

jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

## VII

### *Alternatives to the Proposed Final Judgment*

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its Complaint against the defendants. The United States is satisfied, however, that the divestiture of the assets and other relief contained in the proposed Final Judgment will preserve viable competition in the manufacture and sale of asphalt concrete in the greater Hartford areas that otherwise would be affected adversely by the acquisition. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoid the time, expense and uncertainty of a full trial on the merits of the government's Complaint.

## VII

### *Standard of Review Under the APPA for Proposed Final Judgment*

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment "is in the public interest." In making that determination, the court may consider—

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e) (emphasis added). As the Court of Appeals for the District of Columbia Circuit recently held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. See *United States v. Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, "the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24598 (1973). Rather,

absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should \* \* \* carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

*United States v. Mid-America Dairymen, Inc.*, 1977-1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not "engage in an unrestricted evaluation of what relief would best serve the public." *United States v. BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), quoting *United States v. Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), cert. denied, 454 U.S. 1083 (1981); see also *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995). Precedent requires that:

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is "within the reaches of the public interest." More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

*United States v. Bechtel*, 648 F.2d 660, 666 (9th Cir. 1981) (emphasis added).

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" (citations omitted). *United States v. American Tel. and Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), *aff'd sub nom., Maryland v. United States*, 460 U.S. 1001 (1983).

## VIII

### *Determinative Documents*

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Executed on: September 5, 1996.

Respectfully submitted,

Frederick H. Parmenter,

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Carl J. Schuman,

Assistant United States Attorney, Federal Bar No. CT 05439.

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BILLING CODE 4410-01-M

### **Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Ohio Aerospace Institute Propulsion Instrumentation Working Group**

Notice is hereby given that, on September 4, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the Ohio Aerospace Institute Propulsion Instrumentation Working Group ("PIWG") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Ohio Aerospace Institute, Brook Park, OH; Allied Signal, Phoenix, AZ; Allison, Indianapolis, IN; GE Aircraft Engines, Cincinnati, OH; Pratt & Whitney, West Palm Beach, FL; and NASA Lewis Research Center, Cleveland, OH. The nature and objectives of the venture is to extend the capability of the current Non-Intrusive Stress Measurement System ("NSMS") to support High Cycle Fatigue analysis and models to improve life prediction for advanced engine components.

Membership in this venture remains open, and PIWG intends to file additional written notification disclosing all changes in membership. Information regarding participation in PIWG may be obtained from Eileen

Pickett, Ohio Aerospace Institute,  
Cleveland, OH.

Constance K. Robinson,

*Director of Operations, Antitrust Division.*

[FR Doc. 96-24030 Filed 9-18-96; 8:45 am]

BILLING CODE 4410-01-M

## Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 24, 1996, Eli Lilly Industries, Inc., Chemical Plant, Kilometer 146.7, State Road 2, Mayaguez, Puerto Rico 00680, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of dextropropoxyphene, bulk (non-dosage forms) (9273) a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture bulk product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 18, 1996.

Dated: September 4, 1996.

Gene R. Haislip,

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 96-23949 Filed 9-18-96; 8:45 am]

BILLING CODE 4410-09-M

## Immigration and Naturalization Service

### Agency Information Collection Activities: Extension of Existing Collection; Comment Request

**ACTION:** Notice of information collection under review; petition by entrepreneur to remove conditions.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until November 18, 1996.

Request written comments and suggestions from the public and affected agencies concerning the proposed

collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202-616-7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

Overview of this information collection:

(1) Type of Information Collection: *Extension of a currently approved collection.*

(2) Title of the Form/Collection: *Petition by Entrepreneur to Remove Conditions.*

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: *Form I-829, Adjudications Division, Immigration and Naturalization Service.*

(4) Affected public who will be asked or required to respond, as well as a brief abstract: *Primary: Individuals or Households. This form is used by a conditional resident alien entrepreneur who obtained such status through a qualifying investment, to apply to remove the conditions on his or her conditional resident status.*

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to

respond: 200 respondents at 65 minutes (1.08) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 216 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: September 13, 1996.

Robert B. Briggs,

*Department Clearance Officer, United States Department of Justice.*

[FR Doc. 96-23984 Filed 9-18-96; 8:45 am]

BILLING CODE 4410-18-M

## OFFICE OF MANAGEMENT AND BUDGET

### Office of Federal Procurement Policy

#### Cost Accounting Standards Board; Allocation of Selling and Marketing Costs

**ACTION:** Notice.

**SUMMARY:** The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), invites public comments concerning a Staff Discussion Paper on the allocation of selling and marketing costs to government contracts.

**DATES:** Comments must be in writing and must be received by November 18, 1996.

**ADDRESSES:** All comments should be addressed to Dr. Rein Abel, Director of Research, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW., Room 9001, Washington, DC 20503. Attn: CASB Docket No. 96-03.

**FOR FURTHER INFORMATION CONTACT:** Rein Abel, Director of Research or Richard C. Loeb, Executive Secretary, Cost Accounting Standards Board (telephone: 202-395-3254).

#### SUPPLEMENTARY INFORMATION:

##### A. Regulatory Process

The Cost Accounting Standards Board's rules, regulations and Standards are codified at 48 CFR Chapter 99. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. 422(g), requires that the Board, prior to the establishment of any new or revised Cost Accounting Standard, complete a prescribed rulemaking process. The process generally consists of the following four steps: