that wheel lock-up is a safety hazard that should be avoided if possible. Accordingly, the agency believes that it would not be in the interest of safety to require an additional emergency brake system that would always result in wheel lock-up.

Other factors also have lead the agency to conclude that Mr. Wright's device would not be in the interest of safety. Actuation of the device is made through the use of a separate lever by the vehicle driver. In an emergency, the driver's attention should be directed toward the road not toward finding an additional emergency brake device to actuate. Also, no data exist for the device's impact upon stops on wet or icy road surfaces where vehicle control is always a problem. The agency concludes that this device might worsen vehicle control in these circumstances. For all the reasons cited above, the agency denies Mr. Wright's petition.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1391, 1407); delegation of authority at 49 CFR 1.50)

Issued on: September 19, 1980.

Joan Claybrook,

Administrator.

[FR Doc. 80-29746 Filed 9-24-80; 8:45 am]

BILLING CODE 4910-6901-M

[Docket No. IP80-4; Notice 2]

Gillig Corp.; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Gillig Corp. of Hayward, California to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.120, Motor Vehicle Safety Standard No. 120, *Tire Selection and Rims for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published in the **Federal Register** on April 17, 1980 (45 FR 26210) and an opportunity afforded for comment.

Paragraph S5.3 of Standard No. 120 requires, as of September 1, 1977, for certain information to be permanently attached to a vehicle other than a passenger car, either on the certification label or on a separate tire information label. This information includes the type designation for rims appropriate for the vehicle's tires (S5.3.2) and the cold inflation pressure for the tires (S5.3.3). In the course of a compliance investigation (CIR 2053) NHTSA discovered both items lacking from a 1978 model PT 477 transit bus manufactured by Gillig.

In reply to NHTSA's inquiry, Gillig surmised that there were no more than 116 PT 477 buses without the proper information plus 15 of the type PT 3208. Additionally, tire and rim data may be lacking from an unspecified number of buses Model 636 D-119, Model 555 DT-39, Model 426 D-106, and Model 855 D-33. Gillig argued that the noncompliance was inconsequential as the vehicle owners are school and transit districts staffed with professional service personnel, generally familiar with tires and rims and the tire inflation pressures appropriate for particular vehicle usage and loading.

No comments were received on the petition.

The agency has not found Gillig's arguments persuasive. The type of information molded on the sidewall is the cold inflation pressure for the maximum load rating while the missing information is the inflation pressure at GVWR for the tire sizes recommended. The loading value assigned to the buses may be such that the tires may not be operated at the maximum permissable load and may have a lower assigned tire inflation pressure value for handling and stability. Even though the buses may be serviced by professional tire personnel, the presence of the information will resolve any doubtful instances that may arise, and assures all concerned that the vehicle's load carrying capacity is not exceeded for the tires that are on it.

Accordingly, petitioner has not met its burden of persuasion with respect to the noncompliance herein described, and its petition is hereby denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 19, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-29745 Filed 9-24-80; 8:45 am]

BILLING CODE 4910-59-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 188
Thursday, September 25, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2, 3, 4
Commodity Futures Trading Commission	5
Federal Deposit Insurance Corporation	6, 7, 8
Federal Election Commission	9
Federal Energy Regulatory Commission	10
Federal Home Loan Bank Board	16
Federal Maritime Commission	11, 12
Parole Commission	13
Tennessee Valley Authority	14
United States Railway Association	15

1

[M-293 Amdt. 4, September 23, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the September 24, 1980 meeting.

TIME AND DATE: 2 p.m., September 24, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

5a. Docket 37020, Alaska Bush Points Show Cause Proceeding; Docket 36815, Alaskan Carriers Fitness Investigation; Dockets 38590 and 37958, Applications of Great Northern Airlines, Inc. Order declining review, issuing and amending Certificates and Order to Show Cause (OGC)

9a. Docket 38488, Application of People Express for a certificate of public convenience and necessity for 27 New York/Newark markets (Subpart Q) (Memo 9814-B, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 5a is being added late because staff work on this item was completed on September 22. Prompt action is necessary so that the Board can dispose of this item as quickly as possible. The Bureau placed an action date of September 24th on Item 9a but failed to request expedited review from the Office of General Counsel (OGC). OGC has already submitted its comments which the staff has incorporated into the draft order, and, in the interest of expediting this case. Accordingly, the following Members have voted that Items 5a and 9a be added to the September 24th agenda and that no earlier announcement of these additions was possible:

Chairman Marvin S. Cohen.
Member Elizabeth E. Bailey.
Member Gloria Schaffer.
Member George A. Dalley.
Member James R. Smith.

[S-1778-80 Filed 9-23-80; 3:42 pm]

BILLING CODE; 6320-01-M

2

[M-293 Amdt. 3, September 19, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the September 24, 1980 meeting agenda.

TIME AND DATE: 2 p.m., September 24, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

13a. Dockets 38627 and 38625—Imperial Airlines' notice and exemption request to terminate service between El Centro, California, and Phoenix, Arizona, before the expiration of the 90-day notice period.

13b. Dockets 37262 and 38649, Ozark's and air Illinois' termination notices, respectively, at Mount Vernon, Illinois

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1765-80 Filed 9-22-80; 4:16 pm]

BILLING CODE 6320-01-M

3

[M-293 Amdt. 2, September 19, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of an item for the September 24, 1980 meeting agenda.

TIME AND DATE: 2 p.m., September 24, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

4a. (a) NPRM to allow the use of tariffs that state prices as maximum instead of fixed amounts;

(b) Dockets 38157, 38242, 36308, 38309, 38447 and 38554—Applications by Pan American World Airways, Braniff Airways, Singapore Airlines, Japan Air Lines, Philippine Airlines, and Korean Air Lines for exemptions to permit acceptance of tickets of other carriers at fares not on file;

(c) Docket 38284—Application by Northwest Airlines for exemption to charge passenger fares and cargo rates lower than those in their effective tariffs;

(d) Docket 38298—Application by Trans World Airlines for exemption to pay commissions to forwarders, now prohibited by section 296.32 of the Board's Economic Regulations. (OGC, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1766-80 Filed 9-22-80; 9:17 pm]

BILLING CODE 6320-01-M

4

[M-293 Amdt. 1, September 18, 1980]

CIVIL AERONAUTICS BOARD. Notice of change of time for the September 24, 1980 meeting agenda.

TIME: *Changed* from 9:30 a.m. to 2 p.m.

PLACE: Room 1027, Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The Civil Aeronautics Board Sunshine Meeting.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-1767-80 Filed 9-22-80; 4:17 pm]

BILLING CODE 6320-01-M

5

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., Thursday, September 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C. fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: First Quarter Budget Programs, Plans, and Priorities.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1770-80 Filed 9-23-80; 12:22 pm]

BILLING CODE 6351-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that

at 2:30 p.m. on Monday, September 29, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

First Bank of Avon, a proposed new bank, to be located at 38340 U.S. Highway 6, Avon, Colorado, for Federal deposit insurance.

Community State Bank of Galva, a proposed new bank, to be located at the intersection of Southeast 2nd Street and Seventh Avenue on U.S. Route 34, Galva, Illinois, for Federal deposit insurance.

First American State Bank, a proposed new bank, to be located at the intersection of Harrison Avenue and Belmont Street, Centralia, Washington, for Federal deposit insurance.

Application for consent to establish a branch:

Provident Savings Bank, Jersey City, New Jersey, for consent to establish a branch at 666 Beverly-Rancocas Road, Willingboro, New Jersey.

Application for consent to merge and establish branches:

Fulton Bank, Harrisburg, Pennsylvania, an insured State nonmember bank, for consent to merge, under its charter and title, with The Denver National Bank, Denver, Pennsylvania, and for consent to establish the three offices of The Denver National Bank as branches of the resultant bank.

Notice of acquisition of control:

Bank of Palm Springs, Palm Springs, California.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of persons convicted of offenses involving dishonesty or a breach of trust as directors, officers, or employees of insured banks:

Names of person and of bank authorized to be exempt form disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,464-L—Franklin National Bank, New York, New York.

Case No. 44,472-L—Banco de Ahorro de Puerto Rico, Hato Rey, Puerto Rico.

Memorandum and Resolution re: First State Bank, Foss, Oklahoma.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 22, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1771-80 Filed 9-23-80; 1:58 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, September 29, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed merger of The First National Bank of Atlanta, Atlanta, Georgia, and Cobb County Bank, Powder Springs, Georgia.

Request by the Board of Governors of the Federal Reserve System for a report on the competitive factors involved in the proposed merger of The Connecticut Bank and Trust Company, Hartford, Connecticut, and The Danbury Bank and Trust Company, Danbury, Connecticut.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Gibbs, Roper, Loots & Williams, Milwaukee, Wisconsin, in connection with the liquidation of American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Memorandum re: Reimbursement for Expenditures for Increase in Insurance Coverage to $100,000.

Memorandum re: Guidelines for Hiring Property Managers or Agents.

Reports of committees or officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: September 22, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1772-80 Filed 9-23-80; 1:58 pm]

BILLING CODE 6714-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Changes in Subject Matter of Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, September 22, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Mr. Lewis G. Odom, Jr., acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of an application by Stewardship Bank of Oregon, a proposed new bank, to be located at 1918 N.E. 181st Avenue, Multnomah County (P.O. Portland), Oregon, for Federal deposit insurance.

The Board further determined, by that same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of The Cape Cod Five Cents Savings Bank, an operating noninsured mutual savings banks in Harwich Port, Massachusetts, for Federal deposit insurance.

Recommendations regarding the liquidation of assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,477–NR—United States National Bank, San Diego, California.

Case No. 44,478–NR—United States National Bank, San Diego, California.

Case No. 44,479–NR—United States National Bank, San Diego, California.

Case No. 44,480–NR—United States National Bank, San Diego, California.

Memorandum and Resolution re: Surety Bank & Trust Company, Wakefield, Massachusetts.

The Board further determined, by that same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(9)(B), and (c)(10)).

Dated: September 22, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1773–80 Filed 9–25–80; 1:57 pm]

BILLING CODE 6714–01–M

9

[FR No. 1732]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, September 25, 1980 at 10 a.m.

CHANGE IN MEETING: The following matter has been added to this open session:

1980 Election and Related Matters
DNC and DSCC Petition for Rulemaking

* * * * *

DATE AND TIME: Tuesday, September 30, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel, Litigation, Audits, Audit and Compliance Thresholds.

* * * * *

DATE AND TIME: Wednesday, October 1, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on September 30, 1980.

* * * * *

DATE AND TIME: Thursday, October 2, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.
Correction and Approval of Minutes.
Certifications.
Advisory Opinions:
Draft AO 1980–103—David Price, Executive Director, North Carolina State Democratic Executive Committee.
Draft AO 1980–105—Robert C. Dopf, Secretary-Treasurer, Pro-Life Action Council.
Draft AO 1980–107—Robert P. Visser (Reagan-Bush Committee).
Draft AO 1980–108—Mitchell Rogovin (John Anderson Loan Agreement(s)).
Draft AO 1980–109—Steven R. Bailey (on behalf of James Hansen).
1980 Election and Related Matters.
Appropriations and Budget.
Pending Legislation.
Classification Actions.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S–1779–80 Filed 9–23–80; 3:42 pm]

BILLING CODE 6715–01–M

10

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 62603, September 19, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., September 24, 1980.

CHANGE IN MEETING: The following item has been added:

Item Number, Docket Number, and Company

CAG–21—RP74–61 (PGA79–1), RP76–10, RP74–61 (PGA79–2), RP76–10, TA80–1–31 (PGA80–1), Arkansas Louisiana Gas Co.; RP72–142 (PGA79–2), RP76–135, RP78–76, TA80–1–43 (PGA80–1), Cities Service Gas Co.; RP72–122 (PGA79–1a), RP79–1, RP72–122 (PGA79–2), TA80–1–32 (PGA80–2), Colorado Gas Interstate Corp.; RP73–65 (PGA79–2), RP73–65 (PGA79–2a), TA80–1–21 (PGA80–1), TA80–1–21 (PGA80–2), Columbia Gas Transmission Corp.; RP79–47 (PGA79–4a, PGA79–4b), RP72–157, RP72–157 (PGA79–5), TA80–1–22 (PGA80–1), TA80–1–22 (PGA80–2, PGA80–2a, PGA80–2b), Consolidated Gas Supply Corp.; RP75–46 (PGA79–5), RP77–17, RP72–134, Eastern Shore Co.; RP72–155 (PGA79–1a), RP78–18, RP72–155 (PGA79–2), RP79–12, TA80–1–33 (PGA80–1), El Paso Natural Gas Co.; RP72–136 (PGA79–1), RP72–136 (PGA79–2), TA80–1–34 (PGA80–1), Florida Gas Transmission Co.; RP79–8 (PGA79–1, PGA79–1a), RP72–32, Kansas-Nebraska Natural Gas Co.; RP73–91 (PGA79–2), McCulloch Interstate Gas Corp.; RP73–43 (PGA79–1a), RP73–43 (PGA79–2), TA80–1–15 (PGA80–1), Mid Louisiana Gas Co.; RP72–149 (PGA79–4a), RP72–149 (PGA79–5, PGA79–5a), RP72–149 (PGA79–5b), TA80–1–25 (PGA80–1), Mississippi River Transmission Corp.; RP71–125 (PGA79–1, PGA79–1a), RP71–125 (PGA79–2b), TA80–1–26 (PGA80–1), Natural Gas Pipeline Co. of America; RP72–154 (PGA79–2), RP74–27, RP78–50, TA80–1–37 (PGA80–1), Northwest Pipeline Corp.; RP72–115 (PGA79–2), TA80–1–38 (PGA80–1), Oklahoma Natural Gas Gathering Corp.; CP76–104 (PGA79–2), Pacific Interstate Transmission Co.; RP73–36 (PGA79–1b), RP73–36 (PGA79–2), RP73–36 (PGA79–3a), RP78–62, TA80–1–28 (PGA80–1), Panhandle Eastern Pipe Line Co.; RP73–89 (PGA79–2), RP77–6, RP73–89 (PGA79–2a), RP77–6, TA80–1–6 (PGA80–1), Sea Robin Pipeline Co.; RP78–58 (PGA79–2), South Texas Natural Gas Gathering Co.; RP73–64 (PGA79–2), TA80–1–7 (PGA80–2), Southern Natural Gas Co.; RP73–114 (PGA79–2), RP73–114 (PGA79–2a), Tennessee Gas Pipeline Co.; RP74–41 (PGA79–2a), RP74–41 (PGA79–3), TA80–1–17 (PGA80–1), Texas Eastern Transmission Corp.; RP72–156 (PGA79–1a), RP72–156 (PGA79–2), TA80–1–18 (PGA80–1), Texas Gas Transmission Corp.; RP73–3 (PGA79–1a), RP73–3 (PGA79–2), RP73–3 (PGA79–2a), TA80–1–29 (PGA80–1), Transcontinental Gas Pipe Line Corp.; RP73–35 (PGA79–3), RP78–11, TA80–1–30 (PGA80–1), Trunkline Gas Co.; RP72–133 (PGA79–2), RP72–133 (PGA79–2a), TA80–1–11 (PGA80–1), United Gas Pipe Line Co.; RP72–41 (PGA79–3), Western Transmission Corp.; RP74–52 (PGA79–1a), RP74–52 (PGA79–2), TA80–1–42 (PGA80–1), Transwestern Pipeline Co.

Kenneth F. Plumb,

Secretary.

[S–1776–80 Filed 9–24–80; 2:09 pm]

BILLING CODE 6450–85–M

11

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., September 29, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Docket Nos. 78–35, et al—Allied Chemical S.A. and Allied Chemical International Corp. v. Farrell Lines, Inc. and Pacific America Container Express a/k/a Pace Line—Consideration of the Record.
2. Docket No. 80–48: Proposed Rule on Appeals of Denials of Requests for Information—Consideration of the Record.

Portion closed to the public:

1. Enforcement Claim Arising Out of Docket No. 80–1—Petition of Sunmark, Inc. for Declaratory Order.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Assistant Secretary (202) 523–5725.

[S–1769–80 Filed 9–22–80; 4:38 pm]

BILLING CODE 6730–01–M

12

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 62963, September 22, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., September 24, 1980.

CHANGES IN THE MEETING: Time of the meeting changed from 9 a.m. to 10 a.m. on September 24, 1980. Addition of the following item to the open session:

3. Special Permission No. F–4067—India Pakistan Conference—Roll of Bunker Surcharge Into General Rate Structure.

Addition of the following item to the closed session:

1. Docket No. 80–6—Specific Commodity Rates of Far Eastern Shipping Company in the Philippines/U.S. Pacific Coast Trade and U.S. Gulf/Australia Trade.

[S–1775–80 Filed 9–23–80; 1:59 pm]

BILLING CODE 6730–01–M

13

[OP0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND PLACE: 9:30 a.m., Wednesday, October 1, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 10 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Case Analyst, National Appeals Board (202) 724–3094.

[S–1777–80 Filed 9–23–80; 3:42 pm]

BILLING CODE 4410–01–M

14

[Meeting No. 1253]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m., e.d.t., Monday, September 29, 1980.

PLACE: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

Old Business Items

1. Req. No. 827370—250-ton polar crane for Yellow Creek Nuclear Plant, Unit 1.
Req. No. 170183 (Reissue)—Load management control system for the Load Management Air-Conditioning Cycling Program.
3. Payments to states and counties in lieu of taxes for fiscal year ending September 30, 1980, as provided under Section 13 of the TVA Act, as amended.
4. Contribution rates to the TVA Retirement System for fiscal year 1981 and determination of maximum amount to be credited under the Merit Incentive Supplemental Retirement Income Plan.

New Business Items

A—Project Authorizations:
1. No. 2072.10—Amendment to project authorization for direct production of ammonium polyphosphate from wet-process phosphoric acid.
2. No. 3344.1—Amendment to project authorization for an additional dust removal system for the Granular Combination Fertilizer Unit in Muscle Shoals, Alabama.
3. No. 3461.2—Amendment to project authorization for modification of the Urea Unit in Muscle Shoals, Alabama.
4. No. 3464.1—Amendment to project authorization for falling curtain process for granulation of urea and other fertilizers.
5. No. 3525—Provide a 161-kV delivery point for the Florida Steel, Tennessee, 161-kV Substation.
6. No. 3529—Solicitation, development, and long-term lease for a western area radiological laboratory in Muscle Shoals, Alabama.

B—Purchase Awards:
1. Req. No. 583275—Indefinite quantity term contract for crushed stone for Phipps Band Nuclear Plant.

C—Power Items:
1. Letter agreement with Mississippi Power & Light Company, Jackson, Mississippi, for relocation of a delivery point from company's system to TVA near Tillatoba, Mississippi.
2. Supplement to letter agreement with Nuclear Regulatory Commission covering arrangements for use of TVA reactor simulator facilities for training purposes.
3. Agreement with Tishomingo County Electric Power Association covering distributor's participation in TVA's Load Management Residential Energy Use Display Meters Field Test.
4. Amendments to Interchange Agreements between TVA and other electric systems covering purchase and resale of power.

D—Personnel Items:
1. Personal services contract with Pickard, Lowe and Garrick, Inc., Irvine, California, for assistance to TVA in the performance of a probabilistic risk assessment of the Browns Ferry Nuclear Plant, Unit 1, requested by the Office of Engineering Design and Construction.
2. Renewal of personal services contracts with various contractors for architectural, engineering, and design services, requested by the Office of Engineering Design and Construction (Bechtel Power Corporation, San Francisco, California; Burns and Roe, Inc., Gradell, New Jersey; Ebasco Services Incorporated, New York, New York; Gibbs & Hill, Inc., New York, New York; Gilbert Associates, Incorporated, Reading, Pennsylvania; Sargent & Lundy, Chicago, Illinois; Stone & Webster Engineering Corporation, Boston, Massachusetts; and United Engineers & Constructors, Inc., Philadelphia, Pennsylvania).
3. Personal services contract with Radian Corporation for performance of a process and environmental test program of the Texaco gasification process at the Ruhrchemie/Ruhrkohle gasification facility in Oberhausen-Holten, Federal Republic of Germany.
4. Personal services contract with TRW, Inc., for performance of an environmental test program of the Koppers-Totzek gasification process at the Nitrogen Fertilizer Industries, S.A. gasification facility in Ptolemais, Greece.
5. Personal services contract with GKT Gesellschaft Fur Kohle-Technologie mbH for performance of a process test program of the Koppers-Totzek gasification process at the Nitrogen Fertilizer Industries, S.A. gasification facility in Ptolemais, Greece.

E—Real Property Transactions:
1. Grant of permanent easement to the Guntersville Water and Sewer Board, Guntersville, Alabama, for construction, operation, and maintenance of sanitary sewerlines, effecting approximately 2.9 acres of Guntersville Reservoir land in Marshall County, Alabama—Tract XTGR–133S.
2. Grant of permanent easement to A. F. Barnett for agricultural and residential use, affecting approximately 20 acres of TVA's Fabius Coal Mine land in Jackson County, Alabama—Tract XACOR–1E.

F—Unclassified
*1. Interagency agreement with the Department of Energy for TVA application of integrated on-farm alcohol production system.
2. Amendments to Memorandum of Understanding between the National

Institute for Occupational Safety and Health (NIOSH) and TVA concerning research related to occupational safety and health of TVA employees.

3. Delegation of authority to approve and execute contracts, in line with approved budgets and workplans, relating to tva's program for mitigating adverse socioeconomic impacts resulting from large construction projects.
4. Revision of TVA Organization Bulletin I.
5. Designation of agency official for purposes of the Ethics in Government Act of 1978 requiring TVA employees in certain positions to make financial disclosure reports at specific times, and designation of ethics counselor under Executive Order No. 11222.
*6. Settlement of action brought by TVA against Heede International, Inc., and The Black Clawson Company for damages resulting from the collapse of a Heede International, Inc., tower crane at the Widows Creek Steam Plant.
7. Interim budget plan for fiscal year 1981.

CONTACT PERSON FOR MORE INFORMATION: Graven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: September 22, 1980.

[S–1768–80 Filed 9–22–80; 4:23 pm]

BILLING CODE 8120–01–M

15

UNITED STATES RAILWAY ASSOCIATION.

DATE AND TIME: 9 a.m., October 2, 1980.

PLACE: Board Room, Room 2–500, fifth floor, 955 L'Enfant Plaza North SW., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public:

9 a.m.

1. Consideration of internal personnel matters.
2. Review of Conrail proprietary and financial information for monitoring and investment purposes.
3. Litigation report.

Portions open to the public:

10:30 a.m.

4. Approval of minutes of the September 4, 1980 Board of Directors meeting.
5. Report on Conrail monitoring.
6. Consideration of Conrail drawdown request for October.
7. Federal Financing Bank Loan Rollover for the Section 211(h) Program.
8. Transfer of Missouri-Kansas-Texas Loan and monitoring to FRA.
9. Staff Compensation Plan for fiscal year 1981.
10. Fiscal year 1982 Budget Submission.
11. Amendments to Audit Committee Order.
12. Contract Actions (extensions and approvals).
13. Legislative Report.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow (202) 426–4250.

[S–1774–80 Filed 9–23–80; 1:59 pm]

BILLING CODE 8240–01–M

*Approved by individual Board members. This would give formal ratification to the Board's action.

16

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., September 30, 1980.

PLACE: 1700 G. Street NW., sixth floor, Washington, D.C.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Conversion to a State-Chartered Mutual Association—Mutual Federal Savings & Loan Assocation of Pensacola, Pensacola, Florida.
Extension of Time—United First Federal Savings & Loan Association, Sarasota, Florida.
Receiver's Report—Carlsbad Savings & Loan Association, Carlsbad, Carlsbad, New Mexico.
Branch Office Application—Savers Federal Savings & Loan Assocation, Little Rock, Arkansas.
Privacy Act of 1974—Annual Republication of Record Systems—Federal Register Document.
Branch Office Application—Arkadelphia Federal Savings & Loan Association, Arkadelphia, Arkansas.
Redesignation of Home Office—Reliance Federal Savings & Loan Association of New York, Jamica, New York.
Executive Order 12160—Consumer Program—Federal Register Document.

No. 394, September 23, 1980.

[S–1780–80 Filed 9–23–80; 3:48 pm]

BILLING CODE 6720–01–M

federal register

Thursday
September 25, 1980

Part II

Securities and Exchange Commission

[Release Nos. 33-6231, 33-6232, 33-6233, 33-6234, 33-6235, and 33-6236]

Integrated Disclosure Program

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 231, 239, 240, 241, and 249

[Releases Nos. 33-6231; 34-17114; AS-279]

Amendments to Annual Report Form, Related Forms, Rules, Regulations, and Guides; Integration of Securities Acts Disclosure Systems

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of amendments to the present annual report form required to be filed by most publicly-owned companies, Form 10–K, and to related forms, rules, regulations and guides under the Securities Act of 1933 and the Securities Exchange Act of 1934. The amendments are part of a series of revisions and proposals intended to improve disclosure, reduce disclosure burdens, and to facilitate the integration of the disclosure systems under the two Acts.

EFFECTIVE DATE: For all filings and reports pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934 with respect to fiscal years ended after December 15, 1980. However, the Commission will accept filings and reports complying with the amendments beginning immediately for those wishing to use them.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date of the amendments, contact William H. Carter at (202) 272–2604, William E. Toomey at (202) 272–2573, or William E. Morley at (202) 272–2573. Thereafter, contact only William E. Toomey or William E. Morley.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced certain amendments to Form 10–K (17 CFR 249.310), the annual report form required to be filed by most publicly-owned companies, and a number of related rule, regulation, form and guide changes. The rule and regulation changes include: Amendments to Rule 14a–3 (17 CFR 240.14a–3) and Rule 14c–3 (17 CFR 240.14c–3) with respect to annual reports to security holders; expansion of Regulation S–K (17 CFR 229.20) to include three new items: Management's Discussion and Analysis of Financial Condition and Results of Operations; Selected Financial Data; and Market Price of the Registrant's Common Stock and Related Security Holder Matters; amendments to regulation S–K Item 1, Description of Business; and amendments to related forms, rules and guides under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.). The amendments to Form 10–K and related revisions are part of a series of changes and proposals intended to improve disclosure in certain important areas, to reduce some of the burdens of disclosure by eliminating obsolete or duplicative requirements, and to facilitate the integration of filings made under the Securities Act and the Exchange Act. Three other releases issued today adopt changes relating to: (1) Uniform financial statement instructions for certain forms and reports required pursuant to the Securities Act and the Exchange Act; (2) amendments to Regulation S–X (17 CFR 210) designed to eliminate, to the extent possible, the differences between the requirements of generally accepted accounting principles and those of Regulation S–X; and (3) a new simplified form for the registration of securities issued in certain merger and reorganization transactions.[1] In addition, two other releases issued today propose changes to Form 10–Q (17 CFR 249.308a) under the Exchange Act and propose three new registration forms under the Securities Act.[2]

Form 10–K

A. *Introduction.* The Commission today is adopting and proposing major changes in the Securities Act and Exchange Act disclosure systems. These changes are designed to improve the disclosure made to investors and other users of financial information, to facilitate the integration of the two disclosure systems into the single disclosure system long advocated by many commentators,[3] and to reduce current impediments to combining informal security holder communications, such as annual reports to security holders, with official Commission filings.

This release deals with format and content changes in the Form 10–K and in the annual report to security holders. Under the system in effect as a result of these changes, minimum disclosure requirements have been developed by the Commission for the Form 10–K and the annual report to security holders. To the extent these disclosure requirements have common elements, the Commission has made it easier now to simply incorporate from the annual report to security holders to the Form 10–K, if registrants so choose.

The Commission has determined to require only portions of the Form 10–K and the annual report to security holders to have equivalent disclosure because these documents are not necessarily used in an identical manner. Disclosure requirements in annual reports evolved in the context of shareholders making voting decisions. The Form 10–K has traditionally confirmed information previously delivered to investors and other users making economic decisions about the company and, as a result, has been more detailed. The Commission recognizes that the information content in Form 10–K not only was originally formulated for a specialized use, but that within those groups which have utilized the Form there are different constituences. Those constituencies which have been the most frequent users of Form 10–K information are institutional investors, professional security analysts and sophisticated individual investors. The Commission believes that it continues to be appropriate to focus primarily on these frequent user constituencies in formulating Form 10–K requirements, but that such a focus would not be appropriate in formulating requirements for the annual report to security holders.

With regard to the content of the restructured Form 10–K, several items in the present Form have been deleted and others have been simplified or have been moved to schedules or exhibits. The prime focus of this effort has been to eliminate unnecessary or duplicative disclosure throughout Commission filings through the further expansion of Regulation S–K and to relegate disclosures of a technical or supplementary nature to schedules or exhibits which are available to users upon request.

Insofar as the annual report to security holders is concerned, the principal effort has been to standardize disclosure items to make them consistent with similar requirements in Commission filings. In particular, the focus has been primarily upon financial disclosure to provide uniformity in form, content and timing of the required information.

B. *Background and Development of New Form 10–K.* The Commission's review of the purpose and utility of the

---

[1] Securities Act Release Nos. 6234, 6233, and 6232 (September 2, 1980).

[2] Securities Act Release Nos. 6236 and 6235 (September 2, 1980).

[3] *See generally* Cohen, "Truth in Securities" Revisited, 79 Harv. L. Rev. 1340 (1968); SEC, *Disclosure to Investors* (Wheat Report) (1969); Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95–29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess., November 3, 1977 ("Advisory Committee").

Form 10–K led it to believe that there is a basic information package which most, if not all, investors expect to be furnished. Further, it has become apparent that this basic information package, which in the context of Form 10–K developed to support the current information requirements of an active trading market, is virtually identical to the similar information package independently developed in connection with the registration and sale of newly issued shares under the Securities Act. The essential content of these Form 10–K and registration statement information packages includes audited financial statements, a summary of selected financial data appropriate for trend analysis, and a meaningful description of the registrant's business and financial condition.

The restructured Form 10–K which the Commission is adopting today is specifically designed to segregate the basic information package contained in that Form from proxy related or supplemental information. In this regard, the new Form 10–K is structured in four parts. The first part retains the detailed disclosure requirements relating to business, properties, legal proceedings and beneficial ownership. Much of this information, which in the past has been required primarily in Securities Act filings and not in annual reports to security holders, has been placed in a supplemental role. The second part consists of the basic disclosure package which is common to both Securities Act and Exchange Act filings. The third part consists of the traditional proxy disclosure information relating to directors and executive officers and management remuneration. Finally, the fourth part contains requirements for financial statement schedules and, in accordance with a recent Commission release, scaled-down requirements for exhibits.[4]

Although the revised Form 10–K is designed to promote the integration of the Securities Act and Exchange Act disclosure systems, which was the basic goal set forth in the report of the Advisory Committee, the restructured format of the new form does not precisely follow that suggested by the Advisory Committee. That Committee recommended a relatively unstructured document which would encourage registrants to combine informal annual and quarterly reports to security holders into single documents to be filed as Form 10–K's and 10–Q's. The new Form 10–K continues to encourage the combination of formal and informal reports. However, the new form changes the emphasis from the Form 10–K (which the Advisory Committee emphasized) to the basic disclosure package, wherever it appears. As a result, where the Advisory Committee envisioned the Form 10–K as the document to be integrated with the Securities Act filing, the new Form 10–K permits registrants to utilize the minimum disclosure package from the annual report to security holders sent with the proxy statement, from the Form 10–K, or to completely restate it.

Furthermore, the Commission does not believe it would be appropriate at this time to adopt the Advisory Committee approach and to mandate a totally combined Form 10–K and annual report to security holders in order to produce the readable Form 10–K which would be needed to form the basis for integration. Such a mandate might be overly burdensome on some registrants and could adversely affect the annual report to security holders.[5] Under these circumstances, the Commission believes that it would be wise to encourage combination on a voluntary basis. In the meantime, the detailed disclosure will remain available in the filed Form 10–K in order to supplement the more abbreviated presentation in the annual report to security holders.

C. *Annual Report to Security Holders.* In a release issued on January 10, 1974,[6] the Commission amended Rules 14a–3 and 14c–3 to require that annual reports to security holders contain a variety of information, including certified financial statements, a summary of operations, a management analysis, a brief description of the issuer's business, a lines of business breakdown, an identification of the issuer's directors and executive officers, and an identification of the principal market in which securities entitled to vote were traded. These requirements were based on substantially similar requirements in the then existing Form 10–K. In requiring this new information, the Commission made the following statement:

> The annual report to security holders has long been recognized as the most effective means of communication between management and security holders. Such reports are readable because they generally avoid legalistic and technical terminology and present information in an understandable, and often innovative, form. * * * The Commission believes it is in the public interest that all security holders be provided with meaningful information regarding the business, management, operations and financial position of the issuer and that the annual report to security holders is the most suitable vehicle presently available for providing this information.

The Commission continues to believe that all security holders should be provided with meaningful information and that the changes in the Form 10–K requirements on which the annual report to security holder requirements were based should also be made in the annual report because of the importance of the disclosure. This results in a uniformity of the minimum disclosure package in the annual report to security holders and in Form 10–K. This uniformity has been achieved by adopting uniform financial statement requirements, by amending Regulation S–X, by adopting new provisions in Regulation S–K and by adopting several changes in Rules 14a–3 and 14c–3. The equivalency of the minimum disclosure package in both documents not only satisfies shareholder and investor needs, it also should avoid duplication by allowing issuers to use the disclosure in the annual report to security holders to satisfy some of the requirements of Form 10–K and, if they choose, when selling securities to the public. The changes made today in the annual report to security holders do not mean, however, that any further changes in Form 10–K will be reflected automatically in the annual report to security holders.

The Commission is aware that increasing the amount of required disclosure in annual security holder reports involves a risk that readability may be impaired. Although it is difficult to predict with certainty what the effect may be, the Commission does not believe that the changes implemented today should or will have general adverse consequences. The Commission staff, however, will continue to monitor the situation and, if adverse effects do occur, the new disclosure requirements will be revisited promptly.[7]

[4] Securities Act Release No. 6230 (August 27, 1980).

[5] The inability to assure in all cases that there will be a single document which will be usable as a combined report to security holders and Form 10–K arises primarily because of the Business, Properties and Legal Proceedings disclosures called for under Items 1, 2 and 5 of Regulation S–K and because of certain parent and subsidiary financial statements required by Regulation S–X. Although it is hoped that most registrants will have little difficulty in presenting these items in a combined document, there is considerable evidence that in some cases the sheer volume of the disclosure called for by these items would aversely impact the readability of the registrant's annual reports to security holders.

[6] Exchange Act Release No. 10591 (January 10, 1974) [39 FR 3820].

[7] In this regard the Commission's integration efforts are part of an ongoing project which is presently scheduled to continue for at least two more years. Monitoring will occur in the context of that program and, as has been recently the case with respect to bank holding company disclosures (Guide 61; Securities Act Release No. 6221 (July 8, 1980) (45 FR 47138)) and remuneration disclosures (Item 4 of Regulation S–K; Securities Act Release

Footnotes continued on next page

With the same information appearing in the annual report to security holders and in Part II of the Form 10–K, the Commission is hopeful that most, if not all, registrants will incorporate that portion of the annual report to security holders into the Form 10–K. Because of the benefits of this type of incorporation both to registrants and to the Commission staff, the January 15, 1980 release proposed mandatory incorportion of portions of the annual report into the Form 10–K and optional incorporation of portions of the annual report into certain Securities Act filings. The mandatory incorporation feature was severely criticized by the commentators.[8] As a result of this criticism, this mandatory feature has been eliminated. Instead, the four-part Form 10–K system has been designed to encourage, but not to require, the combination of annual reports and Form 10–K's into one document. For example, the revised financial statement requirements have been designed to require that only the financial statements of the registrant and its subsidiaries consolidated must appear in the annual report and in the financial statement section of the Form 10–K, Part II. The other financial statements and schedules have been designated "financial statements schedules" and have been placed in Part IV of the Form 10–K. This permits a less detailed minimum disclosure package, which is more compatible with a combined presentation, while nonetheless preserving in a separate information package the more detailed finanical data for those who want it.

It should be emphasized that the minimal content changes adopted by the Commission today are not intended to change the basic structure or quality of existing security holder reports. Indeed, the Commission continues to believe that the communicative style of these reports is generally excellent and that, by and large, these reports do not include the type of boilerplate disclosures and disclaimers which frequently do appear in formal Commission filings. It is hoped that the type of attention to style which is evidenced by better examples of security holder reports will continue to have a salutary effect on all of the report content, whether or not the particular information is also a part of the Form 10–K.

D. *Conclusion.* The system adopted today will be carefully monitored for effectiveness, and future alternative systems will not be foreclosed. For example, consideration is still being given to approaches which might differentiate between user constituencies and which might give a security holder the option of receiving a simplified annual report containing summary indicators and other data in lieu of the traditional annual report or in lieu of the financial statement section of such report. This type of approach would be based upon an as yet unproven hypothesis that some users, particularly certain individual investors, either rely on financial advisers and therefore do not use detailed disclosure, or are overwhelmed by the technical nature or volume of presently required disclosure.[9] The Commission expects that these as well as other issues relating to concepts of differential disclosure will be pursued and studied as the integrated disclosure system evolves.

Table of Changes From Previous Form 10–K

Item and Status

General Instructions. Revised.
Cover Page. Revised.

Part I

Item 1. Business. Revised (In revised Regulation S–K Item 1).
Item 2. Summary of Operations. Deleted (Replaced by Selected Financial Data, New Item 6).
Item 3. Properties. Unchanged (New Item 2).
Item 4. Parents and Subsidiaries. Deleted (But replaced by an exhibit).
Item 5. Legal Proceedings. Unchanged (New Item 3).
Item 6. Increases and Decreases in Outstanding Securities and Indebtedness. Deleted.
Item 7. Changes in Securities and Changes in Security for Registered Securities. Deleted.
Item 8. Defaults Upon Senior Securities. Deleted.
Item 9. Approximate Number of Equity Security Holders. Deleted (But replaced by a requirement in new Regulation S–K Item 9).
Item 10. Submission of Matters to a Vote of Security Holders. Deleted.
Item 11. Indemnification of Directors and Officers. Deleted.
Item 12. Financial Statements, Exhibits filed, and Reports on Form 8–K. Revised (New Item 11).

Part II

Item 13. Security Ownership of Certain Beneficial Owners and Managers. Unchanged (New Item 4).
Item 14. Directors and Executive Officers of the Registrant. Unchanged (New Item 9).
Item 15. Management Remuneration and Transactions. Unchanged (New Item 10).
Signatures. Revised.
Instructions as to Financial Statements. Deleted (Replaced by New Item 8).
Instructions as to Exhibits. Revised (Per New Regulation S–K Item 7).
Supplemental Information. Revised.

The new Form 10–K consists of four parts containing the items outlined below. The information required by Parts I and II, or any portion thereof, at the registrant's option, may be supplied by incorporating the information from an annual report to security holders either furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a) or otherwise meeting the requirements of Rule 14a–3(b), provided the incorporated portion contains the disclosure required by the appropriate items of Parts I and II of Form 10–K. Conversely, the information required by Part III must be supplied by incorporating by reference from the election of directors proxy statement (or information statement), if such statement has been or will be filed within 120 days of the end of the fiscal year.

Outline of New Form 10–K

General Instructions

Cover Page.

Part I

Item 1. Business.
Item 2. Properties.
Item 3. Legal Proceedings.
Item 4. Security Ownership of Certain Beneficial Owners and Management.

Part II

Item 5. Market for the Registrant's Common Stock and Related Security Holder Matters.
Item 6. Selected Financial Data.
Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.
Item 8. Financial Statements and Supplementary Data.

Footnotes continued from last page
No. 6210 (May 6, 1980) (45 FR 31733)), in the context of the Commission's ongoing program to monitor the effectiveness of its rules.

[8] Over 300 letters containing substantive comments were received in response to the January 15, 1980 release proposing the new Form 10–K and the related forms, rules and guides changes. The comments were obviously the product of serious thought and drafting and many elements of them have been incorporated into these final rules. Most commentators, in addition to making specific suggestions, many of which are discussed later in this release in connection with particular forms, rules and guides, addressed the overall structure of the new Form 10–K and the related disclosure system, particularly as it involved the annual report to security holders. While a number of the letters supported the original proposal which would have used the annual report to security holders as the principal disclosure document, others were concerned about the effect such a mandate would have on the readability of the annual report, or on the Securities Act liability of directors for the report, or on what they foresaw as the beginning of a major incursion of the Commission into management's security holder communication.

[9] It is interesting to note, however, that studies such as that conducted by Professors Lucia S. Chang and Kenneth S. Most at Florida International University indicate that the typical "unsophisticated small investor" often is quite sophisticated. L. Chang and K. Most, Financial Statements and Investment Decisions (1979).

Part III

Item 9. Directors and Executive Officers of the Registrant.

Item 10. Management Remuneration and Transactions.

Part IV

Item 11. Exhibits, Financial Statement Schedules and Reports on Form 8-K.

Signatures.

Supplemental Information

Discussion of Items in New Form 10–K Which Are Unchanged From Previous Form 10–K

Item 2. Properties. (Item 3 of previous Form 10–K). Except for the numbering, this Item is unchanged from the existing *Item 3, "Properties" (Item 2 of Regulation S–K).*

A thorough analysis was made of Item 2 of Regulation S–K. Consideration was made of such factors as the comments received on the Item when it was originally proposed for comment in May of 1977 [10] as well as of comments received pursuant to the January 15, 1980 proposing release.[11] Virtually all the commentators addressing the Item felt it should not be changed. Accordingly, on the bases of the careful work that originally went into drafting Item 2, the Commission's short experience with the Item (since March 31, 1978), the weight of the comments in favor of no change, and the importance of maintaining the integrity of Regulation S–K with its attendant value to the integration of Form 10–K into Securities Act filings, the Commission has decided that Item 2 should not be revised at this time.

Item 3. Legal Proceedings. (Item 5 of previous Form 10–K). Except for the numbering the Item is unchanged from the previous Item 5, "Legal Proceedings." The underlying Regulation S–K Item 5, "Legal Proceedings," was recently adopted (July 28, 1978) [12] and only a few commentators felt that any changes should be made. Accordingly, the Commission does not believe it is necessary to revisit this disclosure at the present time.

Item 4. Security Ownership of Certain Beneficial Owners and Management. (Item 13 of previous Form 10–K).

Item 9. Directors and Executive Officers of the Registrant. (Item 14 of previous Form 10–K).

Item 10. Management Remuneration and Transactions. (Item 15 of previous Form 10–K).

All three of these Items have recently been the subject of the comment process, Item 10 (Item 15 of previous Form 10–K; also Item 4 of Regulation S–K) having been adopted as recently as December 4, 1978.[13] Certain aspects of these Items are still being reconsidered at present time. Accordingly, the Commission does not feel it appropriate or necessary to amend these Items now.

Discussion of Items in Previous Form 10–K Which Have Been Deleted From New Form 10–K

Item 2. Summary of Operations. The basis for deleting this Item is contained in the discussion of the new Item 6 relating to selected financial data. Briefly, however, this Item was deleted as a consequence of two basic decisions. First, the Commission believes that five-year information is relevant primarily where it can be related to trends in the registrant's continuing operations. The Summary was not limited to this type of information about trends. Second, as a result of the change of focus of Management's Discussion and Analysis to a discussion of the financial statements, which now include statements of income for three years, the Summary of Operations is no longer the subject of that discussion and, therefore, its presentation is no longer needed. Although several commentators disagreed with this deletion, the overwhelming majority approved of it.

Because of the deletion of the Summary of Operations from the Form 10–K and the insertion of Selected Financial Data, corresponding changes are being made in a number of Securities Act and Exchange Act forms, such as Form S–1 (17 CFR 239.11) and Form 10 (17 CFR 249.210) (*See* Text of Proposed Forms and Rules).

The Office of the Chief Accountant is currently considering the comments received in response to a concept release (Securities Act Release No. 6196, March 7, 1980 (45 FR 16498)) which addresses the utility of historical and pro forma ratios of earnings to fixed charges and earnings to combined fixed charges and preferred dividends ("ratios"). A rule proposal is expected to be considered in the near future. However, until amended rules are adopted, the present requirements for presentation of the ratios must be maintained. For this reason, the present ratio instructions in the Summary of Operation Items of Forms S–1, S–11 (17 CFR 239.18), 10 and 10–K and in the Statements of Income Item of Form S–7 (17 CFR 239.26) (Items which are being deleted by this release) are being retained in the forms as part of the new Item entitled "Selected Financial Data." It should be noted that these ratio requirements are being included in the Forms as an interim measure and are expected to be revised and perhaps placed elsewhere in the future.

Item 4. Parents and Subsidiaries. In the proposed new Form 10–K, the Commission deleted this Item in favor of a new exhibit requiring a list of "all" subsidiaries as suggested by the Advisory Committee. While a few commentators stated that no such exhibit, in any form, should be required, most commentators did not object to the exhibit if insignificant subsidiaries need not be named. The Commission agrees with the Commentators that listing all subsidiaries would be too burdensome and accordingly has decided to adopt the exhibit with only the names of significant subsidiaries being required.

Item 6. Increases and Decreases in Outstanding Securities and Indebtedness.

Item 7. Changes in Securities and Changes in Security for Registered Securities.

Item 8. Defaults Upon Senior Securities.

Item 10. Submission of Matters to a Vote of Security Holders.

Item 11. Indemnification of Directors and Officers.

The above five Items were omitted by the Advisory Committee from its Form 10–K, were the subject of an express inquiry in Release No. 34–15068,[14] and were also the subject of comments in Release No. 33–6176. A significant number of commentators on both Releases agreed with the Advisory Committee that all of these Items should be deleted, either because the information called for is not generally useful (this was felt to be particularly true of Item 11, Indemnification of Directors and Officers) or because the informaton is available elsewhere (i.e., in Form 10's, Form 10–Q's, or in the financial statements). Several commentators indicated that this information would have to be disclosed either in the text or in the notes to the Financial statements, if material, even if there is no specific item requirement covering the particular event or transaction. The Commission agrees with these commentators and accordingly has omitted these items from the new Form 10–K.

Item 9. Approximately Number of Equity Security Holders. This Item has

[10] Securities Act of 1933 Release No. 5826 (May 10, 1977) (42 FR 26010).

[11] Securities Act of 1933 Release No. 6176 (January 15, 1980) (45 FR 5972).

[12] Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402).

[13] Securities Act Release No. 6003 (Dec. 4, 1978) (43 FR 58181).

[14] Securities Exchange Act Release No. 15068 (August 16, 1978) (43 FR 37460).

been deleted, but the substance has been added to new Item 5 of Form 10–K (New Item 9 of Regulation S–K), which deals with market information concerning the registrant's common stock and related security holder matters. The Commission believes that the information concerning the number of holders of common stock will have greater utility in this context. The commentators, to the extent they addressed this Item, generally agreed with this approach.

Discussion of Form 10–K Items and Instructions Which Are New or Are Revised From Current Form 10–K

General Instruction A. Rule as to Use of Form 10–K

A technical amendment has been made to this Instruction to make it clear that only the schedules under Article 12 of Regulation S–X, and not all financial statement schedules, may be filed up to 120 days after the end of the fiscal year.

General Instruction D. Signatures and Filing of Report

In the January 15, 1980 Release, it was proposed that this Instruction be expanded to require that the Form be signed on behalf of the issuer by the registrant's principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least a majority of the board of directors or persons performing similar functions.

Many commentators either did not address or did not oppose requirements as to additional officers' signatures. However, the proposed change concerning directors' signatures was disapproved of by most of the commentators. The main thrusts of the objections to director signatures were concerns over the expense and logistics of obtaining the signatures in a timely fashion or over the extent, if any, to which the signatures might increase director liability. Moreover, few of those responding thought that signing the Form 10–K would appreciably increase director awareness of or participation in its preparation.

The Commission has given careful consideration to the objections of the commentators concerning director signatures. It has, nevertheless, concluded that a requirement for the signatures of a majority of a registrant's directors—in addition to those of its principal executive officer, its principal financial officer, and its controller or principal accounting officer—is an appropriate one under the circumstances. The Commission believes that just as its rules and the administrative focus of the Division of Corporation Finance are being realigned to reflect the shift in emphasis toward relying on periodic disclosure under the Exchange Act, so too the attention of the private sector, including management, directors, accountants, and attorneys, must also be refocused towards Exchange Act filings if a sufficient degree of discipline is to be instilled in the system to make it work. With an expanded signature requirement, the Commission anticipates that directors will be encouraged to devote the needed attention to reviewing the Form 10–K and to seek the involvement of other professionals to the degree necesssary to give themselves sufficient comfort. In the Commission's view, this added measure of discipline is vital to the disclosure objectives of the federal securities laws, and outweighs the potential impact, if any, of the signature on legal liability. The Commission has given attention to the concerns of commentators over the expense and logistics of obtaining the requisite signatures, but believes they do not constitute an undue obstacle to the imposition of this requirement.[15]

The Commission recognizes, however, that this requirement may result in certain hardships and inconveniences. It has therefore instructed the staff to report to it on the results of imposing the requirement after an appropriate time has passed, and the Commission will revisit the question if such action appears necessary or appropriate at that time.

General Instruction F. Information as to Employee Stock Purchase, Savings and Similar Plans

The substance of this instruction has not been changed although some confusing and unnecessary language has been deleted.

General Instruction G. Information To Be Incorporated by Reference

First, this Instruction includes the requirement as to incorporation by reference contained under Instruction F of the previous Form 10–K. Second, it reflects the change from the proposals, as discussed above, making the incorporation of certain annual report to security holders information optional with the registrant rather than mandatory. Third, the requirement in the proposal that the annual report to security holders and the proxy be delivered with the Form 10–K has been deleted. Upon analyzing the comments and the existing requirements, it became evident that the existing Form 10–K delivery requirements encompassed only existing security holders. As such persons already receive the annual report and proxy, the Commission believes that the proposed requirement was an unnecessary and burdensome expansion of a registrant's duties. Accordingly, it was deleted.

General Instruction H. Registrants Filing on Form S–18

The language of this Instruction has been revised, for purposes of clarity, from that contained in the previous Form 10–K. This revision is intended to make it clear that persons filing on Form 10–K who are allowed to used Form S–18 disclosure for certain items are only permitted to follow the Form S–18 disclosure requirements, as differentiated from being permitted to use the actual disclosures contained in their Form S–18, which may be out of date for Form 10–K purposes.

Cover Page

The requirement that the number of common shares outstanding be disclosed has been revised to be given as of the most recent practicable date, rather than as of the year end. This disclosure is included in the Form for purposes of Rule 144 under the Securities Act, and having the information more current is believed to be of greater value than having information which is usually almost 90 days old when filed.

Two technical changes have also been made in the cover page. The first requires disclosure of the market value of the voting stock held by non-affiliates of the registrant. The purpose of this change is to obtain data to be evaluated in connection with possible future changes in the eligibility requirement of various Securities Act registration forms. The second requires, for microfiche purposes, a listing of the documents incorporated by reference.

Item 1. Business. This Item merely incorporates the revised Item 1 of Regulation S–K with the exception that the discussion of the development of the registrant's business need only include developments since the beginning of the fiscal year.

In Release No. 33–6176 it was proposed to amend paragraph (b) of Item 1 of S–K to conform to the proposed new three-year requirement for statements of income. In addition, two specific questions were asked: Commentators were asked to consider (1) the advisability of requiring Item 1 disclosure to be included in annual reports to security holders in its current form or as modified by proposed

[15] *See*, e.g., Instruction D to Form 10–K and also Rule 12b–11(b) relating to the signing of reports.

changes; and (2) the advisability of conforming the present detailed segments reporting requirements in paragraph (b) of Item 1 to the similar but somewhat less extensive requirements in SFAS 14.

The Commission agrees with the commentators that to require Item 1 disclosure to be included in the annual report to security holders may seriously affect that document's readability. However, the Commission believes that to reduce the Item 1 segment disclosure to conform to SFAS 14 would result in the loss of some relevant and material information. Accordingly, the Commission has decided to make only three changes in the Item 1 segment requirements: (1) Amend relevant portions to conform to the new three-year requirement for statements of income; (2) delete transitory provisions no longer needed; and (3) delete the requirement for information on intraenterprise sales due to the marginal disclosure received in response to this requirement in the past. Notwithstanding the changes to be made in the segment data requirements, however, it should be noted that significant trend data might still be presented in the Selected Financial Data called for under Item 6 of the new Form 10–K, and some registrants might find it advisable to include five-year selected segment data in that context.

A thorough analysis was made of the other provisions of Item 1 of Regulation S–K prior to the issuance of the January 15, 1980 release. Consideration was given to such factors as the comments received on the Item when it was originally proposed for comment in May of 1977,[16] as well as to comments received on the existing Form 10–K in the Commission's release of August 16, 1978.[17] Moreover, most commentators addressing the Item in response to the January 15, 1980 release wanted Item 1 kept generally intact. Accordingly, on the bases of the careful work that went into drafting Item 1, the Commission's short experience with the Item (since March 31, 1978), the importance of maintaining the integrity of Regulation S–K as it relates to Securities Act filings, and the recent comments, the Commission believes that no substantive revisions other than the one referred to above should be made at this time.

Item 4. Securitiy Ownership of Certain Beneficial Owners and Management. While there has been no change in the language of this Item, which utilizes existing Item 6 of Regulation S–K, it should be noted that this disclosure has been moved from Part III of the new Form 10–K, the Part which can be completed by incorporation of a proxy or information statement, to Part I. The reason for the move is to eliminate the necessity of amending Form 10–K in the future if certain revisions in the proxy statements now being considered are adopted. These revisions would focus beneficial ownership, for proxy purposes, on voting power, leaving Item 6 of Regulation S–K as a non-proxy item.

Item 5. Market for the Registrant's Common Stock and Related Security Holder Matters. This Item contains the disclosure required by new Item 9 of Regulation S–K which must be included both in the annual report to security holders and in the Form 10–K (incorporation by reference from the annual report to security holders being optional with the registrant). As proposed, this new S–K Item required market information for all of the registrant's securities, the number of equity security holders, and information on dividends paid as well as on dividend policy.

The proposed item constituted an amalgam of paragraph (8) of Rule 14a–3 [17 CFR 240.14a–3] (which required market price information to be included in the annual report to security holders), Guide 26 of the Guides for Preparation and Filing of Registration Statements under the Securities Act of 1933 (17 CFR 231.4936) (which required a statement of a registrant's dividend policy), and Item 9 of the previous Form 10–K (which required information as to the approximate number of equity security holders.) The January 15, 1980 proposing release also asked commentators to consider whether the Item should be expanded to require the presentation of market data either of a general nature or of an industry specific nature and whether, if such data were required, it should be presented in one or more specific graphic forms.

The commentators pointed out that the market data requirements, as proposed, would include debt securities, which was much broader disclosure than the Commission had ever previously required and of debatable value. The Item accordingly has been revised to limit the market data to that for common stock only, which is the most relevant market information for most investors and users. The Commission has also amended the requirement on dividend policy to make such disclosure completely optional with the registrant. This change was made since it appears that dividend policy requirements generally have not elicited meaningful disclosure, but rather have resulted in meaningless boilerplate. The title of the Item has accordingly been changed to reflect the deletion of the dividend policy requirement.

An additional instruction has been added to obtain data on currency restrictions, taxation, etc. on dividends payable to United States holders of foreign securities. Concurrently, the Commission is also rescinding Guide 26, Statement of Dividend Policy, from the Guides for Preparation and Filing of Registration Statements Under the Securities Act of 1933. Finally, it was decided not to implement the inquiries concerning possible market data disclosure, largely because it is generally difficult to relate any index to a particular registrant. Item 6. Selected Financial Data.

In the Form 10–K as proposed in Release No. 33–6176 the Summary of Operations called for under Item 2 of the previous Form 10–K was deleted and in lieu thereof a new item calling for Selected Financial Data was inserted (which would become new Item 10 of Regulation S–K). This new requirement was designed to present significant five-year trend data relating to a registrant's financial condition and results of continuing operations. Although a registrant, under the proposal, was permitted to include other financial information in addition to that specified, it was expected that any presentation of additional information would not unnecessarily emphasize income or revenues as opposed to other components of financial condition.

The deletion of the present summary and the substitution of Selected Financial Data [18] reflected the Commission's concern that operations summaries have duplicated information otherwise available in income statements and may have unduly emphasized income over other enterprise performance measures. The Commission recognized that a detailed specification of the contents or format of a summary might not cure the perceived deficiencies. Accordingly, it hoped that the proposal would strike a reasonable balance between specified content and a flexible approach which permits registrants to select the data which best

[16] Securities Act Release No. 5826 (May 10, 1977) (42 FR 26010).

[17] Securities Exchange Act Release No. 15068 (August 16, 1978) (43 FR 37460).

[18] See the discussion of the deletion of the Summary of Operations on page 18 *supra* (Discussion of Items in Previous Form 10–K Which Have Been Deleted From New Form 10–K; Item 2. Summary of Operations) regarding the inclusion of certain ratios from the Summary into Selected Financial Data.

indicates performance. For example, those registrants who present the information relating to the impact of inflation and current prices on their business required by SFAS 33 [19] would be encouraged to combine the summary information required by SFAS 33 with the information required by the proposed new Item.

Almost all the commentators favored the deletion of the Summary of Operations, and most of these also approved of the Selected Financial Data Item as a disclosure concept, although a significant number objected to certain specific aspects of it. For example, a number believed elements such as cost of sales and interest expense should be included while others questioned the value of including working capital or some other measure of liquidity in the Item. The Commission has decided to adopt Item 6, but has determined not to increase the disclosure requirements of the Item as proposed or its specificity in order to avoid decreasing a registrant's flexibility. However, the Item clearly encourages registrants to include those additional elements which they believe will aid investors and other users. The requirement to include working capital or some other measure of liquidity has been deleted. The Commission has concluded that there are potentially numerous indicators of liquidity in a given business and to require display of each for five years may be impractical. Further, the Commission believes that the disclosures required by the new Management's Discussion and Analysis should be adequate to address liquidity and trends therein. Finally, the instruction concerning SFAS 33 has been slightly revised to make it clear that the SFAS 33 data may be combined with this Item.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations. The Form 10–K, as proposed, incorporated an entirely restructured Management's Discussion and Analysis. Additionally, this Item was moved from the Guides to become new Item 11 in Regulation S–K.

The major features of the proposed new Item were as follows:

(1) The discussion was to be focused on the financial statements and no longer centered upon a summary of operations. Indeed, as has been indicated above, the Summary of Operations would be eliminated.

(2) The proposed Item called for discussion of at least three financial aspects of the registrant's business—liquidity, capital resources, and results of operations.

(3) Within each area of the discussion there would be emphasis upon favorable or unfavorable trends and upon the identification of significant events or uncertainties.

(4) A discussion focused on individual segments would be required only if, in the registrant's judgment, it would be appropriate to an understanding of the registrant's business.

(5) Information concerning the effects of inflation and changing prices would be required.

(6) The percentage tests and line-by-line analysis encouraged by the present requirements contained in Guides 1 and 22 [20] would be eliminated. However, the proposed Item indicated that the causes for material changes in line items should be discussed.

(7) The proposed Item would not specifically require projections or other forward-looking information, although the presentation of this type of information on a voluntary basis would be encouraged.

(8) No specific provisions with respect to the location of management's discussion in the annual report to security holders were included.

The changes in Management's Discussion and Analysis were proposed as the result of the Commission's concerns that the disclosure elicited by the present requirements of Guides 1 and 22 is not fulfilling originally contemplated objectives. Instead, existing percentage tests are applied without regard to any concept of materiality or significance to the registrant's business. Accordingly, although some portions of the resulting discussion may be meaningful, the meaningful discussion is often obscured by the inclusion of material which is of little relevance.

The Commission was also concerned that the focus of the requirements of Guides 1 and 22 may be too narrow. In today's environment there is a growing need to analyze an enterprise's liquidity and capital resources, in addition to its revenues and income. The narrow approach set forth in Guides 1 and 22 does not ordinarily produce a discussion which focuses upon the financial condition of the enterprise as a whole.

Finally, the Commission, as it has indicated on a number of occasions, was concerned about the adequacy of disclosures with respect to the impact of inflation and changing prices on individual registrants' businesses. Although the Commission does not believe that it would be appropriate at this time to expand the applicability of SFAS 33 beyond that established by the Financial Accounting Standards Board, it does believe that all registrants, including those which are not required to present SFAS 33 information, should make some textual presentation with respect to these matters. In this regard the Commission believes that Management's Discussion and Analysis should contain information which changes the potentially confusing situation involving inflation impact disclosure into a meaningful discussion of the effects of changing prices on the registrant's business.

The Management's Discussion and Analysis, as proposed, evoked extensive and diverse responses from the commentators. Some rejected it in its entirety, others endorsed it to the letter. Some felt that it was too specific and eliminated needed flexibility, others wanted more specific guidance. The main areas of concern, however, were three: First, there were various problems with the concepts of liquidity and capital resources; second, there was general disapproval of any disclosure requirements relating to inflation and changing prices, and third, there were various objections to those aspects of the Item which were seen as forward looking.

As was stated earlier in this release and in the proposing release, the Commission believes there is a growing need in today's environment to analyze enterprise liquidity and capital resources.[21] Therefore, the disclosure requirements concerning liquidity and capital resources have been retained, although in somewhat modified form. While the Commission recognizes that the terms "liquidity" and "capital resources" lack some precision in definition, it is believed that additional specificity would decrease the flexibility needed by management for a meaningful discussion. Moreover, the liquidity section has been revised to de-emphasize working capital and to emphasize the right and obligation of management to use whatever liquidity parameters they deem to be most appropriate.

In a similar manner, the Commission believes that disclosure on inflation and changing prices should be retained despite the early state of its development. Revisions have been

[19] "Financial Reporting and Changing Prices."

[20] Guides for Preparation and Filing of Registration Statements Under the Securities Act of 1933 (17 CFR 231.4936).

[21] The Commission is aware of the Financial Accounting Standards Board's project on Funds Flows and Liquidity and does not intend to preempt that project in any way by proceeding with these new disclosure requirements. Moreover, the Commission intends to re-examine these requirements in the light of the findings of that project, when completed.

made, however, to clarify that nothing more than SFAS 33 data is needed from those required to supply it and that the SFAS 33 type of detailed analysis is not necessary for those smaller registrants not required to comply with SFAS 33.

An effort also has been made to distinguish between those aspects of the Items which are entirely forward looking in nature, and hence encouraged but not mandated, and those mandated aspects which, although they look to the future, are basically present fact, such as a future labor cost increase established by an existing contract which will clearly increase future costs.

A number of other changes of a lesser nature have been made, often in response to specific comments. It is indicated that liquidity and capital resources discussions may be combined. Segment disclosure, if made, need not include every segment and registrants may use other breakdowns, such as company subdivisions, if investor understanding would thereby be improved. Causes of material changes in line items need be described only to the extent necesssary to an understanding of a registrant's business as a whole. Foreign registrants are permitted to use their own country's version of SFAS 33, if it exists, and are requried to discuss any governmental factors having a material impact on United States security holders.

Finally, as suggested in the proposing release, this new Item 11 of Regulation S–K is also being made a part of other Securities Act and Exchange Act forms (*See* Text of Amended Forms, Rules and Guides).

Item 8. Financial Statements and Supplementary Data. Concurrently with the publication of this release the Commission, under cover of separate releases, is adopting uniform financial statement instructions and various amendments to Regulation S–X which are designed to facilitate the implementation of the proposed integrated disclosure system.[22] Although reference should be made to the two adoping releases for full details, the principal goals of the amendments are to adopt uniform three-year income statement and statement of changes in financial position and two-year balance sheet requirements for all registration forms as well as for the annual report to security holders and Form 10–K, and to eliminate, to the extent possible, the differences between the requirements of generally accepted accounting principles and those of Regulation S–X.

However, the Commission has determined to retain the substance of former Instruction 9 of the Instructions as to Financial Statements of Form 10–K for registrants using Form S–18. Thus, this Item 8 provides that a registrant may include audited financial statements prepared in accordance with generally accepted accounting principles in the Form 10–K which it files for the year in which it had a registration statement on Form S–18 become effective. The financial statements would include consolidated statements of income, statements of changes in financial condition, and statements of other stockholders' equity for the registrant's two, rather than three, most recently ended fiscal years and a balance sheet as of the end of each of those years. For the earlier of the two years, the registrant would furnish financial statements and the balance sheet previously disclosed in its Form S–18. After this first Form 10–K is filed, compliance with Regulation S–X would be phased prospectively into effect. Two minor technical amendments designed to clarify the application of the instruction as discussed in Securities Act Release No. 6049 [23] also have been made.

Item 11. Exhibits, Financial Statement Schedules, and Reports on Form 8–K. Recently, in Release No. 33–6230,[24] the Commission adopted extensive revisions in the general exhibit requirements applicable to a number of forms including the Form 10–K. An addition has been made to this Item as adopted in Release No. 33–6230 to label the financial statements and schedules which are filed in Part IV of the Form 10–K but which are not required in the annual report to security holders pursuant to Rule 14a–3 (or Rule 14c–3) as "financial statement schedules." The reason for the new term "financial statement schedules" is to distinguish such documents from the other exhibits filed as part of Form 10–K for purposes of Form 10–K mailings to security holders and for microfiche processing, among others. For example, security holders requesting a copy of the Form 10–K from a registrant will receive, at no charge, copies of the financial statement schedules but will not receive copies of any exhibits.

Finally, a new exhibit requiring the preparation of a list of the registrant's significant subsidiaries and setting forth limited data concerning subsidairies has been added to the recently adopted Itm 7, Exhibits, of Regulation S–K. This list replaces Item 4 of the previous Form 10–K and would be repeated in each annual filing or an express reference to the most recent list filed would be included.

Signatures. This section has been amended, as explained above, to provide for the signatures of a registrant's principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and at least a majority of its board of directors or persons performing similar functions.

Supplemental Information To Be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Issuers Which Have Not Registered Securities Pursuant to Section 12 of the Act. This section has been amended to make it clear that any materials incorporated by reference into the Form 10–K, and hence already furnished to the Commission, need not be supplied again pursuant to the provisions hereunder.

Amendments to Form 10 Under the Exchange Act—Discussion

The changes in Form 10 reflect the deletion of Item 2, Summary of Operations, and its replacement by Regulation S–K Items 10 and 11, Selected Financial Data and Management's Discussion and Analysis of Financial Condition and Results of Operations, respectively.

Amendments to Forms S–1, S–7, and S–11 Under the Securities Act—Discussion

The changes in the above Forms reflect the deletion of the Summary of Operations and Statements of Income from these Forms and their replacement by Regulation S–K Items 10 and 11, Selected Financial Data and Management's Discussion and Analysis of Financial Condition and Results of Operations, respectively. The Commission, however, has decided not to delete or amend, at this time, the Summary of Earnings requirements in Item 14 of Schedule 14A which contains the Summary of Earnings requirements for Form S–14.

Amendments to Rule 14a–3 and Rule 14c–3—Discussion

The changes in Rule 14a–3 and Rule 14c–3 are minimal and are basically technical in nature, that is, they are made to reflect other substantive rule and regulation amendments adopted in this release and the two accounting releases.[25] Subparagraphs (b)(1),[26] (b)(2),

[22] Securities Act Release Nos. 6233 and 6234 (September 2, 1980).

[23] Securities Act Release No. 6049 (April 3, 1979) (44 FR 21562).

[24] Securities Act Release No. 6230 (August 27, 1980).

[25] Securities Act Release Nos. 6233 and 6234 (September 2, 1980).

[26] On April 17, 1980, the Commission issued Accounting Series Release No. 277 (45 FR 27747)

Footnotes continued on next page

and (b)(3) of Rule 14a–3 and subparagraphs (a)(1) [27], (a)(2), and (a)(3) of Rule 14c–3 are amended to reflect the proposed new uniform Regulation S–X financial statement instructions. Subparagraph (b)(4) of Rule 14a–3 and subparagraph (a)(4) of Rule 14c–3 are revised to delete the reference to the Summary of Operations and to replace it with proposed Items 10 and 11 of Regulation S–K, Selected Financial Data and Management's Discussion and Analysis of Financial Condition and Results of Operations, respectivly. The disclosure currently contained in subparagraph (b)(8) of Rule 14a–3 and subparagraph (a)(8) of Rule 14c–3 is deleted and a reference to the new Regulation S–K Item 9, Market Price of the Registrant's Common Stock and Related Security Holder Matters, which is a revised and expanded version of that subparagraph, is inserted. Subparagraph (b)(9) of Rule 14a–3 and subparagraph (a)(9) of Rule 14c–3 are expanded to indicate that if a registrant prepares an annual report to security holders which meets all the Form 10–K disclosure requirements, it need not also supply a Form 10–K to requesting security holders. In addition these two Items are revised to indicate that the "financial statement schedules" are to be delivered to requesting security holders. Finally, subparagraph (c) of Rule 14a–3 and subparagraph (b) of Rule 14c–3 are revised to reflect the fact that General Instruction G to the new Form 10–K permits certain information from the annual report to security holders to be incorporated by reference into the Form 10–K and that such parts of the annual report are therefore "filed" for purposes of Section 18 of the Exchange Act.

Amendments to Guides for Preparation and Filing of Reports and Registration Statements Under the Securities Exchange Act of 1934—Discussion

Guide No. 1 Summary of Operations. This Guide is rescinded due to the deletion of Item 2, Summary of Operations, from Form 10–K and Form 10.

Guide No. 4 Integrated Reports to Shareholders. The revisions in this Guide are minimal and are only technical changes necessitated by the changes in Form 10–K and in the annual report to security holders.

Amendments to Guides for Preparation and Filing of Registration Statements Under the Securities Act of 1933—Discussion

Guide No. 22 Summary of Earnings. This Guide is rescinded due to the deletion of Summary of Operations and the Statements of Income from Forms S–1, S–7 and S–11.

Guide No. 26 Statement of Dividend Policy. This Guide is rescinded as no longer necessary and appropriate in view of the adoption of Item 9 of Regulation S–K, as discussed above.

Text of Amended Forms, Rules, and Guides

17 CFR Chapter II is amended as follows:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

1. By amending § 249.310 to read as follows:

§ 249.310 Form 10–K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

This form shall be used for annual reports pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is prescribed. Reports on this form shall be filed within 90 days after the end of the fiscal year covered by the report. However, all schedules required by Article 12 of Regulation S–X may, at the option of the registrant, be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form 8.

Form 10–K

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

General Instructions

A. Rule as to Use of Form 10–K. This Form shall be used for annual reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (the "Act") for which no other form is prescribed. Reports on this form shall be filed within 90 days after the end ot the fiscal year covered by the report. However, all schedules required by Article 12 of Regulation S–X may, at the option of the registrant, be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form 8.

B. Application of General Rules and Regulations. (1) The General Rules and Regulations under the Act (17 CFR Part 240) contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this Form.

(2) Particular attention is directed to Regulation 12B which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated and the filing of the report. The definitions contained in Rule 12b–2 should be especially noted. *See also* Regulations 13A and 15D.

C. Preparation of Report. (1) This Form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b–12. Except as provided in General Instruction G, the answers to the items shall be prepared in the manner specified in Rule 12b–13. The report shall contain the item numbers and captions of all items but the text of such items may be omitted.

(2) Except where information is required to be given for the fiscal year or as of a specified date, it shall be given as of the latest practicable date.

(3) Attention is directed to Rule 12b–20, which states: "In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading."

D. Signature and Filing of Report. Three complete copies of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, and five additionsal copies which need not include exhibits, shall be filed with the Commission. At least one complete copy of the report, including financial statements, financial statement schedules, exhibits, and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Commission and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

The report shall be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors or persons performing similar functions.

E. Disclosure With Respect to Foreign Subsidiaries. Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant. However, financial statements and financial statement schedules, otherwise required, shall not be omitted pursuant to this Instruction. Where information is omitted pursuant to this Instruction, a statement shall

---

Footnotes continued from last page

which announced the adoption of amendments to Regulation S–X that permit oil and gas producers to disclose certain required information as supplemental information accompanying, but outside, the financial statements. However, the Commission did not intend by this action to affect its proposal in Securities Act Release No. 6176 to require disclosure in annual reports to security holders of all financial information required by Regulation S–X except certain exhibits and financial statement schedules. An instructional note has accordingly been added to the amendments to Rule 14a–3(b)(1) and Rule 14c–3(a)(1) to clarify that annual reports to security holders must include the information required by revised Rule 4–10(k) of Regulation S–X.

[27] *Id.*

be made that such information has been omitted and the names of the subsidiaries involved shall be separately furnished to the Commission. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental.

F. Information as to Employee Stock Purchase, Savings and Similar Plans. Attention is directed to Rule 15d–21 which provides that separate annual and other reports need not be filed pursuant to Section 15(d) of the Act with respect to any employee stock purchase, savings or similar plan if the issuer of the stock or other securities offered to employees pursuant to the plan furnishes to the Commission the information and documents specified in the Rule.

G. Information to be Incorporated by Reference. (1) Attention is directed to Rule 12b–23 which provides for the incorporation by reference of information contained in certain documents in answer or partial answer to any item of a report.

(2) The information called for by Parts I and II of this Form (Items 1 through 8 or any portion thereof) may, at the registrant's option, be incorporated by reference from the registrant's annual report to security holders furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a) or from the registrant's annual report to security holders, even if not furnished to the Commission pursuant to Rule 14a–3(b) or Rule 14c–3(a): *Provided*, Such annual report contains the information required by Rule 14a–3.

Note.—In order to fulfill the requirements of Part I of Form 10–K the incorporated portion of the annual report to security holders must contain the information required by Items 1–4 of Form 10–K, to the extent applicable.

(3) The information called for by Part III (Items 9 and 10) shall be incorporated by reference from the registrant's definitive proxy statement (filed or to be filed pursuant to Regulation 14A) or definitive information statement (filed or to be filed pursuant to Regulation 14C) which involves the election of directors, if such definitive proxy statement or information statement is filed with the Commission not later than 120 days after the end of the fiscal year covered by the Form 10–K. However, if such definitive proxy or information statement is not filed with the Commission in the 120-day period, the Items comprising the Part III information must be filed as part of the Form 10–K, or as an amendment to the Form 10–K under cover of Form 8, not later than the end of the 120-day period. It should be noted that the information regarding executive officers called for by Item 3 of Regulation S–K may be included in Part I of Form 10–K under an appropriate caption. *See* Instruction 4 to Item 3(b) of Regulation S–K (17 CFR 229.20).

(4) No item numbers or captions of items need by contained in the material incorporated by reference into the report. However, the registrant's attention is directed to Rule 12b–23(e) regarding the specific disclosure required in the report concerning information incorporated by reference. When the registrant combines all of the information in Parts I and II of this Form (Items 1 through 8) by incorporation by reference from the registrant's annual report to security holders and all of the information in Part III of this Form (Items 9 and 10) by incorporation by reference from a definitive proxy statement or information statement involving the election of directors, the, notwithstanding General Instruction C(1), this Form shall consist of the facing or cover page, those sections incorporated from the annual report to security holders, the proxy or information statement, and the information, if any, required by Part IV of this Form, signatures, and a cross reference sheet setting forth the item numbers and captions in Parts I, II and III of this Form and the page and/or pages in the referenced materials where the corresponding information appears.

H. Registrants Filing on Form S–18. If the registrant is subject to the reporting requirements of Section 15(d) of the Exchange Act and such obligation arises solely because the registrant has filed a registration statement on Form S–18 (17 CFR 239.28) which has become effective during the last fiscal year, the registrant may comply with the disclosure requirements of Form S–18 Item 6, Description of Business; Item 10, Remuneration of Directors and Officers; and Item 13, Interest of Management and Others in Certain Transactions, in lieu of complying with the disclosure requirements of Item 1, Business, and Item 10, Management Remuneration and Transactions, herein. Item 6 of this Form, Selected Financial Data, may be omitted at the election of such registrant.

If a registrant remains subject to Section 15(d), or becomes subject to Section 12, after the year of its Form S–18 offering, it will then be required to comply with the general Form 10–K item requirements for its subsequent reports.

I. Omission of Information by Certain Wholly-Owned Subsidiaries. If, on the date of the filing of its report on Form 10–K, the registrant meets the conditions specified in paragraph (1) below, then such registrant may furnish the abbreviated narrative disclosure specified in paragraph (2) below.

(1) Conditions for availability of the relief specified in paragraph (2) below.

(a) All of the registrant's equity securities are owned, either directly or indirectly, by a single person which is a reporting company under the Act and which has filed all the material required to be filed pursuant to section 13, 14, or 15(d) thereof, as applicable, and which is named in conjunction with the registrant's description of its business;

(b) During the preceding thirty-six calendar months and any subsequent period of days, there has not been any material default in the payment of principal, interest, a sinking or purchase fund installment, or any other material default not cured within thirty days, with respect to any indebtedness of the registrant or its subsidiaries, and there has not been any material default in the payment of rentals under material long-term leases; and

(c) There is prominently set forth, on the cover page of the Form 10–K, a statement that the registrant meets the conditions set forth in General Instruction I(1) (a) and (b) of Form 10–K and is therefore filing this Form with the reduced disclosure format.

(2) Registrants meeting the conditions specified in paragraph (1) above are entitled to the following relief:

(a) Such registrants may omit the information called for by Item 6, Selected Financial Data, and Item 7, Management's Discussion and Analysis of Financial Condition and Results of Operations provided that the registrant includes in the Form 10–K a management's narrative analysis of the results of operations explaining the reasons for material changes in the amount of revenue and expense items between the most recent fiscal year presented and the fiscal year immediately preceding it. Explanations of material changes should include, but not be limited to, changes in the various elements which determine revenue and expense levels such as unit sales volume, prices charged and paid, production levels, production cost variances, labor costs and discretionary spending programs. In addition, the analysis should include an explanation of the effect of any changes in accounting principles and practices or method of application that have a material effect on net income as reported.

(b) Such registrants may omit the list of subsidiaries exhibit called for by Item 7 of Regulation S–K (17 CFR 229.20).

(c) Such registrants may omit the information called for by the following otherwise required Items: Item 4, Security Ownership of Certain Beneficial Owners and Management; Item 9, Directors and Executive Officers of the Registrant; and Item 10, Management Remuneration and Transactions.

(d) In response to Item 1, Business, such registrant only need furnish a brief description of the business done by the registrant and its subsidiaries during the most recent fiscal year which will, in the opinion of management, indicate the general nature and scope of the business of the registrant and its subsidiaries, and in response to Item 2, Properties, such registrant only need furnish a brief description of the material properties of the registrant and its subsidiaries to the extent, in the opinion of the management, necessary to an understanding of the business done by the registrant and its subsidiaries.

Securities and Exchange Commission,
Washington, D.C.

Form 10–K

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the fiscal year ended _____
Commission file number _____

(Exact name of registrant as specified in its charter)

(State or other jurisdiction of incorporation or organization)

(I.R.S. Employer Identification No.)

(Address of principal executive offices)

(Zip Code)

Registrant's telephone number, including area code _____

Securities registered pursuant to Section 12(b) of the Act:

Title of each class

Name of each exchange on which registered

Securities registered pursuant to Section 12(g) of the Act:

(Title of class)

(Title of class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ——, No ——.

State the aggregate market value of the voting stock held by nonaffiliates of the registrant. The aggregate market value shall be computed by reference to the price at which the stock was sold, or the average bid and asked prices of such stock, as of a specified date within 60 days prior to the date of filing. (See definition of affiliate in Rule 405, 17 CFR 230.405).

Applicable Only to Registrants Involved in Bankruptcy Proceedings During the Preceding Five Years

Indicate by check mark whether the registrant has filed all documents and reports required to be filed by Section 12, 13 or 15(d) of the Securities Exchange Act of 1934 subsequent to the distribution of securities under a plan confirmed by a court.
Yes ———— No ————

(Applicable Only to Corporate Registrants)

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date.

Documents Incorporated by Reference

List hereunder the following documents if incorporated by reference and the Part of the Form 10–K (e.g., Part I, Part II, etc.) into which the document is incorporated: (1) Any annual report to security holders; (2) Any proxy or information statement; and (3) Any prospectus filed pursuant to Rule 424(b) or (c) under the Securities Act of 1933. The listed documents should be clearly described for identification purposes (e.g., annual report to security holders for fiscal year ended December 24, 1980).

Part I

[See General Instruction G(2)]

Item 1. Business. Furnish the information required by Item 1 of Regulation S–K (17 CFR 229.20) except that the discussion of the development of the registrant's business need only include developments since the beginning of the fiscal year for which this report is filed.

Item 2. Properties. Furnish the information required by Item 2 of Regulation S–K (17 CFR 229.20).

Item 3. Legal Proceedings. Furnish the information required by Item 5 of Regulation S–K (17 CFR 229.20).

Item 4. Security Ownership of Certain Beneficial Owners and Management. Furnish the information required by Item 6 of Regulation S–K (17 CFR 229.20).

Part II

[See General Instruction G(2)]

Item 5. Market for the Registrant's Common Stock and Related Security Holder Matters. Furnish the information required by Item 9 of Regulation S–K (17 CFR 229.20).

Item 6. Selected Financial Data. Furnish the information required by Item 10 of Regulation S–K (17 CFR 229.20).

In addition, (a) if debt securities are registered under Section 12 of the Act, the registrant may, at its option, show in tabular form for each fiscal year the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis in a position of equal prominence with the ratio for the registrant or the registrant and its consolidated subsidiaries (*See* Accounting Series Release No. 122).

(b) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(c) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations. Furnish the information required by Item 11 of Regulation S–K (17 CFR 229.20).

Item 8. Financial Statements and Supplementary Data. Financial statements meeting the requirements of Regulation S–X (17 CFR 210) and the supplementary financial information specified by Item 12 of Regulation S–K (17 CFR 229.20) shall be filed. Financial statements of the registrant and its subsidiaries consolidated [as required by Rule 14a–3(b)] shall be filed under this Item. Other financial statements and schedules required under Regulation S–X may be filed as "Financial Statement Schedules" pursuant to item 11, Exhibits, Finance Statement Schedules, and Reports on Form 8–K, of this form.

Notwithstanding the above, if the issuer is subject to the reporting provisions of Section 15(d) and such obligation results solely from the issuer having filed a registration statement on Form S–18 which became effective under the Securities Act of 1933 during the last fiscal year, or such obligation applies as to the first or second fiscal year after the registration statement on Form S–18 became effective solely because the issuer had on the first day of the pertinent fiscal year 300 or more record holders of any of its securities to which the Form S–18 related, audited financial statements for the issuer, or for the issuer and its predecessors, may be presented as provided below. The report of the independent accountant shall in all events comply with the requirements of Article 2 of Regulation S–X.

(a) A Form 10–K filed for the fiscal year during which the registrant had a registration statement on Form S–18 become effective may include the following financial statements prepared in accordance with generally accepted accounting principles:

(1) A balance sheet as of the end of each of the two most recent fiscal years; and

(2) Consolidated statements of income, statements of changes in financial condition, and statements of other stockholders' equity for each of the two fiscal years preceding the date of the most recent audited balance sheet being filed.

(b) A Form 10–K filed for the first fiscal year after the registrant had a registration statement on Form S–18 become effective may include financial statements prepared as follows:

(1) Financial statements for the most recent fiscal year prepared in accordance with Regulation S–X, Form and Content of and Requirements for Financial Statements; and

(2) Financial statements previously disclosed in accordance with paragraph (a) for the prior year. These statements do not need to include the compliance items and schedules of Regulation S–X, but should be recast to show the same line items as are set forth for the most recent fiscal year.

(c) A Form 10–K filed for the second fiscal year after the registrant had a registration statement on Form S–18 become effective may include financial statements for the two most recent fiscal years prepared in accordance with Regulation S–X (17 CFR Part 210).

Part III

[See General Instruction G(3)]

Item 9. Directors and Executive Officers of the Registrant. Furnish the information required by Item 3 of Regulation S–K (17 CFR 229.20).

Item 10. Management Remuneration and Transactions. Furnish the information required by Item 4 of Regulation S–K (17 CFR 229.20).

Part IV

Item 11. Exhibits, Financial Statement Schedules, and Reports on Form 8–K. (a) List the following documents filed as a part of the report:

1. All financial statements;

2. Those financial statement schedules required to be filed by Item 8 of this Form, and by paragraph (d) below.

3. Those exhibits required to be filed by Item 7 of Regulation S–K (17 CFR 229.20) and by paragraph (c) below; and Instruction. Where any financial statement, financial statement schedule, or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this Item. For purposes of all rules concerning incorporation by reference a financial statement schedule shall constitute an "exhibit." *See* Rule 12b–23.

(b) Reports on Form 8–K. State whether any reports on Form 8–K have been filed during the last quarter of the period covered by this report, listing the items reported, any financial statements filed and the dates of any such reports.

(c) Registrants shall file, as exhibits to this Form, the exhibits required by Item 7 of Regulation S–K (17 CFR 229.20).

(d) Registrants shall file, as financial statement schedules to this Form, the financial statements required by Regulation S–X (17 CFR 210) which are excluded from the annual report to shareholders by Rule 14a-3(b)(1), including (1) separate financial statements of the registrant only (where consolidated financial statements of the registrant and its subsidiaries are included); (2) separate financial statements of subsidiaries not consolidated and fifty percent or less owned persons; (3) separate financial statements of consolidated majority-owned subsidiaries of the registrant engaged in diverse financial activities; (4) separate financial statements of affiliates whose securities are pledged as collateral; and (5) schedules.

Signatures

[See General Instruction D]

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant) _____

By (Signature and Title) * _____

Date _____

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

(Signature and Title) * _____

(Date) _____

* * * * *

(Signature and Title) * _____

(Date) _____

Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act.

(a) Except to the extent that the materials enumerated in (1) and/or (2) below are specifically incorporated into this Form by reference (in which case *see* Rule 12b–23(d)), every registrant which files an annual report on this Form pursuant to Section 15(d) of the Act shall furnish to the Commission for its information, at the time of filing its report on this Form, four copies of the following:

(1) Any annual report to security holders covering the registrant's last fiscal year; and

(2) Every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant's security holders with respect to any annual or other meeting of security holders.

(b) The foregoing material shall not be deemed to be "filed" with the Commission or otherwise subject to the liabilities of Section 18 of the Act, except to the extent that the registrant specifically incorporates it in its annual report on this Form by reference.

(c) If no such annual report or proxy material has been sent to security holders, a statement to that effect shall be included under this caption. If such report or proxy material is to be furnished to security holders subsequent to the filing of the annual report on this Form, the registrant shall so state under this caption and shall furnish copies of such material to the Commission when it is sent to security holders.

2. By revising Item 2 of § 249.210 to read as follows:

§ 249.210 Form 10, general form for registration of securities pursuant to section 12(b) or (g) of the Securities Exchange Act of 1934.

* * * * *

Item 2. Selected Financial Data; Management's Discussion and Analysis of Financial Condition and Results of Operations.

Furnish the information required by Items 10 and 11 of Regulation S–K (17 CFR 229.20).

In addition, (a) if debt securities are being registered, the registrant may, at its option, show in tabular form for each fiscal year the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis in a position of equal prominence with the ratio for the registrant or the registrant and its consolidated subsidiaries.

(b) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(c) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

3. Section 229.20 is amended as follows:

a. Item 1 is amended as set forth below by: revising paragraphs (b)(1), (c)(1)(i), the introductory text of paragraph (c)(2) and paragraph (c)(2)(i), the introductory text of paragraph (d) and paragraph (d)(3); by deleting paragraph (d)(4); by revising instructions 2 and 3 and deleting instruction 4 in the instructions to item 1 (d); and by revising Appendix A.

b. Item 7 (which was added at 45 FR 58825, Sept. 5, 1980) is amended in paragraph (a) by adding item 22 to Table II. Item 7 is also amended by adding paragraph (b) (22). These additions are set forth below.

c. Items 9, 10, and 11, are added as set forth below. (Item 8 is reserved for future use.)

§ 229.20 Information required in document.

Item 1. Description of business. * * *

(b) *Financial information about industry segments*—(1) *Industry segments.* State for each of the registrant's last three fiscal years or for each fiscal year the registrant has been engaged in business, whichever period is shorter, the amounts of revenue from sales to unaffiliated customers, operating profit or loss and identifiable assets attributable to each of the registrant's industry segments. (See Appendix A for a suggested tabular format for presentation of this information.)

(i) The prior period information shall be retroactively restated in the following circumstances, unless not material, with appropriate disclosure of the nature and effect of the restatement.

(A) When the financial statements of the registrant as a whole have been retroactively restated.

(B) When there has been a change in the way the registrant's products or services are grouped into industry segments and such change affects the segment information being reported. Restatement is not required when a registrant's reportable segments change solely as a result of a change in the nature of its operations or as a result of a segment losing or gaining in significance.

(ii) If the registrant includes in the document interim period financial information, discuss any facts relating to the performance of any of the segments during the period which, in the opinion of management, indicate that the three-year segment financial data may not be indicative of current or future operations of the segment. Comparative financial information shall be included to the extent necessary to the discussion.

Instructions to Item 1(b)(1). 1. To the extent that the financial information included pursuant to this Item complies with generally accepted accounting principles, the registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative information about its segments in the financial statements [Conversely, a registrant may cross reference to the financial statements.].

2. In determining what information about the industry segments is material to an understanding of the registrant's business taken as a whole and therefore should be disclosed, the registrant should take into

* Print the name and title of each signing officer under his signature.

* Print the name and title of each signing officer under his signature.

* Print the name and title of each signing officer under his signature.

account both quantitative and qualitative factors such as the significance of the matter to the registrant (for example, whether a matter with a relatively minor impact on the company's business is represented by management to be important to its furture profitability), the pervasiveness of the matter (for example, whether it affects or may affect numerous items in the segment information) and the impact of the matter (for example, whether it distorts the trends reflected in the segment information). Situations may arise when information should be disclosed about a segment, although the information in quantitative terms may not appear signficant to the registrant's business taken as a whole.

* * * * *

(c) *Narrative description of business.*

(1) * * *

(i) The principal products produced and services rendered by the registrant in the industry segment and the principal markets for, and methods of distribution of, the segment's principal products and services. In addition, state for each of the last three fiscal years the amount or percentage of total revenue contributed by any class of similar products or services which accounted for 10 percent or more of consolidated revenue in either of the last three fiscal years or 15 percent or more of consolidated revenue if total revenue did not exceed $50,000,000 during either of such fiscal years.

* * * * *

(2) The matters specified in paragraphs (c)(2)(i) through (iv) of this section shall be discussed with respect to the registrant's business in general. Where material, identify the industry segments to which these matters are significant.

(i) If material, the estimated amount spent during each of the last three fiscal years on company-sponsored research and development activities determined in accordance with generally accepted accounting principles. In addition, state the estimated dollar amount spent during each of such years on material customer-sponsored research activities relating to the development of new products, services or techniques or the improvement of existing products, services or techniques.

* * * * *

(d) *Financial information about foreign and domestic operations and export sales.* State for each of the registrant's last three fiscal years, or for each fiscal year the registrant has been engaged in business, whichever period is shortest, the amounts of revenue (with sales to unaffiliated customers and sales or transfers to other geographic areas shown separately), profitability, and identifiable assets attributable to each of the registrant's geographic areas and the amount of export sales in the aggregate or by appropriate geographic area to which the sales are made. (*See* Appendix B for a suggested tabular format for presentation of this information.)

* * * * *

(3) If the registrant includes in the document interim period financial information, discuss any facts relating to the information furnished pursuant to this paragraph (d) which, in the opinion of management, indicate that the three year financial data for foreign and domestic operations or export sales may not be indicative of current or future operations. Comparative information shall be included to the extent necessary to the discussion.

Instructions to Item 1(d). 1. * * *

2. *See* Instruction 1 to Item 1(b)(1).

3. In determining what information about the geographic areas and export sales is material to an understanding of the registrant's business taken as a whole and therefore should be disclosed, the registrant should take into account both quantitative and qualitative factors such as the significance of the matter to the registrant (for example, whether a matter with a relatively minor impact on the company's business is represented by management to be important to its future profitability), the pervasiveness of the matter (for example, whether it affects or may affect numerous items of the information) and the impact of the matter (for example, whether it distorts the trends reflected in the geographic area or export sales information). Situations may arise when information should be disclosed about the geographic areas or export sales, although the information in quantitative terms may not appear significant to the registrant's business taken as a whole.

* * * * *

Appendix A—Industry Segments

The table set forth below is illustrative of the format that might be used for presenting the segment information required by paragraphs (b) and (c)(1)(i) of Item 1 of Regulation S–K regarding industry segments and classes of similar products or services.

Financial Information Relating to Industry Segments and Classes of Products or Services

	Year—		
	1	2	3
Sales to unaffiliated customers:			
Industry segment A:			
Class of product 1			
Class of product 2			
Industry segment B:			
Class of product 1			
Class of product 2			
Industry segment C:			
Other industries			
Operating profit or loss:			
Industry segment A			
Industry segment B			
Industry segment C			

Financial Information Relating to Industry Segments and Classes of Products or Services—Continued

	Year—		
	1	2	3
Other industries			
Indentifiable assets:			
Industry segment A			
Industry segment B			
Industry segment C			
Other industries			

* * * * *

Item 7. Exhibits.

(a) * * *

* * * * *

Table II.—*Securities Exchange Act of 1934—Frequently Used Forms*

	Form 10	8–K	10–Q	10–K
*	*	*	*	*	*	*
(22) Subsidiaries of the registrant				X

(b) * * *

* * * * *

(22) List all subsidiaries of the registrant, the state or other jurisdiction of incorporation or organization of each, and the names under which such subsidiaries do business. The names of particular subsidiaries may be omitted if the unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as of the end of the year covered by this report. (See the definition of "significant subsidiary" in Rule 1.02(v) (17 CFR 210.1–02(v)) of Regulation S–X). This list should be repeated in each annual filing or an express reference made to the most recent filing containing a complete and accurate list.

Item 8. [Reserved For Future Use]

Item 9. Market Price of the Registrant's Common Stock and Related Security Holder Matters.

(a) Identify the principal market or markets on which the registrant's common stock is being traded and, if a principal market for such stock is an exchange, state the high and low sales prices for the stock as reported in the consolidated transaction reporting system or, if not so reported, on such principal exchange for each quarterly period during the past two years. If the principal market for such common stock is not an exchange, state the range of high and low bid quotations for each quarterly period during the past two years, the source of such quotations and, if there is no market for such stock (excluding limited or sporadic quotations), furnish a statement to that effect.

(b) Set forth the approximate number of holders of common stock securities of the registrant as of the latest practicable date.

(c) State the frequency and amount of any dividends paid during the past two years with respect to such common stock and briefly describe any restriction on the issuer's present or future ability to pay such dividends.

(d) Where registrants have a record of paying no dividends although earnings indicate an ability to do so, they are encouraged to consider the question of their intention to pay cash dividends in the foreseeable future and, if no such intention exists to make a statement of that fact in the filing. Registrants which have a history of paying dividends are also encouraged to indicate whether there is a present expectation that dividends will continue to be paid in the future.

Instructions. 1. The computation of the approximate number of holders of such common stock may be based upon the number of record holders or may also include individual participants in security position listings. See Rule 17Ad–8 (17 CFR 240.17Ad–8). The method of computation which is chosen should be indicated.

2. If the registrant is a foreign issuer: (a) Describe briefly any governmental laws, decrees or regulations in the country in which the registrant is organized relating to restrictions on the export or import of capital, including but not limited to foreign exchange controls, affecting the remittance of dividends, interest and other payments to nonresident holders of the registrant's securities.

(b) State whether there are any limitations, either by the law of the country under which the registrant is organized or in the charter or other constituent document of the registrant, on the right of foreigners to hold or vote securities. Outline briefly any such limitations.

(c) Outline briefly all taxes, including withholding provisions, to which United States security holders are subject under existing laws and regulations of the foreign country of origin. A brief description of pertinent provisions of any reciprocal tax treaties between such foreign country and the United States regarding withholding should be included. If there are no such treaties, so state.

Item 10. Selected Financial Data.

Furnish in comparative columnar form a summary of selected financial data for the registrant, for

(a) Each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) Any additional fiscal years necessary to keep the summary from being misleading.

Instructions. 1. The purpose of the summary of selected financial data shall be to supply in a convenient and readable format selected data which highlight significant trends in the registrant's financial condition and results of operations.

2. Subject to appropriate variation to conform to the nature of the registrant's business, the following items shall be included in the summary: net sales or operating revenues; income (loss) from continuing operations; income (loss) from continuing operations per common share; total assets; long-term obligations and redeemable preferred stock (including long-term debt, capital leases, and redeemable preferred stock as defined in ASR 268); and cash dividends declared per common share. Registrants may include additional items which they believe would enhance an understanding of and would highlight trends in their financial condition and results of operations.

3. Those registrants which are required to provide five-year summary information in accordance with SFAS 33 may combine such information with the selected financial data appearing pursuant to this Item.

4. All references to the registrant in the Summary and in these Instructions shall mean the registrant and its consolidated subsidiaries.

Item 11. Management's Discussion and Analysis of Financial Condition and Results of Operations.

Discuss registrant's financial condition, changes in financial condition and results of operations. The discussion shall provide information as specified in paragraphs (a), (b) and (c) of this section with respect to liquidity, capital resources, and results of operations, and should also provide such other information which the registrant believes to be necessary to an understanding of its financial condition, changes in financial condition and results of operations. Discussions of liquidity and capital resources may be combined whenever the two topics are interrelated. Where in the registrant's judgment a discussion of segment information or of other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion should focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole.

(a) *Liquidity.* Identify any known trends or any known demands, commitments, events or uncertainties which will result in or which are reasonably likely to result in the registrant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action which the registrant has taken or proposes to take to remedy the deficiency. Identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets.

(b) *Capital resources.* (1) Describe the registrant's material commitments for capital expenditures as of the end of the latest fiscal period, and indicate the general purpose of such commitments and the anticipated source of funds needed to fulfill such commitments.

(2) Describe any known material trends, favorable or unfavorable, in the registrant's capital resources. Indicate any expected material changes in the mix and the relative cost of such resources. This discussion should consider changes between equity, debt and any off-balance sheet financing arrangements.

(c) *Results of operations.* (1) Describe any unusual or infrequent events or transactions or any significant economic changes which materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to which income was so affected. In addition, describe any other significant components of revenues or expense which, in the registrant's judgment, should be described in order to understand the registrant's results of operations.

(2) Describe any known trends or uncertainties which have had or which the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the registrant knows of events which will cause a material change in the relationship between costs and revenues (such as known future increases in costs of labor or materials or price increases or inventory adjustments) the change in the relationship should be disclosed.

(3) To the extent that the financial statements disclose material increases in net sales or revenues, provide a narrative discussion of the extent to which such increases are attributable to increases in prices or to increases in the volume or amount of goods or services

being sold or to the introduction of new products of services.

(4) For the three most recent fiscal years of the registrant, or for those fiscal years beginning after December 25, 1979, or for those fiscal years in which the registrant has been engaged in business, whichever period is shorter, discuss the impact of inflation and changing prices on the registrant's net sales and revenues and on income from continuing operations.

Instructions. 1. The registrant's discussion and analysis shall be of the financial statements and of other statistical data which the registrant believes will enhance a reader's understanding of its financial condition, changes in financial condition and results of operations. Generally, the discussion should cover the three year period covered by the financial statements and should utilize year-to-year comparisons or any other formats which in the registrant's judgment enhance a reader's understanding. However, where trend information is relevant, reference to the five year selected financial data appearing in Item 10 of Regulation S–K may be necessary.

2. The purpose of the discussion and analysis should be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the registrant as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided in this Item 11 need only include that which is available to the registrant without undue effort or expense but which does not clearly appear in the registrant's financial statements.

3. The discussion and analysis should specifically focus on material events and uncertainties known to management which would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition. This would include description and amounts of (a) matters which would have an impact on future operations and have not had an impact in the past, and (b) matters which have had an impact on reported operations and are not expected to have an impact upon future operations.

4. Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes should be described to the extent necessary to an understanding of the registrant's businesses as a whole: *Provided, however,* If the causes for a change in one line item also relate to other line items, no repetition is required and a line-by-line analysis of the financial statements as a whole is not required or generally appropriate. Registrants need not recite the amounts of changes from year to year which are readily computable from the financial statements. The discussion should not merely repeat numerical data contained in the consolidated financial statements.

5. The term "liquidity" as used in paragraph (a) of this Item refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprise's needs for cash. Except where it is otherwise clear from the discussion, the registrant should indicate those balance sheet conditions or income or cash flow items which the registrant believes may be indicators of its liquidity condition. Liquidity generally should be discussed on both a long-term and short-term basis. The issue of liquidity should be discussed in the context of the registrant's own business or businesses. For example, a discussion of working capital may be appropriate for certain manufacturing, industrial or related operations but might be inappropriate for a bank or public utility.

6. Registrants are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently-known data which will impact upon future operating results, such as known future increases in costs of labor or materials. This latter data may be required to be disclosed. Any forward-looking information supplied is expressly covered by the safe harbor rule for projections. See Securities Act Release No. 6084 (June 25, 1979) (44 FR 38810).

7. Registrants which are required to provide narrative explanations of supplementary information disclosed in accordance with paragraph 37 of SFAS 33 may combine such explanations with the registrant's discussion and analysis required pursuant to this provision or may supply such information separately. If such statement is combined, the supplementary information required by SFAS 33 shall be located in reasonable proximity to the discussion and analysis. If such statement is not combined the discussion of the impact of inflation otherwise required by ths item may be omitted but an appropriate cross reference to the explanation required by paragraph 37 of SFAS 33 shall be made. Foreign registrants need not comply with SFAS 33 but if, in its home country, a foreign registrant must satisfy requirements that are analogous to SFAS No. 33, then such analogous presentation shall be given.

8. Registrants which are not required to provide explanations of supplementary information disclosed in accordance with SFAS 33 (including foreign private registrants) may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 33 is encouraged, it is not required. All that is required is a brief textual presentation of management's views. No specific numeric financial data need be presented.

9. All references to the registrant in the discussion and in these instructions shall mean the registrant and its subsidiaries consolidated.

10. Foreign private registrants should also discuss briefly any pertinent governmental economic, fiscal, monetary, or political policies or factors which have materially affected or could materially affect, directly or indirectly, company operations or investments by United States nationals.

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

4. Part 231 is amended by rescinding Guide 22, "Summary of Earnings," of the Guides for the Preparation and Filing of Registration Statements Under the Securities Act of 1933 (Securities Act of 1933 Release No. 4936 (Dec. 9, 1968) [33 FR 18617]; Securities Act of 1933 Release No. 5520 (August 14, 1978) [39 FR 31894]).

5. Part 231 is amended by rescinding Guide 26, "Statement of Dividend Policy," of the Guides for the Preparation and Filing of Registration Statements Under the Securities Act of 1933 (Securities Act of 1933 Release No. 4936 (December 9, 1968) (33 FR 18617)).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

6. By revising Item 6 and amending the Instructions As to Summary Prospectuses of § 239.11 to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * *

Item 6. Selected Financial Data; Management's Discussion and Analysis of Financial Condition and Results of Operations. Furnish the information required by Items 10 and 11 of Regulation S–K (17 CFR 229.20).

In addition, (a)(1) If debt securities are being registered, the registrant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis in a position of equal prominence with the ratio for the registrant or the registrant and its consolidated subsidiaries (see Accounting Series Release No. 122). There shall also be shown for the most recent fiscal year or twelve months a pro forma ratio of earnings to fixed charges, adjusted to give effect to (i) the issuance of the securities being registered, (ii) any issuance, retirement or redemption of securities during such period, or (iii) any issuance, retirement or redemption of securities after, or presently proposed for one year after, such period.

(2) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(3) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of

the interest factor in the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

(b) If long-term debt or preferred stock is being registered, there shall be shown the annual interest requirements of such long-term debt or the annual dividend requirements on such preferred stock. To the extent that an issue represents refunding or refinancing, only the additional annual interest or dividend requirements shall be stated. If preferred stock is being registered, there shall also be shown in tabular form for each fiscal year or other period the ratio of earnings to combined fixed charges and preferred dividend requirements.

(c) For the purpose of computing the pro forma ratio required in paragraph (a)(1), an assumed maximum interest rate may be used on securities as to which the interest rate has not yet been fixed, which assumed rate shall be shown.

* * * * *

Instructions as to Summary Prospectuses

A summary prospectus used pursuant to Rule 434A (17 CFR 230.434a) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public; as to Item 2(a), the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; as to Item 2(c), a brief statement as to the manner of distribution; as to Item 3, a brief statement of the principal purposes for which the proceeds are to be used; Item 4; Item 5; as to Item 6, only the selected financial data (Item 10 of Regulation S–K) and the ratio of earnings to fixed charges (Sub-items 6a–6c) need be provided; Item 7, if the registrant was organized within 5 years; as to Item 9, a brief statement of the general character of the business done and intended to be done; Item 11(a); as to Item 12, a brief statement of the nature and present status of any material pending legal proceedings; as to Item 13, only 13(a) (1) and (2); as to Item 14(a), a brief statement as to interest and maturity provisions; as to Item 15, information corresponding to the foregoing and Item 18(b) as to outstanding options to purchase securities of any class being registered.

* * * * *

7. By revising Item 6 and amending Instruction 1(g) of the Instructions as to Summary Prospectuses of § 239.26 to read as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

Item 6. Selected Financial Data; Management's Discussion and Analysis of Financial Condition and Results of Operations. Furnish the information required by Items 10 and 11 of Regulation S–K (17 CFR 229.20).

In addition, (a)(1) if debt securities are being registered, the registrant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis in a position of equal prominence with the ratio for the registrant or the registrant and its consolidated susidiaries (see Accounting Series Release No. 122). There shall also be shown for the most recent fiscal year or twelve months a pro forma ratio of earnings to fixed charges, adjusted to give effect to (i) the issuance of the securities being registered, (ii) any issuance, retirement or redemption of securities during such period, or (iii) any issuance, retirement or redemption of securities after, or presently proposed for one year after, such period.

(2) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(3) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

(b) If long term debt or preferred stock is being registered, there shall be shown the annual interest requirements of such long term debt or the annual dividend requirements on such preferred stock. To the extent that an issue represents refunding or refinancing, only the additional annual interest or dividend requirements shall be stated. If preferred stock is being registered, there shall also be shown in tabular form for each fiscal year or other period the ratio of earnings to combined fixed charges and preferred dividend requirements.

(c) For the purpose of computing the pro forma ratio required in paragraph (a)(1), an assumed maximum interest rate may be used on securities as to which the interest rate has not yet been fixed, which assumed rate shall be shown.

* * * * *

Instructions as to Summary Prospectuses

1.* * *

(g) As to Item 6, only the Selected Financial Data (Item 10 of Regulation S–K) and the ratio of earnings to fixed charges (Sub-items 6a–6c) need be provided.

* * * * *

8. By amending Item 6 of § 239.18 to read as follows:

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * *

Item 6. Selected Financial Data; Management's Discussion and Analysis of Financial Condition and Results of Operations. Furnish the information required by Items 10 and 11 of Regulation S–K (17 CFR 229.20).

In addition, (a)(1) if debt securities are being registered, the registrant shall show in tabular form for each fiscal year or other period the ratio of earnings to fixed charges. If appropriate, the ratio of earnings to fixed charges for such periods shall also be shown on a total enterprise basis in a position of equal prominence with the ratio for the registrant or the registrant and its consolidated subsidiaries (see Accounting Series Release No. 122). There shall also be shown for the most recent fiscal year or twelve months a pro forma ratio of earnings to fixed charges, adjusted to give effect to (i) the issuance of the securities being registered, (ii) any issuance, retirement or redemption of securities during such period, or (iii) any issuance, retirement or redemption of securities after, or presently proposed for one year after, such period.

(2) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated subsidiaries and 50 percent or less owned persons.

(3) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) such portion of rentals as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

(b) If long-term debt or preferred stock is being registered, there shall be shown the annual interest requirements of such long-term debt or the annual dividend requirements on such preferred stock. To the extent that an issue represents refunding or refinancing, only the additional annual interest or dividend requirements shall be stated. If preferred stock is being registered, there shall also be shown in tabular form for each fiscal year or other period the ratio of earnings to combined fixed charges and preferred dividend requirements.

(c) For the purpose of computing the pro forma ratio required in paragraph (a)(1), an assumed maximum interest rate may be used on securities as to which the interest rate has not yet been fixed, which assumed rate shall be shown.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

9. In § 240.14a–3, by amending paragraphs (b)(1)–(4) and (b)(8) and the text of (b)(9) preceding the note and the text of paragraph (c) preceding the note to read as set forth below.

§ 240.14a-3 Information to be furnished to security holders.

* * * * *

(b) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of each of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than § 210.3–06(e), shall not apply and only substantial compliance with Articles 6, 7, 7A and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

Note.—Information required by § 210.4–10(k) (1) through (4) of Regulation S–X, applicable to oil and gas companies, is to be included as part of the financial statements included in the report. In addition, the oil and gas information required by § 210.4–10(k) (5) through (8) of Regulation S–X, which may be reported as supplemental information accompanying the financial statements, shall be included in the report.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All type shall be leaded at least 2 points.

(3) The report shall contain the Supplementary Financial Information specified by Item 12 of Regulation S–K (17 CFR 229.20).

(4)(i) The report shall contain Selected Financial Data in accordance with the provisions of Item 10 of Regulation S–K (17 CFR 229.20).

(ii) The report shall contain Management's Discussion and Analysis of the issuer's financial condition and results of operations in accordance with the provisions of Item 11 of Regulation S–K (17 CFR 229.20).

* * * * *

(8) The report shall contain the market price of the issuer's common stock and related security holder matters in accordance with the provisions of Item 9 of Regulation S–K (17 CFR 229.20).

(9) Management's proxy statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person solicited, on the written request of any such person, a copy of the issuer's annual report on Form 10–K including the financial statements and the financial statement schedules, required to be filed with the Commission pursuant to Rule 13a–1 under the Act for the issuer's most recent fiscal year, and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10–K provided that the copy of the annual report on Form 10–K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the issuer's reasonable expenses in furnishing such exhibit. If the issuer's annual report to security holders complies with all of the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such issuer need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note.—* * *

* * * * *

(c) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to Rule 14a–6(a), whichever date is later. The report is not deemed to be "soliciting material" or to be "filed" with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

Note.—* * *

* * * * *

In § 240.14c–3, by amending paragraphs (a) (1)–(4), (a)(8) and the text of (a)(9) preceding the note, and the text of paragraph (b) preceding the note to read as follows:

§ 240.14c–3 Annual report to be furnished to security holders.

(a) * * *

(1) The report shall include, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of each of the two most recent fiscal years and audited statements of income and changes in financial position for each of the three most recent fiscal years prepared in accordance with Regulation S–X (Part 210 of this chapter), except that the provisions of Article 3, other than § 210.3–06(e), shall not apply and only substantial compliance with Articles 6, 7, 7A and 9 is required. Any financial statement schedules or exhibits or separate financial statements which may otherwise be required in filings with the Commission may be omitted. Investment companies registered under the Investment Company Act of 1940 need include financial statements only for the last fiscal year. If the financial statements of the registrant and its subsidiaries consolidated in the annual report filed or to be filed with the Commission are not required to be audited, the financial statements required by this paragraph may be unaudited.

Note.—Information required by § 210.4–10(k) (1) through (4) of Regulation S–X, applicable to oil and gas companies, is to be included as part of the financial statements included in the report. In addition, the oil and gas information required by § 210.4–10(k) (5) through (8) of Regulation S–X, which may be reported as supplemental information accompanying the financial statements, shall be included in the report.

(2) Financial statements and notes thereto shall be presented in roman type at least as large and as legible as 10-point modern type. If necessary for convenient presentation, the financial statements may be in roman type as large and as legible as 8-point modern type. All type shall be leaded at least 2 points.

(3) The report shall contain the Supplementary Financial Information specified by Item 12 of Regulation S–K (17 CFR 229.20).

(4)(i) The report shall contain Selected Financial Data in accordance with the provisions of Item 10 of Regulation S–K (17 CFR 229.20).

(ii) The report shall contain Management's Discussion and Analysis of the issuer's financial condition and results of operations in accordance with the provisions of Item 11 of Regulation S–K (17 CFR 229.20).

* * * * *

(8) The report shall contain the market price of the issuer's common stock and related security holder matters in accordance with the provisions of Item 9 of Regulation S–K (17 CFR 229.20).

(9) The information statement, or the report, shall contain an undertaking in bold face or otherwise reasonably prominent type to provide without charge to each person furnished a copy of the information statement, on the written request of any such person, a copy of the issuer's annual report on Form 10–K including the financial statements and the financial statement schedules required to be filed with the Commission pursuant to Rule 13a–1 under the Act for the issuer's most recent fiscal year, and shall indicate the name and address of the person to whom such a written request is to be directed. In the discretion of management, an issuer need not undertake to furnish without charge copies of all exhibits to its Form 10–K provided that the copy of the annual report on Form 10–K furnished without charge to requesting security holders is accompanied by a list briefly describing all the exhibits not contained therein and indicating that the issuer will furnish any exhibit upon the payment of a specified reasonable fee which fee shall be limited to the issuer's reasonable expense in furnishing such exhibit. If the issuer's annual report to security holders complies with all of the disclosure requirements of Form 10–K and is filed with the Commission in satisfaction of its Form 10–K filing requirements, such issuer need not furnish a separate Form 10–K to security holders who receive a copy of such annual report.

Note.—* * *

* * * * *

(b) Seven copies of the report sent to security holders pursuant to this rule shall be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of the information statement are filed with the Commission pursuant to Rule 14c–5, whichever date is later. The report is not deemed to be "filed" with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the information statement or incorporates it in the information statement or other filed report by reference.

Note.—* * *

* * * * *

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND THE GENERAL RULES AND REGULATIONS THEREUNDER

11. Part 241 is amended by rescinding Guide 1, "Summary of Operations," of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934 (Securities Exchange Act of 1934 Release No. 10961 (August 14, 1974; 39 FR 31894)).

12. Part 241 is amended by amending Guide 4, "Integrated Reports to Shareholders," of the Guides for the Preparation and Filing of Reports and Proxy and Registration Statements Under the Securities Exchange Act of 1934 (Securities Exchange Act of 1934 Release No. 13639 (June 17, 1977; 42 FR 31780)) to read as follows:

Guide 4. Integrated Reports to Security Holders. Annual and quarterly reports to security holders may be combined with the required information of Form 10–K and Part I of Form 10–Q and be suitable for filing with the Commission when the following conditions are satisfied:

(a) The report contains full and complete answers to all items required by Form 10–K or Part I of Form 10–Q. When responses to a certain item of required disclosure are separated within the report, an appropriate cross-reference should be made. If the information required by Part III of Form 10–K is omitted by virtue of General Instruction G, a definitive proxy or information statement shall be filed.

(b) Any additional information or exhibits contained in the report shall meet the requirements of Rules 12b–20 (17 CFR 240.12b–20) and 12b–30 (17 CFR 240.12b–30) of the Securities Exchange Act of 1934.

(c) For purposes of Form 10–K, its cover page and the required signatures shall be included. For purposes of Form 10–Q, its cover page, appropriate responses to Part II and the required signatures shall be included. Additionally, as appropriate, a cross-reference sheet should be filed indicating the location of information required by the items of the form.

(d) Any pictorial or graphic representations shall comply with the provisions of Guide 8 of the Guide for Preparation and Filing of Registration Statements (Securities Act Release No. 5171 (July 20, 1971)).

(e) The report should contain a disclaimer of any action on the part of this Commission to approve or disapprove the report or to pass upon its accuracy or adequacy.

(f) An annual report to security holders prepared on an integrated basis may also be submitted in satisfaction of Rule 14a–3 (17 CFR 240.14a–3) under the Securities Exchange Act of 1934. When filed as the annual report on Form 10–K, responses to the Items of that form are subject to Section 18 of the Act.

(g) A quarterly report to security holders filed in satisfaction of the requirements of Part I of Form 10–Q is not deemed to be "filed" for the purpose of Section 18 of the Act but is subject to all other provisions of the Act (Rules 13a–13(d) (17 CFR 240.13a–13(d)), 15d–13(d) (17 CFR 240.15d–13(d)).

Authority: The amendments to the forms and guides prescribed under the Securities Act of 1933 are being adopted pursuant to the authority in Sections 6, 7, 8, 10 and 19(a) of the Act. The amendments to Rule 14a–3, Rule 14c–3, and the forms and guides prescribed under the Securities Exchange Act of 1934 are being adopted pursuant to the authority in Sections 12, 13, 15(d) and 23(a) of that Act. The amendments to Regulation S–K are being adopted pursuant to all of the 1933 and 1934 Act provisions referred to above.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565–568, 569, 570–574; secs. 1, 2, 82 Stat. 454; sec. 28(c), 84 Stat. 1435; secs. 1, 2, 84 Stat. 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78o(d), 78w(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

September 2, 1980.

[FR Doc. 80–27813 Filed 9–19–80; 10:30 am]

BILLING CODE 8010–01–M

---

17 CFR Parts 201, 229, 230, 239, and 240

[Release Nos. 33–6232; and 34–17115]

Business Combination Transactions—New Short Form for Registration and Related Rule Amendments

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of Form S–15, an optional experimental short form for registration under the Securities Act of 1933 of securities issued in certain business combination transactions. At the same time, the Commission also announces the adoption of related amendments to the proxy rules under the Securities Exchange Act of 1934, to the exhibits item of Regulation S–K (Standard instructions for filing forms under Securities Act of 1933 and Securities Act of 1934,) to the Commission's Rules of Practice, and to the rule as to incorporation by reference under the Securities Act. The adoption of Form S–15 and the related rule amendments is

part of the Commission's ongoing rulemaking effort designed to integrate the disclosure systems under the Securities Act and the Exchange Act and to streamline and make less burdensome the disclosure requirements imposed on registrants by those disclosure systems.

EFFECTIVE DATE: October 27, 1980. However, persons desiring to use the new Form prior to that date may do so, provided that they comply with all applicable provisions of the form.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, contact Catherine Collins McCoy, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington. D.C. 20549 (202–272–2589); thereafter, contact William E. Toomey or William E. Morley, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2573).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of new Form S–15 (17 CFR 239.29), an optional experimental form which may be used to register under the Securities Act of 1933 (the "Securities Act") (15 U.S.C. 77a et seq.) securities issued in business combination transactions meeting certain specified criteria, and the adoption of related amendments to a number of Commission rules and regulations. As adopted, Form S–15 provides for an abbreviated prospectus to be delivered to security holders together with copies of the issuer's latest annual report to security holders. This Form generally will be available for Securities Act registration where the issuer meets the conditions as to the use of Form S–7 (17 CFR 239.27)[1] and the business combination transaction pursuant to which the registered securities are to be issued does not affect certain financial results of the issuer by more than 10%. Although the Form is not specifically limited to a maximum number of offerees, the Commission anticipates that it will be most appropriate for registration where the number of offerees is relatively small so that delivery of an annual report will not involve unusual effort or expense. In this regard, the Form presents an attractive alternative to using Rule 146 (17 CFR 230.146), the operation of which, it is claimed, has proved difficult for some issuers.

The amendments to Rule 24 of the Commission's Rules of Practice (17 CFR 201.24) and to Rule 411 under the Securities Act (17 CFR 230.411) permit incorporation by reference into a Securities Act registration statement of material contained in annual reports to security holders furnished to the Commission pursuant to Rule 14a–3 (17 CFR 240.14a–3) or Rule 14c–3 (17 CFR 240.14c–3) under the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. 78a et seq. (1976 and Supp. I 1977)). The amendment to Item 7 (Exhibits) of Regulation S–K (17 CFR 229.20) adds Form S–15 to that Item's provisions. Finally, the amendments to Rules 14a–3 (17 CFR 240.14a–3), 14a–6 (17 CFR 240.14a–6) and 14a–12 (17 CFR 240.14a–12) of Regulation 14A (17 CFR 240.14a–1 et seq.) and to Rules 14c–2 (17 CFR 240–14c–2) and 14c–5 (17 CFR 240.14c–5) of Regulation 14C (17 CFR 240.14c–1 et seq.) provide that the informational and filing requirements of those Regulations, where applicable to the business combination transaction, would be satisfied when Form S–15 is used to register the issued securities under the Securities Act. The specific provisions of Form S–15 and the related amendments adopted today are discussed in greater detail below under "Synopsis of Form S–15 and Related Amendments."

Background

Proposed Form S–15 and related rule amendments were published for public comment on January 15, 1980,[2] simultaneously with three other releases which, taken together, constituted a major effort to achieve a simplified and integrated disclosure system. Those other actions were (1) proposed amendments to Form 10–K (17 CFR 249.310), Regulation S–K (17 CFR 229.20), and Rule 14a–3;[3] (2) proposed amendments to Regulation S–X (17 CFR Part 210) which would establish uniform financial statement instructions for certain forms and reports required to be filed pursuant to the Securities Act and the Exchange Act and for annual reports to security holders;[4] and (3) proposed amendments to Regulation S–X which would require certain additional accounting disclosures in annual reports to security holders and would eliminate, to the extent possible, the differences between the requirements of that regulation and the requirements of Generally Accepted Accounting Principles ("GAAP").[5] The Commission today also announced final rulemaking action on each of these three matters; in this regard, attention is directed to Securities Act Release No. 6231, September 2, 1980 (Form 10–K, Rule 14a–3 and Regulation S–K); Securities Act Release No. 6234, September 2, 1980 (Uniform Financial Statement Instructions); and Securities Act Release No. 6233, September 2, 1980 (General Revision of Regulation S–X).

As was indicated in the January release proposing amendments to Form 10–K, Rule 14a–3 and Regulation S–K,[6] the Commission considered the four proposals published together in January to be the first of a number of steps anticipated to be taken in order to achieve integration and simplification of existing disclosure requirements. At that time, the Commission broadly outlined the design of a simplified Securities Act disclosure system integrated with the Exchange Act system by relying to varying degrees upon both formal and informal, *i.e.*, filed and unfiled, documents prepared pursuant to Exchange Act requirements. Specifically, the Commission anticipated delineating three general categories or levels of companies, with the degree of required disclosure and of document dissemination differing with each level. The Commission has now developed three new proposed Securities Act registration statement forms to be used by companies in the three levels and is publishing those proposed forms for comment[7] concurrently with the adoption of Form S–15 and of the other final rule amendments announced today, and the proposal for comment of amendments to Form 10–Q (17 CFR 249.308a) which will make that Form consistent with the new Form 10–K.[8]

The proposed forms (denominated Forms A, B and C for purposes of proposal discussion), particularly proposed Form B, raise a number of issues which also arose in the context of Form S–15 and which are not yet resolved. These issues include (1) whether delivery of the annual report to security holders with the prospectus should be mandatory or optional, (2) which documents should be incorporated by reference into prospectuses, (3) for what transactions

[1] These conditions include a minimum earnings test and a requirment that the registrant has provided continuous disclosure to investors pursuant to the reporting requirements of Sections 13(a), 14 and 15(d) of the Exchange Act. *See* Note 13 infra.

[2] Securities Act Release No. 6177 (January 15, 1980) (45 FR 5934).

[3] Securities Act Release No. 6176 (January 15, 1980) (45 FR 5972).

[4] Securities Act Release No. 6179 (January 15, 1980) (45 FR 5963).

[5] Securities Act Release No. 6178 (January 15, 1980) (45 FR 5943).

[6] Securities Act Release No. 6176.

[7] Securities Act Release No. 6235 (September 2, 1980).

[8] Securities Act Release No. 6236 (September 2, 1980).

abbreviated prospectuses are appropriate, and (4) how to ensure equivalent disclosure when issuers have the option of prospectus presentation or annual report delivery. Rather than delay adoption of Form S–15 until such time as all issues associated with the Commission's integration program have been resolved, however, the Commission has determined to adopt Form S–15 at this time as an experiment. A number of commentators on proposed Form S–15 specifically urged that the Commission consider and adopt Form S–15 independently of the other parts of its integration program so that the benefit of its savings would be made available as soon as possible, regardless of any delaying problems encountered in implementing the other proposals. Form S–15's prompt adoption, on an experimental basis,[9] is responsive to those commentators' views. More importantly, however, the Commission believes that experience with Form S–15 and its mandatory use of the issuer's annual report to security holders will provide empirical data as to its operation and usage which will be a valuable aid in evaluating proposed Form B, which as proposed would provide issuers with the option of either delivering the annual report or providing equivalent disclosure in the prospectus.

Proposed Form S–15 generated substantial public commentary. The commentators were overwhelmingly in favor of the Commission's goals of simplyfying the disclosure provided to investors, reducing the burdens and costs which Securities Act registration imposes on issuers and integrating further the disclosure requirements of the Securities Act and Exchange Act. The majority of commentators believed proposed Form S–15 to be a significant step toward accomplishing those goals and urged that the Commission promptly adopt the new Form. A substantial number of helpful specific comments and suggestions were offered in connection with proposed Form S–15, quite a few of which are reflected in changes made from Form S–15 as proposed to Form S–15 as adopted. These specific comments, as well as others not directly reflected in the text of the form and rule amendments as adopted, are discussed below in the "Synopsis" portion of the release.

[9] Securities Act Release No. 6177 stated that proposed Form S–15, if adopted, would be in the nature of an experiment and that its use and effects would be carefully watched so that the Commission could consider the advisability of either expanding or limiting its availability.

Synopsis of Form S–15 and Related Amendments

The following brief synopsis is intended to assist interested parties in their understanding of the new Form and related rule amendments. Respects in which the Form and rule amendments differ from those as proposed are included in this discussion. Attention is directed to the text of the proposals for a more complete understanding.

I. Form S–15

A. *Availability.* General Instruction A to Form S–15 provides that the form is available only for registration of securities issued (a) in transactions of the character specified in Rule 145(a) (17 CFR 230.145),[10] (b) in a merger where applicable State law does not require a vote of the security holders of the company being acquired ("short form mergers") or (c) in an exchange offer for securities of another person where the amount of securities already held and the amount of securities to be sought in the exchange offer aggregate at the time of filing will exceed 50% of that class of securities of the other person. As proposed, the transactions for which Form S–15 would have been available were limited to transactions of the character specified in Rule 145 (a)(2) and (a)(3) and exchange offers resulting in the issuer's acquisition of 80% of the voting power of the other person. A substantial number of the public commentators on proposed Form S–15 recommended that the Form's use be greatly expanded. While the Commission believes that the experimental value of Form S–15 might be impaired were its use expanded significantly beyond that proposed, it has determined that inclusion of Rule 145(a)(1) transactions,[11] short form mergers, and exchange offers to acquire a majority but not 80% is consistent with and compatible with the limited purpose for which Form S–15 is adopted.

A Form S–15 transaction must also meet the five conditions set forth in General Instruction A. The first condition restricts the Form's use to transactions where relatively small companies are acquired by substantially larger companies.[12] Under this condition, the effect of the transaction must not be a change of more than 10% between the items listed in General Instruction A.1(a) (gross sales and operating revenues, net income, total assets, and total shareholders' equity) for the issuer on a pro forma combined consolidated basis giving effect to the transaction in question. In addition, the total purchase price must not exceed 10% of the issuer's total assets. This provision differs from proposed General Instruction A.1(b), which would have provided instead that the total purchase price must not exceed 10% of the aggregate market value of voting stock held by nonaffiliates. A number of commentators believed the condition proposed was too restrictive and too difficult to apply as a practical matter. The condition as adopted addresses these concerns while still ensuring that the Form will not be used for transactions which have a substantial effect on the issuer. In this regard, a Note was added to condition A.1 to indicate that, while the Form may be used for multiple simultaneous acquisitions, it may only be so used if the condition is met on both an individual and an aggregate basis.

The second condition requires the issuer of the securities being registered to meet the requirements for the use of Form S–7 (17 CFR 239.26) [13] and to have furnished its latest annual report to security holders pursuant to Rule 14a–3 or 14c–3. The fact that the issuer will have been filing Exchange Act reports for at least three years, and that certain information about the issuer is thus already publicly available and disseminated, enables the Commission to reduce the actual prospectus disclosure requirements with respect to the issuer. The eligibility criteria of

[10] Where the transaction pursuant to which securities are to be registered on Form S–15 is of the character specified in Rule 145 (a)(1), (a)(2) or (a)(3), the provisions of Rule 145 (c) and (d) will be applicable to persons and parties deemed underwriters with respect to those securities.

[11] Rule 145(a)(1) transactions are reclassifications of securities, other than stock splits, reverse stock splits, or changes in par value, which involve the substitution of a security for another security.

[12] The test for the effect of the transaction used in General Instruction A to proposed Form S–15 is similar to the tests set forth in Securities Act Release No. 4950 (February 20, 1980) for determining whether relief should be granted from the requirement for 3-year certified financial statements of companies acquired or to be acquired. It should be noted, however, that the test in General Instruction A to proposed Form S–15 is to be used only for purposes of determining the availability of such Form, and that, for all purposes other than Form S–15 availability and disclosure requirements, the standards and positions expressed in Release No. 4950 remain unchanged.

[13] Generally, an issuer may use Form S–7 if it (a) has a class of securities registered under Section 12 (15 U.S.C. 78*l*) or is required to file reports pursuant to Section 15(d) (15 U.S.C. 78o(d)) of the Exchange Act; (b) has been subject to the requirements of Section 12 or 15(d), and has filed all applicable reports, for 36 calendar months prior to the filing of the registration statement and has timely filed all required reports for the past twelve calendar months; (c) has not defaulted in payments on preferred stock, indebtedness for borrowed money or long-term leases during the past 36 months; and (d) has had consolidated net income of at least $250,000 for three of the last four fiscal years, including the most recent fiscal year.

proposed Form B [14] which would, if adopted, replace Form S–7, are not as strict as those of Form S–7.[15] Should Form B be adopted as proposed, Form S–15 would be amended accordingly so that General Instruction A.2 would be met if the issuer qualifies for the use of Form B.

This second condition, as adopted, reflects a change made in response to a point raised by a number of commentators. Proposed General Instruction A.2 required the issuer to have furnished an annual report to security holders for its latest fiscal year. This provision would have had the effect of precluding the Form's use for the period between the end of the issuer's fiscal year and the time an annual report is prepared and disseminated to security holders. The Commission does not believe such preclusion is necessary or appropriate. Therefore, the requirement of General Instruction A.2 as adopted is that the issuer have furnished its latest annual report to security holders. Corresponding changes were also made to Items 6 and 9 of Form S–15.

The third condition to the use of Form S–15 is that the transaction pursuant to which the registered securities are being issued has been approved or recommended by the boards of directors of both parties to the transaction. A clarifying phrase has been added to the condition which specifies the Commission's intent that this condition must be met as of the date of effectiveness of the registration statement. While not all the commentators who addressed this condition agreed that it is necessary, the Commission believes that it is a useful means to ensure that the abbreviated Form S–15 format is not used for transactions where fuller disclosure may be appropriate.

The fourth condition provides that the prospectus must be delivered to security holders at least 20 days prior to the meeting date or the date of vote, consent or authorization or the date the transaction is consummated. Changes were made from the language as proposed to clarify that the solicitation is to be made in accordance with applicable state or federal law, but in no event later than 20 days prior, and to clarify that 20-day prior delivery is required even where no meeting is held and no vote, consent or authorization is solicited.

As proposed, Form S–15 would have been unavailable for transactions where either the issuer or the company being acquired engages in significant oil and gas related operations. The Commission believed this exclusion, which was similar to the exclusion of such companies from use of Form S–18 (17 CFR 239.28) and Rule 242 (17 CFR 230.242), was appropriate because of the staff's current study of oil and gas disclosure requirements. The public commentators who addressed this condition, however, unanimously urged that companies engaged in oil and gas related operations not be excluded from using Form S–15. The Commission now requires such companies' annual reports to security holders prepared pursuant to Rule 14a–3 to contain the same financial information about oil and gas operations as is called for by Regulation S–X.[16] Accordingly, because of the unique and limited circumstances of Form S–15, and its experimental nature, the Form as adopted is available where the issuer or the company being acquired engages in significant oil and gas operations. Should the staff's on-going study of oil and gas disclosure requirements culminate in further amendments to existing requirements, those amendements would automatically be reflected in Form S–15 through its use of the annual report to security holders and its reference to Regulations S–K and S–X.

Finally, Form S–15 is available only when neither the issuer nor the company being acquired is a registered investment company. This provision is the same as that contained in proposed Form S–15, in connection with which the Commission invited comment as to whether the Form should be available to registered investment companies and, if so, what, if any, conditions and modifications to Form S–15 would be appropriate. Five commentators responded to this invitation for comment, all recommending that investment companies be able to use either Form S–15 or a similarly abbreviated form. A number of helpful detailed suggestions were submitted as to appropriate conditions to such a form's use and approaches to prospectus content and document delivery requirements. These comments also reinforce the Commission's belief that Form S–15 would require at least some modifications before it would be feasible for investment companies to use the Form. While the Commission has determined not to make Form S–15 available for investment company use at this time, it is considering the comments received in this regard in connection with its ongoing overall review of disclosure requirements for investment companies.

With the limited exception of the addition of the few types of business combination transactions noted above, and the deletion of the prohibitions for resales and for companies engaged in oil and gas operations, the availability of Form S–15 as adopted is not expanded from that of proposed Form S–15. The Commission is conscious of the public commentators' overwhelming encouragement to expand the number and types of companies and transactions for which Form S–15 could be used. Nevertheless, the Commission has decided to adopt Form S–15 at this time with its availability provisions essentially as proposed in the important respects of relative transaction size and issuer qualification to use Form S–7 so that it may gain experience with the form's use and effects. Based upon that experience, the Commission may subsequently ease some of the restrictions on Form S–15 availability, particularly at such time as the staff has had the opportunity to develop an appropriate disclosure requirement with respect to pro forma financial information.

B. *Other General Instructions.* General Instructions B and C are similar to instructions to all Securities Act forms, indicating the application of the rules and regulations under the Securities Act and specifying what documents comprise the registration statement. These instructions are adopted as proposed. The instruction requesting issuers to advise the staff of their intention to file a registration statement of Form S–15 has been deleted because experience with the instruction in existing forms has proved it to be ineffective.

Securities Act Release No. 6177, publishing proposed Form S–15 for comment, did not specifically address the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 (the "Guides")[17] or their applicability to registration statements on proposed Form S–15. The Guides represent policies and practices followed by the Division of Corporation Finance in administering the various disclosure requirements of the Securities Act and the forms adopted thereunder.

---

[14] Securities Act Release No. 6235 (September 2, 1980).

[15] Proposed Form B eligibility differs from existing Form S–7 in that (1) the issuer must have had positive net income for two out of the three last fiscal years (rather than net income of $250,000 for three out of the last four years), including the most recent year and (2) the prohibition on defaults in payments on preferred stock, indebtedness and long-term leases has been somewhat modified.

[16] *See* Securities Act Release No. 6231 (September 2, 1980).

[17] Securities Act Release No. 4936 (December 9, 1968) (33 FR 18671), as amended.

As such, they are able to be applied flexibly, when and where appropriate. Some Guides specifically indicate that they are applicable only to registration statements filed on certain forms, e.g., Guide 11 applies to Form S–1 (17 CFR 239.11), Guide 28 applies to Forms S–1 and S–7 (17 CFR 239.26), Guide 30 applies to Forms S–1 and S–7, and Guide 59 applies to Forms S–1 and S–2 (17 CFR 239.12).

A number of public commentators questioned the applicability of the Guides, and in particular Guide 61, Statistical Disclosure by Bank Holding Companies, to proposed Form S–15. At the time proposed Form S–15 was published, Guide 61 by its terms specifically applied only to registration statements filed on Forms S–1, S–7 and S–14. The Commission did not believe Guide 61 disclosure would be necessary or appropriate in an abbreviated prospectus like that of Form S–15 and, therefore, did not propose to amend Guide 61 to include Form S–15. The Commission still believes that Guide 61 disclosure is unnecessary in Form S–15. In light of recent amendments to Guide 61, however, which, among other things, broadened its applicability to registration statements for which financial statements are required,[18] the Commission also believes it is appropriate at this time to state explicitly that it does not intend Guide 61 to be applicable to Form S–15 registration statements.

All other existing Guides, rules and regulations under the Securities Act are equally as applicable to Form S–15, where appropriate, as to any other Securities Act form for the registration of securites. In this regard, the Commission notes that it is engaged in an ongoing program of reviewing and reevaluating the rules, forms and Guides under the Securities Act and the Exchange Act. The first step in this program is the overall review of all of the Guides, a major project which was begun in December, 1979,[19] and which should result in the promulgation of proposed changes in the future.[20]

General Instruction D sets forth the relationship of Form S–15 to the proxy or information rules under the Exchange Act, where such are applicable to the transaction. The Form S–15 prospectus may be in the form of and may serve as the proxy or information statement used in connection with the transaction. It would be deemed to meet the informational and filing requirements of the proxy or informational rules under Section 14 of the Exchange Act, and Regulations 14A and 14C thereunder. All other provisions of those Regulations would still apply. A new paragraph (c) has been added to General Instruction D to make it clear that, where Sections 13(e), 14(d) or 14(e) of the Exchange Act apply to the transaction, the rules and regulations thereunder are still applicable to the transaction regardless of the provisions of Form S–15.

General Instruction E, Availability of the Prospectus for Reoffers or Resales, represents a change from the provision of Form S–15 as proposed, which would have prohibited use of the Form S–15 prospectus for reoffers or resales of securities acquired pursuant to that registration statement by affiliates of the issuer or by any other persons who may be deemed underwriters of such securities. As adopted, the Form S–15 prospectus will be available for such reoffers or resales, if (1) the additional information called for is provided in the prospectus, (2) the selling shareholders have an intent to make such offers and sales within sixteen months, and (3) the prospectus so used is updated in accordance with Section 10(a)(3) of the Securities Act. Most of the public commentators who addressed the proposed Form's resale prohibition believed the Form should be able to be used for that purpose, and the Commission believes that such use may be allowed without sacrificing the disclosure provided to investors. Indeed, because the Form S–15 issuer must meet the conditions to the use of Form S–7, the resale prospectus which generally would otherwise be available to be used would be that of Form S–16, which requires delivery of less information about the issuer than does Form S–15.[21]

A new General Instruction F has been added to make explicit the Commission's intention that, while Form S–15 relies heavily upon the concurrently adopted amendments to Form 10–K, Rule 14a–3, and Regulation S–K,[22] the delayed implementation requirements of these amendments nevertheless will not operate to delay the availability of Form S–15. Therefore, annual reports to security holders prepared with respect to fiscal years ending prior to December 15, 1980, may be used in connection with Form S–15 registration even though such annual reports are not required to contain the disclosure required to be presented in annual reports for fiscal years ending after that date. The Commission recognizes the differences in the levels of required disclosure. As a practical matter, however, requiring full implementation of the amended annual report disclosure items could delay by more than a year the availability of Form S–15 to issuers who might otherwise qualify to use and choose to use the new form. Additionally, a long delay to await full implementation of the annual report amendments would also delay the experimental use of annual reports to security holders in a Securities Act context. Accordingly, the Commission has determined to make Form S–15 available immediately.

C. *Information Required in the Prospectus.* Form S–15 provides for a short prospectus which will provide investors with the information necessary to make an investment decision presented in a comprehensible style and format. This is accomplished by requiring the issuer's latest annual report to security holders to be delivered with the prospectus. The issuer's business description, financial statements, industry segment information, market information with respect to its common stock, selected financial data, and management's discussion and analysis will be incorporated by reference from the annual report rather than presented in the prospectus itself. The prospectus, then, will contain only disclosure with respect to (1) the transaction pursuant to which the registered securities are being issued, (2) the company being acquired, and (3) any additional information about the issuer which needs to be disclosed to update that presented in the annual report delivered with the prospectus.

1. *Multiple Document Delivery.* The Form S–15 multiple document delivery approach takes advantage of one of the most useful and readable disclosure documents produced under the existing disclosure systems, the annual report to security holders prepared pursuant to Rule 14a–3 or 14c–3, both to ensure that the disclosure provided concerning the issuer is comprehensible and to reduce expenses and duplication by making use of an existing document.[23] In order that

[18] Securities Act Release No. 6221 (July 8, 1980).

[19] Securities Act Release No. 6163 (December 5, 1979).

[20] Future changes in the Guides would, of course, be in addition to those made by rescinding a number of Guides (Securities Act Guides 22, Summary of Earnings, and 26, Statement of Dividend Policy, and Exchange Act Guide 1, Summary of Operations) as part of the final rulemaking amending Form 10–K, Rule 14a–3, and Regulation S–K. Securities Act Release No. 6231 (September 2, 1980).

[21] Form S–16 (17 CFR 239.27) is available for secondary offerings if securities of the same class are listed and registered on a national securities exchange or are quoted on the automated quotation system of a national securities association.

[22] Securities Act Release No. 6231 (September 2, 1980).

[23] The Commission has long recognized the annual report to security holders to be one of the most effective means of communication between management and security holders. *See* the

Footnotes continued on next page

the prospectus which the annual report accompanies be equally comprehensible, issuers are urged to present information therein in as clear and concise a style as possible.

It should be noted that Form S–15 is an optional form; Forms S–1 (17 CFR 239.11) and S–14 (17 CFR 239.23) are still available should an issuer who qualifies to use Form S–15 nevertheless prefer not to delivery its annual report. A number of commentators argued: (1) That Form 10–K, rather than the annual report to security holders, should be used as the integrating document accompanying the prospectus; and (2) that issuers should be given the option of annual report delivery or presentation in the prospectus of information equivalent to that in the annual report. The Commission believes that the annual report is the preferable document and that issuers are provided sufficient opportunity to update and supplement their annual reports in the prospectus and, accordingly, need not be granted the option of presenting the annual report information in the prospectus.

While Form S–15 as adopted requires delivery of an annual report, the issue of presentation within the prospectus remains under consideration. Pending resolution of this issue, it is anticipated that S–15 as adopted will be used primarily to register those offerings not made to such a great number of offerees that mandatory annual report delivery would involve significant reproduction costs. Adopted on an experimental basis, it is believed that Form S–15 will produce meaningful data on the use of annual reports, in conjunction with shortened prospectuses, for Securities Act purposes. When the Commission considers proposed Form B, which as proposed would make annual report delivery optional, it thus will be able to add empirical data to the views expressed by the public commentators on proposed Form B. Experience with Form S–15 and the comments received on proposed Form B may also lead the Commission to amend Form S–15 appropriately.

If the company being acquired has a class of securities registered pursuant to Section 12 of the Exchange Act and has furnished an annual report to security holders pursuant to Rule 14a–3 or Rule 14c–3 for its latest fiscal year, then the issuer has the option of delivering such annual report with the prospectus and the issuer's annual report. If that option is elected, the prospectus will contain the same disclosure with respect to the company being acquired as with respect to the issuer, *i.e.*, only disclosure with respect to subsequent events and interim periods. Unlike the case for the issuer, the annual report which could be so used is that for the latest fiscal year, not the latest report furnished. The Commission believes it is appropriate that disclosure needs with respect to the company being acquired only be satisfied by annual report delivery if that report is for the latest full fiscal year.

2. *Disclosure Items.* The Form S–15 prospectus itself is required to contain the following information: Item 1, summarized information about the two companies' businesses, the transaction at hand, and comparative per share data; Item 2, terms of the transaction; Item 3, a description of the company being acquired which is of the same nature as would have been called for in a report prepared pursuant to Rule 14a–3; Item 4, certain proxy information; Item 5, information about the interests of affiliates in the transaction; Item 6, additional information about the issuer as to interim financial information, subsequent material changes and availability of reports and other information; Item 7, additional information about the company being acquired as to interim financial information, subsequent material changes, changes in control and availability of reports and other information; Item 8, additional information required if the prospectus is to be used for reoffers or resales; and Item 9, statements as to material incorporated by reference.

The Form S–15 prospectus disclosure requirements reflect a number of changes from the provisions of proposed Form S–15. First, an instruction has been added to Item 2(c), which calls for an outline of the material features of the proposed transaction, in order to emphasize that only a brief summary of the acquisition agreement terms is to be included in the prospectus. The agreement itself need not be included in the prospectus. The second sentence of Item 2(d), concerning dividends in arrears and defaults, was deleted because it was unnecessary; an issuer with defaults would not qualify to use Form S–7 and therefore could not use Form S–15.

The provision in proposed Item 2(c) calling for disclosure of the reasons management of the company being acquired has for engaging in the transaction is adopted as proposed. A number of commentators objected that this provision is unnecessary and undesirable; the Commission believes, however, that this disclosure is appropriate. Like Form S–14, Form S–15 may serve the dual purpose of securities registration and proxy solicitation, where Regulation 14A or 14C is applicable to the transaction. In that event, the Form S–15 prospectus is also the proxy or information statement of the company being acquired. Item 2(e), which called for a brief description by the company being acquired of any other matters material to the fairness of the transaction to unaffiliated security holders, has been deleted. It is important for documents prepared pursuant to the federal securities laws to contain disclosure with respect to matters bearing on fairness in order for unaffiliated security holders to determine whether their rights under state law have been protected.[24] The Commission believes, however, that the provisions of Items 2 and 5 of Form S–15 as adopted adequately address this concern and that, accordingly, an explicit item in Form S–15 is not necessary. Moreover, the Commission plans to consider existing registration forms for all business combinations in the next phase of its review of Securities Act and Exchange Act rules and forms, and the issue of an explicit fairness disclosure item will be revisited at that time.

An instruction has been added to Item 3(b) to point out that the Commission may waive any of the financial information requirements of Item 3 (b)(vi), (vi), and (vii) which it deems appropriate. This instruction is similar to that contained in Item 15(c) of Schedule 14A (17 CFR 240.14a–101) and indicates that the existing financial statement waiver procedures used in the Form S–14 context will be operative in the Form S–15 context as well. In addition, part of the five-year period for which selected financial data is required by Regulation S–K may be waived if unduly burdensome.

The Commission made a specific inquiry of commentators as to what beneficial ownership disclosure was thought appropriate in Form S–15, voting power alone or Regulation S–K, Item 6 disclosure. The majority of the

Footnotes continued from last page
discussion in two of the other releases published today, Securities Act Release Nos. 6231 and 6235 (September 2, 1980), of the Commission's reasons for including the annual report to security holders in its integration program. *See also* Securities Exchange Act Release No. 11079 (October 31, 1974) and Securities Exchange Act Release No. 10591 (January 10, 1974).

[24] *See Sante Fe Industries, Inc.* v. *Green*, 430 U.S. 462, 474 n.14 (1977); *Wright* v. *Heizer Corp.*, 560 F.2d 236, 250 (7th Cir. 1977), *cert. denied*, 434 U.S. 1066 (1978); and *SEC* v. *Parklane Hosiery Co.*, 588 F.2d 1083, 1088–9 (2d Cir. 1977), with respect to the materiality of information which would be useful to security holders in challenging a transaction under state law.

commentators who responded to this inquiry favored consistency of beneficial ownership disclosure and, therefore, preferred Item 6 disclosure in Form S–15. Accordingly, Item 4 as adopted is unchanged from the proposal and refers to the requirements of Items 6(a) and 6(b) of Regulation S–K.

The public commentators who discussed the problem of updating the issuer's latest annual report overwhelmingly favored an approach which would grant issuers the greatest amount of flexibility in determining how best to update that report. Accordingly, Item 6 of Form S–15 has been changed to add a new paragraph (a) which calls for financial and other information as of the end of the most recent fiscal quarter for which a Form 10–Q has been filed. The information is to be in the form required by Part I of Form 10–Q (17 CFR 249.308a) but may be provided by any one of three means: (1) Inclusion in the prospectus; (2) delivery of the Form 10–Q with the prospectus and annual report; or (3) delivery with the prospectus and annual report of the issuer's latest quarterly report to security holders if that report contains the required information. The other change to Item 6 is to add an undertaking, where the Form 10–Q delivery option is not chosen, to provide the issuer's latest Form 10–Q without charge upon request. Similar provisions with respect to the company being acquired have been added to Item 7 of Form S–15. This Item is applicable if the acquired company has a class of securities registered under Section 12 of the Exchange Act, has furnished an annual report to security holders pursuant to Rule 14a–3 or Rule 14c–3 for its latest fiscal year, and such annual report is being used in place of prospectus disclosure.

Both Items 6 and 7 have also been changed to add significant business combinations accounted for as purchases to those matters for which financial information may be required in the prospectus if not reflected in the financial statements in the annual report(s) delivered with the prospectus. This change was made in response to the suggestion of the commentators, as was the addition to Item 7(b) of the term "material" to identify what changes must be described thereunder. The latter change was necessitated by the inadvertent omission of the term in the proposal.

New Item 8, to be complied with if the Form S–15 prospectus is to be used for reoffers and resales, calls for (1) information in regard to the persons on whose behalf the securities are offered; (2) information with respect to the consummation of the proposed transaction and (3) information, including financial statements, necessary to make the prospectus current. This Item was modeled after Item 2 of Form S–14.

Item 9, which requires certain statements to be made as to information delivered with the prospectus and incorporated by reference therein, reflects a change from the Item as proposed. The Commission, concerned about ensuring prospectus readability, specifically inquired of commentators whether the detailed description of material incorporated by reference into the Form S–15 registration statement should (1) be required in the prospectus, (2) be allowed only in Part II of the Form, or (3) be placed in either location, or both, at the issuer's option. Because there may be equally valid reasons for choosing to include the detailed description in either part of the registration statement, the Commission has decided to adopt the third alternative and thus afford issuers maximum flexibility. At the same time, however, issuers are cautioned to avoid legalistic descriptions which would impair the readability of the prospectus.

D. *Information Not Required in the Prospectus.* Part II of Form S–15 is similar to that part of other forms adopted for Securities Act registration of securities. It is a part of the registration statement filed with the Commission but is not delivered to security holders.

The provisions of Part II of Form S–15 are as follows. First, Item 10 requires an undertaking by the issuer to deliver with each prospectus a copy of its latest annual report to security holders, as well as a copy of the annual report of the company being acquired if that report has been used to satisfy prospectus disclosure requirements with respect to business, financial and other information about the company being acquired.

Item 10 as adopted deletes the requirement in this Item of proposed Form S–15 that the issuer's undertaking to transmit certain material with the prospectus be dated as of a date not more than twenty days prior to the effective date of the registration statement. A number of commentators questioned the necessity for such a dating requirement and pointed to the practical problems it could raise, such as creating the necessity for filing a pre-effective amendment merely because the undertaking has become stale. Because the Commission does not wish to impose any unnecessary burdens upon issuers, the proposed undertaking dating provision is not included in the Form as adopted.

Next, Item 11 requires a statement specifically incorporating by reference into the registration statement (a) certain portions of the annual report(s) to security holders and (b) any reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act by the issuer, as well as by the company being acquired if the latter is subject to those reporting requirements, for periods subsequent to that covered by the annual report(s) delivered with the prospectus. A new Item 12 requires undertakings similar to those required by Form S–8 (17 CFR 239.16b) and Form S–14 dealing with appropriately updating prospectuses. This new Item was necessitated by the expansion of Form S–15 to resales and reoffers by persons deemed underwriters. The remaining provisions deal with the interests of experts named in the registration statement (Item 13) and with exhibits to the registration statement as required by Item 8 of Regulation S–K (Item 14).

Form S–15 does not require that the issuer's latest proxy statement must be delivered along with the annual report to security holders and the prospectus. Item 4 of Form S–15 calls for the same disclosure as to directors and executive officers and beneficial ownership of securities which is contained in the proxy statement. Disclosure as to management remuneration (Item 4 of Regulation S–K) would not be contained in the documents actually delivered to security holders. This information is incorporated by reference into the registration statement, however, because it is either contained in the issuer's latest Form 10–K report or is incorporated by reference therein from the issuer's latest proxy statement. Most commentators who responded to the Commission's specific invitation to comment on this point agreed that there should not be a requirement to deliver the proxy statement with the Form S–15 prospectus.

II. Related Amendments

A. *Rules on Incorporation by Reference.* Form S–15 requires incorporation by reference into the registration statement of certain information contained in the annual report to security holders. That report, prepared pursuant to Regulation 14A or 14C, particularly Rule 14a–3 or 14c–3 thereof, is furnished to the Commission for its information, but is not deemed "filed" with the Commission.[25] The

[25] Rule 14a–3(c) (17 CFR 240.14a–3(c)) provides: "Seven copies of the report sent to security holders

Footnotes continued on next page

Commission is amending Rule 24 of its Rules of Practice (17 CFR 201.24) and Rule 411 (17 CFR 230.411) which make clear that information contained in such reports, though the reports are not deemed filed with the Commission, nevertheless may be incorporated by reference into a registration statement filed pursuant to the Securities Act. The company is still responsible for the information incorporated as if it had been set forth in the prospectus. These amendments are adopted as proposed.

B. *Rules 14a–3, 14a–6, 14a–12, 14c–2, 14c–5.* Exchange Act Rule 14a–3(a) (17 CFR 240.14a–3(a)) provides that no solicitation subject to the proxy rules shall be made unless each person solicited is concurrently furnished or has previously been furnished a written proxy statement containing the information specified in Schedule 14A (17 CFR 240.14a–101) under that Act. The Commission is amending Rule 14a–3 to provide that material filed in a Form S–15 registration statement under the Securities Act containing the information required by that Form satisfies the requirements of the Rule.

The Commission is amending Exchange Act Rule 14a–6(j) (17 CFR 240.14a–6(j)) to provide that material filed in an S–15 registration statement under the Securities Act satisfies the filing requirements of the proxy rules under the Exchange Act. This amendment enables registrants to avoid filing copies of the registration statement as a proxy statement under the Exchange Act and paying a proxy filing fee.

Rule 14a–12 under the Exchange Act (17 CFR 240.14a–12) provides that solicitations in opposition to prior solicitations may be made before furnishing security holders a written proxy statement containing the information specified in Schedule 14A if certain conditions are met, including that no form of proxy be furnished to security holders prior to the time the written proxy statement required by Rule 14a–3(a) is furnished. Where a proxy statement then meeting the requirements of Schedule 14A has already been furnished to security holders, however, this latter condition is inapplicable.

Since the amendment to Rule 14a–3(a) provides that a proxy statement included in a registration statement filed under the Securities Act on Form S–15 may contain the information specified in that Form in lieu of the information specified in Schedule 14A, the Commission is amending Exchange Act Rule 14a–12(a) to refer to Rule 14a–3(a) and to delete the reference to Schedule 14A.

Rule 14c–2(a) under the Exchange Act (17 CFR 240.14c–2(a)) requires an issuer subject to the information rules to transmit to its security holders a written information statement containing the information specified in Schedule 14C. To provide similar treatment for proxy material and information statements, the Commission is amending Rule 14c–2 to provide that material filed in a Form S–15 registration statement satisfies the requirements of the Rule.

Also in order to provide similar treatment for proxy material and information statements, the Commission is amending Exchange Act Rule 14c–5(e) (17 CFR 240.14c–5(e)) to provide that material filed in a Form S–15 registration statement under the Securities Act satisfies the filing requirements of Regulation 14C under the Exchange Act. In such instances, no information statement filing fee is required. The foregoing amendments to Regulations 14A and 14C are adopted exactly as proposed.

C. *Item 7 (Exhibits) of Regulation S–K.* As was indicated in Securities Act Release No. 6177, which published proposed Form S–15 for comment, the proposed Form assumed that the Commission's then outstanding proposal to incorporate uniform exhibit requirements into Item 7 of Regulation S–K would be adopted. It was therefore contemplated that at such time as the Commission decided to adopt Form S–15, new Item 7 of Regulation S–K would be amended by adding a new column to Table I thereof indicating that the following exhibits would be required for filings on Form S–15: plan of acquisition, reorganization arrangement, liquidation or succession; instruments defining the rights of security holders; opinion re legality; opinion re tax matters; and material contracts. Item 7 (Exhibits) of Regulation S–K was adopted by the Commission on August 27, 1980.[26] Accordingly, the Commission is adopting the amendment thereto described in the proposal published in Securities Act Release No. 6177, with the addition of a requirement for a letter re unaudited financial information which provides consistency of Securities Act exhibit requirements in this regard.

Text of Form and Rule Amendments

17 CFR Chapter II is amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. By adding § 239.29 to read as follows:

§ 239.29 Form S–15, optional form for registration of securities to be offered in certain business combination transactions.

SECURITIES AND EXCHANGE COMMISSION

Form S–15—Registration Statement Under the Securities Act of 1933

.....
(Exact name of issuer as specified in its charter)

.....
(State or other jurisdiction of incorporation or organization)

.....
(Primary Standard Industrial Classification Code Number

.....
(I.R.S. Employer Identification Number)

.....

.....
(Address, including Zip Code, and telephone number, including area code, of issuer's principal executive offices)

.....

.....
(Name, address and telephone number of agent for service)

.....
(Approximately date of commencement of the proposed sale of the securities to the public)

Calculation of Registration Fee

Title of securities to be registered	Amount to be registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price	Amount of registration fee

[26] Securities Act Release No. 6230 (August 27, 1980).

Footnotes continued from last page

pursuant to this rule shall be mailed to the Commission, solely for its information. * * * The report is not deemed * * * to be 'filed' with the Commission or subject to this regulation otherwise than as provided in this rule or to the liabilities of Section 18 of the Act, except to the extent that the issuer specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement by reference." Rule 14c–3(b) (17 CFR 240.14c–3(b)) contains a similar provision.

Form S–15—General Instructions

A. *Rule as to Use of Form S–15.* Form S–15 may be used for registration under the Securities Act of 1933 of securities to be issued either (a) in a transaction of the type specified in Rule 145(a) (§ 230.145(a); (b) in a merger in which a vote of the security holders of the company being acquired is not required pursuant to applicable state law; or (c) in an exchange offer for securities of another person if the securities sought to be acquired together with any securities owned by the issuer at the time of the filing of the registration statement will aggregate in excess of 50% of the class of securities which is the subject of the exchange; Provided, that each of the following conditions is met:

1. (a) The change in each of the following items for the issuer on an historical basis compared to those for the issuer on a pro forma consolidated basis giving effect to the transaction does not exceed 10 percent for the latest fiscal year (with respect to items (i) and (ii)) and as of the end of the latest fiscal year (with respect to items (iii) and (iv)):

(i) Gross sales and operating revenues;

(ii) Net income;

(iii) Total assets; and

(iv) Total shareholders' equity.

(b) The total purchase price (market value of the securities being registered as of the date of filing the registration statement plus any additional cash consideration being offered) does not exceed 10% of the issuer's total assets as of the end of the latest fiscal year for which a report on Form 10–K (§ 249.310) has been filed.

Note.—Form S–15 may be used to register securities to be issued pursuant to more than one single acquisition transaction. In order for the Form to be used in connection with simultaneous acquisitions or exchange offers of more than one company, however, the conditions of Instruction A.1. above must be met on both an individual and an aggregate basis.

2. At the time of filing the registration statement, the issuer (a) meets the requirements for the use of Form S–7 (§ 239.26), (b) has furnished its latest annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§240.14c–3) and (c) such report contains audited year-end financial statements as of a fiscal year end not more than fifteen months prior to the date the registration statement becomes effective.

3. On or prior to the date of effectiveness of the registration statement, the transaction has been approved or recommended by the boards of directors, or other similar governing bodies, of the issuer and of the company being acquired.

4. The prospectus is delivered to the security holders whose vote, consent or authorization is solicited in accordance with the provisions of any applicable federal or state law but in no event later than 20 days prior to the date on which the meeting of such security holders is held or, if no such meeting is held, the earlier of the date of such vote, consent or authorization or the date the transaction is consummated.

5. Neither the issuer nor the company being acquired is a registered investment company.

B. *Application of General Rules and Regulations.* Attention is directed to the General Rules and Regulations under the Act, particularly those comprising Regulation C (§ 230.400 to § 230.494). That Regulation contains general requirements regarding the preparation and filing of the registration statement. Rules 405, 411, 412, and 439 should be especially noted.

C. *Documents Comprising Registration Statement.* The registration statement shall consist of the facing sheet of the Form, a prospectus containing the information called for by Part I, the information and undertaking called for by Part II, signatures, consents of experts, exhibits and any other information or documents filed as a part of the registration statement.

D. *Compliance With Proxy or Information Rules.* 1. If a corporation or other person submits to its security holders entitled to vote or consent a proposal to approve the transaction in which the securities being registered are to be issued, and such person's submission to its security holders is subject to Regulation 14A (§§ 240.14a–1 to 14a–101 of this chapter) or 14C (§§ 240.14c–1 to 14c–101) under the Securities Exchange Act of 1934, then the provisions of such Regulations shall apply in all respects to such person's submission, except that (a) the prospectus may be in the form of a proxy or information statement and shall contain the information required by this Form in lieu of that required by Schedule 14A (§ 240.14a–101) or 14C (§ 240.14c–101) of Regulation 14A or 14C under the Securities Exchange Act of 1934; and (b) copies of the preliminary and definitive proxy or information statement, form of proxy or other material filed as a part of the registration statement shall be deemed filed pursuant to the requirements of such Regulations. All other soliciting material shall be filed in accordance with such Regulations.

2. If the proxy or information material sent to such security holders is not subject to Regulation 14A or 14C, all such material shall be filed as a part of the registration statement at the time the statement is filed or as an amendment thereto prior to the use of such material.

3. If the transaction pursuant to which the securities being registered on this Form are to be issued is subject to Section 13(e), 14(d) or 14(e) of the Securities Exchange Act of 1934, the provisions of those sections and the rules and regulations thereunder shall apply to the transaction regardless of the provisions of Form S–15.

E. *Availability of the Prospectus for Reoffers or Resales.* The Form S–15 prospectus may be used by affiliates of the issuer, or any other persons who may be deemed underwriters of such securities, for reoffers or resales of securities acquired pursuant to this registration statement, Provided, that: (1) The additional information called for by Item 8 of this form is included in the prospectus so used; (2) each of the persons named as a selling security holder in a prospectus used for reoffers or resales shall have an intent to make such offers and sales within not more than sixteen months following the effective date of the prospectus [if after the effective date a person acquires an intent to reoffer or resell and the issuer wishes to add such person to the list of selling security holders the issuer may do so by filing a post-effective amendment]; and (3) the information in a prospectus used for reoffers or resales shall be updated through an amended prospectus filed in accordance with Section 10(a)(3) of the Act.

F. *Availability and Operation of Form S–15 Prior to Implementation of Revised Annual Report Requirements.* On September 2, 1980, the Commission adopted certain amendments to Rule 14a–3 and Regulation S–K, effective for reports with respect to fiscal years ending after December 15, 1980. If all other conditions to the use of Form S–15 are met, the Form may be used prior to such time as those amendments are required to have been implemented by the issuer or, where appropriate, by the company being acquired (*See* Item 3(a)). In such event, the references in Item 3(b) and Item 11(a) of this Form to (1) supplementary financial information furnished in accordance with the provisions of [revised] Rule 14a–3(b); (2) market for common stock and related security holder matters furnished in accordance with [new] Item 9 of Regulation S–K; (3) selected financial data furnished in accordance with [new] Item 10 of Regulation S–K; and (4) management's discussion and analysis of financial condition and results of operations furnished in accordance with [new] Item 11 of Regulation S–K, should be deemed to refer instead to the summary of operations, management's discussion and analysis, and market and securities price data as required by Rule 14a–3 for reports with respect to fiscal years ending prior to December 15, 1980. In addition, the provisions of Item 3(b) and Item 11(a) with respect to financial statements required by Rule 14a–3 shall be deemed to be satisfied by financial statements meeting the requirements of Rule 14a–3 applicable at the time such annual report was prepared.

Part 1. Information Required in the Prospectus

Item 1. *Summary.* Immediately following the cover page of the propectus, set forth a summary containing the following:

(a) a brief description of the general nature of the business conducted by the issuer and by the company being acquired; (b) a brief description of the transaction pursuant to which the securities being registered are to offered; and (c) in comparative columnar form, comparative per share data adjusted to be presented on an equivalent share basis of the issuer and the company being acquired, for the following items: (i) book value per share as of the date of the most recent balance sheet presented in response to Item 3 or incorporated by reference in response to Item 11; (ii) cash dividends declared per share during the last full fiscal year for which financial statements are presented in response to Item 3 or incorporated by reference in response to Item 11; (iii) net earnings per share for the year ended as of the same date used for purposes of paragraph (i) of this Item, and for the year to date ended as of the end of the latest corresponding fiscal quarter which ended not more than forty-five days prior to the effective date of the registration statement; and (iv) market

value of securities as of the day preceding public announcement of the proposed transaction, or, if no such public announcement was made, as of the day preceding the day the agreement with respect to the transaction was entered into.

Item 2. *Terms of the Transaction.* (a) Give the name of the issuer of the securities to be registered, its complete mailing address, including the zip code, and the telephone number, including the area code, of its principal executive offices.

(b) Give the name of the company being acquired, its complete mailing address, including the zip code, and the telephone number, including the area code, of its principal executive offices.

(c) Outline briefly the material features of the proposed transaction, including a description of the securities to be issued pursuant thereto. State the reasons of the company being acquired for engaging in the transaction, the federal income tax consequences thereof to the security holders of the company being acquired, and any significant differences between the rights of those security holders and the rights of holders of the securities being offered.

Instruction. A brief summary of the principal terms of an acquisition agreement is all that is required. Copies of the acquisition agreement need not be included in the prospectus if an undertaking is included to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of the agreement (excluding any confidential or proprietary exhibits or provisions).

(d) Briefly describe any restrictions on the issuer's present or future ability to pay dividends with respect to any class of securities.

Item 3. *Description of the Company Being Acquired.* (a) If the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 and has furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year, then, at the issuer's option, portions of such annual report may be incorporated by reference and such annual report may be delivered in accordance with the provisions of Items 9, 10 and 11 of this Form.

(b) Otherwise, if the company being acquired does not have a class of securities rgistered pursuant to Section 12 of the Securities Exchange Act of 1934, or has not furnished an annual report to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) for its latest fiscal year, or the issuer elects not to incorporate by reference from such annual report and to deliver it with the prospectus, then the following shall be set forth with respect to the acquired company:

(i) A brief description of the business of the company being acquired which indicates its general nature and scope;

(ii) Market for common stock of the company being acquired and related security holder matters as required by Item 9 of Regulation S–K;

(iii) Selected financial data as required by Item 10 of Regulation S–K;

(iv) Management's discussion and analysis of financial condition and results of operations as required by Item 11 of Regulation S–K;

(v) Financial statements and supplementary financial information as would have been required to be included in an annual report furnished to security holders pursuant to Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3) had the company being acquired been required to prepare such a report: *Provided, however,* That the balance sheet for the year preceding the latest full fiscal year and the income statements for the two years preceding the latest full fiscal year need not be audited if they have not previously been audited; and

(vi) The quarterly financial and other information as would have been required had the company being acquired been required to file Part I of Form 10–Q (§ 249.308a) for the most recent quarter for which such a report would have been on file at the time the registration statement becomes effective or for a period ending as of a more recent date.

Instruction. The Commission may, upon the request of the issuer, permit the omission of any of the statements or other financial information required by paragraphs (iii), (v) and (vi) of this Item where such statements are not necessary for the exercise of prudent judgment in regard to the transaction pursuant to which the securities being registered are to be offered, or may permit the filing in substitution therefor of appropriate statements of comparable character.

Item 4. *Voting Information.* (a) If proxies, consents, or authorizations are to be solicited, include, where applicable, the information called for by the following items of Schedule 14A (§ 240.14a–101) of Regulation 14A under the Securities Exchange Act of 1934:

Item 1. Revocability of proxy;

Item 3. Persons making the solicitation;

Item 5. Voting securities and principal holders thereof; and

Item 22. Vote required for approval.

(b) If the transaction is not an exchange offer and proxies, consents, or authorizations are not to be solicited, include, where applicable, the information called for by Items 5 and 22 of Schedule 14A and the following items of Schedule 14C (§ 240.14c–101) of Regulation 14C under the Securities Exchange Act of 1934:

Item 2. Statement that proxies are not solicited; and

Item 3. Date, time and place of meeting.

(c) In addition to the information called for by paragraphs (a) and (b) above, in all cases include the following:

(i) *Dissenters' Rights of Appraisal.* Outline briefly appraisal or other similar rights of dissenters with respect to the proposed transaction and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights. Where such rights may be exercised only within a limited time after the date of adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

Instruction. Indicate whether or not a security holder's failure to vote against a proposal will constitute a waiver of his appraisal or other similar rights and whether or not a vote against a proposal will be deemed to satisfy any notice requirements under state law with respect to appraisal rights. If the state law is unclear, state what position will be taken in regard to these matters.

(ii) *Beneficial Ownership.* Provide the information required by Items 6(a) and 6(b) of Regulation S–K (§ 229.20) with respect to both the issuer of the securities being registered and the company being acquired. To the extent that this information is already provided pursuant to paragraph (a) of this Item, a statement to that effect will suffice.

(iii) *Executive Officers and Directors.* With respect to the issuer, provide the information required by Item 3 of Regulation S–K. With respect to the company being acquired, identify each of the executive officers and directors and indicate the principal occupation or employment of each such person and the name and principal business of any organization by which such person is so employed.

Item 5. *Interest of Certain Persons in the Transaction.* Describe briefly any material interest, direct or indirect, by security holdings or otherwise, of affiliates of the issuer and of the company being acquired, in the proposed transaction.

Instruction. This item shall not apply to any interest arising from the ownership of securities of the issuer where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

Item 6. *Additional Information With Respect to the Issuer.* (a) Provide financial and other information with respect to the issuer in the form required by Part I of Form 10–Q (§ 249.308a) as of the end of the most recent fiscal quarter for which a Form 10–Q has been filed or as of a more recent date by one of the following means:

(i) Including such information in the prospectus;

(ii) Delivering to each person to whom a prospectus is delivered a copy of the issuer's latest Form 10–Q; or

(iii) Delivering to each person to whom a prospectus is delivered a copy of the issuer's latest quarterly report which was delivered to its security holders and which included the required financial and other information.

Instruction. Form 10–Q(s) which are to accompany the prospectus should be filed and quarterly reports to security holders which are to accompany the prospectus should be delivered to the staff ten days prior to the expected effective date of the registration statement.

(b) Describe any and all material changes in the issuer's affairs which have occurred since the end of the latest fiscal year for which certified financial statements were included in the latest annual report to security holders. Financial information may be required in the prospectus if the financial statements in the annual report to security holders do not reflect the results of a significant business combination accounted for as a pooling of interests or as a purchase or a change in accounting principles where such change requires a substantial

retroactive restatement of financial statements.

(c) State that reports, proxy statements and other information filed by the issuer can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and state the current address of such facility, and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates.

(d) Name any national securities exchange on which the issuer's securities are listed, and state that reports, proxy statements and other information concerning the issuer can be inspected at such exchanges.

(e) Include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of any and all of the information which has been incorporated by reference in the registration statement, other than exhibits to such information. Indicate the name, address and telephone number of the person to whom such a written request is to be directed.

Item 7. *Additional Information With Respect to the Company Being Acquired.* (a) If the Company being acquired has a class of securities registered under Section 12 of the Securities Exchange Act of 1934, has furnished an annual report to security holders pursuant to Rule 14a–3 or Rule 14c–3 for its latest fiscal year, and such annual report is incorporated by reference into and delivered with the prospectus pursuant to the option provided by Item 3(a), provide financial and other information with respect to the company being acquired in the form required by Part I of Form 10–Q as of the end of the most recent of the first three fiscal quarters which ended more than forty-five days prior to the effective date of this registration statement or as of a more recent date by one of the following means:

(i) Including such information in the prospectus;

(ii) Delivering to each person to whom a prospectus is delivered a copy of the latest Form 10–Q filed by the company being acquired; or

(iii) Delivering to each person to whom a prospectus is delivered a copy of the latest quarterly report which was delivered to the security holders of the company being acquired and which included the required financial and other information.

Instruction. Form 10–Q(s) which are to accompany the prospectus should be filed and quarterly reports to security holders which are to accompany the prospectus should be delivered to the staff ten days prior to the expected effective date of the registration statement.

(b) Describe any and all material changes in the affairs of the company being acquired which have occurred since the end of the latest fiscal year for which certified financial statements have been included either:

(i) In the annual report to security holders delivered pursuant to Item 10 of this form; or

(ii) In the prospectus as a result of the provisions of paragraph (c)(v) of Item 3 of this Form.

Financial information may be required in the prospectus if such financial statements do not reflect the results of a significant business combination accounted for as a pooling of interests or as a purchase or a change in accounting principles where such change requires a substantial retroactive restatement of financial statements.

(c) Describe any changes in control of the company being acquired which have occurred within thirty-six months prior to the filing date of the registration statement.

(d) If the company being acquired has a class of securities registered under Section 12 of the Securities Exchange Act of 1934 or is required to file reports under Section 15(d) of that Act:

(i) State that reports and other information filed by the company being acquired can be inspected and copied at the public reference facilities maintained by the Commission in Washington, D.C., and state the current address of such facility, and that copies of such material can be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates;

(ii) Name any national securities exchange on which the securities of the company being acquired are listed, and state that reports, proxy statements and other information concerning the company being acquired can be inspected at such exchange; and

(iii) Include an undertaking to provide without charge to each person to whom a prospectus is delivered, on the written request of such person, a copy of any and all of the information which has been incorporated by reference in the registration statement, other than exhibits to such information. Indicate the name, address and telephone number of the person to whom such a written request is to be directed.

Item 8. *Additional Information Required for Reoffering by Persons and Parties Deemed to be Underwriters.* If any of the securities are to be reoffered to the public by any person or party who is deemed to be an underwriter thereof the prospectus shall, at the time of such offering, include the following additional information which would then be required to be included in the prospectus by the appropriate registration form, other than Form S–15, to the extent that such information is not already included in the prospectus:

(a) Information in regard to the persons and parties on whose behalf the securities are to be offered and the underwriting and distribution of such securities;

(b) Information with respect to the consummation of the transaction pursuant to which the securities were acquired and any material developments in the business or affairs of the issuer subsequent to the transaction; and

(c) Any other information necessary to make the prospectus current, including financial statements of the issuer and any other party to the transaction.

Item 9. *Information Delivered and Incorporated by Reference.* (a) A statement shall be made indicating that the prospectus is accompanied by the following documents:

(i) The issuer's latest annual report to security holders; and

(ii) If the company being acquired has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, has furnished its annual report for its latest fiscal year to security holders pursuant to and meeting the requirements of Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3), and the issuer has elected pursuant to the option provided by Item 3(a) to incorporate by reference from such annual report and deliver it with the prospectus, such annual report.

(b) A statement shall be made that certain information has been incorporated by reference, including but not limited to specified portions of the document(s) which accompany the prospectus. The issuer may also state, if it so chooses, that specifically described portions of those documents are not incorporated by reference and are not a part of the registration statement. In such case, the description of portions which are incorporated by reference or which are excluded shall be made with clarity and in reasonable detail. The detailed description of all material incorporated by reference may, at the issuer's option, either be included in the prospectus or in Part II of the registration statement in response to Item 11 or in both places.

Part II. Information Not Required in Prospectus; Undertakings

Item 10. *Undertaking To Transmit Certain Material.* The registration statement shall contain an undertaking substantially as follows:

"The undersigned issuer hereby undertakes to deliver or cause to be delivered with the prospectus to each person to whom the prospectus is sent or given by the issuer or by the acquired company:

(i) The issuer's latest annual report to security holders; and

(ii) The latest annual report to security holders of the company being acquired furnished pursuant to and meeting the requirements of Rule 14a–3 or Rule 14c–3."

However, if the issuer either does not have available or does not elect the option provided by Item 3(a) to incorporate by reference and deliver the annual report to security holders of the company being acquired, then paragraph (ii) of this undertaking may be omitted.

Item 11. *Incorporation of Certain Information by Reference.* (a) The following information contained in the annual report(s) to security holders delivered with the

prospectus pursuant to Item 10 shall be specifically incorporated by reference into the registration statement by means of a statement to that effect in Part II filed with the Commission (*see* Item 9(b)):

(i) Description of business furnished in accordance with the provisions of Rule 14a-3(b)(5);

(ii) Certified financial statements furnished in accordance with the provisions of Rule 14a-3(b);

(iii) Supplementary financial information furnished in accordance with the provisions of Rule 14a-3(b)(3);

(iv) Information relating to industry segments, classes of similar products or services, foreign and domestic operations and export sales furnished in accordance with the provisions of paragraphs (b), (c)(1)(i) and (d) of Item 1 of Regulation S-K (§ 229.20);

(v) Market for common stock and related security holder matters furnished in accordance with Item 9 of Regulation S-K;

(vi) Selected financial data furnished in accordance with Item 10 of Regulation S-K; and

(vii) Management's discussion and analysis of financial condition and results of operations furnished in accordance with Item 11 of Regulation S-K.

(b) The following documents shall be specifically incorporated by reference into the registration statement, by means of a statement to that effect in Part II filed with the Commission (*see* Item 9(b)):

(i) Any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the issuer on or after the end of the issuer's latest fiscal year reported on in the annual report to security holders delivered with the prospectus pursuant to Item 10 and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable State law or, if no such vote or consent is solicited, the date of the transaction described in the registration statement is fully consummated; and

(ii) Any reports filed pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 by the company being acquired on or after the end of such company's latest fiscal year as reported on in the annual report to security holders delivered with the prospectus pursuant to Item 10 or as reported on in the prospectus pursuant to Item 3 and prior to the date the vote or consent solicited pursuant to the registration statement is final under applicable State law or, if no such vote or consent is solicited, the date the transaction in the registration statement is fully consummated.

Item 12. *Undertaking To File Prospectuses as Amendments.* The registration statement shall contain an undertaking substantially as follows:

"The undersigned issuer hereby undertakes as follows:

(a) That prior to any public reoffering of the securities registered hereunder through the use of a prospectus which is a part of this registration statement, by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the issuer undertakes that such reoffering prospectus will contain, or will be amended to contain, the information called for by Item 8 with respect to the securities to be so offered, in addition to the information called for by the other Items of Form S-15;

"(b) That every prospectus which is filed pursuant to paragraph (a) above, or which purports to meet the requirements of Section 10(a)(3) of the Act, will be filed as a part of an amendment to the registration statement and will not be used until such amendment has become effective, and that for the purpose of determining liabilities under the Act, the effective date of such amendment shall be deemed the effective date of the registration statement with respect to securities sold after such amendment has become effective;

"(c) That all such new registration statements will comply with the applicable forms, rules and regulations of the Commission in effect at the time such post-effective amendments are filed; and

"(d) That the issuer will remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering."

Item 13. *Interest of Experts Named in Registration Statement.* If any expert named in the registration statement as having prepared or certified any part thereof was employed for such a purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, had a substantial interest in the issuer or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer or employee, furnish a brief statement of the nature of such contingent basis, interest or connection.

Item 14. *Exhibits.* Subject to the rules regarding incorporation by reference, the exhibits as required by Item 7 of Regulation S-K (17 CFR 229.20) shall be filed as a part of the registration statement. List all exhibits so filed and appropriately letter or number each exhibit for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits.

Signatures. Pursuant to the requirements of the Securities Act of 1933, the issuer has duly caused this registration statement to be signed on its behalf of the undersigned, thereunto duly authorized, in the City of ———, State of ———, on ———, 19——.

(Issuer) ———

By (Signature and Title) ———

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

(Signature) ———

(Title) ———

(Date) ———

Instructions

1. The registration statement shall be signed by the issuer, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions. .

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement.

PART 201—RULES OF PRACTICE

2. By amending § 201.24 to read as follows:

§ 201.24 Incorporation by reference.

Where rules, regulations, or instructions to forms of the Commission permit incorporation by reference, a document may be so incorporated by reference to the specific document and, where the document being incorporated by reference has been filed with the Commission, to the prior filing in which such document was physically filed. Reference may not be made to any document which incorporates another document by reference if the pertinent portion of the document containing the information or financial statements to be incorporated by reference includes an incorporation by reference to another document. No document on file with the Commission for more than five years may be incorporated by reference except—

(a) Documents contained in registration statements which may be incorporated by reference as long as the registrant has a reporting requirement with the Commission;

(b) Documents that the registrant specifically identifies by physical location and by SEC file number reference, provided such materials have not been disposed of by the Commission pursuant to its Records Control Schedule (17 CFR 200.80f).

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

3. By amending Table I of Item 7 (added at 45 FR 58825, Sept. 5, 1980) of § 229.20 to read as follows:

Table I.—*Securities Act of 1933—Frequently Used Forms*

	S-1	S-2	S-7	S-8	S-11	S-14	S-15	S-16
(1) Underwriting agreement	X	X	X	.....	X	X	.....	X
(2) Plan of acquisition, reorganization arrangement, liquidation or succession.	X	.....	X	.....	X	X	X	[1]X
(3) Articles of incorporation and by-laws.	X	X	.....		X	X	.....	
(4) Instruments defining the rights of security holders, including indentures.	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X	X
(6) Opinion re discount on capital shares.	X	X	X	.....	X	X	.....	
(7) Opinion re liquidation preference	X	X	X	.....	X	X	.....	
(8) Opinion re tax matters	X	X	X	X	X	X	X	X
(9) Voting trust agreement	X	X	.....		X	X	.....	
(10) Material contracts	X	X	X	.....	X	X	X	.....
(11) Statement re computation of per share earnings.	X	.....	X	.....	X	X	.....	
(12) Statements re computation of ratios[2].	X	.....	X	.....	X	X	.....	
(13) Annual report to security holders	.....			X	.....			
(14) Material foreign patents	X	X	.....			X	.....	
(15) Instruments defining the rights of participating employees.	[3]X	.....		X	.....			
(16) Letter re unaudited financial information.	X	X	X	X	X	X	X	X

[1] Such plans need not be filed for secondary offerings on this form.
[2] Such statements are necessary only when such ratios are furnished.
[3] This exhibit need only be filed for the registration of securities offered pursuant to an employee benefit plan of the registrant.

* * * * *

§ 229.20 Information required in document.

* * * * *

Item 7. Exhibits.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

4. By amending paragraph (b) of § 230.411 to read as follows:

§ 230.411 Incorporation of certain information by reference.

* * * * *

(b) Any financial statement or part thereof filed with the Commission pursuant to any Act administered by the Commission, or any financial statement or part thereof contained in an annual report to security holders prepared in compliance with Rule 14a–3 (§ 240.14a–3) or Rule 14c–3 (§ 240.14c–3), and furnished to security holders and mailed to the Commission in compliance with those rules, may be incorporated by reference in any registration statement if it substantially conforms to the requirements of the appropriate form and is not required to be included in the prospectus. However, a financial schedule incorporated by reference to an annual report filed with the Commission pursuant to any Act administered by it need not be certified, if such schedule was not required to be certified in connection with the filing of the annual report, any requirement of any registration form to the contrary notwithstanding.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

5. By amending paragraph (a) of § 240.14a–3 to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

(a) No solicitation subject to this regulation shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in Schedule 14A (§ 240.14a–101) or with a written proxy statement included in a registration statement filed under the Securities Act of 1933 on Form S–15 (§ 239.29) and containing the information specified in such Form.

* * * * *

6. By amending paragraph (i) of § 240.14a–6 to read as follows:

§ 240.14a–6 Material required to be filed.

* * * * *

(i) Notwithstanding the foregoing provisions of this section, any proxy statement, form of proxy or other soliciting material included in a registration statement filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) or Form S–15 (§ 239.29 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section nor shall any fee be required under paragraph (i) of this section. However, any additional soliciting material used after the effective date of the registration statement on Form S–14 or Form S–15 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

* * * * *

7. By revising the introductory text of paragraph (a) and paragraph (a)(2) of § 240.14a–12 to read as follows:

§ 240.14a–12 Solicitation Prior to Furnishing Required Proxy Statement.

(a) Notwithstanding the provisions of Rule 14a–3(a) (§ 240.14a–3(a)), a solicitation (other than one subject to Rule 14a–11 (§ 240.14a–11)) may be made prior to furnishing security holders a written proxy statement meeting the requirements of Rule 14a–3(a) if—

* * * * *

(2) No form of proxy is furnished to security holders prior to the time the written proxy statement required by Rule 14a–3(a) (§ 240.14a–3(a)) is furnished to security holders: *Provided, however,* That this subparagraph (2) shall not apply where a proxy statement then meeting the requirements of Rule 14a–3(a) has been furnished to security holders by or on behalf of the person making the solicitation.

* * * * *

8. By amending paragraph (a) of § 240.14c–2 to read as follows:

§ 240.14c–2 Distribution of information statement.

(a) In connection with every annual or other meeting of the holders of a class of securities registered pursuant to section 12 of the Act, including the taking of corporate action with the written authorization or consent of the holders of a class of securities so registered, the issuer of such securities shall transmit a written information statement containing the information specified in Schedule 14C (§ 240.14c–101) or a written information statement included in a registration statement filed under the Securities Act of 1933 on Form S–15 (§ 239.29) and containing the information specified in such form, to every such security holder who is entitled to vote or give an authorization or consent in regard to any matter to be acted upon and from whom a proxy, authorization or consent is not solicited

on behalf of the management of the issuer pursuant to section 14(a) of the Act: *Provided, however,* That in the case of a class of securities in unregistered or bearer form, such statements need be transmitted only to those security holders whose names are known to the issuer.

* * * * *

9. By amending paragraph (e) of § 240.14c–5 to read as follows:

§ 240.14c–5 Filing of information statement.

* * * * *

(e) Notwithstanding the foregoing provisions of this section, any information statement or other material included in a registration statement filed under the Securities Act of 1933 on Form S–14 (§ 239.23 of this chapter) or Form S–15 (§ 239.39 of this chapter) shall be deemed filed both for the purposes of that Act and for the purposes of this section, but separate copies of such material need not be furnished pursuant to this section, nor shall any fee be required under paragraph (a) of this section. However, any additional material used after the effective date of the registration statement on Form S–14 or Form S–15 shall be filed in accordance with this section but separate copies of such material need not be filed as an amendment of such registration statement.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 1, 79 Stat. 1051; 15 U.S.C. 77f, 77g, 77j, 77s(a); secs. 14(a), 23(a), 48 Stat. 985, 901; sec. 203(a), 49 Stat. 704; sec. 8, 49 Stat. 1379; sec. 5, 78 Stat. 569, 570; sec. 18, 89 Stat. 155; 15 U.S.C. 78n(a), 78w(a); secs. 12(e), 20(a), 49 Stat. 823, 833; 15 U.S.C. 79*l*, 79t; secs. 20(a), 38(a), 54 Stat. 822, 841; 15 U.S.C. 80a–20(a), 80a–37(a))

Statutory Authority and Findings

The Commission hereby adopts Form S–15 and the foregoing amendments to 17 CFR Parts 201, 229, 230, and 240 pursuant to the Securities Act of 1933, particularly Sections 6, 7, 10 and 19(a) thereof, and pursuant to Sections 14(a) and 23(a) of the Securities Exchange Act of 1934, Sections 12(e) and 20(a) of the Public Utility Holding Company Act of 1935, and Sections 20(a) and 38(a) of the Investment Company Act of 1940.

As required by Section 23(a) of the Exchange Act, the Commission has specifically considered the impact that the new Form and related rule amendments would have on competition and has concluded that they would impose no significant burden on competition not necessary or appropriate in furtherance of the purposes of that Act.

Pursuant to Section 553(d) of the Administrative Procedure Act of 1949 (5 U.S.C. 553), the Commission finds for good cause that the new Form and related Rule amendments may be used and relied upon prior to their effective date by any persons desiring to do so, provided that they comply with all applicable provisions of the Form.

By the Commission.

George A. Fitzsimmons,

Secretary.

September 2, 1980.

[FR Doc. 80–27814 Filed 9–19–80; 10:30 am]

BILLING CODE 8010–01–M

---

17 CFR Parts 210, 229, 240, and 249

[Release Nos. 33–6233; 34–17116; 35–21699; IC–11325; AS–280]

General Revision of Regulation S–X

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting a general revision of Articles 3 and 5 and the related sections of Article 12 of Regulation S–X ("S–X"), the regulation which prescribes the form and content of and requirements for financial statements. The changes in the content of S–X (i) eliminate rules which are presently duplicative of generally accepted accounting principles ("GAAP"), (ii) effect changes to recognize predominant current practice and changes in circumstances, (iii) clarify and modify requirements which are presently subject to differing interpretations, and (iv) expand certain requirements to improve financial reporting. These changes have been structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S–X.

EFFECTIVE DATE: Effective for companies with fiscal years ended after December 15, 1980. However, upon publication in the **Federal Register**, earlier implementation is encouraged.

FOR FURTHER INFORMATION CONTACT: Arthur J. Schmeiser, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202–272–2133).

SUPPLEMENTARY INFORMATION: In Securities Act Release No. 6178 issued January 15, 1980, the Commission proposed for comment revisions to Articles 3 and 5 and the related sections of Article 12 of Regulation S–X. The purposes of the proposal were to:

(i) Eliminate rules which are presently duplicative of generally accepted accounting principles,

(ii) Effect changes to recognize predominant current practice and changes in circumstances,

(iii) Clarify and modify requirements which are presently subject to differing interpretations, and

(iv) Expand certain requirements to improve financial reporting.

These proposed changes were structured in a manner to facilitate the integration of the Securities Act of 1933 and the Securities Exchange Act of 1934 by attaining uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S–X.

More than 300 letters of comment were received on the proposal. After giving these comments careful consideration, the Commission has determined to adopt the amendments with some revisions which are responsive to the comments. Generally, commentators were in accord with the revisions which related to the first three objectives enumerated above and those revisions have been adopted substantially as proposed. On the other hand, many commentators opposed the last objective, expansion of certain requirements to improve financial reporting, and the proposal to conform the financial statements included in annual reports to shareholders to those prepared in accordance with S–X. Nevertheless, the Commission has determined to adopt the rule which provides for uniformity between financial statements included in annual reports to shareholders and those prepared in accordance with S–X. The proposed expanded disclsoure of the components of income tax expense has been withdrawn and the present disclosure requirements have been retained substantially; however, a requirement to disclose domestic and foreign income before income tax expense has been adopted. The present form of the property, plant and equipment schedules has been retained. The proposed property, plant and equipment schedules are being considered further and the issuance of a separate revised proposal is being evaluated. Additionally, certain commentators addressed rules which were proposed to be unchanged from previous S–X requirements and as a result further revisions have been adopted.