public by enabling Applicant to provide a broader range of services to its customers and thereby enhance Applicant's ability to compete among local lending institutions.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 21, 1995. Any request for a hearing on this notice must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, November 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27546 Filed 11–6–95; 8:45 am]

BILLING CODE 6210–01–F

Vernon Haley Warren, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks 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. Once the notices have been accepted for processing, they will also be available for inspection at the offices 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 November 21, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Vernon Haley Warren, Albany, Georgia; to retain a total of 12.67 percent of the voting shares of First State Corporation, Albany, Georgia, and thereby indirectly retain First State Bank & Trust Company, Albany, Georgia, and First State Bank & Trust Company, Cordele, Georgia.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Donald Grobowsky, Temple, Texas; to acquire an additional 16.7 percent, for a total of 26.6 percent, of the voting shares of Central Community Corporation, Temple, Texas, and thereby indirectly acquire First State Bank, Temple, Texas.

2. Jack H. Hart, Amarillo, Texas; to acquire an additional .21 percent, for a total of 10.20 percent, of the voting shares of Spearman Bancshares, Spearman, Texas, and thereby indirectly acquire Spearman Financial Corporation, Wilmington, Delaware, and thereby indirectly acquire First National Bank, Spearman, Texas.

Board of Governors of the Federal Reserve System, November 1, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–27547 Filed 11–6–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 951–0140]

The Upjohn Company and Pharmacia Aktiebolag; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require The Upjohn Company and Pharmacia Aktiebolag to divest Pharmacia's assets in ''9–AC,'' a topoisomerase I inhibitor drug for the treatment of colorectal cancer, to a Commission-approved buyer who will ensure that research and development will continue in competition with the merged company's product ''CPT–11,'' a topoisomerase I inhibitor drug developed by Upjohn.

DATES: Comments must be received on or before January 8, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pennsylvania Avenue NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Ann Malester, Bureau of Competition, Federal Trade Commission, S–2308, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–2682.

Claudia Higgins, Bureau of Competition, Federal Trade Commission, S–2308, 6th Street & Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326–2682.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of The Upjohn Company, a corporation, and Pharmacia Aktiebolag, a corporation.

File No. 951–0140

Agreement Containing Consent Order

The Federal Trade Commission (''Commission''), having initiated an investigation of the merger of The Upjohn Company (''Upjohn'') and Pharmacia Aktiebolag (''Pharmacia''), and it now appearing that Upjohn and Pharmacia, hereinafter sometimes referred to as ''Proposed Respondents,'' are willing to enter into an Agreement Containing Consent Order to (i) divest certain assets, (ii) cease and desist from certain acts, and (iii) provide for certain other relief:

It is hereby agreed by and between Proposed Respondents, by their duly authorized officers and their attorneys, and counsel for the Commission that:

1. Proposed Respondent Upjohn is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 7000 Portage Road, Kalamazoo, Michigan 49001.

2. Proposed Respondent Pharmacia is a corporation organized, existing, and doing business under and by virtue of

the laws of Sweden, with its principal place of business located at Frösundaviks allé 15, S–171 97 Stockholm, Sweden.

3. Proposed Respondents admit all the jurisdictional facts set forth in the draft of complaint.

4. Proposed Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this Agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This Agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this Agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify Proposed Respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This Agreement is for settlement purposes only and does not constitute an admission by Proposed Respondents that the law has been violated as alleged in the draft of complaint or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This Agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to Proposed Respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following Order to divest and to cease and desist in disposition of the proceeding, and (2) make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The Order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to Order to Pharmacia's counsel, Steven Sunshine, Esquire, of Shearman & Sterling at 801 Pennsylvania Avenue, NW., Washington, DC 20004–2604, and Upjohn's counsel, Stuart Meiklejohn, Esquire, of Sullivan & Cromwell at 125 Broad Street, New York, New York 10004, shall constitute service. Proposed Respondents waive any rights they may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the Agreement may be used to vary or contradict the terms of the Order.

8. Proposed Respondents have read the proposed complaint and Order contemplated hereby. Proposed Respondents understand that once the Order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the Order. Proposed Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final. By signing this Agreement, Proposed Respondents represent that the relief contemplated by this Agreement can be accomplished.

Order

I

It is ordered that, as used in this Order, the following definitions shall apply:

A. *Upjohn* means The Upjohn Company, its directors, officers, employees, agents and representatives, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Upjohn; and the respective directors, officers, employees, agents and representatives, and the respective successors and assigns of each.

B. *Pharmacia* means Pharmacia Aktiebolag, its directors, officers, employees, agents and representatives, successors and assigns; its subsidiaries, divisions, groups and affiliates controlled by Pharmacia; and the respective directors, officers, employees, agents and representatives, and the respective successors and assigns of each.

C. *Respondents* means Upjohn and Pharmacia.

D. *Commission* means The Federal Trade Commission.

E. *Merger* means the combination of Upjohn and Pharmacia pursuant to a Combination Agreement dated August 20, 1995.

G. *9–AC* or *9-amino-20 (S)-camptothecin* means the semisynthetic compound which refers to the compound 1-pyrano [3′,4′:6,7] indolizino [1,2-b] quinoline-3,14 (4H,12H)-dione, 10-amino-4-ethyl-4-hydrozy-(S) in respect of its therapeutic indication for the treatment of cancer.

H. *CPT–11* or *irinotecan hydrochloride trihydrate* means the chemical compound which refers to the compound (+)-(4S)-4, 11-diethyl-4-hydrozy-9-[(4-piperidinopiperidino) carbonyl-oxyl]-1H-pyrano [3′,4′:6,7] indolizino [1,2-b] quinoline-3,14 (4H, 12H)-dione hydrochloride trihydrate.

I. *Pharmacia's 9–AC Assets* means an exclusive license to all Pharmacia's assets relating to the research and development of 9-AC for sale in the United States that are not part of Pharmacia's physical facilities or other tangible assets. ''Pharmacia's 9–AC Assets'' includes, but is not limited to, all formulations, patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, testing and quality control data, research data, technical information, stored on management information systems (and specifications sufficient for the Acquirer to use such information), proprietary software used in connection with Pharmacia's 9–AC, and all data, contractual rights, materials and information relating to obtaining FDA approvals and other government or regulatory approvals for the United States for Pharmacia's 9–AC. ''Pharmacia's 9–AC Assets'' also includes the assignment of all rights of Pharmacia to NCI patents, trade secrets, technology, know-how, specifications, designs, drawings, processes, testing and quality control data, research materials, technical information, stored on management information systems (and specifications sufficient for the Acquirer to use such information), proprietary software used in connection with Pharmacia's 9–AC and all data, contractual rights, materials and information relating to obtaining FDA approvals and other government or regulatory approvals for the United States for Pharmacai 9–AC.

J. *Acquirer* means the entity to whom the Respondents shall divest Pharmacia's 9–AC Assets pursuant to this Order.

K. *Cost* means Pharmacia's actual per unit cost of manufacturing Pharmacia's 9–AC, which may be adjusted once annually to reflect any increases in Pharmacia's actual cost, provided, however, that for any year, the total rate of such adjustment with respect to all components of cost other than material and labor shall not exceed the rate of increases in the Consumer Price Index for such year.

II

It is further ordered that:

A. Respondents shall divest, absolutely and in good faith, within twelve (12) months of the date this Order becomes final, Pharmacia's 9–AC Assets.

B. Respondents shall divest Pharmacia's 9–AC Assets only to an Acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. Respondents shall obtain all necessary approvals and releases for such divestiture from NCI as a condition of the Commission's prior approval. The purpose of the divestiture of Pharmacia's 9–AC Assets is to ensure continued research and development of Pharmacia's 9–AC, in the same manner in which Pharmacia's 9–AC would be researched and developed absent the proposed Merger, and to remedy the lessening of competition resulting from the proposed Merger as alleged ion the Commission's Complaint.

C. At the Acquirer's option, Respondents shall enter into a supply agreement with the Acquirer. Such agreement, if entered into, shall be provided to the Commission as part of Respondents' application to the Commission for approval of the divestiture. This supply agreement shall include the following and Respondents shall commit to satisfy the following:

1. Respondents shall manufacture and deliver to the Acquirer in a timely manner the Acquirer's requirements for 9–AC at Respondents' Cost for a period not to exceed three (3) years from the date the divestiture is approved. This supply agreement can be cancelled at the request of the Acquirer.

2. Respondents shall make representations and warranties to the Acquirer that the 9–AC manufactured by Respondents for the Acquirer meets the United States Food and Drug Administration approved specifications therefor and are not adulterated or misbranded within the meaning of the Food, Drug and Cosmetic Act, 21 U.S.C. § 321, *et seq.* Respondents shall agree to indemnify, defend and hold the Acquirer harmless from any and all suits, claims, actions, demands, liabilities, expenses or losses alleged to result from the failure of the 9–AC manufactured for the Acquirer by Respondents to meet FDA specifications. This obligation shall be contingent upon the Acquirer giving Respondents prompt, adequate notice of such claim, cooperating fully in the defense of such claim, and permitting Respondents to assume the sole control of all phases of the defense and/or settlement of such claim, including the selection of counsel. This obligation shall not require Respondents to be liable for any negligent act or omission of the Acquirer or for any representations and warranties, express or implied, made by the Acquirer that exceed the representations and warranties made by Respondents to the Acquirer.

3. During the term of the supply agreement, upon reasonable request by the Acquirer, Respondents shall make available to the Acquirer all records kept in the normal course of business that relate to the cost of manufacturing 9–AC.

D. The time period for divestiture pursuant to Paragraph II. of this Order shall be tolled if and when Respondents:

1. Provide to the Commission objective evidence, including, but not limited to, results of clinical trials indicating that, based on 9–AC's or CPT–11's medical profile, and through no fault of Respondents, either Pharmacia's 9–AC or Upjohn's CPT–11 is not medically safe or efficacious for use in the treatment of colorectal cancer; and

2. Petition the Commission to modify this Order, pursuant to section 5(b) of the FTC Act and Section 2.51 of the Commission's Rules of Practice, based on the circumstances described in Subparagraph II.D.1. of this Order.

This tolling of the time period for divestiture shall end when the Commission rules on Respondents' petition to modify this Order.

III

It is further ordered that:

A. If Upjohn and Pharmacia have not divested, absolutely and in good faith and with the Commission's prior approval, Pharmacia's 9–AC Assets within the time required by Paragraph II.A., of this Order, the Commission may appoint a trustee to divest, at Pharmacia's option, either (1) an exclusive United States license and a nonexclusive worldwide (excluding the United States) license in perpetuity, and in good faith, to all Pharmacia's assets relating to the research and development of 9–AC for sale throughout the world or (2) an exclusive worldwide license, in perpetuity, and in good faith, to all Pharmacia's assets relating to the research and development of 9–AC for sale throughout the world. The trustee shall obtain all necessary approvals and releases for the applicable license from NCI. Neither the decision of the Commission to direct the trustee nor the decision of the Commission not to direct the trustee to divest a license shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to § 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by the Respondents to comply with this Order.

B. If the trustee is directed under Subparagraph A. of this Paragraph to divest, at Phamacia's option, either (1) an exclusive United States license and a nonexclusive worldwide (excluding the United States) license or (2) an exclusive worldwide license, Respondents shall consent to the following terms and conditions regarding the trustee's powers, duties authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of Respondents which consent shall not be unreasonably withheld. If Respondents have not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Respondents of the identity of any proposed trustee, Respondents shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest, at Pharmacia's option, either (1) an exclusive United States license and a nonexclusive worldwide (excluding the United States) license or (2) an exclusive worldwide license.

3. Within ten (10) days after the appointment of the trustee, Respondents shall execute a trust agreement that subject to the prior approval of the Commission, and in the case of a court-appointed trustee, of the court, transfers to the trustee all the rights and powers necessary to permit the trustee to assure Respondents' compliance with the terms of this Order. As part of the trustee agreement, the trustee shall execute confidentiality agreement(s) with Respondents.

4. The trustee shall have twelve (12) months from the date the Commission approves the appointment of the trustee to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or, in the case of a court-appointed trustee, by the court;

provided, however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, facilities and technical information related to Pharmacia's 9–AC, or to any other relevant information, as the trustee may reasonably request, including but not limited to all records kept in the normal course of business that relate to research and development of, and the cost of manufacturing, Pharmacia's 9–AC. Respondents shall develop such financial or other information as the trustee may request and shall cooperate with the trustee. Respondents shall take no action to interfere with or impede the trustee's accomplishment of the divestiture. Any delays in divestiture caused by Respondents shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for court-appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Respondents' absolute and unconditional obligation to divest at no minimum price. The divestiture shall be made in the manner and to the Acquirer as set out in Paragraphs II and III of this order, as appropriate; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by Respondents from among those approved by the Commission. If requested by the trustee or Acquirer, Respondents shall provide the Acquirer with the assistance required by Paragraph IV. of this Order.

7. The trustee shall serve, without bond or other security, at the cost and expense of Respondents, on such reasonable and customary terms and conditions as the Commission may set. The trustee shall have the authority to employ, at the cost and expense of Respondents, such consultants, accountants, attorneys and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the Respondents. The trustee's compensation shall be based at least in significant part on a Commission arrangement based on a percentage of the selling price of the assets divested.

8. Respondents shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparations for, or defense of, any claim whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph III.A. of this Order.

10. The Commission or, in the case of a court-appointed trustee, the court may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture required by this Order.

11. The trustee shall report in writing to Respondents and the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

12. if a divestiture application filed pursuant to this Paragraph III. is pending before the Commission, and Respondents petition the Commission to modify this Order based on the conditions in Paragraph II.D., then the Commission shall not approve the divestiture application until it rules on the petition to modify.

IV

It is further ordered that:

A. Upon reasonable notice and request from the Acquirer to Respondents, Respondents shall provide information, technical assistance and advice to the Acquirer with respect to Pharmacia's 9–AC Assets such that the Acquirer will be capable of continuing the current research and development. Such assistance shall include reasonable consultation with knowledgeable employees of Respondents and training at the Acquirer's facility for a period of time sufficient to satisfy the Acquirer's management that its personnel are adequately knowledgeable about Pharmacia's 9–AC Assets. however, Respondents shall not be required to continue providing such assistance for more than one (1) year after divestiture of Pharmacia's 9–AC Assets. Respondents may require reimbursement from the Acquirer for all of their own direct costs incurred in providing the services required by this Paragraph. Direct costs, as used in this Paragraph, means all actual costs incurred exclusive of overhead costs.

B. Upon reasonable notice and request from the Acquirer, Respondents shall provide information, technical assistance and advice sufficient to assist the Acquirer in obtaining all necessary FDA approvals to manufacture 9–AC for use in clinical trials in the United States. Upon reasonable notice and request from the Acquirer, Respondents shall also provide consultation with knowledgeable employees of Respondents and training at the Acquirer's facility for a period of time, not to exceed one (1) year, sufficient to satisfy the Acquirer's management that its personnel are adequately trained in the manufacture of 9–AC. Respondents may require reimbursement from the Acquirer for all of their own direct costs incurred in providing the services required by this Paragraph. Direct costs, as used in this Paragraph, means all actual costs incurred exclusive of overhead costs.

V

It is further ordered that Respondents shall comply with all terms of the Interim Agreement, attached to this order and made a part hereof as Appendix I. Said Interim Agreement shall continue in effect until the provisions in Paragraphs II., III. and IV. of this Order are complied with or until such other time as is stated in said Interim Agreement.

VI

It is further ordered that if, following approval of the divestiture required by Paragraph II. of this Order, disputes arise between Respondents and the Acquirer regarding: (1) fulfillment of the terms of the supply agreement described in Paragraph II.C of this Order; (2) the continuation of the clinical trials for the testing of 9–AC described in Attachment A to Appendix I of this Order; or (3) the continuation of the defense of existing patents and the pursuit of the filing of new patents relating to Pharmacia's 9–AC, the Acquirer may elect to cause the issue to be submitted to outside, independent, binding arbitration in the District of Columbia. In the event the Acquirer so elects, Respondents shall agree to submit to such arbitration, and the issue shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (''AAA'') and AAA's Supplementary Procedures for

International Commercial Arbitration or any successor rules thereto. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The decision of the arbitrator, after confirmation by the court pursuant to 9 U.S.C. 9, or succeeding statutory provisions, shall be final and binding upon the parties, and the failure of the Respondents thereafter to abide by the arbitrator's award shall be a violation of this Order.

VII

It is further ordered that:

A. Within sixty (60) days after the date this Order becomes final and every sixty (60) days thereafter until Respondents have fully complied with the provisions of Paragraphs II.A. and II.B. or III. of this Order, Respondents shall submit to the Commission a verified written report setting forth in detail the manner and form in which they intend to comply, are complying, and have complied with this Order. Respondents shall include in their compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II., III., IV. and V. of this Order, including a description of all substantive contacts or negotiations for accomplishing the divestiture and the identity of all parties contacted. Respondents shall include in their compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this Order becomes final, annually on the anniversary of the date this Order becomes final, and at all other times as the Commission may require, until Respondents have fully complied with Paragraphs II.C., IV. and V., Respondents shall file a verified written report with the Commission setting forth in detail the manner and form in which they have complied and are complying with Paragraphs II.C., IV. and V. of this Order.

VIII

It is further ordered that, for the purpose of determining or securing compliance with this Order, Respondents shall permit nay duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Respondents, relating to any matters contained in this Order; and

B. Upon five (5) days' notice to Respondents, and without restraint or interference from Respondents, to interview officers, directors, or employees of Respondents, who may have counsel present regarding such matters.

IX

It is further ordered that Respondents shall notify the Commission at least thirty (30) days prior to any proposed change in Respondents such as dissolution, assignment, sale resulting in the emergence of a successor, or the creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out this Order.

Appendix I

In the Matter of the Upjohn Company, a corporation, and Pharmacia Aktiebolag, a corporation.

File No. 951–0140

Interim Agreement To Maintain Research and Development

This Interim Agreement to Maintain Research and Development (''Interim Agreement'') is by and among Pharmacia Aktiebolag (''Pharmacia''), a corporation organized, existing, and doing business under and by virtue of the laws of Sweden, with its office and principal place of business at Frösundaviks allè 15, S–171 97 Stockholm, Sweden, The Upjohn Company (''Upjohn''), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 7000 Portage Road, Kalamazoo, Michigan 49001 and the Federal Trade Commission (''the Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, et seq. (collectively, the ''Parties'').

Premises

Whereas, on August 20, 1995, Pharmacia entered into a Combination Agreement with Upjohn providing for the combination of Pharmacia and Upjohn (hereinafter ''Merger''); and

Whereas, Pharmacia is involved in, among other things, the research and development of 9-Amino-20(S)-camptothecin (''9–AC''), a topoisomerase I inhibitor; and

Whereas, Upjohn is involved in, among other things, the research and development of Camptosar (''CPT–11''), a topoisomerase I inhibitor; and

Whereas, the Commission is now investigating the Merger to determine whether it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), the Commission must place it on the public record for a period of at least (60) days and subsequently may either withdraw such acceptance or issue and serve its Complaint and decision in disposition of the proceeding pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the ongoing and future research of Pharmacia's 9–AC, as defined in Paragraph I of the Consent Order, during the period prior to the final acceptance of the Consent Order by the Commission (after the 60-day public comment period) and until the divestiture required by Paragraphs II or III of the Consent Order has been accompanied may not be possible and divestiture resulting from any proceeding challenging the legality of the Merger might not be possible, or might be less than an effective remedy; and

Whereas, the purpose of the Interim Agreement and the Consent Order is:

1. To ensure continued research and development of Pharmacia's 9-Ac in the same manner in which Pharmacia's 9-AC would be researched and developed absent the Merger; and

2. To preserve the Commission's ability to remedy any anticompetitive effects of the Merger; and

Whereas, Pharmacia's and Upjohn's entering into this Interim Agreement shall in no way be construed as an admission by Pharmacia and Upjohn that the Merger is illegal; and

Whereas, Pharmacia and Upjohn understand that no act or transaction contemplated by this Interim Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Interim Agreement;

Now, therefore, the Parties agree, upon the understanding that the Commission has not yet determined whether the Merger will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment, it will grant early termination of the Hart-Scott-Rodino waiting period, as follows:

1. Pharmacia and Upjohn agree to execute and be bound by the Consent Order.

2. Pharmacia agrees that from the date this Interim Agreement is accepted until the earliest of the time listed in subparagraphs 2.a.–2.b., it will comply with the provisions of Paragraph 4 of this Interim Agreement:

a. Three business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's rules;

b. The time that the divestiture obligations required by the Consent Order are completed.

3. Pharmacia and Upjohn agree to take such actions as are necessary to prevent the destruction, removal, wasting, deterioration or impairment of Pharmacia's 9–AC Assets, except for ordinary wear and tear.

4. With respect to the continued research and development of Pharmacia's 9–AC, Pharmacia agrees:

a. To continue to pursue its obligations under the Cooperative Research and Development Agreement with the National Cancer Institute and the previously determined 9–AC research and development plan, as set forth in confidential Attachment A to this Interim Agreement; and

b. To fund the research and development of Pharmacia's 9–AC at levels no less than those contained in the budget for 1995, as set forth in confidential Attachment B to this Interim Agreement; and

c. To use its best efforts to support and defend Pharmacia's rights relating to 9–AC in U.S. Patent # 5,106742 dated April 21, 1992 (Camptothecin Analogs as Potent Inhibitors of Topoisomerase I), U.S. Patent # 5,225,404 dated July 6, 1993 (Methods of Treating Colon Tumors with Tumor-Inhibiting Camptothecin Compounds), and U.S. Serial # 08/323081 filed October 14, 1994 (pending patent application for Lyophilizate of Lipid Complex of Water Insoluble Camptothecins); and

d. To use its best efforts to obtain all necessary approvals and releases from the National Cancer Institute to accomplish the requirements of Paragraphs II and III of the Consent Order; and

e. Within thirty days of acceptance of this Interim Agreement by the Commission, to have available for clinical trials at least sufficient inventory of Pharmacia's 9–AC sufficient to supply the clinical trials set forth in confidential Attachment A to this Interim Agreement that are likely to be initiated through November 1996.

5. Upjohn agrees to allow Pharmacia to fulfill its obligations under paragraphs 2 and 4 of this Interim Agreement, without restraint or interference from Upjohn.

6. Should the Commission seek in any proceeding to compel Pharmacia to divest itself of the Pharmacia 9–AC Assets, as provided in the Consent Order, or seek any other equitable relief relating to Pharmacia's 9–AC Assets, Pharmacia and Upjohn shall not raise any objection based on the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Merger. Pharmacia and Upjohn shall also waive all rights to contest the validity of this Interim Agreement.

7. Should the Commission, pursuant to Paragraph II.D of the Consent Order, act on a petition from Pharmacia and Upjohn to modify the Consent Order based on the circumstances described in Subparagraph II.D.1, this Interim Agreement shall be automatically modified to reflect any changes made by the Commission.

8. For the purpose of determining or securing compliance with this Interim Agreement, subject to any legally recognized privilege, and upon written request with reasonable notice to Pharmacia and Upjohn made to its General Counsel, Pharmacia and Upjohn shall permit any duly authorized representative or representatives of the Commission:

a. Access during the office hours of Pharmacia and Upjohn and in the presence of counsel to inspect and copy all books, ledgers, accounts, correspondent, memoranda, and other records and documents in the possession or under the control of Pharmacia and Upjohn relating to compliance with this Interim Agreement; and

b. Upon five (5) days' notice to Pharmacia and Upjohn, and without restraint or interference from it, to interview officers or employees of Pharmacia and Upjohn, who may have counsel present, regarding any such matters.

9. This Interim Agreement shall not be binding until approved by the Commission.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted provisionally an agreement containing a proposed Consent Order from The Upjohn Company (''Upjohn'') and Pharmacia Aktiebolag (''Pharmacia''), under which Upjohn and Pharmacia will be required to divest U.S. assets relating to the research and development of a chemotherapeutic drug for the treatment of colorectal cancer (''Pharmacia's 9–AC Assets'') to a Commission approved purchaser. In addition, the Commission has accepted an Interim Agreement to Maintain Research and Development, under which Pharmacia and Upjohn will be required to continue fulfilling the previously established 9–AC research and development plan and its obligations to the National Cancer Institute.

The proposed Consent Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed Order.

Pursuant to an agreement dated August 20, 1995, Upjohn and Pharmacia propose to merge their respective businesses in a transaction valued at approximately $13.9 billion. Based on 1994 sales, the combined company would rank among the top ten pharmaceutical manufacturers worldwide, and it would be the fifth largest drug company in the United States.

The proposed complaint alleges that the merger, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, in the market for the research, development, manufacturer and sale of topoisomerase I inhibitors for the treatment of colorectal cancer in the United States. Topoisomerase I inhibitors are a specific class of chemotherapeutic drugs that inhibit the multiplication of cancer cells inside the body. By curtailing cancer cell growth, topoisomerase I inhibitors may aid in the treatment of colorectal cancer, a form of cancer that does not respond well to currently available chemotherapy agents.

While no topoisomerase I inhibitor has yet been approved for sale in the United States, it is anticipated that sales of all topoisomerase I inhibitors for the treatment of colorectal cancer will exceed $100 million by 2002. Approximately 443,000 people in the United States are diagnosed with colorectal cancer each year. For most solid tumors, the first method of treatment is surgery, with radiation therapy and chemotherapy typically used as adjuncts to the surgery.

Current protocols for colorectal cancer suggest that patients be treated with the chemotherapy agents 5-fluorouracil

(''5FU'') and either leucovorin or levamisole. For those patients whose cancer recurs, the survival rate is only fifteen percent. Topisomerase I inhibitors are expected to increase the rate of survival for colorectal cancer patients.

The proposed Consent Order would remedy the alleged violation by replacing the lost competition that would result in the U.S. from the merger. Presently, only a very small number of companies worldwide are developing topoisomerase I inhibitors. Upjohn has the U.S. rights for CPT–11, a topoisomerase I inhibitor developed in Japan by Yakult Honsha and Daiichi. Pharmacia has the worldwide rights for 9–AC under a Cooperative Research and Development Agreement with the National Cancer Institute. Upjohn's and Pharmacia's products may be effective treatments for colorectal cancer. Because the information obtained during the Commission's investigation about the status of pharmaceutical research projects is highly confidential, the Commission cannot disclose publicly what, if any, other research projects are currently underway on topoisomerase I inhibitors.

Under the proposed Consent Order, Pharmacia and Upjohn are required to divest 9–AC assets relating to the research and development of 9–AC for sale in the United States. As a result, two independent pharmaceutical companies will continue to research and develop their respective topoisomerase I inhibitors in the United States following the proposed merger.

The proposed Order requires that if Upjohn and Pharmacia fail to divest the product within 12 months, a trustee will be appointed to divest Pharmacia's 9–AC Assets in the U.S. as well as either a worldwide exclusive or a nonexclusive worldwide (excluding the U.S.) license for 9–AC. The Order also requires Upjohn and Pharmacia to provide technical assistance and advice to ensure that the acquirer is capable of continuing present research and development and to produce 9–AC if needed by the Acquirer for its clinical trials.

An Interim Agreement is incorporated into the proposed Order to protect the ongoing research and development of 9–AC. In the Interim Agreement, Pharmacia and Upjohn commit to continue the planned research and development of 9–AC pending the divestiture required under the Order. The Interim Agreement remains in effect until Pharmacia has divested its 9–AC Assets pursuant to the Order.

Under the provisions of the order, Upjohn and Pharmacia are also required to provide the Commission a report of compliance with the divestiture provisions of the Order within sixty (60) days following the date the Order becomes final, and every sixty (60) days thereafter until Upjohn and Pharmacia have completed the required divestiture.

The purpose of this analysis is to facilitate the public comment on the proposed Order, and it is not intended to constitute an official interpretation of the agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–27552 Filed 11–6–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Home and Community-Based Services Waiver Requests; *Form No.:* HCFA–8003; *Use:* Under a Secretarial waiver, States may offer a wide array of home and community-based services to individuals who would otherwise require institutionalization. States requesting a waiver must provide certain assurances, documentation and cost and utilization estimates which are reviewed, approved and maintained for the purpose of identifying/verifying States' compliance with such statutory and regulatory requirements; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 50; *Total Annual Responses:* 140; *Total Annual Hours Requested:* 12,600.

To request copies of the proposed paperwork collection referenced above, E-mail your request, including your address, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collection should be sent within 60 days of this notice direct to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Linda Mansfield, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 26, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 95–27476 Filed 11–6–95; 8:45 am]

BILLING CODE 4120–03–P

Indian Health Service

[0917–ZA00]

Notice of Redesignation of Contract Health Service Delivery Area

AGENCY: Indian Health Service, HHS.

ACTION: Notice with request for comments.

SUMMARY: This Notice advises the public that the Indian Health Service (IHS) proposes to redesignate the geographic boundaries of the Contract Health Service Delivery Area (CHSDA) for the Confederated Tribes of the Chehalis Reservation, Washington (''the Tribes''). The Chehalis CHSDA currently is comprised of Grays Harbor and Thurston Counties in the State of Washington. These counties were designated as the Tribes' CHSDA in the Federal Register of January 10, 1984 (49 CFR 1291). It is proposed that Lewis County, Washington, be added to the existing CHSDA. This notice is issued under authority of 43 FR 34654, August 4, 1978.

DATES: Comments must be received on or before December 7, 1995.

ADDRESSES: Comments may be mailed to Betty J. Penn, Regulations Officer, Indian Health Service, Suite 450, 12300 Twinbrook Parkway, Rockville,