Since the Medicaid statute was enacted in 1965, it has required that all State agencies involved with mental health care coordinate their activities. Specifically, section 1902(a)(20)(A) of the Act requires that the State Medicaid agency, in a State offering the optional IMD benefit under section 1905(a)(14), have agreements or other arrangements with other State authorities concerned with mental diseases. These include arrangements for joint planning and development of alternate methods of care, and arrangements providing assurance of immediate readmittance to institutions, where needed, for individuals under alternate plans of care. The IMD services authorized under section 1905(a)(14) currently are provided by 45 States.

Section 1902(a)(20)(B) of the Act contains additional requirements regarding IMD benefits for individuals age 65 or older. Among other provisions, this section requires that the Medicaid State plan provide for an individual plan for each patient who may be in need of institutional care to ensure that any "institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs." In addition, the State plan must include assurances that each patient will be given appropriate treatment within the institution, and that each patient will have a periodic assessment of the need for continued treatment in the institution.

Section 1902(a)(20)(C) of the Act further requires States that offer the IMD benefit to provide for development of alternate plans of care, making maximum utilization of available resources, for recipients age 65 or older who would otherwise need institutional care, including appropriate medical treatment and other aid or assistance. This section also requires that States develop the methods of administration necessary to ensure that these responsibilities of the State agency for

these recipients are effectively carried out.

Section 1902(a)(21) of the Act requires that these States show that they are making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers and other alternatives to care in public IMDs. (The State's comprehensive mental health services plan, which a State has prepared in accordance with section 1912 of the Public Health Service Act, can serve as a basis for this process). These statutory requirements were designed to ensure that the mental health services covered by Medicaid are coordinated with all related services provided by other State authorities and that appropriate alternatives to institutional care are available. These requirements are implemented in our regulations at 42 CFR 441.106, which provides, among other things, that if a State plan includes services in public institutions for mental diseases, the State must implement a comprehensive mental health program which covers all ages. In this way, we make clear that a comprehensive program must include services for individuals under age 21 and over age 64 who are possible candidates for Medicaid coverage of inpatient psychiatric care as well as services for individuals age 22 through 64 who do not have a Medicaid benefit for inpatient psychiatric care.

IV. General Goal of Proposed Regulatory Revisions

We are preparing the proposed regulations under the authority provided by section 1905(h) of the Act, as amended by section 4755 of OBRA '90, to specify alternative inpatient settings in which inpatient psychiatric services may be covered for individuals under age 21. We also propose to update our rules for the psychiatric\21 benefit to take into account changes that have taken place in the provision of psychiatric services since the existing regulations were published, and to make implementation of the psychiatric\21 benefit consistent with related Medicaid benefits and other statutory provisions.

In the process of developing these proposed regulations, we have consulted with several other Federal agencies, including the Civilian Health and Medical Programs of the Uniformed Services (CHAMPUS) and the National Institutes of Mental Health (NIMH), a number of States, and with a wide array of private organizations concerned with the provision of mental health services to children and adolescents. We propose to establish a policy which will improve coordination of the psychiatric\21 benefit with other services generally being provided to mentally ill children and adolescents, such as educational services, child welfare services, and juvenile justice services.

Amid widespread concern that the services provided for mentally ill children and adolescents and their families are often overlapping, duplicative, and sometimes at cross-purposes because they have not been coordinated with each other, many States have begun to coordinate the activities of the State and local authorities involved with caring for mentally ill children and adolescents to ensure joint planning and joint provision of services. In many cases these efforts have been based on the NIMH's Child and Adolescent Service System Program. In addition, the Robert Wood Johnson Foundation has funded coordinated "Mental Health Service Programs for Youth" at 8 sites.

It is especially critical that the possible need for inpatient services be considered in the context of all the services involved in a child's or adolescent's care because an unnecessary admission can put the individual at risk of a lifetime of public dependency. Inpatient admission also inevitably results in trauma and disruption of a child's normal support systems. Intensive services are increasingly available in the community to help resolve crisis situations. When inpatient admission is necessary, it is often needed because early intervention and treatment have been lacking. For this reason, fewer admissions to mental health facilities may be required when a comprehensive care system has been in place for a period of time.

Coordinated programs are oriented toward the needs of children rather than being structured according to the requirements of various funding sources, and they result in a wider array of available services. Coordinated programs can lower overall costs because duplicative and unnecessary services can be eliminated, and optimal services can be made available. If the array of services available is uncoordinated, the patient runs the risk of an unnecessary admission because the alternative services that may have been more effective are not as readily available and the admission, therefore, occurs by default.

Many studies have indicated that the most important factors in maintaining the beneficial effects of mental health treatment for children and adolescents are the availability and use of a wide range of post-treatment resources. Such resources include appropriate educational and vocational services and supportive services for the family members who will have ongoing responsibility for caring for the children. Many of these services are beyond the purview of the Medicaid program, but they are, nonetheless, vital to the mental health of Medicaid recipients and have direct bearing on future mental health service needs. These proposed regulations would support State coordination and planning efforts in this area (§ 441.106).

Psychiatric Treatment

Many professionals contend that psychiatric treatment should be available in a wide array of settings, including office visits, clinic services, home-based treatment programs, day treatment programs, partial hospitalization (day hospital), therapeutic foster care provided by trained "parents," residential treatment facility services, and acute psychiatric hospital care.

Mental health professionals generally agree that it is best for the individual for services to be provided in the least restrictive setting possible. In addition, it is usually cost effective to do so. "Least restrictive setting" generally means that needed care should be provided on an outpatient basis in the community where the individual lives, as opposed to in an inpatient setting. This principle has been codified in Part B of the Education of the Handicapped Act, Public Law 94–142 (20 U.S.C. 1400 et seq.).

The Medicaid program has frequently been criticized for favoring institutional care over community-based care because the reimbursement rates are often viewed as being more adequate for inpatient care, and because eligibility may be more readily available for institutionalized individuals. As a result, institutional care may have been provided when it was not medically necessary, with possible detrimental effects on the patient, because alternative community care was not available. Various studies have estimated that from 39 to 95 percent of the psychiatric inpatient care provided is medically unnecessary. In fact, a wide array of outpatient mental health services can be funded under Medicaid, but for a variety of reasons these options have not been fully utilized by many States and outpatient providers.

In recent years, however, many States have become concerned about dramatic increases in Medicaid expenditures for inpatient psychiatric care and have sought to assure that alternative care is available in the community. Many States have moved to increase funding

for community services and instituted effective screening procedures for inpatient admissions. We are proposing revisions in § 441.152, concerning certification of the need for inpatient care, that we believe will serve to support these efforts. These proposals are discussed in section V of this preamble.

Inpatient Settings

As discussed in Section II Statutory and Regulatory History of this preamble, existing regulations allow the provision of psychiatric inpatient care for individuals under age 21 in any psychiatric facility that is accredited by the Joint Commission and meets the other requirements in subpart D of 42 CFR part 441. The Joint Commission accredits a wide variety of health care organizations which may provide inpatient or outpatient services. Inpatient psychiatric services are currently being provided for individuals under age 21 in psychiatric hospitals in all but 7 States. Psychiatric hospitals must, under section 1905(h)(1)(A), meet the Medicare definition of "psychiatric hospital" contained in section 1861(f) of the Act. The regulatory requirements relating to psychiatric hospitals are specified in § 482.60, Special provisions applying to psychiatric hospitals.

In addition, 14 States provide inpatient psychiatric services for individuals under age 21 in psychiatric units in general hospitals. Three States cover the psychiatric\21 benefit in nursing facilities, and 19 States cover this benefit in facilities called "residential treatment facilities."

Although nursing facilities (NFs) are a recognized category of inpatient provider, we decided against designating NFs as an alternative setting for the psychiatric\21 benefit because NFs are primarily designed to provide geriatric nursing care and would not generally be appropriate for children and adolescents.

In view of the fact that a number of States no longer use psychiatric hospitals to provide services to individuals under age 21 and a significant number of States now provide this inpatient benefit in psychiatric units of general hospitals, we propose to specify in the proposed regulations that States may use psychiatric units of general hospitals to provide acute psychiatric inpatient care under the psychiatric\21 benefit either instead of, or in addition to, psychiatric hospitals.

We propose to revise existing regulations to establish a definition of the term "psychiatric residential treatment facility" (PRTF) and conditions of participation for this type of facility. A PRTF is a community-based facility that provides a less medically intensive program of treatment than a psychiatric hospital or a psychiatric unit of a general hospital.

The proposed PRTF standards are based on existing standards for these facilities developed by CHAMPUS, the Joint Commission, and a number of States and other organizations. We have tried to structure the PRTF conditions of participation to ensure practical outcome-oriented benefit to patients, rather than establishing "paper" compliance with procedures and policies.

We also would revise § 441.152, which specifies the requirements for certification of the need for admission to all psychiatric\21 providers. These provisions are discussed in detail in section V of this preamble.

Any State that chooses to offer the psychiatric\21 benefit would be required, at a minimum, to provide acute psychiatric care in a psychiatric hospital or a psychiatric unit of a general hospital. States would have the further option of also providing inpatient psychiatric services in the freestanding PRTF setting. If a State does not choose to include PRTF services as part of the psychiatric\21 benefit, it would not be required to certify freestanding PRTFs if it determines that medically necessary residential treatment services for EPSDT patients can be provided in a certified distinct part PRTF located in a general hospital or psychiatric hospital setting.

PRTFs would provide a type of care that is distinctly different from the care provided by acute care facilities and therefore a PRTF that is affiliated with a participating psychiatric hospital or general hospital would need to obtain separate PRTF certification in addition to its hospital certification. The setting(s) that a State chooses to use for the psychiatric\21 benefit would be indicated in its State plan.

PRTFs would be certified in the same manner as other inpatient providers of Medicaid services. States may contract for specialized personnel to perform surveys if they wish to.

Currently operating residential treatment facilities include a wide range of providers, from facilities that provide care similar to that provided in psychiatric hospitals to facilities that are more similar to group homes. In addition, many residential treatment facilities are part of multi-service mental health organizations which also provide a range of outpatient services. A number of States have developed or are in the process of developing licensure requirements for these facilities.

Treatment in residential treatment facilities generally costs less per day than treatment in a psychiatric hospital, but because the length of stay in residential facilities is generally longer, treatment in a residential facility is not always less expensive for the total inpatient stay. Rates for residential treatment facility services now range from approximately $140 to $420 per day, including professional fees.

Some States have developed managed care systems for mental health services and, in some cases, States have combined Medicaid funding for these mental health benefits with funding for related services administered by other agencies in the State. These arrangements tend to ensure that treatment programs are developed in response to the individual's service needs rather than being structured according to the funding criteria of various programs; we support these coordinated efforts. Under these programs, Medicaid is only billed for Medicaid covered services provided to Medicaid eligible individuals.

In the course of developing these proposed regulations, several parties suggested that intensive outpatient services be included as a subcategory of services under the psychiatric\21 benefit in order to emphasize that outpatient services can often be substituted for inpatient care, with less traumatic impact on the patient. Although we support the goal of substituting outpatient services for inpatient services whenever possible, the statutory language of section 1905(h) of the Act authorizing this inpatient benefit does not provide latitude for including outpatient services; this benefit must be provided in "a psychiatric hospital * * * or in another inpatient setting." We believe, however, that the system we have proposed for assessing the total needs of each child or adolescent will support the goal of assuring that outpatient services are used whenever this is a feasible alternative.

It was also suggested that we consider allowing children and adolescents who do not require inpatient treatment of their mental conditions to enter residential facilities if they require residential placement to remove them from a problematic family setting. In this situation, it was suggested that Medicaid would fund the treatment services, and payment for the cost of room and board would come from other sources. While we recognize that this type of arrangement may be necessary in some circumstances, and we acknowledge that rehabilitative services

can be provided in a wide variety of settings, we note that care provided under such an arrangement would not be provided in the context of the psychiatric\21 benefit, which is restricted by statute to individuals who require inpatient care for treatment of their mental condition (section 1905(h)(1)(B)). Accordingly, we have not incorporated this suggestion into the proposed regulations.

V. Provisions of the Proposed Regulations

A. Inpatient Mental Health Provisions

We would establish a new § 441.45, Mental health assessment and service plan, which implements section 1902(a)(26) of the Act. This section requires individual plans of care for psychiatric inpatients and periodic medical review in each psychiatric institution. The State would be required to ensure that a comprehensive assessment is made (§ 441.45(a)) and that an individual comprehensive services plan (§ 441.45(b)) is developed for each individual who has been determined to be at risk of requiring inpatient mental health treatment. We propose to extend this requirement to include not only eligible individuals currently receiving inpatient mental hospital services, but also certain eligible individuals who the State reasonably believes may imminently need such services, because we believe that such a requirement is a necessary safeguard to ensure proper utilization of inpatient services. We also believe that such a requirement will help to ensure continuity of care and appropriate service utilization for patients who have had intermittent inpatient mental hospital services. Furthermore, such a requirement is consistent with requirements for comprehensive assessments of medical status and needs under the early and periodic screening, diagnosis and treatment benefit available to individuals under the age of 21.

A State must consider at risk of requiring inpatient mental health services at least those eligible individuals who are in the following categories: those who are applicants for inpatient mental health facilities, those determined to need inpatient mental health services on an EPSDT screen or preadmission screening and annual resident review (PASARR), and those discharged from an inpatient mental health facility, during the year following discharge. A State may include other groups of eligible individuals who it believes are at risk of needing inpatient treatment in the near future. For eligible individuals who have been identified based on an EPSDT screen or a PASARR, a State may adopt as its assessment or comprehensive service plan the results of these other reviews if those reviews are sufficient to meet the requirements specified in § 441.45.

Comprehensive mental health planning for a child or adolescent would typically involve representatives from the State mental health department, the child welfare authority, the educational/vocational services agency, the public health department, and in some cases the alcohol/drug treatment agency, and/or the juvenile justice system. The Medicaid agency would participate with these agencies in determining the proportionate share of funding responsibility for the services needed under the plan. The child or adolescent and the parents or guardians would also be involved in developing the services plan, and parents or guardians must also be involved in any treatment provided in order to ensure maximum long term benefit from the treatment.

We would revise § 441.106, Comprehensive mental health program, which implements the statutory requirement for a comprehensive mental health program, to reflect the statutory provisions more explicitly. The revision of this section, consistent with sections 1902 (a)(20) and (a)(21) of the Act, would require that each State's comprehensive mental health program involve all agencies in the State that serve mentally ill individuals.

Medicaid's statutory authority for requiring a comprehensive mental health program applies to all States offering services for individuals age 65 and over in institutions for mental diseases (currently 46 States) and our regulations at § 441.106 have long required that the comprehensive program cover all ages. Section 1912 of the Public Health Service Act includes a similar mental health planning provision and we would specify that any program developed as a result of that requirement would meet the Medicaid requirement.

An annual progress report on the State's comprehensive mental health program is required under existing § 441.106(c). We would move this requirement to § 441.106(b), and modify it to specify that a comprehensive mental health services plan developed under section 1912 of the Public Health Service Act would satisfy the Medicaid reporting requirement. If a separate report is prepared, the interagency group involved in mental health planning would participate in the report preparation. The revision would also specify that the report must be submitted to the HCFA Regional Administrator within 3 months after the end of the fiscal year.

In § 441.151, General requirements, a new paragraph (c) would be added to require that services provided to an individual under the psychiatric\21 benefit must be compatible with the individual's comprehensive services plan developed as specified in § 441.45(b) (discussed above).

We also would delete the existing regulatory requirement for Joint Commission accreditation in § 441.151(b). As discussed in section II of this preamble, this requirement was removed from the law in 1984 and the Joint Commission has indicated that it does not wish to have its accreditation mandated in HCFA regulations since accreditation is voluntary.

We would require that psychiatric facilities meet either the psychiatric hospital requirements specified in existing § 482.60 and proposed § 483.202, or operate as an inpatient psychiatric unit in a general hospital that meets the requirements of existing subparts B and C of part 482 and proposed § 483.202, or meet the psychiatric residential treatment facility conditions of participation that we are proposing in §§ 483.210 through 483.224 of the new subpart F of part 483. To summarize, all providers of the psychiatric\21 benefit would be required to meet the condition of participation in § 483.202 relating to active treatment and the inpatient plan of treatment, in addition to meeting the other regulatory requirements applicable to the particular setting.

In addition to meeting the PRTF requirements specified in these proposed regulations, as determined by the survey process, a State could also require Joint Commission accreditation or accreditation by any other accrediting organization determined appropriate by the State if it wishes to. The regulations at 42 CFR 431.51(c)(2) allow States to establish reasonable standards relating to qualifications of providers. We emphasize that accreditation by an organization would not, however, be considered a substitute for meeting the regulatory requirements in the proposed new subpart F of part 483. Reliance on varied and changing accreditation requirements in the past has led to widespread confusion about the requirements providers must meet as Medicaid participants.

We propose to modify the certification requirements in § 441.152, Certification of need for services, by adding a requirement that the team or organization responsible for certifying

the need for care must complete a comprehensive assessment as specified in § 441.45(a) prior to determining whether inpatient care is necessary.

In addition, we would require that the certification include the documented clinical evidence that serves as the basis for the certification. We wish to make it clear that certification of the need for inpatient care is not to be made unless inpatient care is medically necessary for treatment of the child or adolescent, as required by the statute. Section 1905(h)(1)(B) of the Act requires that "physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof" certify the need for care which they have determined to be "necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such inpatient services will no longer be necessary."

For this reason, we propose to delete the requirement in existing § 441.152(a)(1) that the certification include a statement that the ambulatory care resources available in the community do not meet the treatment needs of the recipient. This "availability of ambulatory care" requirement was designed to supplement the certification of the medical necessity for inpatient care. However, we are concerned that this requirement may have been misinterpreted as forming a basis for certifying that inpatient care was needed when, in fact, it was not clinically required. Inpatient care may have been incorrectly certified to be necessary only because the community services that would have been sufficient and preferable for that individual were not available in his or her community.

Given the above circumstances, the current reference to ambulatory services may have contributed to the inappropriately high incidence of unnecessary inpatient care. HCFA believes that if the need for inpatient care is certified on the basis that ambulatory care is unavailable, this action would undermine an important impetus to developing needed community services.

The proposed certification statement would have to indicate which category of inpatient services are needed, i.e., acute psychiatric services or PRTF services.

The State Medicaid agency needs to ensure that the teams that develop the individual comprehensive services plans and assess the need for inpatient care are prepared to confer informally on a timely basis so that decisions concerning possible inpatient admissions can be made in times of crisis. Special procedures would be established for emergency admissions under the psychiatric\21 benefit to psychiatric hospitals or inpatient units of general hospitals, as specified in § 441.152(c). Continued coordination and case management are vital in assuring that needed educational/vocational services are available in the community since these services are often critical in forestalling the need for repeated inpatient mental health treatment.

If a Medicaid eligible patient requires an emergency admission to a psychiatric hospital or psychiatric inpatient unit of a general hospital, we would require that hospital staff assess the patient's condition and certify the need for inpatient care and then initiate appropriate treatment as soon as possible following admission. If an individual does not apply for Medicaid until after admission, the assessment and certification of the need for inpatient care would be made by hospital or facility staff within 7 days following the application for Medicaid.

The formal inpatient plan of treatment developed in accordance with proposed § 483.202(b) would have to be implemented within 7 days following admission or application for Medicaid if the individual remains in the hospital that long. The inpatient plan would need to be compatible with the individual's comprehensive services plan developed as specified in § 441.45(b).

No emergency admissions would be allowed for psychiatric residential treatment facilities (PRTFs). PRTFs provide less medically intensive and less extensive services than psychiatric hospitals or psychiatric units of general hospitals and are not generally equipped or staffed to deal with acute situations; if an acute situation arises during a PRTF stay, the patient would generally need to be transferred to an acute care facility.

We would revise § 441.153, Team certifying need for services, concerning the team that makes the certification that inpatient care is necessary, by deleting the requirement that different types of teams make the certification depending on when the individual becomes eligible for Medicaid. We instead propose that, whenever possible, the certification would be made by a team composed of representatives of the agencies providing services to the individual in order to ensure that these services are coordinated and that all possible alternatives to inpatient care are considered.

The stress placed on interdisciplinary planning in this regulation is based on the premise that inpatient psychiatric services should be used only when medically necessary, and that those who are responsible for provision of all services to mentally ill individuals will arrange services in the individual's best interest, and arrange for services in the community whenever possible. When inpatient psychiatric care is provided, the stay should be as brief as possible, and focused on improving the individual's condition as quickly as possible to the point that he or she can be maintained with community-based services. Although it may be difficult to arrange for the necessary interagency coordination in States that have not already developed a coordinated approach, it is counterproductive to provide services in a fragmented manner that does not recognize the total service needs of the child or adolescent. Even when a State is not able to utilize interagency teams for certification of the need for inpatient care upon the effective date of this regulation, we expect that all States will move toward improving coordination of interrelated services.

If inpatient psychiatric care is determined to be necessary, an interdisciplinary approach would also ensure that all service providers are aware of the need to arrange for or to accommodate service delivery in the new setting. The school system, for example, will need to arrange for or coordinate the provision of educational services in the inpatient setting. We would not require that team members meet in person to discuss cases if they find it more convenient to communicate via a teleconference or other means.

We would retain the regulatory requirement for physician participation in the certification process (§ 441.153(c)(1)), consistent with section 1905(h) of the Act, which requires that the team certifying the need for care include a physician. The physician may be a representative of one of the service agencies.

The team members must generally be independent, i.e., they may not be employees of the inpatient facility being considered for admission of the individual. If the inpatient facility is a public facility, an individual who is employed by the governmental component responsible for administration of the inpatient facility would not be considered independent. If inpatient care is required on an emergency basis, however, or the individual applied for Medicaid after admission, certification may be made by employees of the inpatient facility

In some States, it may not currently be feasible to use service agency representatives to form the review team. HCFA plans to provide guidance on this issue in the State Medicaid Manual. In such circumstances, the State would need to arrange for another type of review group. The State could establish its own review teams or contract with an independent review organization to determine whether admissions are necessary. An organization's team would need to meet any State registration requirements and would have to have physician participation in the determination of the necessity of inpatient psychiatric services, as required by statute. These teams or organizations would also be required to be aware of and consider the total service needs of each individual (§ 441.153).

The rules in §§ 441.154 and 441.155 concerning "active treatment" and "plan of care" would be revised and incorporated into the rules concerning conditions of participation at § 483.202. We believe that it is important to incorporate these critical requirements into a condition of participation so that they will be subject to survey procedures. These requirements are discussed in a later section of this preamble.

Section 441.156, Team developing individual plan of care, would be deleted. The process for developing the inpatient plan of treatment would be specified in § 483.202(b), Active treatment program.

A new § 441.158, Care settings, would be added to describe the settings to be used for providing this inpatient benefit. One setting is a psychiatric hospital, the setting that has been authorized under the statute since the psychiatric\21 benefit was first established. We would specify psychiatric units in general hospitals as a second setting that States can use to provide acute care. Acute psychiatric care could be provided in either of these settings when the need for such care is certified as specified in § 441.152. These settings would be used when an individual has an episode for which acute care is required, and when it is determined that this most restrictive type of care is necessary to stabilize the patient's acute condition.

A third possible setting for the psychiatric\21 benefit would be a PRTF. The PRTF would be a new category of institutional provider under the Medicaid program and would be limited to the provision of the psychiatric\21 benefit under section 1905(a)(16) of the Act. PRTFs would provide care when an individual does not require acute care, but does require supervision and active treatment on a 24-hour inpatient basis to attain a level of functioning that allows subsequent treatment in a less restrictive setting.

The PRTF setting is being specified as a new category of Medicaid provider in order to establish an alternative inpatient setting which provides care more similar to community-based care than the care provided in psychiatric hospitals or general hospitals. To ensure that PRTFs are community-oriented, we propose to require that these facilities coordinate their educational activities with school curricula in their communities (§ 483.212(a)(3)). In developing this proposed rule we considered the possibility of limiting the size of facilities to 30 or fewer beds in order to enable the facilities to be more appropriate in a community setting, but we are not including a proposed limit in the proposed rule. We nevertheless welcome comments and suggestions on this subject.

The certification of need process for PRTF care is described in § 441.152 (a) and (b). We are proposing to establish the requirements for PRTFs in §§ 483.210 through 483.224 of the regulations in subpart F of part 483.

The PRTF would be an additional optional setting for States that choose to provide this inpatient benefit. States that do not include PRTFs as providers under the psychiatric\21 benefit would still have to provide this type of care when determined to be necessary by an EPSDT screen. If such a State does not have freestanding PRTFs, a section of a general hospital or psychiatric hospital that has been certified as a PRTF can provide these residential services.

Any State that elects to provide the psychiatric\21 benefit would be required, at a minimum, to provide these services in a psychiatric hospital or in a psychiatric unit in a general hospital and to have PRTF services available at least when required under EPSDT.

The maintenance of effort provision in section 1905(h)(2) of the Act is implemented in § 441.180 of the regulations. The Medicaid statute provides that a State's maintenance of effort computation, which would demonstrate that the State continues to provide the same level of funding for these services that it did before it began to receive FFP, is to be based on data from 1971, the year before this provision was enacted. We recognize that the statute is obsolete in this regard and we have requested a technical amendment to update this provision, but the current regulatory maintenance of effort requirement must remain in effect until a statutory amendment is enacted. It is not necessary, however, for States that currently offer the psychiatric\21 benefit to again demonstrate maintenance of effort if they wish to modify the State plan option to include PRTFs and/or hospital psychiatric units as providers of the psychiatric\21 benefit.

We would add a new § 441.160, Payment, that would specify the condition of payment for the psychiatric\21 benefit. For payment purposes, we propose to add PRTF services to the long-term care facility services definition in § 447.251(c). In addition, we propose to apply the payment principles specified in § 447.250 (a) through (c) to all providers of the psychiatric\21 benefit.

B. Requirements for Participation for Facilities

We propose to establish standards in subpart F of part 483 for all facilities and units that wish to participate in Medicaid as providers of the psychiatric\21 benefit.

The proposed requirements relating to active treatment and the inpatient plan of treatment would apply to psychiatric hospitals and psychiatric units in general hospitals that provide the psychiatric\21 benefit, as well as to PRTFs. In § 483.202, Active treatment program, we propose to require that the facility provide treatment designed to enable the individual to achieve sufficient stability to progress to outpatient care, and to attain the objectives specified in the inpatient plan of treatment that would be required in § 483.202(b).

Section 483.202(b), Inpatient plan of treatment, would require that an interdisciplinary team, which includes a facility staff physician and at least one other professional staff person, develop the inpatient plan of treatment which specifies the interventions to be provided for the individual. We would require that the inpatient treatment plan include specific measurable treatment objectives and timeframes for meeting these objectives. In addition, we would require that inpatient mental health services be coordinated with any other services being provided under the individual's comprehensive services plan.

The interval for review of inpatient care by the review team in acute care psychiatric\21 providers would be set at 7 days after admission and every 7 days thereafter. In a PRTF, reviews would be required every 7 days in the initial month of stay; after the first month, reviews would be required at monthly intervals. We do not believe that longer periods should elapse before the treatment modalities being used are

assessed for their effectiveness. Any necessary changes should be made as soon as possible in order to make certain that discharge occurs at the earliest possible time.

C. PRTF Conditions of Participation

In developing the proposed requirements for PRTFs, we have tried to allow flexibility for providers whenever possible, and to avoid requiring specific documentation of administrative procedures. We recognize that policies and procedures relating to such matters as personnel and admissions are generally necessary but we believe that facilities that can meet the requirements specified in this proposed rule can develop these administrative procedures without additional Federal requirements. We have made an effort to minimize the imposition of any paperwork burdens.

Facilities meeting all the requirements in subpart F of part 483 would be qualified as PRTFs to provide the psychiatric\21 benefit. We would require that facilities protect and promote the rights of each resident, as specified in § 483.211, Resident rights.

We would require that these providers meet applicable licensure laws in States that have established licensure requirements for this type of facility. This requirement would be specified in § 483.212(a)(1), Licensure and other laws. Because it is important that the children and adolescents in the facility maintain their educational development while they are in the facility, we would require in § 483.212(a)(2) that the facility coordinate its educational activities with school curricula in the community.

We would specify at § 483.212(a)(3) that providers would be expected to meet the regulations issued by the Department of Health and Human Services relating to nondiscrimination, protection of human subjects, and fraud and abuse, as specified in 45 CFR parts 46, 80, and 84 and 42 CFR part 455. The disclosure of ownership and control requirements in section 1126 of the Act would be applicable to these providers. The requirements for provider agreements under section 1902(a)(27) of the Act would also be applicable.

We would also require that PRTFs have a governing body which would appoint an administrator to be responsible for the general management of the facility. These requirements would be specified in § 483.212(b), Administrative structure. There would be a general requirement relating to competence, academic credentials, and administrative experience. We invite comments on whether these requirements should be more specific, and if so, what the requirements should be.

We propose to require that the facility designate a clinical director who is at least board-eligible in psychiatry and has experience in child and adolescent mental health. The clinical director would be responsible for the implementation of each resident's inpatient treatment plan and for the coordination of all medical/psychiatric care in the facility.

We would require that all facilities have written procedures to use for all potential emergencies, such as fire, severe weather, and missing residents (proposed § 483.218(b)). New employees would be trained in these procedures and all staff would participate in review drills.

The facility would be required to have written transfer agreements with one or more hospitals which assure that a resident can be transferred to an appropriate setting in a timely manner when transfer is necessary for more intensive psychiatric care or for medical treatment (proposed § 483.220(a)). Necessary information relating to the resident's care would be exchanged at the time of transfer.

The facility would also be required to have an effective program for infection control (proposed § 483.218(c)).

Each resident's dignity would be respected and facilities would be precluded in § 483.216, Facility practices and resident behavior, from imposing any physical restraints or administering any psychoactive drugs for purposes of discipline or convenience. All forms of abuse would be forbidden, including verbal, mental, sexual, and physical abuse. Any grouping of residents would be planned to protect the safety and promote the treatment of all group members. The facility would be required to report any alleged abuses to the administrator or to other officials in accordance with State law. Facilities would have to retain evidence of a thorough investigation.

Concerning staff qualifications, we would require in § 483.214(b) that the facility employ the professional, administrative and support staff necessary to implement the inpatient plans of treatment and to carry out the applicable regulatory requirements. Professional staff could include qualified psychiatrists and other physicians, clinical psychologists, psychiatric nurses, social workers, substance abuse specialists, other health professionals and ancillary staff. We would require that all staff be competent and that professional staff be appropriately licensed, certified, or registered when this is required under State law. We would further require that professional staff not be under sanctions imposed for infractions as specified in sections 1156, 1128, or 1892 of the Act. Services provided by nonemployees would be subject to a written agreement that specifies the facility's and contractor's responsibilities. We invite comments as to whether this section should contain more specific requirements concerning personnel qualifications.

We would require that responsible direct care staff be on duty and awake on a 24-hour basis to take prompt action in case of injury, illness, fire, or other emergency in a facility housing residents who are aggressive, assaultive, or security risks (§ 483.214(a)).

The facility would be required to maintain clinical records on each resident and retain the records for at least 5 years or any period of time required by State law. The material in the records would remain confidential except under specified circumstances (§ 483.212(d)).

We would also require that facilities disclose ownership and control in accordance with § 455.104 (§ 483.212(c)). A facility would also have to notify the Medicaid agency within 5 days if there is a change in the facility's ownership or administrator or clinical director.

A facility would be required to maintain a quality assurance program which monitors care provided in the facility and to cooperate with an authorized program of independent medical evaluation, including evaluation of each resident's need for facility care (proposed § 483.212(e)). PRTFs would be one type of psychiatric facility, and would therefore be subject to the "inspection of care" provisions specified in subpart I of 42 CFR part 456.

Section 483.218, Safety provisions, contains the provisions we propose to ensure general resident safety. We propose to require that PRTFs meet the applicable provisions of the Life Safety Code of the National Fire Protection Association (§ 483.218(a)). If these code provisions would result in unreasonable hardship upon facilities classified for health care occupancy only, they could be waived by the State survey agency, but only if the waiver does not adversely affect the health and safety of residents or staff.

Refuse, including any toxic wastes generated in the facility, would have to be disposed of in accordance with applicable Federal, State, and local laws (§ 483.218(d)).

PRTFs would be required in § 483.222, Dietary services, to provide dietary services that ensure that each resident receives a diet that meets the daily nutritional needs of the resident. If a qualified dietitian is not employed on a full time basis, the facility would be required to designate a person to serve as the director of food service. The regulation would require menu planning, and sanitary food storage, preparation, and distribution methods.

We would require that facilities provide sufficient space in the dining and program areas to enable staff to provide the services specified in each resident's inpatient plan of treatment (§ 483.224(a)). Residents' bedrooms would be required to accommodate no more than four residents, and to measure at least 80 square feet per resident in multiple resident bedrooms and at least 100 square feet in single resident rooms (§ 483.224(b)). Variations in these accommodation and size requirements could be allowed in individual cases when a physician providing direct care documents that the variations are required by special needs of residents and will not adversely affect residents' health and safety.

Bedrooms would have to have direct access to a corridor and to have at least one window. Appropriate beds, bedding and furniture, and accessible closet space would be required. Each resident room would need to be equipped with or located near toilet and bathing facilities.

Dining and activities rooms would have to be well lighted and ventilated, with nonsmoking areas identified if smoking is allowed in the facility. It is possible that, in the future, State and Federal laws may prohibit smoking in these facilities. The facility would have to ensure that there is a sanitary and orderly interior, including clean bath and bed linens.

The facility would be required to establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply. Comfortable temperature and sound levels would have to be maintained, and adequate ventilation would be required. The facility would have to maintain an effective pest control program.

We believe that our proposed facility standards are reasonable and adequate for residential treatment facilities. We welcome comments and recommendations for modifications of these proposed requirements from the general public and especially from those who have had experience in providing these services and from residents and families of residents.

D. Technical Revision

General provisions relating to Medicaid services are included in 42 CFR part 440. Section 440.160, Inpatient psychiatric services for individuals under age 21, currently contains an abbreviated definition of the psychiatric\21 benefit. This abbreviated definition has caused confusion because it does not make it clear that this benefit must always be provided in a psychiatric facility. Therefore, we propose to revise the definition in this section to list the three possible settings and to cross refer to the detailed requirements in subpart D of part 441 and subpart F of part 483.

VI. Collection of Information

Regulations at § 441.152 contain collection of information requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The information collection requirements concern resident information. The respondents who will provide the information include physicians and medical personnel. Public reporting burden for this collection of information is estimated to be 30 minutes per respondent. A notice will be published in the **Federal Register** when approval is obtained. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the **ADDRESSES** section of this preamble.

VII. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are unable to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "**DATES**" section of this preamble to the final rule.

VIII. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed regulation would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, psychiatric residential treatment facilities and psychiatric hospitals are considered to be small entities. Individuals and States are not included in the definition of small entity.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any final rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a Metropolitan Statistical area.

There are various aspects of this proposed regulation that might have some cost or saving, but the net impact of all of them appears to be negligible.

The establishment of the psychiatric residential treatment facility as a new category of Medicaid facility for the purposes of inpatient psychiatric care has varying impacts. On one hand, daily charges at such facilities are projected to be lower than at psychiatric hospitals. On the other hand, lengths of stay seem to be longer, probably due to the less acute, more chronic nature of the conditions they are designed to treat. However, if we assume that some recipients are currently getting inappropriate care in more expensive settings merely because of Medicaid regulations, then this regulation may save some money. This assumption, though, is impossible to verify.

Also, there currently are many facilities that are not psychiatric hospitals that are currently providing these services under existing Medicaid regulations. It is not clear if their costs are higher than the proposed residential treatment facilities. It is also unclear how many of them will be able to qualify under the new regulations, and what this will do to the supply of care and its cost.

In any event, it does not appear that more eligible individuals will come into the program because of this regulation. Currently, there are approximately 42,000 recipients of services under this category.

As for the implementation of requirements for comprehensive programs and coordination of State authorities concerned with provision of mental health services, as well as the requirements for coordinated plans of care, they will probably increase administrative costs somewhat, but will reduce program costs by ensuring that the most appropriate and efficient form of care is utilized. The magnitude of these costs and savings is difficult to determine but probably is negligible, given the number of recipients involved.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act since we have determined, and the Secretary certifies,

that this proposed rule would not result in a significant economic impact on a substantial number of small entities and would not have a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this proposed regulation was not reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 440

Grant programs—health, Medicaid.

42 CFR Part 441

Family planning, Grant programs—health, Infants and children, Medicaid, Penalties, Reporting and recordkeeping requirements.

42 CFR Part 447

Standards for payment.

42 CFR Part 483

Requirements for States and long term care facilities.

42 CFR chapter IV would be amended as set forth below:

PART 440—SERVICES: GENERAL PROVISIONS

A. Part 440 is amended as follows:

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 440.160 is revised to read as follows:

§ 440.160 Inpatient psychiatric services for individuals under age 21.

"Inpatient psychiatric services for individuals under age 21" means services that—

(a) Meet the requirements in subpart D of part 441 of this subchapter; and

(b) Are provided in facilities that meet the applicable requirements specified in subpart F of part 483 of this chapter.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

B. Part 441 is amended as set forth below:

1. The authority citation for part 441 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. A new § 441.45 is added to read as follows:

§ 441.45 Mental health assessment and service plan.

(a) The State Medicaid agency must ensure that a comprehensive assessment is made of each eligible individual who is determined by a mental health professional to be at risk of requiring inpatient mental health services in the near future.

(1) At a minimum, this group would include—

(i) Those who are applicants for inpatient mental health facility services;

(ii) Those determined to need inpatient mental health services on the basis of an EPSDT screen or PASARR; and

(iii) Those recently discharged from an inpatient mental health facility (within the past year).

(2) A State may include other groups of eligible individuals who it believes are at risk of needing inpatient treatment in the near future.

(3) The assessment must accurately identify the individual's functional abilities and needs, and must take into account the following information about the individual—

(i) Current diagnoses;

(ii) Prior medical and psychiatric history, including immunization status;

(iii) Emotional and behavioral functional status;

(iv) Psychosocial status;

(v) Sensory and physical impairments;

(vi) Cognitive status; and

(vii) Any current drug therapy.

(4) The assessment must include a determination as to whether the individual needs active treatment as defined in § 483.202 of this chapter.

(b) For each eligible individual who is determined to be at risk of requiring inpatient mental health treatment, as specified in paragraph (a) of this section, the State Medicaid agency must ensure that an individual comprehensive services plan is developed, implemented, and managed on an ongoing basis by a team composed of representatives from all State/local agencies involved in providing care for that individual or responsible for ensuring that needed care is provided.

(1) The individual must be included in the process of developing the comprehensive services plan.

(2) If the individual is under age 18 or has been found by a court to be incompetent, his or her parents or legal guardian must also be involved.

(3) The team must be able to confer informally on a timely basis to make decisions concerning possible inpatient admission in times of crisis.

(c) The team that develops the comprehensive services plan must monitor the plan's implementation to ensure that all services are coordinated.

3. Section 441.106 is revised to read as follows:

§ 441.106 Comprehensive mental health program.

If the plan includes services for individuals age 65 and over in institutions for mental diseases, the State must have a comprehensive mental health program.

(a) The program must cover all ages, and include joint monitoring, review and evaluation with State mental health, education, vocational rehabilitation, criminal justice and social service representatives, of the allocation and adequacy of mental health services within the State;

(b) The State Medicaid agency must prepare an annual progress report, with participation by the other State agency representatives described in paragraph (a) of this section.

(1) The State Medicaid agency must submit the annual progress report to the HCFA Regional Administrator within 3 months after the end of the fiscal year.

(2) The annual progress report must include a plan for improvements to be made in the next year.

(3) The requirement for an annual progress report may be satisfied by the development of a comprehensive mental health services plan which meets the requirements of section 1912 of the Public Health Service Act. A copy of the plan submitted to PHS must be submitted to the HCFA Regional Administrator.

4. The title of subpart D is revised to read as follows:

Subpart D—Inpatient Psychiatric Services for Individuals Under Age 21

5. Section 441.150 is revised to read as follows:

§ 441.150 Basis and purpose.

This subpart specifies the applicable requirements if a State elects to provide inpatient psychiatric services to individuals under age 21, as authorized under sections 1905(a)(16) and 1905(h) of the Act.

6. Section 441.151 is revised to read as follows:

§ 441.151 General requirements.

Inpatient psychiatric services for individuals under age 21 must be—

(a) Provided under the direction of a physician who is at least board eligible in psychiatry and has experience in child/adolescent mental health;

(b) Provided in one or more of the care settings specified in § 441.158;

(c) Provided in accordance with an individual comprehensive services plan required by § 441.45(b);

(d) Provided before the individual reaches age 21 or, if the individual was receiving the services immediately

before the individual reached age 21, before the earlier of the following—

(1) The date the individual no longer requires the services; or

(2) The date the individual reaches age 22; and

(e) Certified in writing to be necessary in the setting in which it will be provided (or is being provided in emergency circumstances), in accordance with § 441.152.

7. In § 441.152, paragraphs (a) and (b) are revised, and new paragraphs (c) and (d) are added to read as follows:

§ 441.152 Certification of need for services.

(a) The team or organization specified in § 441.153 must—

(1) Make the comprehensive assessment as required in § 441.45(a) before determining whether inpatient services are necessary; and

(2) If it is determined that inpatient benefits encompassed by this benefit are necessary, certify in writing before the individual is admitted that inpatient services are necessary for treatment of the individual's condition. The certification must specify whether hospital or psychiatric residential treatment facility services are required.

(b) The written certification must include:

(1) The clinical evidence that justifies the necessity for the specified level of inpatient care; and

(2) The basis for determining that inpatient services will improve the condition to the extent that these services will no longer be necessary.

(c) If an admission must be made to a psychiatric hospital or psychiatric unit of a hospital on an emergency basis because there is imminent danger that the individual will do harm to himself or herself or to another person, hospital staff must perform an assessment, a hospital physician must certify the need for acute inpatient psychiatric services, and the hospital must implement an initial treatment plan. Hospital staff must also establish and implement the inpatient treatment plan required in § 483.202(b) of this chapter.

(d) The procedures specified in paragraph (c) of this section will also be followed, within 7 days following the date of application, for individuals who do not apply for medical assistance before admission.

8. Section 441.153 is revised to read as follows:

§ 441.153 Composition of certifying team or organization.

(a) The team that certifies the need for inpatient psychiatric care as required under § 441.152 (a) and (b) must—

(1) Include at least one physician who is at least board eligible in psychiatry and has experience in the diagnosis and treatment of mental illness in children or adolescents;

(2) Except as indicated in paragraph (b) of this section, include a representative from each of the State and local agencies that are providing services directly or are responsible for ensuring that needed services are provided to the individual, such as educational/vocational, social welfare, medical, psychiatric and juvenile justice services; and

(3) Be composed of individuals who are not employed by the inpatient facility being considered, or by the agency component responsible for providing inpatient care, except as specified in § 441.152 (c) and (d).

(b) If an interagency team is not feasible, another team which includes a physician, established by the State or an independent review organization contracted by the State, may certify the need for inpatient services if the organization meets any registration requirements that the State may have for such organizations. This alternative team must be aware of the complete array of service needs of the individual.

(c) The certifying team or organization must involve the resident and his or her parents or legal guardian in the determination process.

§ 441.154 [Reserved]

§ 441.155 [Reserved]

§ 441.156 [Reserved]

9. Sections 441.154, 441.155 and 441.156 are removed and reserved.

10. New §§ 441.158 and 441.160 are added under subpart D to read as follows:

§ 441.158 Care settings.

(a) *Types of settings.* Inpatient psychiatric services for individuals under age 21—

(1) Must be provided in a psychiatric hospital that meets the requirements of §§ 482.60 and 483.202 of this chapter, or in a psychiatric unit of a hospital that meets the requirements in subparts B and C of part 482, and § 483.202 of this chapter; and

(2) At the option of the State, may also be provided in a psychiatric residential treatment facility that meets the requirements in subpart F of part 483 of this chapter. All States must provide psychiatric residential treatment facility care when it is required as a result of an EPSDT screen.

(b) *Limitations on provision of care.* (1) *Psychiatric hospital or unit.* Inpatient services in a psychiatric hospital or a psychiatric unit of a hospital are provided for an individual who has a severe acute episode of a psychiatric disorder which requires medical supervision and treatment on a 24-hour-a-day basis. The services must include intensive individualized treatment to stabilize the acute condition so that the individual can be discharged as soon as possible to a less restrictive type of care.

(2) *Psychiatric residential treatment facility.* Inpatient care in a psychiatric residential treatment facility may be provided when an individual does not require acute care but requires supervision and treatment on a 24-hour-a-day basis to attain a level of functioning that allows subsequent treatment on an outpatient basis.

§ 441.160 Payment.

Payment for inpatient psychiatric services for individuals under age 21 must be made in accordance with the principles specified in § 447.250 (a) through (c) of this subchapter.

PART 447—PAYMENT FOR SERVICES

C. Part 447 is amended as follows:

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 447.251 is amended by revising the definition of "long-term care facility services" to read as follows:

§ 447.251 Definitions.

* * * * *

Long-term care facility services means intermediate care facility services for the mentally retarded (ICF/MR), nursing facility (NF) services, and psychiatric residential treatment facility (PRTF) services.

* * * * *

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

E. Part 483 is amended as follows:

1. The authority citation for part 483 is revised to read as follows:

Authority: Secs. 1102, 1819(a)–(f), 1905(c) and (d), and 1919(a)–(f) of the Social Security Act (42 U.S.C. 1302, 1395i–3(a)–(f), 1396d(c) and (d), and 1396r(a)–(f)).

Subpart E—[Reserved]

2. Subpart E is removed and reserved.

3. A new subpart F containing §§ 483.200 through 483.224 is added to read as follows:

Subpart F—Conditions of Participation for Providers of Inpatient Psychiatric Services for Individuals Under Age 21

Sec.
483.200 Basis and scope of subpart F.
483.202 Condition of participation: Active treatment program.
483.204 Requirements for psychiatric hospitals.
483.205 Requirements for psychiatric units of hospitals.

Conditions of Participation for Psychiatric Residential Treatment Facilities

483.210 General requirements for psychiatric residential treatment facilities.
483.212 Condition of participation: Administration.
483.214 Condition of participation: Facility staffing.
483.215 Condition of participation: Resident rights.
483.216 Condition of participation: Facility practices and resident behavior.
483.218 Condition of participation: Safety provisions.
483.220 Condition of participation: Health services.
483.222 Condition of participation: Dietary services.
483.224 Condition of participation: Space and equipment.

Subpart F— Conditions of Participation for Providers of Inpatient Psychiatric Services for Individuals Under Age 21

§ 483.200 Basis and scope of subpart F.

(a) *Basis.* Section 1905(h) of the Act provides that the inpatient psychiatric services benefit for individuals under age 21 includes inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f) or in another inpatient setting that the Secretary has specified in regulations. Section 1905(h) also specifies that a team of physicians and other personnel qualified to make determinations about mental health treatment must determine that inpatient care is necessary for the individual; and that these services must—

(1) Involve active treatment that meets standards which may be specified in regulations; and

(2) Reasonably be expected to improve the individual's condition to the extent that inpatient psychiatric services will no longer be necessary.

(b) *Scope.* This subpart contains the requirements that a facility must meet in order to qualify as a Medicaid provider of psychiatric inpatient services for individuals under age 21. These requirements serve as the basis for survey activities for the purpose of determining whether a facility meets the requirements for participation in Medicaid. All providers of this benefit must also meet the requirements in subpart D of part 441 of this chapter.

§ 483.202 Condition of participation: Active treatment program.

(a) *Standard: Active treatment requirement.* The inpatient provider must ensure that each individual receives a continuous program of individualized psychiatric treatment that is designed to enable the individual to achieve sufficient stability to progress to outpatient care, and to attain the treatment objectives specified in the inpatient plan of treatment specified in paragraph (b) of this section. These services must be consistent with implementation of the individual comprehensive services plan required in § 441.45(b) of this chapter.

(b) *Standard: Inpatient plan of treatment.* The inpatient provider must—

(1) Ensure that an interdisciplinary team, including a facility staff physician and at least one other professional staff person, reviews the assessment data collected as specified in § 441.45(a) of this chapter, and updates the data as necessary. The team then immediately initiates appropriate treatment.

(2) Ensure that within 7 days after admission, the team develops the inpatient plan of treatment for each institutionalized individual which specifies the interventions needed to improve the individual's psychiatric condition to the extent that inpatient care is no longer necessary. This general active treatment goal must be expressed in terms of specific measurable treatment objectives for the individual, and include the treatment modalities to be used and the target date by which the individual will achieve each objective.

(3) Ensure that the plan includes an estimated discharge date and post-discharge plans which specify the coordination required with the family or guardian, and the school/vocational and community services needed to ensure continuity of care.

(4) Ensure that the interdisciplinary team reviews inpatient progress at least every 7 days, starting from the date of admission, except that in PRTFs, after the first month, reviews must be done at least once a month. During a review, the team must determine whether—

(i) Inpatient services continue to be required;

(ii) The stated objectives for attaining stabilization are being achieved; and

(iii) Any changes are needed in the plan.

(5) Ensure that the individual's assessment is updated and that the inpatient plan of treatment is revised as needed based on the results of the progress reviews specified in paragraph (b)(4) of this section.

(6) Report results of the progress reviews to the team responsible for the individual's comprehensive services plan (as specified in § 441.45(c) of this chapter) no later than the day following the review.

(7) Provide that the development and review of the inpatient plan of treatment specified in this section satisfies the utilization control requirements for—

(i) Recertification under §§ 456.60(b), 456.160(b), 456.260(b) and 456.360(b) of this chapter; and

(ii) Establishment and periodic review of the plan of care under §§ 456.80, 456.100, 456.200 and 456.300 of this chapter.

§ 483.204 Requirements for psychiatric hospitals.

A psychiatric hospital providing the psychiatric inpatient benefit for individuals under age 21 must meet the requirements specified in §§ 482.60 of this chapter and 483.202.

§ 483.205 Requirements for psychiatric units of hospitals.

A psychiatric unit of a hospital providing the psychiatric inpatient benefit for individuals under age 21 must meet the requirements specified in § 483.202. The hospital must meet the requirements specified in subparts B and C of part 482 of this chapter.

Conditions of Participation for Psychiatric Residential Treatment Facilities

§ 483.210 General requirements for psychiatric residential treatment facilities.

A psychiatric residential treatment facility providing the psychiatric inpatient benefit for individuals under age 21 must meet the requirements specified in § 483.202, and 483.212 through 483.224.

§ 483.212 Condition of participation: Administration.

(a) *Standard: Licensure and other laws.* (1) When State or local law requires licensure of this type of medical facility, the facility must be licensed.

(2) The facility must coordinate its educational activities with school curricula in the community.

(3) The facility must support and protect the fundamental human, civil, constitutional, and statutory rights of each patient, and must meet the applicable provisions of other HHS regulations, including but not limited to those pertaining to nondiscrimination on the basis of race, color, or national

origin (as specified in 45 CFR part 80), nondiscrimination on the basis of handicap (as specified in 45 CFR part 84), protection of human subjects of research (as specified in 45 CFR part 46), and fraud and abuse (as specified in 42 CFR part 455). Although these regulations are not considered requirements under this part, violation may result in the termination or suspension of, or the refusal to grant or continue payment of Federal funds.

(b) *Standard: Administrative structure.* (1) The facility must have a governing body, or designated person(s) functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operation of the facility.

(2) The governing body must appoint an administrator who is responsible for the general management of the facility. The administrator must have appropriate academic credentials and administrative experience in psychiatric treatment settings for children and adolescents, and must be responsible for the fiscal and administrative aspects of facility management as necessary to support the facility's clinical program.

(3) The facility must designate as clinical director a physician who is at least board-eligible in psychiatry and has experience in providing child and adolescent mental health services. The clinical director is responsible for the implementation of each resident's clinical plan of care and for the coordination of all medical/psychiatric care in the facility.

(c) *Standard: Disclosure of ownership.* The facility must comply with the disclosure requirements of § 455.105 of this chapter. The facility must provide written notice to the State survey agency within 5 working days if a change occurs in—

(1) Persons with an ownership or control interest, as defined in § 455.101 of this chapter; or

(2) The facility's administrator or clinical director.

(d) *Standard: Clinical records.* The facility must develop and maintain a separate clinical record on each resident in accordance with professional standards. Records must be complete, accurate, accessible and organized.

(1) Clinical records must be retained for the period of time required by State law or 5 years from the date of discharge when there is no requirement in State law.

(2) The facility must assure that the clinical record information is not lost, destroyed, or put to unauthorized use.

(3) The facility must assure the confidentiality of all information contained in the resident's record, except when release is required by—

(i) Transfer to another health care institution;

(ii) State and/or Federal law;

(iii) Third party contract; or

(iv) The resident.

(4) The clinical record must contain information which identifies the resident, documents the comprehensive assessment, the inpatient plan of treatment, the services received, notes on progress toward the objectives in the inpatient plan of treatment and any revision of the plan of treatment made following review.

(e) *Standard: Quality assurance.* The facility must develop and implement an ongoing quality assurance program to monitor and evaluate the quality of patient care, pursue opportunities to improve care, and correct identified problems.

(f) *Standard: Independent medical evaluation.* A facility must cooperate with a medical evaluation and an inspection of care of residents in the facility, including evaluation of each resident's need for facility care when the evaluation has been authorized by State or Federal government.

§ 483.214 Condition of participation: Facility staffing.

The facility must have enough competent and appropriately qualified health care professional, administrative and support staff to provide active treatment through implementation of the inpatient plan of treatment for each resident and to carry out other facility requirements. The facility is responsible for assuring that all services are effective, timely, and meet the needs of residents.

(a) *Standard: Staffing status.* (1) In a facility that houses residents who are aggressive, assaultive or security risks, responsible direct care staff must be on duty and awake on a 24-hour basis to take prompt action in case of injury, illness, fire or other emergency.

(2) In a facility that does not house residents who are aggressive, assaultive or security risks, a responsible direct care staff person must be on duty on a 24-hour basis, but need not remain awake when residents are sleeping.

(3) If any resident is present in the facility, a direct care staff person must be present. If all residents are away from the facility during the day, a staff member must be available by telephone.

(b) *Standard: Professional staff.* Staff may include qualified psychiatrists and other physicians, clinical psychologists, psychiatric nurses, social workers, substance abuse specialists, and other health care professionals and ancillary staff. When licensure, certification, or registration is required under State law, professional staff must meet these requirements. Professional staff must not be under a sanction imposed in accordance with sections 1156, 1128, or 1892 of the Act.

(c) *Standard: Contracts.* Any professional or other services that are furnished to facility residents by persons who are not employed by the facility must be furnished under a written contract that specifies the contractor's responsibilities.

§ 483.215 Condition of participation: Resident rights.

A facility must protect and promote the rights of each resident, with special consideration for residents who are emancipated and have no parent or legal guardian, including each of the following rights:

(a) *Access and visits.* A resident has a right to see family members and legal guardians and to have visitors from outside the facility.

(b) *Consultation.* The resident has the right to be consulted as much as possible about his or her treatment.

(c) *Complaints.* The resident has the right to file complaints with the facility administrator or with State officials concerning facility conditions or treatment.

(d) *Independent examination.* The resident has a right to have independent medical or psychological examination.

(e) *Discharge planning.* A resident has a right to participate in his or her discharge planning.

§ 483.216 Condition of participation: Facility practices and resident behavior.

Each resident's care must be provided in a manner that promotes and maintains his or her dignity.

(a) *Standard: Restraints.* The facility may not impose any physical restraints or administer any psychoactive drugs for purposes of discipline or convenience. No restraints may be used which are not required to treat the resident's psychiatric symptoms and specified in the inpatient plan of treatment.

(b) *Standard: Freedom from abuse.* The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment and involuntary seclusion. The facility must develop written policies that prohibit mistreatment, neglect, or abuse of residents and ensure that the policies are implemented.

(1) The facility must—

(i) Not use verbal, mental, sexual or physical abuse, corporal punishment, or involuntary seclusion; and

(ii) Not employ or contract with individuals who have a prior employment or personal history of abusing, neglecting or mistreating individuals, or have been found guilty of any of these acts in a court of law.

(2) The facility must not house residents who have aggressive tendencies, or may otherwise be dangerous, in close physical proximity with vulnerable residents who are prone to be victimized. Any resident grouping must be planned to protect the safety and promote the treatment of all members of the group.

(3) The facility must ensure that all alleged violations involving mistreatment, neglect or abuse, including injuries of unknown source, are reported immediately to the administrator of the facility and to any other officials specified in State law.

(4) The facility must have evidence that all alleged violations are thoroughly investigated, and must take appropriate action to prevent further abuse during the period of the investigation.

(5) The results of all investigations must be reported to the administrator or to his or her designated representative and to other officials in accordance with State law within 5 working days of the report of the incident. If the alleged violation is verified, the administrator must take appropriate corrective action.

(c) *Standard: Drug therapy.* The facility must not use drugs in doses that interfere with the resident's daily living activities.

(1) When drugs are used for control of inappropriate behavior, they must be used only as an integral part of the resident's plan of care that is directed specifically toward the reduction of and eventual elimination of the behaviors for which the drugs are employed.

(2) Drugs used for control of inappropriate behavior must not be used unless it is evident that the harmful effects of the behavior clearly outweigh the potentially harmful effects of the drugs.

(d) *Standard: Resident work.* The facility must ensure that residents are not compelled to perform services for the facility. If a resident chooses to perform work for the facility, compensation for the services must be made at prevailing wage levels.

§ 483.218 Condition of participation: Safety provisions.

The facility must be designed, constructed, equipped, and maintained to protect the health and safety of the residents. If a circumstance develops that poses a significant threat to the health or safety of facility residents, the facility must address the problem immediately and promptly advise the State survey agency of the problem and the action taken to remove the threat.

(a) *Standard: Fire protection*—(1) *General.* Except as provided in paragraph (a)(2) of this section, the facility must meet the applicable provisions of either the Health Care Occupancies Chapter or the Residential Board and Care Occupancies Chapter of the Life Safety Code (LSC) of the National Fire Protection Association, 1991 edition, which is incorporated herein by reference.

(2) *Exceptions.* For facilities that meet the LSC definition of a health care occupancy, the State survey agency may waive, for a period considered appropriate, specific provisions of the LSC if—

(i) The waiver would not adversely affect the health and safety of the residents; and

(ii) Rigid application of specific provisions would result in an unreasonable hardship for the facility.

(b) *Standard: Emergency procedures.* The facility must develop and implement written procedures to meet all potential emergencies, such as fire, severe weather, and missing residents. The facility must train all new employees in emergency procedures and periodically review the procedures. All staff members must demonstrate ability to follow the procedures. Staff emergency procedure drills must be held at least quarterly on each shift.

(c) *Standard: Infection control.* The facility must implement an infection control program which prevents, controls, and investigates the development and transmission of communicable disease and infection. This program must ensure that appropriate immunizations are done, according to State law.

(1) When a resident needs isolation to prevent the spread of infection, the facility must isolate the resident and, if necessary, transfer the resident to a hospital for diagnostic testing.

(2) The facility must prohibit employees with symptoms or signs of a communicable disease or infected skin lesions from direct contact with residents or their food if direct contact will transmit the disease.

(3) Personnel must handle, store, process, and transport linens so as to prevent the spread of infection.

(d) *Standard: Waste disposal.* The facility must dispose of garbage and refuse, including any toxic waste generated at the facility, in accordance with Federal, State and local laws.

(e) *Standard: Pest control.* The facility must maintain an effective pest control program so that the facility is free of pests and rodents.

(f) *Standard: Systems.* The facility must maintain all essential mechanical, electrical, and other equipment in safe operating condition.

§ 483.220 Condition of Participation: Health services.

(a) *Standard: Hospital services.* The facility must have a written transfer agreement in effect with one or more hospitals approved for participation under the Medicaid program that reasonably assures that—

(1) A resident will be transferred from the facility to the hospital and admitted in a timely manner when transfer is medically necessary for medical care or acute psychiatric care; and

(2) Medical and other information needed for care of the resident will be exchanged between the institutions, including any information needed to determine whether appropriate care can be provided in a less restrictive setting.

(b) *Standard: Medical services.* Medical and emergency dental services must be available to each resident 24 hours a day.

§ 483.222 Condition of participation: Dietary services.

Each resident must receive a nourishing, well-balanced diet that meets the daily nutritional needs of the resident. Each resident must receive a minimum of 3 meals daily.

(a) *Standard: Dietitian.* The facility must employ a qualified dietitian on at least a part-time or consultant basis. If a qualified dietitian is not employed on a full-time basis, the facility must designate a person to serve as the director of food service.

(b) *Standard: Menus.* Menus must be prepared in advance and must be followed.

(c) *Standard: Nutrition.* Each resident receives food that conserves nutritive value, flavor and appearance; is palatable, attractive and at the proper temperature, and is of sufficient quantity. Substitute food of similar nutritive value must be offered to residents who refuse standard food service.

(d) *Standard: Food procedures.* The facility must—

(1) Procure food from sources approved by Federal, State or local authorities; and

(2) Store, prepare, distribute and serve food under sanitary conditions.

§ 483.224 Condition of participation: Space and equipment.

(a) *Standard: Dining and program areas.* The facility must provide sufficient space and equipment in

dining and program areas to enable staff to provide residents with needed services as identified in each resident's plan of care. The facility must provide one or more rooms designated for resident dining and activities. These rooms must—

(1) Be well lighted;

(2) Be well ventilated, with nonsmoking areas identified if smoking is allowed in the facility;

(3) Be adequately furnished; and

(4) Have adequate space to accommodate all activities.

(b) *Standard: Resident rooms.* Resident rooms must be designed and equipped for the comfort, dignity and privacy of residents.

(1) Bedrooms must—

(i) Accommodate no more than four residents;

(ii) Measure at least 80 square feet per resident in multiple resident bedrooms and at least 100 square feet in single resident rooms;

(iii) Have direct access to an exit corridor; and

(iv) Have at least one window to the outside. If the bedroom is below grade level, the window must be usable as a second means of escape by the resident occupying the room.

(2) The survey agency may grant a variance to the bedroom sizes specified in paragraph (b)(1) of this section in individual cases when a physician involved in direct patient care documents that the variations are required by special needs of residents and will not adversely affect the health and safety of residents.

(3) The facility must provide each resident with—

(i) A separate bed of proper size and height in the resident's room;

(ii) A clean and comfortable mattress and clean bedding appropriate to the weather and climate; and

(iii) Functional furniture appropriate to the resident's needs, suitable storage space and individual closet space in the resident's bedroom with clothes racks and shelves accessible to the resident.

(c) *Standard: Toilet facilities.* Each resident's room must be equipped with or located near toilet and bathing facilities. The facility must—

(1) Provide toilet and bathing facilities appropriate in number, size and design to meet the needs of the residents; and

(2) Provide for individual privacy in toilets, bathtubs and showers.

(d) *Standard: Other environmental conditions.* The facility must—

(1) Ensure a safe, clean, functional, comfortable and homelike environment for residents and staff, including clean bath and bed linens;

(2) Establish procedures to ensure that water is available to essential areas when there is a loss of normal water supply;

(3) Maintain comfortable temperature levels;

(4) Maintain comfortable sound levels; and

(5) Have adequate outside ventilation by means of windows or mechanical ventilation or a combination of the two.

Subpart G—[Reserved]

4. Subpart G is reserved.

Subpart H—[Reserved]

5. Subpart H is reserved.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: July 5, 1994.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: October 24, 1994.

Donna E. Shalala,

Secretary.

[FR Doc. 94–28318 Filed 11–16–94; 8:45 am]

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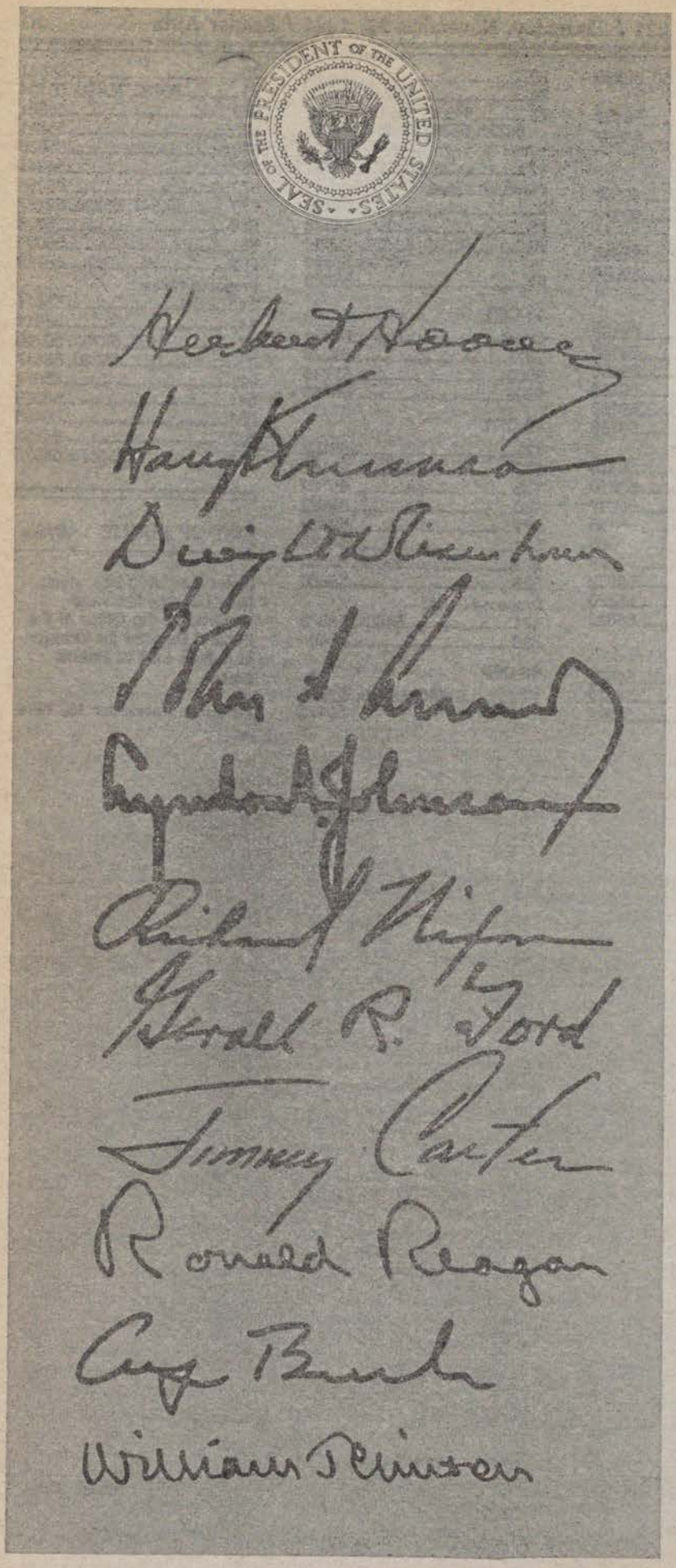

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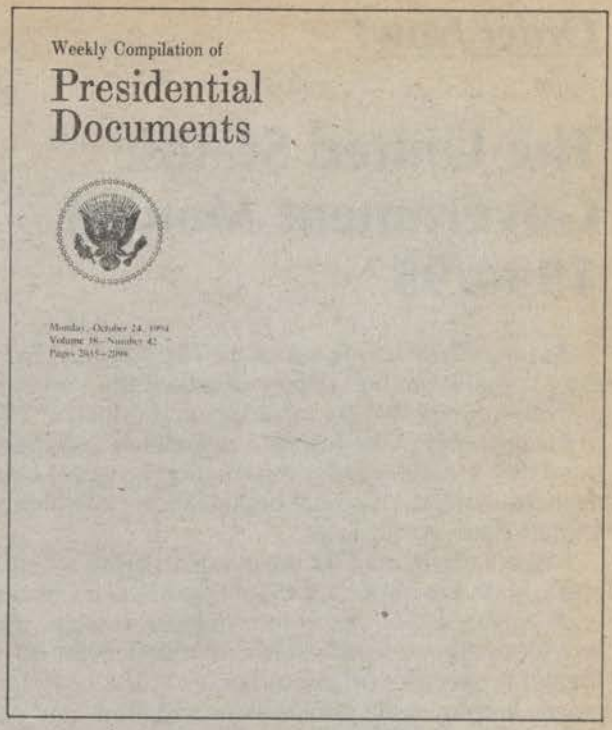

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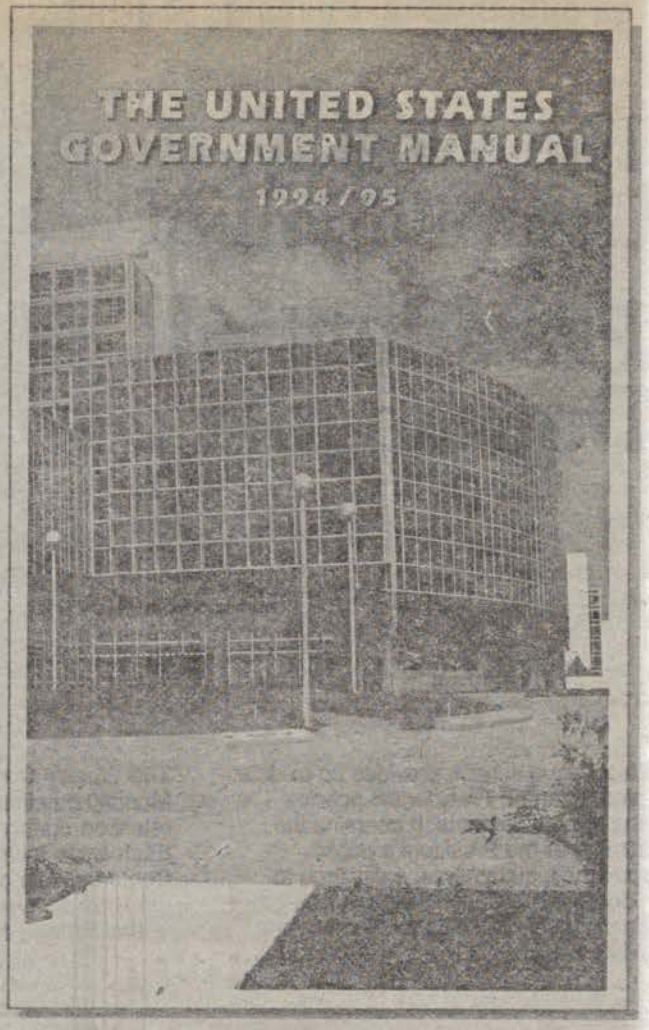

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