

Federal Trade Commission

§ 803.90

Example: Acquiring person "A" makes a non-cash tender offer for voting securities of corporation "X", and files notification. Under § 801.30, the waiting period begins upon filing by "A," and "X" must file within 15 days thereafter (10 days if it were a cash tender offer). Assume that before the end of the waiting period, the Assistant Attorney General issues a request for additional information to "A" and "X." Since the transaction is a non-cash tender offer, the waiting period is extended for 30 days (10 days if it were a cash tender offer) beyond the date on which "A" responds. Note that under § 803.21, even though the waiting period is not affected by the second request to "X" or by "X" supplying the requested information, "X" is obliged to respond to the request within a reasonable time. Nevertheless, the Federal Trade Commission and Assistant Attorney General could, notwithstanding the pendency of the request for additional information, terminate the waiting period sua sponte pursuant to § 803.11(c).

(d)(1) *Identification of requests.* Every request for additional information or documentary material shall be clearly identified as such, whether communicated in person, by telephone or in writing, and shall clearly identify the person, entity or entities, or individual(s) to which it is addressed.

(2) *Request for clarification.* No request for clarification or amplification of a response to any item on the Notification and Report Form, whether communicated in person, by telephone or in writing, shall be considered a request for additional information or documentary material within the meaning of section 7A(e) and this section.

[43 FR 33548, July 31, 1978, as amended at 48 FR 34441, July 29, 1983; 66 FR 8697, Feb. 1, 2001; 68 FR 2431, Jan. 17, 2003]

§ 803.21 Additional information shall be supplied within reasonable time.

All additional information or documentary material requested pursuant to section 7A(e) and § 803.20 (or, if such request is not fully complied with, the information or documentary material submitted and a statement of the reasons for such noncompliance in accordance with § 803.3) shall be supplied within a reasonable time.

§ 803.30 Formal and informal interpretations of requirements under the Act and the rules.

(a) The Commission staff may consider requests for formal or informal interpretations as to the obligations under the act and these rules of any party to an acquisition. A request for a formal interpretation shall be made in writing to the offices designated in § 803.10(c), and shall state: (1) all facts which the applicant believes to be material, (2) the reasons why the requirements of the act are or may be applicable and (3) the question(s) that the applicant wishes resolved. The Commission staff may, in its discretion, render a formal or informal response to any request, however made, or may decline to render such advice.

(b) In the sole discretion of the staff, any request for interpretation may be referred to the Commission.

(c) Formal interpretations by the Commission staff or by the Commission shall be rendered with the concurrence of the Assistant Attorney General or his or her designee.

(d) Any formal interpretation shall be without prejudice to the right of either the Commission or the Assistant Attorney General to rescind any such interpretation rendered pursuant to this section. In the event of such rescission, the party which requested the interpretation shall be so notified in writing.

(e) The Commission shall publish a summary of formal interpretations by the Commission, and any rescissions thereof, in the FEDERAL REGISTER.

§ 803.90 Separability.

If any provision of the rules in this subchapter (H) (including the Notification and Report Form) or the application of any such provision to any person or circumstances is held invalid, neither the other provisions of the rules nor the application of such provision to other persons or circumstances shall be affected thereby.

APPENDIX TO PART 803

TRANSACTION NUMBER ASSIGNED

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16 C.F.R. Part 803 - Appendix

NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

Approved by OMB 3084-0005 Expires 08/31/02

THE INFORMATION REQUIRED TO BE SUPPLIED ON THESE ANSWER SHEETS IS SPECIFIED IN THE INSTRUCTIONS

** Attach the Affidavit required by § 803.5 to this page.

FEE INFORMATION TAXPAYER IDENTIFICATION NUMBER AMOUNT PAID \$ CHECK ATTACHED MONEY ORDER ATTACHED WIRE TRANSFER CONFIRMATION NO. FROM: NAME OF INSTITUTION NAME OF PAYER (if different from PERSON FILING)

IS THIS A CORRECTIVE FILING? YES NO

IS THIS ACQUISITION SUBJECT TO FOREIGN FILING REQUIREMENTS? YES NO If YES, list jurisdictions: (voluntary)

IS THIS ACQUISITION A CASH TENDER OFFER? YES NO BANKRUPTCY? YES NO

DO YOU REQUEST EARLY TERMINATION OF THE WAITING PERIOD? (Grants of early termination are published in the Federal Register AND on the FTC web site www.ftc.gov)

ITEM 1 - PERSON FILING

1(a) NAME and HEADQUARTERS ADDRESS of PERSON FILING

1(b) PERSON FILING NOTIFICATION IS an acquiring person an acquired person both

1(c) PUT AN "X" IN THE APPROPRIATE BOX TO DESCRIBE PERSON FILING NOTIFICATION Corporation Partnership Other (Specify):

1(d) DATA FURNISHED BY calendar year fiscal year (month/year) to (month/year)

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person which, by reason of a merger, consolidation or acquisition, is subject to §7A of the Clayton Act, 15 U.S.C. §18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1390, and rules promulgated thereunder (hereinafter referred to as "the rules" or by section number). The statute and rules are set forth in the Federal Register at 43 FR 33450; the rules may also be found at 16 CFR Parts 801-03. Failure to file this Notification and Report Form, and to observe the required waiting period before consummating the acquisition in accordance with the applicable provisions of 15 U.S.C. §18a and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than \$11,000 for each day during which such person is in violation of 15 U.S.C. §18a.

All information and documentary material filed in or with this Form is

confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

Filing - Complete and return two copies (with one original affidavit and certification and one set of documentary attachments) of this Notification and Report Form to: Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Three copies (with one set of documentary attachments) should be sent to: Director of Operations and Merger Enforcement, Antitrust Division, Department of Justice, Patrick Henry Building, 601 D Street, N.W., Room #10013, Washington, D.C. 20530. (For FEDEX airtails to the Department of Justice, do not use the 20530 zip code; use zip code 20004.)

DISCLOSURE NOTICE - Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 39 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to: Premerger Notification Office, Office of Information and Regulatory Affairs, Federal Trade Commission, Office of Management and Budget, Washington, DC 20580 Washington, DC 20503

Under the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. That number is 3084-0005, which also appears in the upper right-hand corner of the first page of this form.

NAME OF PERSON FILING NOTIFICATION	DATE
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1(e) PUT AN X IN THE APPROPRIATE BOX AND GIVE THE NAME AND ADDRESS OF ENTITY FILING NOTIFICATION (if other than ultimate parent entity)

- NA
 This report is being filed on behalf of a foreign person pursuant to § 803.4.
 This report is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file pursuant to § 803.2(a).

NAME OF ENTITY FILING NOTIFICATION	ADDRESS
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1(f) NAME AND ADDRESS OF ENTITY MAKING ACQUISITION OR WHOSE ASSETS OR VOTING SECURITIES ARE BEING ACQUIRED IF DIFFERENT FROM THE ULTIMATE PARENT ENTITY IDENTIFIED IN ITEM 1(a)

PERCENT OF VOTING SECURITIES HELD BY EACH ENTITY IDENTIFIED IN ITEM 1(a)

1(g) IDENTIFICATION OF PERSON TO CONTACT REGARDING THIS REPORT

NAME OF CONTACT PERSON TITLE FIRM NAME BUSINESS ADDRESS TELEPHONE NUMBER FAX NUMBER E-MAIL ADDRESS	
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1(h) IDENTIFICATION OF AN INDIVIDUAL LOCATED IN THE UNITED STATES DESIGNATED FOR THE LIMITED PURPOSE OF RECEIVING NOTICE OF ISSUANCE OF A REQUEST FOR ADDITIONAL INFORMATION OR DOCUMENTS. (See § 803.20(b)(2)(iii))

NAME OF CONTACT PERSON TITLE FIRM NAME BUSINESS ADDRESS TELEPHONE NUMBER FAX NUMBER E-MAIL ADDRESS	
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ITEM 2

2(a) LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRING PERSONS	LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRED PERSONS
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2(b) THIS ACQUISITION IS (put an X in all the boxes that apply)

- | | |
|--|---|
| <input type="checkbox"/> an acquisition of assets
<input type="checkbox"/> a merger (see § 801.2)
<input type="checkbox"/> an acquisition subject to § 801.2(e)
<input type="checkbox"/> a formation of a joint venture of other corporation (see § 801.40)
<input type="checkbox"/> an acquisition subject to § 801.30 (specify type)
<input type="checkbox"/> other (specify) _____ | <input type="checkbox"/> a consolidation (see § 801.2)
<input type="checkbox"/> an acquisition of voting securities
<input type="checkbox"/> a secondary acquisition
<input type="checkbox"/> an acquisition subject to § 801.31 |
|--|---|

2(c) INDICATE THE HIGHEST NOTIFICATION THRESHOLD IN § 801.1(h) FOR WHICH THIS FORM IS BEING FILED (acquiring person only in an acquisition of voting securities)

- \$50 million
 \$100 million
 \$500 million
 25% (see instructions)
 50%

2(d)(i) VALUE OF VOTING SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION	(ii) PERCENTAGE OF VOTING SECURITIES	(iii) VALUE OF ASSETS TO BE HELD AS A RESULT OF THE ACQUISITION	(iv) AGGREGATE TOTAL VALUE
\$	%	\$	\$

NAME OF PERSON FILING NOTIFICATION	DATE
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2(e) If aggregate total value in 2(d)(iv) is based in whole or in part on a fair market valuation pursuant to § 801.10(c)(3), identify the person or persons responsible for making the valuation (*acquiring persons only*).

ITEM 3
3(a) DESCRIPTION OF ACQUISITION

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3(b)(i) ASSETS TO BE ACQUIRED (to be completed only for asset acquisitions)

3(b)(ii) ASSETS HELD BY ACQUIRING PERSON

3(c) VOTING SECURITIES TO BE ACQUIRED
3(c)(i) LIST AND DESCRIPTION OF VOTING SECURITIES AND LIST OF NON-VOTING SECURITIES:

3(c)(ii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY:

3(c)(iii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY BEING ACQUIRED:

NAME OF PERSON FILING NOTIFICATION	DATE
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3(c)(v) IDENTITY OF PERSONS ACQUIRING SECURITIES:

3(c)(v) DOLLAR VALUE OF SECURITIES IN EACH CLASS BEING ACQUIRED:

3(c)(v) TOTAL NUMBER OF EACH CLASS OF SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION:

3(d) SUBMIT A COPY OF THE MOST RECENT VERSION OF CONTRACT OR AGREEMENT (or letter of intent to merge or acquire)
DO NOT ATTACH THIS DOCUMENT TO THIS PAGE ATTACHMENT OR REFERENCE NUMBER OF CONTRACT OR AGREEMENT _____

Federal Trade Commission

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NAME OF PERSON FILING NOTIFICATION	DATE
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ITEM 4 PERSONS FILING NOTIFICATION MAY PROVIDE BELOW AN OPTIONAL INDEX OF DOCUMENTS REQUIRED TO BE SUBMITTED BY ITEM 4 (See Item by Item instructions). THESE DOCUMENTS SHOULD NOT BE ATTACHED TO THIS PAGE.

4(a) DOCUMENTS FILED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION ATTACHMENT OR REFERENCE NUMBER

4(b) ANNUAL REPORTS, ANNUAL AUDIT REPORTS, AND REGULARLY PREPARED BALANCE SHEETS ATTACHMENT OR REFERENCE NUMBER

4(c) STUDIES, SURVEYS, ANALYSES, AND REPORTS ATTACHMENT OR REFERENCE NUMBER

NAME OF PERSON FILING NOTIFICATION	DATE
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ITEM 5(b)(ii) PRODUCTS ADDED OR DELETED

DESCRIPTION (10-DIGIT PRODUCT CODE)	ADD	DELETE	YEAR OF CHANGE	TOTAL DOLLAR REVENUES

ITEM 5(b)(iii) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS

7-DIGIT PRODUCT CLASS	DESCRIPTION	YEAR TOTAL DOLLAR REVENUES

(Item 5(b)(iii) continued on page 10)

NAME OF PERSON FILING NOTIFICATION		DATE
5(d) COMPLETE ONLY IF ACQUISITION IS IN THE FORMATION OF A JOINT VENTURE OR OTHER CORPORATION		
5(d)(i) NAME AND ADDRESS OF THE JOINT VENTURE OR OTHER CORPORATION		
5(d)(ii)		
(A) CONTRIBUTIONS THAT EACH PERSON FORMING THE JOINT VENTURE OR OTHER CORPORATION HAS AGREED TO MAKE		
(B) DESCRIPTION OF ANY CONTRACTS OR AGREEMENTS		
(C) DESCRIPTION OF ANY CREDIT GUARANTEES OR OBLIGATIONS		
(D) DESCRIPTION OF CONSIDERATION WHICH EACH PERSON FORMING THE JOINT VENTURE OR OTHER CORPORATION WILL RECEIVE		
5(d)(iii) DESCRIPTION OF THE BUSINESS IN WHICH THE JOINT VENTURE OR OTHER CORPORATION WILL ENGAGE		
5(d)(iv) SOURCE OF DOLLAR REVENUES BY 6-DIGIT INDUSTRY CODE (non-manufacturing) AND BY 7-DIGIT PRODUCT CLASS (manufacturing)		

NAME OF PERSON FILING NOTIFICATION	DATE
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ITEM 6
6(a) ENTITIES WITHIN PERSON FILING NOTIFICATION

6(b) SHAREHOLDERS OF PERSON FILING NOTIFICATION

NAME OF PERSON FILING NOTIFICATION	DATE
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6(e) HOLDINGS OF PERSON FILING NOTIFICATION

ITEM 7 DOLLAR REVENUES
7(a) 6-DIGIT NAICS CODE AND DESCRIPTION

7(b) NAME OF EACH PERSON WHICH ALSO DERIVED DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION	DATE
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7(c) GEOGRAPHIC MARKET INFORMATION

ITEM 8 PRIOR ACQUISITIONS (to be completed by acquiring person only)

NAME OF PERSON FILING NOTIFICATION	DATE
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CERTIFICATION

This **NOTIFICATION AND REPORT FORM**, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Federal Trade Commission. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

NAME (Please print or type)	TITLE
SIGNATURE	DATE

Subscribed and sworn to before me at the
City of _____, State of _____
this _____ day of _____, the year _____
Signature _____
My Commission expires _____

[SEAL]