

that greater operational efficiencies would be achieved upon a reorganization of applicant with other American Express affiliated funds with a greater level of assets. The Board approved the reorganization based on the similarity of investment objectives and shareholder privileges between the Funds and the corresponding series of the Acquiring Funds, the increased investment diversification that would be available to shareholders of a larger group of funds, the shift in focus of applicant's sponsor to unrelated businesses, and the tax-free nature of the reorganization.

5. Because applicant and the Acquiring Funds had investment advisers that may have been deemed to be under "common control" within the meaning of section 2(a)(9), thereby rendering applicant and the Acquiring Funds "affiliated persons" within the meaning of section 2(a)(3)(C), the proposed reorganizations were subject to the prohibition of section 17(a) against affiliated transactions. Consequently, applicant, the Acquiring Funds, and TRS applied for and were granted relief from section 17(a),<sup>1</sup> on the grounds that, among other things, the reorganizations were represented to be consistent with the policies and purposes underlying rule 17a-8 under the Act.

6. Proxy materials previously had been mailed to shareholders on or about December 26, 1990. On February 4, 1992, the Funds' shareholders approved the reorganization. On February 7, 1992, applicant transferred all of the assets and liabilities of the Funds to the individual series of the Acquiring Funds, as follows: (a) Money Market Fund (40,350,320 shares outstanding with an aggregate and per share net asset value of \$40,345,504 and \$1.00, respectively) to Prime Money Market Fund in exchange for shares of Prime Money Market Fund; (b) Corporate Bond Fund (139,755 shares outstanding with an aggregate and per share net asset value of \$1,710,067 and \$12.24, respectively) to Managed Income Fund in exchange for shares of Managed Income Fund; (c) U.S. Government Income Fund (160,235 shares outstanding with an aggregate and per share net asset value of \$1,917,117 and \$11.96, respectively) to Limited Term Government Securities Fund in exchange for shares of Limited Term Government Securities Fund; (d) Equity Growth Fund (256,115 shares outstanding with an aggregate and per

share net asset value of \$6,033,829 and \$23.56, respectively) to Special Growth Fund in exchange for shares of Special Growth Fund; (e) Equity Value Fund (172,484 shares outstanding with an aggregate and per share net asset value of \$2,248,418 and \$13.04, respectively) to Core Value Fund in exchange for shares of Core Value Fund; (f) Tax-Free Money Market Fund (15,494,982 shares with an aggregate and per share net asset value of \$15,496,605 and \$1.00, respectively) to Tax-Exempt Money Market Fund in exchange for shares of Tax-Exempt Money Market Fund; (g) Tax-Free Municipal Bond Fund (118,945 shares outstanding with an aggregate and per share net asset value of \$1,531,076 and \$12.87, respectively) to Limited Term Municipal Bond Fund in exchange for shares of Limited Term Municipal Bond Fund; (h) Intermediate Term Bond Fund (145,310 shares outstanding with an aggregate and per share net asset value of \$1,786,922 and \$12.30, respectively) to Short-Term Bond Fund in exchange for shares of Short-Term Bond Fund; and (i) International Equity Fund (136,326 shares outstanding with an aggregate and per share net asset value of \$1,651,911 and \$12.12, respectively) to International Fund in exchange for shares of International Fund.

7. Shares of each series of the Acquiring Funds were immediately distributed to applicant's shareholders. Each shareholder of a Fund received, in exchange for his or her shares in the Fund, shares of the corresponding series of the Acquiring Funds having an aggregate net asset value equal to the net asset value of his or her investment in the Fund.

8. Total expenses of the reorganization were approximately \$200,000 and consisted of accounting, printing, administrative and legal fees. Such expenses were borne by American Express, TRS, and The Boston Company Advisors, Inc., applicant's administrator. No portion of such expenses were paid by applicant.

9. As of the date of the application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is neither engaged in nor proposes to engage in any business activities other than those necessary for the winding-up of its affairs.

10. Applicant will terminate its existence as a Massachusetts business trust.

For the SEC, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-15119 Filed 6-20-95; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-21137; No. 812-9400]

**Western National Life Insurance Company, et al.**

June 15, 1995.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice of application for an order pursuant to the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** Western National Life Insurance Company ("Western National"), WNL Separate Account A (the "Separate Account"), and WNL Brokerage Services, Inc. ("WNL").

**RELEVANT 1940 ACT SECTIONS:** Order requested pursuant to Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 2(a)(32), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), and 27(d) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order granting exemptive relief to the extent necessary to permit the issuance of variable annuity contracts ("Existing Contracts") providing for a recapturable bonus equal to one percent of initial purchase payments, and the deduction of mortality and expense risk and enhanced death benefit charges from the assets of the Separate Account. Exemptive relief also is requested to the extent necessary to permit the provision of the recapturable bonus in connection with, and the deduction of the mortality and expense risk and enhanced death benefit charges from, and other separate account established in the future by Western National, in connection with the issuance and sale of annuity contracts that will be offered on a basis that is substantially similar in all material respects to the Existing Contracts ("Future Contracts," together with Existing Contracts, the "Contracts"), which may be sold in the future by the Separate Account or other separate accounts ("Future Accounts," together with the Separate Account, the "Accounts") established in the future by Western National in connection with the issuance of Contracts.

**FILING DATE:** The application was filed on December 21, 1994, and amended on June 14, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request

<sup>1</sup> Cash Management Fund, *et al.*, Investment Company Act Release Nos. 18474 (notice) (Jan. 8, 1992) and 18518 (order) (Feb. 4, 1992).

a hearing on the application by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on July 10, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549. Applicants, Dwight L. Cramer, Western National Life Insurance Company, 5555 San Felipe, Suite 900, Houston, Texas 77056. Copies to Judith A. Hasenauer, Blazzard, Grodd & Hasenauer, P.C. 943 Post Road East, P.O. Box 5108, Westport, Connecticut 06881.

**FOR FURTHER INFORMATION CONTACT:** Kevin Kirchoff, Senior Counsel, or Patrice M. Pitts, Special Counsel, at (202) 942-0670, Office of Insurance Products (Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

#### **Applicants' Representations**

1. Western National is a stock life insurance company incorporated under the laws of the State of Texas. Western National is licensed to do business in 46 states and the District of Columbia. WNL, an affiliate of Western National, will serve as distributor of the Contracts. WNL is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers.

2. The Separate Account was established as a segregated asset account pursuant to a resolution of the Board of Directors of Western National on November 9, 1994, to act as a funding medium for certain annuity contracts. The Separate Account is registered with the Commission pursuant to the 1940 Act as a unit investment trust.

3. The Separate Account presently consists of eight subaccounts, each of which will invest in the shares of one of the portfolios of WNL Series Trust (the "Trust"). Additional subaccounts may be created to invest in any additional portfolios of the Trust which may be added in the future, or in other funding vehicles. The Trust is registered

under the 1940 Act as an open-end management investment company.

4. The assets of the Separate Account are the property of Western National. However, the assets of the Separate Account, equal to the reserves and other contract liabilities with respect to the Separate Account, are not chargeable with liabilities arising out of any other business Western National may conduct. Income, gains and losses, whether or not realized, are, in accordance with the Contracts, credited to or charged against the Separate Account without regard to other income gains or losses arising out of any other business Western National may conduct.

5. The Existing Contracts are available for retirement plans which do not qualify for the special federal tax advantages pursuant to the Internal Revenue Code and for retirement plans which do qualify for the federal tax advantages available pursuant to the Internal Revenue Code.

6. The minimum initial purchase payment for non-qualified Existing Contracts is \$5,000 and for qualified Existing Contracts is \$2,000. The minimum subsequent purchase payment for non-qualified Existing Contracts is \$1,000 or, if the automatic premium check option is elected, \$50. The minimum subsequent purchase payment for qualified Existing Contracts is \$50. The maximum total purchase payments Western National will accept without its prior approval is \$500,000 for contract owners up to 75 years in age. The maximum total purchase payments Western National will accept without its prior approval for contract owners age 75 and older is \$250,000.

7. Western National will, at the time of the initial purchase payment, add an additional amount, as a bonus ("Bonus"), equal to one percent (1%) of such purchase payment. Western National reserves the right to limit its payment of the Bonus to \$5,000. If the contract owner makes a withdrawal prior to the seventh contract anniversary in excess of: (a) up to 10% of the contract value each contract year or (b) the amount permitted under the systematic withdrawal option (up to 10% of the contract value each contract year) an amount equal to the Bonus will be deducted by Western National from the contract value. Western National will not recapture any investment earnings on the Bonus. The owner does not have a vested interest in the principal amount of the Bonus until seven contract years have elapsed from the date of the Bonus payment, and until that time the Bonus belongs to Western National.

8. The Existing Contracts provide for certain guaranteed death benefits during the accumulation period. The standard death benefit provides that for a death occurring prior to the 80th birthday of the contract owner, or the oldest joint owner, the death benefit during the accumulation period will be the greater of: (1) the purchase payments, less any withdrawals including any previously deducted contingent deferred sales charge; or (2) the contract value determined as of the end of the valuation period during which Western National receives at its annuity service office both due proof of death and an election of the payment method; or (3) the highest step-up value prior to the date of death. The step-up value is equal to the contract value on each seventh contract anniversary plus any purchase payments made after such contract anniversary less any withdrawals and contingent deferred sales charge deducted after such contract anniversary. For a death occurring on or after the 80th birthday of the owner, or the oldest joint owner, the death benefit during the accumulation period will be the contract value determined as of the end of the valuation period during which Western National receives at its annuity service office both due proof of death and an election of the payment method.

9. The Contracts also provide for an enhanced death benefit (via an endorsement) if selected by the contract owner ("Enhanced Death Benefit"). If the owner selects the Enhanced Death Benefit, for a death occurring prior to the 75th birthday of the owner, or the oldest joint owner, the death benefit will be the greater of 1, 2 or 3 above (in paragraph 8) or the total amount of purchase payments compounded up to the date of death at 3% interest, minus the total withdrawals and previously deducted contingent deferred sales charges compounded up to the date of death of 3% interest, not to exceed 200% of purchase payments, less withdrawals and previously deducted contingent deferred sales charges. For a death occurring on or after the 75th birthday and before the 80th birthday of the owner, or the oldest joint owner, the death benefit during the accumulation period will be the greater of 1, 2 or 3 (in paragraph 8) above. For death occurring on or after the 80th birthday of the owner, or the oldest joint owner, the death benefit during the accumulation period will be the contract value determined as of the valuation period during which Western National receives at its annuity service office both due

proof of death and an election of the payment method.

10. Subject to any limitations imposed by Western National on the number of transfers (currently unlimited), owners may transfer all or part of their interest in a subaccount or during the annuity period from a subaccount to the general account without the imposition of any fee or charge if there have been no more than the number of free transfers permitted. Currently, there are no restrictions on the number of transfers that can be made each contract year. However, if Western National does limit the number of transfers in the future, owners are guaranteed 12 free transfers during the accumulation period and 6 free transfers during the annuity period. Currently, Western National does not impose a transfer fee. Western National has reserved the right to charge a fee for transfers in the future which will not exceed the lesser of \$25 or 2% of the amount transferred.

11. Any premium taxes relating to the Existing Contracts may be deducted from the purchase payments or contact value when incurred. Western National currently defers the charge for premium taxes until full withdrawal or annuitization. However, Western National reserves the right to deduct the premium taxes when incurred. Premium taxes generally range from 0% to 4%.

12. The Contracts do not provide for a front-end sales load to be deducted from purchase payments. However, if all or a portion of the Contract value is withdrawn, a contingent deferred sales charge (sales load) ("CDSC") will be calculated at the time of each withdrawal and will be deducted from the contract value. This charge reimburses Western National for expenses incurred in connection with the promotion, sale and distribution of the Contracts. The CDSC is based upon the length of time from when each purchase payment was made as follows:

Length of time from purchase payment (number of years)	Withdrawal charge (percent)
1 .....	5
2 .....	5
3 .....	5
4 .....	4
5 .....	3
6 .....	2
7 .....	1
8 or more .....	0

After the first contract anniversary, a withdrawal of up to 10% of the contract value, determined as of the immediately preceding contract anniversary, may be withdrawn once each contract year on a

non-cumulative basis without the imposition of the CDSC.

13. Applicants acknowledge that the CDSC, if applicable, may be insufficient to cover all costs relating to the distribution of the Contracts, and that if a profit is realized from the Mortality and Expense Risk Charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by the CDSC.

14. On each contract anniversary, Western National will deduct a charge to reimburse it for expenses relating to maintenance of the Contracts ("Contract Maintenance Charge"). The Contract Maintenance Charge is currently \$30 each contract year. However, during the accumulation period, if the contract value on the contract anniversary is at least \$40,000, then no Contract Maintenance Charge is deducted. If a total withdrawal is made on other than a contract anniversary and the contract value for the valuation period during which the total withdrawal is made is less than \$40,000, the full Contract Maintenance Charge will be deducted at the time of the total withdrawal. During the annuity period, the Contract Maintenance Charge will be deducted pro-rata from annuity payments regardless of contract size and will result in a reduction of each annuity payment. The Contract Maintenance Charge will be deducted from the general account and the subaccounts in the Separate Account in the same proportion that the amount of the contract value in the general account and each subaccount bears to the total contract value.

15. Each valuation period Western National will deduct a charge equal on an annual basis to .15% of the average daily net asset value of the Separate Account ("Administrative Charge"). Western National represents that the Administrative Charge will not exceed expenses and will not be increased should it prove to be insufficient. Western National does not intend to profit from the Administrative Charge, which will be reduced to the extent that the amount of the charge is in excess of that necessary to reimburse Western National for its administrative expenses.

16. Western National will assume certain mortality and expense risks under the Contracts. To compensate it for assuming these risks, Western National will deduct each valuation period a charge which is equal, on an annual basis, to 1.25% of the average daily net asset value of the Separate Account ("Mortality and Expense Risk Charge"). Of this amount, approximately .80% is attributable to mortality risks, and approximately .45%

is attributable to expense risks. The Mortality and Expense Risk Charge is guaranteed by Western National and cannot be increased. Western National anticipates that it will derive a profit from this charge.

17. The mortality risks assumed by Western National arise from its contractual obligation to make annuity payments after the annuity date (determined in accordance with the annuity option chosen by the owner) regardless of how long all annuitants live. This assures that neither an annuitant's own longevity, nor an improvement in life expectancy greater than that anticipated in the mortality tables, will have any adverse effect on the annuity payments the annuitant will receive under the Contract. Further, Western National bears a mortality risk because it guarantees the annuity purchase rates for the annuity options under the Contracts whether for a fixed annuity or a variable annuity. Also, there is a mortality risk borne by Western National with respect to the standard death benefit and the waiver of the CDSC if purchase payments have been held in the contract less than seven contract years.

18. The expense risk assumed by Western National is that all actual expenses involved in administering the Contracts, including maintenance costs, administrative costs, mailing costs, data processing costs, legal fees, accounting fees, filing fees and the costs of other services may exceed the amount recovered from the Contract Maintenance Charge and the Administrative Charge.

19. If the Owner selects the Enhanced Death Benefit, each valuation period prior to the 75th birthday of the contract owner, or oldest joint owner, Western National will deduct a charge from the Separate Account which is equal, on an annual basis, to .15% of the average daily net asset value of the Separate Account ("Enhanced Death Benefit Charge"). This charge compensates Western National for assuming the mortality risks for the Enhanced Death Benefit. Western National expects to profit from this charge.

**Applicants' Legal Analysis and Conditions**

1. Pursuant to Section 6(c) of the 1940 Act the Commission may, by order upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act or from any rule or regulation thereunder, if and to the extent that such exemption is

necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in pertinent part, prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services of a character normally performed by the bank itself.

3. Applicants request an order pursuant to Section 6(c) of the 1940 Act exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of mortality and expense risk and enhanced death benefit charges from the assets of the Separate Account and any Future Accounts in connection with the Existing Contracts and Future Contracts.

4. Applicants assert that the mortality and expense risk charge of 1.25% is reasonable in relation to the risks assumed by Western National under the Existing Contracts and reasonable in amount as determined by industry practice with respect to comparable annuity products. Applicants state that these determinations are based upon an analysis of the mortality risks (taking into consideration such factors as the guaranteed annuity purchase rates), the expense risks (taking into account the existence of charges against the Separate Account assets for other than mortality and expense risks), the estimated costs for certain product features and industry practice with respect to comparable variable annuity products. Western National undertakes to maintain at its principal office a memorandum, available to the Commission, setting forth in detail the products analyzed and the methodology and results of this analysis.

5. Applicants assert that the charge of 0.15% for the Enhanced Death Benefit is reasonable in relation to the risks assumed by Western National under the Existing Contracts for providing the Enhanced Death Benefit. Western National undertakes to maintain at its home office a memorandum, available to the Commission upon request, setting forth in detail the methodology used in determining that the risk charge of

0.15% for the enhanced death benefit is reasonable in relation to the risks assumed by Western National under the Existing Contracts.

6. Applicants represent that, before relying on exemptive relief requested in this application in connection with Future Contracts, Applicants will determine that any enhanced death benefit risk charges under such contracts are reasonable in relation to the related risks assumed by Western National under such Future Contracts. Applicants represent that Western National will maintain and make available to the Commission upon request a memorandum setting forth in detail the methodology used in making that determination with respect to Future Accounts.

7. Applicants represent that, before relying on exemptive relief requested in this application in connection with Future Contracts, Applicants will determine that any mortality and expense risk charges under such contracts are reasonable in amount as determined by industry practice with respect to comparable annuity products and/or reasonable in relation to the risks assumed by Western National. Applicants represent that Western National will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion with respect to the Future Accounts.

8. Western National has concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and its investors. Western National represents that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

9. Applicants represent that, before relying on exemptive relief requested in this application in connection with Future Contracts or Future Accounts, Applicants will determine that there is a reasonable likelihood that the distribution financing arrangement will benefit the Separate Account and its investors or Future Accounts and their investors. Western National represents that it will maintain and make available to the Commission upon request a memorandum setting forth the basis of such conclusion.

10. Western National represents that the assets of the Separate Account and any Future Accounts will be invested only in underlying mutual funds which undertake, in the event they should adopt a plan for financing distribution expenses pursuant to Rule 12b-1 under the 1940 Act, to have such plan

formulated and approved by their board of directors, the majority of whom are not "interested persons" of such funds within the meaning of Section 2(a)(19) of the 1940 Act.

11. Applicants request an order pursuant to Section 6(c) of the 1940 Act exempting them from Sections 2(a)(32), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2) and 27(d) of the 1940 Act, and from Rule 22c-1 promulgated thereunder, to the extent necessary to permit Western National to issue Contracts providing for the Bonus and its recapture if the owner makes a withdrawal prior to the seventh contract anniversary in excess of 10% of the contract value each contract year.

12. Applicants represent that contract owners do not have a vested interest in the principal amount of the Bonus until seven contract years have elapsed from the date of payment of the Bonus by Western National and that, until such time, the Bonus is the property of Western National.

13. Applicants represent that it is not administratively feasible for them to track the Bonus amounts in the Separate Account. Accordingly, the Mortality and Expense Risk Charge, the Administrative Charge and, when applicable, the Enhanced Death Benefit Charge (collectively, the "Asset-Based Charges"), will be assessed against the entire value of each Contract holder's account, including the Bonus amount, even during the period when the Owner's interest in the Bonus has not vested (the first seven Contract years). As a result, during the first seven years of each Contract that includes a Bonus, the aggregate Asset-Based Charges assessed will be higher than those that would be charged if the Contract did not include the Bonus.

14. Applicants represent that the Bonus and its recapture will involve none of the abuses to which Sections 2(a)(32), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), and 27(d) of the 1940 Act and Rule 22c-1 thereunder were intended to prevent. Applicants also state that the Bonus will be attractive to and in the interest of investors because it will permit owners to put 101% of their purchase payments to work for them in the selected investment options. Applicants further explain that the earnings attributable to the Bonus always will be retained by the owner, and the principal amount of the Bonus also will be retained if the initial purchase payment is not withdrawn for seven contract years.

15. Applicants submit that their request for exemptive relief would promote competitiveness in the variable annuity contract market by eliminating the need for redundant exemptive

applications, thereby reducing Applicants' administrative expenses and maximizing the efficient use of their resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair their ability effectively to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection.

### Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 95-15118 Filed 6-20-95; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Supplemental Environmental Impact Statement; Wilmington, New Hanover County, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

**SUMMARY:** The FHWA is issuing this Notice to advise the public that a second Supplemental Environmental Impact Statement (SEIS) will be prepared for the two western-most sections (just east of 23rd Street to U.S. 117 and 3rd Street east of the Northeast Cape Fear River Bridge) of the proposed highway project (Smith Creek Parkway; State Project No. 8.2250103; T.I.P. No. U-92; Federal Project No. MAM-5851(2)) north of U.S. 17 (Market Street) in Wilmington, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Mr. Roy C. Shelton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone (919) 856-4350.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare a second Supplemental Environmental Impact

Statement (SEIS) for the assessment of a new alignment for the two western-most sections (approximately 2.2 miles) of Smith Creek Parkway in Wilmington, North Carolina. The original FEIS (FHWA-NC-EIS-77-03-F) was completed September 24, 1980. The SEIS (FHWA-NC-EIS-77-03-FS) was completed July 15, 1991. The eastern-most sections of Smith Creek Parkway, approved under the first SEIS, are currently under construction or will be under construction by September, 1995.

The first SEIS previously identified a preferred alternative which would be located south of Smith Creek and would pass through the Burnt Mill Creek Landfill. Due to unknown hazardous material involvement related to construction of the preferred alternative over the Burnt Mill Creek Landfill site and an unresolved noise conflict with the Carolco Film Studios (formerly DEG Film Studios), a series of alternatives north of Smith Creek were additionally evaluated.

The proposed action will evaluate a northern alternative for the western-most sections only. The preferred northern alternative avoids the vicinity of the Burnt Mill Creek Landfill site and surrounds, as well as the Carolco Film Studios, by extending Smith Creek Parkway northwest, crossing Smith Creek near 23rd Street, and crossing back over Smith Creek just southeast of U.S. 117 (Castle Hayne Road). Recent study of the area north of Smith Creek indicates this area is a reasonable and feasible alternative route.

No formal scoping meeting is planned. A public involvement program has been developed for the project. The draft SEIS will be available for public and agency review and comment prior to the public hearing. To assure the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The Regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 13, 1995.

**Roy C. Shelton,**

*Operations Engineer, Raleigh.*

[FR Doc. 95-15193 Filed 6-20-95; 8:45 am]

BILLING CODE 4910-22-M

### National Highway Traffic Safety Administration

[Docket No. 95-49; Notice 1]

#### General Motors Corporation; Receipt of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) of Warren, Michigan, has determined that some of its vehicles fail to comply with the requirements of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices, and Associated Equipment," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." GM has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

In FMVSS No. 108, Table III lists turn signal lamps as required equipment. Society of Automotive Engineers' (SAE) Standard J588, NOV84, incorporated by reference in Table III, provides that the photometric requirements for turn signal lamps may be met at zones or groups of test points, instead of at each individual test point. Within a zone, the lamp is permitted to fail at individual test points as long as the total light intensity of all the test points within the zone is not below the specified level for the zone. SAE J588 specifies four such zones for turn signals.

During the period of September 1990 through 1995, GM manufactured approximately 544,420 Buick Centuries on which the turn signal lamps failed to meet the photometric requirements referenced in Table III of FMVSS No. 108. Of the four zones tested on the turn signal lamps, zones 1, 2, and 4 met the requirements, while zone 3 did not. The required light intensity for zone 3 is 2,375 candela (cd). When tested, 17 of the subject lamps produced, on average, a light intensity of approximately 2,145 cd or 90 percent of the required intensity. The three compliant zones exceed the light intensity requirements by at least 20 percent.

GM supports its application for inconsequential noncompliance with the following:

The difference between the FMVSS 108 requirement for zone 3 and the average performance of the subject lamps is