

(on behalf of itself and NRG's subsidiaries) will agree to indemnify each other for any actions taken by the indemnifying party through the effective date of the Plan where the statutory liability imposed on the indemnified party is solely by reason of Xcel's direct or indirect ownership of NRG and NRG's subsidiaries. Further, according to Applicants, NRG and its direct and indirect subsidiaries will not be reconsolidated with Xcel or any of its other affiliates for federal income tax purposes at any time after their March 2001 disaffiliation or otherwise entitled to the benefits of any tax sharing agreement with Xcel. Xcel alone will be entitled to the tax benefits associated with the worthless stock deduction Xcel expects to claim with respect to its investment in NRG. Xcel and NRG will enter into a tax matters agreement ("Tax Matters Agreement") that addresses liability for any unpaid taxes of NRG and Xcel for periods during which NRG and Xcel were part of the same consolidated, combined or unitary tax group, entitlement to any tax refunds for such periods, the control of contests for such periods, cooperation with respect to audits and such other matters as would be customary in a tax matters agreement between similarly-situated corporations.

Applicants state that Xcel has agreed, to the extent requested by NRG, to provide services to NRG under a transitional services agreement ("Transitional Services Agreement") for a specified period after the Effective Date. Xcel will receive compensation at cost for any services provided. Applicants state that at this time it is not expected that NRG will request any services under the Transitional Services Agreement.

Xcel and NRG will enter into an employee matters agreement under which various obligations with respect to employees and benefit plans will be allocated between Xcel and NRG as of the effective date of the Plan. Also, a tax allocation agreement ("Tax Allocation Agreement"), dated as of December 29, 2000, provided for all eligible affiliated corporations to join with Xcel in the filing of consolidated federal income tax returns, and also set forth procedures for allocating tax benefits among the parties. NRG and its direct and indirect subsidiaries will not be reconsolidated with Xcel or any of its other affiliates for federal income tax purposes at any time after their March 2001 disaffiliation or otherwise entitled to the benefits of the Tax Allocation Agreement. Applicants further state that Xcel's obligations under the Settlement Agreement and the Plan, including its obligations to make

the payments discussed above, will, according to Applicants, be contingent upon, among other things, the following:

- (i) Effective date of the Plan occurring on or prior to December 15, 2003;
- (ii) The receipt of releases in favor of Xcel from holders of at least 85 percent of the general unsecured claims held by NRG's creditors;
- (iii) Approval of the final Plan by the Bankruptcy Court and related documents containing terms satisfactory to Xcel, NRG and various groups of NRG's creditors; and
- (iv) The receipt by Xcel of all necessary regulatory approvals.

Applicants assert that the Plan and related transactions are reasonable and in the best interests of the investors in the NRG Applicants and of the investors in Xcel.

IV. Post Reorganization Ownership Structure

Under the Plan, the pre-petition shares of common stock issued by NRG and held indirectly by Xcel, through Xcel Wholesale, shall not receive any distributions under the Plan, and the Post shares shall be canceled and extinguished on the effective date of the Plan. As a consequence, Xcel's pre-petition shares in NRG will no longer have any claim to voting rights, dividends or any other rights with respect to NRG. The entire equity interest in Reorganized NRG will then be held by the existing creditors of NRG. NRG will continue to own 100% of the equity ownership of NRG PMI.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-20262 Filed 8-7-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48281]

Broker-Dealer Financial Statement Requirements Under Section 17 of the Exchange Act

August 4, 2003.

Section 17(e)(1)(A) of the Securities Exchange Act of 1934 ("Exchange Act") requires that every registered broker-dealer annually file with the Commission a certified balance sheet and income statement, and section 17(e)(1)(B) requires that the broker-dealer annually send to its customers its

"certified balance sheet."¹ The Sarbanes-Oxley Act of 2002 ("Act")² established the Public Company Accounting Oversight Board ("Board")³ and amended section 17(e) to replace the words "an independent public accountant" with "a registered public accounting firm."⁴

The Act establishes a deadline for registration with the Board of auditors of financial statements of "issuers," as that term is defined in the Act.⁵ The Act does not provide a deadline for registration of auditors of broker-dealers that are not issuers ("non-public broker-dealers"). Application of registration requirements and procedures to auditors of non-public broker-dealers is still being considered.

Accordingly, we believe that it is consistent with the public interest and the protection of investors that non-public broker-dealers file with the Commission and send to their customers the documents and information required by section 17(e) certified by an independent public accountant instead of a registered public accounting firm until January 1, 2005, unless rules are in place regarding Board registration of auditors of non-public broker-dealers that set an earlier date.⁶

It is therefore ordered, pursuant to section 17(e) of the Exchange Act, that non-public broker-dealers may file with the Commission a balance sheet and income statement and may send to their customers a balance sheet certified by an independent public accountant instead of certified by a registered public accounting firm until January 1, 2005, unless rules are in place regarding Board registration of auditors of non-public broker-dealers that set an earlier date.

¹ Exchange Act Rule 17a-5 requires registered broker-dealers to provide to the Commission and to customers of the broker-dealer other specified financial information.

² Public Law 107-204.

³ Section 101 of the Act.

⁴ Section 205(c)(2) of the Act.

⁵ Section 2 of the Act defines "issuer." Section 102 of the Act establishes a specific deadline by which auditors of issuers must register with the Board. Based on the statutory deadline of 180 days after the Commission determined the Board was ready to carry out the requirements of the Act, that date is October 22, 2003. See Exchange Act Release No. 48180 (July 16, 2003).

⁶ We note the continued applicability of Exchange Act Rule 17a-5. We wish to highlight Exchange Act Rule 17a-5(g), which requires, among other things, that audits of broker-dealers be made in accordance with generally accepted auditing standards (GAAS). GAAS requires, for example, that audits be conducted with due professional care by independent persons with adequate technical training and proficiency as an auditor.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-20221 Filed 8-7-03; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P012]

State of Florida

As a result of the President's major disaster declaration for Public Assistance on July 29, 2003 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Charlotte, Citrus, DeSoto, Hardee, Levy, Manatee and Sarasota Counties in the State of Florida constitute a disaster area due to damages caused by severe storms and flooding occurring on June 13, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 29, 2003 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
<i>For Physical Damage</i>	
Non-Profit Organizations Without Credit Available Elsewhere	2.953
Non-Profit Organizations With Credit Available Elsewhere	5.500

The number assigned to this disaster for physical damage is P01211.

(Catalog of Federal Domestic Assistance Program Nos. 59008).

Dated: July 31, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03-20257 Filed 8-7-03; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3512]

State of West Virginia; Amendment #7

In accordance with the notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective July 30, 2003, the above numbered declaration is hereby amended to include Marion County in the State of West Virginia as

a disaster area due to damages caused by severe storms, flooding, and landslides beginning on June 11, 2003 and continuing through July 15, 2003.

All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 20, 2003, and for economic injury the deadline is March 22, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 1, 2003.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 03-20256 Filed 8-7-03; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review Under Executive Order 12372

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 42 existing Small Business Development Centers (SBDCs) for refunding on January 1, 2004, subject to the availability of funds. Fourteen states do not participate in the EO 12372 process therefore, their addresses are not included. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 120 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

Addresses of Relevant SBDC State Directors

Mr. Michael Finnerty, State Director,
Salt Lake Community College, 1623

South State Street, Salt Lake City, UT 84115, (801) 957-3481.

Dr. Bruce Whitaker, Director, American Samoa Community College, P.O. Box 2609, Pago Pago, American Samoa 96799, 011-684-699-9155.

Mr. John Lenti, State Director,
University of South Carolina, 1710 College Street, Columbia, SC 29208, (803) 777-4907.

Ms. Kelly Manning, State Director,
Office of Business Development, 1625 Broadway, Suite 1710, Denver, CO 80202, (303) 892-3864.

Mr. Henry Turner, Executive Director,
Howard University, 2600 6th St., NW, Room 125, Washington, DC 20059, (202) 806-1550.

Mr. Jerry Cartwright, State Director,
University of West Florida, 401 East Chase Street, Suite 100, Pensacola, FL 32501, (850) 595-6060.

Mr. Hank Logan, State Director,
University of Georgia, Chicopee Complex, Athens, GA 30602, (706) 542-6762.

Mr. Darryl Mleynek, State Director,
University of Hawaii/Hilo, 200 West Kawili Street, Hilo, HI 96720, (808) 974-7515.

Mr. Sam Males, State Director,
University of Nevada/Reno, College of Business Administration, Room 411, Reno, NV 89557-0100, (775) 784-1717.

Mr. Albert Laabs, State Director,
Tennessee Board of Regents, 1415 Murfreesboro Road, Suite 324, Nashville, TN 37217-2833, (615) 366-3931.

Ms. Debbie Bishop Trocha, State Director, Economic Development Council, One North Capitol, Suite 420, Indianapolis, IN 46204, (317) 234-2086.

Ms. Mary Collins, State Director,
University of New Hampshire, 108 McConnell Hall, Durham, NH 03824, (603) 862-4879.

Mr. Greg Higgins, State Director,
University of Pennsylvania, The Wharton School, 444 Vance Hall, Philadelphia, PA 19104, (215) 898-1219.

Mr. Robert Hamlin, State Director,
Bryant College, 1150 Douglas Pike, Smithfield, RI 02917, (401) 232-6111.

Mr. John Lenti, State Director,
University of South Carolina, College of Business Administration, 1710 College Street, Columbia, SC 29208, (803) 777-4907.

Mr. Mark Slade, Acting State Director,
University of South Dakota, School of Business, 414 East Clark, Vermillion, SD 57069, (605) 367-5757.

Ms. Vi Pham, Region Director,
California State University, Fullerton, 2600 Nutwood Avenue, Suite 275,