

regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For fire extinguishers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fire extinguisher failure due to leakage, which could result in an uncontained fire and damage to the aircraft, accomplish the following:

(a) Within 3 months after the effective date of this AD, perform a one time inspection of fire extinguishers for leakage, and replace leaking fire extinguishers with serviceable parts, in accordance with First Technology Fire and Safety Ltd. SB No. 26-110, dated January 1998.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on June 23, 1998.

Dated: June 23, 1998.

Jay J. Pardee,

*Manager, Engine and Propeller Directorate,
Aircraft Certification Service*

[FR Doc. 98-17416 Filed 6-30-98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 210, 229, 240 and 249

[Release Nos. 33-7549; 34-40126; File No. S7-17-98]

RIN 3235-AH43

Segment Reporting

AGENCY: Securities and Exchange Commission.

ACTION: Proposed Rules.

SUMMARY: The Commission today proposes technical amendments to conform our reporting requirements with the Financial Accounting Standards Board's ("FASB") recently adopted Statement of Financial Accounting Standards ("SFAS") No. 131, governing disclosures relating to a business enterprise's operating segments.

DATES: We should receive comments by July 31, 1998.

ADDRESSES: Please send three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Interested persons also may submit comments electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7-17-98; please include this file number in the subject line if you use e-mail. Anyone can inspect and copy the comment letters in our public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. We will post electronically submitted comment letters on the Commission's Internet Web Site (www.sec.gov).

FOR FURTHER INFORMATION CONTACT:

James R. Budge, Special Counsel, Division of Corporation Finance, at (202) 942-2950, Louise M. Dorsey, Assistant Chief Accountant, Division of Corporation Finance, at (202) 942-2960, or Robert F. Lavery, Assistant Chief Accountant, Office of the Chief Accountant, at (202) 942-4400, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today proposes technical amendments to Rules 3-03¹ and 12-16² of Regulation S-X,³ Items 101⁴ and 102⁵ of Regulation S-K,⁶ and Schedule 14A⁷ in order to conform our reporting requirements with the FASB's recently adopted SFAS No. 131. We also propose to make consistent changes to Form 20-F⁸ and to Sections 501.06 and 503 of the Codification of Financial Reporting Policies ("CFRP").

I. Background

In 1976, the FASB issued SFAS No. 14, "Financial Reporting for Segments of a Business Enterprise." SFAS No. 14

required corporations to disclose certain financial information by "industry segment" as defined in the statement and by geographic area. In December 1977, we adopted amendments to our rules to integrate the information to be furnished under SFAS No. 14 with the narrative and financial disclosures required in various disclosure forms.⁹

After extensive deliberations, including solicitation of public comments, the FASB adopted a number of fundamental changes to its standards for segment reporting by publishing SFAS No. 131 in June of 1997. SFAS No. 131 superseded SFAS No. 14 and established standards for reporting information about "operating segments" of an enterprise rather than following the "industry segment" standards that were in place previously. The Commission today proposes a number of technical changes to its reporting requirements to accommodate these recent modifications. This is in keeping with our long-standing position that we will look to the private sector for the promulgation of generally accepted accounting principles ("GAAP"),¹⁰ and furthers our goal of integrating existing accounting information into the narrative disclosure in documents mandated by the federal securities laws. This release explains in detail the proposed changes.

II. Proposed Rule Changes

A. Operating Segment Disclosure

SFAS No. 14 required, and the Commission's current rules and forms require, disclosure along "industry segment" lines. An "industry segment," as defined by SFAS No. 14, was "a component of an enterprise engaged in providing a product or service or a group of related products and services primarily to unaffiliated customers * * * for a profit."¹¹ Recognizing that businesses often evaluate their operations using criteria not necessarily related to the products or services offered to the public, the FASB replaced the industry segment reporting standard with one that requires businesses to report financial information on the basis of "operating segments." Under the new accounting standard, an operating segment is a component of a business, for which separate financial information is available, that management regularly evaluates in deciding how to allocate

¹ 17 CFR 210.3-03.

² 17 CFR 210.12-16.

³ 17 CFR Part 210.

⁴ 17 CFR 229.101.

⁵ 17 CFR 229.102.

⁶ 17 CFR Part 229.

⁷ 17 CFR 240.14a-101.

⁸ 17 CFR 249.220f.

⁹ Release No. 33-5893 (December 23, 1977) [42 FR 65554].

¹⁰ Section 101 of the Codification of Financial Reporting Policies. The Commission initially issued its administrative policy concerning financial statements in 1938 and updated it in 1973 to recognize the establishment of the FASB.

¹¹ SFAS No. 14, ¶ 10.a.

resources and assess performance.¹² Specifically, SFAS No. 131 states that an operating segment is a component of a business:

- That engages in activities from which it may earn revenues and incur expenses (including revenues and expenses relating to transactions with other components of the same business);
- Whose operating results are regularly reviewed by the enterprise's "chief operating decision maker"¹³ to make decisions about resources to be allocated to the segment and assess its performance; and
- For which discrete financial information is available.

Under SFAS No. 131, a company generally must report separately information about an operating segment that meets any of the following thresholds:

- Its reported revenue, including both sales to external customers and intersegment sales and transfers, is 10 percent or more of the combined revenue of all reported operating segments, whether generated inside or outside of the company;
- Its reported profit or loss is 10 percent or more of the greater of: (1) the combined reported profit of all operating segments that did not report a loss or (2) the combined reported loss of all operating segments that did report a loss; or
- Its assets are 10 percent or more of the combined assets of all operating segments.¹⁴

SFAS No. 131 not only changed how a business should identify its segments, it also changed the types of information to be disclosed for each segment. SFAS No. 14 required an issuer to report its revenues, operating profit (loss),¹⁵ and

¹² We refer to this below as the "management approach."

¹³ The term "chief operating decision maker" identifies a function, not a person with that title. This person's function is to allocate resources to and assess the performance of the company's segments. A chief operating decision maker frequently might be a company's chief executive officer or chief operating officer, but it also could be a group of decision makers, for example, the company's president, executive vice presidents and others.

¹⁴ SFAS No. 131, ¶ 18.

¹⁵ SFAS No. 14 specifically defined segment operating profit to be revenues less all operating expenses, which included depreciation and amortization. An issuer was to allocate operating expenses that were not directly traceable to a particular segment on a reasonable basis among the segments for whose benefit the expenses were incurred. The standard required an explanation of the amount and nature of any unusual or nonrecurring items added or deducted in determining operating profit of a segment. In addition, the standard defined any restructuring charges related to a specific segment as operating expenses of that segment and issuers were to deduct these charges in calculating that segment's operating profit or loss.

SFAS No. 14 excluded certain items in calculating segment profit. They were: general

identifiable assets¹⁶ if a segment's revenues, operating profit, or identifiable assets were 10% or more of all the industry segments' revenues, operating profits, or assets, respectively. Issuers were to reconcile these three items to the consolidated amounts in the financial statements. In addition, SFAS No. 14 required issuers to report for each segment depreciation, depletion and amortization, capital expenditures, equity in net income of unconsolidated subsidiary or equity-method investee, and the effect of a change in accounting principle on operating profit (loss).

By contrast, SFAS No. 131 requires that a company provide for each reportable segment quantitative disclosure of two basic items—total assets and a measure of profit or loss.

The new standard defines neither segment profit (loss) nor assets. Instead, management must determine what they will report based on how they operate their business. In addition, companies must disclose the following items for each segment, but only if management includes them in measuring segment profit or loss:

- Revenues from external customers;
- Revenues from other operating segments;
- Interest income;¹⁷
- Interest expense;¹⁸
- Depreciation, depletion and amortization;
- Unusual items;
- Equity in net income of equity method investees;
- Income taxes;
- Extraordinary items; and
- Significant non-cash items other than depreciation, depletion, and amortization.

A company also must disclose for each segment the amount of investment in equity-method investees and total expenditures for additions to long-lived assets if it includes the amount in its determination of segment assets.

The company must reconcile the totals of the reportable segments' amounts for all of these listed items to consolidated amounts. The FASB required more items to be disclosed per segment under the new standard because analysts have long wanted more

corporate expenses; interest expense (except included for financial institutions, insurance and leasing operations); equity in income (loss) of unconsolidated subsidiaries or equity investees; discontinued operations; extraordinary items; and, the effects of changes in accounting.

¹⁶ Segment assets included all tangible and intangible assets used by the segment, including goodwill, other intangibles, and deferred income and expenses.

¹⁷ Certain enterprises may report segment interest revenue net of its interest expense. See SFAS 131, ¶ 27.

¹⁸ *Id.*

information and most of the items required should be already available in management reports.

We propose to amend our narrative and financial reporting rules to conform current segment reporting requirements to the FASB's revised accounting standards. The proposals would, however, retain certain requirements relating to disclosure of principal products or services and major customers that traditionally have differed from the FASB standards.¹⁹ We will address below each of the proposals.²⁰

1. Description of Business—Item 101

Regulation S–K Item 101(b)²¹ currently requires an issuer to disclose financial information with respect to its "industry segments" in the business description sections of documents that it files with the Commission. The proposals would amend Item 101 to conform its disclosure requirements to current GAAP as defined in SFAS No. 131, thereby requiring disclosure about an issuer's "operating segments" rather than its "industry segments."²² Other proposals specific to Item 101 follow.

a. Principal Products or Services

Item 101 historically has required a discussion, by segment, of the principal products produced and services rendered by the issuer, as well as the principal markets for and methods of distribution of each segment's products and services. On the other hand, GAAP required, and continues to require, disclosure of principal products and services on an enterprise-wide basis, without reference to principal markets and methods of distribution. We continue to believe that the segment information relating to principal products or services, principal markets and distribution methods is useful to investors and propose not to change this provision.

Item 101 further requires registrants to disclose the amounts of revenues from each class of similar products and services based on quantitative

¹⁹ See Sections II.A.1a. and II.B.2.

²⁰ The Commission also is proposing several technical amendments to update cross references to the new accounting standard. These revisions would be made to Rules 3–03(e) and 12–16 of Regulation S–X and Item 14(b)(2)(ii)(A)(3)(i) of Schedule 14A.

²¹ 17 CFR 229.101(b).

²² We also propose to retain the current provisions allowing an issuer to refer to other sections of the registration statement that include the required information in order to avoid duplicative disclosure.

thresholds. Specifically, the issuer must state the amount or percentage of total revenue contributed by any class of similar products or services that accounted for 10 percent or more of consolidated revenue in any of the last three fiscal years, or if total revenue did not exceed \$50,000,000 during any of those three fiscal years, 15 percent or more of consolidated revenue.²³ SFAS No. 131 requires disclosure of revenues from external customers for each product and service or each group of similar products and services unless it is impracticable to do so. Because SFAS No. 131 requires disclosure regardless of amount, unless impracticable, it appears that the new accounting standard may require more disclosure than Item 101. In light of this, we seek comment as to whether we need to maintain the quantitative thresholds of Item 101(c)(1)(i). If so, should they be raised or lowered, or should we simply follow the standard set out in paragraph 37 of SFAS No. 131, which provides for no quantitative threshold?

b. Retroactive Restatement of Information

Item 101 requires issuers to restate retroactively previously reported financial information when there has been a material change in the way they group products or services into industry segments and that change affects the reported segment information.²⁴ By contrast, SFAS No. 131 provides that if an issuer changes the structure of its internal organization in a manner that causes the composition of its reportable segments to change, the issuer must restate the corresponding information for earlier periods unless it is impracticable to do so.²⁵ We propose to conform the language of Item 101 with the language of SFAS No. 131 regarding when a company must restate information.

c. Appendix A

Item 101 includes an appendix that illustrates how to present the required industry segment information in tabular form. The Commission proposes to eliminate this appendix and rely instead on the SFAS No. 131 instructions governing how to present information relating to operating segments.

2. Property—Item 102

Regulation S-K Item 102 requires descriptions of an issuer's principal plants, mines, and other "materially important" physical properties.

Companies must identify the industry segment(s) that use the described properties.²⁶ We propose to update the item by substituting the term "segment" for "industry segment."

3. Management's Discussion and Analysis—Item 303

Regulation S-K Item 303, which requires management to include a discussion and analysis of an issuer's financial condition and results of operations, provides:

Where in the registrant's judgment a discussion of segment information or other subdivisions of the registrant's business would be appropriate to an understanding of such business, the discussion shall focus on each relevant, reportable segment or other subdivision of the business and on the registrant as a whole.²⁷

The Commission historically has relied on the FASB's definition for segment disclosure in Management's Discussion and Analysis ("MD&A"). The Commission intends to continue to rely on the FASB's standards, thereby allowing issuers to use the management approach under SFAS No. 131. No rule change is necessary. Under the language in Item 303, a multi-segment registrant preparing a full fiscal year MD&A should analyze revenues, profitability (or losses) and total assets of each significant segment in formulating a judgment as to whether a discussion of segment information is necessary to an understanding of the business.

While we propose no changes to the language of Item 303, we do propose to amend CFRP 501.06.a, which provides informal guidance about MD&A. The proposed revisions would accord the Codification's language with that of SFAS No. 131, and would add a new footnote, that would read:

Where consistent with the registrant's internal management reports, SFAS No. 131 permits measures of segment profitability that differ from GAAP measures of profit on a consolidated basis, or that exclude items included in the determination of the registrant's net income. In a note to the financial statements, however, the registrant must reconcile key segment amounts to the corresponding items reported in the consolidated financial statements. Similarly, the Commission expects that the discussion of a segment whose profitability is determined on a basis that differs from GAAP on a consolidated basis or that excludes the effects of items attributable to the segment also will address the applicable reconciling items. For example, if a material charge for restructuring or asset impairment relates to a specific segment, but is not included in management's measure of the segment's operating profit or loss, registrants would be

expected to disclose the applicable portion of the charge and the circumstances of its incurrence. Likewise, the Commission expects that the effects of management's use of non-GAAP measures will be explained in a balanced and informative manner, and the disclosure will include a discussion of how that segment's performance has affected the registrant's GAAP financial statements.

4. Form 20-F

Form 20-F is the registration statement and annual report for foreign private issuers promulgated under the Securities Exchange Act of 1934 ("Exchange Act").²⁸ Form 20-F currently permits a foreign registrant that presents financial statements according to United States GAAP to omit SFAS No. 14 disclosures if it provides the information required by Item 1 of the form. We propose replacing the reference to SFAS No. 14 with one to SFAS No. 131.²⁹

Item 1 of Form 20-F requires registrants to disclose sales and revenues by categories of activity and geographical areas, as well as to discuss each category of activities that provide a disproportionate contribution to total "operating profit" of the registrant. We contemplate no change to these requirements.

B. Other Reporting Requirements

SFAS No. 14 also set standards for disclosure of certain enterprise-wide information where the issuer did not provide the information in the segment disclosure, and Regulation S-K currently reflects those standards. We propose to update our rules to conform with the revised requirements of SFAS No. 131, as we explain below.

1. Geographic Areas

Regulation S-K Item 101(d) currently requires an issuer to disclose for each of the issuer's last three fiscal years the amounts of revenue, operating profit or loss, and identifiable assets attributable to each of its geographic areas. It also requires disclosure of the amount of export sales in the aggregate or by appropriate geographic area to which the issuer makes sales.

Under SFAS No. 131, issuers must disclose revenues from external customers deriving from:

- The issuer's country of domicile;
- All foreign countries in total from which the issuer derives revenues; and
- An individual foreign country, if material.

An issuer also must disclose the basis for attributing revenues from external customers to individual countries.

²³ 17 CFR 229.101(c)(1)(i).

²⁴ 17 CFR 229.101(b)(1)(ii).

²⁵ See SFAS No. 131, ¶ 34.

²⁶ 17 CFR 229.102.

²⁷ 17 CFR 229.303(a).

²⁸ 15 U.S.C. 78a *et seq.*

²⁹ See proposed Instruction 3 to Item 17 of Form 20-F.

The new accounting standard also requires an issuer to disclose long-lived assets other than financial instruments, long-term customer relationships of a financial institution, mortgage and other servicing rights, deferred policy acquisition costs, as well as deferred tax assets located in its country of domicile and in all foreign countries, in total, in which the enterprise holds assets. If assets in an individual foreign country are material, an issuer must disclose those assets separately.³⁰

We propose to revise our disclosure requirements to conform entirely with the new accounting standard. Consequently, we would no longer require issuers to disclose geographic information relating to: individual geographic areas (except where information relating to an individual country is material); profitability; or export sales.³¹

2. Major Customers

Since the adoption of SFAS No. 14, GAAP has required disclosure of revenues from major customers.³² SFAS No. 131 now requires issuers to disclose the amount of revenues from each external customer that amounts to 10 percent or more of its revenue as well as the identity of the segment(s) reporting the revenues. The accounting standards, however, have never required issuers to identify major customers. On the other hand, Regulation S-K Item 101 historically requires naming a major customer if sales to that customer equal 10 percent or more of the issuer's consolidated revenues and if the loss of the customer would have a material adverse effect on the issuer and its subsidiaries.³³ Since we continue to believe that the identity of major customers is material information to investors, we propose to retain this Regulation S-K requirement.

C. Segment Information Added to Interim Reports

GAAP historically has not required segment reporting in interim financial statements. In SFAS No. 131, the FASB changed its position. Under the new accounting standards, issuers must

include in condensed financial statements of interim periods issued to shareholders the following information about each reportable segment:

- Revenues from external customers;
- Intersegment revenues;
- A measure of segment profit or loss;
- Total assets for which there has been a material change from the amount disclosed in the last annual report;
- A description of differences from the last annual report in the basis of segmentation or in the basis of measurement of segment profit or loss; and
- A reconciliation of the total of the reportable segments' measures of profit or loss to the enterprise's consolidated income before income taxes, extraordinary items, discontinued operations, and the cumulative effect of changes in accounting principles.³⁴

Thus, for the first time, issuers must disclose in their interim financial statements, including those filed with the Commission, condensed financial information about the segments they have chosen as reportable segments for purposes of their annual reports. In making this change, the FASB explained:

This statement [SFAS No. 131] requires disclosure of limited segment information in condensed financial statements that are included in quarterly reports to shareholders. * * * Statement 14 did not apply to those condensed financial statements because of the expense and the time required for producing segment information under Statement 14. A few respondents to the Exposure Draft said that reporting segment information in interim financial statements would be unnecessarily burdensome. However, users contended that, to be timely, segment information is needed more often than annually and that the difficulties of preparing it on an interim basis could be overcome by an approach like the one in this Statement. Managers of many enterprises agree and have voluntarily provided segment information for interim periods.

The Board decided that the condensed financial statements in interim reports issued to shareholders should include disclosure of segment revenues from external customers, intersegment revenues, a measure of segment profit or loss, material changes in segment assets, differences in the basis of segmentation or the way segment profit or loss was measured in the previous annual period, and a reconciliation to the enterprise's total profit or loss. That decision

³⁴ See SFAS No. 131 ¶ 33. The FASB also amended Accounting Principles Board Opinion No. 28 ("APB No. 28"), governing interim financial reporting, to reflect this change. The stated purpose of APB No. 28 is "to clarify the application of accounting principles and reporting practices to interim financial information, including interim financial statements and summarized interim financial data of publicly traded companies issued for external reporting purposes." APB No. 28 ¶ 1.

is a compromise between the needs of users who want the same segment information for interim periods as that required in annual financial statements and the costs to preparers who must report the information. Users will have some key information on a timely basis. Enterprises should not incur significant incremental costs to provide the information because it is based on information that is used internally and therefore already available.³⁵

SFAS No. 131 is effective for fiscal years beginning after December 15, 1997.³⁶ The FASB specified, however, that issuers need not apply the new provisions to interim financial statements in the initial year of application, but they must report comparative information for interim periods in that initial year in financial statements for interim periods in the second year of application.³⁷ Consequently, through the Rules of General Application of Regulation S-X, which state that financial statements not prepared in accordance with GAAP will be presumed to be misleading or inaccurate,³⁸ we expect to see comparative segment information reported in filings containing interim financial statements for periods ending on or after March 15, 1999. No changes to our rules are necessary to implement the FASB's changes in this regard.

III. General Request for Comment

The Commission is proposing these amendments to conform its disclosure requirements to GAAP, as modified by SFAS No. 131. Today we solicit public comments specifically addressing whether these proposed changes adequately address the new accounting standards. We also seek comment about whether other amendments are appropriate for that purpose.

We request comment on whether the proposed revisions, if adopted, would have an adverse effect on competition or would impose a burden on competition that is neither necessary nor appropriate in furthering the purposes of the Securities Act and the Exchange Act. We will consider these comments in complying with our responsibilities under Section 23(a)(2) of the Exchange Act.³⁹

Section 2(b) of the Securities Act⁴⁰ and Section 3(f) of the Exchange Act⁴¹ require the Commission, when engaged in rulemaking that requires a public interest finding, to consider, in addition to the protection of investors, whether

³⁵ SFAS No. 131 ¶ 98 and ¶ 99.

³⁶ SFAS No. 131 ¶ 40.

³⁷ *Id.*

³⁸ See 17 CFR 210.4-01(a)(1).

³⁹ 15 U.S.C. 78w(a)(2).

⁴⁰ 15 U.S.C. 77b(b).

⁴¹ 15 U.S.C. 78c(f).

³⁰ See SFAS No. 131, ¶ 38.

³¹ The proposed changes would include eliminating Appendix B of Regulation S-K Item 101, which illustrates how to present the currently required information. We also would revise Instruction 2 to Item 101, which provides guidance about materiality analyses based on "interperiod comparability," to reflect the elimination of the requirements to disclose the quantitative geographic information once required by SFAS No. 14.

³² SFAS No. 30 amended SFAS No. 14 and retained this provision to disclose revenues from major customers.

³³ 17 CFR 229.101(c)(1)(vii).

the action will promote efficiency, competition and capital formation. Therefore, we solicit comment on what effect the proposed changes, if adopted, may have on efficiency, competition and capital formation.

Please send three copies of your comment letter to Jonathan G. Katz, Secretary, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Interested persons also may submit comments electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7-17-98; please include this file number in the subject line if you use e-mail. Anyone can inspect and copy the comment letters in our public reference room at 450 Fifth Street, N.W., Washington, D.C. 20549. We will post electronically submitted comment letters on our Internet Web Site (www.sec.gov).

IV. Cost-Benefit Analysis

We anticipate that these proposals, if adopted, would not impose any new regulatory costs on registrants, since the changes would simply conform our disclosure requirements with current accounting principles, to which registrants are already subject. To the contrary, if we do not act to conform our rules to the revised accounting standards, costs will rise because of the confusion registrants might experience in determining which set of standards to apply to their disclosure documents, the standards under SFAS No. 14, as currently codified in Commission rules, or the revised standards of SFAS No. 131. Some registrants may determine to resolve the conflict by producing and providing both sets of information. This

duplicative disclosure would be a wasteful expenditure of business resources that we could avoid by the adopting the changes proposed today. Commenters should address the costs and benefits of the proposals, and provide supporting empirical data for any positions advanced.

V. Summary of Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act,⁴² Arthur Levitt, Chairman of the Commission, certified that the amendments proposed in this release would not, if adopted, have significant impact on a substantial number of small entities. The reason for this certification is that the proposed amendments are intended to conform rules and forms to GAAP, as recently amended, to which registrants are already subject. We include the Certification in this release as Attachment A and encourage written comments relating to it. Commenters should describe the nature of any impact on small entities and provide empirical data to support the extent of the impact.

VI. Paperwork Reduction Act⁴³

We anticipate that information collection burden hours would not change as a result of the technical amendments we propose today.

VII. Codification Update

The "Codification of Financial Report Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is proposed to be updated to:

1. Modify Section 501 by revising Section 501.06.a. to read as follows:

NET SALES BY SEGMENT

Segments	Year 3			Year 2		Year 1
	(\$ million)	Percent of total	(\$ million)	Percent of total	(\$ million)	Percent of total
Segment I	585	55	479	53	420	48
Segment II	472	45	433	47	457	52
Total Sales	1057	100	912	100	877	100

a. Segment Analysis

In formulating a judgment as to whether a discussion of segment information is necessary to an understanding of the business, a multi-segment registrant preparing a full fiscal year MD&A should analyze revenues, profitability, and the cash needs of its significant segments.⁴⁴ To the extent any segment contributes in a materially disproportionate way to those items, or where discussion on a consolidated basis would present an incomplete and misleading picture of the enterprise, segment discussion should be included. This may occur, for example, when there are legal or other restrictions upon the free flow of funds from one segment, subsidiary, or division of the registrant to others; when known trends, demands, commitments, event, or uncertainties within a segment are reasonably likely to have a material effect on the business as a whole; when the ability to dispose of identified assets of a segment may be relevant to the financial flexibility of the registrant; and in other circumstances in which the registrant concludes that segment analysis is appropriate to an understanding of its business.

The following example illustrates segment disclosure for a manufacturer with two segments. The two segments contributed to segment profit amounts that were disproportionate to their respective revenues. The registrant discusses sales and segment profit trends, factors explaining such trends, and where applicable, known events that will impact future results of operations of the segment.

⁴² 5 U.S.C. 605(b).

⁴³ 44 U.S.C. 3501 *et seq.*

⁴⁴ Where consistent with the registrant's internal management reports, SFAS No. 131 permits measures of segment profitability that differ from GAAP measures of profit on a consolidated basis, or that exclude items included in the determination of the registrant's net income. In a note to the financial statements, however, the registrant must reconcile key segment amounts to the

corresponding items reported in the consolidated financial statements. Similarly, the Commission expects that the discussion of a segment whose profitability is determined on a basis that differs from GAAP on a consolidated basis or that excludes the effects of items attributable to the segment also will address the applicable reconciling items. For example, if a material charge for restructuring or asset impairment relates to a specific segment, but is not included in management's measure of the segment's operating profit or loss, registrants would

be expected to disclose the applicable portion of the charge and the circumstances of its incurrence. Likewise, the Commission expects that the effects of management's use of non-GAAP measures will be explained in a balanced and informative manner, and the disclosure will include a discussion of how that segment's performance has affected the registrant's GAAP financial statements.

Year 3 vs. Year 2

Segment I sales increased 22% in Year 3 over the Year 2 period. The increase included the effect of the acquisition of Corporation T. Excluding this acquisition, sales would have increased by 16% over Year 2. Product Line A sales increased by 18% due to a 24% increase in selling prices, partially offset by lower shipments. Product Line B sales increased by 35% due to a 17% increase in selling prices and a 15% increase in shipment volume.

Segment II sales increased 9% due to a 12% increase in selling prices partly

offset by a 3% reduction in shipment volume.

Year 2 vs. Year 1

Segment I sales increased 14% in Year 2. Product Line A sales increased 22%, in spite of a slight reduction in shipments, because of a 23% increase in selling prices.

Product Line B sales declined 5% due mainly to a 7% decrease in selling prices, partially offset by higher shipments.

The 5% decline in Segment II sales reflected a 3% reduction in selling prices and a 2% decline in shipments.

The substantial increases in selling prices of Product Line A during Year 3

and Year 2 occurred primarily because of heightened worldwide demand which exceeded the industry's production capacity. The Company expects these conditions to continue for the next several years. The Company anticipates that shipment volumes of Product Line A will increase as its new production facility reaches commercial production levels in Year 4.

Segment II shipment volumes have declined during the past two years primarily because of the discontinuation of certain products that were marginally profitable and did not have significant growth potential.

PROFIT BY SEGMENT

Segments	Year 3			Year 2		Year 1
	(\$ million)	Percent of total	(\$ million)	Percent of total	(\$ million)	Percent of total
Segment I	126	75	108	68	67	55
Segment II	42	25	51	32	54	45
Segment Profit	168	100	159	100	121	100

Year 3 vs. Year 2

Segment I profit was \$18 million (17%) higher in Year 3 than in Year 2. This increase includes the effects of higher sales prices and slightly improved margins on Product Line A, higher shipments of Product Line B and the acquisition of Corporation T. Excluding this acquisition, Segment I profit would have been 11% higher than in Year 2. Partially offsetting these increases are costs and expenses of \$11 million related to new plant start-up, slightly reduced margins on Product Line B and a \$9 million increase in research and development expenses.

Segment II profit declined \$9 million (18%) due mainly to substantially higher costs in Year 3 resulting from a 23% increase in average raw material costs which could not be fully recovered through sales prices increases. The Company expects that Segment II margins will continue to decline, although at a lesser rate than in Year 3 as competitive factors limit the Company's ability to recover cost increases.

Year 2 vs. Year 1

Segment I profit was \$41 million (61%) higher in Year 2 than in Year 1. After excluding the effect of the \$34 million non-recurring charge for the early retirement program in Year 1, Segment I profit in Year 2 was \$18 million (27%) higher than in Year 1. This increase reflected higher prices and

a corresponding 21% increase in margins on Product Line A, and a 17% increase in margins on Product Line B due primarily to costs reductions resulting from the early retirement program.

Segment II profit declined about \$3 million (6%) due mainly to lower selling prices and slightly reduced margins in Year 2.

2. Replace paragraphs .01, .02 and .03 of Section 503 with new paragraph .01, to include the text of Section I of this release captioned "Background" and with new paragraph .02 to include the text of Section II.B.2 of this release captioned "Major Customers."

The Codification is a separate publication of the Commission. It will not be published in the Code of Federal Regulations.

VIII. Statutory Basis

The Commission proposes the rule changes explained in this release pursuant to Sections 6, 7, 8, 10 and 19(a) of the Securities Act and Sections 3, 12, 13, 14, 15(d) and 23(a) of the Exchange Act.

List of Subjects in 17 CFR Parts 210, 229, 240 and 249

Accounting, Registration requirements, Reporting and recordkeeping requirements, Securities.

Text of the Proposals

Accordingly, the Commission proposes to amend 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 continues to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z-2, 77aa(25), 77aa(26), 78j-1, 78l, 78m, 78n, 78o(d), 78u-5, 78w(a), 78ll(d), 79e(b), 79j(a), 79n, 79t(a), 80a-8, 80a-20, 80a-29, 80a-30, 80a-37(a), unless otherwise noted.

2. By amending Section 210.3-03 by revising the first sentence of paragraph (e) to read as follows:

§ 210.3-03 Instructions to income statement requirements.

* * * * *

(e) Disclosures regarding segments required by generally accepted accounting principles shall be provided for each year for which an audited statement of income is provided. * * *

3. By amending § 210.12-16 by revising footnote one to the table to read as follows:

§ 210.12-16 Supplementary insurance information.

* * * * *

¹ Segments shown should be the same as those presented in the footnote disclosures called for by generally accepted accounting principles.

* * * * *

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

4. The authority citation for part 229 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z-2, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78u-5, 78w, 78ll(d), 79e, 79n, 79t, 80a-8, 80a-29, 80a-30, 80a-37, 80b-11, unless otherwise noted.

* * * * *

5. By amending § 229.101 (Item 101 of Regulation S-K) by revising the introductory text of paragraph (b), paragraph (b)(1) and paragraph (d); in paragraphs (c)(1) introductory text, (c)(1)(i), (c)(1)(ii), (c)(1)(iv), and (c)(1)(v), by revising the term "industry segment" to read "segment"; in paragraph (c)(1) introductory text and in Instruction 1 in the Instructions to Item 101, by revising the term "industry segments" to read "segments"; by revising Instruction 2 to Item 101, and by removing Appendix A—Industry Segments, and Appendix B—Foreign and Domestic Operations and Export Sales.

§ 229.101 (Item 101) Description of business.

* * * * *

(b) *Financial information about segments.* Report for each segment, as defined by generally accepted accounting principles, revenues from external customers, a measure of profit or loss and total assets. A registrant must report this information for each of the last three fiscal years or for as long as it has been in business, whichever period is shorter. If the information provided in response to this paragraph (b) conforms with generally accepted accounting principles, a registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative information in the financial statements; conversely, a registrant may cross reference to the financial statements.

(1) If a registrant changes the structure of its internal organization in a manner that causes the composition of its reportable segments to change, the registrant must restate the corresponding information for earlier periods, including interim periods,

unless it is impracticable to do so. Following a change in the composition of its reportable segments, a registrant shall disclose whether it has restated the corresponding items of segment information for earlier periods. If it has not restated the items from earlier periods, the registrant shall disclose in the year in which the change occurs segment information for the current period under both the old basis and the new basis of segmentation, unless it is impracticable to do so.

* * * * *

(d) *Financial information about geographic areas.* (1) State for each of the registrant's last three fiscal years, or for each fiscal year the registrant has been engaged in business, whichever period is shorter:

(i) Revenues from external customers attributed to:

- (A) The registrant's country of domicile;
- (B) All foreign countries, in total, from which the registrant derives revenues; and
- (C) Any individual foreign country, if material. Disclose the basis for attributing revenues from external customers to individual countries.

(ii) Long-lived assets, other than financial instruments, long-term customer relationships of a financial institution, mortgage and other servicing rights, deferred policy acquisition costs, and deferred tax assets, located in:

- (A) The registrant's country of domicile;
- (B) All foreign countries, in total, in which the registrant holds assets; and
- (C) Any individual foreign country, if material.

(2) A registrant shall report the amounts based on the financial information that it uses to produce the general-purpose financial statements. If providing the geographic information is impracticable, the registrant shall disclose that fact. A registrant may wish to provide, in addition to the information required by paragraph (d)(1) of this section, subtotals of geographic information about groups of countries. To the extent that the disclosed information conforms with generally accepted accounting principles, the registrant may include in its financial statements a cross reference to this data in lieu of presenting duplicative data in its financial statements; conversely, a registrant may cross-reference to the financial statements.

(3) A registrant shall describe any risks attendant to the foreign operations and any dependence on one or more of the registrant's segments upon such foreign operations, unless it would be

more appropriate to discuss this information in connection with the description of one or more of the registrant's segments under paragraph (c) of this section.

(4) If the registrant includes, or is required by Article 3 of Regulation S-X (17 CFR 210), to include, interim financial statements, discuss any facts relating to the information furnished under this paragraph (d) that, in the opinion of management, indicate that the three year financial data for geographic areas may not be indicative of current or future operations. To the extent necessary to the discussion, include comparative information.

Instructions to Item 101

* * * * *

2. Base the determination of whether information about segments is required for a particular year upon an evaluation of interperiod comparability. For instance, interperiod comparability would require a registrant to report segment information in the current period even if not material under the criteria for reportability of SFAS No. 131 if a segment has been significant in the immediately preceding period and the registrant expects it to be significant in the future.

* * * * *

6. By amending § 229.102 by revising the term "industry segment(s)" in the introductory paragraph to read "segment(s)".

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

7. 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, 78j-1, 78k, 78k-1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u-5, 78w, 78x, 78ll(d), 78mm, 79q, 79t, 80a-20, 80a-23, 80a-29, 80a-37, 80b-3, 80b-4 and 80b-11, unless otherwise noted.

* * * * *

§ 240.14a-101 [Amended]

8. By amending § 240.14a-101 (Schedule 14A) in Item 14(b)(2)(ii)(A)(3)(i) by revising the phrase "industry segments" to read "segments".

PART 249—FORM, SECURITIES EXCHANGE ACT OF 1934

9. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted:

* * * * *

10. By amending Form 20-F (referenced in § 249.220f) by removing

the term "SFAS 14" from Instruction 3 to Item 17 and inserting the term "SFAS No. 131" in its place.

[Note: The text of Form 20-F does not, and the amendment will not, appear in the Code of Federal Regulations]

Dated: June 25, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

Attachment A—Regulatory Flexibility Act Certification

(Note: Attachment A to the Preamble will not appear in the Code of Federal Regulations)

I, Arthur Levitt, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed amendments to certain rules, forms and policies contained in Securities Act Release No. 33-7549, if adopted, will not have a significant economic impact on a substantial number of small entities. The amendments will conform Commission rules with accounting standards recently adopted by the Financial Accounting Standards Board. Since registrants are already subject to these standards, the proposed amendments would not impose any new burden on them.

June 24, 1998

Arthur Levitt,
Chairman.

[FR Doc. 98-17432 Filed 6-30-98; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[REG-119227-97]

RIN 1545-AV71

Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Proposed rule, notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the kerosene and aviation fuel excise taxes and the tax on the first retail sale of certain tractors, truck, trailer, and semitrailer chassis and bodies. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments must be received by September 29, 1998. Requests to speak and outlines of oral comments to be discussed at the public hearing scheduled for Wednesday,

November 4, 1998, must be received by September 29, 1998.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-119227-97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8:00 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-119227-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html. The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Frank Boland (202) 622-3130; concerning submissions and the hearing, LaNita VanDyke (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by August 31, 1998. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through

the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs of operation, maintenance, and purchase of services to provide information.

The collection of information in this notice of proposed rulemaking is in §§ 48.4052-1, 48.4082-7(a), 48.4082-8(e), 48.4091-3(c), 48.4101-2(a)(4), 48.4101-3(d), and 48.6427-11. This information is required to support exempt transactions and to inform consumers of the type of fuel that is being purchased. The likely respondents are businesses and other for-profit organizations.

Estimated total annual reporting burden: 3,340 hours.

The estimated annual burden per respondent varies from .20 hours to 1 hour, depending on individual circumstances, with an estimated average of .29 hour.

Estimated number of respondents: 11,600.

Estimated annual frequency of responses: On occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information may be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** provide rules relating to the kerosene tax, certain aviation fuel tax refunds allowed by section 4091(d), and registration requirements for certain heavy vehicle manufacturers and retailers. The text of those regulations also serves as the text of these proposed regulations relating to kerosene. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these