Respectfully yours,

Charles ''Mickey'' Flood,

President and CEO.

U.S. Department of Justice,
Antitrust Division, 1401 H Street, City Center Building, Washington, DC 20530,
December 8, 1997.

Mr. Charles ''Mickey'' Flood
President and CEO
Independent Environmental Services, Inc.
3330 North Beach Street
Haltom City, TX 76111

Re: *United States, et al.,* v. *Allied Waste Industries, Inc., C.A. No. 497–CV 564 E (N.D. TX)*

Dear Mr. Flood: This letter responds to your letter dated October 10, 1997 commenting on the proposed Final Judgment in the above-captioned civil antitrust case challenging the acquisition by Allied Waste Industries, Inc. (''Allied'') of the Crow Landfill in Tarrant County, Texas owned by USA Waste Services, Inc. The Complaint alleges that the acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, because it is substantially likely to lessen competition for the disposal of municipal solid waste (''MSW'') generated in Tarrant County. Under the proposed Final Judgment Allied is required to divest 880,000 cubic yards of disposal space at the Crow Landfill to a purchaser(s) who would have the right to use this airspace for five years or the life of the Crow Landfill, whichever is longer. Allied is also required to divest 560,000 cubic yards of disposal space at the Turkey Creek Landfill to a purchaser(s) who would have the right to use the airspace for a ten-year period.

In your letter you expressed concern that since acquiring the Crow Landfill Allied has increased disposal rates and changed the way trucks are measured that dispose of waste. You indicated in a telephone conversation with the staff that when USA Waste owned the Crow Landfill that the front-load hopper on the truck was not measured for waste being deposited. Your letter indicates that your disposal rates increased by 23% and the change in the method of measuring trucks has resulted in a total 63.4% increase to IESI. Additionally, your letter states that before the acquisition, USA Waste was not a competitor in the hauling business and therefore the Crow Landfill was desirous of IESI's disposal business. As Allied is also in the hauling business, you believe the acquisition represents a plan to raise prices for disposal which will place IESI at a disadvantage in competing with Allied for hauling business since there are few disposal alternatives to IESI. Your letter indicates that large waste companies seek to control markets by charging ''excessive'' disposal rates to independent haulers, and you believe BFI, a large waste company, will be sold the airspace in return for assets by Allied in another location.

We have looked into the concerns expressed in your letter. We can report that Allied has increased the rates at the Crow Landfill (now called Mill Valley) and claims that the increase is necessary because of capital costs for the upkeep and maintenance of the landfill. We understand the rates at the Crow Landfill are now $6 for compacted MSW and $4.70 for loose MSW. Our investigation has revealed that these prices are set at levels which are generally comparable to prices charged at other landfills in the Tarrant County area. With regard to the measuring of trucks, it is our understanding that the other landfill operated by Allied specified in the Complaint, Turkey Creek, and the landfills in the Tarrant County area not owned by Allied all measure trucks in the same fashion as now used by Allied at Mill Valley.

Although the price increases instituted by Allied do not appear out of line with prevailing prices in the Tarrant County area, the increase reinforces the belief of the United States that a Final Judgment requiring Allied to sell airspace at the Crow Landfill (now Mill Valley) and the Turkey Creek Landfill is necessary to protect competition both in landfills and hauling in the Tarrant County area. Divestiture will allow one or more purchasers to obtain airspace rights that they can use to compete directly for local solid waste contracts or to resell to other local haulers. As you know, Allied has started the process of obtaining bids for airspace rights. As we understand the bidding process so far, the prices being offered for the airspace are at levels which could allow the winning bidder(s) to resell space at prices below those being currently charged by Allied. Your company has an opportunity to bid on that airspace and we understand it has done so.

Your letter also expresses a concern that BFI, a large national waste company, is bidding for and may win the airspace rights. Should BFI be a bidder in the process or become the winning bidder, this development would not necessarily constitute an anticompetitive effect of the merger. The antitrust laws are not designed to promote the interests of any one competitor but to protect competition as a whole. We will, however, examine any proposed sale to ensure that it complies with the terms of the Final Judgment.

The Antitrust Division appreciates you bringing your concerns to our attention and hopes this response will alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court. Thank you for your interest in the enforcement of the antitrust laws.

Sincerely yours,

J. Robert Kramer II,

Chief, Litigation II Section.

[FR Doc. 97–33810 Filed 12–29–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Tom Paige Catering, Inc. and Valley Foods Inc., Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Ohio in *United States* v. *Tom Paige Catering, Inc. and Valley Foods Inc.,* Civil Action No. 1:97CV3268.

The Complaint in this case alleges that the defendants formed a joint venture in order to lessen and eliminate competition for food service contracts with the Cleveland, Ohio, Head Start program, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed Final Judgment orders the defendants to dissolve their joint venture and enjoins them from (A) agreeing with any other food service contractor to fix prices on food service contracts; (B) participating in future discussions or communications about the prices they quote on food service contracts; (C) agreeing with other food service contractors on the customers or territories they bid for or serve; (D) entering into any agreement with any non-defendant food service contractor before notifying the plaintiff. Each defendant is also required to appoint an antitrust compliance officer and establish an antitrust compliance program with specified requirements. 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. Comments should be directed to William J. Oberdick, Acting Chief, Great Lakes Field Office, Antitrust Division, Department of Justice, Plaza 9 Building, 55 Erieview Plaza, Suite 700, Cleveland OH 44114 (*Telephone:* 216/522–4074).

Rebecca P. Dick,

Director, Civil Non-Merger Enforcement.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a final judgment in the form hereto attached may be filed and entered by the Court at any time after the expiration of the sixty (60) day period for public comment provided by the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), without further notice to any party or other proceedings, either upon the motion of any party or upon the Court's own motion, provided that plaintiff has not withdrawn its consent as provided herein;

(2) The plaintiff may withdraw its consent hereto at any time within said period of sixty (60) days by serving notice thereof upon the other party

hereto and filing said notice with the Court;

(3) In the event the plaintiff withdraws its consent hereto, this stipulation shall be of no effect whatever in this or any other proceeding and the making of this stipulation shall not in any manner prejudice any consenting party to any subsequent proceedings.

Dated:

Respectfully submitted,

For the Plaintiff:

Joel I. Klein,

Assistant Attorney General.

A. Douglas Melamed,

Principal Deputy Assistant Attorney General.

Rebecca P. Dick,

Deputy Director of Operations.

Donald M. Lyon, *(19207–WA).*

William J. Oberdick, *(2235703–NY)*

Acting Chief, Great Lakes Office.

Attorneys, Antitrust Division, U.S. Department of Justice, Great Lakes Office, 55 Erieview Plaza, Suite 700, Cleveland, Ohio 44114, Telephone: (216) 522–4080.

For the Defendants:

Jerome Emoff, *Esq.*

Tom Paige Catering Co., Inc.

Dennis Haines, *Esq.,*

Valley Foods, Inc.

Final Judgment

Plaintiff, the United States of America, filed its complaint on December 16, 1997. Plaintiff and defendants have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against or an admission by any party to any issue of fact or law. Defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court.

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, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction of the subject matter of this action and of the parties consenting hereto. The complaint states a claim upon which relief may be granted against defendants under Section 1 of the Sherman Act (15 U.S.C. § 1).

II. Definitions

As used in this Final Judgment:

A. ''Bid'' means an offer, proposal, or quotation, formal or informal, oral or written, to a potential buyer or its agent.

B. ''Food service contract'' means any agreement to provide meals to a customer for a period of time, but is not intended to include contracts for the routine purchase of ordinary supplies by the defendants.

C. ''Food service contractor'' means anyone engaged in the business of soliciting and performing food service contracts.

D. ''Person'' means any natural person; public or private corporation, whether or not organized for profit; governmental entity; partnership; association; cooperative; sole proprietorship; or other business or legal entity.

III. Applicability

A. This Final Judgment applies to defendants and to each of their officers, directors, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Each defendant shall require, as a condition of the sale or other disposition of all or substantially all of its assets or stock, that any acquiring party agrees to be bound by the provisions of this Final Judgment and that such agreement be filed with the Court.

IV. Dissolution of Joint Venture

The defendants are hereby ordered and directed to dissolve the joint venture formed by them on April 1, 1994, within seventy five (75) days of the entry of this Final Judgment, and are enjoined and restrained from entering into future joint ventures together for the purpose of bidding on food service contracts.

V. Other Prohibited Conduct

A. Each defendant is hereby enjoined and restrained from agreeing with any other food service contractor to fix, establish, raise, stabilize or maintain prices quoted on food service contracts.

B. Each defendant is further enjoined and restrained from participating in any future discussion with or in the future communicating with any other food service contractor concerning prices quoted on food service contracts.

C. Each defendant is further enjoined and restrained from agreeing with any other food service contractor on customers or territories to be bid for or served.

D. Each defendant is further enjoined and restrained from entering into any agreement with any non-defendant food service contractor regarding food service contracts before notifying the plaintiff.

VI. Compliance Program

Each defendant is ordered to establish and maintain an antitrust compliance program that shall include designating, within thirty (30) days of entry of this Final Judgment, an Antitrust Compliance Officer with responsibility for implementing the antitrust compliance program and achieving full compliance with this Final Judgment. The Antitrust Compliance Officer shall, on a continuing basis, be responsible for the following:

A. Furnishing a copy of this Final Judgment within thirty (30) days of entry of the Final Judgment to each of defendant's officers and directors and each of its employees, salespersons, sales representatives, or agents whose duties include supervisory or direct responsibility for determining the bid prices submitted on food service contracts except for employees whose functions are purely clerical;

B. Distributing in a timely manner a copy of this Final Judgment to any owner, officer, employee or agent who succeeds to a position described in Section VI(A);

C. Providing each person designated in Sections VI(A) or (B) with a written explanation in plain language of this Final Judgment, with examples of conduct prohibited by the Final Judgment, and with instructions that each person designated in Section VI(A) and (B) shall report any known violation of the Final Judgment to the Antitrust Compliance Officer;

D. Arranging for an annual oral briefing to each person designated in Sections VI (A) or (B) on the meaning and requirements of this Final Judgment and the antitrust laws, including the advice that such defendant will make legal advice available to such person regarding any compliance questions or problems, accompanied by a written explanation of the type described in Section VI(C);

E. Obtaining from each person designated in Sections VI(A) or (B) certification that he or she:

(1) has read, understands and agrees to abide by the terms of this Final Judgment;

(2) has been advised of and understands defendant's policy with respect to compliance with the Sherman Act and the Final Judgment;

(3) has been advised and understands that his or her non-compliance with the Final Judgment may result in conviction for criminal contempt of court and imprisonment, a fine, or both; and

(4) is not aware of any violation of the Final Judgment that has not been reported to the Antitrust Compliance Officer.

F. Maintaining (1) a record of all certifications received pursuant to Section VI(E); (2) a file of all documents related to any alleged violation of this Final Judgment; and (3) a record of all communications related to any such violation, that shall identify the date and place of the communication, the person involved, the subject matter of the communication, and the results of any related investigation.

VII. Certification

A. Within seventy five (75) days of the entry of this Final Judgment, each defendant shall certify to plaintiff whether such defendant has (1) designated an Antitrust Compliance Officer; (2) has distributed the Final Judgment in accordance with Section VI(A) and (B) above; and (3) has provided the explanation and instructions in accordance Section VI above.

B. For ten years after the entry of this Final Judgment, on or before its anniversary date, each defendant shall file with the plaintiff an annual statement as to the fact and manner of its compliance with the provisions of Section V and VI.

C. If a defendant's Antitrust Compliance Officer learns of any violation of any of the terms and conditions contained in this Final Judgment, defendant shall immediately notify the plaintiff and forthwith take appropriate action to terminate or modify the activity so as to comply with this Final Judgment.

VIII. Inspection and Compliance

A. For the purpose of determining or securing compliance with this Final Judgment, and for no other purpose, duly authorized representatives of plaintiff, upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant, shall be permitted, subject to any legally recognized privilege:

1. Access during that defendant's office hours to inspect and copy all records and documents in the possession or under the control of that defendant, which may have counsel present, relating to any matters contained in this Final Judgment; and

2. To interview that defendant's officers, employees, and agents, who may have counsel present, regarding any such matters. The interviews shall be subject to defendant's reasonable convenience.

B. Upon the written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division made to a defendant at its principal office, defendant shall submit such written reports, under other if requested, with respect to any of the matters contained in this Final Judgment as may be requested, subject to any legally recognized privilege.

C. No information or documents obtained by the means provided in this Section VIII shall be divulged by any representative of the Department of Justice 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, 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 a defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant 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 ten (10) days' notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding), so that defendant shall have an opportunity to apply to this Court for protection pursuant to Rule 26(c)(7) of the Federal Rules of Civil Procedure.

E. Nothing set forth in this Final Judgment shall prevent the Antitrust Division from utilizing other investigative alternatives, such as Civil Investigative Demand process provided by 15 U.S.C. 1311–1314 or a federal grand jury, to determine if a defendant has complied with this Final Judgment.

IX. Ten-Year Expiration

This Final Judgment will expire on the tenth anniversary of its date of entry.

X. Construction, Enforcement, Modification and Compliance

Jurisdiction is retained by the 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 or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

XI. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: ______.

United States District Judge.

Competitive Impact Statement

Pursuant to Section 2 of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b), the United States files this Competitive Impact Statement relating to the proposed final judgment in *United States* v. *Tom Paige Catering Co. and Valley Foods, Inc.,* submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceedings

On December 16, 1997 the United States filed a civil antitrust complaint under Section 4 of the Sherman Act, as amended, 15 U.S.C. 4, alleging that the above-named defendants combined and conspired to lessen and eliminate competition on food service contracts with the Cleveland, Ohio, Head Start program, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The complaint seeks a judgment by the Court declaring that the defendants engaged in an unlawful combination in restraint of trade in violation of the Sherman Act. It also seeks an order by the Court to enjoin the defendants from any such activities or other activities having a similar purpose or effect in the future.

The United States and defendants have stipulated that the proposed final judgment may be entered after compliance with the APPA, unless the United States withdraws its consent.

The Court's entry of the proposed final judgment will terminate this civil action against these defendants, except that the Court will retain jurisdiction over the matter for possible further proceedings to construe, modify or enforce the judgment, or to punish violations of any of its provisions.

II. Description of the Practices Giving Rise to the Alleged Violations of the Antitrust Laws

Tom Paige Catering (''Paige'') is an Ohio corporation doing business in greater Cleveland, Ohio. Valley Foods, Inc. (''Valley'') is a Ohio corporation with its principal place of business in Youngstown, Ohio. Both Paige and Valley have been engaged in the business of preparing and serving meals on a contract basis.

Since at least 1991, Paige and Valley have bid on contracts for meals to children enrolled in the Cleveland Head Start program. Head Start is a program which provides comprehensive developmental services for low-income, pre-school children, ages three to five, and social services for their families.

The meals for the children enrolled in the program are funded entirely by the federal government through the United States Department of Agriculture. The funds are administered by the State of Ohio's Department of Education and managed, locally, by sponsoring organizations. The Cleveland Head Start program is sponsored by the Council for Economic Opportunity in Greater Cleveland (''CEOGC''), a not for profit organization. The GEOGC solicits bids on contracts for breakfasts, lunches, and snacks for the Head Start program in accordance with regulations promulgated by the United States Department of Agriculture and the State of Ohio. The annual value of these contracts has ranged in recent years from around $300,000 to over $500,000.

Since at least September 1992, Paige and Valley have been the only bidders on the meal contracts with Head Start. Beginning in September of 1994, Paige and Valley bid as a joint venture. The purpose of their joint venture was to illegally end competition between them. This joint venture suppressed and eliminated competition among the defendants in the provision of food service contracts to Head Start and deprived tax payers of free and open competition in the sale of food contracting services to Head Start. After the joint venture began, the cost of meals to Head Start did in fact increase. By way of example, Valley's winning bid in September 1993 included a bid of $1.01 per meal for cold lunches. In 1994, the joint venture obtained $1.70 per meal for cold lunches. It is likely that at least part of the increase in prices was due to lack of competition between Paige and Valley. Paige and Valley's joint venture is a contract, combination, or conspiracy in restraint of trade in violation of 15 U.S.C. 1.

III. Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that a final judgment, in the form filed with the Court, may be entered by the Court at any time after compliance with the APPA, 15 U.S.C. 16(b)–(h). The proposed final judgment provides that the entry of the final judgment does not constitute any evidence against or an admission by any party with respect to any issue of fact or law. Under the provisions of Section 2(e) of the APPA, entry of the proposed final judgment is conditioned upon the Court finding that its entry will be in the public interest.

The proposed final judgment contains three principal forms of relief. First, the defendants are ordered to dissolve the joint venture formed by them on April 1, 1994. Second, the defendants are enjoined from engaging in conduct, either among themselves or with other competitors, that could have similar anticompetitive effects. Third, the proposed final judgment places affirmative obligations on the defendants to pursue a compliance program directed toward avoiding a repetition of their anticompetitive behavior.

A. Prohibited Conduct

Section IV of the proposed final judgment orders the dissolution of the defendants' joint venture. Section V broadly enjoins each defendant from agreeing with other food service contractors to fix prices on food service contracts (V(A)); from participating in any future discussions or communications with other food service contractors regarding the prices quoted on food service contracts (V(B); from entering into territorial or customer allocation agreements with other food service contractors (V(C)); and from entering into any agreements regarding food service contracts with any non-defendant without notifying the United States (V(D)).

B. Defendants' Affirmative Obligations

Section VI requires that within thirty (30) days of entry of the final judgment, each defendant adopt an affirmative compliance program directed toward ensuring that its employees comply with the antitrust laws. More specifically, the program must include the designation of an Antitrust Compliance Officer responsible for compliance with the final judgment, and reporting any violations of its terms. It further requires that each defendant furnish a copy of the final judgment, within sixty (60) days of the date of its entry, to each of its officers and directors and each of its employees who is engaged in or has responsibility for or authority over pricing of food service contracts and to certify within seventy-five (75) days that it has distributed those copies and designated an Antitrust Compliance Officer. Copies of the final judgment also must be distributed to anyone who becomes such an officer, director or employee within thirty (30) days of holding that position and to all such individuals annually.

Furthermore, Section IV requires each defendant to brief each officer, director and employee engaged in or having responsibility over pricing of food service contracts as to the defendant's policy regarding compliance with the Sherman Act and with the final judgment, including the advice that his or her violation of the final judgment could result in a conviction for contempt of court and imprisonment or fine and that the defendant will make legal advice available to such persons regarding compliance questions or problems.

Section VII requires each defendant provide annual certification to the plaintiff of the fact and manner of its compliance. Each defendant annually must obtain (and maintain) certifications from the persons designated in Section VI. Each such person must certify that the aforementioned briefing, advice and copy of the final judgment were received and understood and that he or she is not aware of any violation of the final judgment that has not been reported to the Antitrust Compliance officer.

Under Section VIII of the final judgment, the Justice Department will have access, upon reasonable notice, to each defendant's records and personnel in order to determine compliance with the judgment.

D. Scope of the Proposed Judgment

(1) Persons Bound by the Judgment

The proposed judgment expressly provides in Section III that its provisions apply to each of the defendants, to each of its officers, directors, agents and employees, to each of its subsidiaries, successors and assigns, and to all other persons who receive actual notice of the terms of judgment.

In addition, section III of the judgment prohibits each of the defendants from selling or transferring all or substantially all of its stock or assets unless the acquiring party files with the Court its consent to be bound by the provisions of the judgment.

(2) Duration of the Judgment

Section IX provides that the judgment will expire on the tenth anniversary of its entry.

E. Effect of the Proposed Judgment on Competition

The prohibition terms of Section IV and Section V of the judgment are designed to ensure that each defendant will act independently in determining the prices, and terms and conditions at which it will enter into food service contracts, and that there will be no conspiratorial restraints on the competition for food service contracts. The affirmative obligations of Sections VI and VII are designed to insure that each corporate defendant's employees are aware of their obligations under the

decree in order to avoid a repetition of behavior that occurred limiting competition for food service contracts. Compliance with the proposed judgment will prevent joint ventures that illegally restrict competition or foster price collusion and allocation of sales, markets, and customers by the defendants with each other or between them and other food service contractors.

IV. Remedies Available to Potential Private Plaintiffs

After entry of the proposed final judgment, any potential plaintiff who might have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal and equitable remedies which that person may have had if the proposed judgment had not been entered. The proposed judgment may not be used, however, as *prima facie* evidence in litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

V. Procedures Available for Modification of the Proposed Final Judgment

The proposed final judgment is subject to a stipulation between the government and the defendants which provides that the government may withdraw its consent to the proposed judgment any time before the Court has found that entry of the proposed judgment is in the public interest. By its terms, the proposed judgment provides for the Court's retention of jurisdiction of this action in order to permit any of the parties to apply to the Court for such orders as may be necessary or appropriate for the modification of the final judgment.

As provided by the APPA (15 U.S.C. 16), any person wishing to comment upon the proposed judgment may, for a sixty-day (60) period subsequent to the publishing of this document in the **Federal Register,** submit written comments to the United States Department of Justice, Antitrust Division, Attention: William J. Oberdick, Acting Chief, Great Lakes Office, Plaza 9 Building; 55 Erieview Plaza, Suite 700; Cleveland, Ohio 44114–1816. Such comments and the government's response to them will be filed with the Court and published in the **Federal Register.** The government will evaluate all such comments to determine whether there is any reason for withdrawal of its consent to the proposed judgment.

VI. Alternative to the Proposed Final Judgment

The alternative to the proposed final judgment considered by the Antitrust Division will a full trial of the issues on the merits and on relief. The Division considers the substantive language of the proposed judgment to be of sufficient scope and effectiveness to make litigation on the issues unnecessary, as the judgment provides appropriate relief against the violations alleged in the complaint.

VII. Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Therefore, none are being filed pursuant to the APPA, 15 U.S.C. 16(b).

Respectfully submitted,

Donald M. Lyon (19207–WA)
William J. Oberdick (2235703–NY)
Acting Chief, Great Lakes Office.
Attorneys, Antitrust Division, U.S. Department of Justice, Great Lakes Office, 55 Erieview Plaza, Suite 700, Cleveland, Ohio 44114, Telephone: (216) 552–4080.

[FR Doc. 97–33820 Filed 12–29–97; 8:45 am]
BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities Extension of a Currently Approved Collection; Comment Request

ACTION: Application for Procurement Quota for Controlled Substances.

The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until March 2, 1998.

We are requesting written comments and suggestions from the public and affected agencies concerning the collection of information. Your comments should address one or more of the following four points:

1. Evaluate whether the 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 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.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be directed to Mr. Frank Sapienza, 202–307–7183, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537. If you have additional comments, suggestions, or need a copy of the information collection instrument with instructions, or additional information, please contact Mr. Frank Sapienza.

Additionally, comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530. Additional comments may be submitted to DOJ via facsimile at 202–514–1590.

Overview of this information collection:

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

2. *Title of the Form/Collection:* Application for Procurement Quota for Controlled Substances. Agency form number: DEA Form 250; Applicable component of the Department of Justice sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, Department of Justice.

3. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: None.

Title 21, CFR, 1303.12 requires registered dosage form manufacturers who wish to purchase controlled substances in Schedule II to apply on DEA Form 250 for procurement quotas which limit purchase quantities. The information collected is used for establishing quotas and controlling procurement thereof.

4. *An estimate of the total estimated number of respondents and the amount of time estimated for an average respondent to respond:* 531 respondents at 1 response per year at 1 hour per response.