

which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: February 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3356 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear material of United States origin from Switzerland to the United Kingdom for the purpose of reprocessing. The material consists of 49 irradiated fuel elements containing 15,137 kilograms of uranium enriched to 0.99 percent in U-235, and 139 kilograms of plutonium, from the Beznau nuclear power stations. This subsequent arrangement is designated as RTD/EU (SD)-48.

The Department of Energy has received a letter of assurance from the Government of Switzerland that the recovered uranium and plutonium will not be transferred from the reprocessing site, nor put to any use, without the prior approval of the United States Government.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice, and after fifteen days of continuous session of the Congress,

beginning the day after the date on which the reports required by Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: February 2, 1984.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 84-3357 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER82-481-006]

Arizona Public Service Co.; Refund Report

February 3, 1984.

Take notice that on November 17, 1983, Arizona Public Service Company (Arizona) submitted for filing its refund report, pursuant to a Commission Letter Order of October 4, 1983.

Arizona states that the required refund was forwarded to Colorado River Indiana Irrigation Project (CRIIP).

On December 5, 1983, Arizona submitted for filing a revised refund report. Arizona states and an inadvertent error was in the original refund computations, which omitted appropriate sales tax amounts and applicable interest for the billing months of January 1983 through September 1983.

Arizona further states that a check in the amount of \$2,067.60 was forwarded to CRIIP on December 1, 1983. This amount represents Arizona's additional refund obligation for the sales tax, as well as interest on the difference calculated to the day of the supplement refund (December 1, 1983).

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3433 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-21-001 (PGA84-1, IPR84-1, AP84-1)]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

February 3, 1984.

Take notice that Columbia Gas Transmission Corporation (Columbia) on January 30, 1984, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on March 1, 1984:

Ninety-second Revised Sheet No. 16
Third Revised Sheet Nos. 16B through 16D

Thirty-first Revised Sheet No. 64
Tenth Revised Sheet Nos. 64E through 64I

Columbia states that the rates set forth in Ninety-second Revised Sheet No. 16 reflect a \$1.12 demand decrease and a 11.64¢/dth commodity increase, which results in an approximate increase of \$343,500 applicable to sales rate schedules for the subject PGA period. This reduction is composed of the net of (1) a downward adjustment to Columbia's base sales rates, (2) a Purchased Gas Adjustment which reflects a decrease in the current cost of gas, (3) a net increase in the PGA surcharge, (4) a decrease in the Advance Payment Adjustment, (5) twelve-month surcharge associated with retroactive payments to Columbia's pipeline and producer suppliers, and (6) a six-month surcharge relating to take-or-pay reimbursement to Panhandle Eastern Pipe Line Company.

In addition, the Purchased Gas Surcharge amounts set forth on Third Revised Sheet Nos. 16B through 16D provides for the recovery of \$704,272 in gas purchase costs over the six-month period ending August 31, 1984, such costs to be recovered from customers receiving service under Columbia's Rate Schedule SCES.

Further, Columbia's filing also contains material related to the affiliated entities test contained in section 601(b)(1)(E) of the NGPA. Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3435 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28-003]

**Columbia Gulf Transmission Co.;
Proposed Changes in FERC Gas Tariff**

February 3, 1984.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf), on January 30, 1984, tendered for filing proposed changes to its FERC Gas Tariff as follows:

Original Volume No. 1

First Revised Sheet No. 58
First Revised Sheet No. 117
First Revised Sheet No. 118

Original Volume No. 2

Tenth Revised Sheet No. 72
Tenth Revised Sheet No. 73
Seventh Revised Sheet No. 92
Seventh Revised Sheet No. 93
Seventh Revised Sheet No. 126
Eighth Revised Sheet No. 145
Eighth Revised Sheet No. 146
Seventh Revised Sheet No. 263
Sixth Revised Sheet No. 320
Sixth Revised Sheet No. 337
Sixth Revised Sheet No. 386
Sixth Revised Sheet No. 387
Sixth Revised Sheet No. 440
Sixth Revised Sheet No. 484
Sixth Revised Sheet No. 493
Sixth Revised Sheet No. 567
Sixth Revised Sheet No. 596
Fifth Revised Sheet No. 628
Fifth Revised Sheet No. 750
Fourth Revised Sheet No. 1097
Third Revised Sheet No. 1194
Third Revised Sheet No. 1195
Second Revised Sheet No. 1268
Second Revised Sheet No. 1302
Second Revised Sheet No. 1303
Second Revised Sheet No. 1338
Second Revised Sheet No. 1339
Second Revised Sheet No. 1370
Second Revised Sheet No. 1371
Second Revised Sheet No. 1438
First Revised Sheet No. 1462
First Revised Sheet No. 1521
First Revised Sheet No. 1555
First Revised Sheet No. 1587
First Revised Sheet No. 1588

The revised tariff sheets proposed to become effective March 1, 1984, reflect a reduction in Columbia Gulf's annual

jurisdictional revenues of \$586,449 in compliance with the Commission's Order of October 4, 1983, at Docket No. RP79-28-000 approving the uncontested Stipulation and Agreement of Offshore Construction of Natural Gas Pipelines. The annual reduction to Columbia Gulf's revenues consist of \$467,717 applicable to Columbia Gas Transmission Corporation (Columbia Gas) and \$118,732 to other jurisdictional customers. Columbia Gas will file the annual reduction (\$467,717) to its base rates in their PGA filing on January 30, 1984, with the rates to be effective March 1, 1984.

Copies of this filing are being mailed to each of Columbia Gulf's jurisdictional customers, as well as to each of Columbia Gas' jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3434 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-22-003]

**Consolidated Gas Transmission Corp.;
Proposed Changes in FERC Gas Tariff**

February 3, 1984.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on January 30, 1984, filed revised tariff sheets pursuant to Sections 12 (PGA Clause), 12A (Incremental pricing Surcharges), and 13 (Research, Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff. The revisions, shown on Thirty-Eighth Revised Sheet No. 16 and Tenth Revised Sheet No. 72-C provide for Consolidated's semiannual PGA to be effective March 1, 1984.¹

¹ By order issued December 20, 1983, in Docket No. CP80-346-000, the Commission authorized a

Consolidated has included in its filing:

(a) Rate increases from pipeline suppliers in the amount of \$27.9 million; and

(b) Rate decreases from producer suppliers in the amount of \$12.4 million;

(c) A surcharge of 16.30 cents per dekatherm to recoup amounts accumulated in account 191, Unrecovered Purchased Gas Costs.

Consolidated states that it is continuing to collect the *Mid-Louisiana*² special surcharge which was placed into effect September 1, 1983, and that it has reflected purchases from producers at quantities and prices computed on a "saturated" basis.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3436 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

corporate reorganization by which Consolidated Gas Transmission Corporation succeeds to substantially all of the business and properties of Consolidated Gas Supply Corporation, effective as of January 1, 1984.

Consolidated states that the reorganization is scheduled to be consummated in mid-February, after which Consolidated Gas Transmission Corporation will adopt the tariff of Consolidated Gas Supply Corporation. Although the instant filing is being made by Consolidated Gas Supply Corporation, it is anticipated that it will become effective on March 1, 1984, as part of the tariff (by adoption) of Consolidated Gas Transmission Corporation. Accordingly, the filing reflects Hope Gas, Inc., as a jurisdictional customer of Consolidated, and contains supporting materials bearing the name of Consolidated Gas Transmission Corporation.

² *Public Service Commission of the State of New York vs. Mid-Louisiana Gas Company, et al.* 103 S. Ct. 3024 (June 28, 1983) affirming *Mid-Louisiana Gas Company v. FERC*, 664 F.2d 530 (1981).

[Docket No. ER84-225-000]

El Paso Electric Co.; Filing

February 3, 1984.

The filing Company submits the following:

Take notice that on January 25, 1984, El Paso Electric Company (El Paso) tendered for filing as an initial rate filing, an "Interchange Agreement between El Paso and M-S-R Public Power Company," dated December 30, 1983 (Agreement). El Paso states that this Agreement provides a basis for exchange of energy between parties on a returnable basis and on an economy basis. The Agreement also provides for emergency assistance. El Paso has requested that this Agreement be accepted for filing and made effective on April 1, 1984.

El Paso further states that copies of this filing have been served upon the Public Utility Commission of Texas, the Mexico Public Service Commission, and M-S-R Public Power Agency.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 20, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3437 Filed 3-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER80-315-000 and ER80-450-001]

Kansas City Power & Light Co.; Compliance Filing

February 3, 1984.

Take notice that by letter dated January 19, 1984, Kansas City Power & Light Company (KCPL) submitted for filing its compliance report in compliance with the Commission's Order of March 3, 1983, and in compliance with a letter from the Commission Staff dated December 23, 1983. The report shows that no refunds are owing to any of the customers by virtue of the Commission's Order of

March 3, 1983, as well as the terms of the approved Settlement between KCPL and the customers in Docket No. EL81-11-000 which was previously consolidated with the referenced dockets. KCPL also states that it is seeking Commission or Staff advice as to the proper procedures for recovering from the customers amounts over-refunded to them by KCPL in the referenced dockets and in Docket No. EL81-11-000.

Copies of this filing are being sent to all parties of record.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before February 13, 1984. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3438 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-60-000]

Locust Ridge Gas Co.; Change in Rates

February 3, 1984.

Take notice that on January 31, 1984, Locust Ridge Gas Company (Locust Ridge) submitted for filing as part of its FERC Gas Tariff, Original Volume No. 3 and Original Volume No. 1 and the following tariff sheets to be effective March 1, 1984:

Sixteenth Revised Sheet No. 1A
Ninth Revised Sheet No. 1A

Locust Ridge states the purpose of the filing is to submit, for approval by the Commission, a revision in Locust Ridge's rate to reflect proposed changes in the Purchase Gas Adjustment (PGA) component of Locust Ridge's rate for the period of March 1, 1984, through September 30, 1984. The overall effect of the filed for adjustments to Locust Ridge's sales rate is a decrease of \$0.4924 per MMBTU.

Locust Ridge requests waiver of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1984.

A copy of this filing has been mailed to Locust Ridge's jurisdictional customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E.,

Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3439 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-25-002]

Mississippi River Transmission Corp., Rate Change in Filing

February 3, 1984.

Take notice that on January 30, 1984, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Second Revised sheet No. 4 and First Revised Sheet No. 4A to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of March 1, 1984, is proposed.

Second Revised Sheet No. 4 is being submitted pursuant to Mississippi's gas tariff to track pipeline and producer rate changes and to recover gas costs which have accumulated in Mississippi's Unrecovered Purchased Gas Cost Account. First Revised Sheet No. 4A indicates that Mississippi projects zero incremental pricing surcharges to its direct market and sale for resale customers.

Mississippi states that the overall effect of the purchased gas cost adjustments contained on Second Revised Sheet No. 4 is to increase Mississippi's Rate Schedule CD-1 and CD-2 demand rates by \$1.142 per Mcf and decrease its Rate Schedule CD-1 and CD-2 commodity rates by \$.4312 per Mcf. Appropriate adjustments were also made to Mississippi's Rate Schedule SGS-1 and Rate Schedule PI-1 single part rates. Mississippi states that the annualized cost impact of the pipeline and producer cost changes is an approximate increase of \$.8 million. The increase in purchased gas costs is coupled with a decrease in the Surcharge Adjustments from those previously in effect. The cost impact of the reduced Surcharge Adjustments over the next six month period is an approximate \$15.6 million decrease. It is

claimed that the net effect of the gas cost increases and the Surchage Adjustment reduction over the next six month period is a cost reduction of \$13.6 million.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 13, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3440 Filed 2-7-84; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP83-485-000]

**Texas Gas Transmission Corp.;
Amended Application**

February 2, 1984.

Take notice that on January 27, 1984, Texas Gas Transmission Corporation (Texas Gas) filed an amended application in the above-docketed proceeding concerning its application to transport natural gas to the City of Memphis Light, Gas, and Water Division (MLGW) for delivery to the W. R. Grace (Grace) fertilizer plant located north of the city. This filing is more commonly known as the "AMFEED" application.

Texas Gas proposes in its amendment that the Commission authorize its new "Transportation Program" which would implement, with some modification, the AMFEED program on a system-wide basis to retain load in the Texas Gas system.

Texas Gas would file and place into effect new transportation rates designated the TSC rates. It is equal to the fixed costs component of its presently effective commodity rate per zone. The TSC rate applicable to the zone in which MLGW and Grace are located is the same transportation rate

proposed in the original AMFEED application.

Texas Gas further states that the TSC rates will be available only to those Texas Gas customers subject to its SG, G, CD, or CDL rate schedules and to the extent and only to the extent that Texas Gas performs transportation services for its customers for the ultimate benefit of industrial or large commercial end-users who at the time they begin participating in the Transportation Program, have requirements of at least 3,000 Mcf of gas each month from the customer, and who either (a) have closed wholly or partially, or will close wholly or partially, their existing facilities due to the economics of gas supplies; (b) have switched or will switch from natural gas to alternate fuels to satisfy the requirements of their facility; or; (c) have commenced purchasing, or intend to commence purchasing their gas requirements directly or indirectly from a supplier serving the customer with supplies other than supplies provided by Texas Gas to such customers. It may also be necessary to place a volumetric limitation on the amount of gas transported under the proposed program.

Texas Gas notes that it will retain the revenues realized in connection with the transportation services to be performed under the Transportation Program. Such rate treatment is appropriate under the Transportation Program, since any transportation revenues received will be off-set to revenues from sales that would otherwise have been made.

The implementation of the Transportation Program does not contemplate the release of any volumes of gas partially committed or dedicated to Texas Gas for use in its general system supply. However, Texas Gas seeks only abandonment authority on behalf of its producer-suppliers with respect to certain volumes presently dedicated to Texas Gas which are classified under section 102(d) of the NGPA and, volumes of gas dedicated to Texas Gas which are classified under sections 102(c), 103(c), and 107 of the NGPA which at the time such volumes are released, are priced at or above Texas Gas' then weighted average cost of gas (WACOG). Texas gas requests that the Transportation Program be authorized for a limited term of one year from the date of the order authorizing the implementation of this program.

Any person desiring to be heard or to make any protests with reference to said amended application should on or before February 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to

intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR § 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR § 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-3442 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-45-000]

**Texas Gas Pipe Line Corp.; Proposed
Changes in FERC Gas Tariff**

February 3, 1984.

Take notice that Texas Pipe Line Corporation (TGPLC), on January 31, 1984 tendered for filing proposed changes in its FERC Gas Tariff Second Revised Volume No. 1. The proposed changes would increase revenues, exclusive of purchased gas cost adjustments, from jurisdictional sales and service by \$42,568 based on the 12-month period ending October 31, 1983, as adjusted. TGPLC states that the principal reason for the proposed rate increases are attributable to increased gas costs. Filing for new rates is made pursuant to regulation 154.38 requiring a rate base tariff filing every 36 months maximum.

Copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are now on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 84-3441 Filed 2-7-84; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Central Valley Project Proposed Transmission Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of a Proposed Adjustment in the Rate Schedule for Third Party Transmission—Central Valley Project, California.

SUMMARY: The Western Area Power Administration (Western) is proposing a minor rate adjustment to update and supersede the transmission charges contained in the Central Valley Project (CVP) customers' power sales contracts. Charges and losses assessed for delivery of power by the Pacific Gas and Electric Company (PG&E) at 44-kV or above, within the wheeling area boundary designated by Contract 14-06-200-2948A (Contract 2948A) between PG&E and Western, are included in the CVP wholesale firm power rate. PG&E assesses a higher rate and additional losses for below 44-kV deliveries and also assesses different charges and losses for deliveries that are outside the Contract 2948A wheeling area boundary. Western proposes to bill those CVP customers whose power is wheeled by PG&E and delivered at below 44-kV, or delivered outside of the wheeling area boundary, for all costs greater than the charges and losses associated with the 44-kV or above deliveries within the wheeling area boundary.

DATE: All comments are due within 30 days after the publication of this notice in the *Federal Register*. Since this is a minor rate adjustment as defined by the "Procedures for Public Participation in Power and Transmission Rate Adjustments and Extensions for the Alaska, Southeastern, Southwestern, and Western Area Power Administrations," 10 CFR 903, there will be no formal public information/comment forums.

ADDRESS: For further information contact: Mr. David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484-4251.

SUPPLEMENTARY INFORMATION: Contract 2948A provides that PG&E will wheel CVP power over PG&E's transmission

system from Tracy Substation, which is designated as load center to the customers' delivery points. The contract stipulates that higher rates and additional losses will be charged for below 44-kV transmission service, than for service at or above 44-kV. At the time Contract 2948A was executed, the Bureau of Reclamation (and later Western) policy regarding repayment of transmission costs was to include in the wholesale firm power rates the 1 mill per kWh wheeling cost and 5 percent losses associated with at or above 44-kV service. The policy for repayment of below 44-kV service was to bill below 44-kV customers all additional costs and losses associated with below 44-kV service. The transmission charges incorporated in the CVP contracts reflect this policy.

In setting the wholesale firm power rates since 1979, Western has included in those rates the costs charged by PG&E for providing at or above 44-kV transmission service. The proposed transmission rate schedule will establish Western's practice with regard to passing on the transmission costs related to the below 44-kV service to the below 44-kV customers.

In 1967, the transmission rates charged by PG&E for wheeling to customers within the Contract 2948A wheeling area boundary were set at 1 mill per kWh for deliveries at 44-kV or above and 1 mill per kWh plus \$.22 per kW-month for below 44-kV deliveries. Under article 32 of Contract 2948A, the rates could be adjusted at 5-year intervals starting on April 1, 1971. Losses of 5 percent for 44-kV or above deliveries and 9 percent for below 44-kV deliveries were set in 1967 and were changed in 1971 to 4.5 percent and 8 percent, respectively. In 1976, PG&E proposed to change the wheeling charges to 1.7 mills per kWh for 44-kV or above deliveries and 3.9 mills per kWh for below 44-kV deliveries. No changes in losses were proposed. These proposed charges were opposed by the Bureau of Reclamation (and later Western) and the CVP customers. Since a settlement of these rates was not approved, the matter was set for hearing (docket No. ER76-532) before the Federal Power Commission, now the Federal Energy Regulatory Commission (FERC). The Federal Power Commission allowed the rates to go into effect on April 1, 1976, subject to refund.

By Opinion No. 143 issued August 16, 1982 (20 FERC ¶ 61,190), as modified by Opinion No. 143-A issued November 22, 1982 (21 FERC ¶ 61,115), the FERC ordered the 1976 to 1981 transmission rates for wheeling CVP power over the PG&E transmission system to be 1.7

mills per kWh for 44-kV or above deliveries and 1.7 mills per kWh plus \$.75 per kW-month for below 44-kV deliveries. The costs of the 44-kV or above deliveries and associated losses are included in the current CVP power rates. The \$.75 per kW-month charge was billed to the below 44-kV customers effective January 1, 1983. This charge had previously been \$.22 per kW-month. Those costs not recovered from the below 44-kV customers are incorporated in the current CVP power rates.

On August 17, 1982, as completed October 15, 1982, PG&E filed with the FERC (docket No. ER82-729-000) new transmission rates for the December 1982 to April 1986 period. PG&E proposed to increase revenues for transmission service for customers receiving CVP power in two steps (Phase I and Phase II). The Phase I rates would increase revenues by about \$5.5 million, and the Phase II by an additional \$2 million. Western filed a motion to intervene, as did the Northern California Power Agency and its members, the Sacramento Municipal Utility District, certain irrigation districts which are CVP commercial power customers, and the Department of Energy (DOE) laboratories in the CVP service area. In its Order of December 14, 1982 (21 FERC ¶ 61,296), the FERC allowed the Phase I rates to become effective on December 16, 1982, subject to refund. These rates were \$1.354 per kW-month for 44-kV or above and \$2.470 per kW-month for below 44-kV service. The Phase II rates were \$1.551 per kW-month for 44-kV or above and \$2.841 per kW-month for below 44-kV service. FERC allowed the Phase II rates to go into effect on May 16, 1983, subject to refund. Because Western intervened to protest these rate increases, the \$.75 per kW-month charge billed to the below 44-kV customers was not increased by Western to reflect these new rates.

A Settlement Agreement resolving FERC docket No. ER82-729-000 was signed August 5, 1983, between PG&E and Western, settling the dispute over these Phase I and II rates. FERC approved this settlement on December 21, 1983. The settlement states that the Phase I rates would be effective from December 16, 1982, to July 31, 1983, and that effective August 1, 1983, the new transmission rates would be \$1.275 per kW-month for 44-kV or above deliveries and \$2.335 per kW-month for below 44-kV deliveries. The settlement rates are lower than the Phase I rates; however, the Phase I rate differential of \$1.102 per kW-month for below 44-kV service was

never billed from Western to the CVP customers, and Western will not bill retroactively for the Phase I rate. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western will bill the below 44-kV customers \$1.06 per kW-month for the additional cost incurred from PG&E to deliver to the below 44-kV customers. (The \$1.06 is the difference between the at or above 44-kV charge of \$1.275 per kW-month and the below 44-kV charge of \$2.335 per kW-month.)

Also effective January 1, 1984, the 5-percent charge for transmission system losses previously included in the wholesale firm power rate will be reduced to 4.5 percent to reflect the current amounts assessed by PG&E in the delivery of all capacity and energy at 44-kV or above within the wheeling area boundary. Those losses above 4.5 percent incurred for the below 44-kV deliveries will be billed on the monthly charge to the below 44-kV customers. The loss factor for the below 44-kV deliveries will be changed from the existing 3 percent that is added to the bill to 3.5 percent. This will then reflect the current loss assessment of 4.5 and 8 percent incurred by the CVP from PG&E for wheeling power over its system with the wheeling area boundary.

In January 1980, Western increased the customer load level by 102 MW and certain entities outside the Contract 2948A wheeling area became eligible to receive CVP power. Like the entities within the Contract 2948A wheeling area boundary, PG&E bills Western for wheeling CVP power over its transmission system from the load center at Tracy to the delivery point. The wheeling rates and amounts of losses charged by PG&E depend upon whether the service received is 44-kV or above or below 44-kV. Since the delivery outside the Contract 2948A wheeling area boundary is provided under separate contracts, the wheeling rates and loss amounts are not likely to be the same as for those entities within the boundary and may vary from one entity to another outside the boundary. Effective the first full billing month (January 1984) after the FERC approval of the settlement, Western will pass through all costs greater than the \$1.275 per kW-month and 4.5-percent losses to the outside the boundary customers. The out-of-boundary transmission costs that were incurred prior to the approval of this procedure will not be retroactively billed to the out-of-boundary customers. Those costs, along with the below 44-kV charges not retroactively billed to the

within-the-boundary customers, will be recovered in the wholesale firm power rate.

The charges and losses contained in the preceding paragraphs for absorbing the \$1.275 per kW-month and 4.5 percent losses in the wholesale firm power rate and passing through to the below 44-kV customers, or outside the Contract 2948A wheeling area customers, the additional costs and losses associated with those deliveries may change periodically. However, before the charges or losses are changed in the customer bill, the FERC, the CVP, and the CVP customers will have an opportunity to review these changes as transmission rates and losses must be filed by PG&E with the FERC before they become effective.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*), each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the CVP relates to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate is of limited applicability and is being set in accordance with Contract 2948A and FERC Order, Western believes that no flexibility analysis is required.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of that Order. In addition, Western has received an exemption from sections 3, 4, and 7 of Executive Order 12291, and therefore, will not prepare a Regulatory Impact Statement.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 and the DOE guidelines published in the Federal Register on February 23, 1982 (47 FR 7975), Western conducts environmental evaluations of certain rate and allocation actions. Under the DOE regulations, Western has made an evaluation of the possible environmental impacts of the proposed change in the CVP transmission rate schedule. A memorandum was signed October 5, 1983, documenting that the proposed action will clearly have no significant environmental effects.

Availability of Information

All brochures, studies, comments, letters, memorandums, and other documents made or kept by Western for the purpose of developing the proposed rate are and will be available for inspection and copying at the Sacramento Area Office, Western Area Power Administration, 2800 Cottage Way, Sacramento, CA 95825, (916) 484-4251.

Issued in Golden, Colorado, January 27, 1984.

Robert L. McPhail,
Administrator.

Schedule of Transmission Rates

Effective: January 1, 1983.

Available: In the area served by the Central Valley Project (CVP).

Applicable: To customers of the CVP who require transmission service to receive power and energy sold by Western.

Character and Conditions of Service: Transmission service for three-phase alternating current at 60 hertz, delivered and metered at the voltages and points specified in the service contract.

Monthly Rate: When the United States utilizes transmission facilities other than its own in providing service under a customer's power sales contract, and costs are incurred by the United States for the use of such facilities.

1. The customer:

(a) shall pay that portion of such costs, including transmission losses, which are in excess of the at or above 44-kV customers' transmission charge and in excess of the at or above 44-kV customers' transmission losses specified by Contract 14-06-200-2948A incurred in the delivery of,

(i) all power up to the number of kilowatts on which the demand or capacity applies; and

(ii) all energy up to the amount equal to the number of kilowatt-hours on which the energy charge applies; and

(b) Shall pay all such costs, including transmission energy losses incurred in the delivery of all energy (including secondary and dump energy) in excess of the amount stated in (a) of this rate schedule.

2. The transmission losses chargeable to the customer shall, for billing purposes, be added to the meter readings of the power and energy delivered to the customer under the customer's power sales contract with the United States.

Minimum Bill: None.

Adjustments: None.

[FR Doc. 84-3358 Filed 2-7-84; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-62004A; PH-FRL 2520-6]

Applications to Use Sodium Fluoroacetate (Compound 1080) to Control Predators; Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 31, 1983, a final decision concerning pesticide registration applications to use sodium fluoroacetate (Compound 1080) to control predators was issued by the Agency. The final decision is reprinted in its entirety in this notice.

FOR FURTHER INFORMATION CONTACT:

By mail: Walter Waldrop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7400).

SUPPLEMENTARY INFORMATION: Lee Thomas, Assistant Administrator for Solid Waste and Emergency Response, issued the final decision on the predacide uses of Compound 1080. Mr. Thomas was acting on behalf of the Administrator, William D. Ruckelshaus, who recused himself from consideration in this matter on July 18, 1983. A final decision by the Administrator's designee, Mr. Thomas, was made necessary because several parties to formal adjudicatory hearings on the predacide uses of Compound 1080 appealed the initial findings of Administrative Law Judge Spencer Nissen. Judge Nissen presided over these formal hearings, which were announced in the *Federal Register* of December 7, 1981 (46 FR 59622), and which were concluded in August of 1982. Judge Nissen, who issued his initial findings on October 22, 1982, found that registrants could apply for registration of the toxic collar and the single lethal dose bait delivery mechanisms. He denied applications for the large bait station and the smear post. Administrator Thomas affirmed Judge Nissen's position regarding the denial of registration for the large bait station and the smear post and registration of the toxic collar. He also affirmed, with modification, Judge Nissen's finding on the single lethal dose baits. This

modification requires that users of Compound 1080 single lethal dose baits (Federal and State employees) complete a special Federal certification program before they are allowed to use the baits. The decision follows.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Before the Administrator

[FIFRA Docket No. 502]

In the Matter of Notice of Hearing on the Applications to Use Sodium Fluoroacetate (Compound 1080) to Control Predators.

Final Decision

This matter is before me pursuant to exceptions taken by numerous parties to Judge Spencer Nissen's October 22, 1982 Initial Decision, in which he granted applications for registration of sodium fluoroacetate (Compound 1080) for certain anti-predator uses. Judge Nissen granted applications which would allow the use of Compound 1080 in toxic collars and, subject to stringent restrictions, in single lethal dose baits. He dismissed applications to allow use of Compound 1080 in large bait stations and smear posts. Under the authority of 40 CFR Part 164, which establishes the Rules of Practice governing hearings under the Federal Insecticide, Fungicide and Rodenticide Act, this action is before the Administrator on exceptions taken to Judge Nissen's decision. On July 18, 1983, Administrator Ruckelshaus recused himself from consideration of this matter and designated me to rule on the exceptions. I have the authority to make the final Agency decision in this matter, including ruling on any exceptions filed by the parties, and even those matters to which no party has taken issue with Judge Nissen's decision. The Initial Decision is hereby affirmed with respect to the toxic collar, large bait station and smear post, and affirmed as modified herein with respect to the single lethal dose bait.

Procedural Background

On March 9, 1972 Administrator Ruckelshaus suspended and cancelled the registration of several poisons, including Compound 1080, as mammalian predacides, finding that the use of Compound 1080 against predators constituted an imminent hazard. After receiving a number of applications to register a variety of antipredator uses involving Compound 1080, including applications for emergency exemptions pursuant to FIFRA section 18 (Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 152), and after holding information-gathering hearings in July

1981, Administrator Gorsuch announced on December 7, 1981 that substantial new evidence was available to warrant reconsideration of the 1972 suspension/cancellation, and ordered hearings scheduled pursuant to subpart D of EPA's Rules of Practice. 46 FR 59622; 40 CFR 164.130 through 164.133. She specified seven issue areas to aid in determining the ultimate issues—whether substantial new evidence exists, based on the hearing record, to require reversal or modification of the 1972 suspension and cancellation order. Hearings were held in Washington, D.C.; San Angelo, Texas; and Denver, Colorado beginning on March 30, 1982 and ending on August 6, 1982. Well over 20,000 pages in hearing testimony and exhibits were generated with dozens of parties actively participating in the proceeding. Over 90 witnesses testified. Following Judge Nissen's October 22, 1982 decision allowing Compound 1080 use in the toxic collar and the single lethal dose bait, and denying the applications for such use in the large bait station and smear post, exceptions were filed on November 12, 1982 by Defenders of Wildlife, et al.,¹ the State of Wyoming,² et al., the State of South Dakota,³ the United States Department of the Interior, the United States Department of Agriculture and the National Wildlife Federation. The Defenders of Wildlife (Defenders) took exception to Judge Nissen's granting the applications for use of the toxic collar and single lethal dose bait. Wyoming took exception to Judge Nissen's denial of the applications for the large bait station and the smear post, and to a number of the restrictions imposed by Judge Nissen on the single lethal dose bait. The United States Department of Interior's Fish Wildlife Service (FWS) took exception to a number of the

¹ The Defenders of Wildlife, et al. are a coalition of opponents to Compound 1080 reregistration. They are: Defenders of Wildlife, National Audubon Society, Humane Society of the United States, American Humane Association, Animal Protection Institute of America, National Parks and Conservation Association, Animal Welfare Institute, Fund for Animals, National Resources Defense Council, Inc., The Sierra Club, Friends of the Earth, and the Environmental Defense Fund.

² The State of Wyoming, et al. are a coalition of proponents of Compound 1080 reregistration. They are: State of Wyoming, Colorado Department of Agriculture, Missouri Department of Agriculture, Oregon Department of Agriculture, West Virginia Commissioner of Agriculture, Zuni Tribe, National Cattlemen's Association (and 37 State associations), National Woolgrower's Association (and 13 State associations), Public Land Council and nine individuals.

³ The State of South Dakota filed its exceptions in an untimely matter. However, since its exceptions only were an adoption of the State of Wyoming, et al. exceptions, I will accept their filing.

restrictions on the single lethal dose bait as did the U.S. Department of Agriculture (USDA), which also briefly excepted to the Judge's denial of large bait station use under limited conditions. South Dakota endorsed Wyoming's exceptions while the National Wildlife Federation generally endorsed those of Defenders. The U.S. Environmental Protection Agency's Office of Pesticides and Toxic Substances filed a brief asking for affirmance of Judge Nissen's decision, with some suggested modifications to further restrict single lethal dose bait uses. Exceptions were taken to most of Judge Nissen's findings on the nonultimate issues—such as the extent of predation and feasibility of alternate means of predator control.⁴

Legal Background

No pesticide may be distributed, sold or otherwise placed in commerce unless it has been registered under section 3 of FIFRA. When a pesticide has been suspended or cancelled, as is the case with Compound 1080, any application to allow its use constitutes a petition for reconsideration of the cancellation or suspension order and is governed by 40 CFR 164 Subpart D. Following the requirements of 40 CFR 164.131, Administrator Gorsuch reviewed the applications for registration of Compound 1080 for use in the large bait station, single lethal dose bait, toxic collar and smear post, including supporting data provided by applicants and developed during information-gathering hearings in July 1981, as well as information from other sources, and determined that substantial new evidence existed to justify reconsideration of the Agency's 1972 decision. 46 FR 59622 et seq., December 7, 1981. She also determined that "such evidence could not, through the exercise of due diligence, have been discovered by the parties to the cancellation or suspension proceeding prior to the issuance of the" 1972 order. 40 CFR

164.131(a). She accordingly announced these hearings.

The regulations make it clear that the burden of proof in these hearings was on the applicants for reconsideration of the 1972 order. 40 CFR 164.132(a). The ultimate issue at hearing is whether applicants can meet the burden of proving that, for each proposed use, substantial new evidence exists requiring reversal or modification of the 1972 cancellation/suspension order. As the regulations make clear, "the determination of these issues shall be made taking into account the human and environmental risks found by the Administrator in his cancellation or suspension determination and the cumulative effect of all past and present uses, involving the requested use, and uses which may reasonably be anticipated to occur in the future as a result of granting the requested reversal or modification." 40 CFR 164.132(b).

The meaning of the "substantial new evidence" standard was the subject of much discourse throughout this proceeding. Essentially, Defenders argued that the standard prevents looking at any information which was available prior to the 1972 order, while Wyoming argued for a system where certain pre-1972 information would be examined. Judge Nissen followed the standard adopted by the Administrator in a 1975 proceeding (Applications to Register Sodium Cyanide for Use in the M-44 Device to Control Predators, FIFRA Docket No. 382, September 16, 1975), which held, in essence, that the mere fact that evidence was not new did not render it inadmissible. Judge Nissen pertinently pointed out that while the validity of the 1972 orders is not an issue here (See *Wyoming v. Hathaway*, 525 F.2d 66 (10th Cir. 1975) *cert. den.* 426 U.S. 906 (1976)), this proceeding is in fact one of reconsideration and that it would be quite difficult to evaluate whether an order should be modified or reversed based on substantial new evidence without comparing it with the evidence available to the Administrator in 1972. I agree with Judge Nissen's interpretation.

In the course of Judge Nissen's decision, he made over 250 findings of fact. I find no need to specifically discuss each of his findings in rendering this decision on appeal. These findings not modified, contradicted or reversed are adopted by me.⁵

⁵ "There is no authority which precludes an appellate administrative tribunal from affirming the findings of a subordinate board without restatement." *United State v. Orr*, 474 F. 2d 1365, 1369 (2d Cir. 1973). Thus, it has been held that "where the (Interstate Commerce) Commission finds no material error in the statement of facts and conclusions thereon by the hearing examiner, it is

Discussion of Exceptions

In order to assist in my determination of whether to modify or overturn the 1972 ban on Compound 1080, the Administrative Law Judge was asked to make findings on a number of issues, so that all relevant information concerning the risks and benefits of Compound 1080 use would be in the record. Thus, the Administrative Law Judge was asked to make determinations concerning the impact of predation on the livestock industry, the alternatives to Compound 1080 use, the economic impact of predation and how Compound 1080 might affect the economics of the livestock industry, and the environmental and human safety of Compound 1080, both in an absolute sense and in its proposed uses. The Judge was also asked to make determinations concerning the specific proposed uses of Compound 1080, particularly with regard to efficacy, the potential hazards/benefits created by these uses, and what restrictions, if any, should be imposed on these uses, assuming I should decide to modify or reverse the 1972 ban.

Predation and the Livestock Industry

From the early 1940s to the late 1970s sheep raising, as an industry, sharply declined in the United States. This decline, which continued apparently unaffected by the availability of Compound 1080, appeared to end in 1978 when the sheep population had decreased to approximately 12.2 million, down from its high of over 56.6 million in 1942. This decline is attributable to a number of factors, including a switch in consumer meat preferences; the relatively high cost of lamb; the relatively low cost, in terms of labor, of raising cattle; competition from overseas; competition from synthetic fibers, lack of available help; and predation. Since 1978, sheep numbers have increased, and the general condition of the sheep-raising industry has improved.

Coyotes, along with feral dogs, are the leading cause of predation losses in the

⁴ Wyoming, when filing its exceptions and supporting brief, also requested oral argument pursuant to 40 CFR 164.101(c)(1). Given the large size of the record in this proceeding, including extensive briefs and proposed findings on every issue presented for review, I do not feel that oral argument would be helpful and accordingly deny Wyoming's Motion.

Two other motions were made during the course of this appeal. Wyoming moved to strike a portion of Defenders' Brief in Response to Exceptions for implicitly accusing Wyoming of "attempt[ing] to perpetrate a fraud upon the Administrator." I find the motion to be without basis, and it is hereby denied. USDA moved that I "Disregard" a portion of Defenders' Brief in Response to Exceptions for not accurately representing the record before Judge Nissen. This motion is essentially an attempt to file a short "rebuttal" brief and is denied.

not required to prepare a detailed report as its own . . ." *Carolina Freight Carriers Corporation v. United States*, 323 F. Supp. 1290, 1296 (W.D.N.C. 1971). "No more is required [citations omitted]." *NLRB v. Process Corp.*, 412 F. 2d 215, 217 (7th Cir. 1969). *Accord: General Motors Corporation v. United States*, 33 Ad.L.2d 278, 280-283 (F.D. Mich. 1973); *Borek Motor Sales, Inc. v. NLRB*, 425 F. 2d 1312 (7th Cir. 1970); *American President Lines, Ltd. v. NLRB*, 340 F. 2d 490, 492 (9th Cir. 1965); *In Re Shell Oil Company, et al.* at 2-3, FIFRA Docket Nos. 401, et al. (Denial of Motion for Reconsideration, dated June 6, 1979); *Dibromochloropropane (DBCP) proceeding*, FIFRA Docket No. 485 (Final Decision, November 9, 1979).

sheep and goat industry. On the other hand, coyotes are very useful to many farmers and ranchers, as well as to the public at large. Coyotes play a very important role in the ecosystem for their ability to prey on crop-destroying jackrabbits and numerous other small nuisance animals. In addition, the hunting of coyotes for pelts, particularly in winter, has become a lucrative industry.

One of the principal issues raised in the course of this proceeding was the extent to which predation is really a problem for the sheep industry. In the 1972 ban order, Administrator Ruckelshaus found that "certain data that are presently available indicate predator losses may in fact be of such a low magnitude as to be a minor part of total losses." The applicants urged that this conclusion in 1972 was incorrect, and that in any event predation had drastically increased since the 1972 Compound 1080 ban. Opponents of reregistration contended that this conclusion concerning predation losses in 1972 was correct and, in any event, predation losses have gone down since 1972. Judge Nissen held that predation was not that serious a problem to the sheep industry as a whole, that lamb losses to predators as a percentage of all losses have not increased since 1972, but that coyote predation certainly is "a very serious problem" for certain individual producers. The Judge further found that predation losses to goats and cattle have increased somewhat since 1972. The State of Wyoming took exception to Judge Nissen's finding that sheep and lamb losses to predators have not increased since 1972.

Many witnesses testified as to a great number of studies, both pre-1972 and post-1972, from general surveys to in-depth multi-year studies at certain ranches, on the extent of predation. Upon sifting through the mass of statistical data on predation, Judge Nissen concluded that only a minority of sheep and lamb ranches were suffering high predation losses. He further found that lamb losses to predators as a percent of losses to all causes have not increased since 1972 and, in fact, apparently have declined since 1978.⁶ While he also found that predator losses of calves and goats have increased since 1972, looking at the whole of the evidence, I cannot say that applicants have met their burden of showing any

overall increase in livestock predation since the 1972 ban.

This finding does not end the matter, however. While predation may not have significantly increased, if it has increased at all, there is no question that it is a significant problem to many sheep ranchers. The record is replete with references to devastating losses suffered by many individual ranchers as a result of coyote predation. Many ranchers testified firsthand about their experiences, often unsuccessful, in dealing with coyote predation. There is no doubt that coyote predation has driven many ranchers out of the sheep business. I find that many ranchers are suffering "excessive" predation, and that no party seriously disputed that a "killer" coyote should, in fact, be killed. Thus, the real concern to me regarding predation losses is whether Compound 1080 can be safely used to control predation losses of those ranchers who are suffering losses to coyotes, assuming no feasible alternative control measures are available.

Alternatives to 1080

In enacting the 1972 ban, the Administrator relied heavily on the alleged availability of "effective" non-chemical alternatives to Compound 1080, for the maintenance of predator control programs. The 1972 decision further relied on a commitment by the Federal Government to conduct research into methods of controlling predators by means other than the use of poisons. In the December 7, 1981 notice, one of the issues set for hearing was whether certain alternatives to Compound 1080 were generally effective in reducing predation. Applicants for Compound 1080 usage recognized that Compound 1080 is but one of a great variety of means available for predator control and that it should be used, when needed, in conjunction with one or more other alternative means. Defenders excepted to that portion of Judge Nissen's findings concerning the effectiveness of these alternatives and argued that the evidence indicated that the alternatives, in combination, were effective. While a number of the alternatives are useful and effective, they are not all consistently effective and economically feasible for many livestock raising situations. Briefly, the principal lethal means of controlling coyote predation are trapping, snaring, aerial hunting, calling and shooting, denning, and the use of legal poisons (the M-44 device). Trapping and snaring, two of the traditional tools of hunters, are not very selective in that they often catch other than the desired prey. In

addition, they require a good deal of labor to set and check, they are often rendered inoperative by weather and other conditions, and there is evidence that coyotes become "trap-wise" with the passage of time. Calling and shooting is the means by which coyotes are often hunted by rifle from the ground. It is very selective in that there is little danger in catching an animal other than the coyote, but it is somewhat labor intensive. Aerial hunting, either by helicopter or fixed-wing aircraft is very selective towards coyotes, but is useful only for certain topographical and climatic conditions—being more effective in open country with heavy snow cover. Aerial hunting is also extremely expensive and presents significant human hazard, with a number of deaths and serious injuries resulting from plane crashes. The M-44, a device which uses sodium cyanide, is quite selective but is very unreliable mechanically. Denning involves finding the den or a litter of coyote pups and/or the mating pair. It is a very difficult and time consuming process. While these techniques do much to prevent predation, they are by no means sufficient to prevent all predation, or even excessive predation in particular locations.

The anticipated studies referred to in the 1972 ban concerning the development of methods of controlling predators other than the use of poisons, dealt with a variety of non-lethal means to prevent predation. Substantial resources were devoted to the study of taste aversion, principally with the chemical lithium chloride as the aversive agent. The theory is that coyotes eating meat containing lithium chloride would become violently ill and no longer kill or eat sheep or lambs. I am not convinced that the effectiveness of aversive conditioning has been established. Similarly, the use of other chemicals, including diethylstilbestrol as an anti-fertility agent, or various chemical repellants, in addition to mechanical repellants such as the use of sound and light, have not been shown to be an effective method of deterring or controlling predation.

Perhaps the most successful non-lethal means of preventing predation are more aptly characterized as animal husbandry techniques. I believe the single most effective technique is shed lambing, whereby sheep drop their lambs in enclosed facilities rather than outdoors or on the open range. This is extremely successful in preventing predation on newborn lambs and is used generally in the farm flock situation. Unfortunately, it does not lend itself to

⁶ The Gee Study, Sheep and Lamb Losses to Predators and Other Causes in the Western United States, which Judge Nissen found overestimated sheep and lamb losses, showed that 45% of survey respondents suffered no lamb predation, that 67% had no sheep predation, and that only a small percentage suffered high rates of predation.

the range lambing situation, since the ewes give birth many miles from the home ranch. Corraling livestock at night is also somewhat successful in reducing coyote predation, but is costly in terms of time and is also not appropriate to the range flock situation.

Another husbandry alternative involved the use of fencing. The evidence showed that electric fencing is very effective, under proper terrain conditions, in preventing or reducing coyote predation. However, it is costly to build and maintain, is not very useful in heavy shrubbery or hilly situations, and would be prohibitively expensive on range land.

Another closely examined alternative was the use of guard dogs. The evidence showed that certain breeds of dogs are very useful in guarding livestock against predation. However, guard dogs are quite expensive and are not very useful until they are about 18-24 months of age, and have been trained extensively. On numerous occasions, guard dogs have attacked the very livestock they were supposed to guard. It is very questionable whether guard dogs have much utility in the open range, since the guard dogs' sense of territoriality is one of the characteristics that make them useful.

The shortage of good farm labor is also a major contributing factor to the difficulty of controlling predation. In particular, good herders are extremely important in preventing predation, but are very difficult to find due to the general availability of higher paying jobs in other areas, and the very lonely lifestyle of a herder.

While there are thus many alternative measures available to control coyote predation on livestock, the evidence establishes that for some ranching conditions, particularly in the open range, these alternatives are not feasible. Thus, there are certain situations where there are no currently available satisfactory alternatives to Compound 1080 for the control of coyote predation.

Economics of Predation

Judge Nissen's examination of the effects of predation on the livestock industry and the general economy, and the potential impact of Compound 1080 on profits of individual ranchers in the livestock industry, produced a wide range of testimony. While not everyone agreed that predation losses resulted in an overall adverse economic impact, the evidence is clear that those ranchers who suffered heavily from predation were affected severely.

Hazards of Compound 1080

A major motivation prompting issuance of the 1972 ban was the perceived hazards created by the use of Compound 1080. Of particular concern were the possible Compound 1080 poisonings of numerous non-target animals, as well as potential human hazard. A vast amount of expert testimony was received on these issues.

Compound 1080 is extremely poisonous and toxic to all animals. It is a white power soluble in water, and is very stable. However the amount of Compound 1080 needed to cause various non-lethal and lethal effects varies greatly from species to species. While there was some dispute as to the validity of the evidence concerning the various LD₅₀ and LD₁₀₀ values for various species (LD₅₀ is a dose of Compound 1080 which is lethal to 50% of those receiving that dose; LD₁₀₀ is a dose lethal to 100% of those receiving that dose), the evidence very clearly indicates that canines are far more sensitive to Compound 1080 than virtually any other species, including most wildlife and humans. The problem is in assuring that the target animal—here the coyote and/or the feral dog—is the only animal harmed by Compound 1080, and that no other environmental or human hazards are created.

Compound 1080 kills by disrupting the Krebs cycle. Very briefly, the Compound 1080 is metabolized into sodium fluorocitrate which inhibits the activity of the enzyme aconitase, causing the blocking of the Krebs cycle, which is essentially the energy producing process for cells. The cells die, causing over a few hours loss of cardiac or respiratory function, and death. Some experiments with sub-lethal doses of fluorocitrate have indicated kidney damage and growth problems from which the animals, principally rats, were able to totally or substantially recover. In some tests, sub-lethal doses accumulated to lethal levels, while in others animals developed an increased tolerance over time. Compound 1080 can be absorbed through open wounds, but ingestion through the gastrointestinal tract is by far the most likely means of exposure.

Whether, and to what extent, primary or secondary poisoning of non-target animals will occur from the various proposed uses of Compound 1080, was one of the principal concerns in 1972, and remains so today. By "primary" non-target poisoning, I refer to the potential hazard to a non-target animal from directly eating any bait containing Compound 1080. By "secondary" non-target poisoning, I refer to the potential hazard to an animal scavenging the

corpse of a target animal that has been poisoned by Compound 1080. One of the difficulties throughout this proceeding relates to the delay between ingestion of Compound 1080, the eventual onset of symptoms of Compound 1080 poisoning, and death. The evidence showed that two-and-a-half to five hours was a normal period between ingestion of a lethal dose by a coyote and its death, and that for all animals this time period is measured in hours. Since the poisoned animal can travel a long way in the period of several hours, whether by land or, in the case of a scavenging bird, by air, an extremely small number of animals estimated to have been killed by Compound 1080—both target and non-target—are ever found. This problem is compounded by the tendency of wildlife to hide when they become aware that death is approaching. The fact is, whenever we talk about target or non-target Compound 1080 losses, we are to a large extent indulging in a guessing game where we can never know for sure the right answer. I do find that with the large bait station, the risk to non-target animals is greater than the possible benefits from its use warrants. (For more detailed discussion of the large bait station and other delivery systems, see below.) Indeed, the death of several eagles and a California condor brought the Compound 1080 issue to a head in 1972. When the large bait station—100 pounds of horse or sheep carcass injected with a solution of 1.6 grams of Compound 1080—is properly used, it is frozen solid. There are few animals—the coyote among them—which can feed on a bait in this frozen condition, reducing potential non-target exposure. However, with occasional winter thaws and the onset of warm weather in general, the large bait station may be scavenged by a great variety of creatures. Even though, due to the difference in doses necessary to cause death, it takes four to sixteen ounces of properly dosed bait to kill an eagle, while only an ounce or two will kill a coyote, an eagle eats two pounds of food per day. Thus, a hungry eagle or other non-target bird, coming upon a 1080 large bait station that is not frozen solid, can easily consume a fatal dose. Since the effects of Compound 1080 poisoning will not manifest themselves for a considerable period of time, the chances of ever actually finding an eagle or other bird that has consumed a fatal dose are remote. Similar logic applies to other animals. On the other hand, it is clear that a single lethal dose bait will not kill an eagle, or for that matter, most non-canine species. (Single lethal dose baits are discussed in more detail

below.) Unless Compound 1080 can be used in a way to avoid non-target exposure, there will be a very real primary non-target poisoning hazard.

It now appears that the potential hazard from secondary poisoning from Compound 1080 was overestimated in 1972. A great variety of experiments that were described at the hearing indicated that it is very difficult even to induce such poisoning, under test conditions, in a variety of species. The Judge's finding that secondary poisoning was "unlikely" to cause a hazard to a scavenging bird or other animal was amply supported.

Compound 1080 is unquestionably poisonous to humans. However, with proper precautions, the chance of human injury or death from exposure to the use of Compound 1080 as a predicide is remote. Of the approximately two dozen human deaths reasonably known to have been caused by Compound 1080, half were suicides, and the remainder were accidents caused by the grossest negligence. With the restrictions imposed on the uses authorized by this decision, I find that Compound 1080 will present little or no hazard to human life.

There is, at present, no known antidote and/or medical treatment which effectively counteracts the effects of Compound 1080 poisoning. However, the use restrictions imposed by this decision should prevent any human Compound 1080 poisoning.

The Large Bait Station

The Compound 1080 large bait station consists of a 50-100 pound piece of fresh meat that has been injected with a solution containing Compound 1080, at a concentration of 1.6 grams of 1080 per 100 pounds of meat. Usually, bait is prepared by slaughtering a horse or sheep, quartering it, and injecting a Compound 1080/water solution at frequent intervals into the carcass. The bait is usually prepared in the field, and is left over-night to freeze before final placement. It was designed to reduce predation by substantially reducing coyote population during the winter months. When Compound 1080 was banned in 1972, the large bait station had been the basic delivery mechanism for Compound 1080. That decision was largely based on the Report of the Cain Committee, which found that Compound 1080 as used really did not reduce predation in that its benefits were "only ill-defined and speculative." The Administrator found that there was "no reliable data as to the amount of predator control achieved by" the use of Compound 1080. The Cain Committee further found that various non-target poisonings were occurring and that instructions concerning proper

preparation and placement of the large bait stations were not being followed.

I believe that there is still no reliable data as to the amount of predator control achieved by the Compound 1080 large bait station. The evidence showed that the large bait station, which was principally designed to achieve substantial coyote population reduction and thereby reduce predation, has never worked very well. Its effects are transitory at best, since only a massive killing of coyotes will achieve a significant population reduction. This is due in large part to the tendency of the coyote to increase litter size and mate at an earlier age than normal in response to conditions which reduce their numbers. Even when the Compound 1080 large bait station was legal, the number and use was steadily decreasing, presumably because they were not very effective either in relation to their costs or in terms of preventing predation. The number of coyotes killed by the large bait station is utterly speculative, since coyotes killed by Compound 1080 are very infrequently found, due to the time lapse between ingestion and onset of symptoms.

The principal sources of evidence on large bait station use since the 1972 ban are the Canadian provinces of Alberta and British Columbia. Under their programs, the Compound 1080 large bait station was used very infrequently, was generally placed in the field for short periods of time, and was closely monitored. The results of these programs were mixed, and provide insufficient evidence to overturn the 1972 decision. Similarly, while a Compound 1080 large bait station program was alluded to as being successfully used for dingo control in Australia, no substantial evidence was introduced on the workings of that program. Finally, from 1975 to 1977 the State of Wyoming implemented a Compound 1080 large bait station program, after deciding the 1972 ban was somehow inapplicable to them. Without commenting on the legality of the program, which was the subject of litigation until discontinued, it is clear that many of the 1972 concerns of both the Cain Committee and the Administrator are still amply justified. Bait stations which were supposed to be picked up in April were often out until July, ranchers often moved baits on their own, ranchers were often asked to dispose of baits, and recordkeeping was poor.

Given the unconvincing evidence concerning the efficacy of the Compound 1080 large bait station, and the potential hazards created by the use of the large bait station, I am convinced

that the Judge's decision—that proponents did not show that "substantial new evidence" supports a reversal of the 1972 ban in this area—should be sustained. As I stated previously, the evidence indicates that some non-target species will be poisoned by the large bait station. In addition, the evidence amply supports the validity of the Administrator's 1972 finding, reflecting the findings of the Cain Committee, that the use restrictions imposed on large bait station users before the 1972 ban were often violated or ignored. The restrictions suggested by the applicants for the large bait station, based on the standard of the American Society for Testing and Materials, were virtually identical in all significant respects to the standards imposed by the Fish and Wildlife Service on pre-1972 use. The history of 1080 large bait station use indicates that improper placement of baits, improper monitoring of baits, over injection of Compound 1080 into the baits, illegal movement and disposal of baits, and unaccounted for overuse of Compound 1080, were common problems. Given the hazards created by the Compound 1080 large bait station, and the lack of evidence as to its efficacy, I affirm Judge Nissen's decision not to overturn the 1972 ban on Compound 1080 use in the large bait station.

Single Lethal Dose Baits

The Compound 1080 single lethal dose bait is a small ball or cube of meat, tallow or similar material containing a lethal dose of Compound 1080. It can be placed in locations so as to greatly increase the probability of it being taken by a coyote, and there is evidence that, with the proper scenting and visual lures, it can be made even further attractive to a coyote and less likely to be taken by other species. Generally they are placed near "draw stations," which are usually simply animal carcasses.

The Compound 1080 single lethal dose bait was not generally used before 1972. Prior to the 1972 ban small drop baits, generally containing strychnine, were used in great volume—nearly a million in 1964—as a coyote population suppression measure. More recent studies have indicated that the Compound 1080 single lethal dose bait has great potential usefulness towards eliminating specific coyote predation problems. While single lethal dose bait placement is not an exact science, one of the benefits of the single lethal dose bait is that one will not kill most wildlife species, but will kill a coyote or feral

dog. Thus, even occasional accidental exposure to nontarget wildlife has a greatly reduced potential hazardous effect.

While only Defenders excepted to Judge Nissen's allowing the use of Compound 1080 single lethal dose baits, exceptions were taken by both applicants and opponents, as well as the EPA Trial Staff, to the use restrictions imposed in the initial decision. The applicants contended the use restrictions were too strict, objecting to the dosage, the dye requirement, verification of coyote kills, bait placement restrictions concerning location and number of baits, the requirement that baits be covered, and monitoring. Defenders and the EPA Trial Staff urged me to restrict use even further than did Judge Nissen. While I will now discuss some of the considerations regarding the imposition of use restrictions, there are certain questions concerning this delivery mechanism where further information must be developed for the subsequent registration proceeding to be successful.

I find that substantial new evidence supports the use of Compound 1080 in single lethal dose baits under certain very limited, tightly controlled circumstances. While it appears that some further testing must be done before actual registration for this use will be approved, there is sufficient evidence to rescind the 1972 ban at this point. This testing, which should be conducted under an Experimental Use Permit, should develop information regarding the use restrictions discussed in the following paragraphs. In imposing these use restrictions, I wish to make it clear that single lethal dose baits containing Compound 1080 are to be used in a most limited fashion, so as to eliminate specific predating coyotes under carefully controlled circumstances.

Proper Dose

There was considerable dispute over the proper dose of Compound 1080 in a single lethal dose bait. Judge Nissen set the maximum dose at 3.6 milligrams of Compound 1080 solution. The State of Wyoming urges that I adopt the 5.0 milligram standards approved by the American Society of Testing and Materials. Since Judge Nissen found that the LD₅₀ for a coyote is approximately 0.16 mg/kg, the concern that a bait containing the lower dose of Compound 1080 might not be fatal for larger coyotes appears to be well-founded. Accordingly, a dose of up to 5.0 mg 1080 per single lethal dose bait is authorized if otherwise justified during registration proceedings.

Verification

The verification requirements imposed by Judge Nissen are particularly crucial to any 1080 single lethal dose program to be approved by EPA. While verification admittedly increases the cost of such a program, I want to assure that Compound 1080 is not utilized unless there is confirmed evidence of coyote predation. The details of the verification process can be decided at the registration proceeding.

Monitoring

Similarly, monitoring of the baits is also essential. Most proponents of single lethal dose baits recognized the need for proper monitoring, and the seven-day requirement imposed by Judge Nissen was not seriously objected to. Two of the proponents' most knowledgeable witnesses (Boddicker and Tompa) indicated that monitoring at more frequent intervals was an essential aspect of an effective single lethal dose bait program. While a final decision on this requirement should be left for registration, the frequency of monitoring should be at least every seven days, unless some exceptional circumstances arise.

The Certification Process

The overwhelming evidence supports the finding of Judge Nissen that applicators of Compound 1080 single lethal dose be certified. I want to assure that certain specific factors be incorporated into any certification program. Given the potential hazards of Compound 1080, I find that a Federal certification process is essential to assure proper application of the baits. I do not intend to restrict application to Federal employees, but the process of certification must be a Federal one, and I specifically affirm Judge Nissen's decision that applicators be Federal or State employees. Prior to registration, EPA should assure itself that the mechanism of the certification process is established, that a proper training curriculum has been developed and that any appropriate certification guidelines have been published.

Bait Manufacture and Distribution

In order to carefully control the introduction of Compound 1080 into the environment, it was generally agreed that some sort of centralized bait manufacturing and distribution process was necessary. While the details of bait manufacture and distribution are appropriate for the registration proceeding, a mechanism for a centralized system, preferably operated through the U.S. Department of

Agriculture or the Fish and Wildlife Service, must be in place in order for registration to be approved.

Number of Bait Stations/Number of Baits

Judge Nissen proposed that no more than one bait station be in place in any given section (square mile) and that no more than two Compound 1080 single lethal dose baits be placed at any station. Proponents of the single lethal dose bait have urged that anywhere from five to thirty baits be allowed per station, but that stations should be limited to one per township (six miles square). Thus, under Judge Nissen's system as many as 72 baits can be placed in a single township. Though there is strong evidence suggesting the utility of the single lethal dose bait, there is little specific evidence favoring one set of bait numbers over another. While I affirm Judge Nissen's approach, which attempts to minimize the amount of 1080 baits used, it is apparent to me that more information must be developed concerning these numbers prior to registration. Carefully crafted studies under a well-designed Experimental Use Permit program should provide enough information to decide this difficult issue at registration.

Dyes and Scents

Proponents of the baits also generally excepted to the requirements imposed by Judge Nissen concerning dyes and scents. I specifically affirm these requirements. The evidence indicates that inactive dyes which would not make baits attractive to scavenging birds are readily available. Since birds primarily detect food using vision, while coyotes rely more on a sense of smell, this dye could substantially reduce the chances of non-target poisoning with no detriment to the chances of poisoning the target coyote.

Posting and Recordkeeping

I also affirm Judge Nissen's use restrictions concerning posting and recordkeeping. The need for careful recordkeeping at all stages of Compound 1080 use is well-justified by the toxicity of Compound 1080. At registration, the Office of Pesticides and Toxic Substances should assure that recordkeeping and appropriate reporting provisions be in place at the manufacture, distribution and application stages.

All other restrictions imposed by Judge Nissen governing the use of Compound 1080 single lethal dose baits are affirmed.

In sum, I am holding that substantial new evidence exists to warrant the use of Compound 1080 in single lethal dose baits to remove predating coyotes and feral dogs.⁷ While further evidence needs to be developed concerning appropriate use restrictions, these restrictions, subject to the above-described boundaries, will best be handled at the subsequent registration proceeding.

Toxic Collars

Judge Nissen's approval of the applications to allow the use of the Compound 1080 toxic collar, including use restrictions, is hereby affirmed with some modification. The toxic collar, basically a rubber reservoir containing a solution of Compound 1080, attached to the neck of a "sacrificial" lamb or goat, has been extensively tested under several Experimental Use Permits. It has been developed since the 1972 ban. It is excellent in terms of targeting predating coyotes since, if a coyote attacks the lamb or goat by the throat—which it normally does—it will break the reservoir and sustain a fatal dose of Compound 1080. While there is some spillage of the Compound 1080 solution, most of the spillage is on the lamb or goat and the coyote, both of which are going to die. There is virtually no exposure of non-target wildlife.

While there was some evidence of potential human hazard, particularly from broken collars, the overwhelming evidence indicated that, with proper handling by or under the direction of certified applicators, including the wearing of protective gloves and prompt disposal of broken collars, the chance of human injury is remote. While at least one witness contended it was "inevitable" that a small child will go into a pasture and break or come across a broken toxic collar, and then suffer Compound 1080's toxic effects, I find this highly unlikely, and hold that with proper precautions, as provided by the Initial Decision's use restrictions, hazards to humans should not be presented.

The toxic collar may not be useful for the open range situation, due to the difficulty of isolating a target flock, but is clearly useful in both the farm flock and the large fenced-ranch situation. Though it is fairly expensive, considering the cost of the collar itself and the labor involved in placing the collars and isolating the target flock, not to mention the cost of sacrificing

animals, it can be a safe and useful tool under proper use restrictions.

Two further use restrictions should be imposed before toxic collar registration is completed. First, dose limitations should be set for the collar. A variety of 1080 solutions were tested during the course of the toxic collar experiments, and any final use restriction developed in the subsequent registration proceeding (like the single lethal dose bait, the toxic collar must go through a registration proceeding when the 1972 ban is lifted) should set appropriate limitations. In addition, proper labelling is necessary to prevent accidental mishandling of the collars. The label should warn of the hazardous nature of Compound 1080, the need for appropriate personal protective equipment, etc. The label should also particularly warn that intentional misuse of Compound 1080 will result in prosecution under section 12 of FIFRA, 7 U.S.C. 146.*

Smear Posts

Only one witness testified in favor of the State of Wyoming's application to use Compound 1080 on smear posts. The smear post was described as a wooden 4 x 4 post coated with a Compound 1080 solution. Smear posts would be placed near draw stations, consisting of dead livestock, and were also coated with an unidentified scent to attract coyotes. The coyotes would lick the coated posts and thereby receive a lethal dose of Compound 1080. From my reading of the record, the entire testimony on smear posts use is based on one witness' experiment with three smear posts used during the winter of 1956-1957. The minimal, stale evidence on smear posts gives me no ground whatever for reversing Judge Nissen. I affirm his denial of the smear post application.

Conclusion

For the reasons described above, Judge Nissen's decision is affirmed as modified.

*On October 21, 1983 Defenders of Wildlife filed a Motion to Reopen Hearing pursuant to 40 CFR 164.110. Citing EPA Efficacy Reviews of the New Mexico Department of Agriculture Experimental Use Permit Study of the Toxic Collar, Defenders argued that new evidence of the toxic collar's degree of hazard and lack of effectiveness warranted reopening of the hearing. Aside from the questionable timeliness of this motion (the most recent document attached to the motion was dated February 3, 1983), there was no new evidence submitted which contradicted Judge Nissen's findings, affirmed in this Final Decision, that with proper targeting and proper use restrictions, the Compound 1080 toxic collar can be a useful predation control technique. The Motion to Reopen Hearing is accordingly denied.

Dated October 31, 1983.

Lee M. Thomas,

Assistant Administrator for Solid Waste and Emergency Response

Following the issuance of the final Agency decision by Assistant Administrator Thomas, two parties to the hearing appealed the decision. Pacific Legal Foundation filed an appeal in the U.S. Court of Appeals for the 10th Circuit, in Denver, Colorado. Defenders of Wildlife filed an appeal in the U.S. Court of Appeals for the District of Columbia Circuit.

Dated: January 30, 1984.

Edwin L. Johnson,

Director, Office of Pesticide Programs.

[FR Doc. 84-3239 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30237; PH-FRL 2519-11]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 7, 1984.

ADDRESS: Written comments, identified by the document control number [OPP-30237] and the file symbol, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone and room number cited.

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

⁷ While fox predation was a subject of this proceeding, very little evidence as to the need for Compound 1080 to prevent such predation was presented.

decision by the Agency on the applications.

Applications Received

1. File Symbol: 40810-T. Applicant: Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532. Product name: Belclene 350. Algicide, Fungicide, Bactericide. Active ingredient: Tri-*n*-butylethylphosphonium chloride 50%. Proposed classification/Use: General. For formulating use. Type registration: Conditional. (Product Manager PM-23, Richard Mountfort, Rm. 237, CM#2, 703-557-1830).

2. File Symbol: 34147-E. Applicant: American Hoechst Corp., Rte 202-204 North Somerville, NJ 08876. Product name: Scout Insecticide. Insecticide. Active ingredient: [1R,1(S*)]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester 3.75%. Proposed classification/Use: Restricted. For use on cotton to control various insects. Type registration: Conditional. (PM-17, Timothy Gardner, Rm. 207, CM#2, 703-557-2690).

3. File Symbol: 34147-R. Applicant: American Hoechst Corp. Product name: Scout Manufacturing Use Product. Insecticide. Active ingredient: [1R,1(S*)]-2,2-dimethyl-3-(1,2,2,2-tetrabromoethyl) cyclopropanecarboxylic acid alpha-cyano-(3-phenoxyphenyl)methyl ester 23.75%. Proposed classification/Use: Restricted. For formulating use only. Type registration: Conditional. (PM-17, Timothy Gardner, Rm. 207, CM#2, 703-557-2690).

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

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

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3125 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M

[OPP-31066, PH-FRL 2518-8]

Certain Companies; Applications To Register Pesticide Products Involving Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register, or amend registration of, pesticide products involving a changed pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by March 7, 1984.

ADDRESS: Written comments, identified by the document control number [OPP-31066] and the file symbol or registration number, should be submitted by mail, attention of the Product Manager named in each application at the following address: Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM#2, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

The product manager at the telephone and room number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register, or amend registration of, pesticide products involving a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. EPA Registration No.: 100-617. Applicant: Ciba-Geigy Corp., PO Box 18300, Greensboro, NC 27419. Product name: Tilt® Fungicide. Fungicide. Active ingredient: 1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl] methyl]-1-*H*-1,2,4-triazole 41.8%. Proposed classification/Use: General. To include in its presently registered use on turf grasses and for production of grass

seeds, new use on pecans for control of pecan scab, downy spot, brown leaf spot, liver spot, vein spot, zonate leaf spot, and fungal leaf scorch. (Product Manager (PM-21, Henry Jacoby, CM#2, Rm. 229, 703-557-1900).)

2. File Symbol: 10182-IL. Applicant: ICI Americas, Inc., Wilmington, DE 19897. Product name: Cosmocil FB. Preservative. Active ingredient: Poly(iminoimidocarbonyliminoimido-carbonylimino-hexamethylene hydrochloride 20%. Proposed classification/Use: General. To include in its presently registered use for manufacturing use and swimming pool disinfection, the new use as a textile preservative to provide protection against bacterial degradation. Type registration: Conditional. (PM-32, Arturo Castillo, CM#2, Rm. 244, 703-557-7170.)

3. EPA Registration No: 47159-1. Applicant: Ralph R. Grams, M.D., 2025 NW 24th St., Gainesville, FL 32605. Product name: Compound X. Anti-foulant. Active ingredient: Oxytetracycline 50%. Proposed classification/Use: General. To include in its presently registered terrestrial use, new use aquatic non-food use. Type registration: Conditional. (PM-23, Richard Mountfort, CM#2, Rm. 237, 703-557-1830.)

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

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

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: January 23, 1984.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 84-3124 Filed 2-7-84; 8:45 am]

BILLING CODE 6560-50-M