undertaking, understanding, or discussion with other banks or their officers.

(b) *Considerations.* The establishment of non-interest charges and fees, and the amounts thereof, is a business decision to be made by each bank, in its discretion, according to sound banking judgment and safe and sound banking principles. A bank reasonably establishes non-interest charges and fees if the bank considers the following factors, among others:

(1) The cost incurred by the bank, plus a profit margin, in providing the service;

(2) The deterrence of misuse by customers of banking services;

(3) The enhancement of the competitive position of the bank in accordance with the bank's marketing strategy; and

(4) The maintenance of the safety and soundness of the institution.

(c) *Interest.* Charges and fees that are ''interest'' within the meaning of 12 U.S.C. 85 are governed by § 7.4001 and not by this section.

(d) *State law.* The OCC evaluates on a case-by-case basis whether a national bank may establish non-interest charges or fees pursuant to paragraphs (a) and (b) of this section notwithstanding a contrary state law that purports to limit or prohibit such charges or fees. In issuing an opinion on whether such state laws are preempted, the OCC applies preemption principles derived from the Supremacy Clause of the United States Constitution and applicable judicial precedent.

(e) *National bank as fiduciary.* This section does not apply to charges imposed by a national bank in its capacity as a fiduciary, which are governed by 12 CFR part 9.

## PART 31—EXTENSIONS OF CREDIT TO NATIONAL BANK INSIDERS

2. The authority citation for part 31 is revised to read as follows:

Authority: 12 U.S.C. 375a(4), 375b(3), 1817(k), and 1972(2)(G)(ii).

3. Part 31 is amended by adding, at the end of the part, the undesignated center heading ''Interpretations'' and new §§ 31.100 to 31.102 to read as follows:

Interpretations

### § 31.100 Loans secured by stock or obligations of an affiliate.

A bank that makes a loan to an unaffiliated third party may take a security interest in securities of an affiliate as collateral for the loan without the loan being deemed a ''covered transaction'' under section 23A of the Federal Reserve Act (12 U.S.C. 371c) if:

(a) The borrower provides additional collateral that meets or exceeds the collateral requirements specified in section 23A(c) (12 U.S.C. 371c(c)); and

(b) The loan proceeds are not used to purchase the bank affiliate's securities that serve as collateral.

### § 31.101 Federal funds transactions between affiliates.

The limitations contained in 12 U.S.C. 371c apply to the sale of Federal funds by a national bank to an affiliate of the bank.

### § 31.102 Deposits between affiliated banks.

(a) *General rule.* The OCC considers a deposit made by a bank in an affiliated bank to be a loan or extension of credit to the affiliate under 12 U.S.C. 371c. These deposits must be secured in accordance with 12 U.S.C. 371c(c). However, a national bank may not pledge assets to secure private deposits unless otherwise permitted by law (*see, e.g.,* 12 U.S.C. 90 (permitting collateralization of deposits of public funds); 12 U.S.C. 92a (trust funds); and 25 U.S.C. 156 and 162a (Native American funds)). Thus, unless one of the exceptions to 12 U.S.C. 371c noted in paragraph (b) of this section applies or unless another exception applies that enables a bank to meet the collateral requirements of 12 U.S.C. 371c(c), a national bank may not:

(1) Make a deposit in an affiliated national bank;

(2) Make a deposit in an affiliated state-chartered bank unless the affiliated state-chartered bank can legally offer collateral for the deposit in conformance with applicable state law and 12 U.S.C. 371c; or

(3) Receive deposits from an affiliated bank.

(b) *Exceptions.* The restrictions of 12 U.S.C. 371c (other than 12 U.S.C. 371c(a)(4), which requires affiliate transactions to be consistent with safe and sound banking practices) do not apply to deposits:

(1) Made in the ordinary course of correspondent business; or

(2) Made in an affiliate that qualifies as a ''sister bank'' under 12 U.S.C. 371c(d)(1).

Dated: February 5, 1996.

Eugene A. Ludwig,

*Comptroller of the Currency.*

[FR Doc. 96–2903 Filed 2–8–96; 8:45 am]

BILLING CODE 4810–33–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 96–ASO–6]**

## Amendment to Class D Airspace, Millington, TN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment changes the name of Memphis NAS to Memphis MAS/Millington Municipal Airport and changes the title of the airspace designation for the Memphis NAS/Millington Municipal Airport located at Millington, TN, from Memphis NAS, TN, to Millington, TN.

**EFFECTIVE DATE:** 0901 UTC, April 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Benny L. McGlamery, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

**SUPPLEMENTARY INFORMATION:**

History

The Memphis Naval Air Station (NAS) is now a joint use airport. As a result, the name of the airport located at Millington, TN, changed from Memphis NAS to Memphis NAS/Millington Municipal Airport. This amendment is necessary to reflect that change. The dimensions, configuration and operating requirements of the affected airspace do not change. This rule will become effective on the date specified in the **EFFECTIVE DATE** section. Since this action does not change the dimensions, configuration or operating requirements of the Class D surface area airspace for the airport, and as a result, has no impact on users of the airspace in the vicinity of the Memphis NAS/Millington Municipal Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Class D airspace designations are published in Paragraph 5000 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995. The Class D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulatory (14 CFR part 71) changes the name of Memphis NAS to Memphis NAS/Millington

Municipal Airport and changes the title of the airspace designation for the Memphis NAS/Millington Municipal Airport located at Millington, TN, from Memphis NAS, TN, to Millington, TN.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

## PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

*Paragraph 5000 Class D Airspace.*

* * * * *

ASO TN D Millington, TN [Revised]

Memphis NAS/Millington Municipal Airport, TN
(lat. 35°21′20″ N, long. 89°52′10″ W)

That airspace extending upward from the surface to and including 2800 feet MSL within a 5-mile radius of Memphis NAS/Millington Municipal Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on January 24, 1996.

Wade T. Carpenter,

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 96–2510 Filed 2–8–96; 8:45 am]

BILLING CODE 4910–13–m

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 173

**[Docket No. 92F–0447]**

## Secondary Direct Food Additives Permitted in Food for Human Consumption; Periodic Acid and Polyethylenimine

**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 periodic acid (PA) and polyethylenimine (PEI) as fixing agents for the immobilization of glucoamylase enzyme preparations from *Aspergillus niger* for use in the manufacture of beer. This action is in response to a petition filed by Enzyme Bio-Systems, Ltd.

**DATES:** Effective February 9, 1996; written objections and requests for a hearing by March 11, 1996.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Andrew D. Laumbach, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3071.

**SUPPLEMENTARY INFORMATION:** In a notice published in the Federal Register of December 1, 1993 (58 FR 63381), FDA announced that a food additive petition (FAP 1A4288) had been filed by Enzyme Bio-Systems, Ltd., 2600 Kennedy Dr., Beloit, WI 53511, proposing that the food additive regulations be amended to provide for the safe use of periodic acid and polyethyleneimine as fixing agents for immobilizing those enzymes that are generally recognized as safe (GRAS) or approved as food additives.

In a letter of February 2, 1994 (Ref. 1), the petition was amended by the petitioner to provide for the use of PA and PEI as fixing agents for the immobilization of glucoamylase enzyme preparations from *A. niger* for use in the manufacture of light beer. The Bureau of Alcohol, Tobacco, and Firearms, the Federal agency responsible for the regulation of alcoholic beverages such as beer, has informed FDA that the term ''light,'' with respect to the description of beer, is not defined by regulation or any other regulatory standards (Ref. 2). Accordingly, FDA has omitted the term ''light'' in the regulation responding to this petition because there are no applicable Federal standards defining ''light beer.''

Although the filing notice refers to polyethyleneimine as one of the two petitioned additives under agency evaluation, it became apparent during the review of the petition that the name of the additive should be changed to be consistent with the name of the substance that is currently listed in § 173.357(a)(2) (21 CFR 173.357(a)(2)), ''polyethylenimine reaction product with 1,2-dichloroethane.'' While the name of the additives differ, the additives share the same Chemical Abstract Service (CAS) Registry Number (CAS Reg. No. 68130–97–2) and are thus considered chemically identical by the agency. The petitioner has agreed to the name change. Therefore, the petitioned additive is identified as a PEI reaction product with 1,2-dichloroethane (DCE) in the regulation set forth below. However, for purposes of discussion, this preamble will use the term ''polyethylenimine'' to refer to the additive, PEI reaction product with 1,2-dichloroethane.

Glucoamylase enzyme preparation from *A. niger* is the substance that is to be immobilized with the fixing agents set forth in the regulation below; the regulatory status of that enzyme preparation is not addressed by this action. The agency is, however, concurrently evaluating this particular enzyme preparation, along with a variety of other enzymes from other sources, in its review of petition GRASP 3G0016 (Docket No. 84G–0257) for the affirmation of the GRAS status of certain enzymes. (Eight enzyme preparations included in GRASP 3G0016 were recently affirmed as GRAS (60 FR 32904, June 26, 1995).) The petition GRASP 3G0016 contains published data and information to support the view that the enzyme preparation glucoamylase from *A. niger* has had a long history of use prior to 1958 in the preparation of food as well as fermentable materials that are used in the production of alcoholic beverages (Refs. 3 and 4). Further, FDA is not aware of any data or information showing that glucoamylase from *A. niger* poses a safety concern. Finally