FOR FURTHER INFORMATION CONTACT: James C. Frala, ANM–532.4, Federal Aviation Administration, Docket No. 96–ANM–018, 1601 Lind Avenue S.W., Renton, Washington 98055–4056; telephone number: (206) 227–2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 96–ANM–018.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations Branch, ANM–530, 1601 Lind Avenue S.W., Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Canon City, Colorado, to accommodate a new GPS SIAP to the Fremont County Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Canon City, CO

Fremont County Airport, Canon City, CO
(Lat. 38°25′47″N, long. 105°06′31″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Fremont County Airport.

* * * * *

Issued in Seattle, Washington, on June 27, 1996.

Richard E. Prang,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 96–17675 Filed 7–10–96; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–37403; File No. S7–16–96; International Series—1001]

RIN 3235–AG81

Amendments to Beneficial Ownership Reporting Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Reproposed rules.

SUMMARY: In accordance with a recent recommendation of the Report of the Task Force on Disclosure Simplification published March 5, 1996, the Securities and Exchange Commission (''Commission'') today is publishing for comment a proposal to amend the rules relating to the reporting of beneficial ownership in publicly-held companies. Similar amendments were proposed in 1989 but were not acted upon by the Commission. These reproposals would make Schedule 13G available, in lieu of Schedule 13D, to all investors beneficially owning less than 20 percent of the outstanding class that have not acquired or held the securities for the purpose of and do not have the effect of changing or influencing the control of the issuer of the securities. The purposes of the reproposals are to improve the effectiveness of the beneficial ownership reporting scheme and to reduce the reporting obligations of passive investors.

DATES: Comments should be received on or before September 9, 1996.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. Comment letters should refer to File No. S7–16–96; this file number should be included on the subject line if e-mail is used. All comments received will be available for public inspection and copying in the Commission's public reference room at the same address. Electronically submitted comments will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Dennis O. Garris, Special Counsel, Office of Mergers and Acquisitions, Division of Corporation Finance, Securities and Exchange Commission at (202) 942–2920, 450 Fifth Street N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is reproposing for comment amendments to Regulation 13D–G [1] and Schedules 13D and 13G.

I. Background and Overview

A. Current Regulatory Scheme

The beneficial ownership reporting requirements embodied in Sections 13(d) [2] and 13(g) [3] of the Securities Exchange Act of 1934 (''Exchange Act'') [4] and the regulations adopted thereunder [5] are intended to provide investors and the subject issuer with information about accumulations of securities that may have the potential to change or influence control of the issuer. The statutory and regulatory framework also establishes a comprehensive reporting system for gathering and disseminating information about the ownership of equity securities.[6] These provisions require, subject to exceptions, that any person who acquires beneficial ownership of more than five percent of a class of equity securities registered under Section 12 of the Exchange Act [7] and other specified equity securities (collectively, ''subject securities'') report such acquisition on Schedule 13D within 10 calendar days. That report must be amended promptly to report any material change in the information provided, including any acquisition or disposition of one percent or more of the class.[8] Persons holding more than five percent of a class of subject securities at the end of the calendar year, but who have not made an acquisition subject to Section 13(d) (''Exempt Investors''),[9] are required instead to file and amend a short-form Schedule 13G within 45 days after the close of the calendar year. The Schedule 13G and amendments need only report securities that are beneficially owned as of the last day of the year.

Schedule 13G is also available to specified institutional investors (''Qualified Institutional Investors'') [10] that acquired or hold the securities in the ordinary course of business and without a purpose or effect or in connection with a transaction having a purpose or effect, of changing or influencing control of the issuer. These Qualified Institutional Investors likewise only report their greater than five percent positions held as of the close of the year either in an initial report or amendment in the case of any change in the information provided, except if they own more than 10 percent as of the close of any month, in which case a Schedule 13G must be filed or amended within 10 calendar days reporting the holdings as of the close of the month.[11] These flexible reporting requirements are designed to minimize the costs of monitoring positions in securities acquired in the ordinary course of the investor's business.

B. Proposals for Reform

In 1989, the Commission proposed amendments to Regulation 13D–G to improve the effectiveness of the reporting scheme and to lessen the compliance costs to investors that have not acquired or held the securities with the purpose or effect of changing or influencing the control of the issuer.[12] The 1989 proposed amendments were not acted upon by the Commission. The amendments proposed today are similar to the 1989 proposals except, as more fully discussed below, the Commission is not reproposing a limitation on the amount of securities that a Qualified Institutional Investor can report on Schedule 13G and the Commission is proposing that the new class of persons that would be eligible to use Schedule 13G would have the same amendment requirements that currently apply to Schedule 13D filings, as opposed to the more liberal amendment requirements currently applicable to Schedule 13G.

The current reporting scheme requires most persons other than institutions to file detailed disclosure reports regardless of the reasons for the acquisition. As a result, the current reporting scheme may place unnecessary disclosure burdens on persons whose acquisitions do not implicate the Williams Act's concern with transactions affecting the control of issuers. To further the Commission's goals of disclosure simplification and efficiency, as stated in the Report of the Task Force on Disclosure Simplification published March 5, 1996, the amendments are being reproposed at this time to improve the effectiveness of the beneficial ownership reporting scheme and to reduce the reporting obligations of all investors that acquire or hold the securities without the purpose or the effect of changing or influencing control of the issuer by permitting them for the first time to report on Schedule 13G. Since the Commission first proposed to exempt investors that do not have a disqualifying purpose or effect from the Schedule 13D filing requirements, initial Schedule 13D filings have increased from 2,850 in fiscal 1988 to 3,347 in fiscal 1995, a 17 percent increase. Data provided by the Commission's Office of Economic Analysis indicates that 76 percent of the Schedules 13D studied by that office did not disclose a purpose or effect of changing or influencing control of the issuer and, therefore, would benefit from the amendments proposed today.[13] The reduced number of Schedule 13D filings would allow the marketplace, as well as the staff of the Commission, to focus more quickly on acquisitions

[1] Rules 13d–1, 13d–2, and 13d–7 [17 CFR 240.13d–1, 240.13d–2, and 240.13d–7].

[2] 15 U.S.C. 78m(d).

[3] 15 U.S.C. 78m(g).

[4] 15 U.S.C. 78a *et seq.*

[5] Regulation 13D–G, Rules 13d–1 through 13d-7 [17 CFR 240.13d–1 through 240.13d–7].

[6] For a more extensive discussion of Sections 13(d) and 13(g), and Regulation 13D–G adopted to implement both statutory provisions, see Securities Exchange Act Release No. 26598 (March 8, 1989) [54 FR 10552] (''Proposing Release'').

[7] 15 U.S.C. 78*l*.

[8] Rule 13d–2(a).

[9] Persons who acquire all their securities prior to the issuer registering under the Exchange Act are not subject to Section 13(d), and persons who acquire not more than two percent of a class of subject securities within a 12-month period are exempted from Section 13(d) by Section 13(d)(6)(B), but in both cases are subject to Section 13(g). Section 13(d)(6)(A) exempts acquisitions of subject securities acquired in a stock-for-stock exchange which is registered under the Securities Act of 1933.

[10] Such specified institutional investors include a broker or dealer registered under Section 15(b) of the Exchange Act [15 U.S.C. 78o(b)], a bank as defined in Section 3(a)(6) of the Exchange Act [15 U.S.C. 78c(a)(6)], an insurance company as defined in Section 3(a)(19) of the Exchange Act [15 U.S.C. 78c(a)(19)], an investment company registered under Section 8 of the Investment Company Act of 1940 [15 U.S.C. 80a–8], an investment adviser registered under Section 203 of the Investment Advisers Act of 1940 [15 U.S.C. 80b–1 *et seq.*], an employee benefit plan or pension fund that is subject to the provisions of the Employee Retirement Income Security Act of 1974 [codified principally in 29 U.S.C. 1001–1461], and related holding companies and groups (collectively, ''institutional investors''). Rule 13d–1(b)(1)(ii) [17 CFR 240.13d–1(b)(1)(ii)].

[11] Rule 13d–1(b)(2).

[12] Exchange Act Release No. 26598 (March 8, 1989) [54 FR 10552]. The Commission received fifteen comment letters which are available for public inspection and copying at the Commission's Public Reference Room in Washington, D.C. (File No. S7–8–89).

[13] The sample included 110 Schedules 13D filed from November 10, 1994 to December 30, 1994.

involving the potential to change or influence control.

Accordingly, in addition to the two existing categories of Schedule 13G filers (Qualified Institutional Investors and Exempt Investors), a third category (''Passive Investors'') [14] would be created, significantly expanding the classes of persons eligible to file on the short form. Any person who acquires or holds more than five percent of a class of subject securities and does not have a disqualifying purpose or effect would be permitted to file a short-form report on Schedule 13G within 10 calendar days after the acquisition, rather than the long-form report on Schedule 13D.[15] A Qualified Institutional Investor would remain eligible to file a short-form report on Schedule 13G 45 days after the year's end, provided that the requirements of amended Rule 13d–1(b)(1) are satisfied. Exempt Investors would continue to file their initial Schedule 13G within 45 calendar days after the calendar year in which they became subject to Section 13(g) and Rule 13d–1(c).

The rule amendments would subject Passive Investors filing Schedule 13G in lieu of Schedule 13D to the same amendment requirements that currently apply to Schedule 13D. Additionally, Passive Investors would be subject to a proposed 20 percent limit on the amount of an issuer's securities that may be reported on Schedule 13G and would be required to file a Schedule 13D within 10 calendar days of acquiring 20 percent or more of the securities. Upon acquiring 20 percent or more, the investor would be prohibited from acquiring additional securities or from voting or directing the voting of the securities until filing that schedule (a ''standstill period''). The Commission is not reproposing a percentage limit to reporting on Schedule 13G for Qualified Institutional Investors.

Under the proposed amendments, Passive Investors that are no longer able to certify that they did not acquire or do not hold with a disqualifying purpose or effect would be required to file a Schedule 13D within 10 calendar days of the change in purpose. An investor required to file a Schedule 13D because it has changed its investment purpose would be subject to a waiting period (''cooling-off period'') from the time of the change in investment purpose until the expiration of the tenth calendar day from the date of the filing of a Schedule 13D, during which time such person could not vote or direct the voting of the subject securities, or acquire an additional beneficial ownership interest in any securities either of the issuer or of any person controlling the issuer.

In 1992 the Commission revised the proxy rules to exempt certain communications from the proxy regulation and disclosure requirements. The 1992 proxy rule amendments were justified in part because Section 13(d) would continue to require disclosure of concerted activities by and among groups of significant shareholders regarding voting matters.[16] Following the 1992 proxy reform, some commentators have continued to express the concern that Section 13(d) has a potential chilling effect on a shareholder's ability to take full advantage of the proxy rule exemptions, since actions taken pursuant to the proxy exemptions may be interpreted to be inconsistent with the certifications necessary for Qualified Institutional Investors to file on Schedule 13G or such actions may lead to a finding of a ''group'' under Rule 13d–5(b)(1).[17] Comment is requested as to whether Section 13(d) reporting obligations restrict a shareholder's ability to use the proxy rule exemptions and whether relief, in addition to that proposed today, from Schedule 13D filing obligations with respect to soliciting activities is necessary and appropriate.

Finally, the Commission is proposing amendments to the schedules and technical amendments to the beneficial ownership rules along with additional related and clarifying amendments.

II. Proposed Amendments to Regulation 13D–G

A. Expansion of the Class of Investors Eligible to Report on Schedule 13G

The Commission is reproposing that Regulation 13D–G be amended to permit Passive Investors to use the short-form Schedule 13G.[18] Passive Investors would file the Schedule within 10 calendar days after acquiring beneficially more than five percent of a class of subject securities. Persons unable or unwilling to certify that they do not have a disqualifying purpose or effect because, for example, the possibility exists that they may seek to exercise or influence control, would be ineligible to file a Schedule 13G and would be required to file a Schedule 13D. The comment letters on the 1989 proposals reflected significant consensus supporting the Commission's expansion of the eligible class of Schedule 13G filers.[19]

The Commission is reproposing that Passive Investors be allowed to choose whether to report on Schedule 13G or Schedule 13D.[20] The Commission preliminarily believes that Passive Investors should be given the flexibility to determine which Schedule is most appropriate given their circumstances. The fact that an investor can represent

[14] The term ''Passive Investors'' is used in this release to refer to shareholders beneficially owning more than five percent of the class of subject securities and who can certify that the subject securities were not acquired or held for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired in connection with or as a participant in any transaction having such purpose or effect. *See* proposed Rule 13d–1(b)(2) and revised Item 10 of Schedule 13G. Shareholders that are unable to certify to this effect are considered to have, for purposes of this release, a ''disqualifying purpose or effect''.

[15] Schedule 13D requires more disclosure than Schedule 13G. The following are the primary disclosures required by Schedule 13D that are not required by Schedule 13G: (i) the source and amount of funds used to purchase the securities; (ii) the purpose of the acquisition of the securities and any plans or proposals that the reporting person has involving the issuer including, among other things, extraordinary transactions and changes of control; (iii) a description of transactions in the securities reported on in the sixty days prior to the filing of the schedule; (iv) a description of any contracts or arrangements involving the securities of the issuer; and, (v) a requirement to file copies of any written contracts or arrangements described in the Schedule 13D as exhibits to the schedule.

[16] *See* Exchange Act Release No. 31326, Section I (October 16, 1992) [57 FR 48276]; testimony of Richard C. Breeden, Chairman of the Securities and Exchange Commission, before the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs, United States Senate (October 17, 1991).

[17] In April 1994, the Council of Institutional Investors submitted a rulemaking petition to allow institutions that incur a Schedule 13D filing obligation as a result of exempt soliciting activities to report their beneficial ownership on a short form instead. The petition requested relief from Section 13(d) filing obligations for Schedule 13G eligible shareholders participating in communications covered by the two principal exemptions from the proxy rules. Under the petition, persons engaged in exempt solicitations would only be required to file a new short form disclosure statement and they would not lose their Schedule 13G eligibility. The petition is available for inspection and copying at the Commission's Public Reference Room in Washington, D.C. (File 4–372).

[18] Proposed Rule 13d–1(b)(2).

[19] Of the 15 comment letters received by the Commission on the proposals, 13 commenters generally supported the expansion and two commenters opposed the expansion.

[20] In the 1989 Proposing Release the Commission requested comment upon whether reporting on a Schedule 13G (as opposed to Schedule 13D) should be permissive or mandatory for investors that do not have a disqualifying purpose or effect. Commenters opposing a mandatory filing requirement suggested that the detailed disclosures contained in a Schedule 13D may be more appropriate in situations where the investor's purpose or effect may abruptly change to a disqualifying purpose or effect and, accordingly, the use of the Schedule 13D, in lieu of the Schedule 13G, should be optional. Commenters supporting mandatory use of Schedule 13G believed that such a requirement would enhance the marketplace's ability to focus on those acquisitions representing a disqualifying purpose or effect and would deter Schedule 13G eligible filers from filing on Schedule 13D in order to avoid the cooling-off period upon a change in purpose or effect.

that it does not have a disqualifying purpose or effect but still chooses to file on a Schedule 13D may provide important information concerning the filing person's intent. Accordingly, the Commission is reproposing that the use of Schedule 13G, in lieu of Schedule 13D, remain optional for those persons eligible to use Schedule 13G. However, the Commission requests comment as to the appropriateness of this approach and whether Schedule 13G eligible persons would choose to file on Schedule 13D to avoid the cooling-off period upon a change in investment purpose. Comment is also requested as to whether a mandatory filing approach would better serve the market by allowing investors to focus on those acquisitions that presently represent an attempt to influence or change control of the issuer.

B. Filing Periods for Passive Investors Filing on Schedule 13G

As reproposed, Passive Investors choosing to file a Schedule 13G would file the schedule within 10 calendar days of crossing the five percent threshold. Requiring the filing within 10 days, rather than the 45 days following year end currently applicable to Schedule 13G filers, would provide more timely notice to the market and shareholders of the existence of voting blocks that have the potential of affecting control of the issuer.

Under the proposed rules, however, Passive Investors filing on Schedule 13G would still be subject to the same amendment requirements currently applicable to Schedule 13D.[21] This approach differs from the 1989 proposals, which proposed that Passive Investors filing on Schedule 13G be subject merely to the more liberal amendment requirements currently applicable to Qualified Institutional Investors filing on Schedule 13G.[22] One commenter on the 1989 proposals expressed the concern that the 1989 proposals would not have required timely disclosure of material changes, including increases in ownership of the issuer's securities. For example, under the 1989 proposals, a Passive Investor would only have been required to file an amendment to the Schedule 13G to disclose an acquisition of ownership in excess of 10 percent of such securities within 10 days after the end of the month in which the person's ownership exceeded 10 percent of the class as of the end of the month. The Commission preliminarily believes that, although Passive Investors do not have a disqualifying purpose or effect, the market may benefit from more timely notice of material changes in ownership and material changes in the information previously reported by such persons.

In addition, by providing that the market will receive notice of material changes in the amount beneficially owned by persons filing under this new category of ''Passive Investors'', there is less of an incentive for those who may ultimately have a control intent to use Schedule 13G for the purpose of being able to acquire, for example, up to 9.9 percent of an issuer's stock without ever triggering any reporting requirement or disclosure to the market other than, perhaps, a prior filing of a five percent ownership interest. Likewise, without this amendment requirement a Passive Investor could increase a securities holding from just over 10 percent to just under 20 percent without any reporting or disclosure to the market until 10 days after the end of the month in which the 15 percent threshold was crossed. In the past, stock accumulation programs have taken advantage of the current statutory ''window'' in the Section 13(d) reporting regime. Comment is requested as to whether providing for current Schedule 13G amendment procedures as opposed to the more stringent Schedule 13D amendment procedures, for persons who qualify as Passive Investors, would exacerbate that problem, thereby decreasing investor protection and the availability of timely information provided to the market.

Comment is requested as to whether it is necessary to require that Passive Investors filing on Schedule 13G be subject to the more stringent amendment requirements currently applicable to Schedule 13D. Would more frequent amendments by Passive Investors provide sufficiently useful information to investors, the market and issuers to justify the filing burden on Passive Investors? Would the proposed standstill[23] and cooling-off[24] provisions provide sufficient protection from the abuse noted if the more lenient amendment requirements were adopted? If so, please explain.

Alternatively, would it be more appropriate to require Passive Investors to file an annual amendment for any material change in the information previously reported (like a Qualified Institutional Investor) but also file an amendment promptly upon acquiring 10 percent or more? Thereafter, the Passive Investor would promptly report any change in position of five percent or more (rather than, as with Qualified Institutional Investors, only five percent changes in position as of the last day of the month and amending within 10 days thereafter).[25] Should crossing each of these thresholds trigger a requirement that the Passive Investor cease voting and acquiring additional securities until the amendment is filed? Would that have any deterrent effect to the use of Schedule 13G where substantial acquisitions are planned? Conversely, does the proposed requirement to report promptly any material changes in position render the proposed 20 percent limitation on the use of Schedule 13G by Passive Investors and accompanying standstill period unnecessary? The Commission is considering for adoption each of these combinations of amendment requirements, cooling-off periods, and standstill periods.

The rules would continue to permit Qualified Institutional Investors to file the Schedule 13G within 45 days after calendar year end and without being subject to a 20 percent limitation on their holdings. Qualified Institutional Investors would continue to be required to certify that the subject securities were acquired in the ordinary course of business and not with the purpose nor with the effect of changing or influencing the control of the issuer.[26]

[21] Rule 13d-2(a) requires that an amendment to Schedule 13D be filed promptly upon any material change in the facts set forth in the schedule, including any material increase or decrease in the percentage of the class beneficially owned. Acquisitions or dispositions of one percent or more of the class are deemed to be ''material'' for the purposes of this rule. Acquisitions or dispositions of less than one percent of the class may be material depending upon the facts and circumstances.

[22] Under Rule 13d-2(b) an amendment to the Schedule 13G would be due 45 calendar days after the close of the year to report only any change that occurred in the information previously reported on Schedule 13G as of the last day of the year. However, under Rule 13d-1(b)(2) if their beneficial ownership exceeds 10 percent of the class at the end of any month, an amendment would be required to be filed within 10 days after the end of that month, as well as within 10 days after the end of any month in which their ownership increases or decreases by more than five percent of such class.

[23] Under the proposed rules, Passive Investors would be required to file a Schedule 13D within 10 days of the date their beneficial ownership equals or exceeds 20 percent of the class and would, upon such acquisition, be subject to a standstill period during which they could not vote their shares or acquire additional shares of the class until the Schedule 13D is filed. See Section II.D. infra.

[24] Under the proposed rules, if a Passive Investor develops a disqualifying purpose or effect, the investor would be subject to a cooling-off period until 10 days after the filing of a Schedule 13D during which period they could not vote their shares or acquire additional securities. See Section II.C. infra.

[25] One commenter on the 1989 proposals suggested requiring an amendment at two percent intervals.

[26] The Commission proposes to revise the certification on the Schedule 13G for Qualified Institutional Investors to provide that such investors certify that the securities were acquired *and held* in the ordinary course of business and

Even where an institutional investor is unable to make the ''ordinary course of business'' certification [27] it would still be permitted to file on Schedule 13G under the Passive Investor provision so long as it does not have a disqualifying purpose or effect. The Passive Investor provision, however, would require both types of investors, institutional and non-institutional, to file the Schedule 13G within 10 calendar days of the acquisition. Furthermore, such institutions would be required to file an amendment to their Schedule 13G within 10 calendar days of that change in status to disclose the change.[28] Comment is requested as to whether such institutional investors should be subject to a standstill period until the filing of the Schedule 13G amendment. Likewise, an institution unable to make the ''ordinary course of business'' certification would also be subject to the 20 percent limitation.

In addition, as reproposed, all Exempt Investors would continue to be able to file Schedule 13G within 45 days after the close of the calendar year, and would not be subject to the 20 percent limitation.[29] The exempt holdings do not appear to present a potential for affecting control of the issuer that should require earlier notice to the market and shareholders.

C. 13D Filing Requirement and Cooling-Off Period for Changes in Investment Purpose or Effect

As reproposed, Qualified Institutional Investors and Passive Investors that can no longer certify that they do not hold with a disqualifying purpose or effect must file a Schedule 13D no later than 10 calendar days after the change in investment purpose.[30] A ''cooling-off'' period would commence at the time the reporting person determines that it holds the subject securities with a disqualifying purpose or effect until the expiration of the tenth calendar day from the date of the filing of a Schedule 13D. This ''cooling-off'' period differs from the period currently required for Qualified Institutional Investors.[31] That period does not commence until the date of the filing of the Schedule 13D and creates a potential window between the time of the change in the purpose or effect and the ''prompt'' filing of a Schedule 13D during which the reporting person could acquire additional shares. As reproposed, the new rule would prohibit any such purchases from the moment of the change until the expiration of the tenth calendar day from the date of the filing of the Schedule 13D. During the cooling-off period, the rule would prohibit a person from voting or directing the voting of the subject securities or acquiring beneficial ownership of any equity securities of the issuer or any person controlling the issuer.[32]

The Commission preliminarily believes that the reproposed cooling-off period is necessary and appropriate when the beneficial owner determines that it now holds the securities with a disqualifying purpose or effect and may seek to influence control. The earlier commencement of the cooling-off period would encourage the prompt filing of a Schedule 13D.[33] The cooling-off period would prevent further acquisitions or the voting of the subject securities until the market and investors have been given time to react to the information in the Schedule 13D filing.

Comment is again requested on the necessity of the 10 calendar day cooling-off period. Is the dissemination of information concerning these filings, even for smaller companies, so rapid and widespread in the media that such period could be shortened (*e.g.*, to 3 or 5 days)? One commenter on the 1989 proposals suggested a longer cooling-off period. Should such period be lengthened (*e.g.*, 15 or 20 days)? Comment is requested as to the time at which the cooling-off period should begin—upon the change in purpose or effect, or upon the filing of the Schedule 13D. If the cooling-off period begins upon the change in purpose or effect, should it end upon the filing of the Schedule 13D?

D. Twenty-Percent Limit on Ownership Interest Reportable on Schedule 13G and Related Standstill Period

As originally proposed, the amendments to Regulation 13D–G would have restricted the use of Schedule 13G for all 13G eligible filers (other than Exempt Investors) by limiting the aggregate amount of securities that an investor could report on that Schedule to less than 20 percent. An investor would have been required to report on Schedule 13D within 10 calendar days after reaching the 20 percent threshold. The proposed amendments would have subjected the investor to a standstill period commencing at the time the threshold was reached and continuing until the filing of the Schedule 13D.

The original proposals reflected the Commission's concern regarding the need for prompt disclosure of sizeable blocks of securities because of inherent control implications corresponding to such ownership positions.[34] In this regard, the Commission specifically requested comment on the appropriateness of the 20 percent threshold level and the appropriateness and length of the standstill period.[35]

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were not acquired *or held* for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired *or held* in connection with or as a participant in any transaction having such purpose or effect (*emphasis added*). This proposed amendment to the certification is to conform the language of the certification to proposed Rule 13d–1(b)(4)(i)(A).

[27] In 1989, the Commission requested comment on the appropriateness of continuing to require the ordinary course of business certification. The sole commenter expressing a view on this matter stated that the ordinary course of business requirement is unnecessary when institutional investors acquire subject securities for passive purposes.

Congress recognized that the Section 13(d) statutory framework could have a significant impact on the reporting obligations of certain institutional investors and professionals in the securities business. Because such persons often acquire securities in the ordinary course of business and not with a view toward influencing control, in 1970 Congress specifically provided in Section 13(d)(5) that the Commission could permit the filing of a short form acquisition notice upon the determination that the securities were acquired in the ordinary course of business. Although the Commission proposes to eliminate that requirement for Passive Investors relying on proposed Rule 13d–1(b)(2), the certification in its present form will be retained with respect to institutions relying on the more liberal filing requirement under Rule 13d–1(b)(1). As a result, institutions would only have to report beneficial ownership of equity securities acquired and held in the ordinary course of business to the extent they owned more than five percent of the class at year end (or more than 10 percent at the end of any month). Proposed Rules 13d–1(b)(1) and (3).

[28] Proposed Rule 13d–1(b)(6)(ii).

[29] Proposed Rule 13d–1(c).

[30] Proposed Rule 13d–1(b)(4)(i).

[31] *See* Rule 13d–1(b)(3)(ii).

[32] In connection with the 1989 proposals, the Commission requested comment on the necessity of a cooling-off period and whether 10 calendar days was the appropriate period. Seven commenters addressed this issue, and all seven generally supported the concept of a cooling-off period. Four fully supported the 10 day time frame while two suggested a five day period, and a third advocated a 20 day period. The Commission also requested comment on whether the provision would discourage improper Schedule 13G filings by persons seeking to influence control. Four commenters generally believed that such a timing requirement would have such an effect; two other commenters did not agree, in part because of a concern that investor ''raiders'' may initially characterize themselves as ''passive investors'' and subsequently delay acknowledging their control intent.

[33] The sooner the Schedule 13D filing is made, the sooner the cooling-off period will end since the cooling-off period ends 10 calendar days from the date the Schedule 13D is filed.

[34] As stated in the Proposing Release, the Commission does not intend these proposed rules to create a presumption that beneficial ownership of 20 percent or more of subject securities indicates control or a control purpose.

[35] Three commenters favored a threshold limiting the availability of Schedule 13G to those filers whose securities holdings fall below a certain level

Continued

Most of the commenters strongly opposed subjecting institutional investors to the 20 percent threshold and the corresponding standstill period. Although recognizing the Commission's concerns regarding the need for prompt disclosure of sizeable blocks of securities, these commenters questioned the usefulness of an expedited Schedule 13D reporting obligation based solely upon reaching the 20 percent threshold level. The commenters stressed that the increased disclosure requirements of Schedule 13D are unwarranted where securities are purchased by otherwise eligible institutions in the ordinary course of business and that such a provision would impose too many costs with little, if any, benefit to the market.

In particular, one commenter asserted that (1) where sizeable blocks are held by institutional investors, such disclosure is already fulfilled pursuant to the current requirement that a Schedule 13G filing be made within 10 days after the end of the month where either an excess of 10 percent ownership or an increase or decrease of more than five percent ownership occurs, computed as of the last of the month [36] and (2) institutions cross the 20 percent level most often because the institutional investor holds convertible stock.

Certain commenters strongly opposed the 20 percent threshold level as it would apply to registered broker-dealers. One noted that a marketmaker's function is to provide the issuer with an efficient pricing mechanism and to provide purchasers and sellers with liquidity thereby enabling them to dispose of or acquire securities.

The Commission is proposing today that the 20 percent limit would apply only with respect to Passive Investors reporting on Schedule 13G pursuant to new Rule 13d–1(b)(2). Consistent with the current regulatory scheme, Qualified Institutional Investors would not be subject to the 20 percent limitation. The Commission recognizes that institutions that purchase securities in the ordinary course of business may be burdened by a limitation on the amount of securities that can be reported on the short-form Schedule 13G. Further, the Commission preliminarily believes that Schedule 13G strikes an appropriate balance between furnishing disclosure to the market and the burdens placed on such institutions.

Upon reaching the 20 percent level, Passive Investors would be required to report the acquisition within 10 calendar days on Schedule 13D, and would be subject to a standstill period during which time such investor would not be permitted to vote or direct the voting of the securities or acquire an additional beneficial ownership interest in any equity securities of the issuer until the investor files the Schedule 13D.[37] Comment is requested on the appropriateness of adopting a 20 percent limit on reporting on Schedule 13G and a standstill period with respect to Passive Investors and with respect to institutional investors who acquire securities other than in the ordinary course of business that remain eligible to file on Schedule 13G as Passive Investors. Comment is also requested on whether a higher or lower threshold should be adopted (*e.g.*, 10 or 15 percent, or 25 or 30 percent.). Is a cap on ownership reported on Schedule 13G by Passive Investors or the proposed standstill period necessary if the Commission applies, as proposed, the current Schedule 13D amendment requirements to Passive Investors? Would a lower threshold, for example 10 percent, be more appropriate in the event the Commission instead decides to permit Passive Investors to take advantage of the more liberal Schedule 13G amendment requirements?

E. Re-establishing Schedule 13G Eligibility

The Commission is proposing to amend Regulation 13D–G to allow persons who have lost their eligibility to file on Schedule 13G to re-establish their Schedule 13G-eligibility and file on Schedule 13G.[38] Specifically, a Qualified Institutional Investor who has lost its Schedule 13G eligibility because it is no longer a qualified entity under Rule 13d–1(b)(1)(ii) or cannot certify that it acquired or holds the securities in the ordinary course of business and not with the purpose or effect of changing or influencing control would be allowed to switch back to Schedule 13G pursuant to the Qualified Institutional Investor provision [39] once it re-establishes its status under Rule 13d–1(b)(1)(ii) or can again make the necessary certifications. Similarly, a Passive Investor that has lost its Schedule 13G-eligibility under proposed Rule 13d–1(b)(2) because it can no longer certify that it does not have a disqualifying purpose or effect or because it exceeded the 20 percent threshold, would be able to switch back to Schedule 13G when it is once again able to make the certification or when its beneficial ownership falls below 20 percent. The Commission preliminarily believes that investors and the market would be better informed if reporting persons were able to switch back to Schedule 13G after re-establishing their eligibility, since the filing of a Schedule 13D would be a clearer indicator of an investor that currently has a disqualifying purpose or effect or an investor that holds 20 percent or more of the class. Comment is requested on whether the proposal would provide better information or whether it would lead to abuse by filing persons.

F. Expansion of the Class of Qualified Institutional Investors

As reproposed, the use of the short-form Schedule 13G pursuant to the Qualified Institutional Investor provisions of Rule 13d–1(b)(1) would continue to be limited essentially to institutions such as brokers, dealers, investment companies, and investment advisers registered with the Commission, or regulated banks or insurance companies. Use of the Schedule 13G by similar non-domestic institutions has been limited in the past to those institutions that have obtained an exemptive order from the Commission [40] or, under the current practice, a no-action position from the Division of Corporation Finance based on the requester's undertaking to grant the Commission access to information that would otherwise be disclosed in a Schedule 13D and the comparability of the foreign regulatory scheme applicable to the particular category of institutional investor.

Since the Passive Investor provisions of proposed Rule 13d–1(b)(2) would make Schedule 13G available to all investors that do not have a disqualifying purpose or effect, including foreign investors, it is unclear whether foreign institutions would still seek relief to file on Schedule 13G under the Qualified Institutional

and also favored the proposed standstill period. All three, however, believed that a 20 percent level is too high. One believed that a 10 percent threshold is the correct level because of the increasingly important role large institutional investors play in contested voting situations. Another suggested a 15 percent limit for non-institutional investors because of the possibility of abuse by those investors and suggested that such a requirement would not impose undue burdens on institutional investors.

[36] Rule 13d–1(b)(2) [17 CFR 240.13d–1(b)(2)].

[37] As proposed, the acquisition that causes the reporting person to hold 20 percent or more and therefore triggers the Schedule 13D filing obligation, may also trigger an amendment requirement for such person's Schedule 13G (*e.g.*, an acquisition of one percent or more of the class). The Schedule 13G amendment would be required to be filed promptly upon such acquisition and the Schedule 13D would be required to be filed within 10 days of the acquisition. The reporting person may forego filing the amendment to the Schedule 13G if the Schedule 13D is filed promptly.

[38] Proposed Rule 13d–1(b)(7).

[39] Rule 13d–1(b)(1).

[40] *See* Exchange Act Release No. 14692 (April 21, 1978) [43 FR 18484].

Investor provisions of Rule 13d–1(b)(1). The use of Schedule 13G pursuant to the Passive Investor provisions would require the schedule to be filed within 10 calendar days of the acquisition as opposed to within 45 days after the calendar year in which the institution holds more than five percent at year end under the Qualified Institutional Investor provision, and could not be used to report beneficial ownership of 20 percent or more. Similarly, a prompt amendment requirement may make reliance on the Passive Investor provision less useful for foreign institutions than the Qualified Institutional Investor provision. Comment is requested as to whether the accelerated filing and amendment requirement, and the 20 percent limit under proposed Rule 13d–1(b)(2) would discourage foreign investors from using that provision and cause those foreign institutional investors to continue to seek relief to file pursuant to Rule 13d–1(b)(1).

The Commission continues to believe that a non-U.S. institution seeking relief to file pursuant to Rule 13d–1(b)(1) should be subject to a regulatory scheme in its country comparable to the U.S. regulatory scheme for the particular category of institution and that such institutions should undertake to grant the Commission access to information that would otherwise be disclosed on Schedule 13D.[41] Accordingly, no change to current practice is proposed. However, comment is requested as to whether Rule 13d–1(b)(1) should be amended expressly to allow foreign institutional investors that are the functional equivalent of the domestic institutions enumerated in Rule 13d–1(b)(1)(ii) (A)–(G) to file on Schedule 13G pursuant to that provision without having to obtain individual relief from the Commission. In this regard, should the foreign institution be required to certify on the Schedule 13G that it is subject to a regulatory scheme comparable to the U.S. for the particular category of institution? Additionally, should filing on Schedule 13G under either provision only be available to non-U.S. persons who consent on the Schedule 13G to furnish the Commission with information, at its request, that would otherwise be disclosed in a Schedule 13D?

Additionally, the Commission is proposing that control persons of Qualified Institutional Investors be allowed to report indirect beneficial ownership through the controlled entity on Schedule 13G so long as the control person does not own directly, or indirectly through an ineligible entity or affiliate, more than one percent of the subject company's stock and is not seeking to change or influence control of the subject company.[42] Control persons filing on Schedule 13G pursuant to this provision would not be subject to the 20 percent limitation as they would if they filed on Schedule 13G pursuant to the Passive Investor provision.[43] The Commission is also proposing to make a conforming change under Section 16 of the Exchange Act.[44]

Finally, under the current requirements, only pension funds that are subject to the Employee Retirement Income Security Act of 1974 (''ERISA'') are eligible to use Schedule 13G.[45] The Commission limited the category of pension funds eligible to use Schedule 13G to pension funds subject to ERISA because such funds are subject to uniform regulatory controls.[46] The staff has granted no-action relief to a state pension fund to use Schedule 13G based upon a showing that the fund's fiduciaries were subject to similar regulatory standards as those imposed by ERISA.[47] The Commission preliminarily believes that employee benefit plans maintained primarily for the benefit of state or local government employees are now generally subject to fiduciary obligations and standards for investment that are substantially similar to those imposed by ERISA. Therefore, the Commission proposes to amend Rule 13d–1(b)(1)(ii)(F) to allow employee benefit plans maintained primarily for the benefit of employees of a state or local government or instrumentality to report beneficial ownership on Schedule 13G for securities acquired or held in the ordinary course of business and not with the purpose or effect of influencing the control of the issuer. Comment is requested as to whether such proposal is necessary or appropriate. The Commission is proposing to revise the current language in Rule 13d–1(b)(1)(ii)(F) to clarify that employee benefit plans and pension funds must both be subject to ERISA. The language will also be modified to eliminate a redundancy. The Commission is proposing to eliminate the phrase ''pension fund'' because such entities are included in the definition of employee benefit plan in Section 3(3) of ERISA. The Commission is also proposing to make a conforming change under Section 16 to amend Rule 16a–1(a)(1)(vi) to include state and local government employee benefit plans in the list of persons that are not deemed to be the beneficial owners of securities held for the benefit of third parties. Comment is requested on the appropriateness of conforming the list of institutional investors in Rule 16a–1(a)(1) (i)–(viii) to reflect the changes made to the list of Qualified Institutional Investors in Rule 13d–1(b)(1)(ii) (A)–(H).

G. Related and Clarifying Amendments

The Commission is also proposing amendments to clarify the beneficial ownership reporting requirements. Amendments are proposed to eliminate the redundancies that currently exist in Regulation 13D–G regarding the filing and dissemination requirements by setting forth such requirements in one rule, proposed Rule 13d–7(b). Amendments are also proposed to revise the dissemination requirements of Schedule 13G. Since the Commission believes that a majority of investors will file Schedule 13G in lieu of Schedule 13D as a result of the proposed amendments to Regulation 13D–G, Schedule 13G will become the primary reporting document for beneficial ownership. Therefore, amended Rule 13d–7(b) would require that the original and amendments to Schedules 13G be provided to each exchange where the

[41] Under the Qualified Institutional Investor provision, the initial Schedule 13G is filed based upon the amount beneficially owned as of the last day of the calendar year unless the beneficial ownership exceeded 10 percent of the outstanding securities at any time during the year. Consequently, issuers and the market are not informed during the year that such an investor holds more than five percent of the issuer's securities. The Commission preliminarily believes that since the Qualified Institutional Investor provision do not require disclosure of such initial acquisitions or the existence of such investors until the end of the year, these more lenient filing requirements should be limited to regulated institutions as enumerated in Rule 13d–1(b)(1)(ii).

[42] Proposed Rule 13d–1(b)(1)(ii)(G). This proposed amendment codifies the no-action position set forth in *Warren E. Buffet & Berkshire Hathaway, Inc.*, (available December 5, 1986). Under the original proposals, the no-action position would have continued to be necessary because of the timing difference (45-day versus 10-day) in the filing of the Schedule 13G by eligible institutions and individuals. However, the current proposal would allow the qualifying control person to file its Schedule 13G within the same filing period as the qualifying institution it controls.

[43] Proposed Rule 13d–1(b)(2).

[44] The Commission proposes to amend Rule 16a–1(a)(1)(vii) to include control persons of institutions in the list of persons that are not deemed to be beneficial owners of securities held for the benefit of third parties or in customer or fiduciary accounts in the ordinary course of business as long as the shares are acquired without the purpose or effect of changing or influencing control of the issuer or engaging in any arrangement subject to Rule 13d–3(b). This proposed amendment codifies the interpretive position set forth in *Edward C. Johnson 3d.*, (available August 20, 1991).

[45] See Rule 13d–1(b)(1)(ii)(F).

[46] *See* Exchange Act Release No. 14692, Section II(A)(1)(b) (April 21, 1978) [43 FR 18484].

[47] *See State of Wisconsin Investment Board and Wisconsin Retirement System*, (available December 8, 1992); *see also, Ontario Teachers' Pension Plan Board*, (available May 6, 1992).

security is traded as is currently required for Schedules 13D. Comment is requested as to whether it is necessary or appropriate to require that copies of Schedules 13G be provided to each exchange since such filings are required to be filed electronically on the Commission's Electronic Data Gathering and Retrieval System and therefore available in the electronic media, such as the Commission's World Wide Web site. Additionally, Schedules 13G for exempt acquisitions would continue to be sent only to the issuer at its principal executive offices and be filed with the Commission. Amendments to Schedule 13G relating to exempt acquisitions would no longer be required to be sent to an exchange.

The Commission is also reproposing that a copy of a Schedule 13D, Schedule 13G or amendment filed to report ownership of a class of securities quoted on the National Association of Securities Dealers Automated Quotation System be provided to the National Association of Securities Dealers (''NASD'') to parallel the requirements for exchange-traded securities.[48] Comment is requested as to whether it is necessary or appropriate to require that copies of the schedules be provided to the NASD.

Amendments to Regulation 13D–G are proposed to clarify the number of copies required to be filed. Additionally, Rule 13d–7 would be revised to clarify that a Schedule 13D filed with respect to holdings reported until then on Schedule 13G, and vice versa, does not require an additional fee, if beneficial ownership had not fallen below five percent.[49] Finally, technical amendments to Schedules 13D and 13G are being reproposed to conform the schedules to the proposed rules and to amend the filing deadlines and the number of copies in the instruction.

H. Effects of Proposed Amendments to Regulation 13D–G

Issue	Current schedule 13D	Proposed schedule 13D	Current schedule 13G	Proposed schedule 13G
Person Filing.	Any person acquiring more than 5% of an equity security. Rule 13d–1(a).	No change	*Qualified Institutional Investors*—Eligible institutions acquiring more than 5% of an equity security. Rule 13d–1(b).	*Qualified Institutional Investors*—Expanded to include control persons of qualified institutions and state and local employee benefit plans.
			Exempt Investors—Persons holding more than 5% of an equity security who are not subject to, or whose acquisitions are exempt from Section 13(d). Rule 13d–1(c).	*Exempt Investors*—No change.
				Passive Investors—Any person holding more than 5% but less than 20% of an equity security and did not acquire such securities with a purpose or effect of changing or influencing control of the issuer or in a transaction having such effect. Proposed Rule 13d–1(b)(2).
Initial Filing.	Within 10 days after the acquisition. Rule 13d–1(a).	No change	*Qualified Institutional Investors*—45 days after calendar year in which the person becomes obligated to file, Rule 13d–1(b)(1), or within 10 days after the end of the first month in which such person's beneficial ownership exceeds 10% of the class of equity securities. Rule 13d–1(b)(2).	*Qualified Institutional Investors*—No change.
			Exempt Investors—45 days after calendar year in which the person becomes obligated to file. Rule 13d–1(c).	*Exempt Investors*—No change. Passive Investors—Within 10 days after the acquisition. Proposed Rule 13d–1(b)(2).
Amendment.	Filed promptly to reflect any material change including a change in investment intent. An acquisition or disposition of beneficial ownership of securities equal to 1% or more of the class is deemed a material change. Rule 13d–2(a).	No change	*All Filers*—45 days after the end of the calendar year to report any change in the information. Rule 13d–2(b).	

[48] Proposed Rule 13d–7(b).

[49] The Commission has proposed eliminating the filing fee required for Schedules 13D and 13G. *See* Exchange Act Release No. 37220 (May 16, 1996) [61 FR 25601]. If such fee is eliminated, Rule 13d–7 will be revised accordingly.

Issue	Current schedule 13D	Proposed schedule 13D	Current schedule 13G	Proposed schedule 13G
			Qualified Institutional Investors only—In addition to the requirement stated above, within 10 days after the end of the first month in which such person's beneficial ownership exceeds 10% of the class of equity securities, and thereafter within 10 days of the end of any month in which such person's beneficial ownership increases or decreases more than 5%, computed as of the end of the month. Rule 13d–1(b)(2).	*Qualified Institutional Investors*—No Change.
				Exempt Investors—No change.
				Passive Investors—Same as requirement for persons filing Schedule 13D. Proposed Rule 13d–2(a).
Purpose of Acquisition.	Disclose purpose of the transaction. Schedule 13D, Item 4.	No change	*Qualified Institutional Investors*—Requires certification that the securities were acquired in the ordinary course of business, were not acquired for the purpose of and not have the effect of changing or influencing control of the issuer, and were not acquired in a transaction having such an effect. Schedule 13G, Item 10. Rule 13d–1(b).	*Qualified Institutional Investors*—No change except for a technical change to the certification.
			Exempt Investors—No certification required.	*Exempt Investors*—No change.
				Passive Investors—Same certification as Qualified Institutional Investors *except that* acquisitions need not occur in the ordinary course of business. Schedule 13G, proposed Item 10(b). Proposed Rule 13d–1(b)(2).
Initial Schedule 13D following filing on Schedule 13G.	*Qualified Institutional Investors*—Promptly, but no later than 10 days after such person ceases to be an eligible institution or determines that it no longer holds such securities in the ordinary course of business or not with the purpose or effect of changing or influencing the control of the issuer. Rule 13d–1(b)(3).	*Qualified Institutional Investors*—No change. Proposed Rules 13d–1(b)(4) and (b)(6).		Note: Ability to refile on Schedule 13G once disqualification has lapsed clarified.
	Exempt Investors—Within 10 days upon making an acquisition subject to, or not exempt from Section 13(d).	*Exempt Investors*—No change.		
		Passive Investors—Within 10 days of: (1) acquiring or holding the securities with the purpose or effect of changing or influencing control of the issuer or in a transaction having such effect. Proposed Rule 13d–1(b)(4), or.		

Issue	Current schedule 13D	Proposed schedule 13D	Current schedule 13G	Proposed schedule 13G
		(2) the person's beneficial ownership equals or exceeds 20% of the class of equity securities. Proposed Rule 13d–1(b)(5).		
Cooling-Off Period.	*Qualified Institutional Investors*—10 day period after the filing of a Schedule 13D because the person no longer holds such securities in the ordinary course of business or not with the purpose or effect of changing or influencing the control of the issuer. Rule 13d–1(b)(3).	*Qualified Institutional Investors*—From the time the person no longer holds the securities without the purpose or effect of changing or influencing control of the issuer until the tenth day from the date the Schedule 13D is filed. Proposed Rule 13d–1(b)(4)(ii). *Passive Investors*—Same as Qualified Institutional Investors. Proposed Rule 13d–1(b)(4)(ii).		
Standstill Period.		*Passive Investors*—*From the time the person's beneficial ownership equals or exceeds 20% of the class of equity securities until the filing of the Schedule 13D. Proposed Rule 13d–1(b)(5).*		

III. Initial Regulatory Flexibility Analysis

An Initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603 concerning the proposed amendments to the beneficial ownership rules and related Schedules 13D and 13G and the proposed amendments to Rules 16a–1(a)(1)(vi) and (vii). The analysis notes that the principal effect of the revisions to Regulation 13D–G will be to reduce the disclosure obligations and associated costs to a majority of persons, including small entities, required to report beneficial ownership under Sections 13(d) and 13(g) of the Exchange Act and would eliminate the reporting obligations under Section 16 of the Exchange Act of certain state and local government employee benefit plans and certain control persons of Qualified Institutional Investors. The analysis also indicates that there are no current federal rules that duplicate, overlap or conflict with the rules and forms to be amended.

As stated in the analysis, alternatives to the proposed amendments were considered, including, among other things, changing or simplifying the compliance or reporting requirements for small entities or exempting small entities from all requirements to file the schedules under Regulation 13D–G. As discussed in the analysis, there is no less restrictive alternative to the proposed rule amendments that would serve the purposes of the beneficial ownership provisions of the Exchange Act.

Written comments are encouraged with respect to any aspect of the analysis. Such comments will be considered in the preparation of the Final Regulatory Flexibility Analysis if the proposed revisions are adopted. A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Dennis O. Garris in the Office of Mergers and Acquisitions, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

IV. Paperwork Reduction Act

Certain provisions of Regulation 13D–G contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and the Commission has submitted proposed revisions to Regulation 13D–G to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 C.F.R. § 1320.11. The titles for the collections of information are ''Schedule 13D'' and ''Schedule 13G''.

The beneficial ownership reporting requirements are intended to provide investors and the subject issuer with information about accumulations of securities that may have the ability to change or influence control of the issuer. Regulation 13D–G currently requires that most persons file a detailed disclosure statement on Schedule 13D upon acquiring more than five percent of the subject securities. Certain qualified institutions (Qualified Institutional Investors) and persons who have not made an acquisition subject to Section 13(d) (Exempt Investors) may file the short-form disclosure statement Schedule 13G which requires less detailed disclosure than Schedule 13D.[50]

The Commission anticipates that the proposal to make Schedule 13G available, in lieu of Schedule 13D, to all Passive Investors beneficially owning less than 20 percent would reduce the existing information collection requirements associated with Regulation 13D–G and Schedules 13D and 13G. The proposed amendments will allow more individuals and non-institutional investors to file the short-form Schedule 13G. It is estimated that 803 Schedules 13D would be filed each year if the proposals were adopted.[51] Each Schedule 13D would impose an estimated burden of 14.75 hours for a total annual burden of 11,844.25 hours.[52] It is estimated that 9,065 Schedules 13G would be filed each year if the proposals were adopted.[53] Each Schedule 13G would impose an estimated burden of 10 hours for a total annual burden of 90,650 hours.

Providing the information required by Schedules 13D and 13G is mandatory under Sections 13(d) and 13(g) and Regulation 13D–G of the Exchange Act. The information will not be kept confidential. Unless a currently valid OMB control number is displayed on the Schedules 13D and 13G, the Commission may not sponsor or conduct or require response to an information collection.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information; (iii) enhance the quality, utility, and clarity of the information to be collected; and, (iv) minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should send a copy to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, with reference to File No. S7–16–96. The Office of Management and Budget is required to make a decision concerning the collection of information between 30 and 60 days after publication of this release. Consequently, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

V. Cost-Benefit Analysis

No specific data was provided in response to the Commission's original request regarding the costs and benefits associated with amending the filing requirements under Regulation 13D–G.[54] It appears that making Schedule 13G available to all Passive Investors holding less than 20 percent of subject securities should significantly reduce the reporting costs incurred by those investors. Regulation 13D–G applies to any person that acquires more than five percent of a class of equity securities. Although it is difficult to determine reasonably the number of small entities and the costs to small entities of complying with the proposed amendments, the Commission believes that the proposed amendments would not result in a substantial economic impact to a significant number of small entities but rather should result in a substantial savings to entities (both small and large) that qualify to file Schedule 13G in lieu of Schedule 13D. The proposed amendments would decrease the disclosure obligations of a significant number of persons currently required to file the long-form Schedule 13D. Based upon data provided by the Commission's Office of Economic Analysis, 76 percent of Schedules 13D studied by that office did not disclose a purpose or effect for changing or influencing control of the issuer and, therefore, would benefit from the amendments proposed today.[55]

In response to comments in connection with the potential increased costs that institutional investors could incur if subject to the 20 percent threshold level, the Commission is not reproposing the amendment with respect to Qualified Institutional Investors.

The Commission again requests commenters to provide views and data as to the costs and benefits associated with amending the filing requirements for beneficial ownership statements.

VI. Request for Comment

Any interested persons wishing to submit written comments on the proposals, to suggest additional changes, or to submit comments on other matters that might have an impact on the proposals, are requested to do so. In addition to the specific inquiries made throughout this release, the Commission solicits comments on the usefulness of the proposed revisions to the Regulation 13D–G reporting scheme and the conforming changes under Section 16 to reporting persons, registrants, and the marketplace at large.

The Commission also requests comment on whether the proposed rules, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. Comments on this inquiry will be considered by the Commission in complying with its responsibilities under Section 23(a)(2) of the Exchange Act.[56]

The Commission also encourages the submission of written comments with respect to any aspect of the initial regulatory flexibility analysis. Such written comments will be considered in the preparation of the final regulatory flexibility analysis if the proposed rules are adopted.

Persons wishing to submit written comments should file three copies thereof with Jonathan G. Katz, Secretary,

[50] *See* fn. 13 *supra* for a comparison of the primary differences between the disclosure required by Schedules 13D and 13G.

[51] This estimated number of respondents is based upon the number of Schedules 13D filed in fiscal year 1995 and assumes no increase each year. This represents an estimated 76 percent reduction from the 3,347 Schedules 13D filed in fiscal year 1995. The estimated 76 percent reduction in Schedule 13D filings is based upon the sample data provided by the Office of Economic Analysis.

[52] Total annual burden hours are determined by multiplying the estimated average burden hours for completing the particular schedule by the estimated number of respondents that file that schedule.

[53] This number of respondents is based upon the number of Schedules 13G filed in fiscal year 1995 (6,521) plus the additional 2,544 respondents that are expected to file on Schedule 13G under the proposed rules and assumes no increase each year.

[54] However, eight commenters expressed general views as to the costs and benefits associated with the amendments, without attempting to quantify either the costs or benefits. Five commenters stated that the proposed amendments would reduce passive filers' reporting burdens and associated costs. Seven commenters expressed concern that the proposed 20 percent limitation upon the availability of Schedule 13G to passive institutional investors would impose increased compliance burdens and costs without providing any useful information to the public. Finally, three commenters believed that requiring Schedule 13G filers to provide each exchange upon which the security is traded a copy of the Schedule would be overly burdensome because such information is not readily available.

[55] *See* Section I.B. supra.

[56] 15 U.S.C. 78w(a)(2).

Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. Comment letters should refer to File No. S7–16–96; this file number should be included on the subject line if e-mail is used. All comments received will be available for public inspection and copying in the Commission's public reference room at the same address. Electronically submitted comments will be posted on the Commission's Internet web site (http://www.sec.gov).

VII. Statutory Basis and Text of Amendments

The amendments to Rules 13d–1, 13d–2 and 13d–7 and Schedules 13D and 13G and Rule 16a–1 are being proposed pursuant to the authority set forth in Sections 3(b), 13, 16 and 23 of the Securities Exchange Act of 1934.

Lists of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be 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, 78*i*, 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. By amending § 240.13d-1 to revise paragraph (a), the introductory text of paragraph (b)(1), paragraphs (b)(1)(ii)(F) and (G), and paragraphs (b)(2), (b)(3), (b)(4), and (c) and to add paragraphs (b)(5), (b)(6) and (b)(7) to read as follows:

§ 240.13d–1 Filing of Schedules 13D and 13G.

(a) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is specified in paragraph (d) of this section, is directly or indirectly the beneficial owner of more than five percent of such class shall, within 10 days after such acquisition, file with the Commission, a statement containing the information required by Schedule 13D (§ 240.13d–101).

(b)(1) A person who would otherwise be obligated under paragraph (a) of this section to file a statement on Schedule 13D (§ 240.13d–101) may, in lieu thereof, file with the Commission, within 45 days after the end of the calendar year in which such person became so obligated, a short-form statement on Schedule 13G (§ 240.13d–102): *Provided,* That it shall not be necessary to file a Schedule 13G unless the percentage of the class of equity security specified in paragraph (d) of this section beneficially owned as of the end of the calendar year is more than five percent: *And provided further,* That:

* * * * *

(ii) * * *

(F) An employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001 et seq. (''ERISA'') which is subject to the provisions of ERISA, or any such plan that is not subject to ERISA that is maintained primarily for the benefit of the employees of a state or local government or instrumentality, or an endowment fund;

(G) A parent holding company or control person, provided the aggregate amount held directly by the parent or control person, and directly and indirectly by their subsidiaries or affiliates that are not persons specified in § 240.13d–1(b)(1)(ii) (A) through (F), does not exceed one percent of the securities of the subject class;

* * * * *

(2) A person who would otherwise be obligated under paragraph (a) of this section to file a statement on Schedule 13D (§ 240.13d–101) may, in lieu thereof, file with the Commission, within 10 days after an acquisition described in paragraph (a) of this section, a short-form statement on Schedule 13G (§ 240.13d–102): *Provided,* That such person:

(i) Has not acquired such securities with any purpose, or with the effect of, changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 240.13d–3(b);

(ii) Is not a person reporting pursuant to paragraph (b)(1) of this section; and

(iii) Is not directly or indirectly the beneficial owner of 20 percent or more of such class.

(3) Any person relying on § 240.13d–1(b)(1) or § 240.13d–2(b) shall, in addition to filing any statements thereunder, file a statement on Schedule 13G (§ 240.13d–101), or amendment thereto, within 10 days after the end of the first month in which such person's direct or indirect beneficial ownership exceeds 10 percent of a class of equity securities specified in § 240.13d–1(d), computed as of the last day of the month, and thereafter within 10 days after the end of any month in which such person's beneficial ownership of securities of such class, computed as of the last day of the month, increases or decreases by more than five percent of such class of equity securities. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required by this paragraph (b)(3) unless the person thereafter becomes the beneficial owner of more than 10 percent of the class, computed as of the last day of the month.

(4)(i) Notwithstanding paragraphs (b)(1), (b)(2) and (b)(3) of this section and § 240.13d–2(b), a person that has reported that it is the beneficial owner of more than five percent of a class of equity securities in a statement on Schedule 13G (§ 240.13d–102) pursuant to paragraph (b)(1), (b)(2) or (b)(3) of this section, or is required to report such acquisition but has not yet filed the schedule, shall immediately become subject to §§ 240.13d–1(a) and 240.13d–2(a) and shall file a statement on Schedule 13D (§ 240.13d–101) within 10 days if, and shall remain subject to such requirements for so long as, such person:

(A) Has acquired or holds such securities with a purpose or effect of changing or influencing control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, including any transaction subject to § 240.13d–3(b); and

(B) Is at that time the beneficial owner of more than five percent of a class of equity securities described in § 240.13d–1(d).

(ii) From the time such person has acquired or holds such securities with a purpose or effect of changing or influencing control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect until the expiration of the tenth day from the date of the filing of a Schedule 13D (§ 240.13d–101) pursuant to this section, such person shall not:

(A) Vote or direct the voting of the securities described therein; or

(B) Acquire an additional beneficial ownership interest in any equity securities of the issuer of such securities, nor of any person controlling such issuer.

(5) Notwithstanding paragraph (b)(2) of this section and § 240.13d–2(b),

persons reporting on Schedule 13G (§ 240.13d–102) pursuant to paragraph (b)(2) of this section shall immediately become subject to §§ 240.13d–1(a) and 240.13d–2(a) and shall remain subject to such requirements for so long as, and shall file a statement on Schedule 13D (§ 240.13d–101) within 10 days of the date on which, such person's beneficial ownership equals or exceeds 20 percent of the class of equity securities. Until the filing of a statement on Schedule 13D pursuant to this paragraph, such person shall not:

(i) Vote or direct the voting of the securities described therein, or

(ii) Acquire an additional beneficial ownership interest in any equity securities of the issuer of such securities, nor of any person controlling such issuer.

(6)(i) Any person who has reported an acquisition of securities in a statement on Schedule 13G (§ 240.13d–102) pursuant to paragraph (b)(1) or (b)(3) of this section and thereafter ceases to be a person specified in paragraph (b)(1)(ii) of this section shall immediately become subject to § 240.13d–1(a) or § 240.13d–1(b)(2) (if such person satisfies the requirements specified in § 240.13d–1(b)(2)), and §§ 240.13d–2 (a) or (b) and shall remain subject to such requirements for so long as, and shall file, within 10 days thereafter, a statement on Schedule 13D (§ 240.13d–101) or amendment to Schedule 13G, as applicable, if such person is a beneficial owner at that time of more than five percent of the class of equity securities.

(ii) Any person that has reported beneficial ownership on Schedule 13G (§ 240.13d–102) pursuant to § 240.13d–1(b)(1) shall file an amendment on Schedule 13G within 10 days of the date that such person determines that it no longer has acquired or holds such securities in the ordinary course of business, *Provided* That such person may continue to file on Schedule 13G pursuant to § 240.13d–1(b)(2).

(7) Any person who has filed a Schedule 13D (§ 240.13d–101) pursuant to paragraph (b)(4), (b)(5) or (b)(6) of this section may again report its beneficial ownership on Schedule 13G (§ 240.13d–102) pursuant to paragraphs (b)(1), (b)(2) or (b)(3) of this section provided such person qualifies thereunder, as applicable, by filing a Schedule 13G (§ 240.13d–102) once the person determines that the provisions of paragraph (b)(4), (b)(5) or (b)(6) of this section no longer apply.

(c) Any person who is or becomes directly or indirectly the beneficial owner of more than five percent of any equity security of a class specified in paragraph (d) of this section and who is not required to file a statement under paragraph (a) of this section by virtue of the exemption provided by Section 13(d)(6) (A) or (B) of the Act (15 U.S.C. 78m(d)(6)(A) or 78m(d)(6)(B)), or because such beneficial ownership was acquired prior to December 22, 1970, or because such person otherwise (except for the exemption provided by Section 13(d)(6)(C) of the Act (15 U.S.C. 78m(d)(6)(C))) is not required to file such a statement, shall file with the Commission, within 45 days after the end of the calendar year in which such person became obligated to report under this paragraph (c), a statement containing the information required by Schedule 13G (§ 240.13d–102).

* * * * *

3. By amending § 240.13d–2 by revising paragraphs (a), (b), and the note following paragraph (c) to read as follows:

§ 240.13d–2 Filing of amendments to Schedules 13D or 13G.

(a) If any material change occurs in the facts set forth in the Schedule 13D (§ 240.13d–101) required by § 240.13d–1(a) or the Schedule 13G (§ 240.13d–102) filed pursuant to § 240.13d–1(b)(2), including, but not limited to, any material increase or decrease in the percentage of the class beneficially owned, the person or persons who were required to file such statement shall promptly file or cause to be filed with the Commission an amendment disclosing such change. An acquisition or disposition of beneficial ownership of securities in an amount equal to one percent or more of the class of securities shall be deemed ''material'' for purposes of this section; acquisitions or dispositions of less than such amounts may be material, depending upon the facts and circumstances.

(b) Notwithstanding paragraph (a) of this section, and provided that the person filing a Schedule 13G (§ 240.13d–102) pursuant to § 240.13d–1(b)(1) continues to meet the requirements set forth therein, any person who has filed a Schedule 13G pursuant to § 240.13d–1(b)(1) or § 240.13d–1(c) shall amend such statement within forty-five days after the end of each calendar year if, as of the end of such calendar year, there are any changes in the information reported in the previous filing on that Schedule; *Provided, however,* That such amendment need not be filed with respect to a change in the percent of class outstanding previously reported if such change results solely from a change in the aggregate number of securities outstanding. Once an amendment has been filed reflecting beneficial ownership of five percent or less of the class of securities, no additional filings are required unless the person thereafter becomes the beneficial owner of more than five percent of the class and is required to file pursuant to § 240.13d–1.

(c) * * *

Note to § 240.13d–2: For persons filing a short-form statement pursuant to Rule 13d–1(b) (1) or (2), see also Rules 13d–1(b) (3), (4), (5), and (6).

4. By amending § 240.13d–7 by revising the section heading, designating the current text as paragraph (a), revising the last sentence of newly designated paragraph (a) and adding paragraph (b) to read as follows:

§ 240.13d–7 Fees for filing Schedules 13D or 13G; Number of Copies; Dissemination.

(a) * * * No fees shall be required with respect to the filing of any amended Schedule 13D (§ 240.13d–101) or amended Schedule 13G (§ 240.13d–102), and no fees shall be required with respect to an initial Schedule 13D or initial Schedule 13G if the filing person previously has filed a Schedule 13D or Schedule 13G reporting beneficial ownership of more than five percent of such class of equity securities and has not subsequently filed an amendment reporting beneficial ownership of five percent or less of such class; *Provided, however,* That once an amendment has been filed reflecting beneficial ownership of five percent or less of such class, an additional fee of $100 shall be paid with the next filing of that person that reflects ownership of more than five percent.

(b) Schedules filed with the Commission pursuant to §§ 240.13d–1 and 240.13d–2 in paper format shall include a signed original and five copies of the schedule, including all exhibits. One copy of the Schedule filed pursuant to §§ 240.13d–1 and 240.13d–2 shall be sent to the issuer of the security at its principal executive office, by registered or certified mail, and (except with respect to persons filing pursuant to § 240.13d–1(c)) to each national securities exchange or the securities association that operates the automated inter-dealer quotation system where the security is traded or authorized to be quoted.

5. By amending § 240.13d–101 by revising the language preceding the first box on the cover page, and revising the note on the cover page to read as follows:

§ 240.13d–101 Schedule 13D—Information to be included in statements filed pursuant to § 240.13d–1(a) and amendments thereto filed pursuant to § 240.13d–2(a).

* * * * *

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§ 240.13d–1(b)(4), 240.13d–1(b)(5) or 240.13d–1(b)(6), check the following box.

* * * * *

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See § 240.13d–7(b) for other parties to whom copies are to be sent.

* * * * *

6. By amending § 240.13d–102 by revising the section heading, adding a line for the date of the reportable event following the line for CUSIP Number, revising Instruction A, revising Items 3, 4, and 10, and revising the note at the end of the schedule, to read as follows:

§ 240.13d–102 Schedule 13G—Information to be included in statements filed pursuant to § 240.13d–1 (b) and (c) and amendments thereto filed pursuant to § 240.13d–1(b)(3) or § 240.13d–2.

* * * * *

(Date of Event Which Requires Filing of this Statement)

* * * * *

Instructions. A. Statements filed pursuant to § 240.13d–1(b)(1) containing the information required by this schedule shall be filed not later than February 14 following the calendar year in which the person became obligated to report or within the time specified in § 240.13d–1(b)(3), if applicable. Statements filed pursuant to § 240.13d–1(b)(2) shall be filed not later than 10 days after the event requiring the filing.

* * * * *

Item 3. If this statement is filed pursuant to §§ 240.13d–1(b)(1) or 240.13d–2(b), check whether the person filing is a:

(a) [ ] Broker or dealer registered under section 15 of the Act.

(b) [ ] Bank as defined in section 3(a)(6) of the Act.

(c) [ ] Insurance company as defined in section 3(a)(19) of the Act.

(d) [ ] Investment company registered under section 8 of the Investment Company Act of 1940.

(e) [ ] Investment adviser registered under section 203 of the Investment Advisers Act of 1940.

(f) [ ] Employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001 *et seq.* (''ERISA'') which is subject to the provisions of ERISA, or any such plan that is not subject to ERISA that is maintained primarily for the benefit of the employees of a state or local government or instrumentality, or an endowment fund.

(g) [ ] Parent holding company or control person, in accordance with § 240.13d–1(b)(1)(ii)(G).

If this statement is filed pursuant to § 240.13d–1(b)(2), check this box. ______

Item 4. Ownership.

Provide the following information regarding the aggregate number and percentage of the class of securities of the issuer identified in Item 1.

(a) Amount beneficially owned: ____________.

(b) Percent of class: ____________.

(c) Number of shares as to which such person has:

(i) Sole power to vote or to direct the vote ____________.

(ii) Shared power to vote or to direct the vote ____________.

(iii) Sole power to dispose or to direct the disposition of ____________.

(iv) Shared power to dispose or to direct the disposition of ____________.

Instruction. For computations regarding securities which represent a right to acquire an underlying security *see* § 240.13d–3(d)(1).

* * * * *

Item 10. Certification.

(a) The following certification shall be included if the statement is filed pursuant to § 240.13d–1(b)(1):

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were acquired and held in the ordinary course of business and were not acquired or held for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired or held in connection with or as a participant in any transaction having such purpose or effect.

(b) The following certification shall be included if the statement is filed pursuant to § 240.13d–1(b)(2):

By signing below I certify that, to the best of my knowledge and belief, the securities referred to above were not acquired or held for the purpose of and do not have the effect of changing or influencing the control of the issuer of such securities and were not acquired or held in connection with or as a participant in any transaction having such purpose or effect.

* * * * *

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See § 240.13d–7(b) for other parties for whom copies are to be sent.

* * * * *

2. By amending § 240.16a–1 to revise paragraphs (a)(1)(vi) and (vii) to read as follows:

§ 240.16a–1 Definition of terms.

* * * * *

(a) * * *

(1) * * *

(vi) An employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001 *et seq.* (''Employee Retirement Income Security Act'') which is subject to the provisions of the Employee Retirement Income Security Act, or any such plan that is not subject to the Employee Retirement Income Security Act that is maintained primarily for the benefit of the employees of a state or local government or instrumentality, or an endowment fund;

(vii) A parent holding company or control person, provided the aggregate amount held directly by the parent or control person, and directly and indirectly by its subsidiaries or affiliates that are not persons specified in § 240.16a–1(a)(1) (i) through (vi), does not exceed one percent of the subject class; and

* * * * *

Dated: July 3, 1996.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 96–17579 Filed 7–10–96; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–167–9627b; FRL–5529–2]

Control Strategy: Ozone (O_3); Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve an exemption request from the oxides of nitrogen (NO_X) reasonably available control technology (RACT) and NO_X conformity requirements of the Clean Air Act as amended in 1990 (CAA) for the five county Middle Tennessee (Nashville) moderate ozone (O_3) nonattainment area. The NO_X exemption request is based upon the most recent three years of monitoring data, which demonstrate that additional reductions of NO_X would not contribute to attainment of the National Ambient Air Quality Standards (NAAQS). In the