

**§ 240.13a-11**

**17 CFR Ch. II (4-1-03 Edition)**

(ii) 45 days for all other issuers.

NOTE 1: In addition to the report or reports to be filed pursuant to this section, every issuer, except a foreign private issuer or an investment company required to file reports pursuant to Rule 30b1-1 under the Investment Company Act of 1940, that changes its fiscal closing date is required to file a report on Form 8-K responding to Item 8 thereof within the period specified in General Instruction B. 1. to that form.

NOTE 2: The report or reports to be filed pursuant to this section must include the certification required by §240.13a-14.

[54 FR 10316, Mar. 13, 1989, as amended at 56 FR 30068, July 1, 1991; 64 FR 53912, Oct. 5, 1999; 67 FR 57288, Sept. 9, 2002; 67 FR 58505, Sept. 16, 2002]

**§ 240.13a-11 Current reports on Form 8-K (§ 249.308 of this chapter).**

(a) Except as provided in paragraph (b) of this section, every registrant subject to §240.13a-1 shall file a current report on Form 8-K within the period specified in that form unless substantially the same information as that required by Form 8-K has been previously reported by the registrant.

(b) This section shall not apply to foreign governments, foreign private issuers required to make reports on Form 6-K (17 CFR 249.306) pursuant to §240.13a-16, issuers of American Depositary Receipts for securities of any foreign issuer, or investment companies required to file reports pursuant to §270.30b1-1 of this chapter under the Investment Company Act of 1940, except where such investment companies are required to file notice of a blackout period pursuant to §245.104 of this chapter.

[42 FR 4428, Jan. 25, 1977, as amended at 50 FR 27939, July 9, 1985; 68 FR 4355, Jan. 28, 2003]

**§ 240.13a-13 Quarterly reports on Form 10-Q and Form 10-QSB (§ 249.308a and § 249.308b of this chapter).**

(a) Except as provided in paragraphs (b) and (c) of this section, every issuer that has securities registered pursuant to section 12 of the Act and is required to file annual reports pursuant to section 13 of the Act, and has filed or intends to file such reports on Form 10-K and Form 10-KSB (§249.310 of this chapter) or U5S (§259.5s of this chap-

ter), shall file a quarterly report on Form 10-Q and Form 10-QSB (§249.308a of this chapter) within the period specified in General Instruction A.1. to that form for each of the first three quarters of each fiscal year of the issuer, commencing with the first fiscal quarter following the most recent fiscal year for which full financial statements were included in the registration statement, or, if the registration statement included financial statements for an interim period subsequent to the most recent fiscal year end meeting the requirements of Article 10 of Regulation S-X, for the first fiscal quarter subsequent to the quarter reported upon in the registration statement. The first quarterly report of the issuer shall be filed either within 45 days after the effective date of the registration statement or on or before the date on which such report would have been required to be filed if the issuer has been required to file reports on Form 10-Q and Form 10-QSB as of its last fiscal quarter, whichever is later.

(b) The provisions of this rule shall not apply to the following issuers:

(1) Investment companies required to file reports pursuant to §270.30b1-1;

(2) Foreign private issuers required to file reports pursuant to §240.13a-16.

(c) Part I of the quarterly reports on Form 10-Q or Form 10-QSB need not be filed by:

(1) Mutual life insurance companies; or

(2) Mining companies not in the production stage but engaged primarily in the exploration for the development of mineral deposits other than oil, gas or coal, if all of the following conditions are met:

(i) The registrant has not been in production during the current fiscal year or the two years immediately prior thereto; except that being in production for an aggregate period of not more than eight months over the three-year period shall not be a violation of this condition.

(ii) Receipts from the sale of mineral products or from the operations of mineral producing properties by the registrant and its subsidiaries combined have not exceeded \$500,000 in any of the

most recent six years and have not aggregated more than \$1,500,000 in the most recent six fiscal years.

(d) Notwithstanding the foregoing provisions of this section, the financial information required by Part I of Form 10-Q and Form 10-QSB, shall not be deemed to be “filed” for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act.

(Sec. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 28(c), 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; 15 U.S.C. 78l, 78m, 78o(d), 78w(a); secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 88 Stat. 685; sec. 1, 79 Stat. 1051; sec. 308(a)(2), 90 Stat. 57; secs. 12, 13, 14, 15(d), 23(a), 48 Stat. 892, 895, 901; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec 203(a), 49 Stat. 704; sec. 202, 68 Stat. 686; secs. 3, 4, 5, 6, 78 Stat. 565-568, 569, 570-574; secs. 1, 2, 3, 82 Stat. 454, 455; secs. 28(c), “1, 2, 3-5, 84 Stat. 1435, 1497; sec. 105(b), 88 Stat. 1503; secs. 8, 9, 10, 18, 89 Stat. 117, 118, 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 81 Stat. 1494, 1498, 1499, 1500; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 78l, 78m, 78n, 78o(d), 78w(a))

[42 FR 24064, May 12, 1977, as amended at 48 FR 19877, May 3, 1983; 50 FR 27939, July 9, 1985; 54 FR 10317, Mar. 13, 1989; 57 FR 10615, Mar. 27, 1992; 61 FR 30403, June 14, 1996]

**§ 240.13a-14 Certification of disclosure in annual and quarterly reports.**

(a) Each report, including transition reports, filed on Form 10-Q, Form 10-QSB, Form 10-K, Form 10-KSB, Form 20-F or Form 40-F (§§ 249.308a, 249.308b, 249.310, 249.310b, 249.220f and 249.240f of this chapter) under section 13(a) of the Act (15 U.S.C. 78m(a)), other than a report filed by an Asset-Backed Issuer (as defined in paragraph (g) of this section), must include a certification containing the information set forth in paragraph (b) of this section in the form specified in the report. Each principal executive officer or officers and principal financial officer or officers of the issuer, or persons performing similar functions, at the time of filing of the report must sign the certification.

(b) The certification included in each report specified in paragraph (a) of this section must be in the form specified in

the report and consist of a statement of the certifying officer that:

(1) He or she has reviewed the report being filed;

(2) Based on his or her knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by the report;

(3) Based on his or her knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition, results of operations and cash flows of the issuer as of, and for, the periods presented in the report;

(4) He or she and the other certifying officers are responsible for establishing and maintaining disclosure controls and procedures (as such term is defined in paragraph (c) of this section) for the issuer and have:

(i) Designed such disclosure controls and procedures to ensure that material information relating to the issuer, including its consolidated subsidiaries, is made known to them by others within those entities, particularly during the period in which the periodic reports are being prepared;

(ii) Evaluated the effectiveness of the issuer's disclosure controls and procedures as of a date within 90 days prior to the filing date of the report (“Evaluation Date”); and

(iii) Presented in the report their conclusions about the effectiveness of the disclosure controls and procedures based on their evaluation as of the Evaluation Date;

(5) He or she and the other certifying officers have disclosed, based on their most recent evaluation, to the issuer's auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function):

(i) All significant deficiencies in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize and report financial data and have identified for the issuer's auditors any material weaknesses in internal controls; and