

VIII. Start-up and Shut-down

• I am operating under an approved start-up/shut-down plan. If I have a release of a hazardous substance during a start-up or shut-down, will it qualify as a federally permitted release?

If your release is in compliance with the requirements in an approved start-up/shut-down plan which contains federally enforceable procedures which limit or control your releases during start-up or shut-down, then your release would generally qualify for the federally permitted release exemption. As discussed above, like accidents and malfunctions, emissions from start-ups and shut-downs have been handled in a variety of ways in CAA regulations, permits and SIPs. In many instances, facilities must have a start-up and shut-down plan that sets forth procedures for operating and maintaining a source during those periods. See, e.g., 40 CFR 63.6(e)(3). Unlike malfunctions and accidents which are unpredictable, releases from start-ups or shut-downs may be anticipated and therefore they may be more likely to have emission limitations or controls.

However, if a release of a hazardous substance or EHS is exempt from CAA regulation, or is otherwise not subject to emission limits or other controls during the start-up or shut-down of an operation, then these uncontrolled releases do not qualify for the federally permitted release exemption and must comply with CERCLA and EPCRA notification requirements.

IX. Conclusion

The federally permitted release exemption to the CERCLA section 103 and EPCRA section 304 notification requirements exempts from the notification requirements certain air emissions of hazardous substances and EHSs when the release of the hazardous substance or EHS is subject to a permit or control regulation issued pursuant to CAA sections 111 and 112, Title I part C, Title I part D, or a section 110 SIP. Each facility is responsible for determining whether its hazardous substance and EHS releases qualify for the notification exemption in light of the particular CAA requirements that apply to the facility.

Appendix B—Enforcement Discretion

In a memorandum dated February 15, 2000, and in subsequent extensions dated September 13, 2000, November 30, 2000, April 20, 2001, July 31, 2001, October 10, 2001, January 16, 2002, and March 7, 2002, the Assistant Administrator of the Office of Enforcement and Compliance Assurance exercised discretion to not enforce against facilities for failure to report certain types of

air releases until publication of the revised guidance. We are extending this discretion for 180 days following the date of this notice unless the release is:

- (1) an unanticipated release, such as an accident or malfunction;
- (2) a release in excess of a permit limit or control regulation as described in the EAB decision *In re Mobil Oil Corp.*, EPCRA Appeal No. 94-2, 5 EAD 490 (EAB Sept. 29, 1994);
- (3) a release from an emergency relief valve, as described in the ALJ's decision *In re Borden Chemicals & Plastics, Co.*, [CERCLA] EPCRA 003-1992 (Order Granting Partial Accelerated Decision Concerning Liability, Feb. 18, 1993);
- (4) a release from a source that is grandfathered and not subject to CAA permits or control regulations; or
- (5) a release from a source that is otherwise exempt and not subject to any federally enforceable CAA permit or control regulation.

Furthermore, we recognize that certain uncontrolled air emissions of nitrogen oxide ("NO") and nitrogen dioxide ("NO₂") equal to or greater than the ten pound reportable quantity may rarely require a government response. The Agency supports the proposal of an administrative reporting exemption for certain NO and NO₂ air releases which could result in these releases not being required to be reported under CERCLA section 103 and EPCRA section 304. EPA will move forward with the proposal as soon as resources become available. Until the process for an administrative reporting exemption is complete, or until we publish a notice stating otherwise, we will exercise enforcement discretion and not enforce against owners/operators or persons in charge for failure to report air releases of NO and NO₂ that would otherwise trigger a reporting obligation under CERCLA section 103 and EPCRA section 304, unless such releases are the result of an accident or malfunction.

[FR Doc. 02-9322 Filed 4-16-02; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

April 8, 2002.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a

collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 17, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Les Smith at 202-418-0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0674.

Title: Section 76.931, Notification of Basic Tier Availability, and Section 76.932, Notification of Proposed Rate Increase.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 11,365.

Estimated Time per Response: 2.25 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 25,572 hours.

Total Annual Costs: None.

Needs and Uses: 47 CFR 76.931 requires each cable operator to provide written notification to subscribers of the availability of basic tier service by November 30, 1993, or three billing cycles from September 1, 1993, and to new subscribers at the time of installation. This notification is to include: (a) What basic tier service is available; (b) cost per month for basic tier service; and (c) list of all services included in the basic service tier. 47 CFR 76.932 requires each cable operator

to provide written notice to subscribers of any increase in the price to be charged for the basic service tier or associated equipment at least thirty days before any proposed increase is effective.

OMB Control Number: 3060-0888.

Title: Part 76, Cable Television Service Pleading and Complaint Rules.
Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities; Individuals or households.

Number of Respondents: 400.

Estimated Time per Response: 4 to 40 hours.

Total Annual Burden: 8,800 hours.

Total Annual Costs: \$1,204,000.

Needs and Uses: On January 8, 1999, the Commission released a Report and Order (R&O), *In the matter of the 1998 Biennial Regulatory review; Part 76 Cable Television Service Pleading and Complaint Rules*. This proceeding was initiated in conjunction with the Commission's 1998 Biennial Regulatory Review pursuant to section 11 of the Telecommunications Act of 1996. The R&O adopted rules to eliminate redundant requirements, to expand the types of submissions for petitions for special relief, to standardize filing procedures for finding effective competition, and to establish standard provisions for uniform filing formats, deadlines, and other procedural requirements for pleadings, *i.e.*, waivers, enforcement, show cause, forfeiture, and declaratory ruling procedures, filed under 47 CFR part 76 of the Commission's Rules.

OMB Control Number: 3060-1008.

Title: Reallocation and Service Rules for the 698-746 MHz Band (TV Channels 52-59).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; and State, Local or Tribal Government.

Number of Respondents: 734.

Frequency of Response:

Recordkeeping; On occasion reporting requirement, Third party disclosure requirement.

Total Annual Burden: 367 hours.

Total Annual Cost: None.

Needs and Uses: On December 12, 2001, the FCC adopted a Final Rule in GN Docket No. 01-74, FCC 01-364, *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*. Following a Congressional mandate that the FCC auction off the Lower 700 MHz Band

(698-746 MHz) spectrum by September 30, 2002, the FCC adopted allocation and service rules for this spectrum band and scheduled the spectrum auction for June 19, 2002, see Public Notice, DA 02-2002 (January 24, 2002). The Report and Order supports the development of new services in the Lower 700 MHz Band and also protects existing television operations that occupy the band throughout the transition to digital television. Under 47 CFR 27.50(c)(5), licensees that intend to operate a base or fixed station at a power level greater than 1 kW ERP must issue a public notice (which includes the station's location and operating parameters, the ERP, antenna coordinates, antenna height above ground, and vertical antenna pattern) at least 90 days prior to commencing station operations to the FCC and to all authorized licensees that operate a base or fixed station on an adjacent spectrum block at a location within 75 kms of the based or fixed station operating at a power level greater than 1 kW ERP.

OMB Control Number: 3060-0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form Number: FCC 601.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions; Individuals or households; and State, Local or Tribal governments.

Number of Respondents: 241,335.

Estimated Time per Response: 0.5 to 1.25 hours.

Frequency of Response: On occasion and 10 year annual reporting requirements; Third party disclosure.

Total Annual Burden: 211,169 hours.

Total Annual Cost: \$48,267,100.

Needs and Uses: FCC Form 601 is a consolidated, multi-part application or "long form" for market-based licensing and site-by-site licensing in the Wireless Telecommunications Bureau's (WTB) Radio Services' Universal Licensing System (ULS). On December 12, 2001, the FCC adopted a Final Rule in GN Docket No. 01-74, FCC 01-364, *Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*. Pursuant to adoption of the Report and Order, the FCC has revised Form 601, which will be used to determine the basic eligibility and qualifications of auction winners to become licensees. Form 601 was also revised to ease the filing burden for applicants and others who used the form by making various other changes, *i.e.*, correcting mailing and web site addresses, removing the Taxpayer

Identification Number, and making other miscellaneous edits.

OMB Control Number: 3060-0706.

Title: Cable Act Reform.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 950.

Estimated Time per Response: 1 to 8 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 3,900.

Total Annual Costs: \$4,000.

Needs and Uses: On March 29, 1999, the FCC released a Report and Order (R&O), FCC 99-57, which further amended the Commission's cable television rules pursuant to the Telecommunications Act of 1996. With this R&O, the FCC has accounted for various requirements in its rules not already accounted for in the initial and final rules. The regulations serve a variety of purposes for subscribers, cable operators, franchising authorities, and the FCC, *i.e.*, 47 CFR 76.952 requires a cable operator to include the franchising authority contact information in a subscriber's monthly billing statement; 47 CFR 76.990 requires a cable operator to certify in writing to the franchising authority that it qualifies as "small cable operator;" and 47 CFR 76.1404 requires a local exchange carrier to file contract information with the FCC to determine whether its use of a cable operator's facilities is reasonably limited in scope and duration.

OMB Control Number: 3060-0742.

Title: Telephone Number Portability (47 CFR part 52, subpart C, sections 52.21-52.33) and CC Docket No. 95-116.

Form Number: N/A.

Type of Review: Revision to a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,858.

Estimated Time per Response: 7.34 hours (avg).

Frequency of Response:

Recordkeeping; On occasion and annual reporting requirements; Third Party Disclosure.

Total Annual Burden: 13,634 hours.

Total Annual Cost: \$76,635.

Needs and Uses: 47 CFR 52.21-52.33 implement the requirements that local exchange carriers (LECs) provide number portability. In a Memorandum, Opinion, and Order on Reconsideration issued in CC Docket No. 95-116, the FCC implemented new and/or modified

regulations that require each multi-region carrier to calculate its share of local number portability (LNP) administration costs. Any carrier that cannot divide its revenue by LNP region but chooses to allocate such revenue by subscriber percentages must file a certification with the FCC. To ensure that if a non-LNP capable incumbent LEC, participating in an extended area service calling plan with an LNP-capable carrier, complies with LNP cost recovery law and rules, the carrier must file a tariff with the FCC, if the carrier seeks to recover its query and LNP administration costs.

OMB Control Number: 3060-0395.

Title: The ARMIS USOA Report (ARMIS Report 43-02); The ARMIS Service Quality Report (ARMIS Report 43-05); The ARMIS Infrastructure Report (ARMIS Report 43-07).

Form Numbers: FCC Reports 43-02, 43-05, and 43-07.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 50.

Estimated Time per Response: 587.3 hours (avg).

Frequency of Response: Recordkeeping; Annual reporting requirement.

Total Annual Burden: 29,366 hours.

Total Annual Cost: None.

Needs and Uses: Under section 220 of the Communications Act of 1934, as amended, 47 USC 220, FCC may prescribe the forms of accounts, records, and memoranda of the movement of traffic, receipts, and expenditures of monies to be kept by carriers subject to this Act. Section 219(b) of the Communications Act of 1934, as amended, 47 USC 219(b), requires any carrier subject to this Act to file monthly earnings and expense reports and periodical and/or special reports concerning all other matters with the FCC, as authorized by 47 CFR 43.21. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return, and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy.

FCC Report 43-02—The ARMIS 43-02 Report, contains company-wide data for each account specified in the Uniform System of Accounts ("USOA"). It provides the annual operating results of the carriers' activities for every account in the USOA. Mid-sized LECs are not required to file the ARMIS FCC Report 43-02. *FCC Report 43-05*—The

ARMIS 43-05 Report, collects trend data, etc. on holding companies and on service quality levels under price cap regulations, i.e., interexchange access service installation and repair intervals, local service installation and repair intervals, trunk blockage, and total switch downtime for price cap companies. *FCC Report 43-07*—The ARMIS 43-07 Report, captures trends in telephone industry infrastructure development under price cap regulation, i.e., switch deployment and capabilities data.

OMB Control Number: 3060-0511.

Title: ARMIS Access Report.

Form Number: FCC Report 43-04.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 121.

Frequency of Response: Annual reporting requirement.

Estimated Time per Response: 157 hours (avg).

Total Annual Burden: 18,997 hours.

Total Annual Cost: None.

Needs and Uses: Under section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, FCC may prescribe the forms of accounts, records, and memoranda of the movement of traffic, receipts, and expenditures of monies to be kept by carriers subject to this Act. Section 219(b) of the Communications Act of 1934, as amended, 47 U.S.C. 219(b), requires any carrier subject to this Act to file monthly earnings and expense reports and periodical and/or special reports concerning all other matters with the FCC, as authorized by 47 CFR 43.21. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return, and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS 43-04 Report monitors revenue requirements, joint cost allocations, jurisdictional separations, and access charges. Mid-sized carriers are not required to file the FCC Report 43-04.

OMB Control Number: 3060-0513.

Title: ARMIS Joint Cost Report.

Form Number: FCC Report 43-03.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 121.

Estimated Time per Response: 83 hours (avg).

Frequency of Response: Annually.

Total Annual Burden: 10,043 hours.

Total Annual Cost: None.

Needs and Uses: Under section 220 of the Communications Act of 1934, as amended, 47 U.S.C. 220, FCC may prescribe the forms of accounts, records, and memoranda of the movement of traffic, receipts, and expenditures of monies to be kept by carriers subject to this Act. Section 219(b) of the Communications Act of 1934, as amended, 47 U.S.C. 219(b), requires any carrier subject to this Act to file monthly earnings and expense reports and periodical and/or special reports concerning all other matters with the FCC, as authorized by 47 CFR 43.21. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return, and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS 43-03 Report is used to administer the FCC's joint cost rules and to analyze data to prevent cross-subsidization of nonregulated operations by the regulated operations of Tier 1 carriers. Mid-sized carriers are not required to file FCC Report 43-03 on April 1, 2002.

OMB Control Number: 3060-0855.

Title: Telecommunications Reporting Worksheet and Associated Requirements, CC Docket No. 96-45.

Form Number: FCC Form 499 (FCC Forms 499-A and 499-Q).

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 5,500.

Estimated Time per Response: 15 hours (avg).

Frequency of Response: Recordkeeping; On occasion, quarterly, and annually reporting requirements; Third party disclosure.

Total Annual Burden: 82,487 hours.

Total Annual Cost: \$14,000.

Needs and Uses: Pursuant to the Communications Act of 1934, as amended, telecommunications carriers (and certain other providers of telecommunications services) must contribute to the support and cost recovery mechanisms for telecommunications relay services, numbering administration, number portability, and universal service. Respondents file their gross-billed end-user telecommunications revenues on a quarterly basis on FCC Form 499-Q, and on an annual basis on FCC Form 499-A. Carriers are permitted to consolidate filing if the filing entity certifies that certain conditions have been met.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02-9279 Filed 4-16-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 00-185; FCC 02-77]

Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities; Internet Over Cable Declaratory Ruling

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On March 15, 2002, the Commission released a Declaratory Ruling in Inquiry Concerning High-Speed Access to the Internet Over Cable and Other Facilities and Internet Over Cable Declaratory Ruling, GN Docket No. 00-185. The Commission ruled that cable modem service, as it is currently offered, is an interstate information service, not a cable service, and that there is no separate offering of telecommunications service. Consistent with §§ 1.103 and 1.4(b)(2) of the Commission's rules, 47 CFR 1.103, 1.4(b)(2), the effective date for the Declaratory Ruling is the date of release of the ruling, March 15, 2002.

Copies of the Declaratory Ruling may be obtained on the Internet through http://www.fcc.gov/Bureaus/Cable/News_Releases/2002/nrcb0201.html, or through Steve Garner, Media Bureau, who can be reached at (202) 418-1063 or via Internet at sgarner@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Steve Garner, Media Bureau, at (202) 418-1063 or via Internet at sgarner@fcc.gov.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 02-9103 Filed 4-16-02; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are

set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 2, 2002.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309-4470:

1. *Robert C. Glustrom*, Atlanta, Georgia; Michael K. Sandberg, Liphook, England; to acquire additional voting shares of Broadstreet, Inc., Atlanta, Georgia, and thereby indirectly acquire additional voting shares of AmTrade International Bank of Georgia, Atlanta, Georgia.

In connection with this application, Rick H. Singer, New York, New York, also has applied to acquire voting shares of Broadstreet, Inc., Atlanta, Georgia, and thereby indirectly acquire voting shares of AmTrade International Bank of Georgia, Atlanta, Georgia.

Board of Governors of the Federal Reserve System, April 12, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02-9362 Filed 4-16-02; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the

proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 10, 2002.

A. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *First Capital Investments L.L.C.*, Lee's Summit, Missouri; to become a bank holding company by acquiring 24.95 percent of the voting shares of 1st Financial Bancshares, Inc., Shawnee Mission, Kansas, and thereby indirectly acquire voting shares of 1st Financial Bank, Overland Park, Kansas, and Centerville State Bank, Centerville, Kansas.

In connection with this application, Applicant also has applied to indirectly acquire voting shares of Sylvan Agency, Inc., Sylvan Grove, Kansas, and thereby engage in insurance activities in a town of less than 5,000 in population, pursuant to § 225.28(b)(11)(iii)(A) of Regulation Y.

Board of Governors of the Federal Reserve System, April 11, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02-9250 Filed 4-16-02; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.