

employee has also been added. A number of minor editorial and technical changes are also made to the regulations for the sake of clarity and uniformity.

**EFFECTIVE DATE:** July 22, 1982.

**FOR FURTHER INFORMATION CONTACT:** C. P. Nelson, (202) 245-5449.

**SUPPLEMENTARY INFORMATION:** To carry out the purposes described in the Summary above, the Postal Service adds a new 39 CFR 233.2(b)(1)(v) to show that an assault on a postal employee is now included among the postal offenses for which rewards for information and services are authorized. Also revised is the text of Notice 96 which follows paragraph (b)(2) of § 233.2.

#### List of Subjects in 39 CFR Part 233

Law enforcement, Crime, Postal Service.

Accordingly, 39 CFR is amended as follows:

#### PART 233—INSPECTION SERVICE AUTHORITY

In § 233.2 paragraph (b)(1)(v) is added and the text of Notice 96 in the note following paragraph (b)(2) is revised to read as follows:

##### § 233.2 Circulars and rewards.

(b) \* \* \*

(1) \* \* \*

(v) Assault on postal employee.

(2) \* \* \*

Note.— \* \* \*

The United States Postal Service offers a reward up to the amounts shown for information and services leading to the arrest and conviction of any person for the following offenses:

**Robbery, \$10,000.** Robbery or attempted robbery of any custodian of any mail, or money or other property of the United States under the control and jurisdiction of the United States Postal Service, if such custodian is not wounded or killed, or the custodian's life jeopardized; but NOT TO EXCEED \$5,000 if the custodian is not wounded or killed, or his life jeopardized.

**Bombs or Explosives, \$10,000.** Mailing or causing to be mailed any bombs or explosives which may kill or harm another, or injure the mails or other property, or the placing of any bomb or explosive in a postal facility, vehicle, depository or receptacle established, approved or designated by the Postmaster General for the receipt of mail.

**Burglary of Post Office, \$5,000.** Breaking into, or attempting to break into a post office, station, branch, or a building used wholly or partially as a post office with intent to commit a larceny or other depredation in that part used as a post office.

**Poisons, Controlled Substances, or Hazardous Materials, \$1,000.** Mailing or causing to be mailed any poison, controlled substances or hazardous materials.

**Theft of Mail, \$1,000.** Theft or attempted theft of any mail, or the contents thereof, or the theft of money or any other property of the United States under the custody and control of the United States Postal Service from any custodian, postal vehicle, railroad depot, airport, or other transfer point, post office or station or receptacle or depository established, approved, or designated by the Postmaster General for the receipt of mail.

**Offenses Involving Postal Money Orders, \$1,000.**

Altering, counterfeiting, forging, and unlawful uttering or passing of postal money orders.

**Obstruction of Mail, \$1,000.** Obstructing or retarding the passage of mail, or any carrier or conveyance carrying the mail.

**Assault on Postal Employees, \$1,000.** Forcibly assaulting any officer or employee of the Postal Service while engaged in or on account of the performance of their official duties.

#### Related Offenses

The United States Postal Service also offers rewards as stated above for information and services leading to the arrest and conviction of any person:

1. for being an accessory to any of the above crimes;

2. for receiving or having unlawful possession of any mail, money or property secured through the above crimes;

3. for conspiracy to commit any of the above crimes.

#### GENERAL PROVISIONS

1. The Postal Inspection Service investigates the above described crimes. Information concerning these violations, and requests for applications for rewards, should be furnished to the nearest Postal Inspector.

2. The term "custodian" as used herein includes any person having lawful charge, control, or custody of any mail matter, or any money or other property of the United States under the control and jurisdiction of the United States Postal Service.

3. The amount of any reward will be based on the importance of services rendered, character of the offender, risks and hazards involved, time spent, and expenses incurred. Amounts of rewards shown above are the maximum amounts which will be paid. Maximum rewards will be paid only when services rendered contributed significantly to the arrest and conviction of the offender.

4. The Postal Service reserves the right to reject a claim for reward where there has been collusion, criminal involvement, or improper methods have been used to effect an arrest or to secure a conviction. It has the right to allow only one reward when several persons were convicted of the same offense, or one person was convicted of several of the above offenses.

5. A written claim for reward payment must be submitted to the nearest Postal Inspector within six months from the date of conviction of the offender, or the date of formally deferred prosecution or the date of his death, if killed in committing a crime or resisting lawful arrest for one of the above offenses.

(39 U.S.C. 401(2), 404(8), 410(b)(2))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration

[FR Doc. 82-18842 Filed 6-21-82; 8:45 am]

BILLING CODE 7710-12-M

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[A-5-FRL 2140-6]

#### Approval and Promulgation of Implementation Plans; Indiana

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rulemaking.

**SUMMARY:** On November 24, 1981, the Indiana Air Pollution Control Board submitted revisions to the ozone and total suspended particulate portions of its State Implementation Plan (SIP). The revisions are in the form of operating permits for Jeffboat, Incorporated; Tecumseh Pipe Line Company; and Wayne Transportation Corporation. The intent of today's rulemaking is to announce receipt and approval of the revisions. Further information on this revision is provided below.

**DATE:** This action is effective August 23, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses:

Environmental Protection Agency,  
Region V, Air Programs Branch, 230  
South Dearborn Street, Chicago,  
Illinois 60604;

Environmental Protection Agency,  
Public Information Reference Unit, 401  
M Street, S.W., Washington, D.C.  
20460;

Indiana Air Pollution Control Division,  
Indiana State Board of Health, 1330  
West Michigan Street, Indianapolis,  
Indiana 46206.

Comments on this action should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Sharon Reinders, (312) 886-6034.

**SUPPLEMENTARY INFORMATION:** On November 24, 1981, Indiana submitted revisions to its SIP in the form of operating permits for the following facilities.

1. Jeffboat, Inc., Jeffersonville;
2. Tecumseh Pipe Line Co., Schererville;
3. Wayne Transportation Division, Wayne Corp., Richmond.

In addition to all other regulations within the SIP that may be applicable to these facilities, the permits set the following specific emission limits:

Facility	Source	Operation	Pollutant	Emission limit	Attainment status designation
Jeffboat, Inc.	Plate shop	Paint spraying	Ozone <sup>1</sup>	110 lbs/hr, 2600 lbs/day, 340 t/y	Nonattainment.
		Metal cleaning	TSP <sup>2</sup>	5 lbs/hr, 15 t/yr	Do.
	Structural shop	Paint spraying	Ozone	88 lbs/hr, 2100 lbs/day 274 t/y	Do.
		Metal cleaning	TSP	14 lbs/hr, 43 t/yr	Do.
Tecumseh Pipe Line Co.	5 Tanks	Crude oil storage	Ozone	0.028 lb/day 10 <sup>3</sup> gal., 107 t/yr total	Nonattainment.
	4 Tanks	do	Ozone	0.028 lb/day 10 <sup>3</sup> gal., 86 t/y total	Do.
Wayne Corp.	12 Spray booths	Surface coating	TSP	2 lbs/hr, 2 t/yr	Unclassified.
	4 Touch up bays	do	Ozone	194 lbs/hr, 184 t/yr	Attainment.

<sup>1</sup> Emission Limits Pertain to Volatile Organic Compounds.  
<sup>2</sup> Total Suspended Particulates.

The EPA believes that the limits incorporated into the permits developed by the State are acceptable because the permits will not interfere with attainment and maintenance of the appropriate national ambient air quality standards. Additionally, some of the permits set emission limits for sources previously exempted from control. The TSP emission limitations that EPA is rulemaking on today are in addition to those emission limitations contained in Indiana's general regulations, 325 IAC Articles 5 and 6. Furthermore, the volatile organic compound emission limitations are in addition to those emission limitations contained in 325 IAC Article 8. EPA will rulemake on 325 IAC Articles 5, 6, and 8 at a later date. Finally, the limitations EPA is approving today are not inconsistent with the required Reasonably Available Control Technology (RACT) level of control.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on August 23, 1982. However, if we receive notice by 30 days from the date of this notice that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1981.

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: June 16, 1982.

Anne M. Gorsuch,  
Administrator.

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph (32) as follows:

##### § 52.770 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(32) On November 24, 1981, Indiana submitted site specific emission limitations for Jeffboat, Inc., Jeffersonville; Tecumseh Pipe Line Company, Schererville, and Wayne Transportation Division, Richmond.

\* \* \* \* \*

[FR Doc. 82-16785 Filed 6-21-82; 9:45 am]

BILLING CODE 6520-50-M

#### 40 CFR Part 52

[A-7-FRL 2125-2]

#### Approval and Promulgation of Implementation Plans: State of Missouri

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rulemaking.

**SUMMARY:** The State of Missouri has submitted amendments to its State Implementation Plan (SIP) involving the prevention of significant deterioration (PSD) of air quality and new source review in nonattainment areas. On February 22, 1982, EPA proposed to approve draft regulations provided certain changes were made when the state submitted final rules. EPA received no comments in response to its proposed rulemaking. Today's notice is published to advise the public that EPA is approving the state's submission but is withholding action on the rules insofar as they pertain to the Columbia and New Madrid nonattainment areas. The rationale for this action is contained in this notice and the final technical support memorandum.

**EFFECTIVE DATE:** This promulgation is effective June 22, 1982.

**ADDRESSES:** Copies of the state's submission and EPA's technical evaluation are available at the following locations:

Air Branch, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106  
Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Missouri Department of Natural

Resources, 1101 Rear Southwest Boulevard, Jefferson City, Missouri 65102

A copy of the state's submission is also available at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Wayne G. Leidwanger at (816) 374-3791 (FTS: 758-3791).

**SUPPLEMENTARY INFORMATION:** On August 7, 1980, EPA promulgated amended regulations for the review of new air pollution sources, including recommendations for the prevention of significant deterioration (PSD) of air quality and regulatory changes affecting new source review in nonattainment areas (45 FR 52676). SIP revisions to address these changes were due nine months after this promulgation.

On June 15, 1981, the State of Missouri submitted revisions to Rules 10 CSR 10-6.020, Definitions, and 10 CSR 10-6.060, Permits Required, to address the requirements of EPA's regulatory changes published on August 7, 1980. EPA approved (with certain conditions later fulfilled by the state) a prior version of the above regulations on May 9, 1980 (45 FR 30626), insofar as they met the requirements of Part D of the Clean Air Act. EPA reviewed the June 15 submission from the state to determine whether it met the regulatory changes published August 7, 1980. EPA identified certain deficiencies in the state's regulations which the state agreed to address.

On September 18, 1981, Missouri requested delegation of PSD authority until such time as the SIP revision could be approved. PSD delegation, subject to certain conditions dealing with those portions of the Missouri regulation which did not meet EPA's requirements, was granted on October 19, 1981. A notice of this action was published in the *Federal Register* on November 25, 1981 (46 FR 57757).

On November 13, 1981, the state submitted a proposed new Rule 10 CSR 10-6.060 and proposed changes to the definition of some terms in 10 CSR 10-6.020. EPA reviewed this draft submission and issued a notice of proposed rulemaking on February 22, 1982 (47 FR 7696). In that notice EPA proposed to approve the Missouri rules as meeting the requirements of Parts C and D of the Clean Air Act provided that (1) the state officially adopted and submitted the rules including certain revisions to address a number of items which were not consistent with EPA's regulatory requirements, (2) no other substantive changes were made to the rules and (3) there were no public comments which would affect the

approvability of the submission. EPA also proposed to take no action on the rules insofar as they pertain to the Columbia and New Madrid nonattainment areas for the secondary standard for total suspended particulates (TSP). No comments were received in response to the notice of proposed rulemaking.

In the proposed rulemaking, EPA stated that the following changes in the rules were required prior to final rulemaking: (1) that PSD review be applicable to modifications of certain named sources when the modification itself is major, (2) that all offset emissions be binding upon the source from which they are obtained, (3) that when determining net emissions increases, decreases in actual emissions are creditable only to the extent that they are not relied on by the state to demonstrate attainment or reasonable further progress, and (4) that the state request EPA approval of air quality models not already approved for use by EPA. (For a further discussion of these issues, the reader should consult the notice of proposed rulemaking.) The state agreed to correct its rules as they pertain to these requirements. On April 15, 1982, the state submitted its new Rule 10 CSR 10-6.060 and amendments to Rule 10 CSR 10-6.020. The final rules correct all four deficiencies cited above.

In the notice of proposed rulemaking, EPA cited other provisions of Missouri's rules which were proposed for approval although they were not strictly consistent with EPA's requirements. EPA specifically solicited comments on these issues but none were received. Consequently, EPA is approving these provisions for the reasons cited in the February 22 notice.

The state's submission of April 15 includes other minor changes which do not alter the approvability of the rules as proposed by EPA.

With respect to the Columbia and New Madrid TSP nonattainment areas, EPA is taking no action regarding the application of Missouri's permitting rules for the reasons noted in the proposed rulemaking. The Missouri plan still lacks an approved new source review plan for these areas and the state's regulations establishing the attainment area (PSD) new source review program will not be enforceable by EPA in these nonattainment areas. The new source review requirements of the Emission Offset Policy (40 CFR Part 51, Appendix S) remain in effect for these areas. **ACTION:** EPA approves Missouri Rule 10 CSR 10-6.060, Permits Required, and the amendments to Rule 10 CSR 10-6.020, Definitions, as meeting the requirements of Parts C and D of the Clean Air Act, but EPA is taking no

action on these regulations insofar as they pertain to the Columbia and New Madrid nonattainment areas.

In the notice on November 25, 1981, EPA stated that it had delegated, with certain conditions, the PSD program to the state under a previous version of its permitting rules. Effective today, that delegation is rescinded and the state will have authority to issue PSD and new source permits under its new rules.

EPA finds that good cause exists for making these amendments effective immediately. Sources seeking permits will be able to apply to the state under the new rules and will not be required also to comply with previous versions of the permitting regulations under which the program was delegated to the state.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review. Any comments from OMB to EPA, and any EPA response, are available for public inspection at the locations listed in the "Addresses" section above.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Air Pollution Control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

This notice of final rulemaking is issued under authority of Sections 110 and 172 of the Clean Air Act, as amended.

Dated: June 16, 1982.

Anne M. Gorsuch,  
Administrator.

**Note.**—Incorporation by Reference of the State Implementation Plan for the State of Missouri was approved by the Director of the Federal Register on July 1, 1981.

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Subpart AA—Missouri

1. 40 CFR Part 52 is amended by adding § 52.1320(c)(37) to read as follows:

#### § 52.1320 Identification of plan.

\* \* \* \* \*

(c) The plan revisions listed below were submitted on the dates specified.

\* \* \* \* \*

(37) On April 15, 1982, the State of Missouri submitted a new Rule 10 CSR 10-6.060, Permits Required, and amendments to Rule 10 CSR 10-6.020, Definitions, involving the review and permitting of new sources of air pollution. Included in the plan are provisions relating to attainment area (PSD) new source review. No action is taken on the rules insofar as they pertain to the Columbia and New Madrid TSP nonattainment areas. Also included in the plan are provisions relating to new source review in the St. Louis, Kansas City and St. Joseph nonattainment areas.

**§ 52.1339 [Amended]**

2. 40 CFR Part 52 is amended by removing § 52.1339 (a) and (b).

[FR Doc. 82-16795 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 265**

[SW-10-FRL 2143-8]

**Partial Approval of Oregon Solid Waste Management Plan**

**AGENCY:** Environmental Protection Agency, Region 10.

**ACTION:** Final rule; partial approval.

**SUMMARY:** As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), the State of Oregon has received Federal financial assistance for development of a State solid waste management plan. The State of Oregon has submitted to the U.S. Environmental Protection Agency (EPA or the Agency) its adopted State solid waste management plan. Today, EPA is announcing its partial approval of the Oregon solid waste management plan. Partial approval of the Oregon plan indicates that the EPA is approving the portion of that plan that provides for State issuance of compliance schedules with regard to the open dumping prohibition. In obtaining partial approval of its plan, the State has committed to completing the plan in a timely and orderly manner.

**EFFECTIVE DATE:** June 22, 1982.

**FOR FURTHER INFORMATION CONTACT:** David Hanline, M/S 530, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-2858.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 31, 1979, (44 FR 45066) EPA published Guidelines for the Development and Implementation of

State Solid Waste Management Plans. These guidelines were required by § 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

On September 23, 1981, (46 FR 47048) EPA published amendments to the Guidelines for Development and Implementation of State Solid Waste Management Plans and Criteria for the Classification of Solid Waste Disposal Facilities and Practices (40 CFR Parts 256 and 257). In part, these amendments allow EPA to give partial approval for that part of the adopted State plan that covers State issuance of compliance timetables while the State is developing the other parts of the plan. The completion of the remaining parts of the plan will be conducted in a timely and orderly manner as set forth in a schedule mutually agreed upon by the State and EPA.

**Response to Comments**

On November 4, 1981 at 46 FR 54772 the Oregon solid waste management plan was noticed for public review and comment. Comments on the Oregon plan were received for 30 days, and one comment was submitted during the comment period. The comment, not specifically addressed to Oregon's plan, expressed concern that restrictions might be placed on the use of disposables for food service and packaging. In response, Oregon's plan does support waste reduction as a policy. However, at present the plan includes no such restrictions.

A second comment was submitted after the close of the comment period. This comment was directed at the plan's support of flow control to ensure the long-range financial viability of resource recovery facilities. The commentor felt that such a policy was potentially a threat to recycling operations. In response, Oregon's policy is to give priority consideration to recycling over flow control. This policy is reflected in the plan where there is discussion of the primary emphasis the State places on the salvage, recycling, and reconstitution of solid waste. Furthermore, the State has indicated that the plan will be revised to give more explicit statement of this policy.

**Finding**

I have reviewed the solid waste management plan submitted by Oregon. I have found that the Oregon plan does not meet all the requirements of § 4007(a) of RCRA for approval. Because

of limitations in State statutory authority, and because of the need for additional State Administrative Rules, Oregon does not at this time prohibit the establishment of new open dumps for all types of solid waste management facilities. Nor does Oregon have adequate legal authority to close or upgrade all existing open dumps.

Section 4005 of RCRA prohibits the open dumping of solid waste. However, the prohibition does not extend to any practice or disposal of solid waste under a compliance schedule which:

(1) Includes an enforceable sequence of actions leading to compliance with the prohibition on open dumping;

(2) Does not extend beyond September 13, 1984;

(3) Is preceded by a determination that the entity was unable to utilize other public or private alternatives for solid waste management to comply with the prohibition on open dumping; and

(4) Is issued by a State having an approved solid waste management plan.

The Oregon plan describes the State's legal authority to issue compliance schedules. The State of Oregon has authority to issue schedules to the following types of facilities for compliance with the following criteria established in 40 CFR Part 257:

a. Municipal and industrial landfills—all criteria; and

b. Non-agricultural landspreading operations—all criteria except "disease" (40 CFR Part 257.3-6).

For the remaining types of facilities—surface impoundments and agricultural landspreading operations—either statutory authority is inadequate, or regulations, by means of which compliance with the criteria can be ensured, have not been developed.

I am today approving that part of the plan that provides for the issuance of compliance schedules for the facilities and criteria described above. As of this date, those engaged in open dumping in Oregon may receive compliance schedules from the State that will, to the extent of the State's legal authority described above, protect them from open dumping suits as long as they remain in compliance with such schedules.

In accordance with § 258.04(f) Oregon has submitted a schedule outlining in a timely and orderly manner the steps that will be taken in completing the plan to meet the remaining requirements of § 4007(a) of RCRA for approval of the complete plan. Necessary legislative changes will be sought during the next legislative session in 1983. Rulemaking

will follow thereafter, and final rules will be adopted by July of 1984.

#### Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "major," and therefore subject to the requirement for a Regulatory Impact Analysis. Partial approval of the Oregon solid waste management plan is not a "major rule" because it does not result in an annual effect on the economy of \$100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise not from EPA's partial approval but because the plan complies with earlier requirements issued by EPA (Guidelines, 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257, as amended). Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget ("OMB") for review under Executive Order 12291.

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

#### Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the partial plan approval of the Oregon solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

#### List of Subjects in 40 CFR Part 256

Grant programs—environmental protection, Waste treatment and disposal.

Dated: May 26, 1982.

L. Edwin Coate,

Acting Regional Administrator.

[FR Doc. 82-16793 Filed 6-21-82; 8:45 am]

BILLING CODE 6560-50-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[BC Docket No. 81-433; RM-3803]

#### FM Broadcast Station in College and Fairbanks, Alaska; Changes Made in Table of Assignments

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action assigns Channel 280A to College, Alaska, in response to a petition filed by the Associated Students of the University of Alaska. The assignment could provide a first local radio service to College.

**DATE:** Effective August 10, 1982.

**ADDRESS:** Federal Communications Commission, Washington, D.C. 20054

**FOR FURTHER INFORMATION CONTACT:** H. Berland, Broadcast Bureau, (202) 632-7792.

#### SUPPLEMENTARY INFORMATION:

##### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### Report and Order—Proceeding Terminated

Adopted: June 4, 1982.

Released: June 14, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (College and Fairbanks, Alaska), BC Docket No. 81-433 RM-3803.

1. The Commission has before it the *Further Notice of Proposed Rule Making*, 46 FR 60478, published December 10, 1981, which invited comments on a proposal to amend the FM Table of Assignments by assigning Channel 280A to College, or to Fairbanks, Alaska, in the alternative, in response to a petition from the Associated Students of the University of Alaska ("ASUA").

2. Comments and reply comments were filed by petitioner in support of the proposal. Additionally, Northern Television, Inc. (licensee of several Alaskan broadcast stations, including KTVF-TV, Fairbanks, Alaska) filed comments supportive of the proposed assignment to College, Alaska. Oppositions to the proposal were filed by Interior Broadcasting Corp. ("Interior") (licensee of Station KAYY (FM), Fairbanks, Alaska) and Prime Time Alaska, Inc. (licensee of KIAK(AM) and permittee for KQRZ(FM), Fairbanks, Alaska).

#### Background

3. The *Further Notice* proposed the assignment of Channel 280A to College, Alaska, provided it could be shown that College is a community. The *Further Notice* defined a community in terms of "the coalescence of common interests"<sup>1</sup> and sought additional information from petitioner demonstrating that College has an identity apart from the City of Fairbanks. In the event that ASUA could not show that College is a community, the *Further Notice* proposed to assign the channel to Fairbanks, Alaska.

4. In its comments, ASUA asserted that College, an unincorporated area within the Fairbanks North Star Borough and located approximately four miles from Fairbanks, qualifies as a community. ASUA stated that given the University's presence, the main focus of the community is higher education. ASUA represented that the University's resources are available and open to the public. According to ASUA, the business sector consists of several retail outlets<sup>2</sup> and two branch banks which serve the "campus community."

ASUA further asserted that College is not dependent upon Fairbanks for public services. ASUA stated, in this regard, that (1) the University provides utility service; (2) the Alaskan state troopers and University Security Patrol afford police protection, and (3) the University and Fairbanks North Star Borough give fire protection. ASUA also mentioned that College has three public schools, which are part of the Fairbanks North Star Borough School District. Although mail is addressed to Fairbanks, College has its own post office and zip code. Finally, ASUA stated that if Channel 280A were assigned to Fairbanks, Alaska, instead, it would apply to operate the station there.

5. In its comments, Interior argued that College is not a community under Commission rules. Rather, Interior described College as the commonly designated area that encompasses the University. College is said to have no political or geographical boundaries.<sup>3</sup>

<sup>1</sup> Citing *North Naples, Florida*, 41 R.R. 2d 1549 (1978).

<sup>2</sup> Specifically, ASUA stated:

College \* \* \* has two shopping malls. The smaller one has about six stores including a grocery store, liquor store, hair stylist, and laundromat. The other shopping mall, which is considerably larger, features a Safeway supermarket and a department store. In addition to the businesses in the two shopping malls, College has four gas stations, four restaurants, two sporting goods stores, one auto repair shop, one florist and a number of plumbing and heating repair and service shops.

<sup>3</sup> Since student associations generally are restricted by and subject to the control of the University or Board of Trustees, Interior questioned

Interior stated that College is more readily associated with the city of Fairbanks and that, for the most part, the station would be financially supported by the business community of Fairbanks. Other than the University itself, Interior claimed that there has been no demonstrable "coalescence of needs and interests" politically, socially or economically. Thus, Interior concluded that in the absence of community status the assignment to College is inappropriate. Interior claimed that the requested FM assignment to College is in reality a fifth assignment to Fairbanks. Interior asserted that an additional assignment to Fairbanks is unwarranted for two reasons. First, the assignment could exceed the population guidelines for a city of Fairbanks' size. Second, the assignment would create intermixture of classes of channels in Fairbanks.

6. ASUA filed reply comments reiterating its position that College is a community. ASUA denied that Fairbanks' boundaries encompass College and proffered a map to substantiate this assertion. As further indicia of community status, ASUA stated that College has a number of churches and civic groups, and is represented on the Fairbanks North Star Borough Council, the borough-wide governing authority. Further, ASUA noted that College residents receive water and sewer service from the College Utility Corporation. Additionally, to ascertain the attitude of those residing in the area, ASUA conducted an informal survey of residents within College and its surrounding area, and found 58.7 percent of the population within and 63 percent of the population outside College viewed it as a community, separate and distinct from the city of Fairbanks. Finally, ASUA asserted that the Commission's population guidelines and intermixture policy are liberally construed and would not preclude the assignment of an additional FM channel to either College or Fairbanks.

7. Northern Television Inc. stated that in addition to the factors set forth in ASUA's comments, several of which it repeated, the Commission should consider the 1970 Census recognition of College as a "place." Northern

whether petitioner possesses the power and authority to become a Commission licensee. In a related context, Interior complained that the petitioner failed to specify whether it intended to operate an educational or commercial station. These objections could be summarily dismissed. First, character qualifications of licensees are treated at the application stage and thus need not be determined at this juncture. Second, it is clear that the petition sets forth ASUA's intention to operate a commercial station.

Television Inc. also expressed its belief that the assignment of an FM channel to College would "add to the 'identity' of College and develop even stronger community ties."

8. In its reply, Interior characterized the representations by ASUA as either "inaccurate" or "conveniently removed from their proper factual context." Interior described College in terms of a suburban residential overflow from Fairbanks which is more readily associated with Fairbanks. In this regard, Interior stated that the University is considered to be a part of Fairbanks, since it is the largest employer of Fairbanks' residents and it provides an educational, cultural and athletic center for the entire Fairbanks community, not College alone. According to Interior, College's businesses are a part of Fairbanks Chamber of Commerce and College's churches, social and civic organizations serve the Fairbanks community as well. Moreover, Interior stated that College is merely one of forty "service areas" located within North Star Borough which comprise the area surrounding Fairbanks. According to Interior, College shares several governmental-type services (*i.e.*, fire protection and police protection, provided by the Alaskan State Troopers) with its surrounding areas, and its schools are a part of the North Star Borough School District. Interior also stated that College does not have its own governing body. Based on all of the foregoing, Interior concluded that College should not be accorded community status.

#### Discussion

9. Pursuant to section 307(b) of the Communications Act, FM channels are assigned to specific communities. For our purposes, a community refers to a specific locality where residents share common interests.<sup>4</sup> The proponent of the assignment has the burden of establishing the community status of the particular locality. If the locality is incorporated, we consider it to be a community. However, if the locality is unincorporated the proponent must furnish specific data establishing the locality as a community. After carefully reviewing the evidence submitted, we believe that ASUA has adequately established that College should be accorded community status. According to the map furnished by ASUA, College is shown separately and located outside the city limits of Fairbanks. ASUA has shown that College has several social and civic organizations and business establishments which identify

themselves with the name of College. There are also two banks and a post office serving College. ASUA demonstrated that College is not dependent upon Fairbanks for governmental-type services. Although College appears to share some municipal services with the surrounding area, that interdependence is common for small towns. Finally, Northern Television, Inc. also urged the Commission to consider the fact that the 1970 Census designated College as a "place." The Census Bureau's listing of a particular locality is not conclusive as to community status, since the Census does not consider the various criteria utilized by the Commission in reaching its determination of community status. Rather the Census bases its decision to include a place in the listings on information submitted by the counties. However, Census recognition of a community often coincides with the Commission's determination of community status, and it is a factor we consider.

10. We believe that the above factors, taken together, demonstrate that College is a separate and distinct community. We also find that College is entitled to a first local aural service. Thus, we need not discuss Interior's objections to the assignment of an additional assignment to Fairbanks.

11. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 10, 1982, the FM Table of Assignments, § 73.202(b) of the rules is amended with regard to College, Alaska, as follows:

City	Channel No.
College, Alaska.....	280A

12. It is further ordered, that this proceeding is terminated.

13. For further information concerning the above, contact H. Berland, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.  
Roderick K. Porter,  
Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16800 Filed 6-21-82; 6:45 am]

BILLING CODE 6712-01-M

<sup>4</sup> *Coker, Alabama*, 43 R.R. 2d 190, 193 (1978).

**47 CFR Part 73****[BC Docket No. 82-59; RM-3966]****FM Broadcast Station in Huntsville, Ark.; Changes Made in Table of Assignments****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** This action assigns Channel 240A to Huntsville, Arkansas, in response to a petition filed by Souwecco Communications Corporation. The assignment could provide a first local broadcast service to Huntsville.

**DATE:** Effective August 10, 1982.**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.**FOR FURTHER INFORMATION CONTACT:** Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.**SUPPLEMENTARY INFORMATION:****List of Subjects in 47 CFR Part 73**

Radio broadcasting.  
Report and Order—Proceeding Terminated

Adopted: June 3, 1982.

Released: June 11, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, BC Docket No. 82-59 RM-3966. (Huntsville, Arkansas)

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 6452, published February 12, 1982, which seeks the assignment of Channel 240A to Huntsville, Arkansas, as its first FM assignment. The *Notice* was issued in response to a petition filed by Souwecco Communications Corporation ("petitioner"). Petitioner filed supporting comments. No oppositions to the proposal were received.

2. Huntsville (population 1,394),<sup>1</sup> seat of Madison County (population 11,373), is located approximately 200 kilometers (125 miles) northwest of Little Rock. It presently has no local aural service.

3. In its comments to the proposal, the petitioner refers to the data in the *Notice* which demonstrated the need for a first FM assignment to Huntsville. Petitioner also restated its intention to apply for the channel, if assigned.

4. Based on the need for a first local aural service we find the proposal justified. The transmitter site is restricted to 9.0 kilometers (5.5 miles) south of Huntsville to avoid short-

spacing to Station KKBL at Monett, Missouri.

5. In view of the above and pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules, it is ordered, that effective August 10, 1982, the FM Table of Assignments, § 73.202(b) of the rules, IS AMENDED with respect to the community listed below:

City	Channel No.
Huntsville, Ark.....	240A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-16798 Filed 6-21-82; 8:45 am]

BILLING CODE 6712-01-M

**47 CFR Part 73****[BC Docket No. 82-65; RM-4006]****FM Broadcast Station in Avon, Colo.; Changes Made in Table of Assignments****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** Action taken herein assigns Channel 276A to Avon, Colorado, in response to a petition filed by Edward J. Patrick. The assigned channel could provide a first FM service to Avon, Colorado.

**DATE:** Effective August 10, 1982.**ADDRESS:** Federal Communications Commission, Washington, D.C. 20554.**FOR FURTHER INFORMATION CONTACT:** Mark N. Lipp, Broadcast Bureau, (202) 632-7792.**SUPPLEMENTARY INFORMATION:****List of Subjects in 47 CFR Part 73**

Radio broadcasting.  
Report and Order—Proceeding Terminated

Adopted: June 3, 1982.

Released: June 11, 1982.

By the Chief, Policy and Rules Division:

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations, BC Docket No. 82-65 RM-4006 (Avon, Colorado).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 47 FR 6898, published February 17, 1982, proposing the assignment of Channel 276A to Avon, Colorado, as that community's first assignment in response to a petition filed by Edward J. Patrick ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Avon (population 640)<sup>1</sup> is located in Eagle County (population 13,171) approximately 16 kilometers (10 miles) west of Vail, Colorado. It has no local aural service.

3. In its comments, petitioner restated his intention to apply for Channel 276A if it is assigned. He also reaffirms the need for an FM assignment and urges the Commission to adopt his proposal.

4. In the *Notice of Proposed Rule Making* in this proceeding, the Commission rejected petitioner's request for a dual community assignment to Beaver Creek-Avon. The petitioner had not demonstrated that Beaver Creek could be accorded community status. The Commission stated that if petitioner could provide, in its supporting comments, a sufficient showing to establish Beaver Creek as a community pursuant to the Commission's criteria, then the assignment could be made to Beaver Creek. In his reply comments, petitioner stated that he did not offer information about components of community status for Beaver Creek because none exist. We are told that Beaver Creek is solely a ski resort which is adjacent to Avon and that the coupling of these two places was done solely because of their proximity. Petitioner fully supports the Commission's decision to assign Channel 276A to Avon.

5. The Commission has determined that the public interest would be served by assigning Channel 276A to Avon, Colorado, since it would provide the community with its first local FM service.

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's rules, it is ordered, that effective August 10, 1982, § 73.202(b) of the Commission's rules, is

<sup>1</sup>Population figures are taken from the 1980 U.S. Census.

<sup>1</sup>Population figures extracted from 1980 U.S. Census Advance Report.

amended with regard to the following community:

City	Channel No.
Avon, Colo .....	276A

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1068, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

**Roderick K. Porter,**

*Chief, Policy and Rules Division, Broadcast Bureau.*

[FR Doc. 82-16799 Filed 6-21-82; 8:45 am]

**BILLING CODE 6712-01-M**

# Proposed Rules

Federal Register

Vol. 47, No. 120

Tuesday, June 22, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 272 and 273

[Amdt. No. 217]

#### Optional Workfare Program

##### Correction

In FR Doc. 82-15579, appearing at page 24968, as part VI, in the issue of Tuesday, June 8, 1982, make the following change:

On page 24971, in the first column, § 272.1(g)(42), the last line should read "shall be in effect (30 days following publication of the final rule)."

BILLING CODE 1505-01-M

### Agricultural Marketing Service

#### 7 CFR Part 1065

#### Milk in the Nebraska-Western Iowa Marketing Area; Proposed Suspension of Certain Provisions

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed suspension of rules.

**SUMMARY:** This notice invites written comments on a proposal to suspend certain order provisions affecting the regulatory status of milk plants under the Nebraska-Western Iowa milk order. The action was requested by a cooperative association that operates several supply plants pooled under the order. The proposed suspension would remove for July and August 1982 the requirement that a cooperative association must deliver at least 51 percent of its member producer milk to pool distributing plants each month to qualify its supply plants as pool plants under the order. The cooperative claims that the action is needed to avoid inefficient handling and transportation of milk and to assure that its member dairy farmers who have regularly been associated with the market will continue to share in the market's fluid milk sales.

**DATE:** Comments are due not later than June 29, 1982.

**ADDRESS:** Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Maruice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Services, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7183.

**SUPPLEMENTARY INFORMATION:** This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It also has been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the *Federal Register*. However, this would not permit the completion of the required suspension procedures and the inclusion of July 1982 in the suspension period if this is found necessary. The request for this section was received June 14, 1982.

It has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for July and August 1982:

In § 1065.7(c) the words "51 percent or more of the."

All persons who want to comment on the proposed suspension should send two copies of their views to the Hearing clerk, U.S. Department of Agriculture,

Washington, D.C. 20250, not later than June 29, 1982.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include July 1982 in the suspension period.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours. (7 CFR 1.27(b)).

#### Statement of Consideration

The proposed suspension would remove for July and August 1982 the requirement that a cooperative must deliver at least 51 percent of its producer milk to pool distributing plants each month, either through transfers from its supply plants or directly from farms, in order to qualify the supply plants as pool plants under the order. The suspension was requested by Mid-America Dairymen, Inc., a cooperative association that operates four pool supply plants under the Nebraska-Western Iowa order and which is a principal supplier of milk to other handlers in the market.

In support of its request, the cooperative stated that this spring it had to depool milk of some of its producers who have been regularly associated with the market in order to meet the 51 percent delivery requirement. It indicated this was because deliveries to pool distributing plants, which are used to qualify the cooperative's supply plants, decreased significantly. For instance, the cooperative states its deliveries to pool distributing plants were down over 6 percent in May 1982 from May 1981. It expects this situation to become more serious during July and August due to the closing of schools and depressed economic conditions.

In the absence of the suspension action, the cooperative estimates that it may be necessary to remove from the market as much as 10 million pounds of its member milk during each month of July and August in order to meet the 51 percent delivery requirement. To the extent possible, the cooperative wants to avoid such costly and inefficient movements of milk solely for the purpose of pooling its supply plants and the milk of its member producers who regularly have supplied the fluid needs of the market.

**List of Subjects in 7 CFR Part 1065**

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on June 17, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-16652 Filed 6-21-82; 8:45 am]

BILLING CODE 3410-02-M

**Rural Electrification Administration****7 CFR Part 1701****Proposed Revision of REA Requirements for Electric System Planning**

**AGENCY:** Rural Electrification Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Rural Electrification Administration (REA) proposes to amend Appendix A—REA Bulletins by revising REA Bulletin 60-2, Electric System Capacity. Bulletin 60-2 sets forth REA policy with respect to the system planning and the electrical capacity of electric distribution and transmission systems financed by REA. The purpose of this proposal is to consolidate all REA requirements concerning electric system planning into a single bulletin. Currently such requirements are contained in Bulletin 60-2 and Bulletin 60-10, Construction Work Plans, Electric Distribution Systems. In addition, the proposal clarifies the requirement for REA borrowers to prepare long-range engineering plans and construction work plans. Bulletin 60-2 will be retitled "Electric System Planning Requirements and System Capacity." There are no new requirements contained in the revision of Bulletin 60-2 which are not already contained in the existing bulletins.

**DATE:** Public comments must be received by REA no later than August 23, 1982.

**ADDRESS:** Submit written comments to Archie Cain, Director, Engineering Standards Division, Rural Electrification Administration, Room 1270, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ed Limberger, Engineering Services Branch, Rural Electrification Administration, Room 1257, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-9093. The Draft Impact Analysis describing the options considered in developing this proposed

rule and the impact of implementing each option is available on request from the above office.

**SUPPLEMENTARY INFORMATION:** Pursuant to the rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend 7 CFR Part 1701, Appendix A—REA Bulletins, by revising REA Bulletin 60-2, Electric System Capacity, and removing REA Bulletin 60-10, Construction Work Plans, Electric Distribution Systems, from Appendix A. This proposed action has been reviewed in conformance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity and therefore has been determined to be "not major". This proposed action does not fall within the scope of the Regulatory Flexibility Act and is not subject to OMB Circular A-95 review requirements. This program is listed in the Catalog of Federal Domestic Assistance as 10.850, Rural Electrification Loans and Loan Guarantees.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). These provisions would not be effective until OMB approval had been obtained.

This proposed action is intended to clarify the requirement for each REA electric borrower to periodically prepare long-range engineering plans and construction work plans and to construct its system in accordance with those plans. The revision also is intended to consolidate, in Bulletin 60-2, all REA rules concerning electric system planning, some of which are presently included in Bulletin 60-10.

A copy of the proposed Bulletin 60-2 is available upon request from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, above address.

**List of Subjects in 7 CFR Part 1701**

Administrative practice and procedure, Electric utilities, Loan programs—electric.

Dated: June 3, 1982.

Harold V. Hunter,  
Administrator.

[FR Doc. 82-16723 Filed 6-21-82; 8:45 am]  
BILLING CODE 3410-15-M

**Animal and Plant Health Inspection Service****9 CFR Part 166****Advisory Committee on Swine Health Protection; Meeting**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of a meeting.

**SUMMARY:** The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Swine Health Protection to discuss the proposed rule implementing the Swine Health Protection Act and to review the information gathered from surveys of the swine health protection programs in the individual States and territories.

**DATES:** The meeting will be held on July 7, 1982, from 8:15 a.m. to 4:00 p.m., and July 8, 1982, from 8:15 a.m. to 4:00 p.m.

**ADDRESS:** The meeting will be held in Room 3109, Agriculture South Building, United States Department of Agriculture, 14th and Independence Avenue, SW, Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:**

Dr. J. A. Downard, Senior Staff Veterinarian, Swine and Poultry Diseases Staff, APHIS, VS, Federal Building, Room 841, Hyattsville, Maryland 20782, 301-436-8438.

**SUPPLEMENTARY INFORMATION:** The purpose of the Committee is to advise the Secretary of Agriculture concerning matters within the scope of the Swine Health Protection Act, including the evaluation of State programs for the purpose of section 10 of the Act, and assuring effective coordination among State programs and Federal and State programs concerning the treatment of garbage fed to swine.

The primary purpose of this meeting is to review the information gathered from surveys of the swine health protection programs in the individual States and territories. The review will be used to assist in establishing criteria for determination of the primary enforcement responsibilities. Part of the meeting time will be allotted for discussion of the proposed regulations and comments on these proposed regulations published April 16, 1982 (47 FR 16534).

The meeting is open to the public. Written statements concerning these

matters may be filed with the committee before or at the time of the meeting.

Written statements may be forwarded to Dr. J. A. Downard, Senior Staff Veterinarian, Swine and Poultry Diseases Staff, APHIS, VS, Federal Building, Room 841, Hyattsville, MD 20782, 301-436-8438.

Dated: June 17, 1982.

John Ford,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-16623 Filed 6-18-82; 3:50 pm]

BILLING CODE 3410-34-M

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Ch. I

#### Examination for Compliance with State Unclaimed Property Laws; Proposed Interpretive Ruling and Policy Statement

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed Interpretive Ruling and Policy Statement.

**SUMMARY:** Prior to 1980, it was the NCUA's position that state agencies were not empowered to examine Federal credit union records. In November, 1980, the NCUA Board adopted an interim policy that provided, *inter alia*, that NCUA would not object to limited inspections of Federal credit union records by state authorities for the purpose of determining compliance with state unclaimed property laws. If approved by the NCUA Board, this Proposed Interpretive Ruling and Policy Statement would finalize that interim policy by providing for a general designation of state authorities to conduct limited inspections of Federal credit union records for determining compliance with unclaimed property laws.

**DATE:** Comments must be received on or before July 30, 1982.

**ADDRESS:** Send comments to Rosemary Brady, Secretary to the NCUA Board, National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

**FOR FURTHER INFORMATION CONTACT:** James J. Engel, Assistant General Counsel, Department of Legal Services, at the above address or telephone (202) 357-1030.

**SUPPLEMENTARY INFORMATION:** At its November 6, 1980 meeting, the NCUA Board addressed the issue of access to Federal credit union (FCU) records by

state agencies for purposes of determining compliance with state abandoned property or unclaimed property laws. Prior to this meeting, NCUA had taken the position that state agencies did not have the authority to examine FCU records for any purpose, but it was the Agency's opinion that FCU's were required to report and release abandoned property in compliance with state laws.

As a result of that meeting, the NCUA Board adopted an informal interim policy as follows:

a. NCUA would not object to limited inspections of FCU share account records (not loan type or related records) by state departments of revenue (or their equivalent) for the purpose of determining compliance with state unclaimed property laws;

b. States would not be permitted to take enforcement actions against FCU's found not to be in compliance but should submit findings to NCUA Regional Offices, enforcement being exclusively within the jurisdiction of NCUA; and

c. NCUA would object to any attempts by a state to assess a fee on an FCU for the inspection.

The purpose of the Interpretive Ruling and Policy Statement would be to formalize the Agency's position on access to FCU records for purposes of determining compliance with state unclaimed property laws. The NCUA Board recognizes the interest states have in assuring such compliance and that the issue is one of particular importance to the states. Because the unclaimed property law of each state may vary, it is more practical to have inspections conducted by parties familiar with the law of a particular state. For these reasons, the NCUA Board believes it is more appropriate to permit limited inspections for determining compliance to be conducted by state authorities. In order to accomplish this result, the NCUA Board proposes, through publication of an Interpretive Ruling and Policy Statement as set forth below, to designate appropriate state authorities to conduct such limited inspections of Federal credit union records. The authorities to be designated are those, such as a Commissioner of Revenue or Director of Financial Institutions, that are empowered under state law to require the filing of unclaimed property reports and authorized to make examinations to determine compliance with such laws.

This designation, however, does not authorize state authorities to bring enforcement actions against Federal

credit unions for failure to comply with the state laws. Enforcement remains exclusively within the jurisdiction of the NCUA Board. If the state authorities find violations of the unclaimed property laws, such findings should be reported to an NCUA regional office. Enforcement of the state statute as to Federal credit unions is the responsibility of the NCUA Board.

In addition, the designation of state authorities to conduct limited inspection does not include the authority to assess fees for the inspection.

#### Proposed Interpretive Ruling and Policy Statement (IRPS) 82-4

Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) provides that the books and records of each Federal credit union are subject to examination by, and accessible to, any person designated by the National Credit Union Administration Board (NCUA Board). Pursuant to this authority, the NCUA Board is providing a general designation for the conducting of limited inspections of Federal credit records for the purpose of determining compliance with state unclaimed property laws. Those state authorities, authorized under state law to conduct inspections pursuant to the Uniform Disposition of Unclaimed Property Act or similar abandoned property law, are designated by the NCUA Board as its representative for this limited purpose.

It has been the position of the National Credit Union Administration that Federal credit unions are required to comply with state unclaimed property laws. Recognizing that states have an interest in assuring compliance with these laws, it is the NCUA Board's position that limited access to Federal credit union records by appropriate state authorities for the above stated purpose is both reasonable and proper. However, the NCUA Board maintains its position that enforcement remains exclusively within the jurisdiction of NCUA. Therefore, any violations should be reported to the appropriate NCUA regional office. In addition, it is the NCUA Board's position that Federal credit unions are not subject to the imposition of fees for a state inspection.

By the National Credit Union Administration Board.

Rosemary Brady,  
Secretary to the Board.

June 16, 1982.

[FR Doc. 82-16604 Filed 6-21-82; 8:45 am]

BILLING CODE 7535-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Parts 155 and 172**

[Docket No. 81N-0049]

**Canned Vegetables; Mushrooms; Standards of Identity and Fill of Container**

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend the standard of identity for canned mushrooms based on consideration of the Recommended International Standard for Canned Mushrooms developed by the Codex Alimentarius Commission. FDA is also proposing to amend the standard of fill of container based on consideration of a petition by the National Food Processors Association (NFPA) and the Recommended International Standard for Canned Mushrooms. This action would promote honesty and fair dealing in the interest of consumers and would facilitate international trade. The agency is also proposing a conforming amendment in the food additive regulation on calcium disodium ethylenediaminetetraacetate.

**DATES:** Written comments by August 23, 1982. The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the *Federal Register* and which is not sooner than 1 year following publication of any final rule based upon this proposal, except for any provision that may be stayed by the filing of proper objections. See "Supplementary Information" for a full discussion of the proposed effective date.

**ADDRESS:** Written comments, data, or other information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

**SUPPLEMENTARY INFORMATION:** The Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a Recommended International Standard for Canned Mushrooms (CAC/RS 55-

1972) (Codex standard). Also, a petition has been filed by NFPA, 1133 20th St. NW., Washington, DC 20036, to revise the minimum drained weight requirements for canned mushrooms.

FDA proposes to revise the standard of identity in § 155.201(a) (21 CFR 155.201(a)) and to amend the U.S. standard of identity for canned mushrooms currently set out in the U.S. standard of identity for certain other canned vegetables under § 155.200 (21 CFR 155.200), to:

1. Define canned mushrooms as being of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*;

2. Provide for mushrooms to be heat processed to prevent spoilage either before or after being sealed in a container;

3. Define optional styles and provide for "quarters" and "random sliced" as additional styles; and

4. Provide for optionally packing canned mushrooms in either water or other suitable liquid medium.

FDA also proposes to amend the U.S. fill of container standard (§ 155.201(c)) to establish a minimum fill of container (packing medium and mushroom ingredient) requirement, revise the drained weight requirements for certain can sizes of canned mushrooms, and establish a procedure for determination of compliance with the standard.

The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. Products that do not comply with an accepted Codex standard, whether domestic or imported, will not be permitted to be distributed under the name and description established by the standard without restrictions. The restrictions that may be imposed are not incorporated in the Codex standard; these elective restrictions are left to legislation and regulations of the individual countries. A participating country which concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex

standard, and whether products complying with the Codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission—Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

For many years, the United States has had a standard of identity for canned mushrooms (§ 155.201(a)) referenced to the applicable provisions of § 155.200 *Certain other canned vegetables* (U.S. standard). There is no U.S. standard of quality for canned mushrooms. However, there are voluntary standards for marketing developed by the United States Department of Agriculture (USDA) for canned mushrooms (USDA voluntary grade standards), which include, in addition to identity requirements, quality criteria and recommendations for fill of container based on drained weights.

Because FDA is unaware of any economic abuse associated with the food and because of FDA's policy of limiting the number of regulations, the agency is not proposing a quality standard for canned mushrooms. Canned mushrooms that comply with the quality aspects of the Codex standard may move freely in interstate commerce in this country, providing they comply with applicable U.S. laws and regulations. FDA will consider proposing a quality standard for canned mushrooms upon receipt of a petition demonstrating that to do so would be in the interest of consumers.

NFPA requests that the drained weight requirement for mushrooms packed in large cans be reduced because of the high incidence of bacterial spoilage in these containers. NFPA attributes the problem to overfilling to meet the drained weight requirement and proposes to reduce the drained weight requirement for these cans so that the ratio of mushrooms-to-water capacity of the container is not less than 56 percent, which is the same ratio required for the can sizes which have not had a high incidence of bacterial spoilage.

In the *Federal Register* of December 9, 1977 (42 FR 62282), FDA proposed to require label declaration of the drained weight or, alternatively, the solid content weight (fill weight) on most canned fruits and vegetables. FDA also proposed to amend the U.S. standards of fill of container for various canned fruits and vegetables including canned mushrooms. A final rule based on the December 9, 1977, proposal has not been issued. To expedite consideration of the

Codex standard and the NFPA petition, FDA is publishing a revised proposal to amend the U.S. standard of fill of container for canned mushrooms at this time. The agency will rule on other provisions of the December 9, 1977, proposal at a later date.

In proposing to align, to the extent practicable, the U.S. standards for canned mushrooms with the Codex standard, FDA has noted certain differences of composition and format of the Codex standard from the U.S. standards. The Codex standard includes hygiene requirements, certain basic labeling requirements, and other factors which are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 341, the legal basis for the promulgation of food standards). These factors are dealt with under other sections of the act; therefore, the agency will not discuss them in this proposal. Also, the Codex standard sometimes uses subjective terms in stating its requirements. FDA believes that these terms are not precise enough to be legally enforceable, and the agency has omitted them from the proposal.

FDA does believe, however, that this is an opportune time to update the U.S. standards of identity and fill of container for canned mushrooms to reflect current marketing and packing practices. This action will also promote honesty and fair dealing in the interest of consumers and facilitate international trade by adopting, insofar as practicable, the Codex standard.

Any final rule that may issue to amend the U.S. standard of identity (§ 155.201(a)) and standard of fill of container (§ 155.201(c)) for canned mushrooms will be based on consideration of the following Codex standard (CAC/RS 55-1972), the NFPA petition, the comments and supporting data received in response to this proposal, and other available information that is made a part of the record of this proceeding.

#### Recommended International Standard for Canned Mushrooms

##### 1. Description.

##### 1.1 Product Definition.

Canned mushrooms is the product (a) prepared from fresh mushrooms conforming with the characteristics of cultivated varieties (cultivars) of the genus *Agaricus* (*Psalliota*), including *A. bisporus*, which mushrooms shall be in good condition and after cleaning and trimming shall be sound; (b) packed with

water and/or juice exuding from the mushrooms or other suitable liquid medium, seasonings, and other ingredients, appropriate to the product; and (c) processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage.

##### 1.2 Varietal Type.

Any suitable variety (cultivar) of the genus *Agaricus* (*Psalliota*), including *A. bisporus*, may be used.

##### 1.3 Colour Type.

1.3.1 White or cream.

1.3.2 Brown.

##### 1.4 Styles.

1.4.1 Buttons—Whole mushrooms, with attached stems not exceeding 5 mm in length, measured from the bottom of the veil.

1.4.2 Sliced Buttons—Buttons cut into slices 2 mm to 6 mm thick, of which not less than 50% are cut parallel to the axis of the mushroom.

1.4.3 Whole—Whole mushrooms, with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

1.4.4 Sliced or Sliced Whole—Mushrooms cut into slices 2 mm to 8 mm thick, of which not less than 50% are cut parallel to the axis of the mushroom.

1.4.5 Random Sliced—Mushrooms cut into slices of varying thickness and in which the slices may deviate materially from cuts approximately parallel to the axis of the mushroom.

1.4.6 Quarters—Mushrooms cut into four approximately even parts.

1.4.7 Stems and Pieces (Cut)—Pieces of caps and stems of irregular sizes and shapes.

1.4.8 Grilling—Selected open-veiled mushrooms not exceeding 40 mm in diameter, with attached stems not exceeding the diameter of the cap, measured from the bottom of the veil scar.

1.4.9 Other Optional Styles—Other forms not specifically described in 1.4.1 through 1.4.8 above such as diced or chopped which are appropriately described on the label.

1.5 Tolerance for the Styles "Buttons" and "Whole".

10%, by count, of the units for the respective style may exceed the specified stem length.

##### 1.6 Types of Pack.

1.6.1 Regular or natural pack—in water, brine, and/or juice exuding from the mushrooms.

1.6.2 In butter or butter sauce.

1.6.3 In cream sauce.

1.6.4 In sauce other than a butter or cream sauce.

1.6.5 In vinegar.

1.6.6 In oil.

1.6.7 In wine.

##### 2. Essential Composition and Quality Factors.

##### 2.1 Other Ingredients.

As appropriate for the respective type of pack:

2.1.1 Water, salt, spices, seasonings, soybean sauce, vinegar, wine.

2.1.2 Sucrose, invert sugar syrup, dextrose, glucose syrup, dried glucose syrup.

2.1.3 Butter or other edible animal or vegetable fats or oils, including olive oil; milk, milk powder, or cream.

If butter is added, it must amount to not less than 3% m/m of the final product.

2.1.4 Starches—natural (native), physically or enzymatically modified—only when butter or other edible animal or vegetable fats or oils are ingredients.

2.1.5 Wheat or corn flour.

##### 2.2 Quality Criteria.

##### 2.2.1 Colour.

2.2.1.1 The mushroom portion of the product shall have normal colour characteristics of the variety of the canned mushrooms. Canned mushrooms of special types and containing special permitted ingredients shall be considered of characteristic colour when there is no abnormal discoloration for the respective ingredients used.

2.2.1.2 The liquid medium in "Regular or Natural Pack" shall be either clear or slightly turbid and yellow to light brown in colour.

##### 2.2.2 Flavour.

The mushrooms shall have a normal flavour and odour free from flavours or odours foreign to the product.

Canned mushrooms with special ingredients or sauces shall have the flavour characteristic of that imparted by the mushrooms and the other substances used.

##### 2.2.3 Texture and Character.

The mushrooms in the "Regular or Natural Pack" shall be firm and substantially intact.

In the styles of "Buttons" and "Whole" mushrooms, not more than 10% by count of the mushrooms may have caps which show total or complete breakage of the veil.

In the styles of "Buttons" and "Whole" and "Grilling" mushrooms 5% by count of the mushroom units may be detached caps or stems.

##### 2.2.4 Defects.

The canned mushrooms (a) may contain no more than a trace of soil, sand, grit, or any other extraneous matter, whether of mineral or organic origin; and (b) shall be reasonably free from spotted or otherwise damaged mushrooms.

##### 2.2.5 Classification of "defectives".

A container that fails to meet one or more of the applicable quality requirements, as set out in sub-sections 2.2.1 through 2.2.4 shall be considered a "defective".

##### 2.2.6 Acceptance.

A lot will be considered as meeting the applicable quality requirements referred to in sub-section 2.2.5, when the number of "defectives, as defined in sub-section 2.2.5, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

##### 3. Food Additives.

BILLING CODE 4160-01-M

Maximum level of use

3.1	Ascorbic acid	Not limited
3.2	Citric acid	Not limited
3.3	Monosodium glutamate	Not limited 1/4/
3.4	Caramel colours for use in sauces	Not limited 1/2/
3.5	Calcium disodium ethylenediaminetetra- acetate (CaNa <sub>2</sub> EDTA)	200 mg/kg
3.6	<u>Vegetable gums</u>	
3.6.1	Arabic gum 1/	
3.6.2	Carrageenan 1/	
3.6.3	Furcellaran 1/	
3.6.4	Guar gum 1/	
3.7	Pectin	
3.8	Alginates (Ca, K, Na, NH <sub>4</sub> ) <sup>1/</sup>	3/ 1% m/m of the additives specified under 3.6 to 3.9 inclusive, singly or in combination.
3.8.1	Propylene glycol alginate 1/	
3.9	<u>Modified starches</u>	
3.9.1	Acid-treated starches	
3.9.2	Alkali-treated starches	
3.9.3	Bleached starches	

1/ Temporarily endorsed.

2/ Caramel colour made by the ammonia process is temporarily endorsed and other caramel colours are endorsed.

3/ May be used only when butter or other edible animal or vegetable fats or oils are ingredients.

4/ Subject to review.

Maximum level of use

3.9.4	Distarch phosphate (sodium trimetaphosphate treated)	}	
3.9.5	Distarch phosphate, phosphated		
3.9.6	Monostarch phosphate		
3.9.7	Starch acetate		
3.9.8	Starch, hydroxy- propyl		
3.9.9	Distarch, adipate, acetylated		
3.9.10	Distarch glycerol, hydroxypropyl		
3.9.11	Oxidized starches		<u>1/</u> <u>2/</u>
3.9.12	Distarch phosphate (phosphorous oxychloride treated)		
3.9.13	Distarch phosphate, acetylated		
3.9.14	Distarch glycerol, acetylated		
3.9.15	Distarch glycerol		

1% m/m of  
the additives  
specified  
under 3.6 to  
3.9  
inclusive,  
singly or in  
combination.

1/ Temporarily endorsed

2/ May be used only when butter or other edible  
animal or vegetable fats or oils are ingredients.

#### 4. Hygiene.

4.1 It is recommended that the product covered by the provisions of this standard be prepared in accordance with the International Code of Hygienic Practice for Canned Fruit and Vegetable Products recommended by the Codex Alimentarius Commission (Ref. CAC/RCP 2-1969).

4.2 To the extent possible in good manufacturing practice the product shall be free from objectionable matter.

4.3 When tested by appropriate methods of sampling and examination, the product

(a) Shall be free from microorganisms capable of development under normal conditions of storage, and

(b) Shall not contain any substance originating from microorganisms in amounts which may be toxic.

4.4 The product shall have received a processing treatment sufficient to destroy all spores of *Clostridium botulinum*.

#### 5. Weights and Measures.

##### 5.1 Fill of Container.

##### 5.1.1 Minimum Fill.

The container shall be well filled with mushrooms and the product (including packing medium) shall occupy not less than 90% of the water capacity of the container. The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

##### 5.1.2 Classification of "Defectives".

A container that fails to meet the requirement for minimum fill (90 percent container capacity) of sub-section 5.1.1 shall be considered a "defective".

##### 5.1.3 Acceptance.

A lot will be considered as meeting the requirement of sub-section 5.1.1 when the number of "defectives", as defined in sub-section 5.1.2, does not exceed the acceptance number (c) of the appropriate sampling plan in the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5) (Ref. CAC/RM 42-1969).

##### 5.1.4 Minimum Drained Weight.

5.1.4.1 Regular packs, vinegar, wine, oil packs.

The drained weight of the product shall be not less than 53% of the weight of distilled water at 20°C which the sealed container will hold when completely filled.

##### 5.1.4.2 Sauce packs.

The drained mushroom portion, after washing off the sauce or liquid, shall be not less than 27.5% of the total product weight.

5.1.4.3 The requirements for minimum drained weight shall be deemed to be complied with when the average drained weight of all containers examined is not less than the minimum required, provided that there is no unreasonable shortage in individual containers.

#### 6. Labelling.

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. CAC/RS 1-1969), the following specific provisions apply:

##### 6.1 The Name of the Food.

6.1.1 The name of the product shall be "Mushrooms".

6.1.2 The following shall be included as part of the name or in close proximity to the name:

6.1.2.1 The style—  
"Buttons", "Sliced Buttons", "Whole", "Sliced" or "Sliced Whole", "Random Sliced", "Quarters", "Stems and Pieces (Cut)", "Grilling", "Diced" and "Chopped", as appropriate.

6.1.2.2 A declaration of any special sauce and/or seasoning or flavouring which characterizes the product, e.g. "With X" or "In X" when appropriate. If the declaration is "With (of 'In') Butter Sauce", the fat used shall only be butter fat.

##### 6.2 List of Ingredients.

A complete list of ingredients shall be declared on the label in descending order of proportion in accordance with sub-section 3.2(c) of the General Standard for the Labelling of Prepackaged Foods, except that water need not be declared.

##### 6.3 Net contents.

The net contents shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the product is sold, except that mushrooms packed in regular or natural packs as described in sub-section 1.6.1 shall carry a declaration of drained weight of the food.

##### 6.4 Name and address.

The name and address of the manufacturer, packer, distributor, importer, exporter, or vendor of the product shall be declared.

##### 6.5 Country of origin.

6.5.1 The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

#### 7. Methods of Analysis and Sampling.

The methods of analysis and sampling referred to hereunder are international referee methods.

##### 7.1 Method of Sampling.

Sampling shall be in accordance with the FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods (1969) (AQL-6.5), (CAC/RM 42-1969).

##### 7.2 Determination of Drained Weight.

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, CAC/RM 36-1970. *Determination of Drained Weight—Method I*). Results are expressed as % m/m calculated on the basis of the mass of distilled water at 20°C which the sealed container will hold when completely filled.

##### 7.3 Determination of Washed Drained Weight.

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Second Series—*Determination of Washed Drained Weight*, CAC/RM 44-1972). This method applies to sauce packs only. Results are expressed as % m/m of the total product weight.

##### 7.4 Determination of Water Capacity of Containers.

According to the FAO/WHO Codex Alimentarius method (FAO/WHO Codex

Alimentarius Methods of Analysis for Processed Fruits and Vegetables, Second Series—*Determination of Water Capacity of Containers*, (CAC/RM 46-1972).

Results are expressed as volume of distilled water that the container holds.

In many respects the provisions of the Codex standard, the USDA voluntary grade standards, and the U.S. standards are identical. The following is a discussion of what the agency believes to be the principal differences between these standards. FDA requests comments with available supporting data on these differences. Following each item of comparison is the action FDA proposes to take.

#### Comparison of Identity Aspects and Proposed Courses of Actions

1. *Definition.* The Codex standard (1.1(a) and 1.2) states that canned mushrooms are prepared from fresh mushrooms conforming with the characteristics of cultivated varieties (cultivars) of the genus *Agaricus* (*Psalliota*), including *A. bisporus*, which mushrooms shall be in good condition and after cleaning and trimming shall be sound. The U.S. standard (§ 155.200(a)) states that the vegetable ingredient is obtained by proper preparation of the succulent vegetable. Section 155.200(b) states that the source of canned mushrooms shall be the cap and stem of the mushroom (genus not specified).

FDA proposes in § 155.201(a)(1) to define canned mushrooms as the food properly prepared from the succulent caps and stems of mushrooms. The genus *Agaricus*, also commonly known in some countries as *Psalliota*, includes a number of species of mushrooms, some of which may be toxic. Information available to FDA indicates that mushrooms cultivated commercially and widely available to consumers are of the species *Agaricus bisporus* and *Agaricus bitorquis*. Some species of wild mushrooms are also harvested and sold to consumers. FDA recognizes these as nonstandardized foods which are specialty items sold for their unique flavor or other attributes. FDA, therefore, further proposes in § 155.201(a)(1) to limit the species of canned mushrooms to *Agaricus* (*Psalliota*) *bisporus* and *A. bitorquis*.

2. *Processing.* The Codex standard (1.1(c)) states that the canned mushrooms are processed by heat in an appropriate manner, before or after being sealed in a container, so as to prevent spoilage. The U.S. standard (§ 155.200(a)) states the food is sealed in a container and so processed by heat as to prevent spoilage.

FDA is not aware of any mushroom canner who is currently using aseptic canning methods in which the mushrooms are heat sterilized before being sealed in a container. Nevertheless, FDA believes that canners should be permitted to use aseptic techniques in the canning of mushrooms, consistent with the U.S. standards of identity for canned beans, corn, and peas. Therefore, FDA proposes, in § 155.201(a)(1), language similar to that of the Codex standard.

3. *Color types.* The Codex standard (1.3) provides for two color types: (1) White or cream, and (2) brown. The U.S. standard contains no reference to color types, but the USDA voluntary grade standards provide separate criteria for grading the two types.

FDA recognizes that cultivated mushrooms may be of the color types referred to in the Codex standard and the USDA voluntary grade standards. FDA, however, is not proposing to provide for color type in the U.S. standard. The U.S. standard does not prohibit label declaration of the actual color type.

4. *Optional styles—(a) Buttons.* The Codex standard (1.4.1), the USDA voluntary grade standards, and the U.S. standard (§ 155.200(b)) provide for "buttons" as an optional style. The Codex standard defines "buttons" as whole mushrooms, with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil. The Codex standard (1.5) states that 10 percent, by count, of the stems may exceed the length requirement. The USDA voluntary grade standards define the style as consisting of the caps with attached stems which are cut transversely below the veil so that in 85 percent or more, by count, of the units the attached stem when measured from the underside of the cap to the cut end of the stem does not exceed  $\frac{1}{4}$  inch (3.2 millimeters) in length; and in the remaining units none of the attached stems may be more than  $\frac{1}{4}$  inch (6.4 millimeter) in length.

FDA proposes in § 155.201(a)(2)(i) to retain "buttons" as an optional style, defined in consideration of the Codex standard as consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil. FDA is not including in the proposed definition the Codex provision that 10 percent by count of the stems may exceed the length requirement. However, FDA will not object to the variation of "buttons" style within this limitation.

(b) *Sliced buttons.* The Codex standard (1.4.2) and the USDA voluntary

grade standards provides for "sliced buttons" as an optional style. The USDA voluntary grade standards provide for this style; however, the U.S. standard does not. The Codex defines sliced buttons as buttons cut into slices 2 millimeters to 6 millimeters (0.079 inch to 0.24 inch) thick, of which not less than 50 percent are cut parallel to the axis of the mushroom. The USDA voluntary grade standards define the style as consisting of units which have been sliced from button mushrooms so that in 90 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem.

FDA has no information that U.S. consumers would recognize the style "sliced buttons" as distinctively different from the style "slice or sliced" currently provided for in the U.S. standard. The agency therefore does not propose to provide for "sliced buttons" as an optional style in the U.S. standard.

(c) *Whole.* The Codex standard (1.4.3), the USDA voluntary grade standards, and the U.S. standard (§ 155.200(b)) provide for "whole" as an optional style. The Codex defines whole mushrooms as mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil. The Codex standard (1.5) states that 10 percent, by count, of the stems may exceed the length requirement. The USDA voluntary grade standards define "whole" style as consisting of the caps with attached stems which are more than  $\frac{1}{4}$  inch (3.2 millimeters) in length when measured from the underside of the cap to the cut end of the stem.

FDA proposes in § 155.201(a)(2)(ii) to retain "whole" as an optional style, defined as consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil. FDA is not including in the proposed definition the Codex provision that 10 percent by count of the stems may exceed the length requirement. However, FDA will not object to the variation of "whole" style within this limitation.

(d) *Quarters.* The Codex standard (1.4.6) provides for "quarters" as an optional style, defined as mushrooms cut into four approximately even parts. Neither the USDA voluntary grade standards nor the U.S. standard provide for this style.

FDA proposes in § 155.201(a)(2)(iii) to provide for "quarters" as an optional style, defined as buttons or whole style cut into four approximately equal parts.

(e) *Slice or sliced.* The Codex standard (1.4.4) provides for "sliced" or "sliced whole" as an optional style. The

USDA voluntary grade standards provide for "sliced whole". The U.S. standard (§ 155.200(b)) provides for "slices" or "sliced". The Codex defines "sliced" mushrooms as mushrooms cut into slices 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) thick, of which not less than 50 percent are cut parallel to the axis of the mushroom. The USDA voluntary grade standards define "sliced whole" as consisting of units which have been sliced from whole mushrooms so that in 80 percent or more, by weight, of all the units the direction of the slice is approximately parallel to the longitudinal axis of the stem. The definition further provides that not more than 5 percent, by weight, of all the units may be detached portions of the stems.

FDA proposes in § 155.201(a)(2)(iv) to retain "slice" or "sliced" as an optional style, defined as consisting of buttons or whole style mushrooms of which not less than 50 percent are cut parallel to the longitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(f) *Random sliced.* The Codex standard (1.4.5) provides for "random sliced" as an optional style. The USDA voluntary grade standards provide for "random sliced whole" as an optional style. The U.S. standard does not provide for this style. The Codex defines random sliced mushrooms as mushrooms cut into slices of varying thickness and in which the slices may deviate materially from cuts approximately parallel to the axis of the mushroom. The USDA voluntary grade standards define "random sliced whole" as pieces of mushroom which have been sliced from whole mushrooms in a random manner so that the direction of the slice may materially deviate from approximately parallel to the longitudinal axis of the stem. The definition further provides that not more than 15 percent, by weight, of all the units may be detached portions of stem.

FDA proposes in § 155.201(a)(2)(v) to provide for "random sliced" as an optional style, defined as buttons or whole style mushrooms sliced in a random manner.

(g) *Pieces and stems.* The Codex standard (1.4.7) provides for "stems and pieces (cut)" as an optional style. The USDA voluntary grade standards provide for "stems and pieces" or "pieces and stems" as an optional style. The U.S. standard (§ 155.200(b)) provides for "pieces and stems" as an optional style. The Codex defines pieces and stems as pieces of caps and stems of irregular sizes and shapes. The USDA voluntary grade standards define the style as consisting of units which do not

conform to any of the styles otherwise provided for, that are predominantly cut or broken portions of the caps and stems, and that may contain units of any of the other styles.

FDA proposes in § 155.201(a)(2)(vi) to retain "pieces and stems" as an optional style, defined as consisting of pieces of caps and stems of irregular shape and size. FDA does not believe that inclusion of the term "cut" would be of benefit to the U.S. consumer in identifying the style.

(h) *Grilling*. The Codex standard (1.4.8) provides for "grilling" as an optional style, defined as selected open-veiled mushrooms not exceeding 40 millimeters (1.57 inches) in diameter, with attached stems not exceeding the diameter of the cap, measured from the bottom of the veil scar. Neither the USDA voluntary grade standards nor the U.S. standard provides for this style.

The term "grilling" has little meaning as a style of canned mushrooms to the U.S. consumer. Therefore, FDA does not propose to provide for "grilling" as an optional style of canned mushrooms.

(i) *Other optional styles*. The Codex standard (1.4.9) provides for other optional styles not specifically described, such as diced or chopped, when such styles are appropriately described on the label.

FDA does not propose to provide for other optional styles in the U.S. standard of identity.

5. *Packing medium*—(a) *Regular or natural packs*. The Codex standard (1.6.1) defines regular or natural packs as mushrooms packed in water, brine, or juice exuding from the mushrooms. The Codex standard (1.1(b)) further states that mushrooms are to be packed with water or juice exuding from the mushrooms or other suitable liquid medium seasonings, and other ingredients. The U.S. standard (§ 155.200(c)) requires that water be added.

FDA proposes in § 155.201(a)(1) that canned mushrooms must be packed with a suitable liquid medium, which may include water.

(b) *Sauces*. The Codex standard (1.6.2 through 1.6.4) provides for packing canned mushrooms in butter or butter sauce, cream sauce, or sauce other than butter or cream sauce. The Codex standard (2.1.1 through 2.1.5, 3.4, 3.6, and 3.9) provides for use in sauces of spices, seasonings, soybean sauce, vinegar wine, sucrose, invert sugar syrup, dextrose, glucose syrup, dried glucose syrup, butter or other edible animal or vegetable fats or oils, including olive oil, milk, milk powder, or cream, vegetable gums, and modified starches. The U.S. standard (§ 155.200(c)(3)) excludes

butter and margarine from standardized canned mushrooms.

FDA has consistently advised canners of specialty mushroom products made with butter, margarine, or sauces that such articles are nonstandardized foods that are not considered to violate the FDA standard if they differ sufficiently in appearance, taste, or other characteristics and are labeled to distinguish them from the standardized product. FDA is not proposing to provide in the U.S. standard for the packing of canned mushrooms in sauces, butter, or margarine.

(c) *Vinegar, oil, and wine*. The Codex standard (1.6.5, 1.6.6, and 1.6.7) provides for packing canned mushrooms in vinegar, oil, and wine. The U.S. standard (§ 155.200(c)(3)) does not permit vinegar as an optional seasoning ingredient. FDA recognizes that vinegar is commonly used in pickled and spiced mushrooms, but believes that these products, because of their distinctive flavor, do not purport to be the standardized food (see 42 FR 30358; June 14, 1977). Under § 155.200(c)(1) use of edible vegetable oil is specifically restricted to canned artichokes and pimientos. Section 155.200(c) makes not provision for use of wine.

FDA does not propose to provide for canned mushrooms in vinegar, oil, or wine. Mushroom products which do not purport to be the standardized food and which use any of these packing media may be distributed as nonstandardized foods under appropriate labeling.

6. *Salt and flavor enhancers*. The Codex standard (2.1.1 and 3.3) provides for salt and monosodium glutamate. The U.S. standard (§ 155.200(c)(4)) provides for the optional use of salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.

FDA proposes in § 155.201(a)(3) to retain the provisions for the use of salt, monosodium glutamate, disodium inosinate, disodium guanylate, hydrolyzed vegetable protein, and autolyzed yeast extract.

7. *Ascorbic acid*. The Codex standard (3.1) provides for the unlimited addition of ascorbic acid (vitamin C). The U.S. standard (§ 155.200(c)(7)) provides for the use of ascorbic acid in a quantity not to exceed 37.5 milligrams for each ounce of drained weight of mushrooms.

FDA believes that the current limit of 37.5 milligrams of ascorbic acid per ounce of drained weight is adequate to reduce the darkening due to oxidation without making the product appear to be of greater value than it actually is. Therefore, FDA proposes in § 155.201(a)(3)(vii) to allow ascorbic acid to be added in a quantity not to

exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

8. *Organic acids*. The Codex standard (3.2) provides for unlimited use of citric acid. The U.S. standard (§ 155.200(c)(12)) provides for the optional use of safe and suitable organic acid (except that no vinegar is permitted) only where the inside of a metal container is fully enamel-lined or the cap used in a glass container is fully enamel-lined. The use of ascorbic acid is discussed above.

FDA proposes in § 155.201(a)(3)(viii) to retain the provision for the use of organic acids.

9. *Calcium disodium EDTA*. The Codex standard (3.5) provides for the use of calcium disodium ethylenediaminetetraacetate (calcium disodium EDTA) at a maximum level of 200 milligrams per kilogram of the finished food. The U.S. standard does not provide for the use of calcium disodium EDTA, but § 172.120(b)(1) (21 CFR 172.120(b)(1)) provides that calcium disodium EDTA may be used alone within a limit of 200 parts per million in cooked, canned mushrooms to promote color retention when such use is prescribed by an effective temporary permit issued under § 130.17 (21 CFR 130.17). No such temporary permit is now in effect.

However, on its own initiative, FDA has decided to propose to amend the U.S. standard of identity for canned mushrooms (§ 155.201(a)) to provide for the safe use of calcium disodium EDTA as a color stabilizer in cooked, canned mushrooms at a level of 200 parts per million. FDA believes that the safety of this use of calcium disodium EDTA is established by data submitted in 1966 (see 32 FR 6686; May 2, 1967) as part of a petition to amend 21 CFR 172.120(b) (at that time 21 CFR 121.1017) to provide for this issue. (FDA has filed a copy of that data in the administrative record for this proceeding.) Although the agency adopted the petition in 1967, because the standard of identity for canned mushrooms did not provide for the use of calcium disodium EDTA, FDA included the requirement of a temporary permit in the food additive regulation approving the use of this substance. FDA has not acted previously to amend the standard of identity to provide for the use of calcium disodium EDTA in canned mushrooms because the agency has never been requested to do so.

FDA finds, however, that the Codex's decision to include the use of calcium disodium EDTA in its standard provides an appropriate basis for the agency to act to amend § 155.201(a). Therefore, FDA proposes in § 155.201(a)(3)(ix) to

adopt the Codex provision to allow for calcium disodium EDTA to be added in a quantity not to exceed 200 parts per million as a color stabilizer in cooked, canned mushrooms. Therefore, the agency is proposing to conform § 172.120(b)(1) with the proposed amendment to the food standard regulations to eliminate the requirement of the temporary permit.

10. *Labeling—(a) Style of mushrooms.* The Codex standard (6.1.2) states that the style of the mushroom ingredient is to be included as part of the name or in close proximity to the name of the food. The U.S. standard (§ 155.200(e)) states that the label is to bear the style of the mushroom ingredient.

FDA believes that the style of the mushroom ingredient, included as a part of the name of the food or in close proximity to the name of the food, provides for more uniform labeling of canned mushrooms than the current U.S. requirement that the style merely appear on the label. Therefore, FDA proposes in § 155.201(a)(4)(i) the adoption of the Codex provision.

(b) *Ingredient statement.* The Codex standard (6.2) states that all ingredients are to be declared on the label in descending order of proportion, except that water need not be declared. The U.S. standard (§ 155.200(h)) states that each of the optional ingredients used is to be declared on the label as required by the applicable sections of Part 101 (21 CFR Part 101).

FDA proposes in § 155.201(a)(4)(ii) to retain the current labeling requirement. Because FDA is proposing to provide for the use of water or another suitable liquid packing medium, water would be an optional ingredient to be declared in accordance with the requirements of Part 101.

#### Comparison of Fill of Container Aspects and Proposed Courses of Actions

1. *Minimum fill of container.* The Codex standard (5.1.1) states that the container is to be well filled with mushrooms and that the product (including packing medium) is to occupy not less than 90 percent of the water capacity of the container. The U.S. standard does not contain a minimum fill requirement.

FDA proposes in § 155.201(c)(1)(i) to require that the fill of the mushroom ingredient and packing medium be not less than 90 percent of the total capacity of the container. This requirement is consistent with the fill requirements applicable to canned fruits and to other canned vegetables.

2. *Drained weight.* The Codex standard (5.1.4.1) states that the drained weight of the mushroom ingredient is to

be not less than 53 percent of the weight of distilled water at 20° C which the sealed container will hold when completely filled. The NFPA petition and the U.S. standard (§ 155.201(c)(1)) have the following drained weights of not less than:

Container designation	Overall dimensions sealed can (inches)		Drained weight (ounces)	
	Diameter	Height	NFPA	§ 155.201(c)(1)
202 x 204.....	2 $\frac{1}{2}$	2 $\frac{1}{2}$	2	2
211 x 212.....	2 $\frac{1}{2}$	2 $\frac{1}{2}$	4	4
300 x 400.....	3	4	7.6	8
307 x 510.....	3 $\frac{1}{2}$	5 $\frac{1}{2}$	14.5	16
603 x 700.....	6 $\frac{1}{2}$	7	61	68

NFPA proposes, for containers the dimensions of which are not specified, that the drained weight is to be not less than 56 percent of the water capacity of the container. The U.S. standard (§ 155.201(c)(2)) specifies for such containers a drained weight of not less than 56 percent of the water capacity of the container, if the water capacity is less than 11.0 ounces; not less than 59 percent of the water capacity of the container, if the water capacity is 11.0 ounces or more but less than 25 ounces; and not less than 62 percent of the water capacity, if the water capacity is 25 ounces or more.

NFPA has recommended in their bulletin 26L, "Processes for Low-Acid Canned Foods in Metal Containers," (1966), a maximum drained weight of 70 ounces for a 603 x 700 container to assure proper heat treatment of the mushrooms. (Bulletin 26L was revised in 1976 to list recommended maximum fill weights.) NFPA states, however, that processors can not assure a minimum of 68 ounces, as required by the U.S. standard, without many containers exceeding the NFPA maximum. Overfilling is particularly a problem with mechanical fillers, which cause the mushrooms to pack down, further impeding heat penetration of the mushrooms. NFPA states that there has been little or no underprocessing spoilage with containers where the drained weight of the mushrooms is 56 percent of the water capacity of the container.

FDA recognizes that overfilling could contribute to the bacterial spoilage of canned mushrooms. It also recognizes that under certain operating conditions, particularly when a vibrating motion is applied during the filling operation, the mushrooms can compact in the cans resulting in further reduction of heat penetration of the mushrooms. Therefore, FDA proposes in

§ 155.201(c)(1)(ii)(a) to revise the drained weight requirements for the specified containers so that the ratio of mushrooms to water capacity of the container is not less than 56 percent as follows:

Container designation	Overall dimensions sealed can (inches)		Drained weight	
	Diameter	Height	Ounces (avoir-dupois)	Grams
202 x 204.....	2 $\frac{1}{2}$	2 $\frac{1}{2}$	2	56.7
211 x 212.....	2 $\frac{1}{2}$	2 $\frac{1}{2}$	4	113.4
300 x 400.....	3	4	7.6	215.5
307 x 510.....	3 $\frac{1}{2}$	5 $\frac{1}{2}$	14.5	411.1
603 x 700.....	6 $\frac{1}{2}$	7	61	1,729.3

FDA also proposes in § 155.201(c)(1)(ii)(b) that the drained weight of mushrooms in containers of a size not specified is to be not less than 56 percent of the water capacity of the container.

4. *Labeling of substandard fill of container.* The Codex standard does not provide for substandard labeling of canned mushrooms that would fail to meet the fill of container requirement. The U.S. standard in § 155.201(c)(5) requires that canned mushrooms which fall below the applicable fill of container (minimum drained weight) requirements bear the general statement of substandard fill specified in § 130.14(b) (21 CFR 130.14(b)).

FDA proposes in § 155.201(c)(3) to require that canned mushrooms which fail to comply with proposed § 155.201(c)(1)(i) and/or (ii) and (2) are to bear the appropriate statement of substandard fill as specified in § 130.14(b).

5. *Sampling and acceptance.* The Codex standard (5.1.2, 5.1.3, and 7.1) provides for the determination of compliance with the minimum fill and drained weight requirements. The U.S. standard has no such requirements.

FDA proposes in § 155.201(c)(2) to determine compliance in accordance with the procedure in § 155.3(b) (21 CFR 155.3(b)). This is the Codex procedure that has been adopted for use in many U.S. standards.

6. *Analyses.* The Codex standard (7.2 and 7.4) specifies methods of analysis for drained weight and water capacity of containers. The U.S. standard (§ 155.201(c)(3)) references the general method in § 130.12 (21 CFR 130.12) for the determination of water capacity and § 155.201(c)(4) contains the procedure for the determination of drained weight.

The Codex methods have already been adopted by the United States.

Therefore, FDA proposes in § 155.201(c)(1) to reference § 130.12(b) for the determination of water capacity. It also proposes in § 155.201(c)(1)(ii)(c) to reference the procedure in § 155.3(a) for the determination of drained weight.

Written comments by August 23, 1982. The agency periodically announces by notice in the *Federal Register* uniform effective dates for compliance with food labeling requirements. (See, for example, the *Federal Register* of October 31, 1980 (45 FR 72111).) The agency proposes that any final rule that may issue based upon this proposal become effective in accordance with a uniform effective date for compliance with food labeling requirements which is announced by notice in the *Federal Register* and which is not sooner than 1 year following publication of any final rule based upon this proposal, except for any provisions that may be stayed by the filing of proper objections. The final rule would apply to affected products initially introduced or initially delivered for introduction into interstate commerce.

In accordance with the Regulatory Flexibility Act (Pub. L. 96-354 (5 U.S.C. 601)), FDA has reviewed this proposed rule to determine its impact on small businesses. The proposed regulation in § 155.201(a) and (c) updates the U.S. standards for canned mushrooms by providing for quarter and random slices as an additional optional style of pack, lowering the drained weight requirement for certain can sizes to reduce the incidence of bacterial spoilage, and recodifying the format. The agency believes that the proposed regulation provides increased flexibility to all manufacturers related to the canned mushroom industry and will not impose an additional burden on the industry. Therefore, FDA certifies that this proposed action will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(b)(13) (proposed December 11, 1979; 44 FR 71742) that this proposed action to amend the food standards (Part 155) is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The potential environmental impact of this proposed action to amend the food additive regulation (Part 172) is being reviewed. If the agency finds that an environmental impact statement is not required and this proposal results in a conforming regulation, the notice of availability of the agency's finding of no significant impact and the evidence

supporting that finding will be published with the regulation in the *Federal Register* in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

#### List of Subjects

##### 21 CFR Part 155

Canned vegetables, Food standards, Vegetables.

##### 21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 409, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended, 72 Stat. 1785-1788 as amended (21 U.S.C. 341, 348, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 155 and 172 be amended as follows:

#### PART 155—CANNED VEGETABLES

##### 1. In Part 155:

a. Section 155.200 is amended by removing the entry "Mushrooms" from the table in paragraph (b), by removing the words "except canned mushrooms and" from paragraph (c)(3), by removing the words "except canned mushrooms" from paragraph (c)(5), by removing paragraph (c)(7) and redesignating the subsequent paragraphs as (c)(7), (8), (9), (10), and (11), and by revising redesignated (c)(11), to read as follows:

##### § 155.200 Certain other canned vegetables.

\* \* \* \* \*

##### (c) \* \* \*

(11) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section) in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article.

b. By revising § 155.201, to read as follows:

##### § 155.201 Canned mushrooms.

(a) *Identity*—(1) *Definition*. Canned mushrooms is the food properly prepared from the caps and stems of succulent mushrooms conforming to the characteristics of the species *Agaricus (Psalliota) bisporus* or *A. bitorquis*, in one of the optional styles specified in paragraph (a)(2) of this section, packed with a suitable liquid medium which may include water; and may contain one or more safe and suitable optional

ingredients specified in paragraph (a)(3) of this section. The food is sealed in a container and, before or after sealing, is so processed by heat as to prevent spoilage.

(2) *Styles*. The optional styles of the mushroom ingredient referred to in paragraph (a)(1) of this section are:

(i) *Buttons*—consisting of whole mushrooms with attached stems not exceeding 5 millimeters (0.2 inch) in length, measured from the bottom of the veil.

(ii) *Whole*—consisting of whole mushrooms with attached stems cut to a length not exceeding the diameter of the cap, measured from the bottom of the veil.

(iii) *Quarters*—consisting of buttons or whole style cut into four approximately equal parts.

(iv) *Slice or sliced*—consisting of buttons or whole style of which not less than 50 percent are cut parallel to the longitudinal axis of the stem and 2 millimeters to 8 millimeters (0.08 inch to 0.32 inch) in thickness.

(v) *Random sliced*—consisting of buttons or whole style sliced in a random manner.

(vi) *Pieces and stems*—consisting of pieces of caps and stems of irregular shapes and sizes.

(3) *Optional ingredients*. One or any combination of two or more of the following safe and suitable optional ingredients as provided for in paragraph (a)(1) of this section may be used:

(i) Salt.

(ii) Monosodium glutamate.

(iii) Disodium inosinate complying with the provisions of § 172.535 of this chapter.

(iv) Disodium guanylate complying with the provisions of § 172.530 of this chapter.

(v) Hydrolyzed vegetable protein.

(vi) Autolyzed yeast extract.

(vii) Ascorbic acid (vitamin C) in a quantity not to exceed 132 milligrams for each 100 grams (37.5 milligrams for each ounce) of drained weight of mushrooms.

(viii) Organic acids (except no vinegar is permitted), only where the inside metal of the container is fully enamel-lined and in glass containers with fully enamel-lined caps. Ascorbic acid as provided for in paragraph (a)(3)(vii) of this section.

(ix) Calcium disodium ethylenediaminetetraacetate (CaNa<sub>2</sub> EDTA) in a quantity not to exceed 200 parts per million for use to promote color retention.

(4) *Labeling requirements*. (i) The name of the food is mushrooms. The style as provided for in paragraph (a)(2) of this section shall be included as part

of the name or in close proximity to the name of the food.

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved]

(c) *Fill of container.* (1) The standard of fill of container for canned mushrooms is:

(i) The fill of the mushroom ingredient and packing medium, as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter, is not less than 90 percent of the total capacity of the container.

(ii) The drained weight of the mushroom ingredient is not less than 56 percent of the water as capacity of the container.

(iii) Determine drained weight as specified in § 155.3(a).

(2) Determine compliance for minimum fill and drained weight as specified in § 155.3(b).

(3) If the canned mushrooms fall below the standard of fill prescribed in paragraph (c)(1)(i) and/or (ii) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

**PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION**

2. In Part 172, § 172.120 is amended in the table in paragraph (b)(1) by revising the entry for "Mushrooms (cooked canned)" to read as follows:

**§ 172.120 Calcium disodium EDTA.**

(b) \* \* \*  
(1) \* \* \*

Food	Limitation (parts per million)	Use
Mushrooms (cooked canned).	200	Promote color retention.

Interested persons may, on or before August 23, 1982, submit to the Dockets Management Branch (address above), written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1982.  
William F. Randolph,  
*Acting Associate Commissioner for Regulatory Affairs.*  
[FR Doc. 82-16856 Filed 6-16-82; 10:34 am]  
BILLING CODE 4190-01-M

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of the Assistant Secretary for Housing—Federal Housing Commissioner**

**24 CFR Parts 207, 220, 221, and 236**

**[Docket No. R-82-986]**

**Multifamily Housing, Urban Renewal, and Low Cost and Moderate Income Mortgage Insurance**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would provide an alternative method of determining maximum permissible rentals for unsubsidized insured and HUD-held multifamily projects, using the current appraised market value of the property, and would provide for an increase in mortgage insurance premiums for projects using this alternative method. In addition, it would end control of rents by HUD for mortgages insured under Section 220 or Section 221(d)(4) of the National Housing Act.

**DATES:** Comments due: August 23, 1982.  
**ADDRESS:** Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Each comment should include the commentor's name and address and must refer to the docket number indicated in the heading of this document. A copy of each communication will be available for public inspection during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** James J. Tahash, Director, Program Planning Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-8730. This is not a toll free number.

**SUPPLEMENTARY INFORMATION:** HUD has determined that the existing methods of determining maximum permissible rentals in unsubsidized insured and HUD-held projects do not provide timely recovery of current operating costs and a sufficient incentive for owners to preserve such projects as a part of the

nation's multifamily rental stock. The Department has many projects in which defaults or serious delinquencies have been caused by a rigid rent structure which is not sufficiently responsive to cost increases and changes in market conditions. Therefore, the Department proposes these rules to set forth already established procedures for determining maximum permissible rent, provide an alternative mechanism which permits project owners to request that rents be determined using the current appraised market value of the property, and deregulate the determination of rents by HUD for mortgages insured or formerly insured under section 220 or 221(d)(4).

As the insurer, or holder, of the mortgages on such projects, HUD has a paramount interest in their economic viability. Moreover, HUD is committed to the preservation and enhancement of the quantity and quality of available rental housing. For projects which receive no subsidy, the best method to achieve these goals is to allow free markets to determine rents which will enable owners to recover current operating costs and achieve a reasonable rate of return based on present property values. Since HUD control over rents is not mandated by sections 220 and 221(d)(4), projects with mortgages insured under those sections will be freed from any rent regulations by HUD.

With respect to other unsubsidized insured or HUD-held mortgages, a change in the procedure for determining rents is proposed. Currently, HUD controls rents in such projects by a strict formula based on historical costs and a rate of return which is a fixed percentage of replacement cost. The current method provides no recognition of increased value of the project, thus decreasing the real return to the owner where there is any substantial increase in market value of the project. This below-market return induces many owners to sell or convert their projects, frequently to the detriment of the tenants. The proposed alternative method would permit recovery of current costs and a realistic return on investment to the project owner based on the appreciation of property value. These changes would increase economic viability and provide the incentive necessary to preserve the existing rental housing stock, to the benefit of all participants in the rental market.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR 50, which implement section 102(2)(C) of the National Environmental Policy Act of