

2004, Noramco Inc., 1440 Olympic Drive, Athens, Georgia 30601, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of Codeine (9050), a basic class of controlled substance in Schedule II.

The company plans to utilize codeine to produce small quantities of naturally occurring codeine impurities for use in quality assurance and internal testing of the finished products.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: Federal Register Representative, Office of Liaison and Policy (ODLR) and must be filed no later than January 10, 2005.

Dated: November 1, 2004.

**William J. Walker,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 04-25102 Filed 11-9-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Office of the Secretary

#### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed. Currently, Departmental Management is soliciting comments concerning the proposed Information Collection Request (ICR) for the Assessment of Compliance Assistance Activities Generic Clearance.

A copy of the ICR can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 10, 2005.

**ADDRESSES:** Send comments to Barbara Bingham, Office of the Assistant Secretary for Policy, 200 Constitution Avenue, NW., Room S-2312, Washington, DC 20210. Ms. Bingham can be reached on 202-693-5080 (this is not a toll-free number) or by e-mail at [bingham-barbara@dol.gov](mailto:bingham-barbara@dol.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Department of Labor (DOL) proposes to assess and measure self-reported changes in behavior through surveys of workers, employers and other stakeholders. These surveys will provide feedback on compliance assistance documents and materials, onsite consultation visits, telephone and technical assistance, Web sites, partnerships and alliances, and compliance assistance seminars and workshops delivered by DOL across the country to the regulated community. This feedback will help DOL agencies improve the future quality and delivery of compliance assistance tools and services. This generic clearance allows agencies to gather information from both Federal and non-Federal users.

##### II. Desired Focus of Comments

The Department of Labor is particularly interested in comments which:

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitted electronic submissions of response.

##### III. Current Actions

DOL agencies have conducted few surveys designed to assess changes in

worker, employer and stakeholder behavior as a result of the compliance assistance received. DOL proposes to seek approval of this collection of information for a three year period.

*Type of Review:* New collection of information.

*Agency:* Office of the Assistant Secretary for Policy, Office of Compliance Assistance.

*Title:* Information Collection Request for the Assessment of Compliance Assistance Activities Generic Clearance.

*OMB Number:* 1225-0NEW.

*Affected Public:* Individuals and households; business or other for-profit; not-for-profit institutions; farms; Federal Government; and State, Local, or Tribal Government.

*Frequency:* On occasion.

*Number of Respondents:* 29,995.

*Annual Responses:* 9,998.

*Average Time Per Response:* Varies by survey/evaluation with an average of 13 minutes per survey.

*Total Annual Burden Hours:* 2,202.

*Total Burden Cost (capital/startup):* \$0.

*Total Burden Cost (operating/maintenance):* \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC this 4th day of November, 2004.

**David Gray,**

*Acting Assistant Secretary, Office of the Assistant Secretary for Policy.*

[FR Doc. 04-25048 Filed 11-9-04; 8:45 am]

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## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

[Prohibited Transaction Exemption 2004-17; (Exemption Application No. D-11223) et al.]

#### Grant of Individual Exemptions; Linda Ann Smith, M.D. Profit Sharing Plan and Trust (the Plan)

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

#### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

#### Linda Ann Smith, M.D. Profit Sharing Plan and Trust (the Plan) Located in Albuquerque, NM

[Prohibited Transaction Exemption 2004-17; (Exemption Application No. D-11223)]

#### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed exchange of an unimproved tract of land located in Nathrop, Colorado (Lot 154),

which is owned by the Plan and allocated to the individually-directed account (the Account) in the Plan of Linda Ann Smith, M.D., for one unimproved tract of land (Lot 85) located in San Pedro Creek Estates, New Mexico, which is owned jointly by Dr. Smith, and her spouse, Mr. Harold G. Field (the Applicants).

This exemption is subject to the following conditions:

(a) The exchange of Lot 154 by the Account for Lot 85 owned by the Applicants is a one-time transaction.

(b) The fair market value of Lot 154 and Lot 85 is determined by qualified, independent appraisers, who will update their appraisal reports at the time the exchange is consummated.

(c) For purposes of the exchange, Lot 85 has a fair market value that is more than the fair market value of Lot 154.

(d) The terms and conditions of the exchange are at least as favorable to the Account as those obtainable in an arm's length transaction with an unrelated party.

(e) The exchange does not involve more than 25 percent of the Account's assets.

(f) Dr. Smith is the only participant in the Plan whose Account is affected by the exchange and she desires that the transaction be consummated.

(g) The Account does not pay any real estate fees or commissions in conjunction with the exchange.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 10, 2004 at 69 FR 54810.

**FOR FURTHER INFORMATION CONTACT:** Mr. Arjumand A. Ansari of the Department at (202) 693-8566. (This is not a toll-free number.)

#### Carpenters' Joint Training Fund of St. Louis (the Plan), Located in St. Louis, Missouri

[Prohibited Transaction Exemption No. 2004-18; (Application No. L-11181)]

#### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act shall not apply to: (1) The purchase of a parcel of improved real property located at 8300 Valcour Avenue, St. Louis County, Missouri, (the Property) by the Plan from the Carpenters District Council of Greater St. Louis (the CDC), a party in interest to the Plan; (2) The guarantee (the Guarantee) by the CDC of a \$6 million loan from an unrelated bank (the Bank Loan) for the benefit of the Plan; and (3) An unsecured loan for up to \$1 million from the CDC to the Plan

(the CDC Loan). This exemption is subject to the following conditions:

(a) The Plan pays the lesser of (1) \$7,985,000 or (2) the fair market value of the Property at the time of the purchase of the Property;

(b) The fair market value of the Property is established by an independent, qualified real estate appraiser that is unrelated to the CDC or any other party in interest with respect to the Plan;

(c) The Plan will not pay any commissions or other expenses with respect to the transactions.

(d) An independent, qualified fiduciary (the I/F), after analyzing the relevant terms of the transactions, determines that the transactions are in the best interest of the Plan and its participants and beneficiaries;

(e) In determining the fair market value of the Property, the I/F obtains an appraisal from an independent, qualified appraiser and ensures that the appraisal is consistent with sound principles of valuation;

(f) The terms and conditions of the CDC Loan are at least as favorable to the Plan as those which the Plan could have obtained in an arm's-length transaction with an unrelated party;

(g) The Bank Loan is repaid by the Plan solely with funds the Plan retains after paying all of its operational expenses;

(h) The I/F will ensure that the terms and conditions relating to the Guarantee are in the best interest of the Plan and its participants and beneficiaries;

(i) The CDC will waive any right to recover from the Plan in the event that the Bank enforces the Guarantee against the CDC;

(j) If at any time the Plan does not have sufficient funds to make a payment on the CDC Loan, after meeting operational expenses and payments on the Bank Loan, then payments on the CDC Loan will be suspended, without additional interest or penalty, until such funds are available; and

(k) The I/F will take whatever actions it deems necessary to protect the rights of the Plan with respect to the Property and the transactions.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the Notice of Proposed Exemption published on July 20, 2004 at 69 FR 43450.

**FOR FURTHER INFORMATION CONTACT:** Khalif Ford of the Department, telephone (202) 693-8540 (this is not a toll-free number).

## General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 5th day of November, 2004.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Employee Benefits Security Administration,  
U.S. Department of Labor.*

[FR Doc. 04-25106 Filed 11-9-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50630; File No. SR-CBOE-2004-62]

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Exchange Rule 9.3A Relating to Continuing Education for Registered Persons

November 3, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

“Act”)<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 6, 2004, the Chicago Board Options Exchange, Incorporated (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The CBOE has filed the proposal as a “non-controversial” rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 9.3A relating to Continuing Education for Registered Persons. The proposed rule change would eliminate all exemptions from the requirement to complete the Regulatory Element of the Continuing Education Program. Below is the text of the proposed rule change. Proposed new language is in *italics*. Deletions are in [brackets].

#### Chapter IX

#### Rule 9.3A. Continuing Education for Registered Persons

(a) Regulatory Element—No member or member organization shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the continuing education requirements of Section (a) of this Rule.

Each registered person shall complete the Regulatory Element of the continuing education program beginning with the occurrence of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Exchange. On each occasion, the Regulatory Element must be completed within one hundred twenty days after the person’s registration anniversary date. A person’s initial registration date, *also known as the “base date”*, shall establish the cycle of anniversary dates for purposes of this Rule. The content of the Regulatory Element of the program shall be determined by the Exchange for each registration category of persons subject to the Rule.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

[(1) Persons who have been continuously registered for more than ten years as of the effective date of this Rule are exempt from the requirements of this rule relative to participation in the Regulatory Element of the continuing education program, provided such persons have not been subject to any disciplinary action within the last ten years as enumerated in subsection (a)(3)(i)–(ii) of this Rule. However, persons delegated supervisory responsibility or authority pursuant to Rule 9.8 and registered in such supervisory capacity are exempt from participation in the Regulatory Element under this provision only if they have been continuously registered in a supervisory capacity for more than 10 years as of the effective date of this rule and provided that such supervisory person has not been subject to any disciplinary action under subsection (a)(3)(i)–(ii) of this rule. In the event that a registered person who is exempt from participation in the Regulatory Element subsequently becomes the subject of a disciplinary action as enumerated in subsection (a)(3)(i)–(ii), such person shall be required to satisfy the requirements of the Regulatory Element as if the date the disciplinary action becomes final is the person’s initial registration anniversary date.]

(1) [(2)] Failure to complete—Unless otherwise determined by the Exchange, any registered persons who have not completed the Regulatory Element of the program within the prescribed time frames will have their registration deemed inactive until such time as the requirements of the program have been satisfied. Any person whose registration has been deemed inactive under this Rule shall cease all activities as a registered person and is prohibited from performing any duties and functioning in any capacity requiring registration. The Exchange may, upon application and a showing of good cause, allow for additional time for a registered person to satisfy the program requirements.

(2) [(3) Re-entry into program] Disciplinary Actions—Unless otherwise determined by the Exchange, a registered person will be required to [re-enter] *re-take* the Regulatory Element and satisfy all of its requirements in the event such person:

(i) Becomes subject to any statutory disqualification as defined in Section 3(a)(39) of the Securities Exchange Act of 1934;

(ii) Becomes subject to suspension or to the imposition of a fine of \$5,000 or more for violation of any provision of any securities law or regulation, or any agreement with or rule or standard of conduct of any securities governmental