

The eligibility of any firm to seek relief under this exemptive Order is subject to the following conditions:

(1) The regulatory or self-regulatory organization responsible for monitoring the compliance of such firms with the regulatory requirements described in the Rule 30.10 petition must represent in writing to the CFTC that:

(a) Each firm for which relief is sought is registered, licensed or authorized, as appropriate, and is otherwise in good standing under the standards in place in Manitoba; such firm is engaged in business with customers in Manitoba as well as in the U.S.; and such firm and its principals and employees who engage in activities subject to Part 30 would not be statutorily disqualified from registration under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2);

(b) It will monitor firms to which relief is granted for compliance with the regulatory requirements for which substituted compliance is accepted and will promptly notify the Commission or NFA of any change in status of a firm that would affect its continued eligibility for the exemption granted hereunder, including the termination of its activities in the U.S.;

(c) All transactions with respect to customers made in the U.S. will be made on or subject to the rules of WCE and the Commission will receive prompt notice of all material changes to the relevant laws in Manitoba, any rules promulgated thereunder and WCE rules;

(d) Customers located in the U.S. will be provided no less stringent regulatory protection than Canadian customers under all relevant provisions of Manitoba law; and

(e) It will cooperate with the Commission with respect to any inquiries concerning any activity subject to regulation under the Part 30 rules, including sharing the information specified in Appendix A on an "as needed" basis and will use its best efforts to notify the Commission if it becomes aware of any information that in its judgment affects the financial or operational viability of a member firm doing business in the U.S. under the exemption granted by this Order.

(2) Each firm seeking relief hereunder must represent in writing that it:

(a) Is located outside the U.S., its territories and possessions, and where applicable, has subsidiaries or affiliates domiciled in the U.S. with a related business (e.g., banks and broker/dealer affiliates) along with a brief description of each subsidiary's or affiliate's identity and principal business in the U.S.;

(b) Consents to jurisdiction in the U.S. under the Act by filing a valid and binding appointment of an agent in the U.S. for service of process in accordance with the requirements set forth in Rule 30.5;

(c) Agrees to provide access to its books and records related to transactions under Part 30 required to be maintained under the applicable statutes and regulations in effect in Manitoba upon the request of any representative of the Commission or U.S. Department of Justice at the place in the U.S. designated by such representative, within 72 hours, or such lesser period of time as

specified by that representative as may be reasonable under the circumstances after notice of the request;

(d) Has no principal, or employee who solicits or accepts orders from customers located in the U.S., who would be disqualified from directly applying to do business in the U.S. under Section 8a(2) of the Act, 7 U.S.C. § 12(a)(2), and will notify the Commission promptly of any change in that representation based on a change in control as generally defined in Rule 3.32;

(e) Consents to participate in any NFA arbitration program that offers a procedure for resolving customer disputes on the papers where such disputes involve representations or activities with respect to transactions under Part 30, even in circumstances where the claim involves a matter arising primarily out of delivery, clearing, settlement or floor practices, and consents to notify customers located in the U.S. of the availability of such a program;

(f) Agrees to maintain, on behalf of customers located in the U.S., funds equivalent to the "foreign futures and foreign options secured amount" described in Rule 1.3(rr), in a separate account as set forth in Rule 30.7, and to treat those funds in the manner described by that rule; and

(g) Undertakes to comply with the applicable provisions of Manitoba laws and WCE rules that form the basis upon which this exemption from certain provisions of the Act and rules thereunder is granted.

As set forth in the Commission's September 11, 1997 Order delegating to NFA certain responsibilities, the written representations set forth in paragraph (2) shall be filed with NFA.⁸ Each firm seeking relief hereunder has an ongoing obligation to notify NFA should there be a material change to any of the representations required in the firm's application for relief.

This Order will become effective as to any designated WCE member firm the later of the date of publication of the Order in the **Federal Register** or the filing of the consents set forth in paragraph (2). Upon filing of the notice required under paragraph (1)(b) as to any such firm, the relief granted by this Order may be suspended immediately as to that firm. That suspension will remain in effect pending further notice by the Commission, or the Commission's designee, to the firm and WCE.

This Order is issued pursuant to Rule 30.10 based on the comparability representations made and supporting material provided to the Commission and the recommendation of the staff,

⁸ 62 FR 47792, 47793 (September 11, 1999). Among other duties, the Commission authorized NFA to receive requests for confirmation of Rule 30.10 relief on behalf of particular firms, to verify such firms' fitness and compliance with the conditions of the appropriate Rule 30.10 Order and to grant exemptive relief from registration to qualifying firms.

and is made effective as to any firm granted relief hereunder based upon the filings and representations of such firms required hereunder. Any material changes or omissions in the facts and circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the standards for relief set forth in Rule 30.10 and, in particular, Appendix A, have generally been satisfied. Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular firm, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific firm, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion.

The Commission will continue to monitor the implementation of its program to exempt firms located in jurisdictions generally deemed to have a comparable regulatory program from the application of certain of the foreign futures and option rules and will make necessary adjustments if appropriate.

Issued in Washington, DC on May 15, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01-12696 Filed 5-18-01; 8:45 am]

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NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

28 CFR Chapter IX

[NCPPC 100-F]

Fingerprint Submission Requirements

AGENCY: National Crime Prevention and Privacy Compact Council.

ACTION: Final rule.

SUMMARY: The Compact Council, established pursuant to the National Crime Prevention and Privacy Compact (Compact), is publishing a rule interpreting the Compact's fingerprint-submission requirements as they relate to the use of the Interstate Identification Index (III) for noncriminal justice record checks during an emergency situation when the health and safety of a specified group may be endangered. Pursuant to the rule, the Compact Council has approved a proposal from a state requesting the delayed submission

of fingerprints in connection with criminal history records searches conducted for the purpose of the emergency placement of children with temporary custodians. The Council's approval of such a state request is being published in the Notice section of today's **Federal Register**.

EFFECTIVE DATE: This final rule is effective May 21, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Wilbur Rehmman, Compact Council Chairman, Montana Department of Justice, 303 North Roberts, 4th Floor, Post Office Box 201406, Helena, Montana 59620-1406, telephone number (406) 444-6194.

SUPPLEMENTARY INFORMATION: The National Crime Prevention and Privacy Compact, 42 U.S.C. 14611-16, establishes uniform standards and processes for the interstate and federal-state exchange of criminal history records for noncriminal justice purposes. The Compact was signed into law on October 9, 1998, (Pub. L. 105-251) and became effective on April 28, 1999 when ratified by the second State.

Background

The Compact requires that subject's fingerprints or other approved forms of positive identification "shall be submitted with all requests for criminal history record checks for noncriminal justice purposes." See 42 U.S.C. 14616, Article V (a). The Compact Council recognizes the extreme reliability of fingerprint-based identifications and believes that the above quoted provision requires that, whenever feasible, fingerprints should be submitted contemporaneously with search requests. However, the Council acknowledges that there are exigent circumstances in which time is a critical factor in decision making and in which the immediate fingerprinting of the subject is not feasible. In such emergency circumstances, the Council believes that the Compact permits preliminary name searches of the III System to be conducted for noncriminal justice purposes, provided that subject's fingerprints are obtained and submitted at the earliest time feasible. This procedure allows access to criminal history record information in a timely manner in exigent circumstances with follow-up positive identification assured by fingerprint submissions.

The rule published herein authorizes state criminal history record repositories and the FBI, upon approval by the Compact Council, to grant access to the III System in emergency situations on a delayed fingerprint submission basis, predicated upon a statute approved by

the U.S. Attorney General pursuant to Pub. L. 92-544 and Article III (c) of the Compact. Access authorized by the rule shall adhere to both the Criminal Justice Information Services Security Policy and applicable state security policies. A noncriminal justice agency granted access to the III must adhere to applicable federal and state audit protocols. Violation and/or misuse of the authorized access granted may result in sanctions from the Compact Council, which may include the discontinuance of services.

Proposals to the Compact Council for granting of delayed fingerprint submission under the rule should be sent to the Compact Council Chairman at the address set out above. Such proposals should include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to the health or safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

The rule (Sec. 901.3) provides that once a proposal from any state has been approved by the Compact Council, other states may apply for delayed submission authority consistent with that approved proposal through application to the FBI's Compact Officer. For example, applications for such authority dealing with the emergency placement of children, a proposal for which has been approved by the Council in a notice published separately in today's **Federal Register**, may be filed with the FBI's Compact Officer rather than with the Council Chairman.

Administrative Procedures and Executive Orders

Administrative Procedures Act

This rule is published by the Compact Council as authorized by the National Crime Prevention and Privacy Compact (Compact), an interstate/federal compact which was approved and enacted into law by Congress pursuant to Pub. L. 105-251. The Compact Council is composed of 15 members (with 11 state and local governmental representatives), and is authorized by the Compact to promulgate rules and procedures for the effective and proper use of the Interstate Identification Index (III) System for noncriminal justice purposes. The Compact specifically provides that the Council shall prescribe rules and procedures for the effective and proper use of the III System for noncriminal justice purposes, and mandates that such rules, procedures, or standards established by the Council shall be

published in the **Federal Register**. See 42 U.S.C. 14616, Articles II(4) and VI(a)(1), (e). This publication complies with those requirements.

Executive Order 12866

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 12866 is not applicable.

Executive Order 13132

The Compact Council is not an executive department or independent regulatory agency as defined in 44 U.S.C. 3502; accordingly, Executive Order 13132 is not applicable. Nonetheless, this Rule fully complies with the intent that the national government should be deferential to the States when taking action that affects the policymaking discretion of the States.

Executive Order 12988

The Compact Council is not an executive agency or independent establishment as defined in 5 U.S.C. 105; accordingly, Executive Order 12988 is not applicable.

Unfunded Mandates Reform Act

Approximately 75 percent of the Compact Council members are representatives of state and local governments; accordingly, rules prescribed by the Compact Council are not Federal mandates. Accordingly, no actions are deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act (Title 5, U.S.C. 801-804) is not applicable to the Council's rule because the Compact Council is not a "Federal agency" as defined by 5 U.S.C. 804(1). Likewise, the reporting requirement of the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act) does not apply. See 5 U.S.C. 804.

List of Subjects in 28 CFR Part 901

Crime, Health, Privacy, Safety.

Accordingly, for the reasons set forth above, and by the authority vested in the National Crime Prevention and Privacy Compact, Title 28 of the Code of Federal Regulations is amended by establishing a new chapter IX consisting of Part 901 to read as follows:

CHAPTER IX—NATIONAL CRIME PREVENTION AND PRIVACY COMPACT COUNCIL

Part

901 Fingerprint Submission Requirements

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

Sec.

901.1 Purpose and authority.

901.2 Interpretation of fingerprint submission requirements.

901.3 Approval of delayed fingerprint submission request.

Authority: 42 U.S.C. 14616.

PART 901—FINGERPRINT SUBMISSION REQUIREMENTS

§ 901.1 Purpose and authority.

The Compact Council is established pursuant to the National Crime Prevention and Privacy Compact (Compact), Title 42, U.S.C., Chapter 140, Subchapter II, Section 14616. The purpose of these provisions is to interpret the Compact, as it applies to the required submission of fingerprints, along with requests for Interstate Identification Index (III) records, by agencies authorized to access and receive criminal history records under Public Law 92-544, and to establish protocols and procedures applicable to the III and its use for noncriminal justice purposes.

§ 901.2 Interpretation of fingerprint submission requirements.

(a) Article V of the Compact requires the submission of fingerprints or other approved forms of positive identification with requests for criminal history record checks for noncriminal justice purposes. The Compact Council finds that the requirement for the submission of fingerprints may be satisfied in two ways:

(1) The fingerprints should be submitted contemporaneously with the request for criminal history information, or

(2) For purposes approved by the Compact Council, a delayed submission of fingerprints may be permissible under exigent circumstances.

(b) The Compact Council further finds that a preliminary III name based check may be made pending the receipt of the delayed submission of the fingerprints. The state repository may authorize terminal access to authorized agencies designated by the state, to enable them to conduct such checks. Such access must be made pursuant to the security policy set forth by the state's Control Terminal Agency.

§ 901.3 Approval of delayed fingerprint submission request.

(a) A State may, based upon exigent circumstances, apply for delayed submission of fingerprints supporting requests for III records by agencies authorized to access and receive criminal history records under Public Law 92-544. Such applications must be sent to the Compact Council Chairman and include information sufficient to fully describe the emergency nature of the situation in which delayed submission authority is being sought, the risk to health and safety of the individuals involved, and the reasons why the submission of fingerprints contemporaneously with the search request is not feasible.

(b) In evaluating requests for delayed submissions, the Compact Council must utilize the following criteria:

- (1) The risk to health and safety; and
- (2) The emergency nature of the request.

Upon approval of the application by the Compact Council, the authorized agency may conduct a III name check pending submission of the fingerprints. The fingerprints must be submitted within the time frame specified by the Compact Council.

(c) Once a specific proposal has been approved by the Compact Council, another state may apply for delayed fingerprint submission consistent with the approved proposal, provided that the state has a related Public Law 92-544 approved state statute, by submitting the application to the FBI's Compact Officer.

Dated: May 3, 2001.

Wilbur Rehmann,

Compact Council Chairman.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 57

RIN 1219-AB11

Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners; Delay of Effective Dates

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; delay of effective dates and conforming amendments.

SUMMARY: The Mine Safety and Health Administration is delaying for 45 days the effective date of the rule entitled, "Diesel Particulate Matter Exposure of

Underground Metal and Nonmetal Miners," published in the **Federal Register** on January 19, 2001 (66 FR 5706). This temporary delay will allow the Department an opportunity to engage in further negotiations to settle the legal challenges to this rule.

EFFECTIVE DATE: The effective date of the rule amending 30 CFR Part 57 published on January 19, 2001, at 66 FR 5706 and delayed on March 15, 2001 at 66 FR 15032, is further delayed from May 21, 2001, until July 5, 2001. The amendment to § 57.5067 in this final rule will become effective July 5, 2001. However, § 57.5060(a) will continue to apply on July 19, 2002, and § 57.5060(b) will continue to apply on January 19, 2006.

FOR FURTHER INFORMATION CONTACT:

David L. Meyer, Director; Office of Standards, Regulations, and Variances; MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203-1984. Mr. Meyer can be reached at Meyer-David@msha.gov (E-mail), 703-235-1910 (Voice), or 703-235-5551 (Fax).

SUPPLEMENTARY INFORMATION: On January 19, 2001, MSHA published a final rule addressing the exposure of underground metal and nonmetal miners to diesel particulate matter (dpm). The final rule establishes new health standards for underground metal and nonmetal mines that use equipment powered by diesel engines and requires operators of these underground mines to train miners about the hazards of being exposed to diesel particulate matter. In accordance with the January 20, 2001, memorandum from Andrew H. Card, MSHA announced a 60-day delay of the effective date of certain provisions of the final regulations to permit the Secretary of Labor to further consider the provisions of the rule. An additional delay of 45 days to July 5, 2001 is necessary to give the parties an opportunity to continue negotiations to settle the legal challenge to the rule described below.

On January 29, 2001, Anglogold (Jerritt Canyon) Corp. and Kennecott Greens Creek Mining Company filed a petition for review of the rule in the District of Columbia Circuit. On February 7, 2001, the Georgia Mining Association, the National Mining Association, the Salt Institute, and MARG Diesel Coalition filed a similar petition in the Eleventh Circuit. On March 14, 2001, Getchell Gold Corporation petitioned for review of the rule in the District of Columbia Circuit. The three petitions have been consolidated and are pending in the District of Columbia Circuit. The United Steelworkers of America (USWA) has