purpose is to provide independent advice and counsel to the Agency on policy and technical issues associated with development and implementation of any acid rain regulatory program required by Amendments to the Clean Air Act. The Advisory Committee shall be asked to advise the Agency on economic, environmental, scientific, technical, and enforcement policy issues.

At this time, EPA also requests nominations of candidates for membership on the Advisory Committee. The membership of the committee will represent a balance of perspectives and professional qualifications and experience to contribute to the functions of the Advisory Committee. Members will be drawn from: industry and business; academic and educational institutions; Federal, State and local government agencies; and non-government and environmental groups.

DATES: Submit nominations of candidates no later than September 7, 1990. Any interested person or organization may submit the names of qualified persons. Suggestions for the list of candidates should be identified by name, occupation, organization, position, address, and telephone number. Candidates will be asked to submit a resume of their background, experience, qualifications and other relevant information as a part of the review process.

ADDRESSES: Submit suggestions for the list of candidates to: Paul Horwitz, Advisory Committee Nominations, Acid Rain Division (ANR–445), Environmental Protection Agency, 401 M Street SW; Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Paul Horwitz at the above address, or call (202) 475–9400. The Agency will not formally acknowledge or respond to nominations.

SUPPLEMENTARY INFORMATION: The Acid Rain Advisory Committee will become operational when EPA files copies of the Advisory Committee charter with appropriate committees of Congress and the Library of Congress. Copies of the charter are available upon request.

The purpose of the Acid Rain Advisory Committee is to provide informed advice and counsel to the Assistant Administrator, Office of Air and Radiation, on issues affecting the development and implementation of an acid rain regulatory program including the innovative market based components which are likely to be included in the legislation. Specific issues for review will include: The regulatory impact on industry, consumers, public health, and the environment; the structure and operations of the allowance trading and tracking systems and the permit program; integrating the acid rain control program with EPA's ambient air program; and various conservation and innovative technology transfer options that can be used to comply with the regulatory requirements.

The Advisory Committee is a necessary part of EPA's efforts to serve the public interest and to design a market-based approach to reducing sulfur dioxide and nitrogen oxide. The Advisory Committee will assist the Agency in considering specific technical, economic, environmental, scientific, and enforcement policy issues.

Participants

The committee shall have about 25 participants; however, meetings will be open to all interested parties. Committee members shall serve two-year terms.

The Advisory Committee shall meet at least four times a year, or as necessary. Subcommittees shall meet when the committee deems necessary. EPA will not compensate committee members for their service, though compensation for travel and nominal daily expense while attending meetings may be provided.

The Agency intends to hold the initial meeting of the Advisory Committee in early fall of 1990. Suggestions for the list of candidates should be submitted no later than September 7, 1990.

Dated: July 30, 1990.

William G. Rosenberg,

Assistant Administrator for Air and Radiation.

[FR Doc. 90–18453 Filed 8–6–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3818–1]

Availability of Report to Congress on Special Wastes from Mineral Processing

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Agency's *Report to Congress on Special Wastes from Mineral Processing* which is required by § 8002(p) of the Resource Conservation and Recovery Act (RCRA). The Report to Congress contains detailed studies of 20 special wastes from mineral processing operations that the Agency previously determined are within the scope of the exemption from hazardous waste regulations provided by section 3001(b)(3)(A)(ii) of RCRA; this exemption is often referred to as the Mining Waste Exclusion. The report also presents two alternative decision-making approaches and tentative findings under each approach with respect to whether subtitle C regulation of these wastes is warranted. The Report to Congress is comprised of three volumes:

Volume I—Summary and Findings;
Volume II—Methods and Analyses; and
Volume III—Appendices.

The Agency solicits public comment on the Report, the alternative decision-making approaches and the tentative findings presented therein, and the specific types of requirements that might be appropriate for wastes that EPA determines should be regulated under section D or other regulatory approaches, especially under the flexibility provided by RCRA section 3004(x). Information submitted in public comments will be used in conjunction with the Report to Congress to make the final regulatory determination on these wastes.

DATES: EPA will accept public comments on the *Report to Congress on Special Wastes from Mineral Processing* until September 28, 1990. The Agency will also hold a public hearing on the Report on September 25, 1990.

ADDRESSES: Requests to speak at the public hearing should be submitted in writing to the Public Hearing Officer, Office of Solid Waste. (WH–562), U.S. Environmetnal Protection Agency, 401 M Street, SW., Washington, DC, 20460. The public hearing will be at the Holiday Inn Crowne Plaza Hotel at Metro Center, 1325 G Street NW., Washington, DC 20005. The hearing will begin at 9 a.m. with registration beginning at 8:30 a.m. The hearing will end at 5 p.m. unless concluded earlier. Oral and written statements may be submitted at the public hearing. Persons who wish to make oral presentations must restrict them to 15 minutes, and are requested to provide written comments for inclusion in the official record.

Copies of the full Report are available for inspection and copying at the EPA Headquarters library and at the RCRA Docket in Washington, DC, and at all EPA Regional Office libraries. Copies of the full report can be purchased from the National Technical Information Service (call (202) 487–6540 or (800) 336–4700). Copies of the Summary and Findings (Volume I) can be obtained by calling the RCRA/Superfund Hotline at (800) 424–9346 or (202) 382–3000.

Those wishing to submit public comments for the record must send an original and two copies of their

comments to the following address: RCRA Docket Information Center (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Place the docket number F-90-RMPA-FFFFF on your comments.

The OSW docket is located in room M2427 at EPA headquarters. The docket is open from 9 to 4 Monday through Friday, except for Federal holidays. Members of the public must make an appointment to review the docket materials. Call (202) 475-9327 for appointments. Copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRC/Superfund Hotline at (800) 424-9346 or (202) 382-3000; for technical information contact Bob Hall, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, (202) 475-8814.

SUPPLEMENTAL INFORMATION: Section 3001(b)(3)(A)(ii) of the Resource Conservation and Recovery Act (RCRA), sometimes referred to as the Bevill Amendnent, temporarily excluded "solid waste from the extraction, beneficiation, and processing of ores and minerals" from regulation as hazardous waste under subtitle C of RCRA pending completion of a Report to Congress on the wastes (as required by subtitle 8002(p)), and a determination by the EPA Administrator (as required by section 3001(b)(3)(C)) either to promulgate regulations under subtitle C or that such regulations are unwarranted. The Bevill Amendment was added to RCRA on October 12, 1980, as part of the Solid Waste Disposal Act Amendments of 1980.

In response to the 1980 RCRA amendments, EPA published an interim final amendment to its hazardous waste regulations on November 19, 1980, to reflect the provisions of the Bevill Amendment (45 FR 76618). The regulatory language incorporating the exclusion was identical to the statutory language, except that EPA added the phrase "including coal." In the preamble to the amended regulation, however, EPA interpreted the exclusion to include "solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals."

In December 1985, EPA published the required Report to Congress on solid wastes from mineral extraction and beneficiation, and on July 3, 1986, (51 FR 24496), published a determination that regulation of such wastes under subtitle C of RCRA was not warranted. Also in 1985, EPA proposed to narrow the scope of the exclusion as it applied to mineral processing wastes (50 FR 40292, October 2, 1985). The effect of this proposal was generally to remove most smelting and refining wastes from the Bevill exclusion. However, EPA subsequently withdrew this proposal (51 FR 3633, October 9, 1986). The Agency's decision to withdraw its 1985 proposal to narrow the scope of the exclusion as applied to mineral processing waste was challenged in court ([*Environmental Defense Fund* v. *EPA*, 852 F.2d 1316 (D.C. Cir. 1988), *cert. denied* 109 S. Ct. 1120 (1989) (*EDF* v. *EPA*)]). In this case, the petitioners contended, and the Court of Appeals agreed, that EPA's interpretation of the scope of the Mining Waste Exclusion as it applies to mineral processing wastes was "impermissibly over-broad," and that Congress intended to include only those ores or minerals that meet the "special waste" concept—that is "high volume, low hazard" wastes.

In response to the Court's decision, EPA proposed criteria on October 20, 1988, (53 FR 41288), by which mineral processing wastes would be evaluated for continued exclusion from hazardous waste regulation until the required studies (Report to Congress) and subsequent regulatory determinations were made. The Agency proposed revisions to the criteria on April 17, 1989, (54 FR 15316), and provided the final Mining Waste Exclusion criteria, among other things, on September 1, 1989 (54 FR 36592). The final criteria consist of a definition of mineral processing, a volume criterion, and a low hazard criterion.

The September 1, 1989, rule also finalized the status of most mineral processing waste streams. That rule temporarily retained five wastes, conditionally retained 20 wastes, and permanently removed all other mineral processing wastes from the Mining Waste Exclusion. The 20 conditionally retained wastes were addressed in a proposed rule on September 25, 1989 (54 FR 39298).

The September 25, 1989, proposed rule was finalized on January 23, 1990, (55 FR 2322), and established which wastes would be subject to the temporary exemption from subtitle C requirements established by the Bevill Amendment for mineral processing wastes and, therefore, the *Report to Congress on Special Wastes from Mineral Processing*. In the final rule, 15 of the 20 conditional wastes were retained within the exclusion (in addition to the five wastes retained in the September 1 rule, for a total of 20 wastes), pending the preparation of the Report to Congress. All other solid wasts from the processing of ores and minerals were removed from the Mining Waste Exclusion as of the effective date of the September 1, 1989, or January 23, 1990, final rules (March 1, 1990, or July 23, 1990, in non-authorized states), and are subject to regulation as hazardous wastes if they exhibit one or more characteristics of hazarous waste or are otherwise listed as hazardous waste.[1]

The 20 mineral processing special wastes temporarily retained in the exclusion by the September 1, 1989, and January 23, 1990, final rules and studied in the Report to Congress are:

1. Red and brown muds from bauxite refining;
2. Treated residue from roasting/leaching of chrome ore;
3. Gasifier ash from coal gasification;
4. Process wastewater from coal gasification;
5. Slag from primary copper processing;
6. Calcium sulfate wastewater treatment plant sludge from primary copper processing;
7. Slag tailings from primary copper processing;
8. Slag from primary production of elemental phosphorus;
9. Iron blast furnace air pollution control dust/sludge;
10. Iron blast furnace slag;
11. Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
12. Basic oxygen furnace and open hearth furnace slag from carbon steel production;
13. Fluorogypsum from hydrofluoric acid production;
14. Process wastewater from hydrofluoric acid production;
15. Slag from primary lead processing;
16. Process wastewater from primary magnesium processing by the anhydrous process;
17. Phosphogypsum from phosphoric acid production;
18. Process wastewater from phosphoric acid production;
19. Chloride process waste solids from titanium tetrachloride production; and
20. Slag from primary zinc processing.

[1] Because the requirements of the September 1, 1989, and January 23, 1990, final rules were not imposed pursuant to the Hazardous and Solid Waste Amendments of 1984, they will not be effective in RCRA authorized states until the state program amendments are effective. Thus, the rules are effective on March 1, 1990, and July 23, 1990 (for the September 1, 1989, and January 23, 1990, rules respectively) only in those states that do not have final authorization to operate their own hazardous waste programs in lieu of the Federal program. In authorized states, the rules are not applicable until the state revises its program to adopt equivalent requirements under state law and receives authorization for these new requirements. (Of course, the requirements will be applicable as state law if the state law is effective prior to authorization.) States that have final authorization must revise their programs to adopt equivalent standards regulating non-exempt mineral processing wastes that exhibit hazardous characteristics as hazardous by July 1, 1991, if regulatory changes only are necessary, or by July 1, 1992, if statutory changes are necessary. The state requirements become RCRA subtitle C requirements after EPA approval.

These 20 special wastes are generated by 91 facilities located in 29 states, and represent 12 commodity sectors. For each of the 20 special wastes, the report addresses the following eight study factors as required by section 8002(p) of RCRA:

1. The source and volumes of such materials generated per year;
2. Present disposal and utilization practices;
3. Potential danger to human health and the environment from the dispoal and reuse of such materials;
4. Documented cases in which danger to human health or the environment has been proven;
5. Alternatives to current disposal methods;
6. The costs of such alternatives;
7. The impacts of these alternatives on the use of phosphate rock, uranium ore, and other natural resources; and
8. The current and potential utilization of such materials.

In addition, section 8002(p) suggests that the Agency review other federal and state "studies and actions" (e.g., regulations) to avoid duplication of effort.

The Agency's approach in preparing the Report to Congress was to combine certain study factors for purposes of analysis and exposition. The resulting discussions of each of the mineral commodity sectors are organized in seven sections in Volume II of the Report. The first section provides a brief overview of the industry, including the types of production processes used and the number and location of operating facilities that generate one or more of the mineral processing special wastes. The second section summarizes information on special waste characteristics, generation, and current management practices (study factors 1 and 2), while the third section provides a discussion of potential for and documented cases of danger to human health or the environment (study factors 3 and 4). The fourth section summarizes applicable federal and state regulatory controls. The fifth section discussed alternative waste management practices and potential utilization of the wastes (study factors 5 and 8), while the sixth section discusses costs and impacts of alternative practices (study factors 6 and 7). The seventh and final section summarizes and analyzes the findings of EPA's evaluation of the above study factors.

After studying each special waste in detail and to facilitate comment on the Report to Congress, the Agency developed two approaches for tentatively determining whether regulation under RCRA subtitle C is warranted for any of the wastes. One approach is based on the analysis of the RCRA section 8002(p) study factors and consists of two sub-options: One utilizing a full subtitle C scenario (Approach 1A) while the other utilizes the flexibility provided by § 3004(x) of RCRA (referred to as the Subtitle C-Minus scenario or Approach 1B). The other approach (Approach 2) is based on both consideration of the section 8002(p) study factors and additional consideratons, such as broader Agency goals and objectives (e.g., developing strong state mining waste programs and facilitating implementation of federal programs). Under Approach 1A, EPA might find that regulation under subtitle D may be appropriate for 19 of the 20 special wastes and that regulation under subtitle C may be warranted for one mineral processing special waste, process wastewater from hydrofluoric acid production. Alternatively, if the cost analysis is based on the subtitle C-Minus scenario, then EPA might find that three additional wastes may warrant regulation under subtitle C rather than subtitle D (Approach 1B):

(1) Calcium sulfate wastewater treatment plant sludge from primary copper processing;

(2) Slag from primary lead processing; and

(3) Chloride process waste solids from titanium tetrachloride production.

Under Approach 2, which is based on consideration of both the section 8002(p) study factors and additional considerations (i.e., developing and maintaining strong state mining and mineral processing waste regulatory programs and facilitating the implementation of Federal programs), the Agency might find that regulation under Subtitle C may not be warranted for any of the 20 mineral processing wastes.

It should be noted that the costing scenarios used for (1) The subtitle C scenario that uses the flexibility provided by § 3004(x) of RCRA and (2) the subtitle D scenario are based on the Agency's preliminary assessment of how the regulatory requirements might be tailored for mineral processing wastes. Because of this, the Agency is unsure whether the costs-impacts we have determined are fully appropriate and specifically request comments on them.

The Agency solicits public comments on the data, analyses, and findings contained in the Report to Congress and on the types of specific requirements that might be necessary under RCRA subtitles C or D for each of the 20 wastes covered by the report.

The Agency encourages all interested parties to obtain a copy of the Report to Congress and provide comments to the Agency. After evaluating and responding to public comments, the Agency will make a regulatory determination by January 31, 1991.

Date: July 31, 1990.

William K. Reilly,

Administrator.

[FR Doc. 90-18454 Filed 8-6-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3817-7]

Sole Source Aquifer Designation for the Plymouth-Carver Aquifer, Massachusetts

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In response to a petition from the Massachusetts Department of Environmental Protection (DEP), Division of Water Supply (DWS), the Town of Kingston, and the Plymouth County Coalition for a Better Environment, notice is hereby given that the Regional Administrator, Region I, of the U.S. Environmental Protection Agency (EPA) has determined that the Plymouth-Carver Aquifer satisfies all determination criteria for designation as a sole source aquifer, pursuant to section 1424(e) of the Safe Drinking Water Act. The designation criteria include the following: Plymouth-Carver Aquifer is the principal source of drinking water for the residents of that area; there are no reasonably available alternative sources of sufficient supply; the boundaries of the designated area and project review area have been reviewed and approved by EPA; and if contamination were to occur, it would pose a significant public health hazard and a serious financial burden to the area's residents. As a result of this action, all federal financially assisted projects proposed for construction or modification within the Plymouth-Carver Aquifer will be subject to EPA review to reduce the risk of ground water contamination from these projects which may pose a threat to the health of persons in the acquifer's service area.

DATES: This determination shall be promulgated for purposes of judicial review two weeks after publication in the Federal Register.

ADDRESSES: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region I, J.F. Kennedy Building, Water Management Division, GWP-2113,

Boston, MA 02203. The designation petition submitted may also be inspected at EPA Region I, or the Plymouth Public Library in Plymouth, or the Carver Public Library in Carver, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Robert E. Adler, Ground Water Management Section, Water Management Division, EPA Region I, J.F. Kennedy Building, WGP-2113, Boston, MA 02203, and the phone number is 617-565-3600.

SUPPLEMENTARY INFORMATION:.

I. Background

Section 1424(e) of the Safe Drinking Water Act (42) U.S.C. section 300h-3(e), Public Law 93-523, states:

> If the administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for federal financial assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

On April 7, 1989, EPA received a petition from the Massachusetts DEP requesting designation of the Plymouth-Carver Aquifer as a sole source aquifer. EPA determined that the petition, after receipt and review of additional requested information, fully satisfied the Completeness Determination Checklist. A public hearing was then scheduled and held on January 10, 1990 in Plymouth, Massachusetts, in accordance with all applicable notification and procedural requirements. A four week public comment period followed the hearing.

II. Basis for Determination

Among the factors considered by the Regional Administrator as part of the detailed review and technical verification process for designating an area under section 1424(e) were: (1) Whether the aquifer is the sole or principal source (more than 50%) of drinking water for the defined aquifer service area, and that the volume of water from an alternative source is insufficient to replace the petitioned aquifer; (2) whether contamination of the aquifer would create a significant hazard to public health; and (3) whether the boundaries of the aquifer, its recharge area, the project designation area, and the project review view are appropriate. On the basis of technical information availble to EPA at this time, the Regional Administrator has made the following findings in favor of designating the Plymouth-Carver Aquifer as a sole source aquifer:

1. The Plymouth-Carver Aquifer is the sole source of drinking water for nearly all of the residents within the service area.
2. There exists no reasonably available alternative drinking water source or combination of sources of sufficient quantity to supply the designated service area.
3. The petitioners, with EPA assistance, have appropriately delineated the boundaries of the designated aquifer area, the aquifer recharge area, the project review area and the aquifer's service area.
4. Although the quality of the aquifer's ground water is rated as good to excellent, it is highly vulnerable to contamination due to its geological characteristics. Because of this, contaminants can be rapidly introduced into the aquifer system from a number of sources with minimal assimilation. This may include contamination from several sources such as the following: chemical spills; highway, urban and rural runoff; septic systems; leaking storage tanks, both above and underground; road salting operations; saltwater intrusion; and landfill leachate. Since nearly all residents are dependent upon the aquifer for their drinking water, a serious contamination incident could pose a significant public health hazard and place a severe financial burden on the service area's residents.

III. Description of the Plymouth-Carver Aquifer, Designated and Project Review Area

The Plymouth-Carver Aquifer is a 199.0 square mile aquifer located in eight (8) towns in southeastern Massachusetts, primarily in Plymouth County, north of the Cape Cod Canal in Bourne and south of the Jones River in Kingston. Plymouth Bay borders the aquifer on the northeast with Cape Cod Bay bordering the eastern edge. As delineated in this petition, the Cape Cod Canal forms the southeastern border, Buzzards Bay forms the southern border, and the Weweantic River forms the southwestern border. To the west and north, the aquifer is bordered successively by the Weweantic River, Rocky Meadow Brook, Muddy Pond Brook, River Brook, wetland areas, and finally, along the northern border, the Jones River. It includes the entire area of the Towns of Plymouth, Bourne and Sandwich north of the Cape Cod Canal, most of the Towns of Carver and Wareham, substantial portions of Kinston and Plympton, and a small section of the Town of Middleborough (8 towns).

The Plymouth-Carver aquifer exhibits regional ground water flow patterns that are typical of coastal aquifers in eastern Massachusetts. Unlike upland stream-valley aquifer systems in which ground water flow is generally convergent or inward from high elevations of till and bedrock to low elevations within valleys, the flow pattern within the Plymouth-Carver aquifer is divergent, radiating outward from a topographically high area toward low lying bodies of both salt and fresh water. Ground water discharges to steams and the ocean.

The unconsolidated stratified glacial deposits which form the aquifer were deposited during the last retreat of glacial ice about 15,000 years ago. These deposits are saturated with water fed by direct infiltration of precipitation (recharge). The saturated thickness of the aquifer is the entire thickness of the aquifer from the water table to the top of bedrock. Ground water table elevations range from approximately sea level to approximately 125 feet at interior ground-water highs, with the maximum saturated thickness of more than 160 feet at some locations occurring along the axis of the underlying bedrock valley and its tributaries. Average hydraulic conductivities (ability of the aquifer material to transmit water) for stratified sand and gravel, range from 55 to 313 feet/day and average 188 fee/day. These values are consistent with values for similar deposits on nearby Cape Cod. The average rate of recharge to coarse-grained stratified drift is at least 1.15 million gallon/day/square mile (24 inches/year) and to fine-grained deposits is somewhat less.

Ground water in the aquifer system discharges to the many rivers and streams that drain the aquifer, to ponds, swamps, bogs and directly to the ocean. Average ground water discharge leaving the aquifer area as stream flow is about 140 cubit feet/second. All ponds and surface waters within the aquifer receive nearly all of their recharge from ground water and hence can be considered part of the Plymouth-Carver aquifer system. Much of the water that discharges to swamps and bogs is lost as a result of evaporation, transpirtation, and consumption water use.

The Plymouth-Carver aquifer is quite vulnerable to contamination. Because of its highly permeable and transmissive character, and large size granular materials, ground water contaminants can quickly travel long distances, and affect a large area. The recharge area is characterized by moderate relief. Activities occurring in the upland areas can have direct impact on ground water quality in the rest of the aquifer. The present quality of the water from the aquifer has been characterized as good to excellent. Municipal supply wells in the aquifer area have been affected by relatively few instances of major contamination. There are, however, several instances of local contamination which have occurred at several places in the aquifer.

The designated area is defined as the surface area above the aquifer and its recharge area, which in the case of the Plymouth-Carver aquifer, comprises the project review area as well. The project review area is also the same as the designated area.

IV. Information Utilized in Determination

The information utilized in this determination includes: the petition submitted to EPA Region I by the petitioners; additional information requested from and supplied by the petitioners; written and verbal comments submitted by the public, communities in the region, state legislators; coordination with the U.S. Geological Survey and technical information obtained from them, and the technical papers and maps submitted with the petition. This information is available to the public and may be inspected at the libraries or EPA Region I office identified under the "Addresses" section previously.

V. Project Review

EPA Region I is working with the federal agencies most likely to provide financial assistance to projects in the project review area. Interagency procedures and Memoranda of Understanding have been developed through which EPA will be notified of proposed commitments by federal agencies to projects which could contaminate the Plymouth-Carver Aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments when appropriate. Should the Regional Administrator determine that a project may contaminate the aquifer as to create a significant hazard to public health, no commitment for federal financial assistance may be entered into. However, a commitment for federal financial assistance may, if authorized under another provision of law, be entered into for planning or designing a project to ensure that it will not contaminate the aquifer. Included in the review of any federal financially assisted project will be the coordination with state and local agencies and the project's developer. Their comments will be given full consideration and EPA's review will attempt to complement and support state and local ground water protection measures. Although the project review process cannot be delegated, EPA will rely to the maximum extent possible on any existing or future state and/or local control measures to protect the quality of ground water in Plymouth-Carver Aquifer.

VI. Summary and Discussion of Public Comments

Forty five people attended the January 10, 1990 public hearing regarding the Plymouth-Carver Sole Source Aquifer Petition. Many delivered supportive oral comments, but the Town of Plymouth expressed some concern regarding the implications of a designation on their public works projects. Forty formal comments were made in total during the hearing and the four-week comment period. Comments were received from state legislators, local water supliers and fire districts, local communities, a regional planning agency, environmental interests, etc. All but one of these supported the designation. Questions were raised regarding the following:

1. The location of the northwest corner of the delineated boundary; and
2. The extent and limitations of protection provided by the federal Sole Source Aquifer Program and the need for local government to continue with taking actions to protect the aquifer.

In response to questions about delineation of the designated aquifer area, EPA explained that the aquifer is charaterized by divergent ground water flow from a high ground water table elevation in the interior area of the aquifer. The area along the northwest section of the aquifer is characterized by bogs, wetlands, meandering streams, flat topography, and low ground water gradient. The boundary issue that was raised at the hearing related to the precise placement of the boundary line in specific localized areas. Following explanation of the basis for delineation, no further comments were made. The boundary, as originally proposed in the petition, is the boundary that is delineated in this designation.

EPA responded to comments which expressed concern and confusion that the effectiveness of sole source aquifer designations is limited because only a small part of the development in the designated area will receive federal financial assistance. EPA recognized the limited applicability of the program and acknowledged that a comprehensive ground water protection program must include land use planning and management at the state and local levels as well. The DEP and EPA noted, however, that Massachusetts state regulations for underground storage tanks, site assignment for new solid waste landfills, and for hazardous waste facilities, give added protection by restricting these facilities when sole source aquifers are involved. Also, SSA designation often brings a new awareness locally for protecting resources.

The Town of Plymouth opposed the designation of the aquifer. In its opposition, the Town asserted that the designation will result in more government overview and interference, will delay certain public road improvements to route 44, and will favor an ocean outfall over a land based treatment option in planning for a sewage treatment facility. EPA agreed that the designation would add another layer of review for impacts affecting the quality of ground water in the aquifer. It is noted that such aquifer reviews generally do not hinder or delay projects because the reviews conducted on large projects are in conjunction with federal Environmental Impact Statements (EISs), environmental assessments, or state Environmental Impact Reports (EIRs). EPA routinely participates in the scoping and assessment of EISs and EIRs for major projects. This has been the case in the route 44 improvements. On smaller projects, reviews are generally less complicated, take three to six weeks, and do not cause undue delay. It is also noted that protection of public health is the principal concern of the program. Project delays that result in the protection of public health are favored over project expediency.

In addition to the concern that designation causes local project delays, the Town took the position that a sole source aquifer review is an unnecessary layer of review because local government can "protect its own." At the hearing, EPA observed that if local authorities, state and federal environmental and regulatory agencies are all carrying out their statutory and regulatory duties, the sole source aquifer review will be minimal, and in most cases will be incorporated into the existing environmental review processes.

In response to the issue that designation of a sole source aquifer would likely favor an ocean outfall option over a land based discharge option in Plymouth's sewage treatment planning, it is noted that the designation would not necessarily prelude a land based discharge. It is further noted that for land disposal to be allowed, Massachusetts ground water discharge permit regulations would probably require advanced treatment and effluent that would meet Massachusetts drinking water standards. As such, the performance standards would be determined under state regulations and scrutinized by EPA in their implementation.

The Town of Plymouth also expressed concern over the apparent lack of definitive guidelines from EPA governing the sole source aquifer program resulting in confusion and uncertainty. It is noted that EPA has clear and definitive Petitioner Guidance, Reviewer's Guidance, regulations concerning the implementation of the program at the Edwards aquifer, Region II post-designation guidance, relevant applicable state performance requirements, risk assessment capabilities, and others.

Notable letters of support were received from state and local governemnts and representatives, water suppliers, environmental organizations and residents. Reasons given for support include: (1) The nearly total dependence of the residents on the aquifer's ground water for their drinking water supply; (2) the fact that there are no reasonably available alternative sources of water, and that proper boundaries have been delineated; (3) growth and development in the Plymouth-Carver region threaten the continued purity of the resource; and (4) the Plymouth-Carver Aquifer's designation as a sole source aquifer would heighten public awareness of the vulnerability of the resource and would encourage further protection efforts.

VII. Findings

Given the information before me, all criteria for designating the Plymouth-Carver aquifer as a sole source aquifer have been met, and the region's aquifer is a resoruce that fully deserves efforts to protect it.

Dated: July 31, 1990.

Julie Belaga,

Regional Administrator.

[FR Doc. 90-18457 Filed 8-6-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3817-1]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection; Kaiser Aluminum and Chemical Corporation, Mulberry, FL

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given by the United States Environmental Protection Agency (EPA) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Kaiser Aluminum and Chemical Corporation for its one Class I hazardous waste injection well located at Mulberry, Florida. As required at 40 CFR part 148, the company has adequately demonstrated to the satisfaction of EPA by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the continued underground injection by Kaiser Aluminum and Chemical Corporation of the specific restricted hazardous waste, identified in the petition, into the Class I hazardous waste injection well at the Mulberry facility, specifically identified as Disposal Well No. 1, until September 30, 2007. The injection fluid is process wastewater from the manufacture of sodium and potassium silicofluorides and water from Kaiser's South Pond, which is a combination of water from the surficial aquifer ground-water recovery system and all process area rainfall, wash water, vacuum pump seal water, occasional scrubber water, and air conditioning cooling water. The waste stream is regulated as a characteristic liquid hazardous waste under 40 CFR 261.22(a)(1) because it exhibits the characteristic of corrosivity due to having a pH less than 2.

As required at 40 CFR 124.10, a public notice was issued April 30, 1990. A public hearing was held May 31, 1990. The public comment period closed on June 13, 1990. All comments have been addressed and have been considered in the final decision. This decision constitutes final EPA action and there is no Administrative appeal process available for this final petition decision.

DATES: This action is effective as of July 30, 1990.

ADDRESSES: Copies of the petition and all pertinent information relating thereto, including citizen comments and EPA's response to comments, are on file at the following location: Environmental Protection Agency, Region IV, Water Management Division, Ground-Water Protection Branch, 345 Courtland Street, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanette Maulding, Environmental Scientist, EPA, Region IV, telephone (404) 347-3866.

Dated: July 30, 1990.

Joseph R. Franzmathes,

Acting Regional Administrator.

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby give notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in §572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011198-003.

Title: Puerto Rico/Caribbean Discussion Agreement.

Parties:

Hapag-Lloyd AG
Thos. & Jas. Harrison Ltd.
Nedlloyd Lines, B.V.
Compagnie Generale Maritime
Sea-Land Service, Inc.
Crowley Caribbean Transport
Trailer Marine Transport

Synopsis: The proposed amendment would add Puerto Rico Marine Management, Inc. as a party to the Agreement. The parties have requested a shorthand review period.

Dated: August 1, 1990.

By Order of the Federal Maritime Commission

Joseph C. Polking,

Secretary.

[FR Doc. 90-18326 Filed 8-6-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 1, 1990.

BACKGROUND: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before August 21, 1990.

ADDRESSES: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports:

1. *Report title*: Monthly Report of Foreign Branch Assets and Liabilities.
Agency form number: FR 2502.
OMB Docket number: 7100-0078.
Frequency: Monthly.
Reporters: Foreign branches of U.S. banks.
Annual reporting hours: 17,753.
Estimated average hours per response: 2.6.
Number of respondents: 569.
Small businesses are not affected.

General description of report

The FR 2502 report collects data on assets and liabilities, by category of customer, from foreign branches of U.S. banks and Edge and Agreement corporations with assets of $150 million or more. The data show the balance of accounts denominated in U.S. dollars, the balance of those denominated in all other currencies combined (reported in U.S. dollars), and the total thereof. The data are used in the construction of the monetary aggregates, in the supervision and regulation of U.S. banks, and in the construction of measures of transactions with foreign countries.

Individual respondent data are regarded as confidential under the Freedom of Information Act (FOIA) [5 U.S.C. 552(b)(4) and (b)(8)]. Aggregate data for all branches are published monthly in the Federal Reserve Bulletin.

2. *Report title*: Quarterly Report of Foreign Branch Assets and Liabilities.
Agency form number: FR 2502s.
OMB Docket number: 7100-0079.
Frequency: Quarterly.
Reporters: Foreign branches of U.S. banks.
Annual reporting hours: 7,966.
Estimated average hours per response: 3.5.
Number of respondents: 569.
Small businesses are not affected.

General description of report

The FR 2502 report collects the amount, by country, of assets and liabilities held by foreign branches of U.S. banks and Edge and Agreement corporations with assets of $150 million or more. The data are used to monitor international banking developments.

Individual respondent data are regarded as confidential under the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)). Aggregate data are published by the Federal Reserve System in a quarterly statistical release. Aggregate data on claims on foreigners held by U.S.-chartered banks are published monthly in the Federal Reserve Bulletin. Data relating to offshore branches are provided to the Bank for International Settlements.

Proposal to approve under OMB delegated authority the discontinuation of the following report:

1. *Report title*: Report of Claims on Selected Foreign Countries by U.S. Branches and Agencies of Foreign Banks.
Agency form number: FR 2029b.
OMB Docket number: 7100-0064.
Frequency: Semiannually.
Reporters: U.S. banks and agencies of foreign banks.
Annual reporting hours: 342.
Estimated average hours per response: 3.
Number of respondents: 57.
Small businesses are not affected.

General description of report

The FR 2029b collects information as of the last day of June and December on the maturity distribution of the claims on foreigners held by U.S. branches and agencies of foreign banks, as well as their commitments to extend future credit. The Federal Reserve System proposes to discontinue the collection of these data because acceptable substitutes are available on the Treasury International Capital (TIC) reports.

Board of Governors of the Federal Reserve System, August 1, 1990.

William W. Wiles,

Secretary of the Board.

[FR Doc. 90-18405 Filed 8-6-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[File No. 892 3005]

American Life Nutrition, Inc., et al.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the New York City

based wholesale distributors of dietary food supplements from making false and unsubstantiated health efficacy claims for any food or drug in the future. In addition, it would require the respondents to publish retractions of previous advertising claims for certain bee pollen, royal jelly, fish oil, and vitamin products, that were published in eight newspapers and magazines, and to send corrective notices to past wholesale and retail purchasers.

DATES: Comments must be received on or before October 9, 1990.

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

FOR FURTHER INFORMATION CONTACT: Michael Bloom/Harriet Mulhern, New York Regional Office, Federal Trade Commission, 150 William St., suite 1300, N.Y., N.Y. 10038. (202) 264-8290/(212) 264-1226.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of American Life Nutrition, Inc., American Life FarFun, Inc., corporations, and Ling Won Tong, individually and as an officer and director of the corporations.

The Federal Trade Commission having initiated an investigation of certain acts and practices of American Life Nutrition, Inc., American Life FarFun, Inc., corporations, and Mr. Ling Won Tong, individually and as an officer and director of the corporations, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between American Life Nutrition, Inc., American Life FarFun, Inc., and Mr. Ling Won Tong, by their duly authorized officer, and their attorney, and counsel for the Federal Trade Commission that:

(1) Proposed respondents American Life Nutrition, Inc. and American Life FarFun, Inc. are corporations organized, existing and doing business under and by virtue of the laws of the State of New York, with their office and principal place of business located at 60 East Broadway, New York, New York 10002. Proposed respondent, Mr. Ling Won Tong, is the President, Executive Director, sole officer and director of ALN.

(2) Proposed respondents admit all the jurisdictional facts set forth in the draft of the complaint attached hereto.

(3) Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusion of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

(4) This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the proposed complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

(5) This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint attached hereto.

(6) This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint attached hereto and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

(7) This agreement is premised upon proposed respondents' sworn financial statement and related documents previously provided to the Commission. Upon duly noticed motion to the Commission, filed no later than three (3) years after the entry of this Consent Order, the Commission may make a determination whether there are any material misrepresentations in said sworn financial statement and related documents. If the Commission finds any material misrepresentation in the sworn financial statement and related documents submitted by proposed respondents, in addition to such other remedies as may be provided by law, that finding shall cause this Consent Order to be set aside and the Commission in that event shall be permitted to reopen this matter and take such action as it deems appropriate. Prior to the making of any such determination, the Commission shall notify the proposed respondents of any discrepancy and provide them with a reasonable opportunity to explain or justify the disputed entry in the sworn financial statement or related document.

(8) Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that, once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

For purposes of this Order the following definitions shall apply:

(A) *Respondents* means American Life Nutrition, Inc. and American Life

FarFun, Inc., corporations, their successors and assigns, officers, directors, agents, representatives, independent contractors, and employees, and Mr. Ling Won Tong, individually and as an officer and director of said corporations.

(B) *Person* means any individual, group, association, limited or general partnership, corporation, or any other business entity.

(C) An *affiliate* of a given person means any other person:

(1) That directly or indirectly controls, is controlled by, or is under common control with, the given person; or

(2) That directly or indirectly owns, controls, or holds with power to vote, ten percent (10%) or more of the outstanding voting securities of the given person.

(D) *Commission* means the Federal Trade Commission.

(E) *Drug* is defined in section 15(c) of the FTC Act, 15 U.S.C. 55(c), as, *inter alia*, "articles (other than food) intended to affect the structure or any function of the body of man or other animals."

(F) *Food* is defined in section 15(b) of the FTC Act, 15 U.S.C. 55(b), as "(1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article."

(G) *Dietary Food Supplement* means any food used to supplement the normal diet of men and women to improve nutrition.

(H) *Competent and reliable scientific evidence* means tests or studies in which persons with skill and expert knowledge, in the field to which the tests or studies pertain, conduct the tests or studies and evaluate their results in an objective manner using testing, evaluation, and analytical procedures that are generally accepted in the profession to yield accurate and reliable results.

(I) *Comparable to the print advertisements placed by respondents between December 1, 1987 and December 1, 1988* means one print advertisement in each publication in which respondents placed a print advertisement between December 1, 1987 and December 1, 1988. Each such advertisement shall appear on the same day of the week as the original advertisements in that publication appeared most frequently, and on the same or comparable page on which the original advertisements in that publication appeared most frequently. Each such advertisement shall be the same size as the largest size advertisement originally placed by respondents in that publication. Each statement required by this order shall be clear and conspicuous, displayed in type size which is at least as large as that in which the principal portion of the text of the advertisement appears, and shall be separated from the text, or enclosed in a black or red border, so that it may be readily noticed.

II

It is ordered That respondents, directly or through any corporation, affiliate, division, or other device, in connection with the advertising, labelling, offering for sale, sale, or distribution of any food, drug, or dietary food supplement, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(A) Making any representation, directly or by implication, that Life FarFun 100% Natural Honeybee Pollen Nuggets, or any similar honeybee pollen product:

(1) Will help prevent or effectively treat breast cancer;

(2) Will help prevent or effectively treat diabetes;

(3) Will help prevent or effectively treat heart disease;

(4) Will help prevent or effectively treat influenza;

(5) Will help prevent or effectively treat arthritis;

(6) Will help prevent or effectively treat dyspepsia (indigestion);

(7) Will help prevent or effectively treat high blood pressure;

(8) Will help prevent or effectively treat constipation;

(9) Will help prevent or effectively treat hemorrhoids or moles;

(10) Will help prevent or effectively treat the common cold;

(11) Will help cause a weight gain or loss;

(12) Will help prevent or effectively treat prostate gland illness;

(13) Will help prevent or effectively treat asthma;

(14) Will help prevent or effectively treat hay fever;

(15) Will help prevent or effectively treat skin sensitivity or dry skin;

(16) Will help prevent or effectively treat swollen ankles;

(17) Will help increase sex drive; or,

(18) Will help prevent or effectively treat serious or life-threatening diseases.

(B) Making any representation, directly or by implication, that Gelee Royale Americaine Fresh Natural American Royal Jelly, or any similar royal jelly product:

(1) Will help erase or prevent wrinkles;

(2) Will help delay or prevent the aging process;

(3) Will help improve sexual ability;

(4) Will help prevent or effectively treat psilosis (hair loss);

(5) Will help prevent or effectively treat cerebral anemia or insomnia;

(6) Will help prevent or effectively treat eczema;

(7) Will help increase appetite, or promote the growth of children;

(8) Will help prevent or effectively treat trembling of hands or legs, fainting, or stiff muscles;

(9) Will help prevent or effectively treat arteriosclerosis, paralysis, rubella, or fatigue; or,

(10) Will help prevent or effectively treat tuberculosis or hepatitis.

(c) Making any representation, directly or by implication, that American Yuyu King Supernatural Fish Oil Concentrate, or any similar fish oil product;

(1) Will prevent heart problems for the rest of the user's life, or will remove any need for a user to worry about the heart;

(2) Will help prevent or effectively treat rheumatism;

(3) Will help prevent or effectively treat cerebral apoplexy; or,

(4) Will help prevent or effectively treat scabies.

D. Making any representation, directly or by implication, that Million Vitaming Complete Vitamins and minerals, or any similar vitamin or mineral product;

(1) Will help prevent or effectively treat all contractible diseases;

(2) Will help prevent or effectively treat eye diseases, ailments; or poor eyesight for the typical purchaser;

(3) Will help increase the number of red blood cells for the typical purchaser; or,

(4) Will help prevent or effectively treat prostrate gland enlargement for the typical purchaser;

III

It is further ordered That respondents, directly or through any corporation, affiliate, division, or other device, in connection with the advertising, labelling, offering for sale, sale, or distribution of any food, drug, or dietary food supplement, in or affecting commerce, as "commerce" is defined n the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication:

(A) That any food, drug, or dietary food supplement is, or consists of ingredients that are, specified, approved, endorsed, or found to be safe or effective in the treatment or prevention of any disease, disorder, of condition, by any governmental or other agency or spokesperson, unless such is the fact.

(B) Regarding the efficacy, safety, or performance of any food, drug, or dietary food supplement, unless, at the time the representation is made, respondents possess and rely upon a reasonable basis consisting of competent and reliable scientific evidence that substantiates such representation.

IV

It is further ordered That respondents, directly or through any corporation, affiliate, division, or other device, in connection with the advertising, labelling, offering for sale, sale, or distribution of any food, drug, or dietary food supplement, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to state, in print adverstisements comparable to the print advertisements place by respondents between December 1, 1987 and December 1, 1988, full and accurate Chinese-language translations of the following:

(A) Contrary to prior advertising claims, Life Farfun 100% Natural Honeybee Pollen Nuggets will not help prevent or effectively treat breast cancer; will not help prevent or effectively treat diabetes; will not help prevent or effectively treat heart disease; will not help prevent or effectively treat influenza; will not help prevent or effectively treat arthritis; will not help prevent or effectively treat dyspepsia (indigestion); will not help prevent or effectively treat high blood pressure; will not help prevent or effectively treat hemorrhoids or moles; will not help prevent or effectively treat the common cold; will not help cause a weight gain or loss; will not help prevent or effectively treat prostrate gland illness; will not help prevent or effectively treat hay fever; will not help prevent or effectively treat skill sensitivity or dry skin; will not help prevent or effectively treat swollen ankles; will not help increase sex drive; will not help prevent or effectively treat serious or life-threatening diseases; and, has not been approved or endorsed by the United States Government.

(B) Contrary to prior advertising claims, Gelee Royale Americaine Fressh Natural American Royal Jelly will not help erase or prevent wrinkles; will not help delay or prevent the aging process; will not help improve sexual ability; will not help prevent or effectively treat psilosis (hair loss); will not help prevent or effectively treat cerebral anemia or insomnia; will not help prevent or effectively treat eczema; will not help increase appetite, or promote the growth of children; will not help prevent or effectively treat trembling or hands or legs, fainting, or stiff muscles; will not help prevent or effectively treat arteriosclerosis, paralysis, rubella, or fatigue; and will not help prevent or effectively treat tuberculosis or hepatities.

(C) Contrary to prior advertising claims, American Yuyu King Supernatural Fish Oil Concentrate will prevent heart problems for the rest of the user's life, and will not remove any need for a user to worry about the heart; will not help prevent or effectively treat rehematism; will not help prevent or effectively treat cerebral apoplexy; and, will not help prevent or effectively treat scabies.

(D) Contrary to prior advertising claims, Million Vitaming Complete Vitamins and minerals will not help prevent or effectively treat all contractible diseases; will not help prevent or effectively treat eye diseases, ailments, or poor eyesight for the typical purchaser; will not help increase the number of red blood cells for the typical purchaser; and, will not help prevent or effectively treat prostrate gland enlargement for the typical purchaser.

V

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, affiliates, or any other changes made in the corporations that may affect compliance obligations arising out of this Order.

VI

It is further ordered That for a period of ten (10) years from the date of entry of this Consent Order, respondent Ling Won Tong shall promptly notify the Commission of the discontinuance of his present business or employment, and of his affiliation with any new business or employment whose activities include the advertising, promotion, offering for sale, or sale of food, drug, or dietary food supplement products, each such notification to include respondent's new business address and a statement of the nature of the business or employment in which respondent is newly engaged, as well as a description of the respondent's duties and responsibilities in connection with the business or employment.

VII

It is further ordered That respondents shall maintain for at least three (3) years from the date of service of this Order, and make available to Commission staff upon request, copies of:

(A) All records and documents necessary to demonstrate fully respondents' compliance with each provision of this Consent Order;

(B) All materials that were relied upon by respondents in disseminating any statement or representation covered by this Order;

(C) All test reports, studies, surveys, demonstrations, or other evidence in its possession or control, that contradict, qualify, or call into question any statement or representation that is covered by this Order;

(D) All advertising and promotional materials disseminated to any person;

(E) All corrective advertising statements furnished to any person;

(F) Any materials offering, directly or by implication, any money-back or gurarantee of satisfaction in connection with the purchase of any of respondents' products.

(G) Any request for a refund from any person, any correspondence, or other records relating to such request, and documentation sufficient to show the date, manner, amount, and recipient of any refund made.

VIII

It is further ordered That respondents shall distribute a copy of this Consent Order, along with a full and accurate Chinese-language translation of part IV thereof, to any present or future officers, directors, agents, representatives, independent contractors, and employees with sales or marketing functions, and any other persons in active concert or participation with them in connection with the advertising, labelling, distribution, promotion, offering for sale, or sale of any food, drug, or dietary food supplement, and to all distributors (either retail or wholesale), and manufacturers of products marketed by respondents, in or affecting interstate commerce, and shall secure from each such person a signed and dated statement acknowledging receipt of said Consent Order.

IX

It is further ordered That respondents shall distribute to all persons who purchased any of respondents products between January 1, 1987, and the date of service of this order, and for whom respondent either possesses a mailing address or whose mailing address is provided to respondent by staff of the Federal Trade Commission, a notice comprised of full and accurate Chinese-language translations of Paragraph IV (A), (B), (C), and (D) of this order. This

notice shall include, immediately preceding these translations, a full and accurate Chinese-language translation of the following statement:

"IMPORTANT NOTICE: The following information regarding our products is provided pursuant to a consent order issued by the United States Federal Trade Commission against American Life Nutrition, Inc. we are providing this information to our customers through you and through advertisements in various publications."

X

It is further ordered That respondents shall, within sixty (60) days after the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order. Such report shall include full and accurate English-language translations of all Chinese language advertising than in use, or contemplated to be used, by respondents.

Analysis of Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement containing a consent order from American Life Nutrition, Inc., American Life FarFan, Inc., and Mr. Ling Won Tong, hereinafter collectively known as "ALN."

The consent order has been placed on the public record for sixty (60) days for comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's order.

This matter is a Chinese-language false advertising case. It concerns health claim representations made for five (5) dietary food supplements in Chinese-language media. The Commission's complaint charges that representations made by ALN are false and misleading and that respondents did not possess and rely upon well-controlled clinical tests as a reasonable basis for making these representations.

Specifically, the complaint charges that in numerous advertisements respondents have claimed that Life FarFun Honeybee Pollen, Gelee Royale Royal Jelly, American Yuyu King Fish Oil, and Million Vitaming Vitamins and Minerals, will prevent or effectively treat such diseases as breast cancer, diabetes, high blood pressure, heart disease, influenza, arthritis, asthma, common cold, prostate gland enlargement, rheumatism, arteriosclerosis, tuberculosis, and hepatitis among others; will reduce fat and cholesterol in the blood, help stop hardening of the arteries, migraine headaches, protect the kidneys, and increase sex drive, among other health claims. Additionally, the complaint charged that ALN did not substantiate its claims that Good Darling calcium tablets will prevent and treat osteoporosis, rickets, and weak legs.

Under the order respondents would be required to cease and desist from representing, directly or by implication, that any honeybee pollen product will or can help prevent or effectively treat breast cancer, diabetes, heart disease, influenza, arthritis, dyspepsia (indigestion), high blood pressure, constipation, hemorrhoids or moles, the common cold, prostate gland illness, asthma, hay feber, skin sensitivity or dry skin, swollen ankles, serious or life-threatening diseases, or will or can help cause a weight gain or loss, or help increase sex drive.

Respondents would further be required to cease and desist from representing, directly or by implication, that any royal jelly product will or can help erase or prevent wrinkles, help delay or prevent the aging process, improve sexual ability, treat psilosis (hair loss), help prevent or effectively treat cerebral anemia or insomnia, eczema, trembling of hands or legs, fainting, or stiff muscles, arteriosclerosis, paralysis, rubella, fatigue, tuberculosis or hepatitis, or will or can help increase appetite, or promote the growth of children.

In addition, respondents would be required to cease and desist from representing, directly or by implication, that any fish oil product will or can help prevent heart problems for the rest of the user's life, remove any need for a user to worry about the heart, or effectively treat rheumatism, cerebral apoplexy, or scabies.

Respondents also would be required to cease and desist from representing, directly or by implication, that any vitamin or mineral product will or can help prevent or effectively treat all contractible diseases, eye diseases, ailments, or poor eyesight, prostate gland enlargement or help increase the number of red blood cells.

The consent order further would prohibit ALN from representing directly or by implication, that any food or drug has been found to be safe or effective in the treatment or prevention of any disease, disorder, or condition, by any governmental or other agency or spokesperson, unless such is the fact.

Additionally, the efficacy, safety, or performance of any food or drug may not be claimed in any advertisements unless, at the time the representation is made, ALN possesses and relies upon "competent and reliable" scientific evidence that substantiates such representations. For any test or study to be "competent and reliable" it must be one conducted by a person with skill and expert knowledge in the field to which the test or study pertains.

The consent order also would required ALN to publish a retraction of false health claims in eight (8) Chinese-language print media:

"WORLD JOURNAL DAILY," "UNITED JOURNAL," SING TAO JIH PAO," "THE YOUNG CHINA DAILY," "CHINESE TIMES," "CHINA TIMES WEEKLY," "WORLD JOURNAL WEEKLY," and "NEW YORK WEEKLY ENTERTAINMENT."

The retractions are intended to mitigate the effects of ALN's prior false advertisements preventing further harm.

The order further would require ALN to maintain for at least three (3) years from the date of service of the order all records and documents to demonstrate their compliance with the order; to distribute a copy of the order along with a full and accurate Chinese-language translation of the corrective advertising to every present and future officer, director, agent, representative, independent contractor and employee with sales or marketing functions, to every manufacturer of any product marketed by respondents; and to identified others; and to secure from each such person a signed and dated statement acknowledging receipt of the consent order and corrective statement.

In addition, ALN would have to distribute a copy of the corrective advertising paragraphs contained in paragraph III (A), (B), (C), and (D) of the order to all persons, including every wholesale and retail distributor, who purchased their products between January 1, 1987, and the date of service of the order.

The order would require ALN to file a compliance report within sixth (60) days after the date of service of the order.

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

Donald S. Clark,

Secretary.

[FR Doc. 90-18441 Filed 8-6-90; 8:45 am]

BILLING CODE 6750-01-M