

Foreign Agricultural Service**7 CFR Part 1540****Emergency Relief From Certain Perishable Products Imported From Israel**

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule pertaining to emergency relief from increased, injurious imports of certain perishable products from Israel entering the United States at a reduced rate of duty or duty-free pursuant to a trade agreement between the United States and Israel. It corrects "Subpart B—Emergency Relief From certain Perishable Products Imported From Israel" with regard to the authority citation for Subpart B.

FOR FURTHER INFORMATION CONTACT: Lyle Sebranek (202) 382-1289.

Correction

In FR Doc. 85-25804 beginning on page 43691 in the issue of Tuesday, October 29, 1985, in the middle column of page 43692, item number 1 is corrected to read as follows:

1. The authority citation for Subpart B and a cross reference are added to read as follows:

Authority: Sec. 404, Pub. L. 98-573, 98 Stat. 3018, as amended (19 U.S.C. 2112 note); 5 U.S.C. 301.

Cross Reference: For U.S. International Trade Commission regulations concerning investigations of import injury and the rules pertaining to the filing of a Section 201 petition, see 19 CFR Part 208.

Issued at Washington, DC, this 21st day of November 1985.

Leo V. Mayer,
Acting Administrator, FAS.

[FR Doc. 85-28705 Filed 12-2-85; 8:45 am]

BILLING CODE 3410-10-M

FEDERAL RESERVE SYSTEM**12 CFR Part 227**

[Reg. AA]

Unfair or Deceptive Acts or Practices; Issuance of Staff Guidelines on the Credit Practices Rule**Correction**

In FR Doc. 85-26982 beginning on page 47036 in the issue of Thursday, November 14, 1985, make the following corrections:

1. On page 47036, third column, fifteenth line from the bottom, "Section 13(f)" should have read "Section 18(f)".

2. On page 47039, second column, under the heading for "Household Goods", third paragraph, "Q12(b)-2" should have read "Q12(d)-2".

3. On page 47040, second column, tenth line, "15 U.S.C." should have read "15 U.S.C. 1693".

4. On page 47042, second column, fifth paragraph, second line from the bottom, insert the word "not" between "would" and "be".

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD**12 CFR Part 564**

[No. 85-1069]

Federal Savings and Loan Insurance Corporation; Settlement of Insurance; Reconsideration Procedures

Dated: November 22, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is amending its regulations concerning the settlement of insurance on accounts in insured institutions in default. The amendments are intended to clarify and increase the efficiency of the current procedures under which a holder of such an account may obtain agency reconsideration of a determination that all or a portion of such an account is uninsured.

EFFECTIVE DATE: November 29, 1985.

FOR FURTHER INFORMATION CONTACT: Sandra L. Richardson, Attorney, (202-377-6432), or Christina M. Gattuso, Attorney, (202-377-7240), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Pursuant to section 405(b) of the National Housing Act, the Corporation is authorized, in the event of a default by an institution the accounts of which are insured by the Corporation ("insured institution"), to make payment of insurance on accounts and to require the filing of proofs of claims prior to paying insurance. 12 U.S.C. 1728(b) (1982). Section 564.1 of the Insurance Regulations provides that, in the event of a default by an insured institution, the Corporation shall determine from the books and records of the institution or otherwise the insured

members of the institution and the amount of each insured member's account(s), and shall give each insured member notice of the time and place of payment of insurance on accounts. 12 CFR 564.1(a) (1985). The Board, as operating head of the Corporation, has delegated on a case-by-case basis the authority to settle and pay insurance, in accordance with section 405 of the National Housing Act and its implementing regulations, to the Director, Deputy Director, an Associate Director, or the Director of the Insurance Division, Office of the FSLIC.

Section 405(b) of the National Housing Act neither precludes reconsideration by the agency of such insurance determinations nor provides a formal mechanism for such reconsideration. However, due to an increase in the number of inquiries by accountholders as to the availability of administrative review of insurance determinations, the Board adopted formal reconsideration procedures. See 12 CFR 564.1(d) (1985).

On April 17, 1985, the Board proposed a rule which would clarify and streamline the insurance reconsideration procedures, the initial determination procedures, and the interrelationship between these two steps in the insurance claims determinations process. See 50 FR 19030 (May 6, 1985). This action was taken as a result of the Board having become aware of administrative difficulties inherent in the reconsideration procedures and that considerable confusion existed on the part of accountholders with respect to the procedures. Specifically, accountholders had expressed confusion concerning the purpose, intent, and practical application of the reconsideration procedures and the effect of such procedures upon the procedures used by the Corporation in reaching insurance determinations. As a result of this confusion, the efficiency of the reconsideration procedures had significantly decreased.

The Board received three public comments in response to the proposed rule. Of these comments, two were from insured institutions and one was from a thrift industry trade association. All of the commenters expressed support for the proposed rule change.

A few minor modifications to the proposed rule, however, were suggested by the commenters, including modifications to the time limits for filing supplemental information set forth in the proposal. As discussed further below, the Board, after considering these comments, has decided to finally adopt the time limits applicable to

supplemental information in amended form.

One commenter also advocated including in the final rule a statement indicating that insured accounts which were not in excess of \$100,000 and were not subject to dispute would be paid within 30 days (or within another specific time frame). Although the Board realizes the desirability of such a provision from an accountholders' perspective, pursuant to section 405(a) of the National Housing Act the Corporation is required to make payments on insured accounts "as soon as possible"—not within 30 or 60 days, 12 U.S.C. 1728(b) (1982). In this regard, the Board notes that, following the default of two institutions recently, 72% of the total dollar amount of claims outstanding in each insured institution were settled and paid within 2 weeks from the date of default. In these circumstances, the Board believes it is unnecessary and inappropriate to set a specific time limit in which claims must be paid.

Finally, one commenter suggested that the Corporation outline the procedures for reconsideration and distribute the procedures directly to accountholders upon notification that all or a portion of their accounts are uninsured. This commenter maintained that the Board's attempt to eliminate confusion among accountholders would be more effective if the procedures were communicated directly to accountholders. However, in view of the fact that the procedures for submitting requests for reconsideration will be set forth in the regulation, which is publicly available, and that accountholders will be informed of their right to file for reconsideration in the initial determination, with reference to the relevant regulation, the Board finds that any additional notice is unnecessary.

After reviewing the comments, which are discussed more fully below, and considering other available information, the Board has determined to adopt the regulation substantially as proposed, with modifications as described.

Description of Final Rule

1. General

The proposed amendments to § 564.1(d)(1) and (2) clarified that determinations on reconsideration of initial determinations, and not initial determinations, constitute final agency action on insurance claims. The proposal also provided that the failure of an accountholder to file a request for reconsideration of an initial determination constitutes an acceptance by the accountholder of the initial

determination. The proposal further granted the Director of the Office of the FSLIC ("Director") the authority to delegate authority to make determinations on insurance of accounts to a designee. No comments were received which addressed these provisions of the proposed rule. The Board believes these changes will heighten efficiency by promoting better understanding by accountholders of the reconsideration procedures and streamlining the Board's administrative processing of appeals. The Board therefore is adopting these provisions as proposed.

2. Request for Reconsideration

The proposal would change the current requirement that a request for reconsideration must be filed within 60 days of receipt of an initial determination to within 60 days of the issuance of an initial determination (i.e., the date indicated on the letter or memorandum constituting the initial determination). One commenter expressed concern that this change would decrease the amount of time that an accountholder has to contest an initial determination, and recommended retaining the current rule.

The Board believes that this change will significantly increase the efficiency of the appeals process by enabling the Corporation to determine more readily the expiration date for filing a request for reconsideration. The Board further finds that 60 days, inclusive of mailing time, provides ample time for the accountholder to file a reconsideration request. The Board has therefore adopted this provision as proposed.

The Board is also adopting without change proposed amendments which require the accountholder to provide specific information and documents in support of the request for reconsideration. Under the proposed and final amendments, the accountholder must provide a statement of the facts on which the claim for insurance is based and a statement of objections to the initial determination and the alleged error in the determination. Additionally, the accountholder must provide copies of records and specifically identify the facts and matters relied upon in seeking a reconsideration. The Board believes that this provision will increase the efficient use of staff resources and result in more speedy resolution of claims.

The proposal also included a provision authorizing the Director to require, within a specified period of time, that the accountholder submit additional information in support of the request. This provision required the

accountholder to provide the supplementary information within 30 days from the date of issuance of the written request for information. Two commenters argued that the 30-day period was too restrictive and recommended that the period for submission of information in response to the Director's request should be extended to 60 days. One commenter argued that the 30-day period was too short because requests for supplementary information may involve time-consuming record searches and consultations with divisions or affiliates of corporate accountholders. Additionally, both commenters noted that the mailing time involved (that is, mailing the written request to the accountholder and mailing the requested information to the Corporation) could substantially reduce the time allowed to provide supplementary information.

The Board believes that these concerns are well-founded and has therefore provided a 45-day time period for submission of supplementary information in the final rule. The Board believes that a 45-day time period will allow accountholders ample time to provide supplementary information. In addition, the Board believes that an extension of this period for submission of additional information will not adversely affect the Corporation's ability to expeditiously resolve insurance appeals.

The Board also has determined to modify the proposed amendment to extend the period during which the Director may require additional information from the accountholder. The proposal provided that the Director could request such information within 30 days of the date of receipt of the request for reconsideration. The proposed and final amendment, however, permits an accountholder to voluntarily amend or supplement its reconsideration request within 60 days from the date of the Corporation's receipt of the request. Thus, the Board believes that for purposes of consistency and simplicity, the Corporation also should have 60 days from the date of receipt of the reconsideration request to require additional information from the accountholder. The Board believes that this modification will not adversely affect the accountholder because under both the proposed and final regulations, the Corporation cannot grant or deny the reconsideration request until the time period during which the accountholder may voluntarily amend or supplement its request expires.

The proposal further provided that, in the event the Corporation failed to grant

or deny an accountholder's request for reconsideration within 60 days from the last day on which an accountholder might amend, supplement or submit additional information to its request for reconsideration, the request for reconsideration would be deemed to be denied. One commenter objected to this provision, contending that denials of requests for reconsideration should be accompanied by a written statement in order to promote confidence and understanding among depositors. This commenter also argued that the accountholder should not have to bear the consequences if the Corporation is unable to adequately consider and evaluate requests for reconsideration in a timely fashion.

The Board has taken these comments into consideration and has determined that this provision should not be modified. This provision was initially included for the benefit of accountholders and is intended to address the exceptional situation where, due to a large volume of requests for reconsideration filed, a determination with regard to an accountholder's request is not made within the prescribed time period. Because the failure of the Director to act within the specified time frame constitutes a final agency action for purposes of judicial review, the accountholder would then be able to seek immediate judicial review.

The Board also believes that the provision is fair to the accountholder because the accountholder will be advised of the reasons that insurance coverage was denied in the initial determination. The Board notes that the Corporation will acknowledge receipt, in writing, of the accountholder's request for reconsideration. The Board believes that such acknowledgment will provide the accountholder with notice of the date on which the 60-day period will expire. The Board has therefore adopted the provision as proposed.

The proposal also provided that an accountholder's failure to file a request for reconsideration would be deemed to be a waiver of any objection to the initial determination. Similarly, the proposal deemed an accountholder's failure in its request for reconsideration to object to a part of the initial determination to be a waiver of any objection to that part of the initial determination. The Board received no comments opposed to these amendments, and is adopting these provisions as proposed.

3. Determination on Reconsideration

The proposed amendments extended the time period for the Director's

issuance of a determination on reconsideration from 90 to 180 days from the date the request for reconsideration was granted. The proposal further provided that the Director's failure to issue a written determination within the allotted time period would be deemed to constitute a denial of the reconsideration claim. One commenter objected to this provision of the rule, claiming that an accountholder should be entitled to receive a written determination containing the reasons for the denial of the reconsideration claim.

It is the view of the Board that the proposed provision will best serve its dual goals of settling accountholder's claims fairly and as expeditiously as possible. Further, by setting a specific time in which a determination must be made, the proposed amendment allows accountholders to more readily seek judicial review of a decision. In addition, the initial determination will provide the accountholder with the basis for denial of insurance coverage. For these reasons, the Board is adopting this provision as proposed.

4. Judicial Review

The proposed amendments added a new section to the Insurance Regulations concerning judicial review of final insurance determinations. The proposal provided that an accountholder may seek judicial review of any determination on reconsideration issued by the Director under paragraph (d)(4) or of any initial determination if the accountholder filed a request for reconsideration and such request was denied pursuant to paragraph (d)(3)(iii)(c). The proposal further provided that an initial determination, which was not the subject of a request for reconsideration, does not constitute a final agency action for purposes of seeking judicial review. Thus, the proposal treated an accountholder's failure to file a request for reconsideration as a waiver of any objections to the initial determination and consequently deemed the accountholder to have accepted the initial determination. The Board received no comments concerning this section of the proposal and is therefore adopting the section as proposed.

5. Effective Date

The Board has determined that observation of the 30-day delay of effective date following publication of the regulation pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because the amendments pertain to internal agency procedures and are basically technical in nature. The Board believes that immediate implementation

of the rule would not adversely affect accountholders at insured institutions in default because accountholders would still have the same period of time in which to file a request for reconsideration. Immediate implementation of the rule will in fact benefit accountholders by setting forth procedures for submission of additional information and for amendment and supplementation of requests for reconsideration which are not set forth in the current rule. The Board further believes that the amendment, by eliminating the confusion that exists with regard to the current procedures, will heighten the efficiency of the reconsideration process and provide for speedier resolution of claims. The Board also notes that the purpose of some of the amendments is to codify policies and procedures that have been followed by the Board in reaching determinations on requests for reconsideration. Finally, the board notes that all comments received in response to the rule, although few in number, expressed support for the rule.

The Board has therefore determined to apply the rule to all requests for reconsideration filed on or after November 29, 1985, the effective date of the final rule. With respect to requests for reconsideration filed with the Director prior to November 29, 1985, but regarding which a determination has not been issued as of that date, such requests shall be deemed to have been filed on November 29, 1985, and the new procedures shall apply to such requests.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are incorporated above in "SUPPLEMENTARY INFORMATION" regarding the rule.

2. *Issues raised by comments and agency assessment and response.* These elements are incorporated above in "SUPPLEMENTARY INFORMATION" regarding the rule.

3. *Significant alternatives minimizing small-entity impact and agency response.* The Board is not aware of any alternatives to the proposal and no alternatives were offered by commenters.

List of Subjects in 12 CFR Part 564

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 564, Subchapter D, Chapter V of Title 12 of

the Code of Federal Regulations, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 564—SETTLEMENT OF INSURANCE

1. The authority for 12 CFR Part 564 continues to read as follows:

Authority: Section 308, Pub L. 96-221; secs. 401, 402, 403, 405, 48 Stat. 1255, 1257, 1259, as amended; 12 U.S.C 1724, 1725, 1726, 1728; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071

2. Amend paragraph (d) of § 564.1 as follows:

Amend paragraph (d)(1) by inserting "initial" between the words "make" and "determinations" in the first sentence, inserting "or his or her designee" between "Corporation" and "Director"; "made" between "determinations" and "by" in the second sentence, and removing the third sentence in its entirety;

Amend paragraph (d)(2) by substituting "Initial determination" for "Determination by the Director of the Insurance Division" in the heading, inserting "initial" between the words "such" and "determination" in the first sentence, and removing the last sentence and substituting the following sentence therefore: " * * * Failure of the accountholder to file with the Director a request for reconsideration pursuant to paragraph (d)(3) of this section shall be deemed to constitute acceptance of the initial determination by the accountholder."

Revise paragraphs (d)(3) and (d)(4) as set forth below; and add new paragraphs (d)(5), and (d)(6) and (d)(7) as set forth below:

§ 564.1 Settlement of insurance upon default.

* * *

(d) Processing of insurance claims.

(3) Request for reconsideration—(i)

Time for filing. Within 60 days after issuance of an initial determination by the Director of the Insurance Division that all of a portion of an accountholder's account is uninsured, such accountholder may obtain reconsideration of the initial determination by filing with the Director a written request for reconsideration.

(ii) *Content of request.* Any request for reconsideration must include:

(a) A statement of the facts on which the claim for insurance is based;

(b) A statement of the basis for the initial determination to which the

accountholder objects and the alleged error in such determination, including citations to applicable statutes and regulations

(c) Copies of the accountholder's records, maintained in good faith and in the ordinary course of business, which support the accountholder's claim for insurance;

(d) A separate identification and statement of all facts and matters relied upon by the accountholder seeking reconsideration which were not previously provided to the Director of the Insurance Division, together with all records maintained in good faith and in the ordinary course of business which support the accountholder's claim for insurance, in the event that reconsideration is sought based on matters not available for consideration by the Director of the Insurance Division at the time of the issuance of the initial determination.

(iii) Procedures for review of request.

(a) Within 60 days of the date of the Director's receipt of a request for reconsideration, the Director may request in writing that the accountholder submit additional facts and records in support of its request. If additional information is requested by the Director, the accountholder shall have 45 days from the date of issuance of such written request to provide such additional information. Failure by the accountholder to provide such additional information may, as determined solely by the Director, result in denial of the accountholder's request that the initial determination be reconsidered.

(b) Within 60 days from the date of the Director's receipt of a request for reconsideration, the accountholder may amend or supplement the request in writing. In the event that the accountholder does amend or supplement the request, the provisions of paragraph (d)(3)(iii) (a) of this section with respect to requests for additional information and responses to such requests shall apply with equal force to any such amendment or supplement to a request.

(c) Within 60 days from the last day on which an accountholder may either amend or supplement the request pursuant to paragraph (d)(3)(iii) (b) of this section or submit additional information to the Director pursuant to paragraphs (d)(3)(iii)(a) and (b), whichever is later in time, the Director shall in writing either grant or deny the accountholder's request that the initial determination be reconsidered. In the event that the Director fails to grant or

deny the accountholder's request within such 60-day period, the request shall be deemed to be denied for purposes of paragraph (d)(5) of this section.

(iv) *Failure to file request results in waiver—(a) Complete waiver.* If an accountholder does not file a request for reconsideration within the time permitted under this section, any objection to the initial determination by the accountholder is waived.

(b) *Partial waiver.* If an accountholder does not object to a part of an initial determination in its request for reconsideration within the time permitted under this section, any objection by the accountholder to that part of the initial determination is waived.

(4) Determination on reconsideration.

(i) Within 180 days from the date of the Directors' issuance of a grant of a request for reconsideration under paragraph (d)(3)(iii)(c), the Director shall issue a decision regarding the merits of the accountholder's claim for insurance set forth in the request for reconsideration, determining the extent of the accountholder's insurance pursuant to the rules of this Part.

(ii) The determination by the Director on reconsideration shall be provided to the accountholder in writing, stating the reason(s) for the determination, and shall constitute final agency action regarding the accountholder's claim for insurance.

(iii) If the Director determines that the accountholder is entitled to the amount of insurance claimed or a portion thereof, upon payment of such insurance the accountholder shall promptly surrender to the Corporation the certificate of claim in liquidation provided in connection with the initial determination. In the event that the Director determines that the accountholder is only entitled to a portion of the amount of insurance claimed, upon the accountholder's surrender of such certificate a new certificate of claim in liquidation will be provided which reflects the revised amount of the uninsured account.

(iv) Failure by the Director to issue a determination on reconsideration of the accountholder's claim for insurance within the 180-day period provided for under this paragraph (d)(4) shall be deemed to be a denial of such claim for purposes of paragraph (d)(5) of this section.

(5) *Judicial review.* (i) For purposes of seeking judicial review of actions taken pursuant to this section, only the following actions shall constitute final

agency action regarding an accountholder's claim for insurance:

(a) Any determination on reconsideration issued by the Director pursuant to paragraph (d)(4) of this section;

(b) Any initial determination made by the Director of the Insurance Division pursuant to paragraph (d)(2) of this section which was the subject of a request for reconsideration filed with the Director by the accountholder, if such request had been denied by the Director pursuant to paragraph (d)(3)(iii)(c) of this section.

(ii) Initial determinations made by the Director of the Insurance Division pursuant to paragraph (d)(2) of this section which are not the subject of requests for reconsideration filed with the Director pursuant to paragraph (d)(3) shall in no event be considered to constitute final agency action regarding an accountholder's claim for insurance for purposes of seeking judicial review of such determinations.

(iii) Failure by an accountholder to file a request for reconsideration with regard to an initial determination to which it objects shall constitute a failure by the accountholder to exhaust its available administrative remedies and, due to such failure, any objections to the initial determination shall be deemed to be waived in accordance with paragraph (d)(3)(iv) of this section and such initial determination shall be deemed to have been accepted by the accountholder pursuant to paragraph (d)(2) of this section.

(6) *Effective date.* The provisions of this paragraph (d) shall apply to all requests for reconsideration filed on or after November 29, 1985. With respect to requests for reconsideration filed with the Director prior to November 29, 1985, and where a determination has not been issued as of that date, such requests shall be deemed to have been filed on November 29, 1985, and the procedures set forth in this paragraph (d) shall apply.

(7) *Availability of reconsideration determinations.* The Corporation shall make available to the public copies of the Director's determination on reconsideration of insurance claims.

By the Federal Home Loan Bank Board
Jeff Sconyers,
Secretary.

[FR Doc. 85-28583 Filed 12-2-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ASO-21]

Alteration of Transition Area, Atlanta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Atlanta, Georgia, transition area by lowering the floor of control airspace, from 1,200 feet to 700 feet, in the vicinity of Stone Mountain, Georgia. The additional controlled airspace is required so that aircraft operating in the area may be radar vectored at the cardinal altitude of 3,000 feet rather than at the existing altitude of 3,100 feet. This will be beneficial to Instrument Flight Rule activities being conducted to and from DeKalb-Peachtree Airport.

EFFECTIVE DATE: 0901 GMT, January 16, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7648.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, October 1, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Atlanta, Georgia, transition area. This action will provide additional controlled airspace for use by Air Traffic Control in radar vectoring of aircraft in the vicinity of Stone Mountain and DeKalb-Peachtree Airport (49 FR 40036). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations increases

the size of the Atlanta, Georgia, transition area and lowers the base of controlled airspace in the vicinity of Stone Mountain from 1,200 to 700 feet above the surface.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a) 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); [14 CFR 11.09]; 49 CFR 1.47.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:
Atlanta, GA—[Amended].

By deleting the words "DeKalb-Peachtree Airport (lat. 33°52'30" N., long. 84°18'10" W.)," and substituting from them the words "DeKalb-Peachtree Airport (lat. 33°52'30" N., long. 84°18'08" W.); within a 6.5 mile radius of Stone Mountain (lat. 33°48'22" N., long. 84°08'47" W.);".

Issued in East Point, Georgia, on November 20, 1985.

Jonathan Howe,
Director, Southern Region.

[FR Doc. 85-28624 Filed 12-2-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AWA-1]

Establishment of Airport Radar Service Areas

Correction

In FR Doc. 85-26149, beginning on page 45718 in the issue of Friday, November 1, 1985, make the following corrections:

1. On page 45718, in the first column, the telephone number appearing in the last line under **FOR FURTHER INFORMATION CONTACT** should read "426-8783".

2. On page 45720, in the first paragraph of the column, in the twelfth and fourteenth lines, the acronyms "TRSA" and "ARSA" should read "ARSA" and "TRSA" respectively.

3. On page 45725, in the third column, the third from last line of the airspace description for Anchorage International Airport, AK [New] should read "bearing from the airport and thence via the".

4. On page 45726, in the third column, in the eleventh and twelfth lines of the airspace description for Whiting NAS, FL [New], the phrase "within a 1-mile radius" should read, "within a 10-mile radius."

BILLING CODE 1505-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229 and 239

[Release Nos. 33-6612; 34-22655; 35-23916; IC-14809; FR-22; File No. S7-26-85]

Financial Statements and Regulation S-X; Technical Amendments to Rules and Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting amendments to various rules and forms under the Securities Act of 1933 and the Securities and Exchange Act of 1934 (together, the "Securities Acts"). These amendments eliminate rules which are duplicative of generally accepted accounting principles (GAAP) or otherwise unnecessary, clarify language or conform rules to existing staff interpretations and correct technical omissions and errors.

EFFECTIVE DATE: December 3, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Albert or Lawrence Salva, Office of the Chief Accountant, (202-

272-2130), or Howard Hodges, Division of Corporation Finance, (202-272-2553), Securities and Exchange Commission, Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is adopting amendments to various rules and forms under the Securities Acts in order to (1) eliminate rules which are duplicative of GAAP or otherwise unnecessary, (2) clarify language or conform rules to existing staff interpretations, and (3) correct technical omissions or errors. In some instances, the Commission's rules for financial reporting contained in Regulation S-X (S-X) are no longer necessary due to the subsequent establishment of standards by the Financial Accounting Standards Board. Amendments intended to eliminate unnecessary rules include the following:

- Rule 4-08(j)(2) of S-X regarding lease commitments. A transition provision is no longer necessary due to the passage of time.
- Rule 4-08(k) of S-X regarding disclosure of interest cost. This rule is now covered by Statement of Financial Accounting Standards No. (SFAS) 34.
- Rule 4-08(l) of S-X concerning related party disclosures. Portions of this rule are being deleted as duplicative of SFAS 57. However, the Commission is retaining, in renumbered Rules 4-08(k) (1) and (2) of S-X, existing provisions requiring prominent disclosure of material related party transactions on the face of financial statements as well as disclosure of amounts of material related party transactions eliminated or not eliminated in the consolidated financial statements. In a related action, Rule 1-02(t) of S-X is amended to conform the definition of a related party to that in SFAS 57.
- Rule 4-09 of S-X dealing with replacement cost disclosures. A transition provision is no longer necessary due to the passage of time.
- Article 5A of S-X concerning development stage enterprises. This article is now duplicative of SFAS 7. However, because SFAS 7 does not apply to interim reports, a new Rule 10-01(a)(7) is being adopted in S-X to require appropriate disclosures in interim reports filed by development stage enterprises.
- Article 8 of S-X regarding Committees Issuing Certificates of Deposit. This article is no longer necessary since the forms prescribed for registering these securities have been rescinded.

In addition to these changes, other amendments are being adopted to clarify language or conform the rules to

existing staff interpretations.

Amendments for this purpose include:

- Rules 3-01 and 3-02 of S-X concerning the periods to be covered by financial statements. These rules are revised to cover reporting requirements for companies not yet in business for a full fiscal year. The revised rule codifies the staff's interpretation that such a company must include in its registration statement an audited balance sheet as of an interim date within 135 days of the filing along with audited statements of income and changes in financial position from inception to the balance sheet date.
- Rule 3-05(b) of S-X dealing with application of the significant subsidiary test in determining financial statement requirements for businesses acquired or to be acquired. The amended rule codifies the staff's interpretation permitting a registrant to update its financial statements to give effect to significant business acquisitions occurring subsequent to year-end and reported under Form 8-K.
- Rule 3-10(a) of S-X regarding the presentation of financial statements of guarantors and of affiliates whose securities are used to collateralize registered securities. This rule is being amended to clarify that the requirements apply to any guarantor regardless of whether its securities are used as collateral.
- Rule 4-08(g) of S-X relating to disclosure of summarized financial information of unconsolidated subsidiaries and 50% or less owned persons. This rule is revised to clarify that summarized financial information must be provided if the requirements for a significant subsidiary are met either individually or in the aggregate. In addition, Rule 1-02(v) is expanded to set forth the staff's administrative practice of prohibiting the netting of loss entities against those reporting income for purposes of applying the income test.
- Rule 5-02(6)(a) of S-X concerning disclosures of LIFO inventories. The revised rule codifies the existing staff practice of permitting registrants to present major-classes of LIFO inventories at other than LIFO values when the method of calculating LIFO amounts does not allow for the practical determination of amounts by major classes.
- Rule 11-01 of S-X regarding pro forma financial information. The amended rule codifies existing practice of requiring pro forma financial information for certain real estate acquisitions. The amendment also

clarifies item 7(b)(1) of Form 8-K which presently requires the presentation of pro forma financial information for any transaction described in item 2 of Form 8-K (acquisition or disposition of assets). Instructions for the preparation of pro forma financial information to reflect the acquisition of real estate operations or properties have also been added.

Finally, other changes are being made to conform requirements or definitions of different rules and forms:

- Rules 3-03(d) and 10-01(b)(8) of S-X and item 21(c)(3) of Form S-18 dealing with management statements and adjustments required in unaudited financial information are being conformed to each other.
- Rule 3-15(a) of S-X is revised to incorporate the presentation requirements for real estate investment trusts and to eliminate a cross reference to requirements presently contained in Article 6.
- The income statement captions contained in Article 10 are being conformed to those in Article 9 thereby requiring the separate presentation of investment gains and losses regardless of size in interim reports of banks and bank holding companies.
- Item 601(b)(11) of Regulation S-K is being revised to include the presentation guidance in an interpretive release previously only referred to.¹
- Rule 5-01 of S-X is being revised to reflect the elimination of Articles 5A and 8, and to correct typographical errors in reference to Article 9.

Background

On June 6, 1985 the Commission issued a release inviting public comment on proposed technical amendments to various Commission rules and forms.² The Commission received letters from seventeen commentators responding to the proposed amendments. Eight commentators represented accounting firms and groups, eight others were from industry, and one banker responded. The commentators suggested various revisions to the proposed amendments. The issues most frequently addressed were (1) related party disclosures, (2) the significant subsidiary test, (3) summarized financial information and (4) the exhibit computation of earnings per share.

The comments included in these letters have been considered and appropriate changes made in the final rules being adopted by the Commission. A discussion of the comments and the related Commission response follows.

Related Party Disclosures

Approximately half of the commentators addressed the proposed disclosures of related party transactions. They generally opposed the proposal to carry forward the existing requirements to disclose related party transactions on the face of the financial statements. These commentators suggested that management be given the option of making such disclosures either on the face of the financial statements or within the footnotes as permitted by SFAS 57.

The Commission has considered these views in reexamining the proposed disclosures of related party transactions. However, the Commission continues to believe that the effects of related party transactions should be prominently disclosed on the face of the financial statements. Because related party transactions cannot be presumed to have been conducted on an arms-length basis, the Commission believes that such prominent disclosure is necessary to highlight their effect on the financial statements.

Many of these same commentators also suggested that the rules specify that the requirements apply only to material transactions—which is the language contained in the existing requirements. The Commission proposed this change because the existing rule is redundant; requirements for related party disclosures, like all other financial disclosure requirements, are subject to a general materiality threshold unless otherwise specified in the rules.³

Significant Subsidiary Test

Commentators generally supported the proposed amendment which would permit a registrant, for purposes of applying the significant subsidiary test, to update its financial statements to give effect to significant business acquisitions occurring subsequent to year-end and reported under Form 8-K. Many of these commentators, however,

would extend the amendment to other subsequent events, such as a securities offering, also having a material effect. One commentator suggested that rather than specifying circumstances to be considered, the rule should require use of the most recent interim financial statements in all cases.

In proposing these amendments, the Commission believed it appropriate to distinguish significant business acquisitions from other subsequent events. A business acquisition transacted after year-end may have a significant impact on the nature of a company's operations, thereby rendering the historical financial statements to be a poor indicator of relative significance. On the other hand, a securities offering made subsequent to year-end will generally result in an infusion of capital but have no direct effect on altering the company's operating history as an indicator of operating trends in the future. Furthermore, it is often difficult to separate the use of proceeds of a securities offering from a subsequent proposed business acquisition. Consequently, the Commission is not persuaded as to the appropriateness of expanding the circumstances under which registrants may apply the significance test against pro forma financial information.

Although the Commission does not believe it appropriate to revise the proposed rule at this time, it does recognize that there may be certain circumstances under which a subsequent event, other than a significant business acquisition, could trigger use of the later available financial information for purposes of applying the significance test. Registrants should bring these circumstances to the attention of the staff of the Division of Corporation Finance, who will evaluate the need for a rule exception on the basis of the specific factual circumstances involved.

Summarized Financial Information

The proposed amendments would codify the staff's administrative policy for determining when summarized financial information of unconsolidated subsidiaries and 50% or less owned persons should be presented. Under that policy, subsidiaries and other investees reporting losses are not to be aggregated with entities showing profits for purposes of applying the income component of the significant subsidiary test. Commentators generally supported the proposed codification of that staff practice but pointed out that the language in the proposed rule did not

¹ Securities Act Release No. 5133 issued February 18, 1971 (38 FR 44631) requires an exhibit setting forth the computation of per share earnings unless the computation can be clearly determined from information contained in the filing.

² Securities Act Release No. 6585 (50 FR 23259).

³ Rule 4-02 of S-X (17 CFR 210.4-02) indicates that if an amount which would otherwise be required with respect to any item is not material, it need not be separately set forth. However, it should be noted that in ASR No. 41, the Commission stated, "it should be pointed out, however, that in some cases the significance of an item may be independent of the amount involved. For example, amounts due to and from officers and directors, because of their special nature and origin, ought generally to be set forth separately even though the dollar amounts involved are relatively small . . ."

accomplish that purpose. The final rules being adopted have been rewritten pursuant to this suggestion.

While supportive of the separate income test for profitable and loss entities, commentators objected to the proposed revision which would prohibit the combining of loss subsidiaries and persons with those reporting profits for disclosure purposes. These commentators noted that because the entities comprising each group may change from year to year, frequent regrouping could impair the comparability of the reported summarized financial information.

The Commission sees merit to this suggestion, particularly when considering that an objective of permitting summarized presentation is to reduce reporting burdens. Accordingly, there is no prohibition against presenting combined summarized data for profit and loss entities included in the final rules. Of course, companies may elect to present loss entities separately if deemed appropriate to a meaningful presentation. In addition, there may be circumstances where additional disclosure, either within the footnotes or Management's Discussion and Analysis,⁴ is necessary, such as where the combined results are not indicative of future trends. For example, the registrant may be planning to dispose of an entity reporting losses, thereby making disclosure of the profitable contributor meaningful to an analysis of future trends.

Exhibit Supporting Earnings Per Share

The issue focused on by the most commentators was the proposed revision to the exhibit showing computation of earnings per share. Commenters generally opposed the revisions—focusing particularly on the requirement to show the computation of fully diluted earnings per share even when the effect is less than 3% and therefore not presented on the income statement. Commentators characterized the exhibit requirement as unnecessary and potentially misleading to those users reviewing the fully diluted calculation where the effect is antidilutive.

The exhibit is not a new requirement but its description (found in Item 601(b) of Regulation S-K) was proposed for revision simply to incorporate the interpretive guidance of a Securities Act Release previously only referred to in the description. The Commission staff has found the exhibit to be useful in

monitoring the calculation of earnings per share in complex capital structures. In addition, because the information is generally furnished only as an exhibit and not widely circulated to security holders, the Commission does not share commentators' concerns that the calculation may be misleading. Accordingly the revised exhibit description is adopted as proposed.

Other Changes

The amended rules also include certain minor revisions intended to clarify the language in the proposed rules. In addition, the revised rules reflect the recent adoption of Form N-14 in Securities Act Release No. 6611.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (15 U.S.C. 605(b)) the Chairman of the Commission previously certified that adoption of these amendments will not have a significant impact on a substantial number of small entities. No comments were received on that certification.

Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) (47 FR 21028) is updated to remove section 212 titled, "Material Related Party Transactions which Affect the Financial Statement".

The codification is a separate publication issued by the Commission. It will not be published in the Federal Register Code of Federal Regulations System.

List of Subjects in 17 CFR Parts 210, 229, and 239

Accounting, Reporting and recordkeeping requirements, Securities Text of Rules

The Commission hereby amends Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

1. The authority citation for Part 210 is revised to read as follows:

Authority: Sections 6, 7, 8, 10 and 19 of the Securities Act of 1933, 15 U.S.C. 77f, 77g, 77h, 77j, 77a, 77aa(25)(26); sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78 l, 78m, 78n, 78o(d), 78w(a);

sections 5(b), 10(a), 14 and 20(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79e(b), 79j(a), 79n, 79l(a); and sections 8, 20, 30, 31 and 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a-8, 80a-20, 80a-29, 80a-30, 80a-37(a), unless otherwise noted.

2. By revising paragraph (t) and adding paragraph 3 to the computational note following paragraph (v) of § 210.1-02 to read as follows:

§ 210.1-02 Definition of terms used in Regulation S-X (17 CFR Part 210)

(t) *Related parties.* The term "related parties" is used as that term is defined in the Glossary to Statement of Financial Accounting Standards No. 57, "Related Party Disclosures."

(v) *Significant subsidiary.*

Computational note: For purposes of making the prescribed income test the following guidance should be applied:

3. Where the test involves combined entities, as in the case of determining whether summarized financial data should be presented, entities reporting losses shall not be aggregated with entities reporting income.

3. By revising paragraph (a) of § 210.3-01 to read as follows:

§ 210.3-01 Consolidated balance sheets.

(a) There shall be filed, for the registrant and its subsidiaries consolidated, audited balance sheets as of the end of each of the two most recent fiscal years. If the registrant has been in existence for less than one fiscal year, there shall be filed an audited balance sheet as of a date within 135 days of the date of filing the registration statement.

4. By revising paragraph (a) of § 210.3-02 to read as follows:

§ 210.3-02 Consolidated statements of income and changes in financial position.

(a) There shall be filed, for the registrant and its subsidiaries consolidated and for its predecessors, audited statements of income and changes in financial position for each of the three fiscal years preceding the date of the most recent audited balance sheet being filed or such shorter period as the registrant (including predecessors) has been in existence.

5. By revising paragraph (d) of § 210.3-03 to read as follows:

§ 210.3-03 Instructions to income statement requirements.

⁴ See Regulation S-K, Item 303, 17 CFR 229.303.

(d) Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Such adjustments shall include, for example, appropriate estimated provisions for bonus and profit sharing arrangements normally determined or settled at year-end. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

6. By revising paragraph (b)(1) of § 210.3-05 to read as follows:

§ 210.3-05 Financial statements of businesses acquired or to be acquired.

(b) *Periods to be presented.* (1) If securities are being registered to be offered to the security holders of the business to be acquired, the financial statements specified in §§ 210.3-01 and 210.3-02 shall be furnished for the business to be acquired, except as provided otherwise for filings on Form N-14, S-4 or F-4. In all other cases, financial statements of the business acquired or to be acquired shall be filed for the periods specified in this paragraph or such shorter period as the business has been in existence. The financial statements covering fiscal years shall be audited except as provided in Item 15 of Schedule 14A, (§ 240.14a-101 of this chapter) with respect to certain proxy statements or in registration statements filed on Forms N-14, S-4 or F-4 (§ 239.23, 25 or 34 of this chapter). The periods for which such financial statements are to be filed shall be determined using the conditions specified in the definition of significant subsidiary in § 210.1-02(v) as follows:

(i) If none of the conditions exceeds 10 percent, financial statements are not required. However, if the aggregate impact of the individually insignificant businesses acquired since the date of the most recent audited balance sheet filed for the registrant exceeds 20%, financial statements covering at least the substantial majority of the businesses acquired, combined if appropriate, shall be furnished. Such financial statements shall be for at least the most recent fiscal year and any interim periods specified in §§ 210.3-01 and 210.3-02.

(ii) If any of the conditions exceeds 10 percent, but none exceed 20 percent, financial statements shall be furnished for at least the most recent fiscal year and any interim periods specified in §§ 210.3-01 and 210.3-02.

(iii) If any of the conditions exceeds 20 percent, but none exceed 40 percent, financial statements shall be furnished for at least the two most recent fiscal years and any interim periods specified in §§ 210.3-01 and 210.3-02.

(iv) If any of the conditions exceeds 40 percent, the full financial statements specified in §§ 210.3-01 and 210.3-02 shall be furnished.

The determination shall be made by comparing the most recent annual financial statements of each such business to the registrant's most recent annual consolidated financial statements filed at or prior to the date of acquisition. However, if the registrant made a significant acquisition subsequent to the latest fiscal year-end and filed a report on Form 8-K which included audited financial statements of such acquired business for the periods required by this section and the pro forma financial information required by § 210.11, such determination may be made by using the pro forma amounts for the latest fiscal year in the report on Form 8-K rather than by using the historical amounts for the latest fiscal year of the registrant. The tests may not be made by "annualizing" data.

7. By revising § 210.3-10 to read as follows:

§ 210.3-10 Financial statements of guarantors and affiliates whose securities collateralize an issue registered or being registered.

(a) For each guarantor of any class of securities of a registrant and for each of the registrant's affiliates whose securities constitute a substantial portion of the collateral for any class of securities registered or being registered, there shall be filed the financial statements that would be required if the guarantor or affiliate were a registrant and required to file financial statements. However, financial statements need not be filed pursuant to this provision for any person whose statements are otherwise separately included in the filing on an individual basis or on a basis consolidated with its subsidiaries.

(b) For the purposes of this provision, securities of a person shall be deemed to constitute a substantial portion of collateral if the aggregate principal amount, par value, or book value of the securities as carried by the registrant, or the market value of such securities, whichever is the greatest, equals 20

percent or more of the principal amount of the secured class of securities.

8. By revising paragraph (a) of § 210.3-15 to read as follows:

§ 210.3-15 Special provisions as to real estate investment trusts.

(a)(1) The income statement prepared pursuant to § 210.5-03 shall include the following additional captions between those required by § 210.5-03.15 and 16: (i) Income or loss before gain or loss on sale of properties, extraordinary items and cumulative effects of accounting changes, and (ii) gain or loss on sale of properties, less applicable income tax. (2) The balance sheet required by § 210.5-02 shall set forth in lieu of the captions required by § 210.5-02.31(a)(3): (i) The balance of undistributed income from other than gain or loss on sale of properties and (ii) accumulated undistributed net realized gain or loss on sale of properties. The information specified in § 210.3-04 shall be modified similarly.

9. By revising paragraph (g) of § 210.4-08 to read as follows:

§ 210.4-08 General notes to financial statements.

(g) *Summarized financial information of subsidiaries not consolidated and 50 percent or less owned persons.* (1) The summarized information as to assets, liabilities and results of operations as detailed in § 210.1-02(aa) shall be presented in notes to the financial statements on an individual or group basis for (i) subsidiaries not consolidated and (ii) for 50 percent or less owned persons accounted for by the equity method by the registrant or by a subsidiary of the registrant, if the criteria in § 210.1-02(v) for a significant subsidiary are met (A) individually by any subsidiary not consolidated or any 50% or less owned person or (B) on an aggregate basis by any combination of such subsidiaries and persons.

(2) Summarized financial information shall be presented insofar as is practicable as of the same dates and for the same periods as the audited consolidated financial statements provided and shall include the disclosures prescribed by § 210.1-02(aa). Summarized information of subsidiaries not consolidated shall not be combined for disclosure purposes with the summarized information of 50 percent or less owned persons.

10. By revising paragraph (j) of § 210.4-08 to read as follows:

§ 210.4-08 General notes to financial statements.

(j) *Leased assets and lease commitments of regulated enterprises subject to the rate-making process.* (1) This section is applicable to all regulated enterprises subject to the rate-making process that do not record capital leases (as defined by Statement of Financial Accounting Standards No. 13) as assets with associated liabilities.

(2) The following information shall be provided for capital leases covered by this rule.

(i) As of the date for each required balance sheet, the aggregate amounts of the assets and liabilities that would have been recorded in the accounts had all leases meeting the definition of a capital lease been recorded.

(ii) For each period for which an income statement is required, the aggregate effect on expenses had all assets obtained through leases meeting the definition of a capital lease been recorded as assets with associated liabilities and any additional information management believes is necessary as to the rate-making process.

11. By removing paragraph (k) of § 210.4-08 and by redesignating paragraph (l) as paragraph (k).

12. By revising the heading and paragraph (k)(1) of newly designated paragraph (k), and by removing newly designated paragraphs (k)(3) and (k)(4) as follows:

§ 210.4-08 General notes to financial statements.

(k) *Related party transactions which affect the financial statements.* (1) Related party transactions should be identified and the amounts stated on the face of the balance sheet, income statement, or statement of changes in financial position.

§ 210.4-09 [Removed]

13. By removing § 210.4-09 in its entirety.

14. By revising § 210.5-01 to read as follows:

§ 210.5-01 Application of §§ 210.5-01 to 210.5-04.

Sections 210.5-01 to 210.5-04 shall be applicable to financial statements filed for all persons except—

(a) Registered investment companies (see §§ 210.6-01 to 210.6-10).

(b) Employee stock purchase, savings and similar plans (see §§ 210.6A-01 to 210.6A-05).

(c) Insurance companies (see §§ 210.7-01 to 210.7-05).

(d) Bank holding companies and banks (see §§ 210.9-01 to 210.9-07).

(e) Brokers and dealers when filing Form X-17A-5 [249.617] (see §§ 240.17a-5 and 240.17a-10 under the Securities Exchange Act of 1934).

15. By revising paragraph 6(a) of § 210.5-02 to read as follows:

§ 210.5-02 Balance sheets.

6. *Inventories.* (a) State separately in the balance sheet or in a note thereto, if practicable, the amounts of major classes of inventory such as: (1) Finished goods; (2) inventoried costs relating to long-term contracts or programs (see (d) below and § 210.4-05); (3) work in process (see § 210.4-05); (4) raw materials; and (5) supplies. If the method of calculating a LIFO inventory does not allow for the practical determination of amounts assigned to major classes of inventory, the amounts of those classes may be stated under cost flow assumptions other than LIFO with the excess of such total amount over the aggregate LIFO amount shown as a deduction to arrive at the amount of the LIFO inventory.

§§ 210.5A-01 and 210.5A-02 [Removed]

16. By removing §§ 210.5A-01 and 210.5A-02 (Article 5A) in their entirety.

§§ 210.8-01 through 210.8-03 [Removed]

17. By removing §§ 210.8-01, 210.8-02 and 210.8-03 (Article 8) in their entirety.

18. By revising the last sentence of paragraph (a)(3) of § 210.10-01 to read as follows:

§ 210.10-01 Interim financial statements.

(a)
(3) Notwithstanding these tests, § 210.4-02 applies and de minimis amounts therefore need not be shown separately, except that registrants reporting under § 210.9 shall show investment securities gains or losses separately regardless of size.

19. By adding new paragraph (a)(7) to § 210.10-01 to read as follows:

§ 210.10-01 Interim financial statements.

(a)
(7) In addition to the financial statements required by paragraphs (a)(2), (3) and (4) of this section, registrants in the development stage shall provide the cumulative financial statements (condensed to the same degree as allowed in this paragraph) and disclosures required by Statement of Financial Accounting Standards No. 7, "Accounting and Reporting by Development Stage Enterprises" to the

date of the latest balance sheet presented.

20. By revising paragraph (b)(8) of § 210.10-01 to read as follows:

§ 210.10-01 Interim financial statements.

(b)

(8) Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Such adjustments shall include, for example, appropriate estimated provisions for bonus and profit sharing arrangements normally determined or settled at year-end. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

21. By redesignating paragraphs (a) (5) and (6) of § 210.11-01 as (a) (6) and (7) respectively, and by adding a new paragraph (a)(5) to read as follows:

§ 210.11-01 Presentation requirements.

(a)

(5) During the most recent fiscal year or subsequent interim period for which a balance sheet is required by § 210.3-01, the registrant has acquired one or more real estate operations or properties which in the aggregate are significant, or since the date of the most recent balance sheet filed pursuant to that section the registrant has acquired or proposes to acquire one or more operations or properties which in the aggregate are significant.

22. By redesignating paragraphs 5 and 6 of Instructions to § 210.11-02(b) as 6 and 7 respectively; and by adding a new paragraph 5 to the Instructions to read as follows:

§ 210.11-02 Preparation requirements.

(b)

Instructions. . . .

5. Adjustments to reflect the acquisition of real estate operations or properties for the pro forma income statement shall include a depreciation charge based on the new accounting basis for the assets, interest financing on any additional or refinanced debt, and other appropriate adjustments that

can be factually supported. See also Instruction 4 above.

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S-K

23. The authority citation for Part 229 continues to read as follows:

Authority: Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 894, 901; secs. 205, 209, 48 Stat. 906, 908; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 301, 54 Stat. 857; secs. 8, 202, 68 Stat. 665, 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; sec. 1, 79 Stat. 1051; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3-5, 28(c) 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 11, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78f, 78m, 78n, 78(d), 78w(a).

24. By revising paragraph (b)(11) of § 229.601 to read as follows:

§ 229.601 Exhibits.

(b) * * *

(11) *Statement re computation of per share earnings.* A statement setting forth in reasonable detail the computation of per share earnings, unless the computation can be clearly determined from the material contained in the registration statement or report. The information with respect to the computation of per share earnings on both primary and fully diluted basis, presented by exhibit or otherwise, must be furnished even though the amounts of per share earnings on the fully diluted bases are not required to be presented in the income statement under the provisions of Accounting Principles Board Opinion No. 15. That Opinion provides that any reduction of less than 3% need not be considered as dilution (see footnote to paragraph 14 of the Opinion) and that a computation on the fully diluted basis which results in improvement of earnings per share not be taken into account (see paragraph 40 of the Opinion).

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

25. The authority citation for Part 239 continues to read as follows:

Authority: The Securities Act of 1933, 15 U.S.C. 77a, et seq.

26. By revising item 21 in Form S-18 in § 239.28 to read as follows:

(Form S-18 does not appear in the Code of Federal Regulations.)

§ 239.28 Form S-18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed \$7,500,000.

Item 21. Financial Statements

(c) * * *

(3) Any unaudited interim financial statements furnished shall reflect all adjustments which are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Such adjustments shall include, for example, appropriate estimated provisions for bonus and profit sharing arrangements normally determined or settled at year-end. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished information describing in appropriate detail the nature and amount of any adjustments other than normal recurring adjustments entering into the determination of the results shown.

By the Commission.

John Wheeler,

Secretary.

November 21, 1985.

[FR Doc. 85-28610 Filed 12-2-85; 8:45 am]

BILLING CODE 9010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM85-13-000]

Revisions to FPC Form No. 8, "Underground Gas Storage Report," and FERC Form No. 16, "Report of Gas Supply and Requirements"; Order Suspending December 15, 1985; Filing of FPC Form No. 8

Issued: November 22, 1985

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule Suspension Order.

SUMMARY: The Commission is suspending the requirement that Form No. 8, "Underground Gas Storage Report," be filed December 20, 1985, by jurisdictional natural gas companies that operate underground gas storage fields. This action is taken because the Commission has issued a final rule which would eliminate the mid-month filings of Form No. 8.

DATES: The Commission is suspending until further notice the December 20, 1985 filing deadline for the Form No. 8 report for the first fifteen days of December 1985 filing date for the FPC

Form No. 8 report for November 1985. The December 5, 1985 is unchanged. This final rule is effective November 22, 1985.

FOR FURTHER INFORMATION CONTACT: Robert F. Riley, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE., Washington, DC 20426 (202) 357-8049.

SUPPLEMENTARY INFORMATION: Section 260.11 of the Commission's regulations provides that jurisdictional natural gas companies that operate underground natural gas storage fields must file FPC Form No. 8, "Underground Gas Storage Report," with the Commission by the fifth day of the months January through December and, in addition, by the twentieth day of the months December through March.

The Commission issued a final rule in the Federal Register of November 29, 1985, after reviewing Form No. 8 in the course of its ongoing program to reduce unnecessary reporting burdens. The Notice eliminates the 4 mid-month filings of FPC Form No. 8.

Accordingly, we find that good cause exists to suspend until further notice the upcoming December 20, 1985, filing date for FPC Form No. 8. The December 5, 1985, filing date for the FPC Form No. 8 report for November 1985 is unchanged.

The Commission Orders

The December 20, 1985 filing deadline for the Form No. 8 report for the first fifteen days of December 1985 is suspended until further notice.

Therefore § 260.11(b) is superseded in the phrase "the first and fifteenth day of each of the months of December through March" as it pertains to the month of December only.

By the Commission. Commissioners Trabandt and Naeve voted present.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-28524 Filed 12-2-85; 8:45 am]

BILLING CODE 9717-01-M

18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol

Issued: October 30, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting in part and denying in part request for clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a