state or local special packaging standards for such fluoride containing products.

In accordance with Executive Order 12612 (October 26, 1987), the Commission certifies that the proposed rule does not have sufficient implications for federalism to warrant a Federalism Assessment.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

For the reasons given above, the Commission proposes to amend 16 CFR part 1700 as follows:

PART 1700—[AMENDED]

1. The authority citation for part 1700 continues to read as follows:

Authority: Pub. L. 91–601, secs. 1–9, 84 Stat. 1670–74, 15 U.S.C. 1471–76. Secs 1700.1 and 1700.14 also issued under Pub. L. 92–573, sec. 30(a), 88 Stat. 1231, 15 U.S.C. 2079(a).

2. Section 1700.14 is amended to revise paragraph (a)(10)(vii) and to add paragraph (a)(27) to read as follows (although unchanged, the introductory text of paragraphs (a) and (10) are included below for context):

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging meeting the requirements of § 1700.20(a) is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(10) *Prescription drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription or a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(vii) Sodium fluoride drug preparations including liquid and tablet forms, containing not more than 110 milligrams of sodium fluoride (the equivalent of 50 mg of elemental fluoride) per package and not more than a concentration of 0.5 percent elemental fluoride on a weight-to-volume basis for liquids or a weight-to-weight basis for non-liquids and containing no other substances subject to this § 1700.14(a)(10).

* * * * *

(27) *Fluoride.* Household substances containing more than the equivalent of 50 milligrams of elemental fluoride per package and more than the equivalent of 0.5 percent elemental fluoride on a weight-to-volume basis for liquids or a weight-to-weight basis for non-liquids shall be packaged in accordance with the provisions of § 1700.15 (a), (b) and (c).

Dated: November 17, 1997.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

List of Relevant Documents

1. Briefing memorandum from Jacqueline Ferrante, Ph.D., EH, to the Commission, "Proposed Rule to Require Child-Resistant Packaging for Household Products with Fluoride," September 30, 1997.
2. Memorandum from Susan C. Aitken, Ph.D., EH, to Jacqueline Ferrante, Ph.D., EH, "Toxicity of Household Products Containing Fluoride," August 4, 1997.
3. Memorandum from Marcia P. Robins, EC, to Jacqueline Ferrante, Ph.D., EH, "Market Data, Economic Considerations and Environmental Effects of a Proposal to Require Child-Resistant Packaging for Household Products Containing Fluoride," June 20, 1997.
4. Memorandum from Charles Wilbur, EH, to Jacqueline Ferrante, Ph.D., EH, "Technical Feasibility, Practicability, and Appropriateness Determination for the Proposed Rule to Require Child-Resistant Packaging for OTC Products Containing Fluoride," June 27, 1997.

[FR Doc. 97–30555 Filed 11–19–97; 8:45 am]

BILLING CODE 6355–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 240 and 270

[Release Nos. 33–7475, 34–39321, IC–22884; File No. S7–27–97]

RIN 3235–AG98

Delivery of Disclosure Documents to Households

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing for public comment a new rule under the Securities Act of 1933 to enable issuers and broker-dealers to satisfy the Act's prospectus delivery requirements, with respect to two or more investors sharing the same address, by sending a single prospectus, subject to certain conditions. The Commission is proposing similar amendments to the rules under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 that govern the delivery of annual and (in the case of investment companies) semiannual reports to shareholders. The proposed rule and rule amendments seek to provide greater convenience for investors and cost savings for issuers by reducing the amount of duplicative information that investors receive.

DATES: Comments must be received on or before February 2, 1998.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Stop 6–9, Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–27–97; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters also will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0690, Office of Regulatory Policy, Division of Investment Management, Stop 10–2, or Elizabeth M. Murphy, Special Counsel, at (202) 942–2900, Office of Chief Counsel, Division of Corporation Finance, Stop 4–2, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is requesting public comment on proposed rule 154 under the Securities Act of 1933 (15 U.S.C. 77a) (the "Securities Act") and proposed amendments to rules 14a–3 (17 CFR 240.14a–3), 14c–3 (17 CFR 240.14c–3) and 14c–7 (17 CFR 240.14c–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a) (the "Exchange Act"), and rules 30d–1 (17 CFR 270.30d–1) and 30d–2 (17 CFR 270.30d–2) under the Investment Company Act of 1940 (15 U.S.C. 80a) (the "Investment Company Act").

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I. Discussion

The Securities Act generally prohibits an issuer or underwriter from delivering a security for sale unless a prospectus meeting certain requirements accompanies or precedes the security. [1] If several persons purchase the same security and share the same household, the prospectus delivery requirements may result in the mailing of multiple copies of the same prospectus to a household.

Although the proposed rule is not limited to investment company prospectuses, the problem of delivery of multiple prospectuses is particularly significant in the case of open-end management investment companies (''mutual funds''),[2] and has grown as the popularity of mutual funds as an investment vehicle for many families has increased.[3] The same mutual fund may be used by a family as a regular investment as well as for family members' individual retirement accounts, 401(k) or other tax-deferred retirement plans, and for trusts or accounts established for the benefit of minor children. Although one family member may make investment decisions on behalf of each family, a fund that delivers an updated prospectus to investors annually must deliver a copy to each family member in whose name shares are purchased.

Mutual funds, closed-end management investment companies (collectively, ''funds'') and certain unit investment trusts (''UITs'') are required by Commission rules to send semiannual reports to their security holders.[4] The problem of delivery of duplicate documents to a household frequently arises with respect to these reports. [5] Public companies that are not investment companies also are required to furnish security holders an annual report that accompanies or precedes the delivery of a proxy or information statement.[6] Sending multiple copies of the same document to investors who share the same address often inundates households with extra mail, annoys investors, and results in higher printing and mailing costs for issuers, underwriters and other broker-dealers. In many cases, these costs are ultimately borne by investors.

To reduce the number of duplicative disclosure documents delivered to investors, the Commission is proposing rules to permit, under certain circumstances, delivery of a single prospectus or shareholder report to a household (''householding'') to satisfy the applicable delivery requirements. Proposed rule 154 under the Securities Act, and proposed amendments to rules 30d–1 and 30d–2 under the Investment Company Act and to rules 14a–3, 14c–3 and 14c–7 under the Exchange Act, would provide that delivery of a disclosure document to one investor would be deemed to have occurred with respect to all other investors who share the same address, provided certain conditions are met. The conditions are designed to assure that every security holder in the household either receives or has convenient access to a copy of the prospectus or report delivered to a member of the household.

A. Delivery of Prospectuses to a Household

1. Scope of Rule and General Conditions

Under proposed rule 154, a prospectus would be deemed delivered, for purposes of sections 5(b) and 2(a)(10) of the Securities Act, to all investors at a shared address if the person relying on the rule delivers the prospectus to a natural person who shares that address and the other investors consent to delivery of a single prospectus.[7] The proposed rule would be available for all persons who have a prospectus delivery obligation under the Securities Act except when the prospectus is required to be delivered in connection with business combination transactions, exchange offers or reclassifications of securities.[8] Those prospectuses generally are accompanied by proxies or tender offer material that must be executed by each individual investor. Comment is requested whether companies should be permitted to rely on the rule for delivery of those types of prospectuses. Are there other types of prospectuses that rule 154 should not cover? Should the rule be limited to fund prospectuses?

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[1] *See* Securities Act sections 2(a)(10), 4(1), 5(b) (15 U.S.C. 77b(a)(10), 77d(1), 77e(b)). In connection with secondary market transactions in certain securities, a dealer may also be required to deliver a prospectus for a specified period after the commencement of the offering. *See* Securities Act section 4(3) (15 U.S.C. 77d(3)); rule 174 (17 CFR 230.174). Dealers selling shares of open-end management investment companies or units of unit investment trusts (''UITs'') are required to deliver a prospectus if the issuer (including the sponsor of a UIT) is currently offering shares or units for sale. Investment Company Act section 24(d) (15 U.S.C. 80a–24(d)); *see also* Form N–7 for Registration of Unit Investment Trusts Under the Securities Act of 1933 and the Investment Company Act of 1940, Investment Company Act Release No. 15612 (Mar. 9, 1987) (52 FR 8268, 8269 (Mar. 17, 1987)) (because the sponsor of a UIT is considered to be an issuer of the UIT's units under section 2(a)(4) of the Securities Act, resales of units by the sponsor must be made pursuant to a prospectus).

[2] Mutual funds generally offer their shares on a continuous basis and, as a result, are required to file periodic ''post-effective'' amendments to their registration statements in order to maintain a ''current'' prospectus required by section 10(a)(3) of the Securities Act (15 U.S.C. 77j(a)(3)). Post-effective amendments also satisfy the requirement that mutual funds amend their Investment Company Act registration statements annually. *See* 17 CFR 270.8b–16. The Securities Act requires mutual funds to send updated prospectuses only to those shareholders who make additional purchases. (A reinvestment through a dividend reinvestment plan generally does not trigger this obligation.) In practice, many mutual funds send an updated prospectus annually to all of their shareholders. Because closed-end funds do not offer their shares to the public on a continuous basis, they generally do not update their prospectuses periodically. *See* Division of Investment Management, SEC, Protecting Investors: A Half Century of Investment Company Regulation 354 (1992) (discussing greater effect of Securities Act prospectus delivery requirements on mutual funds as compared to other issuers); *see also* Staff Interpretive Position Relating to Fiduciary Duty of Directors of a Registered Investment Company in Connection with Proposed Arrangement to Impose Sales Load on Reinvestment of Income Dividends and Continuously Offer Fund Shares Only in Connection with Dividend Reinvestments, Investment Company Act Release No. 6480 (May 10, 1971) (36 FR 9627 (May 27, 1971)).

[3] An estimated 63 million individuals, making up 36.8 million households, owned mutual funds either directly or through a retirement plan as of April 1996. Fund-owning households represented 37 percent of all U.S. households. Investment Company Institute, *Mutual Fund Ownership in the U.S.,* Fundamentals, Dec. 1996, at 1.

[4] *See* Investment Company Act section 30(e) (15 U.S.C. 80a–29(e)); rule 30d–1 (17 CFR 270.30d–1). UITs that invest substantially all of their assets in shares of a fund must send their unitholders annual and semiannual reports containing financial information on the underlying fund. *See* Investment Company Act section 30(e) (15 U.S.C. 80a–29(e)); rule 30d–2 (17 CFR 270.30d–2).

[5] The Commission staff has issued no-action letters permitting just one copy of a fund's shareholder report to be sent to shareholders who share the same address. *See* Oppenheimer Funds, SEC No-Action Letter (July 20, 1994); Scudder Group of Funds, SEC No-Action Letter (June 19, 1990); *see also* Allstate Enterprises Stock Fund, Inc., SEC No-Action Letter (July 22, 1973). The funds' letters requesting relief noted shareholder complaints about duplicate reports and sought to reduce printing and mailing expenses.

[6] The proxy rules currently include provisions that allow registrants to send a single annual report to security holders sharing the same address under certain conditions. Rule 14a–3(e) (17 CFR 240.14a–3(e)); Note 2 to rule 14c–7 (17 CFR 240.14c–7 note 2); see also 2 N.Y.S.E. Guide (CCH) ¶¶ 2451.90, 2451.95, 2465.20, 2465.25 (New York Stock Exchange rules permitting householding).

[7] Proposed rule 154(a).

[8] The proposed rule would not apply to the delivery of a prospectus filed as part of a registration statement on Form N–14, S–4 or F–4, or to the delivery of any other prospectus in connection with a business combination transaction, exchange offer or reclassification of securities. *See* 17 CFR 239.23, 239.25, 239.34; proposed rule 154(e).

For purposes of the rule, the term ''address'' would not be limited to a postal address and could include an electronic address.[9] Thus, investors who share an electronic mail address could consent to receive one prospectus at the shared address even if they had different postal addresses.[10] Conversely, investors who share a street address could consent to the delivery of one prospectus to the household, and an investor could receive the prospectus electronically, even if the other investors do not share that investor's electronic address.

An investor may give limited consent to the householding of prospectuses for a particular security only, or may give general consent concerning any prospectuses that an issuer, underwriter, or dealer has or will have an obligation to deliver.[11] So that an investor has the capacity to notify other members of the household that the prospectus is available, the proposed rule would require that the prospectus be addressed to a natural person.[12]

The notion of a household under the rule would not be limited to a family unit or a residence. Any group of persons who share the same address could be delivered a single prospectus as long as each investor provides written consent. The proposed rule, for example, would permit the delivery of a single prospectus for multiple investors at a shared business address, or for investors that include a business entity. The rule therefore should afford significant flexibility for persons that have a prospectus delivery obligation.

The rule also does not require that a prospectus be delivered to an investor at the address that is shared with the other investors. If two investors live in the same house and consent to householding, for example, a prospectus could be delivered to the address where one investor receives his or her mail, such as a business address or a post office box. Comment is requested whether the rule should require that the prospectus be delivered to the investors' shared address.

As explained above, delivery to a natural person would facilitate the sharing of the prospectus among the investors at the shared address. In order to allow for changing the investor who receives the prospectus (*e.g.,* if the investor moves to a different address), the investors at the shared address would consent to the manner of prospectus delivery specified in the rule without designating the specific person to whom the prospectus will be delivered. The Commission requests comment whether the rule should require the investors to specify the name of the investor who will receive the prospectus. Comment is also requested whether there should be any restrictions on who can receive a prospectus on behalf of the other investors. For example, should that investor be required to be an adult?

The proposed rule would not permit delivery of a prospectus to a group of persons (*e.g.,* ''The Smith household,'' or ''ABC Stock Fund Shareholders''). The Commission is concerned that the use of such general addressing may reduce the likelihood that a prospectus will be opened and read (because the person receiving it may assume it is ''junk mail'').[13] In addition, addressing the prospectus to a family-name household could increase the risk that someone other than an investor may receive it. The Commission requests comment on the advantages and disadvantages of addressing a document to a particular person in a household and whether the rule should permit the prospectus to be addressed to a group of persons in the household.

Comment also is requested on the proposed application of the rules when documents are delivered electronically. In order to satisfy delivery requirements, a person relying on the rule also may obtain consent, from an investor who receives a prospectus, concerning delivery through a specified electronic medium.[14] If the investor decides to receive the prospectus electronically, should the other investors in the household also have to consent to electronic delivery to that investor?

2. Householding Without Written Consent

Consent may be difficult to obtain, even from persons who presumably would wish to consent to the delivery of documents to another person in their household. Many investors may not respond to requests for consent, and thus many of the benefits of householding would not be realized. At the same time, householding without consent creates the risk that an investor who wishes to receive a prospectus will not receive one. Therefore, the Commission is proposing to permit householding without consent only under certain conditions *and* only if the investors have opened an account with the person relying on the rule before the effective date of the rule.

The conditions are designed to limit householding to circumstances that suggest that the investors not receiving the disclosure documents would wish to consent and that they will have access to the prospectus if delivered to another investor. Under the proposal, the investors in the household would have to be provided with notice, 60 days before initial reliance on the rule, that future prospectuses will be delivered to only one person who shares the address.[15] In addition, the investors in

[9] ''Address'' would be defined to include ''a street address, a post office box number, an electronic mail address, a facsimile telephone number or other similar destination to which paper or electronic documents are delivered, unless otherwise provided in this section.'' Proposed rule 154(f). The Commission has issued two interpretive releases expressing its views on the electronic delivery of documents, including prospectuses and investment company annual and semiannual reports (the ''Interpretive Releases''). Use of Electronic Media for Delivery Purposes, Securities Act Release No. 7233 (Oct. 6, 1995) [60 FR 53458 (Oct. 13, 1995)] (''1995 Interpretive Release''); Use of Electronic Media by Broker-Dealers, Transfer Agents, and Investment Advisers for Delivery of Information; Additional Examples Under the Securities Act of 1933, Securities Exchange Act of 1934, and Investment Company Act of 1940, Securities Act Release No. 7288 (May 9, 1996) [61 FR 24644 (May 15, 1996)] (''1996 Interpretive Release''); *see also* Howard M. Friedman, Securities Regulation in Cyberspace (1997).

The Interpretive Releases discuss issues of notice and access that should be considered in determining whether the legal requirements pertaining to delivery of documents have been satisfied. The releases state that persons using electronic delivery of information should obtain informed consent from the intended recipient or otherwise have reason to believe that any electronic means so selected will result in satisfaction of the delivery requirements. *See* 1995 Interpretive Release, *supra,* at 53460–61; 1996 Interpretive Release, *supra*, at 24646–47. In the case of a passive delivery system such as an Internet web site, the proposed rule would permit delivery of a notice of the availability of the prospectus on the web site to a single investor at the shared address. The conditions of the proposed rule and the requirements for electronic delivery would both have to be satisfied. The National Association of Securities Dealers also has issued guidance on the use of electronic communications. *See, e.g.,* NASD Notice to Members 96–50 (July 1996).

[10] By contrast, certain rule provisions permitting delivery without written consent under the rule would require that the investors share a street address that meets certain requirements. *See* proposed rule 154(b)(5)(i), (iii); *see infra* part I.A.2.

[11] Thus, for example, the distributor for a family of mutual funds could obtain consent from persons that share an address with respect to all funds in the family of funds, including funds that may be created in the future. With respect to non-investment companies, a security holder could give limited consent to a broker-dealer concerning delivery of a particular security or general consent concerning any prospectuses that the broker-dealer has or will have an obligation to deliver.

[12] *See* proposed rule 154(a)(2).

[13] *See, e.g.,* Owen T. Cunningham (with George Wachtel), *Everything You Need to Know About Mailing Lists But Were Afraid to Ask!,* Bank Marketing, Mar. 1997, at 41, 44.

[14] *See* 1995 Interpretive Release, *supra* note 9, at 53460.

[15] The proposed rule would require the notice to be a separate written statement delivered to each investor in the household at least 60 days before

Continued

the household must have the same last name or, if they have different last names, a person who relies on the rule must reasonably believe they are members of the same family.[16] Finally, the prospectus must be delivered to a street address that the person reasonably believes is a residence.[17] Alternatively, the prospectus could be delivered to a shared post office box, or to an electronic address if the investors are reasonably believed to share a residence.[18]

The Commission requests comment whether the proposed conditions for householding without written consent give reasonable assurance that the prospectus will be available to all persons in the household who wish to review it. Should there be any additional safeguards? Do any of the conditions impose unnecessary costs? Comment is requested on the requirement that notice be given 60 days before reliance on the rule. Would a shorter or longer time period be more appropriate? Should any additional disclosure about prospectus delivery to the household be required after householding begins (*e.g.,* in future account statements)?

delivery of the first document delivered in reliance on the rule. The notice would explain that each investor at the address could request to continue to receive his or her own copy of the prospectus, and the notice would be accompanied by a reply form and a convenient means for returning it. *See* proposed rule 154(b)(3); *see also infra* Part I.A.3. The notice could be enclosed in the same envelope with other printed matter, or could be transmitted electronically if the guidelines for electronic delivery were met. *See* 1995 Interpretive Release, *supra* note 9, at 53460–61.

[16] *See* proposed rule 154(b)(2).

[17] *See* proposed rule 154(b)(5)(i). A reasonable belief may be based on the address supplied by the shareholder and the Zip Code assigned to the address. *See* proposed rule 154(c).

Zip Codes are assigned to addresses by the United States Postal Service (the ''USPS''). The most complete Zip Code is a 9-digit number consisting of five numbers, a hyphen, and four numbers, which the USPS describes by its trademark ''ZIP+4®.'' The first five digits represent the five-digit Zip Code; the final four digits identify geographic units such as a side of a street between intersections, both sides of a street between intersections, a building, a floor or group of floors in a building, or a business. Many apartment buildings and businesses are assigned one or more unique ZIP+4® Codes. Domestic Mail Manual, at A010.2.1, A010.2.3, A010.3.2 (Sept. 1, 1995) (incorporated by reference at 39 CFR 111.1). Information on Zip Codes for particular addresses may be obtained through address matching software. *See id.* at A950. In addition, software is available through which the number of duplicates in a mailing can be reduced. *See, e.g.,* Owen T. Cunningham, *supra* note , at 41, 44; Raymond F. Melissa, *How to Save Money on Printing and Postage,* Nonprofit World, Mar./Apr. 1996, at 23; *How to Mail More, Mail Smarter, and Spend Less,* Nonprofit World, May/June 1995, at 26; United States Postal Service, National Customer Support Center <http://www.usps.gov/ncsc>.

[18] *See* proposed rule 154(b)(5)(ii), (iii).

As discussed above, householding without consent would be limited to persons who established accounts before the effective date of the rule. The Commission presumes that after the effective date of the rule, persons who rely on the rule can establish procedures to obtain the consent of investors who open new accounts. Mutual fund distributors and other broker-dealers typically require prospective investors to select various account options at that time, disclose information to assist in suitability determinations, and provide other information necessary to establish an account.[19] Thus it seems reasonable to expect that there will be an adequate opportunity to request consent at that time.

The Commission requests comment generally on the appropriateness of permitting householding for purposes of prospectus delivery when investors have not given written consent. Are investors likely to ignore requests for written consent if they have already established an account? Comment is also requested whether the Commission's assumptions discussed above are correct, and whether most investors are likely to give general consent concerning any prospectuses that a person may have an obligation to deliver in the future.[20] Should the Commission permit householding without consent for accounts opened after the effective date of the rule?

3. Revocation of Consent

The proposed rule would require that, if an investor requests resumption of delivery of prospectuses, the person relying on the rule must resume individual delivery of future documents after 30 days.[21] Comment is requested on the time period for resuming individual delivery. Is 30 days an appropriate time period to accommodate revision of mailing lists, or should a shorter or longer time period be permitted?

B. Delivery of Shareholder Reports to a Household

The Commission is proposing amendments to rules 30d–1 and 30d–2 under the Investment Company Act to permit investment companies to deliver one shareholder report per household. The conditions for using the proposed amendments would be substantially the same as those in proposed rule 154.[22] The Commission staff has issued no-action letters addressing householding with respect to delivery of shareholder reports to fund shareholders.[23] Unlike the no-action letters, the proposed amendments would not require prospectus disclosure of an investment company's householding policies. Instead, the advance notice or written consent requirements would serve to notify shareholders about householding. Comment is requested whether householding for purposes of delivering investment company shareholder reports should be subject to different conditions than householding for purposes of prospectus delivery.

The Commission also is proposing similar amendments to Exchange Act proxy rules 14a–3, 14c–3, and 14c–7. The proxy rules currently provide that, in connection with the delivery of a proxy or information statement, a company is not required to send an annual report to a security holder of record having the same address as another security holder, if the security holders do not hold the company's securities in street name, at least one report is sent to a security holder at the address, and the holders to whom a report is not sent have consented in writing.[24] Because the amended rules would include an implied consent provision, a company would not have to receive written consent to householding from an investor who became a security holder before the date the amendments become effective.[25]

The amendments also would eliminate the requirement that the security holders not hold the securities in street name. It is expected that the requirement to transmit the annual report to a natural person who shares an address with other investors would

[19] *See, e.g.,* Michael T. Reddy, Securities Operations 336–41 (2d ed. 1995) (discussing new account forms and procedures for opening new accounts).

[20] Investors may instead decline to consent or may be willing to give only a limited consent concerning prospectuses for a particular security only. *See supra* note and accompanying text.

[21] *See* proposed rule 154(d).

[22] *See* proposed rules 30d–1(f), 30d–2(b).

[23] *See, e.g.,* Oppenheimer Funds, *supra* note 5 (permitting householding of shareholders with the same last name and record address provided there is initial notice, prospectus disclosure concerning the practice, and opportunity for shareholders to opt out of householding); Scudder Group of Funds, *supra* note 5 (permitting householding of shareholders with the same record address under the same conditions).

[24] *See* rule 14a–3(e)(1) [17 CFR 240.14a–3(e)(1)]; Note 2 to rule 14c–7 [17 CFR 240.14c–7 note 2]. Rule 14c–7 contains requirements concerning registrants' obligations to provide copies of information statements and annual reports to brokers, banks and other intermediaries for forwarding to beneficial owners. The Commission proposes to delete the note to rule 14c–7 and add a householding provision to rule 14c–3, because rule 14c-3 contains the requirement that registrants furnish an annual report to security holders and is analogous to the rule 14a–3 provision.

[25] *See* proposed rule 14a–3(e)(1)(ii).

preclude registrants from householding reports to a street name intermediary.

Comment is requested whether householding for purposes of delivering annual reports of issuers other than investment companies should be subject to different conditions than householding for purposes of delivering investment company shareholder reports. Comment also is requested whether the conditions contained in the proposed amendments to rules 14a–3 and 14c–3 are appropriate. Should revised rules 14a–3 and 14c–3 require consent from investors who became security holders before the proposed rule amendments are effective?

C. General Request for Comment

Any interested persons wishing to submit written comments on the proposed rule and rule amendments that are the subject of this Release, to suggest additional provisions or changes to the rules, or to submit comments on other matters that might have an effect on the proposals contained in this Release, are requested to do so. The Commission also requests comment whether the proposals, if adopted, would have an adverse effect on competition that is neither necessary nor appropriate in furthering the purposes of the Exchange Act. The Commission requests comment whether the proposals, if adopted, would promote efficiency, competition, and capital formation. Comments will be considered by the Commission in compliance with its responsibilities under section 2(b) of the Securities Act,[26] section 2(c) of the Investment Company Act,[27] and sections 3(f) and 23(a) of the Exchange Act.[28] The Commission encourages commenters to provide empirical data or other facts to support their views.

II. Cost-Benefit Analysis

The Commission is sensitive to the costs and benefits imposed by its rules. The proposed rules would permit issuers and broker-dealers to send fewer copies of disclosure documents than they currently must send, and therefore, as discussed below, should provide substantial benefits to persons who have an obligation under the securities laws to deliver disclosure documents. The rules also are voluntary on the part of persons that have a delivery obligation; therefore, to the extent that the rules would require the printing and delivery of additional information concerning householding, or would result in other costs of changing procedures, and the costs outweigh the benefits of householding, persons with a delivery obligation may decide not to rely on the rules. The Commission requests comment on the costs and benefits of the rules. Specific data also is requested concerning the anticipated costs and benefits.

Based on preliminary information provided by two large mutual fund complexes, the Commission estimates that a prospectus costs approximately 45 cents to print and deliver, and a shareholder report costs approximately 52 cents to print and deliver.[29] In addition, the Commission estimates that, if a mutual fund were to deliver one prospectus to each household, the average decline in the number of prospectuses delivered would be between 10 and 30 percent. Currently there are approximately 150 million shareholder accounts investing in mutual funds.[30] For the purpose of calculating benefits, the Commission assumes that 50 percent of mutual funds deliver an updated prospectus to every shareholder each year, resulting in the 150 million shareholder accounts receiving a total of approximately 75 million updated prospectuses each year. Based on these estimates and assumptions, the potential annual benefit in reduced delivery of mutual fund prospectuses as a result of the proposed rules would be between $3.4 million and $10.1 million.

With respect to the delivery of annual and semiannual reports to mutual fund shareholders,[31] the Commission estimates that the average decline in the number of reports delivered would be between 10 and 30 percent. As stated above, there are approximately 150 million shareholder accounts investing in mutual funds. Each shareholder receives two shareholder reports per year per fund and, as stated above, each report costs an estimated 52 cents to print and deliver. Based on these estimates, the benefit would be between $15.6 million and $46.8 million. The net benefit would be less, depending on the number of mutual funds that currently deliver one report to each household, in reliance on prior staff no-action relief.

With respect to the delivery of prospectuses of issuers other than investment companies, the benefits of the rules probably would be less than the benefits discussed above, because these companies will continue to mail confirmations of sale to individual purchasers. The final prospectus would accompany or precede the confirmation. If more than one confirmation is delivered to a household, a company should be able to send one prospectus to an investor in the household, and send each other investor a confirmation without a prospectus. Based on preliminary data, the Commission estimates that the printing cost of each prospectus is approximately 15 cents. The Commission is unable to estimate the percentage of non-investment companies that would rely on proposed rule 154. The Commission requests any information that would be helpful in making such an estimate.

There are not likely to be significant costs and benefits associated with the amendment of the proxy rule provisions[32] permitting the householding of annual reports in connection with the delivery of proxy and information statements because the amended rules would be substantively similar to as the current provisions. Although the proposed rules would permit householding for certain investors without written consent, the Commission currently is unable to predict the reduction in annual reports delivered to investors that might result from this change.

Persons who rely on the rules would incur costs in obtaining consents from and sending notices to investors. As discussed above in part I.A.2, the Commission anticipates that after the effective date of the rule, procedures will be established to obtain the consent of investors who open new accounts. A portion of a new account form, for example, could explain householding briefly and request consent. Comment is requested on the costs of these new procedures.

The proposed rules would require that the notice be a separate written statement and be accompanied by a reply form. The notice could be enclosed in the same envelope with other printed matter (*e.g.*, an account statement, prospectus or report). Therefore, the costs associated with sending the notice should be limited to printing costs and some increased postage costs that may result from enclosing the notice and reply form in an envelope with other documents.

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[26] 15 U.S.C. 77b(b).

[27] 15 U.S.C. 80a–2(c).

[28] 15 U.S.C. 78c(f), 78w(a).

[29] One of these fund complexes stated that the printing, postage, and handling costs for each prospectus for a large money market fund was 47 cents. The other complex provided similar costs for 6 of its funds, which ranged from 41 to 49 cents for prospectuses and 45 to 59 cents for annual reports. The midpoints of these ranges are 45 cents and 52 cents.

[30] Investment Company Institute, 1997 Mutual Fund Fact Book 111.

[31] *See* rules 30d–1 and 30d–2 under the Investment Company Act.

[32] *See* rules 14a–3, 14c–3, and 14c–7 under the Exchange Act.

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[33] the Commission also requests information regarding the potential impact of the proposed rule on the economy on an annual basis. Commenters are requested to provide empirical data to support their views.

III. Paperwork Reduction Act

Certain provisions of the proposed rule and rule amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995,[34] and the Commission has submitted them to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The titles for the collections of information are: ''Rule 154 under the Securities Act of 1933, Delivery of prospectuses to investors at the same address''; ''Regulation 14A, Commission Rules 14a–1 through 14a–14 and Schedule 14A''; ''Regulation 14C, Commission Rules 14c–1 through 14c–7 and Schedule 14C''; ''Rule 30d–1 under the Investment Company Act of 1940, Reports to stockholders of management companies''; and ''Rule 30d–2 under the Investment Company Act of 1940, Reports to shareholders of unit investment trusts.'' Rule 30d–1, Regulation 14A and Regulation 14C, which the Commission is proposing to amend, contain currently approved collections of information under OMB control numbers 3235–0025, 3235–0059 and 3235–0057, respectively. An agency may not sponsor, conduct, or require response to an information collection unless a currently valid OMB control number is displayed.

Proposed rule 154 would permit, under certain circumstances, delivery of a single prospectus to a household to satisfy the prospectus delivery requirements of the Securities Act with respect to two or more investors in the household. The rule would require a person that relies on the rule to obtain the written consent of investors who will not receive prospectuses. Alternatively, for investors who established accounts with the sender before the effective date of the rule, a person that relies on the rule could send a notice to each investor stating that the investors in the household will receive one prospectus in the future unless they provide contrary instructions.

The purpose of the consent and notification requirements is to give reasonable assurance that all investors have access to the prospectus. Preparing and sending the notice is a collection of information. Because notices would only be sent to existing investors, companies that choose to rely on the rule would probably send them primarily in the first year after the rule is adopted. In addition, the Commission expects that, for cost reasons, the notice is likely to be a short, one-page statement that is enclosed with other written material sent to shareholders, such as account statements. Accordingly, the average annual number of burden hours spent preparing and arranging delivery of the notices is expected to be low. The Commission estimates 20 hours per respondent.

Although rule 154 is not limited to investment companies, the Commission believes that it would be used mainly by mutual funds and by broker-dealers that deliver mutual fund prospectuses. The Commission is unable to estimate the number of issuers other than mutual funds that would rely on the rule, and requests comment on this matter. There are approximately 2700 mutual funds, approximately 650 of which engage in direct marketing and therefore deliver their own prospectuses. The Commission estimates that each direct marketed mutual fund would spend an average of 20 hours per year complying with the notice requirement of the rule, for a total of 13,000 hours. The Commission estimates that there are approximately 750 broker-dealers that carry customer accounts and, therefore, may be required to deliver mutual fund prospectuses. The Commission estimates that each affected broker-dealer also will spend, on average, approximately 20 hours complying with the notice requirement of the rule, for a total of 15,000 hours. Therefore, the total number of respondents for rule 154 is 1400 (650 mutual funds plus 750 broker-dealers), and the estimated total hour burden is 28,000 hours (13,000 hours for mutual funds plus 15,000 hours for broker-dealers).

With respect to the amendments to rules 30d–1 and 30d–2 under the Investment Company Act, rule 30d–1 requires management investment companies to send annual and semiannual reports to their shareholders. Rule 30d–2 requires UITs that invest substantially all of their assets in shares of a management investment company to send their unitholders annual and semiannual reports containing financial information on the underlying company. The proposed amendments to rules 30d–1 and 30d–2 would permit householding for these shareholder reports under substantially the same conditions as those in rule 154.

Every registered management investment company is subject to the reporting requirements of rule 30d–1. As of August 1997, there were approximately 3220 registered management investment companies. The Commission currently estimates that the hour burden associated with rule 30d–1 is approximately 181 hours per company. As discussed above, the Commission estimates that the burden associated with the notice requirement of the amendments to rules 30d–1 and 30d–2 is approximately 20 hours per company. Therefore, the Commission estimates that the burden associated with rule 30d–1, including the burden of sending the notices, is 201 hours per company, or a total of 647,220 hours. In addition, the Commission estimates that the cost of contracting for outside services associated with the rule is $47,994 per respondent (421 hours times $114 per hour for independent auditor services), for a total cost of $154,540,680 ($47,994 times 3220 respondents).

Rule 30d–2 applies to approximately 500 UITs. The Commission estimates that the annual burden associated with rule 30d–2 is 120 hours per respondent, including the estimated 20 hours associated with the notice requirement contained in the proposed amendment to rule 30d–2. The total hourly burden is therefore approximately 60,000 hours. The Commission estimates that the annual financial cost of complying with rule 30d–2 (in addition to the hourly cost) is $9120 per respondent (80 hours times $114 per hour for independent auditor services), or a total of $4,560,000.

With respect to the amendments to rules 14a–3, 14c–3 and 14c–7, Regulations 14A and 14C are existing information collections that set forth proxy and information statement disclosure requirements. Companies that have a class of securities registered under section 12 of the Exchange Act are subject to these requirements. The Commission estimates that the time required to prepare and arrange delivery of the notice would be approximately 20 hours per respondent per year. The Commission estimates that 9321 respondents are subject to Regulation 14A and that approximately 932 of these would deliver the notice. The Commission estimates that the burden associated with Regulation 14A as revised per registrant delivering the notice would be approximately 105 hours, and 85 hours per registrant not delivering the notice, for a total annual burden of 810,925 hours. An estimated

[33] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996).

[34] 44 U.S.C. 3501–3520.

150 respondents are subject to Regulation 14C and it is estimated that 15 of these would deliver the notice. The estimated burden associated with Regulation 14C as revised per registrant delivering the notice is 105 hours, and 85 hours for a registrant not delivering the notice, for a total annual burden of 13,050 hours.

The information collection requirements imposed by the rules are required for those issuers or broker-dealers that decide to rely on the rule to obtain the benefit of sending fewer documents to each household. Those issuers or broker-dealers that decide not to obtain that benefit are not required to rely on the rule. Responses to the collection of information will not be kept confidential.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Stop 6–9, Washington, D.C. 20549, with reference to File No. S7–27–97. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication; therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

IV. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') in accordance with 5 U.S.C. 603 regarding proposed rule 154 and proposed amendments to rules 14a–3, 14c–3, 14c–7, 30d–1 and 30d–2. The following summarizes the IRFA.

When two or more investors in a household purchase the same security, the prospectus delivery requirements of the Securities Act and shareholder report delivery rules under the Investment Company Act and Exchange Act may result in the mailing of multiple copies of the same document to the household. Sending multiple copies of the same document to investors who share the same address often inundates them with extra mail and results in higher costs for the senders.

To reduce the number of duplicative disclosure documents delivered to investors, the Commission is proposing rules to permit, under certain circumstances, delivery of a single prospectus or shareholder report to a household to satisfy the applicable delivery requirements. The Commission is proposing rule 154 pursuant to section 19(a) of the Securities Act, the amendments to rules 14a–3, 14c–3, and 14c–7 pursuant to sections 12, 14 and 23(a) of the Exchange Act, and the amendments to rules 30d–1 and 30d–2 pursuant to sections 30(e) and 38(a) of the Investment Company Act.

An issuer, other than an investment company, generally is a small entity if, on the last day of its most recent fiscal year, it had total assets of $5,000,000 or less and is engaged or proposing to engage in small business financing.[35] An issuer is considered to be engaged or proposing to engage in small business financing if it is conducting or proposing to conduct an offering of securities that does not exceed $5,000,000.[36] Most of these small issuers can conduct their offerings under Regulation A, which exempts offerings from the registration requirements of the Securities Act if the sum of all cash and other consideration to be received for the securities does not exceed $5,000,000, subject to a number of conditions.[37] Thus, the Commission estimates that among issuers other than investment companies, very few small issuers will be affected by rule 154.

An investment company generally is a small entity if it has net assets of $50,000,000 or less as of the end of its most recent fiscal year.[38] The Commission estimates that there are approximately (i) 2700 active registered open-end investment companies, of which 620 are small entities, (ii) 520 active registered closed-end investment companies, of which 46 are small entities, and (iii) 629 UITs, about 50 of which are small entities. Closed-end investment companies and UITs will be affected by rule 154 only if they are currently offering their shares.

A broker-dealer generally is a small entity if it has total capital (i.e., net worth plus subordinated liabilities) of less than $500,000 in its prior audited financial statements or, if it is not required to file such statements, on the last business day of the preceding fiscal year.[39] The delivery of prospectuses and shareholder reports is likely to be handled only by broker-dealers that carry public customer accounts. As of December 31, 1996, broker-dealers carrying public customer accounts numbered approximately 750 firms, 125 of which were small businesses.

Rule 30d–1 applies to registered management investment companies. It is estimated that out of approximately 3,220 active management investment companies, approximately 666 are considered small entities.[40] Rule 30d–2 applies to registered UITs, substantially all the assets of which consist of securities issued by a management investment company. It is estimated that out of approximately 500 registered UITs that are subject to rule 30d–2, approximately 20 are considered small entities.

Rule 0–10 under the Exchange Act defines the term ''small business'' as a company whose total assets on the last day of its most recent fiscal year were $5 million or less.[41] There are approximately 1000 reporting companies that have assets of $5 million or less.

Persons who rely on the rules would be required to either obtain written consent of householded persons or provide them with advance notice as specified in the rules. Those persons also must determine whether certain householded investors are natural persons and, for investors householded in accordance with the advance notice (rather than written consent) provisions, must have certain information concerning each householded investor's address. These requirements are designed to provide reasonable assurance that the prospectus or report will be made readily available to all investors at the address.

The Regulatory Flexibility Act directs the Commission to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entities. In connection with the proposed rule and proposed

[35] *See* 17 CFR 230.157.

[36] *Id.*

[37] *See* 17 CFR 230.251—230.263.

[38] *See* 17 CFR 230.157.

[39] *See* 17 CFR 240.0–10(c)(1).

[40] *See* 17 CFR 270.0–10.

[41] Rule 0–10 [17 CFR 240.0–10].

amendments, the Commission considered: (i) Establishing differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (iii) the use of performance rather than design standards; and (iv) an exemption from coverage of the rule, or any part thereof, for such small entities.

The information persons would be required to have in order to rely on the rules without written consent is information that they already have or would be required to obtain in order to conduct mailings at reduced rates through the U.S. Postal Service. Other information, such as whether investors are natural persons, is readily available. Therefore, the Commission does not believe differing or simplified compliance or reporting requirements or timetables are necessary for small entities. In addition, differing requirements for small entities would not be consistent with investor protection and the purposes of section 5 of the Securities Act.

The proposed rules are designed to result in cost savings for all issuers and broker-dealers, while maintaining protections for investors. The Commission believes that small issuers and broker-dealers will generally rely on the rules in a particular instance only to the extent that cost savings can be achieved. The Commission also believes that the rules will not impose a burden on small entities. The rule, if relied upon, will lower burdens for small entities; thus, it is not appropriate or necessary to exempt small entities from the rule or any part of it.

The Commission encourages the submission of comments on matters discussed in the IRFA. Comment specifically is requested on the number of small entities that would be affected by the proposed rule and rule amendments. Comment also is requested on the impact of the rule and rule amendments on issuers and broker-dealers that are small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be placed in the same public file as comments on the proposed rule and rule amendments themselves.

A copy of the IRFA may be obtained by contacting Marilyn Mann, Securities and Exchange Commission, 450 5th Street, N.W., Stop 10–2, Washington, D.C. 20549.

V. Statutory Authority

The Commission is proposing new rule 154 pursuant to the authority set forth in section 19(a) of the Securities Act [15 U.S.C. 77s(a)]. The Commission is proposing to amend rules 30d–1 and 30d–2 pursuant to the authority set forth in sections 30(e) and 38(a) of the Investment Company Act [15 U.S.C. 80a–29(e) and 80a–37(a)], and rules 14a–3, 14c–3, and 14c–7 pursuant to the authority set forth in sections 12, 14 and 23(a) of the Exchange Act [15 U.S.C. 78*l*, 78n and 78w(a)].

List of Subjects

17 CFR Parts 230 and 270

Investment companies, Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

Text of Proposed Rules

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

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

1. The authority citation for Part 230 continues to read, in part, as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 79t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. Section 154 is added to read as follows:

§ 230.154 Delivery of prospectuses to investors at the same address.

(a) *Delivery of a single prospectus.* If you must deliver a prospectus under the federal securities laws, for purposes of sections 5(b) and 2(a)(10) of the Act (15 U.S.C. 77e(b) and 77b(a)(10)), you will be considered to have delivered a prospectus to investors who share an address if:

(1) You deliver the prospectus to at least one of the investors, at any address of that investor;

(2) You address the prospectus to a natural person; and

(3) The other investors consent in writing to this manner of delivery.

(b) *Implied consent.* You do not need to obtain written consent from an investor if the following conditions are all met.

(1) The investor established an account with you before [effective date of the rule].

(2) The investor has the same last name as the investor to whom you delivered the prospectus, or you reasonably believe that the investors are members of the same family.

(3) You have sent the investor a notice at least 60 days before you begin to rely on this section concerning delivery of prospectuses to that investor. The notice must be a separate written statement, and must state that prospectuses will be delivered to only one investor at the shared address unless you receive contrary instructions. The notice must include a reply form that is easy to return and that includes the name and, if applicable, account number of the investor.

(4) You have not received the reply form from the investor indicating the investor wishes to receive the prospectus, within 60 days after you sent the notice.

(5) You deliver the prospectus to:

(i) A shared street address that you reasonably believe is a residence;

(ii) A shared post office box; or

(iii) An electronic address of the investor to whom the prospectus is delivered, if the investors share a street address that you reasonably believe is a residence.

(c) *Reasonable belief.* For purposes of paragraph (b)(5) of this section, you can reasonably believe that an address is a residence unless the investor provides any information, or the U.S. Postal Service assigns a Zip Code, that indicates to the contrary.

(d) *Revocation of consent.* If you receive a request from an investor that prospectuses be delivered directly to the investor in the future, you may not continue to rely on this section, with respect to that investor, for more than 30 days after you receive the request.

(e) *Exclusion of some prospectuses.* This section does not apply to the delivery of a prospectus filed as part of a registration statement on Form N–14 (17 CFR 239.23), Form S–4 (17 CFR 239.25) or Form F–4 (17 CFR 239.34), or to the delivery of any other prospectus in connection with a business combination transaction, exchange offer or reclassification of securities.

(f) *Definition of address.* For purposes of this section, *address* means a street address, a post office box number, an electronic mail address, a facsimile telephone number, or other similar destination to which paper or electronic documents are delivered, unless otherwise provided in this section. If you have reason to believe that the address is a street address of a multi-unit building (for example, based on the Zip Code), the address must include the unit number.

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

3. The authority citation for Part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z-2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78k, 78k-1, 78*l*, , 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

4. Section 14a–3 is amended by revising paragraph (e)(1) and the introductory text of paragraph (e)(2) to read as follows:

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

* * * * *

(e)(1)(i) A registrant will be considered to have delivered an annual report to security holders of record who share an address if:

(A) The registrant delivers the annual report to at least one of the security holders, at any address of that security holder;

(B) The registrant addresses the prospectus to a natural person; and

(C) The other security holders consent in writing to this manner of delivery.

(ii) The registrant need not obtain written consent from a security holder if the following conditions are all met.

(A) The security holder first purchased securities of the registrant before [effective date of the rule].

(B) The security holder has the same last name as the security holder to whom the registrant delivered the annual report, or the registrant reasonably believes that the security holders are members of the same family.

(C) The registrant has sent the security holder a notice at least 60 days before the registrant begins to rely on this section concerning delivery of annual reports to that security holder. The notice must be a separate written statement, and must state that annual reports will be delivered to only one investor at the shared address unless the registrant receives contrary instructions. The notice must include a reply form that is easy to return and that includes the name and, if applicable, account number of the security holder.

(D) The registrant has not received the reply form from the security holder indicating the security holder wishes to receive the annual report, within 60 days after the registrant sent the notice.

(E) The registrant sends the report to:

(*1*) A shared street address that the registrant reasonably believes is a residence;

(*2*) A shared post office box; or

(*3*) An electronic address of the security holder to whom the report is sent, if the security holders share a street address that the registrant reasonably believes is a residence.

(iii) For purposes of paragraph (e)(1)(ii)(E) of this section, the registrant can reasonably believe that an address is a residence unless the security holder provides any information, or the U.S. Postal Service assigns any Zip Code, that indicates to the contrary.

(iv) If the registrant receives a request from a security holder that the annual report be sent directly to the security holder in the future, the registrant may not continue to rely on this section, with respect to that security holder, for more than 30 days after the registrant receives the request.

Note to paragraph(e)(1). For purposes of this section, the term *address* means a street address, a post office box number, an electronic mail address, a facsimile telephone number, or other similar destination to which paper or electronic documents are delivered, unless otherwise provided in this section. If the registrant has reason to believe that the address is a street address of a multi-unit building (for example, based on the Zip Code), the address must include the unit number.

(2) Notwithstanding paragraphs (a) and (b) of this section, unless state law requires otherwise, a registrant is not required to send an annual report or proxy statement to a security holder if:

* * * * *

5. In § 240.14c–3, paragraph (c) is added to read as follows:

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

* * * * *

(c) A registrant will be considered to have delivered an annual report to security holders of record who share an address if the requirements set forth in § 240.14a–3(e)(1) are satisfied.

6. In § 240.14c–7, Note 2 is removed and Notes 3 and 4 are redesignated as Notes 2 and 3.

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

7. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

8. Section 30d–1 is amended by adding paragraph (f) to read as follows:

§ 270.30d–1 Reports to stockholders of management companies.

* * * * *

(f)(1) A company will be considered to have transmitted a report to shareholders who share an address if:

(i) The company transmits the report to at least one of the shareholders, at any address of that shareholder;

(ii) The company addresses the report to a natural person; and

(iii) The other shareholders consent in writing to this manner of delivery.

(2) The company need not obtain written consent from a shareholder if the following conditions are all met.

(i) The shareholder first purchased securities of the company before [effective date of the rule].

(ii) The shareholder has the same last name as the shareholder to whom the company delivered the report, or the company reasonably believes that the shareholders are members of the same family.

(iii) The company has transmitted a notice to the shareholder at least 60 days before the company begins to rely on this section concerning transmission of reports to that shareholder. The notice must be a separate written statement, and must state that reports will be delivered to only one shareholder at the shared address unless the company receives contrary instructions. The notice must include a reply form that is easy to return and that includes the name and, if applicable, account number of the shareholder.

(iv) The company has not received the reply form from the shareholder indicating the shareholder wishes to receive the report, within 60 days after the company sent the notice.

(v) The company transmits the report to:

(A) A shared street address that the company reasonably believes is a residence;

(B) A shared post office box; or

(C) An electronic address of the shareholder to whom the report is transmitted, if the shareholders share a street address that the company reasonably believes is a residence.

(3) For purposes of paragraph (f)(2)(v) of this section, the company can reasonably believe that an address is a residence unless the shareholder provides any information, or the U.S. Postal Service assigns a Zip Code, that indicates to the contrary.

(4) If the company receives a request from a shareholder that reports be transmitted directly to the shareholder in the future, the company may not continue to rely on this section, with respect to that shareholder, for more than 30 days after the company receives the request.

(5) For purposes of this section, *address* means a street address, a post

office box number, an electronic mail address, a facsimile telephone number, or other similar destination to which paper or electronic documents are transmitted, unless otherwise provided in this section. If the company has reason to believe that the address is a street address of a multi-unit building (for example, based on the Zip Code), the address must include the unit number.

9. Section 30d–2 is revised to read as follows:

§ 270.30d–2 Reports to shareholders of unit investment trusts.

(a) At least semiannually every registered unit investment trust substantially all the assets of which consist of securities issued by a management company must transmit to each shareholder of record (including record holders of periodic payment plan certificates), a report containing all the applicable information and financial statements or their equivalent, required by § 270.30d–1 to be included in reports of the management company for the same fiscal period. Each such report must be transmitted within the period allowed the management company by § 270.30d–1 for transmitting reports to its stockholders.

(b) Any report required by this section will be considered transmitted to a shareholder of record if the unit investment trust satisfies the conditions set forth in § 270.30d–1(f) with respect to that shareholder.

By the Commission.

Dated: November 13, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–30430 Filed 11–19–97; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ–MA–002–CGB; FRL–5925–6]

Approval and Promulgation of State Implementation Plans; Arizona—Maricopa County Ozone and PM_{10} Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Arizona on September 15, 1997, establishing Cleaner Burning Gasoline (CBG) fuel requirements for gasoline distributed in the Phoenix (Maricopa County) ozone nonattainment area. Arizona has developed these fuel requirements to reduce emissions of volatile organic compounds (VOC) and particulates (PM_{10}) in accordance with the requirements of the Clean Air Act (CAA). EPA is proposing to approve Arizona's fuel requirements into the Arizona SIP because either they are not preempted by federal fuels requirements or to the extent that they are or may be preempted, since EPA is proposing to find that the requirements are necessary for the Maricopa area to attain the national ambient air quality standards (NAAQS) for ozone and particulates.

DATES: Comments on this proposed rule must be received in writing by December 22, 1997.

ADDRESSES: Written comments should be sent to the Region IX contact listed below. Copies of the SIP revision are available in the docket for this rulemaking, which is open for public inspection at the addresses below. A copy of this notice is also available on EPA Region IX's website at http://www.epa.gov/region09.

Air Planning Office (AIR–2), Air Division, Region IX, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105

Arizona Department of Environmental Quality, Office of Outreach and Information, First Floor, 3033 N. Central Avenue, Phoenix, Arizona 85012.

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SUPPLEMENTARY INFORMATION:

I. Background

A. Arizona CBG

The State CBG fuel program for the Maricopa area establishes limits on gasoline properties and gasoline emission standards which will reduce emissions of volatile organic compounds (VOCs), oxides of nitrogen (NO_X), carbon monoxide (CO) and particulates (PM). Under the program, a variety of different fuels will be able to meet the fuel standards during different implementation periods (see Table 1). Starting June of 1998 through September 30, 1998, gasoline sold in Maricopa County must meet standards similar to EPA's Phase I reformulated gas (RFG) program or California's Phase II RFG program. Under the EPA Phase I RFG standards, the Arizona Department of Environmental Quality (ADEQ) estimates that VOC emissions will be reduced by 8.7 tons per summer day (tpsd), NO_X emissions by 0.2 tpsd, CO emissions by 118.6 tpsd and PM_{10} emissions by 0.27 tpsd. With California RFG, ADEQ estimates that VOC emissions will be reduced by 14.1 tpsd, NO_X emissions by 8.2 tpd, CO emission by 198 tpsd and PM_{10} by 0.76 tpsd.

California Phase II RFG can be used to comply with the Arizona fuel program during all implementation periods since, starting May 1, 1999, gasoline must meet standards similar to EPA's Phase II RFG program or California's RFG program. Under the CBG Type 1 standards, ADEQ estimates that VOC emissions will be reduced by 12.5 tpsd, NO_X emissions by 2.0 tpsd, CO emissions by 143.3 tpsd and PM_{10} by 0.4 tpsd.

TABLE 1.—FUEL TYPES MEETING ARIZONA CBG FUEL STANDARDS

Fuel type	Fuel designation	Implementation period
CBG Type 1	EPA's Phase II RFG	June 1999–Future.
CBG Type 2	California Phase II RFG	June 1998–Future.
CBG Type 3	EPA's Phase I RFG	June–September 30, 1998.

During both implementation periods, gasoline sold in the Maricopa area can comply with either of the two sets of specified standards included in the program. Therefore the actual emission reductions benefits during either period