comment period because the Commission finds that such a procedure is unnecessary to protect the public interest in this case.

EFFECTIVE DATE: April 7, 1989.

FOR FURTHER INFORMATION CONTACT: Neil J. Blickman, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580, (202) 326-3038.

SUPPLEMENTARY INFORMATION: On March 30, 1979, the Commission published the Octane Posting and Certification Rule in the **Federal Register** (44 FR 19160). The rule established procedures for determining, certifying and posting, by means of a label on the fuel dispenser, the octane rating of automotive gasoline intended for sale to consumers.

Section 306.9 of the rule provides that retailers must post at least one octane rating label on each face of each gasoline dispenser. Retailers who sell two or more kinds of gasoline with different octane ratings from a single dispenser must post seprate octane rating labels for each kind of gasoline on each face of the dispenser. Labels must be placed conspicuously on the dispenser so as to be in full view of consumers and as near as reasonably practical to the price per gallon of the gasoline.

Section 306.11 of the rule details specifications for the labels. Labels must be 3 inches wide by 2.5 inches long, and Helvetica type must be used for all text except the octane rating number, which must be in Franklin Gothic type. Type size for the text and numbers is specified, and the type and border must be process black on a process yellow background. The line "MINIMUM OCTANE RATING" must be in 12 point Helvetica bold, all capitals, with letter space set at 12½ points. The line "(R+M)/2 METHOD" must be in 10 point Helvetica bold, all capitals, with letter space set at 10½ points. The octane number must be in 96 point Franklin Gothic Condensed, with ⅛ inch spacing between the numbers.

By letter dated October 25, 1988, and supplemented by letter dated November 14, 1988, Gilbarco, Inc., a major manufacturer and marketer of gasoline pumps and dispensers, requested permission on behalf of the Exxon Corporation to post octane ratings by use of an octane label that differs from the label specifications contained in § 306.11 of the Commission's Octane Posting and Certification Rule.

Exxon proposed the following labeling scheme for use with the gasoline dispensers it purchases from Gilbarco, Inc.:

In order to conform with the dimensions of Gilbarco's gasoline dispenser "scuff guard," Exxon proposes to use an octane label that is 2.75 inches wide by 2.5 inches long instead of a label that is 3 inches wide by 2.5 inches long (as specified in the Octane Rule) on the gasoline dispensers it purchases from Gilbarco, Inc.

The Commission has decided that the above-described labeling scheme is adequate to meet the Octane Rule's posting objective as it provides clear disclosure of all rule-required information. In addition, by permitting the variance, Exxon can adapt its octane label to an existing, interchangeable industry part without adversely affecting the public interest and without necessitating a substantial capital expenditure by the industry (that would ultimately be passed on to retail gasoline purchasers) to manufacture a new part. Therefore, the Commission has decided to grant Exxon permission to use its proposed labeling system, in connection with the company's use of Gilbarco gasoline dispensers, provided that Exxon will also comply with the Rule's octane label specifications in all other respects.

List of Subjects in 16 CFR Part 306

Energy conservation, Gasoline, Labeling.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-8261 Filed 4-6-89; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-81]

Staff Accounting Bulletin No. 81

AGENCY: Securities and Exchange Commission.

ACTION: Publication of staff accounting bulletin.

SUMMARY: This staff accounting bulletin expresses the staff's views regarding the appropriateness of gain recognition on the sale of a business or operating assets to a highly leveraged entity.

FOR FURTHER INFORMATION CONTACT: Jack C. Parsons or John M. Riley, Office of the Chief Accountant (202-272-2130), or Howard P. Hodges, Jr., Division of Corporation Finance (202-272-2553), Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Jonathan G. Katz,

Secretary.

April 4, 1989.

Staff Accounting Bulletin No. 81

The staff herein adds Section U to Topic 5 of the Staff Accounting Bulletin Series. Topic 5-U discusses the staff's position on the appropriateness of gain recognition on the sale of a business or operating assets to a highly leveraged entity.

Topic 5: Miscellaneous Accounting

* * * * *

U. *Gain Recognition on the Sale of a Business or Operating Assets to a Highly Leveraged Entity*

Facts: A registrant has sold a subsidiary, division or operating assets to a newly formed, thinly capitalized, highly leveraged entity (NEWCO) for cash or a combination of cash and securities, which may include subordinated debt, preferred stock, warrants, options or other instruments issued by NEWCO. In some of these transactions, registrants may guarantee debt or enter into other agreements (sometimes referred to as make-well agreements) that may require the registrant to infuse cash into NEWCO under certain circumstances. Securities received in the transaction are not actively traded and are subordinate to substantially all of NEWCO's other debt. The value of the consideration received appears to exceed the cost basis of the net assets sold.

Question 1: Assuming the transaction may be properly accounted for as a divestiture,[1] does the staff believe it is

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[1] Transactions such as these require careful evaluation to determine whether, in substance, a divestiture has occurred. Staff Accounting Bulletin Topic No. 5-E provides the staff's views on circumstances that may exist that would lead the staff to conclude that the risks of the business have not been transferred to the new owners and that a divestiture has not occurred. Topic 5-E indicates that factors to consider in determining whether a transaction should be accounted for as a divestiture include:

• Continuing involvement by the seller in the business;

Continued

appropriate for the registrant to recognize a gain?

Interpretive Response: The staff believes there often exist significant uncertainties about the seller's ability to realize non-cash proceeds received in transactions in which the purchaser is a thinly capitalized, highly leveraged entity, particularly when its assets consist principally of those purchased from the seller. The staff believes that such uncertainties raise doubt as to whether immediate gain recognition is appropriate. Factors that may lead the staff to question gain recognition in such transactions include:

(1) Situations in which the assets or operations sold have historically not produced cash flows from operations [2] that will be sufficient to fund future debt service and full dividend requirements on a current basis.[3] Often the servicing of debt and preferred dividend requirements is dependent upon future events that cannot be assured, such as sales of assets or improvements in earnings.

(2) The lack of any substantial amount of equity capital in NEWCO other than that provided by the registrant; and/or

(3) The existence of contingent liabilities of the registrant, such as debt guarantees or agreements that require the registrant to infuse cash into NEWCO under certain circumstances.

The staff also believes that even where the registrant receives solely cash proceeds, the recognition of any gain would be impacted by the existence of any guarantees or other agreements that may require the registrant to infuse cash into NEWCO, particularly when the first two factors listed above exist.

Question 2: If immediate recognition of all or a portion of the apparent gain is not appropriate due to the existence of facts and circumstances similar to the above, at what future date should the gain be recognized and how should the deferred gain be disclosed in the financial statements?

• Absence of significant financial investment in the business by the buyer;

• Repayment of debt, which constitutes the principal consideration in the transaction, is dependent on future successful operations; or

• The continued necessity for debt or contract performance guarantees on behalf of the business by the seller.

[2] As defined in paragraphs 21-24 of Statement of Financial Accounting Standards No. 95, "Statement of Cash Flows."

[3] The ability of NEWCO to fund the debt service and the dividend requirement(s) should be evaluated on a full accrual basis—i.e., irrespective of the purchaser's ability to satisfy those requirements through deferral (contractually or otherwise) of any required cash payments or the issuance of additional securities to satisfy such requirements.

Interpretive Response: Generally, the staff believes that the deferred gain [4] should not be recognized until such time as cash flows from operating activities are sufficient to fund debt service and dividend requirements (on a full accrual basis) [5] or the registrant's investment in NEWCO has been or could be readily converted to cash (e.g., active trading market develops in NEWCO securities and the registrant is not restricted from selling such securities, the registrant sells the securities received on a nonrecourse basis, etc.) and the registrant has no further obligations under any debt guarantees or other agreements that would require it to make additional investments in NEWCO.

The staff believes that the amount of any deferred gain (including deferral of interest or dividend income on securities received) should be disclosed on the face of the balance sheet as a deduction from the related asset account (i.e., investment in NEWCO). The footnotes to the financial statements should include a complete description of the transaction, including the existence of any commitments and contingencies, the terms of the securities received, and the accounting treatment of amounts due thereon.

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BILLING CODE 8010-01-M

[4] In situations in which the gain is deferred following the guidance in this staff accounting bulletin, the staff believes that the seller generally should not recognize any income from the securities received in such transactions (including accretion of securities to their face or redemption value) until realization is more fully assured.

[5] See note 3, above.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 88F-0123]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of glyceryl tribenzoate as a plasticizer in a coating for paper and paperboard in contact with dry food. This action is in response to a petition filed by Velsicol Chemical Corp.

DATE: Effective April 7, 1989; written objections and requests for a hearing by May 8, 1989.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of May 24, 1988 (53 FR 18610), FDA announced that a food additive petition (FAP 8B4069) had been filed by Velsicol Chemical Corp., 5600 North River Rd., Rosemont, IL 60018-5119, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of glyceryl tribenzoate as a component of a coating for paper and paperboard in contact with dry food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before May 8, 1989, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right of a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging, Paper and paperboard.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 176.180 is amended in paragraph (b)(2) by alphabetically adding a new entry in the table under the headings "List of substances" and "Limitations" to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * *	* *
Glyceryl tribenzoate (CAS Reg. No. 614-33-5).	For use only as a plasticizer in polymeric coatings.
* * *	* *

Dated: March 29, 1989.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-8295 Filed 4-6-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-89-1950; FR-2626]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots; and Corrections

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas and corrections.

SUMMARY: This notice amends the list of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by increasing "high-cost" mortgage limits for Rensselaer County, New York; Warren, Frederick, and Clark Counties, Virginia; Martin and Broward Counties, Florida; Oakland County, Michigan; the Milwaukee, Wisconsin PMSA; the Charleston, South Carolina MSA; Currituck County, North Carolina; and the Portland, Oregon PMSA; and adding "high-cost" mortgage limits for Bennington County, Vermont; Columbia County, New York; St. Croix, Virgin Islands; Moore County, North Carolina; Volusia County, Florida; Cochise County, Arizona, and Cache County, Utah. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high-prevailing housing sales prices.

The notice will also correct several typographical errors and add mortgage limits for one area that were inadvertently omitted from the latest published update of high-cost areas.

EFFECTIVE DATE: April 7, 1989.

FOR FURTHER INFORMATION CONTACT: For single family: Morris Carter, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Robert J. Coyle, Director, Title I Insurance Division, Room 9160; telephone (202) 755-6880; 451 Seventh Street SW., Washington, DC 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA), 12 U.S.C. (1710–1749), authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

On December 12, 1988 (53 FR 49855), the Department published its most recent annual complete listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act, and their applicable limits for each area. The listing contained several typographical errors and inadvertently omitted one area from the comprehensive update of high-cost areas.

The Document

Today's document increases high-cost mortgage amounts for Rensselaer County, New York; Warren, Frederick, and Clark Counties, Virginia; Martin and Broward Counties, Florida; Oakland County, Michigan; the Milwaukee, Wisconsin PMSA; the Charleston, South Carolina MSA; Currituck County, North Carolina; and the Portland, Oregon PMSA; and adds "high-cost" mortgage limits for Bennington County, Vermont; Columbia County, New York; St. Croix, Virgin Islands; Moore County, North Carolina; Volusia County, Florida; Cochise County, Arizona, and Cache County, Utah.

This document also corrects several typographical errors and adds mortgage limits for one area that were inadvertently omitted from the latest comprehensive update of high-cost areas. Specifically, the mortgage limits for a two-family dwelling for the Bergen-