In requesting a copy, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–17499 Filed 6–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a consent decree in *United States* v. *Reynolds,* Civ. A. No 96–0014–C, was lodged on June 12, 1998 with the United States District Court for the Western District of Virginia. The consent decree resolves the claims of the United States under Section 106(b), 107(a), and 107(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), for reimbursement of response costs incurred at the Singleton Drum Site in Castleton, Rappahannock County, Virginia, as well as civil penalties for failure to comply with a Unilateral Administrative Order issued by EPA. The consent decree obligates Settling Defendants to pay $277,500 in reimbursement of response costs incurred by EPA in responding to contamination at the Site, and civil penalties. Of this amount, approximately $144,000 will be paid in full reimbursement of EPA's response costs at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Reynolds,* DOJ Ref. 190–11–2–1072.

The consent decree may be examined at the office of the United States Attorney, 616 Chestnut Street, Philadelphia, Pennsylvania 19106; the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA; and at the Consent Decree Library, 1120 G Street, NW 4th Floor, Washington, DC 20005 (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $4.75 (25 cents per page reproduction cost), payable to the Consent Decree library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environmental & Natural Resources Division.

[FR Doc. 98–17500 Filed 6–30–98; 8:45 am]

BILLING CODE 4110–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 98–1497]

Proposed Final Judgment and Competitive Impact Statement; United States v. Aluminum Company of America, et al.

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)-(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States v. Aluminum of America, et. al.,* Civil No. 1:98CV01497. The proposed Final Judgment is subject to approval by the Court after the expiration of the statutory 60-day public comment period and compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)-(h).

On June 15, 1998, the United States filed a Complaint seeking to enjoin a transaction in which Aluminum Company of America (''Alcoa'') would acquire Alumax, Inc. (''Alumax''). Alcoa and Alumax are the two largest of three producers of aluminum cast plate (''cast plate'') in the world. Cast plate is used for applications that require precise dimensions and flatness, such as jigs, fixtures, and numerous tooling, mold, machinery, and equipment applications. Alcoa's proposed acquisition of Alumax would have combined under single ownership almost 90% of the cast plate manufacturing business in the world. The Complaint alleged that the proposed acquisition would substantially lessen competition in the manufacture and sale of cast plate worldwide in violation of Section 7 of the Clayton Act, 15 U.S.C. section 18.

The proposal Final Judgment, filed at the same time as the Complaint, orders Alcoa to sell its cast plate division to a purchaser who has the capability to compete effectively in the manufacture and sale of cast plate. The proposed Final Judgment also requires Alcoa to abide by the Hold Separate Stipulation and Order, which requires Alcoa to ensure that, until the divestiture mandated by the Final Judgment has been accomplished, Alcoa's cast plate division will be held separate and apart from, and operated independently of, any of Alcoa's other assets and businesses. A Competitive Impact Statement filed by the United States describes the Complaint, the proposed Final Judgment, and remedies to private litigants.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Written comments should be directed to Roger W. Fones, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, 325 Seventh Street, NW., Suite 500, Washington, DC 20530 (telephone: (202) 307–6351).

Copies of the Complaint, Hold Separate Stipulation and Order, Stipulation and Order, proposed Final Judgment, and Competitive Impact Statement are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 Seventh Street, NW, Washington, DC 20530 (telephone: (202) 514–2481) and at the office of the Clerk of the United States District Court for the District of Columbia, 333 Constitution Avenue, NW, Washington, DC 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations & Merger Enforcement, Antitrust Division.

Stipulation and Order

It is hereby *Stipulated* by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedure and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though they were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. In the event that plaintiff withdraws its consent, as provided in paragraph 2 above, or in the event that the proposed Final Judgment is not entered pursuant to this Stipulation, the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

6. Defendants represent that the divestiture ordered in the proposed Final Judgment can and will be made, and that the defendants will later raise no claims of hardship of difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein. Respectfully submitted.

For Plaintiff United States of America;

Nina B. Hale,

Washington Bar #18776

Andrew K. Rosa,

Hawaii Bar #6366, Attorneys, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Washington, DC 20004, (202) 307–6316, (202) 307–0886.

Dated: June 15, 1998.

For Defendant Aluminum Company of America:

Mark Leddy,

DC Bar #404833,

David I. Gelfand,

DC Bar #416596,

Steven J. Kaiser,

DC Bar #454251,

Cleary, Gottlieb, Steen & Hamilton,

2000 Pennsylvania Avenue, N.W., Washington, DC 20006 (202) 974–1500.

For Defendant Alumax Inc.:

Robert P. Wolf,

Virginia Bar #1299,

Alumax Inc.,

3424 Peachtree Road, N.E., Suite 2100, Atlanta, GA 30326, (404) 846–4651.

Order

It is *So ordered*, this _____ day of _____, 1998.

_____

United States District Court Judge

Hold Separate Stipulation and Order

It is hereby *Stipulated* by and between the undersigned parties, subject to approval and entry by the Court, that:

I

Definitions

As used in this Hold Separate Stipulation and Order:

A. *Alcoa* means defendant Aluminum Company of America, a Pennsylvania Corporation with its headquarters in Pittsburgh, Pennsylvania, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

B. *Alumax* means Alumax Inc., a Delaware Corporation with its headquarters in Atlanta Georgia, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

C. *Alcoa Cast Plate Division* means all assets included within the cast plate operation of Alcoa's Aerospace and Commercial Rolled Products Division as of the date hereof, including:

1. all tangible assets, including the cast plate manufacturing facility located at 1551 Alcoa Avenue, Vernon, California 90058 (''Vernon facility'') and the portion of the real property on which the Vernon facility is situated that is reasonably necessary for operation of the Vernon cast plate plant; any facilities used for research and development activities; Vernon offices; cast plate-related manufacturing assets including capital equipment, vehicles, interests, supplies, personal property, inventory, office furniture, fixed assets and fixtures, materials, on-site warehouses or storage facilities, and other tangible property or improvements used in the cast plate operation; all licenses, permits and authorizations issued by any governmental organization relating to the cast plate operation; all contracts, agreements, leases, commitments and understandings pertaining to the cast plate operation; supply agreements; all customer lists, contracts, accounts, and credit records; and other records maintained by Alcoa in connection with the cast plate operation;

2. all intangible assets, including but not limited to all patents, licenses and sublicenses, intellectual property, trademarks, trade names, service marks, service names (except to the extent such trademarks, trade names, service marks, and service names contain the name ''Alcoa''), technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Alcoa provides to its own employees, customers, suppliers, agents or licensees; and

3. all research data concerning historic and current research and development efforts relating to the cast plate operation, including designs of experiments, and the results of unsuccessful designs and experiments.

D. *Cast Plate* means an aluminum plate product manufactured by casting or by sawing cast slab purchased from an external source, ranging in gauges from ¼ inch to 30 inches, that is used for various tooling, industrial and mold plate applications, and that is manufactured by the Alcoa Cast Plate Division.

II

Objectives

The Final Judgment filed in this case is meant to ensure Alcoa's prompt divestiture of the Alcoa Cast Plate Division for the purpose of maintaining a viable competitor in the manufacture and sale of Cast Plate to remedy the effects that the United States alleges would otherwise result from Alcoa's proposed acquisition of Alumax.

This Hold Separate Stipulation and Order ensures, prior to such divestiture, that the Alcoa Cast Plate Division which is being divested be maintained as an independent, economically viable, ongoing business concern, and that

competition is maintained during the pendency of the divestiture.

III

Hold Separate Provisions

Until the divestiture required by the Final Judgment has been accomplished:

A. Alcoa shall preserve, maintain, and operate the Alcoa Cast Plate Division as an independent competitor with management, research, development, production, sales and operations held entirely separate, distinct and apart from those of Alcoa. Alcoa shall not coordinate the manufacture, marketing or sale of products from Alcoa Cast Plate Division's business with the Cast Plate business that Alcoa will own as a result of the acquisition of Alumax. Within twenty (20) calendar days of the filing of the Complaint in this matter, Alcoa will inform plaintiff of the steps taken to comply with this provision.

B. Alcoa shall take all steps necessary to ensure that the Alcoa Cast Plate Division will be maintained and operated as an independent, ongoing, economically viable and active competitor in Cast Plate manufacture and sale; that the management of the Alcoa Cast Plate Division will not be influenced by Alcoa, and that the books, records, competitively sensitive sales, marketing and pricing information, and decision-making associated with the Alcoa Cast Plate Division will be kept separate and apart from the operations of Alcoa. Alcoa's influence over the Alcoa Cast Plate Division shall be limited to that necessary to carry out Alcoa's obligations under this Order and the Final Judgment. Alcoa may receive historical aggregate financial information (excluding capacity or pricing information) relating to the Alcoa Cast Plate Division to the extent necessary to allow Alcoa to prepare financial reports, tax returns, personnel reports, and other necessary or legally required reports.

C. Alcoa shall use all reasonable efforts to maintain Cast Plate manufacturing at the Alcoa Cast Plate Division, and shall maintain at current or previously approved levels, whichever are higher, internal research and developing funding, promotional, advertising, sales, technical assistance, marketing and merchandising support for the Alcoa Cast Plate Division.

D. Alcoa shall provide and maintain sufficient working capital to maintain the Alcoa Cast Plate Division as an economically viable, ongoing business.

E. Alcoa shall provide and maintain sufficient lines and sources of credit to maintain the Alcoa Cast Plate Division as an economically viable, ongoing business.

F. Alcoa shall take all steps necessary to ensure that the Vernon facility is fully maintained in operable condition at no lower than its current rated capacity, and shall maintain and adhere to normal repair and maintenance schedules for the Alcoa Cast Plate Division.

G. Alcoa shall not, except as part of a divestiture approved by plaintiff, remove, sell, lease, assign, transfer, pledge or otherwise dispose of or pledge as collateral for loans, any assets of the Alcoa Cast Plate Division, including intangible assets that relate to the permits described in Section II of the Final Judgment.

H. Alcoa shall maintain, in accordance with sound accounting principles, separate, true, accurate and complete financial ledgers, books and records that report, on a periodic basis, such as the last business day of every month, consistent with past practices, the assets, liabilities, expenses, revenues, incomes, profit and loss of the Alcoa Cast Plate Division.

I. Until such time as the Alcoa Cast Plate Division is divested, except in the ordinary course of business or as is otherwise consistent with this Hold Separate Agreement, Alcoa shall not hire and defendant shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any Alcoa employees who on the date of the signing of this Agreement (i) work in the Alcoa Cast Plate Division, or (ii) are members of management referenced in Section III(J) of this Order unless such individual has a written offer of employment from a third party for a like position.

J. Until such time as the Alcoa Cast Plate Division is divested, the assets to be divested shall be managed by John Hogarth. John Hogarth shall have complete managerial responsibility for the Alcoa Cast Plate Division, subject to the provisions of this Order and the Final Judgment. In the event that John Hogarth is unable to perform his duties, Alcoa shall appoint, subject to plaintiff's approval, a replacement acceptable to plaintiff within ten (10) working days. Should Alcoa fail to appoint a replacement acceptable to plaintiff within ten (10) working days, plaintiff shall appoint a replacement.

K. Alcoa shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture pursuant to the Final Judgment to a suitable purchaser.

L. This Hold Separate Stipulation and Order shall remain in effect until the divestiture required by the Final Judgment is complete, or until further Order of the Court.

Respectfully submitted,

For Plaintiff, United States of America:

Nina B. Hale,

Washington Bar #18776,

Andrew K. Rosa,

Hawaii Bar #6366, Attorneys, Antitrust Division, U.S. Department of Justice, 325 Seventh St., N.W., Washington, DC 20004, (202) 307–6316, (202) 307–0886.

Dated: June 15th, 1998.

For Defendant, Aluminum Company of America:

Mark Leddy,

DC Bar #404833,

David I. Gelfand,

DC Bar #416596,

Steven J. Kaiser,

DC Bar #454251,

Cleary, Gottlieb, Steen & Hamilton,

2000 Pennsylvania Avenue, N.W., Washington, DC 20006, (202) 974–1500.

For Defendant Alumax Inc.:

Robert P. Wolf,

Virginia Bar #1299, Alumax Inc., 3424 Peachtree Road, N.E., Suite 2100, Atlanta, GA 30326, (404) 846–4651.

Order

It is So Ordered, this _____ day of _____, 1998.

_____

United States District Judge

Final Judgment

Whereas, plaintiff, the United States of America (''United States''), filed its complaint in this action on June 15, 1998, and plaintiff and defendants, Aluminum Company of America (''Alcoa'') and Alumax Inc. (''Alumax''), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein;

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is the prompt and certain divestiture of the Alcoa Cast Plate Division to assure that competition is not substantially lessened;

And whereas, plaintiff requires defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to plaintiff that the divestiture ordered herein can and will be made and that defendants will later raise no claims of hardship or difficulty

as grounds for asking the Court to modify any of the divestiture or contract provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *Ordered, Adjudged, and decreed* as follows:

I

Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants, as hereinafter defined, under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

Definitions

As used in this Final Judgment:

A. *Alcoa* means defendant Aluminum Company of America, a Pennsylvania Corporation with its headquarters in Pittsburgh, Pennsylvania, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

B. *Alumax* means Alumax Inc., a Delaware Corporation with its headquarters in Atlanta, Georgia, and its successors, assigns, subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and directors, officers, managers, agents, and employees.

C. *Alcoa Cast Plate Division* means all assets included within the cast plate operation of Alcoa's Aerospace and Commercial Rolled Products Division as of the date hereof, including:

1. all tangible assets, including the cast plate manufacturing facility located at 1551 Alcoa Avenue, Vernon, California 90058 (''Vernon facility'') and the portion of the real property on which the Vernon facility is situated that is reasonably necessary for operation of the Vernon cast plate plant: any facilities used for research and development activities; Vernon offices; cast plate-related manufacturing assets including capital equipment, vehicles, interests, supplies, personal property, inventory, office furniture, fixed assets and fixtures, materials, on-site warehouses or storage facilities, and other tangible property or improvements used in the cast plate operation; all licenses, permits and authorizations issued by any governmental organization relating to the cast plate operation; all contracts, agreements, leases, commitments and understandings pertaining to the cast plate operation; supply agreements; all customer lists, contracts, accounts, and credit records, and other records maintained by Alcoa in connection with the cast plate operation;

2. all intangible assets, including but not limited to all patents, licenses and sublicenses, intellectual property, trademarks, trade names, service marks, service names (except to the extent such trademarks, trade names, service marks, and service names contain the name ''Alcoa''), technical information, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, quality assurance and control procedures, design tools and simulation capability, and all manuals and technical information Alcoa provides to its own employees, customers, suppliers, agents or licensees; and

3. all research data concerning historic and current research and development efforts relating to the cast plate operation, including designs of experiments, and the results of unsuccessful designs and experiments.

D. ''Cast Plate'' means an aluminum plate product manufactured by casting or by sawing cast slab purchased from an external source, ranging in gauges from ¼ to 30 inches, that is used for various tooling, industrial and mold plate applications, and that is manufactured by the Alcoa Cast Plate Division.

III

Applicability

A. The provisions of this Final Judgment apply to Alcoa and Alumax, their successor and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concern or participation with any of them who shall have receive actual notice of this Final Judgment by personal service or otherwise.

B. Alcoa shall require, as a condition of the sale or other disposition of all or substantially all of the assets involving Cast Plate, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment.

IV

Divestiture of Assets

A. Alcoa is hereby ordered and directed in accordance with the terms of this Final Judgment, within one hundred and eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of entry of this Final Judgment by the Court, whichever is later, to divest the Alcoa Cast Plate Division as an ongoing business to a purchaser acceptable to the United States in its sole discretion. With respect to the intangible assets described in Section II(C)(2) of this Final Judgment, the divestiture required hereunder shall be accomplished by entering into a perpetual, nonexclusive license (or licenses, as the case may be) with the purchaser, transferable to any future purchaser of the Vernon facility, to use, in manufacturing cast plate at the Vernon facility, all such intangible assets, wherever located, that have been used in the manufacture of cast plate at the Vernon facility.

B. Alcoa shall use its best efforts to accomplish the divestiture as expeditiously and timely as possible. The United States, in its sole discretion, may extend the time period for any divestiture by an additional period of time not to exceed thirty (30) calendar days.

C. In accomplishing the divestiture ordered by this Final Judgment, Alcoa promptly shall make known, by usual and customary means, the availability of the Alcoa Cast Plate Division described in this Final Judgment. Alcoa shall inform any person making an inquiry regarding a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. Alcoa shall also offer to furnish to all prospective purchasers, subject to customary confidentiality assurances, all information regarding the Alcoa Cast Plate Division customarily provided in a due diligence process except such information subject to attorney-client privilege or attorney work-product privilege. Alcoa shall make available such information to the plaintiff at the same time that such information is made available to any other person.

D. Alcoa shall not interfere with any negotiations by any purchaser to employ any Alcoa employee who works at, or whose principal responsibility is, the Cast Plate business.

E. Alcoa shall permit prospective purchasers of the Alcoa Cast Plate Division to have reasonable access to personnel and to make such inspection of Alcoa Casts Plate's Vernon facility; assess to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

F. Alcoa shall warrant to the purchaser of the Alcoa Cast Plate

Division that the Alcoa Cast Plate Division will be operational on the date of sale.

G. Alcoa shall not take any action, direct or indirect, that will impede in any way the operation of the Alcoa Cast Plate Division.

H. Alcoa shall warrant to the purchaser of the Alcoa Cast Plate Division that there are no material defects in the environmental, zoning, or other permits pertaining to the operation of the Alcoa Cast Plate Division and that Alcoa will not undertake, directly or indirectly, following the divestiture of the Alcoa Cast Plate Division, any challenges to the environmental, zoning, or other permits pertaining to the operation of the Alcoa Cast Plate Division.

I. Alcoa shall not be permitted to locate any of its operations at the Alcoa Cast Plate Division's Vernon facility.

J. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Alcoa Cast Plate Division, operated in place pursuant to the Hold Separate Stipulation and Order, and be accomplished by selling or otherwise conveying the Alcoa Cast Plate Division to a purchaser in such a way as to satisfy the United States, in its sole discretion, that the Alcoa Cast Plate Division can and will be used by the purchaser as part of a viable, ongoing business or businesses engaged in the manufacture of Cast Plate. The divestiture, whether pursuant to Section IV of Section V of this Final Judgment, shall be made to purchaser for whom it is demonstrated to the United State's sole satisfaction that: (1) the purchaser has the capability and intent of competing effectively in the manufacture and sale of Cast Plate; (2) the purchaser has or soon will have the managerial, operational, and financial capability to compete effectively in the manufacture and sale of Cast Plate; and (3) none of the terms of any agreement between the purchaser and Alcoa gives Alcoa the ability unreasonably to raise the purchaser's costs, to lower the purchaser's efficiency, or otherwise to interfere in the ability of the purchaser to compete effectively.

V

Appointment of Trustee

A. In the event that Alcoa has not divested the Alcoa Cast Plate Division within the time specified in Section IV of this Final Judgment, the Court shall appoint, on application of the United States, a trustee selected by the United States to effect the divestiture of the Alcoa Cast Plate Division.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Alcoa Cast Plate Division. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV and VI of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V(C) of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of Alcoa any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be accountable solely to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the United States in its sole discretion and shall have such other powers as this Court shall deem appropriate. Alcoa shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by Alcoa must be conveyed in writing to plaintiff and the trustee within ten (10) days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of Alcoa, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Alcoa and the trust shall then be terminated. The compensation of such trustee and of professionals and agents retained by the trustee shall be reasonable in light of the value of the divested business and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Alcoa shall use it best efforts to assist the trustee in accomplishing the required divestiture, including its best efforts to effect all necessary regulatory approvals. The trustee and any consultants, accountants, attorney, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the business to be divested, and Alcoa shall develop financial or other information relevant to the business to be divested customarily provided in a due diligence process as the trustee may reasonably request, subject to customary confidentiality assurances. Alcoa shall permit bona fide prospective acquirers of the Alcoa Cast Plate division to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational or other documents and other information as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the court. Such reports shall include the name, address and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the business to be divested, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the business to be divested.

F. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee thereupon shall file promptly with the Court a report setting forth: (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall enter thereafter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI

Notification

Within two (2) business days following execution of a definitive agreement contingent upon compliance with the terms of this Final Judgment to effect, in whole or in part, any proposed divestiture pursuant to Sections IV and V of this Final Judgment, Alcoa or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture. If the trustee is responsible, it shall similarly notify Alcoa. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or a desire to, acquire any ownership interest in the business to be divested that is the subject of the binding contract, together with full details of same. Within fifteen (15) calendar days of receipt by plaintiff of such notice, the United States, in its sole discretion, may request for Alcoa, the proposed purchaser, or any other third party additional information concerning the proposed divestiture and the proposed purchaser. Alcoa and the trustee shall furnish any additional information requested from them within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the plaintiff has been provided the additional information requested from Alcoa, the proposed purchaser, or any third party, whichever is later, the United States shall provide written notice to Alcoa and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice to Alcoa and the trustee that it does not object, then the divestiture may be consummated, subject only to Alcoa's limited right to object to the sale under Section V(B) of this Final Judgment. Absent written notice that the United States does not object to the proposed purchaser or upon objection by the United States, a divestiture proposed under Section IV or Section V shall not be consummated. Upon objection by Alcoa under the provision in Section V(B), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII

Affidavitts

A. Within twenty (20) calendar days of the filing of the Complaint in this matter and every thirty (30) calendar days thereafter until the divestiture has been completed whether pursuant to Section IV or Section V of this Final Judgment, Alcoa shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section IV or Section V of this Final Judgment. Each such affidavit shall include, *inter alia,* the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the business to be divested,and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include description of the efforts that Alcoa has taken to solicit a buyer for the Alcoa Cast Plate Division and to provide required information to prospective purchasers.

B. Within twenty (20) calendar days of the filing of the Complaint in this matter, Alcoa shall deliver to plaintiff an affidavit which describes in detail all actions Alcoa has taken and all steps Alcoa has implemented on an on-going basis to preserve the Alcoa Cast Plate Division pursuant to Section VIII of this Final Judgment and the Hold Separate Stipulation and Order entered by the Court. The affidavit also shall describe, but not be limited to, Alcoa's efforts to maintain and operate the Alcoa Cast Plate Division as an active competitor, maintain the management, staffing, research and development activities, sales, marketing, and pricing of the Alcoa Cast Plate Division, and maintain the Vernon facility in operable condition at current capacity configurations. Alcoa shall deliver to plaintiff an affidavit describing any changes to the efforts and actions outlined in Alcoa's earlier affidavits(s) filed pursuant to Section VII(B) within fifteen (15) calendar days after the change is implemented.

C. Until one year after such divestiture has been completed, Alcoa shall preserve all records of all efforts made to preserve the business to be divested and effect the divestiture.

VIII

Hold Separate Order

Until the divestitures required by the Final Judgment have been accomplished, Alcoa shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestiture of the Alcoa Cast Plate Division.

IX

Financing

Alcoa is ordered and directed not to finance all or any part of any purchase by an acquirer made pursuant to Sections IV or V of this Final Judgment.

X

Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

1. Access during office hours of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to any matters contained in this Final Judgment and the Hold Separate Stipulation and Order; and

2. Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview, either informally or on the record, their officers, employees, and agents, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants at their principal offices, defendants shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment and the Hold Separate Stipulation and Order.

C. No information nor any documents obtained by the means provided in Sections VII or X of this Final Judgment shall be divulged by a representative of the United States to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the materials in any such information or documents for

which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedures, and defendants marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then plaintiff shall give ten (10 days notice to defendants prior to divulging such material in any legal proceeding (other than grand jury proceeding) to which defendants are not a party.

CI

Retention of Jurisdiction

Jurisidiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XII

Termination

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XIII

Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

_____

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On June 15, 1998, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Aluminum Company of America (''Alcoa'') of the aluminum cast plate (''cast plate'') manufacturing business of Alumax Inc. (''Alumax'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The Complaint alleges that Alcoa and Alumax are the two largest producers of aluminum cast plate in the world, and are each other's most significant competitor. They compete vigorously to lower the costs of producing and selling the best quality cast plate at the lowest prices, and to provide the best technological, marketing, and customer support services. There is only one other producer, Alpase, and it is much smaller and not nearly as significant. Alcoa and Alumax have proposed a transaction that will leave the already highly concentrated aluminum cast plate business with one overwhelmingly dominant firm—Alcoa—owning almost 90% of the cast plate manufacturing business in the world. Worldwide sales of cast plate in 1997 were $73,884,000.

The prayer for relief in the Complaint seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act; and (2) a permanent injunction preventing Alcoa from acquiring Alumax.

When the Complaint was filed, the United States also filed a proposed settlement that would permit Alcoa to complete its acquisition of Alumax, but require a divestiture that will preserve competition in the relevant market. This settlement consists of a Stipulation and Order, Hold Separate Stipulation and Order, and a proposed Final Judgment.

The proposed Final Judgment orders Alcoa to divest, within one hundred and eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later the Alcoa Cast Plate Division (as defined in the Final Judgment) to an acquirer acceptable to the Antitrust Division of the Department of Justice (''DOJ''). ''Alcoa Cast Plate Division'' means all assets included within the cast plate operation of Alcoa's Aerospace and Commercial Rolled Products Division, including all tangible and intangible assets, and all research data concerning historic and current research and development efforts relating to the cast plate operation.

Until such divestiture is completed, the terms of the Hold Separate Stipulation and Order entered into by the parties apply to ensure that the Alcoa Cast Plate Division shall be maintained as an independent competitor from Alcoa.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of The Events Giving Rise to The Alleged Violation

A. The Defendants and the Proposed Transaction

Alcoa is a Pennsylvania corporation, with its principal offices located in Pittsburgh, Pennsylvania. Alcoa is the world's largest integrated aluminum company, engaging in all phases of the aluminum business—from the mining and processing of bauxite to the production of primary aluminum and fabrication of products. In 1997, Alcoa had revenues of over $13 billion. Alcoa produces cast plate at a facility located in Vernon, California. Alcoa's 1997 sales of cast plate in the United States were $17,871,528.

Alumax is a Delaware corporation, headquartered in Atlanta, Georgia. In 1997, Alumax reported total sales of about $3 billion. Its Mill Products Division produces cast plate, among other products, in Lancaster, Pennsylvania. Alumax's sales of cast plate in the United States were $38,991,628.

On March 8, 1998, Alcoa and Alumax entered into an agreement under which Alcoa would acquire Alumax. This transaction, which would increase concentration in the already highly concentrated cast plate market, precipitated the government's suit.

B. Cast Plate Market

Cast plate is a flat aluminum product, ranging from eight to twelve feet long, three to five feet wide and anywhere from one-quarter inch to thirty inches thick. Cast plate is produced by pouring molten aluminum onto a conveyor belt in a shape slightly thicker than what it ultimately desired. After cooling, the shape is milled to achieve its final thickness and shape. Cast plate has metallurgic characteristics that make it uniquely suited for certain applications. The casting process, which involves little or no pressing of the plate, produces aluminum that is free from stresses that can cause warping. The resulting cast metal shape is stable enough for applications that required precise dimensions and flatness, such as jigs, fixtures, and numerous tooling, mold, machinery and equipment applications. Cast plate is used to make machinery and equipment that manufactures end products with extremely narrow tolerances. Cast plate must be stress-free, stable, and flat, because stress-induced warping, instability, and unevenness would cause movement in the machinery and

equipment made of cast plate, which in turn would cause the end products manufactured on that machinery and equipment to be out of tolerance.

Other products are not realistic substitutes for cast plate to which customers could switch in the event of a small, but significant and non-transitory price increase. Rolled tooling plate is not a substitute because the rolled metal shape can warp. Furthermore, it is not possible to produce rolled plate as thick as cast plate can be made. Depending on the thickness of the shape, rolled plate can also be significantly more expensive than cast plate.

Alcoa and Alumax are the two strongest and most significant producers of cast plate in the world, representing almost 90% of 1997 sales. Alpease, the third competitor, is not as significant as either Alcoa or Alumax. Aggressive competition by Alcoa and Alumax has given customers lower prices and improved quality for cast plate products.

Successful entry into the manufacture and sale of cast plate is difficult, time-consuming and costly. To build an efficient cast plate facility would cost in excess of $25 million, and would require as long as four years from the time of site selection to production of commercial quantities of cast plate. A new entrant into the cast plate business must submit its product to customers for qualification before the entrant will be accepted as a supplier. A new entrant must establish a reputation for good quality product and for reliability in fulfilling customer orders. There are no other domestic or foreign firms whose entry or expansion would be likely, timely, or sufficient to thwart an anticompetitive price increase.

C. Harm to Competition as a Consequence of the Acquisition

The proposed acquisition would likely lessen competition in the manufacture and sale of cast plate. If Alcoa acquired the cast plate business of Alumax, it would control almost 90% of the cast plate business in the world and likely would increase prices, reduce quality, and decrease production of cast plate. Entry by a new company would not be timely, likely, or sufficient to prevent harm to competition.

The Compliant alleges that the transaction would likely have the following effects, among others; actual and potential competition between Alcoa and Alumax in the cast plate market will be eliminated; competition generally in the sale and manufacture of cast plate worldwide would be lessened substantially; and prices for cast plate would increase.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to eliminate the anticompetitive effects of the acquisition of Alumax by Alcoa.

The proposed Final Judgment provides that Alcoa must divest, within on hundred and eighty (180) calendar days after the filing of the Complaint in this matter, or five (5) days after notice of the entry of the Final Judgment by the Court, whichever is later, the Alcoa Cast Plate Division to an acquirer acceptable to the DOJ. If defendants fail to divest the Alcoa Cast Plate Division, a trustee (selected by DOJ) will be appointed.

The Final Judgment provides that Alcoa will pay all costs and expenses of the trustee. After his or her appointment becomes effective, the trustee will file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the parties will have the opportunity to make recommendations to the Court, which shall enter such orders as appropriate in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

Divestiture of the Alcoa Cast Plate Division preserves competition because it will restore the cast plate market to a structure that existed prior to the acquisition and will preserve the existence of a independent competitor. Divestiture will keep at least three producers of cast plate in the market, which will preserve and encourage ongoing competition in the production and sale of cast plate.

IV. Remedies Available to Potential Private Litigants

Seciton 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three time the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comment regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of the dated of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Judgment at any time prior to entry. The comments and the response to the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, United States Department of Justice, 325 Seventh Street, NW., Suite 500, Washington, DC 20004.

The proposed Final Judgment provides that the Court retains 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.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendants Alcoa and Alumax.

The United States is satisfied that the divestiture of the described assets specified in the proposed Final Judgment will encourage viable competition in the production and sale of cast plate. The United States is satisfied that the proposed relief will prevent the acquisition from having anticompetitive effects in this market. The divestiture of the Cast Plate Division will restore the cast plate market to a structure that existed prior to the acquisition and will preserve the existence of an independent competitor.

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-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 consideration bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific inquiry 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 on 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.''[1] 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 response 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 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 F2d 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

[t]he balancing of competing social and political interest 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.[2]

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 certainly 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 its 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).''[3]

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.

For Plaintiff United States of America:

Date: June 18, 1998.

Respectfully submitted,

Nina B. Hale,
Washington Bar # 18776,
Andrew K. Rosa,
Hawaii Bar # 6366,
Michele Cano,
Jade Alice Eaton.
Trial Attorneys,
U.S. Department of Justice,
Antitrust Division,
325 Seventh Street, NW,
Suite 500,
Washington, DC 20004,
202–307–0892,
202–307–2441 (Facsimile).

Certificate of Service

I hereby certify that I have caused a copy of the foregoing Competitive Impact Statement to be served on counsel for defendants in this matter in the manner and on the date set forth below:

By the first class mail, postage prepaid:

D. Stuart Meiklejohn,
Sullivan & Cromwell,
125 Broad Street, 28th Floor,
New York, NY 10004.
David I. Gelfand, Cleary, Gottlieb, Steen & Hamilton,
2000 Pennsylvania Avenue, NW.,
Washington, DC 20006.

Dated: June 18, 1998.

Andrew K. Rosa,
Antitrust Division, U.S. Department of Justice, 325 Seventh Street, NW, Suite 500, Washington, D.C. 20530, (202) 307–0886, (202) 616–2441 (Fax).

[FR Doc. 98–17504 Filed 6–30–98; 8:45 am]

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DEPARTMENT OF JUSTICE

Drug Enforcement Administration

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

ACTION: Notice of information collection under review; Application for Individual Manufacturing Quota for Basic Class of Controlled Substance; Extension of a Currently Approved Collection.

Office of Management and Budget approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 7, 1998 in volume 63, page 17017, allowed for a 60-day comment period.

The purpose of this notice is to allow an additional 30 days for public

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[1] 119 Cong. Rec. 24598 (1973), *See also United States* v. Gillette Co., 406 F. Supp. 713, 715 (D. Mass. 1975), A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, reprinted in (1974) U.S. Code Cong. & Ad. News 6535, 6538.

[2] *United States* v. *Bethtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States* v. *BNS, Inc.*, 858 F.2d at 463, *United States* v. *National Broadcasting Co.* 449 F. Supp. 1127, 1143, (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983).

[3] *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982), aff'd sub nom, *Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp, at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp, 619, 622 (W.D. Ky. 1985).