

transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts.

Development of the IS Transmission Rate by Western is consistent with the obligation to transmit and dispose of power and energy while encouraging widespread use of the Federal facilities consistent with sound business practices. The integration of the Federal facilities with the non-Federal facilities enables the marketing of Western's resource as well as encouraging the widespread use of the Federal transmission facilities in the Missouri River Basin. As stated above, this philosophy is repaying the Federal investment through the rate schedules as they are recovering the appropriate costs of producing and transmitting that resource. This practice is also a sound business principle given the current FERC philosophy which encourages widespread use of transmission resources.

Section 5 of the Flood Control Act of 1944 also permits Western to construct or acquire transmission lines that are necessary to deliver the Federal resource. In order to deliver that resource, including sales of surplus generation sold on a non-firm basis, and meet Western's contractual obligations, it is necessary to use the IS for reliability reasons. This has been confirmed in the Initial Decision in *Missouri Basin Municipal Power Agency*, 82 FERC ¶ 63,015 (1998).

Comment: Several comments received stated that Western is violating the Anti-Deficiency Act and various fiscal obligations by participating in the IS.

Response: The Anti-Deficiency Act, 31 U.S.C. 1341(a)(1), states that an officer of the Federal Government may not involve the Government in a contract or obligation requiring the payment of money prior to an appropriation unless authorized by law. Western has the responsibility to meet all of its contractual obligations that have been incurred pursuant to Reclamation Law. Western is annually appropriated money to perform its mission, including meeting the obligations it has incurred pursuant to its contracting authority. Western does utilize the IS to meet these contractual obligations, and hence money has been appropriated to carry out the functions as described under the DOE

Organization Act. In addition, Western's contracts contain General Power Contract Provisions which specifically state that any activity provided for under those contracts are "contingent on appropriations."

Comment: Other comments received stated that Federal law prohibits "payments to third parties."

Response: To the contrary, 16 U.S.C. 833(i) and 825(s) do not state that third party payments are unlawful. They do not address third party payments at all. They do contain language indicating Congress' intention that all money which the United States receives from sales of power generated at Fort Peck Project and the Projects under control of the War Department (now the Corps operated facilities) are to be deposited in Treasury. Western is not violating this statute as a result of operating the IS. Western will deposit money it receives for debts due the United States for sales of its resource into the Treasury in the same manner it has in the past. However, money received on behalf of Basin Electric and Heartland will not be received as a result of debts owed to the United States, but will be received for debts owed Basin Electric and Heartland. Therefore, money received on their behalf is not required to be deposited into the Treasury.

Western has in the past deposited and will continue to deposit all money to which the United States is entitled into the Treasury in accordance with the above statutes. Western has administered the JTS for over 30 years. This administration included the receipt of revenue from outside sources and then redistributing that revenue to other members of the JTS, Basin Electric, Heartland, and MBMPA. Western has also approved the JTS rate prior to implementation.

Western is obligated under existing contracts to administer the transmission facilities of Basin Electric and Heartland. These obligations have arisen based upon the initial signing of the MBSG Agreement which was signed by Reclamation in 1962 and the initial bilateral agreements between Basin Electric and Reclamation which created the JTS. The role Western is playing in the IS is analogous to the role it played in administering the JTS, and Western is contractually obligated to perform those functions.

Comment: UGPR should continue its rights and obligations detailed in the bilateral contracts. In addition it should allow all existing loads to stay on the JTS and receive those benefits.

Response: UGPR agrees and Western, Basin Electric, and Heartland will continue the obligations and benefits

among themselves as detailed in the bilateral agreements.

Comment: UGPR should continue to participate in the planning of an Independent System Operator (ISO).

Response: UGPR agrees and has several representatives on the MAPP committees involved with the planning and development of the MAPP ISO. As the proposal is being developed, Western will provide input and data to study the impact on the region and Western. Western will continue its involvement.

Ancillary Services Discussion

Six ancillary services will be offered to IS Transmission Customers; two of which are required to be purchased by IS Transmission Customers. These two are (1) Scheduling, System Control, and Dispatch Service and (2) Reactive Supply and Voltage Control Service from Generation Sources Service. The remaining four ancillary services—Regulation and Frequency Response Service, Energy Imbalance Service, Spinning Reserve Service, and Supplemental Reserve Service will also be offered.

Sales of Regulation and Frequency Response Service, Energy Imbalance Service, Spinning Reserve Service, and Supplemental Reserve Service may be limited since Western has allocated its power resources to preference entities under long-term commitments. If Western is unable to provide these services from its own resources, an offer will be made to purchase the services and pass through these costs to the customer, including an administrative charge.

Scheduling, System Control, and Dispatch Service: Western's annual revenue requirement for Scheduling, System Control, and Dispatch Service is determined by multiplying the portion of the Watertown Operations Office net plant and communications facilities net plant associated with Scheduling, System Control, and Dispatch Service by the transmission fixed charge rate. The formula rate for Scheduling, System Control, and Dispatch Service is the revenue requirement for this service divided by the annual number of daily schedules, or, using 1997 data, \$1,684,495 ÷ 36,571 daily schedules. Using 1997 data, this methodology for determining the rate for Scheduling, System Control, and Dispatch Service has produced a rate of \$46.06/schedule/day. This rate and rate design is only recovering Western's revenue requirement.

Reactive Supply and Voltage Control from Generation Sources Service: Western's annual cost of providing

Reactive Supply and Voltage Control from Generation Sources Service is determined by multiplying the total P-SMBP-ED generation net plant by the generation fixed charge rate. The annual cost is multiplied by the capability used for reactive support to determine Western's reactive service revenue requirement. Basin Electric's annual revenue requirement is based upon the annual cost of equipment installed on its generators to provide this service. Western's and Basin Electric's annual revenue requirements are summed for the total revenue requirement for this service. The Reactive Supply and Voltage Control Service from Generation Sources Service rate is then derived by dividing the annual revenue requirement by the IS Transmission System Total Load. The annual rate is then divided by 12 months to obtain a monthly rate. Using 1997 data, this methodology for determining the rate for Reactive Supply and Voltage Control Service from Generation Sources Service has produced a rate of \$0.07/kW-month for transmission service provided.

Regulation and Frequency Response Service: Regulation and Frequency Response Service in the East side of the control area is provided primarily by Oahe generation, and in the West side of the control area by Fort Peck, both of which are Corps of Engineer facilities. To calculate the annual cost of providing Regulation and Frequency Response Service, the Corps of Engineer's generation fixed charge rate is applied to Oahe generation and Fort Peck generation net plant investment. This cost is divided by the capacity at the plants to derive a dollar per kilowatt amount for Oahe and Fort Peck Powerplants' installed capacity. This dollar per kilowatt amount is then applied to the capacity of Oahe generation and Fort Peck generation reserved for regulation and frequency response in the control area. The capacity reserved for Regulation and Frequency Response Service has been determined to be 2 percent of the annual peak load. The 2 percent value was derived by averaging the incremental change in hourly load in the control area for the calendar year and dividing this amount in half. The annual revenue requirement for Regulation and Frequency Response Service is determined by applying the dollar per kilowatt amount to the capacity used for Regulation and Frequency Response Service. An annual rate for Regulation and Frequency Response Service is then determined by dividing the revenue requirement by the total load in the

control area. The annual rate is then divided by 12 months to obtain a monthly rate. Using 1997 data, this methodology for determining the rate for Regulation and Frequency Response Service produced a rate of \$0.05/kW-month of load for which Western is providing this service. This rate and rate design is recovering only Western's revenue requirement. Credit will be given to those Transmission Customers who provide Western with Automatic Generation Control (AGC) of generation facilities capable of providing this service.

Energy Imbalance Service: This service is not intended to provide backup for generation supply. Energy shall be returned in like timeframes (on-peak, off-peak, etc.) and accounts zeroed out monthly. Western reserves the right to apply a penalty to energy imbalances outside a 3 percent bandwidth (+/- 1.5 percent deviation). The penalty for under deliveries outside the 3 percent bandwidth is 100 mills/kWh. Over deliveries outside the 3 percent bandwidth will be forfeited to the control area.

Reserve Services: Western's annual cost of generation for Reserve Services is determined by multiplying the generation fixed charge rate by the P-SMBP-ED generation net plant investment. The cost/kW-year is determined by dividing the annual cost of generation by the plant capacity. The capacity used for Reserve Services is determined by multiplying Western's peak IS load by the MAPP operating reserve requirement of 5 percent. The cost/kW-year is multiplied by the capacity used for Reserve Services to determine the annual revenue requirement for Reserve Services. The annual revenue requirement for Reserve Services is divided by Western's peak transmission load to calculate the annual rate. The annual rate is then divided by 12 months to obtain a monthly rate. Using 1997 data, this methodology for determining the rate for reserve services has produced a rate of \$0.12/kW-month of customer load. This rate and rate design is recovering only Western's revenue requirement associated with Reserve Services. If energy is taken under this service, the energy charge will be the MAPP Rate for Emergency Energy, which is presently the greater of 30 mills/kWh or the prevailing market energy rate in the region.

Ancillary Services Comments

UGPR received written comments concerning the ancillary service rates during the public comment and consultation period. These comments

have been paraphrased where appropriate, without compromising the meaning of the comment. Certain comments were duplicative in nature, and were combined. UGPR's response follows each comment.

Comment: The rate for Reactive Supply and Voltage Control from Generation Sources Service is overstated because it includes an excessive amount of generation cost. The revenue requirement should be determined by estimating the cost of the exciter/generator and then allocating that cost between real and reactive power generation. In addition, the load used to derive the rate is understated.

Response: Western estimated the amount of plant costs used to provide Reactive Supply and Voltage Control from Generation Sources Service by multiplying generation investment by the ratio of condensing operation of the generators to total generator operation. When Western's hydro units are condensing, they are removing VARs generated by line charging on the long transmission lines in the IS. Western believes this method is appropriate for allocating costs to Reactive Supply and Voltage Control Service from Generation Sources Service.

The load used in the denominator of the Reactive Supply and Voltage Control Service from Generation Sources Service rate has been changed from the combined East and West control area coincident peaks to the IS Transmission System Total Load to reflect that each unit of transmission service will be charged for this service. Entities that have existing contracts at this time were not included in the denominator because Western cannot charge these entities for this service and including them would cause under recovery of costs. In the future when these contracts expire and these entities take service under the Tariff, their loads will be included in the denominator.

Comment: The Regulation and Frequency Response Service Rate is overstated. The revenue requirement is overstated because Western's estimate of the percentage of generation required to provide regulation service (4 percent) is too high. In addition, the denominator of 1,615 MW is too low. Finally, Western should give credit to Transmission Customers which purchase regulation service from third parties.

Response: The 4 percent value was derived by averaging the incremental change in hourly load in the control area for the year. In accordance with recent FERC rulings related to this service, Western has divided the 4 percent value in half. The denominator

is Western's 12-cp load in its East and West control areas, excluding those entities such as Northwestern Public Service Company, Montana-Dakota Utilities Company, and Montana Power Company that serve load in Western's control areas but have existing transmission agreements and/or provide their own regulation and frequency control service. Including these entities' loads in the denominator at this time would cause under recovery of costs associated with this service. If these entities take this service from Western in the future their loads will be included in the denominator.

Whether Western should provide credit to those preference customers who purchase Regulation and Frequency Response Service from third parties is outside the scope of this process.

Comment: Western's combined percentages for Reserve Services (5 percent) and Regulation and Frequency Response Service (4 percent) are too high. Customers should only have to purchase a total of 5 percent capacity for both Reserve Services and Regulation and Frequency Response Service.

Response: The MAPP operating reserve requirement is 5 percent. Regulation and Frequency Response Service is not included in this percentage and must therefore be provided for in addition to operating reserves. In this **Federal Register** notice Western has decreased the amount of capacity reserved for Regulation and Frequency Response Service from 4 percent to 2 percent.

Comment: Western should adjust the rates for Reactive Supply and Voltage Control from Generation Sources Service and Regulation and Frequency Response Service to recover the costs of the facilities of Basin Electric and Heartland that contribute to the services provided by Western and then provide for appropriate credits.

Response: The cost of Basin Electric's facilities that contribute to Reactive Supply and Voltage Control from Generation Sources Service have been included in that rate, and Basin Electric will receive the appropriate credit for these facilities. If Basin Electric, Heartland, or any other entity provides Western with control of that entity's generation facilities and those generation facilities are capable of providing adequate Reactive Supply and Voltage Control from Generation Sources Service and/or Regulation and

Frequency Response Service, that entity will be given an appropriate credit.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612) (Act), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the initiation of the IS Transmission Rate and ancillary service rate adjustment is related to non-regulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rules of particular applicability relating to rates or services are not considered rules within the meaning of the Act. Since the IS Transmission Rates and ancillary service rates are of limited applicability, no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*; the Council on Environmental Quality Regulations (40 CFR 1500-1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Executive Order 12866

DOE has determined this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Submission to Federal Energy Regulatory Commission

The formula rates herein confirmed, approved, and placed into effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing, and pursuant to the authority delegated to me by the Secretary of Energy, I confirm, approve, and place into effect on an interim basis, effective August 1, 1998, formula rates for transmission and ancillary services

under Rate Schedules UGP-AS1, UGP-AS2, UGP-AS3, UGP-AS4, UGP-AS5, UGP-AS6, UGP-FPT1, UGP-NFPT1, and UGP-NT1. The rate schedules shall remain in effect on an interim basis, pending the FERC confirmation and approval of them or substitute formula rates on a final basis through July 31, 2003.

Dated: July 31, 1998.

Elizabeth A. Moler,

Deputy Secretary.

Rate Schedule UGP-AS1

Schedule 1 to Tariff

August 1, 1998

United States Department of Energy,
Western Area Power Administration,
Upper Great Plains Region, Integrated
System

Scheduling, System Control, and Dispatch Service

Effective

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

This service is required to schedule the movement of power through, out of, within, or into the Western Area Upper Great Plains control area (WAUGP). The charges for Scheduling, System Control, and Dispatch Service are to be based on the rate referred to below. The formula rate used to calculate the charges for service under this schedule was promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The rate will be applied to all schedules for WAUGP non-Transmission Customers. The WAUGP will accept any reasonable number of schedule changes over the course of the day without any additional charge.

The charges for Scheduling, System Control, and Dispatch Service may be modified upon written notice to the customer. Any change to the charges for the Scheduling, System Control, and Dispatch Service shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement.

The Upper Great Plains Region (UGPR) shall charge the non-Transmission Customer in accordance with the rate then in effect.

Formula Rate

$$\text{Rate per Schedule per Day} = \frac{\text{Annual Revenue Requirement for Scheduling, System Control, and Dispatch Service}}{\text{Number of Daily Schedules per Year}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is \$46.06 per schedule per day. This rate is based on the above formula and on 1997 data. A recalculated rate will go into effect every May 1 based on the above formula and data. UGPR will notify the customer annually of the recalculated rate on or before April 1.

Rate Schedule UGP-AS2
Schedule 2 to Tariff
August 1, 1998

United States Department of Energy,
Western Area Power Administration,
Upper Great Plains Region, Integrated
System

Reactive Supply and Voltage Control From Generation Sources Service**Effective**

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

In order to maintain transmission voltages on all transmission facilities within acceptable limits, generation facilities under the control of the Western Area Upper Great Plains control area (WAUGP) are operated to produce or absorb reactive power. Thus, Reactive Supply and Voltage Control from Generation Sources Service (VAR Support) must be provided for each transaction on the transmission facilities. The amount of VAR Support that must be supplied with respect to the Transmission Customer's transaction will be determined based on the VAR Support necessary to maintain transmission voltages within limits that are generally accepted in the region and consistently adhered to by WAUGP.

The Transmission Customer must purchase this service from the Transmission Provider. The charges for such service will be based upon the rate referred to below.

The formula rate used to calculate the charges for service under this schedule was promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The charges for VAR Support may be modified upon written notice to the Transmission Customer. Any change to the charges for VAR Support shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement. The Upper Great Plains Region (UGPR) shall charge the Transmission Customer in accordance with the rate then in effect.

Those Transmission Customers with generators in the control area providing WAUGP with adequate VAR Support will not be charged for this service. Any waiver of this charge or any crediting arrangements for VAR Support must be documented in the Transmission Customer's Service Agreement.

Formula Rate

$$\text{WAUGP VAR Support Rate} = \frac{\text{Annual Revenue Requirement for VAR Support}}{\text{Load Requiring VAR Support}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is:
Monthly: \$0.07/kW-month
Weekly: \$0.016/kW-week
Daily: \$0.002/kW-day
Hourly: 0.096 mills/kWh

This rate is based on the above formula and on 1997 financial and load data. A recalculated rate will go into effect every May 1 based on the above formula and updated financial and load data. UGPR will notify the Transmission Customer annually of the recalculated rate on or before April 1.

Rate Schedule UGP-AS3
Schedule 3 to Tariff
August 1, 1998

United States Department of Energy,
Western Area Power Administration,
Upper Great Plains Region, Integrated
System

Regulation and Frequency Response Service**Effective**

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

Regulation and Frequency Response Service (Regulation) is necessary to provide for the continuous balancing of resources, generation, and interchange, with load and for maintaining scheduled interconnection frequency at 60 cycles per second (60 Hz). Regulation is accomplished by committing on-line generation whose output is raised or lowered, predominantly through the use of automatic generating control equipment, as necessary to follow the moment-by-moment changes in load. The obligation to maintain this balance between resources and load lies with the Western Area Upper Great Plains control area (WAUGP) operator. The Transmission Customer must either purchase this service from WAUGP or make alternative comparable arrangements to satisfy its Regulation obligation. The charges for Regulation are referred to below. The amount of Regulation will be set forth in the Service Agreement.

The formula rate used to calculate the charges for service under this schedule was promulgated and may be modified

pursuant to applicable Federal laws, regulations, and policies.

Charges for Regulation may be modified upon written notice to the Transmission Customer. Any change to the Regulation charges shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement. The Upper Great Plains Region (UGPR) shall charge the Transmission Customer in accordance with the rate then in effect.

Transmission Customers will not be charged for this service if they receive Regulation from another source, or self-supply it for their own load. Any waiver of this charge or any crediting arrangement for Regulation must be documented in the Transmission Customer's Service Agreement.

Formula Rate

$$\text{WAUGP Regulation Rate} = \frac{\text{Annual Revenue Requirement for Regulation}}{\text{Load in the Control Area Requiring Regulation}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is:

Monthly: \$0.05/kW-month

Weekly: \$0.012/kW-week

Daily: \$0.002/kW-day

This rate is based on the above formula and on 1997 financial and load data. A recalculated rate will go into effect every May 1 based on the above formula and updated financial and load data. UGPR will notify the Transmission Customer annually of the recalculated rate on or before April 1.

If resources are not available from a WAUGP resource, UGPR will offer to purchase the Regulation and pass through the costs to the Transmission Customer, plus an amount for administration.

Rate Schedule UGP-AS4
Schedule 4 to Tariff
August 1, 1998

United States Department of Energy
Western Area Power Administration,
Upper Great Plains Region, Integrated
System

Energy Imbalance Service**Effective**

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

Energy Imbalance Service is provided when a difference occurs between the scheduled and the actual delivery of energy to a load located within the Western Area Upper Great Plains control area (WAUGP) over a single hour. The Transmission Customer must either obtain this service from WAUGP or make alternative comparable arrangements to satisfy its Energy Imbalance Service obligation.

The WAUGP shall establish a deviation band of +/- 1.5 percent (with a minimum of 2 MW) of the scheduled transaction to be applied hourly to any energy imbalance that occurs as a result of the Transmission Customer's scheduled transaction(s). Deviation accounting will be completed monthly on an hour-to-hour basis.

The formula rate used to calculate the charges for service under this schedule was promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Energy Imbalance Service compensation may be modified upon written notice to the Transmission Customer. Any change to the Transmission Customer compensation for Energy Imbalance Service shall be as set forth in a revision to this schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement. The Upper Great Plains Region (UGPR) shall charge the Transmission Customer in accordance with the rate then in effect.

Formula Rate

UGPR reserves the right to implement the following upon providing notice to the Transmission Customer.

For negative excursions (under deliveries) outside the bandwidth, WAUGP will assess a penalty charge of 100 mills/kWh.

For positive excursions (over deliveries) outside the bandwidth, over deliveries of energy will be forfeited to the control area.

Rate

The bandwidth in effect August 1, 1998, through July 31, 2003, is 3 percent (+/- 1.5 percent hourly deviation).
Rate Schedule UGP-AS5
Schedule 5 to Tariff
August 1, 1998

United States Department of Energy
Western Area, Power Administration,
Upper Great Plains Region, Integrated
System

Operating Reserve—Spinning Reserve Service**Effective**

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

Spinning Reserve Service (Reserves) is needed to serve load immediately in the event of a system contingency. Reserves may be provided by generating units that are on-line and loaded at less than maximum output. The Transmission Customer must either purchase this service from Western Area Upper Great Plains control area (WAUGP) or make alternative comparable arrangements to satisfy its Reserves obligation. The charges for Reserves are referred to below. The amount of Reserves will be set forth in the Service Agreement.

The formula rate used to calculate the charges for service under this schedule was promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The charges for Reserves may be modified upon written notice to the Transmission Customer. Any change to the charges for Reserves shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement. The Upper Great Plains Region (UGPR) shall charge the Transmission Customer in accordance with the rate then in effect.

Formula Rate

$$\text{WAUGP Reserves Rate} = \frac{\text{Annual Revenue Requirement for Reserves}}{\text{Load Requiring Reserves}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is:

Monthly: \$0.12/kW-month

Weekly: \$0.028/kW-week

Daily: \$0.004/kW-day

This rate is based on the above formula and on 1997 financial and load

data. A recalculated rate will go into effect every May 1 based on the above formula and updated financial and load data. UGPR will notify the Transmission Customer annually of the recalculated rate on or before April 1.

If resources are not available from a WAUGP resource, UGPR will offer to

purchase the Reserves and pass through the costs to the Transmission Customer, plus an amount for administration.

In the event that Reserves are called upon for Emergency Use, UGPR will assess a charge for energy used at the Mid-Continent Area Power Pool Rate for Emergency Energy, presently the greater

of 30 mills/kWh or the prevailing market energy rate in the region. The Transmission Customer would be responsible for providing the transmission to get the Reserves to its destination.

Rate Schedule UGP-AS6
Schedule 6 to Tariff
August 1, 1998

United States Department of Energy,
Western Area Power Administration
Upper Great Plains Region, Integrated
System

Operating Reserve—Supplemental Reserve Service

Effective

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

Supplemental Reserve Service (Reserves) is needed to serve load in the event of a system contingency, however, it is not available immediately to serve load but rather within a short period of time. Reserves may be provided by generating units that are on-line but unloaded, by quick-start generation or by interruptible load. The Transmission Customer must either purchase this service from Western Area Upper Great Plains control area (WAUGP) or make alternative comparable arrangements to satisfy its Reserves obligation. The charges for Reserves are referred to below. The amount of Reserves will be set forth in the Service Agreement.

The formula rate used to calculate the charges for service under this schedule

was promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The charges for Reserves may be modified upon written notice to the Transmission Customer. Any change to the charges for Reserves shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement. The Upper Great Plains Region (UGPR) shall charge the Transmission Customer in accordance with the rate then in effect.

Formula Rate

$$\text{WAUGP Reserves Rate} = \frac{\text{Annual Revenue Requirement for Reserves}}{\text{Load Requiring Reserves}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is:
Monthly: \$0.12/kW-month
Weekly: \$0.0028/kW-week
Daily: \$0.004/kW-day

This rate is based on the above formula and on 1997 financial and load data. A recalculated rate will go into effect every May 1 based on the above formula and updated financial and load data. UGPR will notify the Transmission Customer annually of the recalculated rate on or before April 1.

If resources are not available from a WAUGP resource, UGPR will offer to purchase the Reserves and pass through the costs to the Transmission Customer, plus an amount for administration.

In the event Reserves are called upon for Emergency Energy, the UGPR will assess a charge for energy used at the Mid-Continent Area Power Pool Rate for Emergency Energy, presently the greater of 30 mills/kWh or the prevailing market energy rate in the region. The Transmission Customer would be responsible for providing the transmission to get the Reserves to its destination.

Rate Schedule UGP-FPT1
Schedule 7 to Tariff
August 1, 1998

United States Department Of Energy,
Western Area Power Administration,
Upper Great Plains Region, Integrated
System

Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service

Effective

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

The Transmission Customer shall compensate the Upper Great Plains Region (UGPR) each month for Reserved Capacity pursuant to the applicable Firm Point-to-Point Transmission Service Agreement and rates referred to below. The formula rates used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

UGPR may modify the rate for Firm Point-to-Point Transmission Service upon written notice to the Transmission Customer. Any change to the rate for Firm Point-to-Point Transmission Service shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws,

regulations, and policies and made part of the applicable Service Agreement. UGPR shall charge the Transmission Customer in accordance with the rate then in effect.

Discounts

Three principal requirements apply to discounts for transmission service as follows: (1) any offer of a discount made by UGPR must be announced to all eligible Transmission Customers solely by posting on the Open Access Same-Time Information System (OASIS), (2) any Transmission Customer initiated requests for discounts, including requests for use by one's wholesale merchant or an affiliate's use, must occur solely by posting on the OASIS, and (3) once a discount is negotiated, details must be immediately posted on the OASIS. For any discount agreed upon for service on a path, from Point(s) of Receipt to Point(s) of Delivery, UGPR must offer the same discounted transmission service rate for the same time period to all eligible Transmission Customers on all unconstrained transmission paths that go to the same point(s) of delivery on the Transmission System.

Formula Rate

$$\text{Firm Point-to-Point Transmission Rate} = \frac{\text{Annual IS Transmission Service Revenue Requirement}}{\text{IS Transmission System Total Load}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is as follows.

Maximum of:

Yearly: \$34.44/kW of reserved capacity per year

Monthly: \$ 2.87/kW of reserved capacity per month

Weekly: \$ 0.66/kW of reserved capacity per week

Daily: \$ 0.094/kW of reserved capacity per day

This rate is based on the above formula and 1997 data. A recalculated rate will go into effect every May 1 based on the above formula and updated financial and load data. UGPR will notify the Transmission Customer annually of the recalculated rate on or before April 1.

Rate Sched. UGP-NFPT1

Schedule 8 to Tariff

August 1, 1998

United States Department of Energy, Western Power Area Administration, Upper Great Plains Region Integrated System

Non-Firm Point-to-Point Transmission Service

Effective

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

The Transmission Customer shall compensate Upper Great Plains Region (UGPR) for Non-Firm Point-to-Point Transmission Service pursuant to the applicable Non-Firm Point-to-Point Transmission Service Agreement and rate referred to below. The formula rates used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

UGPR may modify the rate for Non-Firm Point-to-Point Transmission Service upon written notice to the Transmission Customer. Any change to the rate for Non-Firm Point-to-Point Transmission Service shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable

Federal laws, regulations, and policies and made part of the applicable Service Agreement. UGPR shall charge the Transmission Customer in accordance with the rate then in effect.

Discounts

Three principal requirements apply to discounts for transmission service as follows: (1) any offer of a discount made by UGPR must be announced to all eligible Transmission Customers solely by posting on the Open Access Same-Time Information System (OASIS), (2) any Transmission Customer initiated requests for discounts, including requests for use by one's wholesale merchant or an affiliate's use, must occur solely by posting on the OASIS, and (3) once a discount is negotiated, details must be immediately posted on the OASIS. For any discount agreed upon for service on a path, from Point(s) of Receipt to Point(s) of Delivery, UGPR must offer the same discounted transmission service rate for the same time period to all eligible Transmission Customers on all unconstrained transmission paths that go to the same point(s) of delivery on the Transmission System.

Formula Rate

$$\frac{\text{Maximum Point-to-Point Transmission Rate}}{\text{Firm Point-to-Point Transmission Rate}}$$

Rate

The rate to be in effect August 1, 1998, through April 30, 1999, is:

Maximum of:

Monthly: \$2.87/kW of reserved capacity per month

Weekly: \$0.66/kW of reserved capacity per week

Daily: \$0.094/kW of reserved capacity per day

Hourly: 3.93 mills/kWh

This rate is based on the above formula and 1997 data. A recalculated rate will go into effect every May 1 based on the above formula and updated financial and load data. UGPR will notify the Transmission Customer annually of the recalculated rate on or before April 1.

Rate Schedule UGP-NT1

Attachment H to Tariff

August 1, 1998

United States Department of Energy, Western Area Power Administration, Upper Great Plains Region, Integrated System

Annual Transmission Revenue Requirement for Network Integration Transmission Service

Effective

The first day of the first full billing period beginning on or after August 1, 1998, through July 31, 2003.

Applicable

The Transmission Customer shall compensate the Upper Great Plains Region (UGPR) each month for Network Transmission Service pursuant to the applicable Network Integration Service Agreement and annual revenue requirement referred to below. The formula for the annual revenue

requirement used to calculate the charges for this service under this schedule was promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

UGPR may modify the charges for Network Integration Transmission Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Network Integration Transmission Service shall be as set forth in a revision to this rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies and made part of the applicable Service Agreement. UGPR shall charge the Transmission Customer in accordance with the revenue requirement then in effect.

Formula Rate

$$\text{Monthly Charge} = \frac{(\text{Transmission Customer's Load-Ratio Share} \times \text{Annual Revenue Requirement for IS Transmission Service})}{12 \text{ months}}$$

Annual Revenue Requirement

The annual revenue requirement in effect August 1, 1998, through April 30, 1999, is \$95,725,420. This annual revenue requirement is based on 1997 data. A recalculated annual revenue requirement will go into effect every May 1 based on updated financial data. UGPR will notify the Transmission Customer annually of the recalculated annual revenue requirement on or before April 1.

[FR Doc. 98-21600 Filed 8-11-98; 8:45 am]
BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6143-1]

Science Advisory Board; Closed Meeting Notice

An *ad hoc* Subcommittee of the Science Advisory Board will meet at the U.S. Environmental Protection Agency (EPA), Washington, D.C., on August 27-28, 1998. Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 552(b)(c)(2) and 552(b)(c)(6), EPA has determined that the meeting will be closed to the public. The purpose of the meeting is to recommend to the Assistant Administrator of the Office of Research and Development (ORD) the recipients of the Agency's 1997 Scientific and Technological Achievement Cash Awards. These awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer reviewed journals. In making these recommendations, including the actual cash amount of each award, the Agency requires full and frank advice from the Science Advisory Board. This advice will involve professional judgments on the relative merits of various employees and their respective work. Such personnel issues, where disclosure would constitute an unwarranted invasion of personal privacy, are protected from disclosure by exemptions 2 and 6 of Section 552(b)(c) of the U.S.C. In accordance with the provisions of the Federal Advisory Committee Act, minutes of the meeting will be kept for Agency and Congressional review. For more information, contact Mr. Robert Flaak, Team Leader, Committee Operations Staff, Science Advisory Board (1400), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C.

20460, via telephone: (202) 260-5133 or via E-mail: flaak.robert@epa.gov

Dated: August 6, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98-21671 Filed 8-11-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6143-9]

Science Advisory Board; Executive Committee; Notification of Public Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notification is hereby given that the Science Advisory Board's (SAB) Executive Committee, will conduct a public teleconference meeting on Thursday, August 27, 1998, between the hours of 2 pm and 3 pm. All times noted are Eastern Time. The meeting is open to the public, however, due to limited space, seating will be on a first-come basis.

The meeting will be coordinated through a conference call connection in Conference Room 1 North, Waterside Mall (street level), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. The public is welcome to attend the meeting physically or through a telephonic link. Additional instructions about how to participate in the conference call can be obtained by calling Ms. Priscilla Tillery-Gadson at (202) 260-4126 by August 21, 1998.

In this meeting the Executive Committee plans to review drafts from several of its Committees. These anticipated drafts include:

(a) Environmental Health Committee's Review of 1,3 Butadiene Risk Assessment.

(b) Research Strategies Advisory Committee's Review of the ORD Budget Presentation Process.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information concerning the meeting or wishing to submit comments should contact Dr. Donald G. Barnes, Designated Federal Officer for the Executive Committee, Science Advisory Board (1400), U.S. Environmental Protection Agency, Washington DC 20460; telephone (202) 260-4126; FAX (202) 260-9232; and via E-Mail at: barnes.don@epa.gov. Copies of the

relevant documents are available from the same source. Draft documents will also be available on the SAB Website (<http://www.epa.gov/sab>) at least one week prior to the meeting.

Dated: August 7, 1998.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 98-21702 Filed 8-11-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-34130; FRL-6024-3]

Increasing Transparency for the Tolerance Reassessment Process; Availability of Preliminary Risk Assessments for Nine Organophosphates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces the availability of documents which were developed as part of EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act as amended by the Food Quality Protection Act of 1996 (FQPA). These documents are the preliminary risk assessments and related documents for azinphos-methyl, bensulide, ethion, fenamiphos, isofenphos, naled, phorate, profenofos, and terbufos. This Notice also starts a 60-day public comment period for the preliminary risk assessments. Comments are to be limited to issues directly associated with the nine organophosphates that have risk assessments placed in the docket and should be limited to issues raised in those documents. EPA will provide opportunity for comment on the hazard assessments and FQPA safety factor assessments for the other organophosphates at a later date. Opportunity for public comment will also be provided at a later date for a variety of science issues. Allowing access and comments on the preliminary risk assessments will strengthen stakeholder involvement and help ensure the Agency's decisions under FQPA are transparent, and based on the best available information. The tolerance reassessment process will ensure that the U.S. continues to have the safest and most abundant food supply. The Agency cautions that these risk assessments are preliminary assessments only and that further

refinements of the risk assessments will be appropriate for some, if not all, of these nine pesticides. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

DATES: Written comments on these assessments must be submitted by October 13, 1998.

ADDRESSES: By mail, submit written comments in triplicate to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

To request a copy of any of the above listed preliminary risk assessments and related documents, contact the OPP Pesticide Docket, Public Information and Records Integrity Branch, in Rm. 119 at the address given above or call (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Karen Angulo, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Station #1, 3rd Floor, 2800 Crystal Drive, Arlington, VA; (703) 308-8004; e-mail: angulo.karen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is making available preliminary risk assessments which have been developed as part of EPA's process for making reregistration eligibility decisions for the organophosphate pesticides and for tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act as amended by the Food Quality Protection Act of 1996 (FQPA). The Agency's preliminary health effects risk assessments for the following nine organophosphate pesticides are available in the individual pesticide dockets: azinphos-methyl, bensulide, ethion, fenamiphos, isofenphos, naled, phorate, profenofos, and terbufos. In addition, the preliminary ecological effects risk assessments for bensulide, ethion, fenamiphos, isofenphos, naled, phorate, profenofos, and terbufos have also been docketed. The Hazard Assessment of the Organophosphates and FQPA Safety Factor Recommendations for the Organophosphates have also been included in the docket to help the public in their review of the preliminary risk assessments.

Included in the individual pesticide dockets are the Agency's preliminary risk assessments, the registrants' comments to this point, and any successive Agency reviews or related correspondence regarding the Agency's risk assessment. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed for the above nine organophosphate pesticides. The Agency cautions that these risk assessments are preliminary assessments only and that further refinements of the risk assessments will be appropriate for some, if not all, of these nine pesticides. These documents reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

As the preliminary risk assessments for the remaining organophosphate pesticides are completed and registrants are given a 30-day review period to identify possible computational or other clear errors in the risk assessment, these risk assessments and registrant responses will be placed in the individual pesticide dockets. A Notice of Availability for subsequent assessments will appear in the **Federal Register**.

To provide users with the most recent information on the nine

organophosphates, EPA has also included in each docket the Agency's July 7, 1998 "Hazard Assessment of the Organophosphates" and the Agency's August 6, 1998 "FQPA Safety Factor Recommendations for the Organophosphates." In general, these two documents were completed after the nine individual pesticide preliminary risk assessments discussed above. The Agency notes that where the preliminary risk assessments are inconsistent with the Hazard Assessment and FQPA Safety Factor Recommendation these latter assessments will supersede the relevant portions of the preliminary risk assessments and will be incorporated into the revised individual pesticide risk assessments. The Agency also notes that these documents reflect only the work and analysis conducted as of the time they were produced, and as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

The Agency is providing an opportunity, through this Notice, for interested parties to provide written comments and input to the Agency on the preliminary risk assessments for the chemicals specified in this Notice. Such comments and input could address, for example, the availability of additional data to further refine the risk assessments, such as percent crop treated information or submission of residue data from food processing studies, or could address the Agency's risk assessment methodologies and assumptions as applied to these specific chemicals. Comments should be limited to issues raised within the preliminary risk assessments and associated documents. EPA will provide other opportunities for public comment on other science issues associated with the organophosphate tolerance reassessment program. Failure to comment on any such issues as part of this opportunity will in no way prejudice or limit a commenter's opportunity to participate fully in later notice and comment processes. All comments should be submitted by October 13, 1998 at the address given above. Comments will become part of the Agency record for each individual pesticide to which they pertain.

II. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established for this action under the following docket control numbers. When submitting written or electronic comments regarding the nine

organophosphates, use the following docket control numbers:

| | |
|-----------------|-----------|
| azinphos-methyl | OPP-34131 |
| bensulide | OPP-34132 |
| ethion | OPP-34133 |
| fenamiphos | OPP-34134 |
| isofenphos | OPP-34135 |
| naled | OPP-34136 |
| phorate | OPP-34137 |
| profenofos | OPP-34138 |
| terbufos | OPP-34139 |

A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the appropriate docket control number. Electronic comments on this document may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection.

Dated: August 6, 1998.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 98-21679 Filed 8-11-98; 8:45 am]

BILLING CODE CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30457; FRL-6020-4]

Dominion BioSciences, Inc.; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active

ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by September 11, 1998.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP-30457] and the file symbols to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under "SUPPLEMENTARY INFORMATION." No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Judy Loranger, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 902W-40, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703 308-8056, e-mail: loranger.judy@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 71144-E. Applicant: Dominion BioSciences, Inc., Suite 1600, 1872 Pratt Drive, Blacksburg, VA 24060. Product Name: Xanthine and Oxypurinol Manufacturing Use Concentrate. Insecticide. Active ingredient: Oxypurinol 50% and Xanthine 50%. Proposed classification/Use: None. For manufacture of insecticide baits for commercial and/or domestic indoor use.

2. File Symbol: 71144-R. Applicant: Dominion BioSciences, Inc. Product Name: Ecologix Cockroach Bait. Insecticide. Active ingredient: Oxypurinol 1% and Xanthine 1%. Proposed classification/Use: None. For use in commercial, industrial, and residential areas.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP-30457] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-30457]. Electronic comments on this notice may

be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: July 24, 1998.

Phil Hutton,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98-21205 Filed 8-11-98; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

[FCC 98-187]

Inquiry Concerning Advanced Telecommunications Capability

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: On August 7, 1998, the Federal Communications Commission (FCC) released a Notice of Inquiry to solicit comment about the availability of advanced telecommunications capability to all Americans. The Notice seeks comment from businesses, consumers, public interest groups, and others on what the statutory meaning of "advanced telecommunications capability" should include. In addition, the Notice seeks comment on the current and future availability of advanced telecommunications capability and the likelihood that it will be deployed to all Americans. Finally, the Notice seeks comment on what action the FCC should take if it finds that advanced telecommunications capability is not being deployed to all Americans in a reasonable and timely fashion.

DATES: Comments are due on or before September 8, 1998. Reply comments are due on or before October 8, 1998.

ADDRESSES: Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Suite 222, Washington, D.C. 20554, with a copy to John W. Berresford of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, N.W., Suite 399-A, Washington, D.C. 20054. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking

Proceedings, 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Parties should also file one copy of any document filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., N.W., Washington, D.C. 20036, (202) 857-3800.

FOR FURTHER INFORMATION CONTACT: John W. Berresford, Senior Antitrust Attorney, Industry Analysis Division, Common Carrier Bureau, at 202-418-1886 or jberresf@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Notice of Inquiry released August 7, 1998 (FCC 98-187). The full text of the Notice of Inquiry is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554. The complete text is also available on the Commission's website at <http://www.fcc.gov>. The complete text also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., N.W., Washington, D.C. 20036, (202) 857-3800.

Summary of the Public Notice

1. In the Notice of Inquiry (Notice), the Commission solicits public comment on what should be included in the term "advanced telecommunications capability" and to what degree that capability is being deployed or will be deployed to all Americans. The Commission seeks to determine whether the free market is delivering or will deliver this capability to all Americans and, if not, what the Commission should do to accelerate it.

2. Section 706 of the Telecommunications Act of 1996, specifically directs the Commission and each state commission to "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment." Public Law 104-104, Title VII, § 706, Feb. 8, 1996, 110 Stat. 153, reproduced in the notes under 47 U.S.C. 157. Pursuant to this Congressional directive, the Notice seeks public comment from a broad

range of parties to help inform the Commission on what it may do to fulfill its statutory obligation.

3. In particular, the Commission seeks comment in the Notice on the meaning and scope of statutory terms such as "advanced telecommunications capability," "broadband," and "high-speed." Additionally, the Commission seeks comment on whether it was the intent of Congress to have the meaning of these terms evolve over time.

4. The Commission further seeks comment about a variety of businesses and the role they can play in deploying advanced telecommunications capability. To this end, the Notice seeks comment on the potential for deployment from sources such as incumbent and competitive local exchange carriers (LECs) and interexchange carriers, as well as information service providers, satellites, broadcasters, mobile service companies, utilities, and high-bandwidth wireless providers. In addition to deployment plans, the Notice seeks comment on the potential for new alternatives to the incumbent LECs' and cable television companies' last miles and last hundred feet of wired connections, especially to residential and small business customers. The Commission also seeks comment from consumers, public interest groups, and other persons on these matters.

5. Consistent with section 706(a), the Commission seeks comment on what regulatory barriers exist that are delaying any of the above-mentioned industries from proceeding forward with deployment and what action the Commission should take to remove those barriers.

6. In addition, the Commission encourages all interested parties to comment on the demand for advanced telecommunications capability. In particular, the Notice seeks comment on whether consumer demand is homogeneous, and if not, whether it will vary by region, income or other variables. The Notice also seeks to ascertain the cost of delivering advanced telecommunications capability and what effects price has on both the supply of and demand for the services that result from deployment.

7. Section 706(b) directs the Commission to pay attention in particular to the availability of advanced telecommunications capability to "elementary and secondary schools and classrooms." The Notice seeks comment on whether the market will adequately serve the needs of schools and classrooms as well as libraries, and if not, to what extent any shortage in service will be addressed by other

government programs designed to address their needs.

8. The Notice seeks comment on the current trends in deployment and whether they indicate that certain segments of the population may be underserved by the market. The Notice also notes that in rural and inner-city communities, the market may fail to deliver advanced telecommunications capability. The Notice seeks comment on whether advanced telecommunications capability is or will be deployed in these areas.

9. Congress directs the Commission in section 706(b) to exercise its regulatory authority to remove barriers to infrastructure investments if it finds that deployment is not occurring "in a reasonable and timely fashion." The Notice seeks comment on how the Commission should do so. The Notice specifically seeks comment on how the Commission should exercise its forbearance authority and which statutory provisions or rules it should forbear from applying.

10. The Notice also seeks comment on the appropriate balance between section 706 and the policy and program for universal service under 47 U.S.C. § 254.

11. The Commission seeks comment on what structure of regulation will best promote the deployment of advanced telecommunications capability and will preserve a competitive market for advanced services. This question may become important if competition in advanced services emerges among common carriers (wire and wireless), cable television, broadcasters, and information service providers.

12. Section 706 calls on the State commissions to encourage deployment of advanced telecommunications capability. The Commission seeks comments from the states on how it can best interact with them to ensure that the goals of section 706 are achieved.

Procedural Matters

A. Ex Parte Presentations

13. Subject to the provisions of 47 CFR § 1.1203 concerning "Sunshine Period" prohibitions, this proceeding is exempt from ex parte restraints and disclosure requirements, pursuant to 47 CFR § 1.1204(b)(1). Because many of the matters on which we request comment in the Notice may call on parties to disclose proprietary information, we suggest that parties consult 47 CFR § 0.459 about the submission of confidential information.

B. Comment Filing Procedures

14. Pursuant to §§ 1.415, 1.419, and 1.430 of the Commission's rules, 47 CFR

1.415, 1.419, and 1.430, interested parties may file comments on or before September 8, 1998. Reply comments are due on or before October 8, 1998. To file formally in the proceeding, you must file an original and six copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original and twelve copies. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Suite 222, Washington, D.C. 20554, with a copy to John W. Berresford of the Common Carrier Bureau, Federal Communications Commission, 2033 M Street, N.W., Suite 399, Washington, D.C. 20036. Parties should also file one copy of any document filed in this docket with the Commission's copy contractor, International Transcription Services, Inc. (ITS), 1231 20th St., N.W., Washington, D.C. 20036, (202) 857-3800.

15. Comments may also be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Only one copy of electronically filed comments must be submitted. Commenters must note on the subject line whether an electronic submission is an exact copy of formal comments. Commenters also must include their full name and U.S. Postal Service mailing address in their submission. Further information on the process of submitting comments electronically is available at <<http://www.fcc.gov/e-file>>.

16. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal requirements addressed above. Parties submitting diskettes should submit them to: Ms. Terry Conway, Common Carrier Bureau, Industry Analysis Division, 2033 M Street, N.W., Room 500, Washington, D.C. 20554. Such diskettes should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows software. The diskette should be submitted in "read only" mode. The diskette should be clearly labeled with the party's name, proceeding, type of pleading (comment or reply comment), and date of submission. The diskette should be accompanied by a cover letter.

16. *Other requirements.* Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the on each page of their comments and reply comments.

Ordering Clause

17. Accordingly, it is ordered, pursuant to section 706 of the Telecommunications Act of 1996, that notice is hereby given of the inquiry described above and that comment is sought on these issues.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 98-21729 Filed 8-11-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

CrossBar, Inc., 2012 E. Phelps, Suite A1, Springfield, MO 65802, Officer: Ray Walker Crossland, President

Washington World Trading Corp. d/b/a Washington World International Freight Forwarders, 1280 Golfview Drive East, Pembroke Pines, FL 33026, Officers: Lucia Novoa, President, Lauro W. Novoa, Exec. Vice President
Sari Express, Inc., 8282 NW 66th Street, Miami, FL 33166, Officers: Ruggeiro Suppa, President, Elena Martinez, Vice President

Woojin Shipping, Inc. d/b/a Axon Int'l, 960 Rand Road, #228, Des Plaines, IL 60016, Officer: Young H. Kim, President

Dynamic Network Team, Inc. d/b/a DNT Container Line, 150-40 183rd Street, Rm. 117, Jamaica, NY 11413, Officers: Wendy Wei, President, David Wei, General Manager

Highland Forwarding, Inc., 3 Highlander Way, Suite #315, Manchester, NH 03103, Officers: Radek Maly, President, Edward Kaplan, Treasurer

Tradewinds USA, Inc., 4027 S. Wells Street, Chicago, IL 60609, Officers: Cynthia Ramirez-Berry, President, Steven Cohen, Secretary/Treasurer
N.I. Logistics American Corporation, 1211 Avenue of the Americas, New York, NY 10036, Officer: Hidetsugu Akagi, President

Dated: August 7, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98-21615 Filed 8-11-98; 8:45 am]

BILLING CODE 6730-01-M

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. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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 September 8, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *First National Bancshares, Inc.*, Bradenton, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Manatee, Bradenton, Florida.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Associated Banc-Corp.*, Green Bay, Wisconsin; to acquire 100 percent of the voting shares of Associated Bank Illinois, N.A., Rockford, Illinois (in organization).

2. *Holland Financial Corporation*, Holland, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Holland, Holland, Michigan (in organization).

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Eggemeyer Advisory Corp.*, *Castle Creek Capital, LLC*, and *Castle Creek Capital Partners Fund-I, LP*, all of Rancho Santa Fe, California; to acquire more than 5 percent of the voting shares of Continental National Bancshares, Inc., El Paso, Texas, and thereby indirectly acquire Continental National Bank, El Paso, Texas.

2. *State National Bancshares, Inc.*, Lubbock, Texas; to acquire 100 percent of the voting shares of Continental National Bancshares, Inc., El Paso, Texas, and thereby indirectly acquire Continental National Bank, El Paso, Texas.

Board of Governors of the Federal Reserve System, August 7, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98-21632 Filed 8-11-98; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 982-3050]

Allied Domecq Spirits & Wine Americas, Inc. et al.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 13, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lee Peeler, FTC/S-4002, Washington, DC 20580. (202) 326-3090.

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 above-captioned 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. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 6, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Allied Domecq Spirits & Wine Americas, Inc. and Allied Domecq Spirits & Wine USA, Inc. d/b/a Hiram Walker, Delaware and Michigan corporations, respectively (hereinafter collectively referred to as Allied).

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 and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint in this matter concerns two nearly identical television advertisements for Allied's Kahlua White Russian pre-mixed

cocktail. According to the complaint, these ads falsely represented that the product was a "LOW ALCOHOL BEVERAGE." Allied has ceased making this representation.

Paragraph seven of the complaint sets out several reasons why the Kahlua White Russian pre-mixed cocktail should not be represented as a low alcohol beverage. It has significant alcohol content, 11.8 proof (5.9% alcohol by volume), equal to or greater than numerous other alcohol beverages. For example, a Kahlua White Russian has substantially more alcohol ounce for ounce than many beers, malt liquors and wine coolers. For some people, drinking as few as two or three Kahlua White Russians will begin to impair normal functions, such as driving. It is also pertinent that the Bureau of Alcohol, Tobacco and Firearms has limited use of the term "low alcohol," for the purposes of beer and malt liquor, to products with less than 2.5% alcohol by volume. The alcohol content of a Kahlua White Russian is substantially higher, with 5.9% alcohol by volume. Accordingly, the complaint alleges that the low alcohol beverage representation was false or misleading.

The consent order contains provisions designed to remedy the violations charged and to prevent Allied from engaging in similar acts in the future. Part I of the order prohibits any representation that any beverage alcohol product containing 5.9% alcohol by volume is a low alcohol beverage, as well as any misrepresentation, through numerical or descriptive terms, or any other means, of the amount of alcohol contained in any beverage alcohol product. Part I of the order does not prohibit Allied from making any representation about the amount of alcohol contained in any beverage alcohol product that is specifically required in advertising by the Bureau of Alcohol, Tobacco and Firearms. Part I of the order also does not prohibit Allied from making non-misleading claims presenting clear and accurate comparisons of the alcohol content of Kahlua White Russians and any other specified beverage alcohol product. Indeed, Commission policy encourages truthful comparative advertising as an important means of informing consumers about the relative merits of competing products. See, In Regard to Comparative Advertising, 15 CFR 14.15 (favoring comparative advertising generally); Guides for the Use of Environmental Marketing Claims, 16 CFR 260.6(d) (guidance on comparative environmental claims); Enforcement Policy Statement on Food Advertising,

p. 10 (1994) (guidance on comparative nutrient content claims).

The remaining parts of the order contain record keeping (Part II); order distribution (Part III); notification of corporate change (Part IV); compliance report filing (Part V) and sunset (VI) provisions.

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

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98-21611 Filed 8-11-98; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[File No. 982-3092]

Beck's North America, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practice or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 13, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Lee Peeler, FTC/S-4002, Washington, D.C. 20580. (202) 326-3090.

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 above-captioned 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. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the

full text of the consent agreement package can be obtained from the FTC Home Page (for August 6, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from Beck's North America, Inc. ("BNAI"), a Delaware corporation.

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 and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint in this matter concerns two television advertisements for Beck's Beer that depict young adults drinking alcohol on a sailing ship, while engaging in activities that allegedly pose a substantial risk of injury. BNAI has ceased disseminating the ads that are the subject of the complaint.

The challenged advertisements depict young adults partying and drinking beer on a schooner at sea. On the deck of the boat is a large bucket of ice, filled with bottles of Beck's Beer. Almost all of the passengers are holding bottles of beer, with one male passenger with a bottle of beer in hand standing precariously on the bowsprit (a spar extending almost horizontally off the bow of the boat), and others sitting or leaning on the edge of the bow, where there is no railing.

Because of the significant risks of drinking while boating, the U.S. Coast Guard has recently initiated a public education campaign designed to encourage boat operators and passengers to "boat safe and sober." In this case, the challenged ads depict individuals combining drinking with activities—bowriding and standing on a bowsprit—that could constitute negligent boat operation under federal and state

boating safety statutes. In addition, the advertising is inconsistent with the provisions of the Beer Institute Advertising and Marketing Code, which provides that "[b]eer advertising . . . should not portray or imply illegal activity of any kind," and "[b]eer advertising . . . should not associate or portray beer drinking before or during activities which require a high degree of alertness or coordination."

Paragraph five of the complaint describes the challenged advertisements as depicting individuals drinking Beck's beer while engaging in acts that require a high degree of alertness and coordination to avoid falling overboard. This conduct is inconsistent with the Beer Institute's own Advertising and Marketing Code and may also violate federal and state boating safety laws. It alleges that the risks associated with such activities while boating are greatly increased by consumption of alcohol. It notes that even low and moderate blood alcohol levels sufficiently affect coordination and balance to place passengers at increased risk of falling overboard and drowning, and that many persons are unaware of this increased risk. This paragraph also notes that as many as one-half of all boating fatalities are alcohol-related, including an average of 60 recreational boat fatalities annually from falling overboard while drinking. Accordingly, respondent's depiction of this activity in its advertisements is likely to cause substantial injury to consumers that is not outweighed by countervailing benefits to consumers or competition and is not reasonably avoidable by consumers. As a result, the complaint alleges that respondent's practice was an unfair act or practice.

The Commission has substantial concern about advertising that depicts conduct that poses a high risk to health and safety. As a result, the Commission will closely scrutinize such advertisements in the future.

The consent order contains provisions designed to remedy the violations charged. Part I of the order prohibits respondent from future dissemination of the television advertisements attached to the complaint as Exhibits A and B, or of any other advertisement that a) depicts a person having consumed or consuming alcohol on a boat while engaging in activities that pose a substantial risk of serious injury from falling overboard or b) depicts activities that would violate 46 U.S.C. 2302(c). The cited statute, 46 U.S.C. 2302(c), makes it illegal to operate a vessel under the influence of alcohol or illegal drugs.

The remaining parts of the order contain standard record keeping (Part

II); order distribution (Part III); notification of corporate change (Part IV); compliance report filing (Part V) and sunset (Part VI) provisions.

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

By direction of the Commission.

Benjamin I. Berman,
Acting Secretary.

Statement of Commissioner Mozelle W. Thompson

Today, the Commission voted to accept a consent agreement with Beck's North America, Inc. ("Beck's") in File Number 982-3092 on grounds that Beck's disseminated or caused to be disseminated unfair television advertisements. I joined in that vote. I also believe, however, that the advertisements at issue were deceptive. The Commission has defined deceptive advertising as "that which contains a representation, omission or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment."¹ In my view, the Beck's television advertisements fit this definition.

First, I believe the advertisements imply to reasonable targeted consumers that consuming alcohol while boating is appropriate and/or safe. In fact, the actors begin one advertisement by stating "Wanna have some fun? Mix hot music, cool people, [a] big boat and a great German beer." Unfortunately, the advertisement does not disclose that consuming alcohol while boating poses a heightened danger not only to the boat operator, but also to passengers. It also fails to disclose that such behavior may violate applicable Federal boating laws.² Second, as evidenced by the actors and the language portrayed in the advertisement, I believe that the message is targeted at a youthful audience. Accordingly, it can be justifiably inferred that a reasonable youthful consumer could easily be deceived by not appreciating the danger of imitating the behavior featured in the television advertisements.

For these reasons, I would find that the Beck's advertisements were

¹ See *Cliffdale Associates, Inc.*, 103 F.T.C. 110, 176 (1984) *Appeal dismissed sub nom., Kovan v. FTC*, No. 84-5337 (11th Cir. Oct. 10, 1984) (*Deception Statement*).

² This problem has become so serious that the U.S. Coast Guard has recently launched a new campaign to better inform the public of the dangers of mixing boating and alcohol.

deceptive as well as unfair under Section 5 of the FTC Act.

[FR Doc. 98-21612 Filed 8-11-98; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[File No. 971-0065]

Fair Allocation System, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 13, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: William Baer, FTC/H-374, Washington, D.C. 20580, (202) 326-2932; or Charles Harwood, Federal Trade Commission, Seattle Regional Office, 915 Second Avenue, Suite 2896, Seattle, WA 98174, (206) 220-4480.

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 above-captioned 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. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for August 5, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. 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)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted a proposed consent order from Fair Allocation System, Incorporated ("FAS"). FAS is an organization of twenty-five automobile dealerships from five Northwest states that was formed to address dealer concerns over the marketing practices of automobile manufacturers. In particular, FAS members were concerned about an automobile dealership—Dave Smith Motors of Kellogg, Idaho—which was attracting customers from around the Northwest and taking substantial sales from FAS members by selling cars for low prices and marketing them on the Internet.

According to the complaint, because of these concerns, the members of FAS collectively attempted to force Chrysler to change its vehicle allocation system. Chrysler allocates vehicles based on the dealer's total sales; FAS members wanted Chrysler to allocate vehicles based on the expected number of sales from a dealer's local area, which would have substantially reduced the number of cars available to a dealership like Dave Smith Motors that drew customers from a wider geographic area. According to the complaint, the members of FAS threatened to refuse to sell certain Chrysler vehicles and to limit the warranty service they would provide to particular customers unless Chrysler changed its allocation system so as to disadvantage dealers that sold large quantities of vehicles outside of their local geographic areas.

The compliant charges that FAS's agreements or attempts to agree with its dealer members to coerce Chrysler violate Section 5 of the FTC Act, as amended, 15 U.S.C. 45. According to the complaint, FAS members constitute a substantial percentage of the Chrysler, Plymouth, Dodge, Jeep and Eagle dealerships in eastern Washington, Idaho, and western Montana, and FAS's threats would have harmed competition and consumers in those areas. In particular, FAS's efforts would have deprived consumers of local access to certain Chrysler models and to warranty service, and would have reduced competition among automobile dealerships, including rivalry based on price or via the Internet.

The goal of the boycott was to limit the sales of a car dealer that sells cars at low prices and via a new and

innovative channel—the Internet. FAS's threatened action against Chrysler is a *per se* illegal group boycott. In *United States v. General Motors*, 384 U.S. 127 (1966), the Supreme Court held *per se* illegal a comparable dealer cartel in Los Angeles that sought to prevent other area dealers from selling automobiles through discount brokers. Since *General Motors*, the Supreme Court has twice cited its *per se* condemnation of dealer cartels with approval. See *Continental T.V., Inc. v. GTE Sylvania Inc.*, 433 U.S. 36, 58 n. 28(1977); *Business Electronics v. Sharp Electronics*, 485 U.S. 717, 734 n. 5 (1988). Such dealer cartels are "characteristically likely to result in predominantly anticompetitive effects," *Northwest Wholesale Stationers v. Pacific Stationery & Printing Co.*, 472 U.S. 284, 295 (1985), because they aim to limit competition while producing no plausible efficiencies.

Even where an agreement otherwise appears to fall in a category traditionally analyzed under a *per se* rule, a more extensive, rule-of-reason analysis may be necessary if there are plausible efficiency justifications for the conduct. *Broadcast Music, Inc. v. Columbia Broadcasting System, Inc.*, 441 U.S. 1 (1979). Here, however, there appear to be no plausible efficiencies that would justify the dealers' conduct. Even if there were reason to believe that Dave Smith Motors, or similarly operated dealerships, were free-riding¹ on the efforts of more traditional dealers, no boycott would be needed to deal with the problem. Manufacturers have strong incentives to prevent free-riding by a few of their dealers at the expense of the rest, and can be expected to be responsive to complaints from their dealers acting individually if the free-riding concerns are genuine. In the absence of an efficiency justification that plausibly explains why concerted action is necessary, extensive searches for and investigations of justifications for such conduct would be unwarranted, and would only add a layer of complication and delay.

In this case, the absence of a justification is especially clear. Chrysler

¹ "Free-rider" concerns may arise where two distributors sell the same product, but provide different levels of service in connection with the sale of that product. For example, one distributor may have a full-service showroom and the other may sell out of a warehouse that offers no service. Consumers may visit the showroom, learn all they need to know about the product, and then purchase the produce from a "no-service" discounter. The problem is that over time the full-service distributor may lose its incentive or financial ability to provide the services, to the detriment of both the manufacturer and the consumers who value those services. Free-rider concerns generally do not exist if the full-service distributor is compensated for its services.

has previously rejected demands that it change its allocation system and publicly lauded Dave Smith Mothers. See "Chrysler Corp. Will Let Dealers Shoot It Out in Cyberspace," *Automotive News*, p. 1, January 27, 1997. Indeed, Chrysler's Vice President of Sales and Marketing has flatly stated that Chrysler believes the best way to increase its sales penetration is to provide dealers as much product as they can sell, no matter where the customer comes from. See "Chrysler VP Has Calming Effect," *Automotive News*, p. 28, February 10, 1997. Even if Chrysler had acceded to the boycotters' demands, however, that would not have justified a horizontal boycott by the dealers.

The proposed consent order would prohibit FAS from participating in, facilitating, or threatening any boycott of or concerted refusal to deal with any automobile manufacturer or consumer. There is nothing in the proposed order, however, that would prohibit FAS from informing automobile manufacturers about the views and opinions of FAS members.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from 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.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement containing the proposed consent order to modify in any way its terms.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 98-21613 Filed 8-11-98; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Benjamin S. Pender, Medical University of South Carolina: Based upon a report from the Medical University of South Carolina (MUSC), information obtained by the Office of Research Integrity (ORI) during its oversight review, and Mr. Pender's own admission, ORI found that Mr. Pender, former graduate student, Medical Science Training Program, MUSC, engaged in scientific misconduct in biomedical research supported by a grant from the National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH). Mr. Pender cooperated with MUSC's investigation.

Specifically, Mr. Pender presented to the MUSC Shock Research Group (1) a blank autoradiographic film, which he represented to be a Northern blot, as evidence that he had conducted an experiment that he had not done, and (2) a photographic slide representing a Western blot analysis that he had falsified by using a computer to duplicate two sets of bands to misrepresent oligonucleotide treatments at different times and by misrepresenting the identities of two bands in one of the sets. Also, Mr. Pender falsified data from experiments with thromboxane B₂ and tumor necrosis factor alpha that were published and distributed in an abstract entitled "Antisense Oligonucleotide to G Protein Inhibits Endotoxin Stimulated Thromboxane (Tx) B₂ production" (*Supplement to Shock* 7:20, 1997). This data also was reported as Figure 4 of a submitted but unpublished and withdrawn manuscript and in the Progress Report for an NIH grant.

Mr. Pender has accepted the ORI finding and has entered into a Voluntary Exclusion Agreement with ORI in which he has voluntarily agreed, for the three (3) year period beginning July 31, 1998:

(1) To exclude himself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (e.g., grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 (Debarment Regulations); and

(2) To exclude himself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

No scientific publications were required to be corrected as part of this Agreement. The abstract was withdrawn before presentation.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443-5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 98-21589 Filed 8-11-98; 8:45 am]

BILLING CODE 4160-17-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO-98-25]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer at (404) 639-7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice. Comments regarding this information collection are best assured of having their full effect if

received within 60 days of the date of this publication.

Proposed Projects

1. A National Registry for Surveillance of Non-Occupational Exposures to Human Immunodeficiency Virus and Post-Exposure Antiretroviral Therapy—New—The National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Surveillance, and Epidemiology proposes to develop and implement a surveillance registry in the United States which will provide data for analysis and technical reports on the frequency and types of nonoccupational exposures to HIV, offers and acceptance rates of antiretroviral therapy to attempt interruption of transmission and clinical course and outcomes of persons with documented HIV exposure.

Studies of antiretroviral agents for preventing HIV infection in health care workers and from pregnant women to their infants have shown antiretroviral therapy to be efficacious. As a result of these findings, the Public Health Service has recommended the use of antiretroviral drugs to reduce HIV transmission among those exposed in the work place and from HIV-infected women to their infants. These findings may not be directly relevant to nonoccupational settings. Hence, further studies are needed before concluding that use of antiretroviral agents following nonoccupational exposures is clearly effective in preventing HIV infection. The surveillance system will provide data to address those issues.

The surveillance system will be a voluntary and anonymous system in which all health care providers will be encouraged to report by phone, fax, mail, or website 24 hours a day about all persons to whom they have offered antiretroviral therapy after a nonoccupational exposure to HIV. Data will be collected using an assigned unique registry number. During the initial contact, patient consent will be ascertained, data will be collected on the characteristics of the exposure event, knowledge of HIV status of the source patient, and treatment decision of the provider for patients whose HIV exposure has been documented. Follow-up information will be requested at 4-6 weeks, 6 months, and 12 months post prescription of post exposure therapy. Estimated cost to respondents and government is \$200,000.00 a year.

| Respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hrs) | Total burden (in hrs) |
|-----------------------------|-----------------------|------------------------------------|--------------------------------------|-----------------------|
| Health Care Providers | 100 | 5 | .30 | 150 |
| Total | | | | 150 |

2. A National Registry for Surveillance of Non-Occupational Exposures to Human Immunodeficiency Virus and Post-Exposure Antiretroviral Therapy—New—National Center for HIV, STD, and TB Prevention—To ensure the elimination of tuberculosis in the United States, key program activities such as finding tuberculosis infections in recent contacts of cases and in other persons likely to be infected, and providing preventive therapy, must be monitored. The Division of Tuberculosis Elimination (DTBE), is implementing two revised program management reports for annual submission: Aggregate report of follow-up for contacts of tuberculosis, and Aggregate report of screening and preventive therapy for tuberculosis infection. The respondents for these reports are the 68

state and local tuberculosis control programs receiving federal cooperative agreement funding through (DTBE). The revised reports phase out two twice-yearly program management reports in the Tuberculosis Statistics and Program Evaluation Activity (OMB 0920–0026): Contact Follow-up (CDC 72.16) and Completion of Preventive Therapy (CDC 72.21). The revised reports, which are being submitted for an OMB approval outside of OMB 0920–0026, have several improvements over the old reports for the respondents and for DTBE, such as the emphasis on preventive therapy outcomes, the focus on high-priority target populations vulnerable to tuberculosis, and programmed electronic report generation and submission through the Tuberculosis Information Management

System. The old reports, CDC 72.16 and CDC 72.21, which have been submitted at least in some form by the respondents since 1961, are tabulated by hand.

Three program management reports in the previous series already have been phased out. They are Bacteriologic Conversion of Sputum (CDC 72.14), Case Register (CDC 72.15), and Drug Therapy (CDC 72.20). These three reports have been superseded by integrated reporting in Tuberculosis Statistics and Program Evaluation Activity (OMB 0920–0026). The discontinuation of these reports has resulted in an estimated reduction in the annual response burden of 159 hours. The cost to the respondent is \$6,324.

| Report | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) | Total burden (in hrs.) |
|---|-----------------------|------------------------------------|---------------------------------------|------------------------|
| Aggregate report of follow-up for contacts of tuberculosis | 68 | 1 | 2.5 | 170 |
| Aggregate report of screening and preventive therapy for TB infection | 68 | 1 | 2.5 | 170 |
| Total | | | | 340 |

3. Provider Survey of Partner Notification and Partner Management Practices following Diagnosis of a Sexually-Transmitted Disease (0920–0431)—Extension—The National Center for HIV, STD, and TB prevention, Division of STD Prevention, CDC is proposing to conduct a national survey of physician’s partner management practices following the diagnosis of a sexually-transmitted disease. Partner notification, a technique for controlling the spread of sexually-transmitted diseases is one of the five key elements of a long standing public health strategy to control sexually-transmitted infections in the US. At present, there is very little knowledge about partner notification practices outside public health settings despite the fact that most STD cases are seen in private health care settings. No descriptive data currently exist that allow the Centers for Disease Control and Prevention to characterize partner notification practices among the broad range of clinical practice settings where STDs are

diagnosed, including acute or urgent care, emergency room, or primary and ambulatory care clinics. The existing literature contains descriptive studies of partner notification in public health clinics, but no baseline data exist as to the practices of different physician specialties across different practice settings.

The CDC proposes to fill that gap through a national sample survey of 7300 office managers and physicians who treat patients with STDs in a wide variety of clinical settings; a 70% completion rate is anticipated (n=5110 surveys). This survey will provide the baseline data necessary to characterize infection control practices, especially partner notification practices, for syphilis, gonorrhea, HIV, and chlamydia and the contextual factors that influence those practices. Findings from the proposed national survey of office managers and physicians will assist CDC to better focus STD control and partner notification program efforts and to allocate program resources

appropriately. Without this information, CDC will have little information about STD treatment, reporting, and partner management services provided by physicians practicing in the US. With changes underway in the manner in which medical care is delivered and the move toward managed care, clinical functions typically provided in the public health sector will now be required of private medical providers. At present, CDC does not have sufficient information to guide future STD control efforts in the private medical sector.

Data collection will involve a mail survey of practicing physicians. The questionnaire mailing will be followed by a reminder postcard after one week, a second mailing to non-respondents at three weeks, telephone follow-up with non-respondents at five weeks, and a final certified mailing of the survey to non-respondents at eight weeks. A study specific computerized tracking and reporting system will monitor all phases of the study. Receipt of the completed questionnaire or a refusal will be logged