

propulsion business. This business consists of, among other things, ARC's Niagara and Westcott production facilities, specialized manufacturing and testing equipment, technical drawings, advertising and training materials, customer lists, intellectual property and other assets at the Niagara and Westcott facilities used in the research, development, manufacturing, testing, marketing, customer support and sale of monopropellant, bipropellant apogee, dual mode apogee, and bipropellant attitude control thrusters (collectively "ARC In-Space Liquid Propulsion Assets"). Pursuant to the Consent Agreement, GenCorp is required to divest the ARC In-Space Liquid Propulsion Assets to a buyer, at no minimum price, within six (6) months from the date of the Acquisition. The acquirer of the ARC In-Space Liquid Propulsion Assets must receive the prior approval of the Commission.

If GenCorp has not divested the ARC In-Space Liquid Propulsion Assets within the time and in the manner required by the Consent Agreement, the Commission may appoint a trustee to divest these assets, subject to Commission approval. The trustee will have the exclusive power and authority to accomplish the divestiture within six (6) months, subject to any necessary extensions by the Commission. The Consent Agreement requires GenCorp to provide the trustee with access to information related to the ARC in-space liquid propulsion business as necessary to fulfill his or her obligations.

The proposed Order to Hold Separate and Maintain Assets that is also included in the Consent Agreement requires that GenCorp hold separate and maintain the viability of the ARC In-Space Liquid Propulsion Assets as a viable and competitive operation until the business is transferred to the Commission-approved acquirer. Furthermore, it contains measures designed to ensure that no material confidential information is exchanged between GenCorp and the ARC in-space liquid propulsion business (except as otherwise provided in the Order or in the Order to Hold Separate and Maintain Assets) and provisions designed to prevent interim harm to competition in each in-space propulsion market pending divestiture. The Order to Hold Separate and Maintain Assets provides for the Commission to appoint a Hold Separate Trustee who is charged with the duty of monitoring GenCorp's compliance with the Order to Hold Separate and Maintain Assets. Pursuant to that Order, the Commission has appointed Charles L. Wilkins of KPMG LLP as Hold Separate Trustee to oversee

the In-Space Liquid Propulsion Assets prior to their divestiture and to ensure that GenCorp complies with its obligations under the Consent Agreement regarding the In-Space Liquid Propulsion Assets. Mr. Wilkins has more than 35 years of experience both inside the aerospace and defense industry and as a professional advisor. He has held several key management positions in the aerospace and defense industry, including senior corporate auditor, controller and chief financial officer, and during his professional consulting career has assisted most of the larger defense contractors in the United States in a wide array of services including litigation and dispute resolution, compliance matters and profit maximization.

The proposed Order requires GenCorp to provide the Commission, within thirty (30) days from the date the Order becomes final, a verified written report setting forth in detail the manner and form in which GenCorp intends to comply, is complying, and has complied with the provisions relating to the proposed Order and the Order to Hold Separate and Maintain Assets. The proposed Order further requires GenCorp to provide the Commission with a report of compliance with the Order every thirty (30) days after the date of that initial compliance report until the divestiture has been completed.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement, the proposed Decision and Order, or the Order to Hold Separate and Maintain Assets, or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03-26750 Filed 10-22-03; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

Part F, of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), 49 FR 35247,

dated September 6, 1984, is amended to include the following delegations of authority from the Secretary to the Administrator, CMS, with the authority to redelegate, to carry out the following administrative and enforcement activities vested in the Secretary of the Department of Health and Human Services under part C, of title XI of the Social Security Act, as amended.

- Section F.30., Delegations of Authority, is amended to include the following delegations of authority for certain provisions under part C, of title XI of the Social Security Act.

WW. 1. The authority under section 262 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, to administer and to make decisions regarding the interpretation, implementation and enforcement of the regulations adopting standards and general administrative requirements under 45 CFR, parts 160, 162 and 164 (except to the extent that these actions pertain to the "Standards for Privacy of Individually Identifiable Health Information").

2. The authority under section 262 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended, except to the extent that these actions pertain to the Standards for Privacy of Individually Identifiable Health Information, to:

A. Impose civil monetary penalties, under section 1176 of the Social Security Act, including any settlement thereof, for a covered entity's failure to comply with certain requirements and standards.

B. Make exception determinations, under section 1178(a)(2)(A) of the Social Security Act, concerning when provisions of State laws that are contrary to the Federal standards are not preempted by the Federal provisions.

Exclusion to This Authority

All actions under Part C, of Title XI that pertain to Standards for Privacy of Individually Identifiable Health Information, were delegated by the Secretary to the Director, Office for Civil Rights, and are excluded from this delegation. This delegation to the Administrator also excludes the authority to issue regulations and to hold hearings and issue final determinations if the respondent has requested a hearing on the imposition of civil monetary penalties. This delegation should be exercised under the Department's existing delegation of authority and policy on issuance of regulations. In addition, I hereby affirm and ratify any actions taken by the Administrator, CMS, or any