

1. *Burrell Martin Dulany, Jr.*, Reisel, Texas, to acquire 51.16 percent of the voting shares of First Reisel Corporation, Reisel, Texas, and thereby indirectly acquire First State Bank, Reisel, Texas.

2. *Herbert Dean Smith*, Bonham, Texas; to acquire an additional 81.20 percent of the voting shares of Wolfe City Bancshares, Inc., Wolfe City, Texas, for a total of 81.21 percent, and thereby indirectly acquire The Wolfe City National Bank, Wolfe City, Texas.

Board of Governors of the Federal Reserve System, June 21, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

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FEDERAL TRADE COMMISSION

Study of a Uniform National Label for Devices That Dispense Automotive Fuel to Consumers

AGENCY: Federal Trade Commission.

ACTION: Notice of study and request for comments.

SUMMARY: The Federal Trade Commission ("Commission") seeks comments as to whether a uniform national label making disclosures required by Federal law should be placed on devices that dispense automotive fuel to consumers, and, if so, what information should be included in such a label. This action is being taken because the Energy Policy Act of 1992, Public Law 102-486, 106 Stat. 2776 ("Energy Act") directs the Commission, in consultation with the Environmental Protection Agency ("EPA"), to study the need for, and desirability of, such a label and to give interested parties an opportunity to participate in the study through the submission of written data, views, or arguments. The Commission is required to report to Congress by October 24, 1993, its findings, conclusions, and recommendations made as a result of this study, together with a description of the administrative and legislative actions needed to implement such recommendations. What follows is the preliminary version of the Commission's study. This preliminary version describes areas in which comments are requested and lists specific questions for comment.

DATES: Written comments must be submitted on or before July 26, 1993.

ADDRESSES: Written comments should be submitted to the Secretary, Federal Trade Commission, Washington, DC 20580, 202-326-2515. Comments

should be identified as "Section 1503 Study—Comment." If possible, comments should be submitted both in writing and on personal computer diskette in Word Perfect or other word processing format (to assist in processing, please identify the format used.)

FOR FURTHER INFORMATION CONTACT: Lynda M. Rozell, Attorney, 202-326-2977, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Energy Act was enacted on October 24, 1992.¹ It establishes a comprehensive national energy policy to increase U.S. energy security gradually and steadily in cost-effective and environmentally beneficial ways. The Act seeks to reduce U.S. dependence on oil imports; to conserve energy and use it more efficiently; to reduce the use of oil-based fuels in motor vehicles; and to provide new energy options. The Act includes programs that encourage the development of alternative fuels and alternative fueled vehicles.

Section 1503 of the Energy Act directs the Commission, in consultation with EPA, to conduct a study to determine the need for, and the desirability of, a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by Federal law to be posted on such devices.² If the Commission finds that there is a need for such a label, the Commission's study must also determine the nature of the label.³ The Commission is to weigh the consumer, environmental, and energy-saving benefits of possible elements of the label against the need for a concise, practical, and cost-efficient label.⁴ As a possible element of a uniform national label, the Commission is to consider a statement suggesting that consumers check their vehicle owner's manual regarding octane requirements.⁵

In accordance with the Energy Act, the Commission is publishing this

general notice of the study and requesting interested parties to submit written data, views, arguments, or comments.⁶ To inform interested parties of the issues and questions that the Commission has identified as relevant to the study, Commission staff prepared this preliminary version of the study.

The Commission must report to Congress its findings, conclusions, and recommendations resulting from the study, including a description of any legislative and administrative actions needed to implement such recommendations, no later than October 24, 1993.⁷ Any tentative finds and conclusions expressed in this preliminary version of the study may be revised significantly after written responses to this notice are received. Accordingly, this preliminary version does not include recommendations to Congress or a description of the actions necessary to implement such recommendations.

II. Background

A. Legislative History

Congress first considered whether there should be a uniform national label consolidating certain information on fuel pumps in 1988, in a hearing on gasoline fuel pump labeling before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce.⁸ The Subcommittee reviewed State and Federal labeling practices to determine whether it should consider drafting legislation that might require a single gasoline pump label to disclose information about octane, alcohol, lead, aromatics, detergents, and vapor pressure.⁹

Several bills and additional hearings followed the 1988 hearing. In 1990, the Octane Display and Disclosure Act, H.R. 5520, passed the House of Representatives, but was never considered in the Senate.¹⁰ This 1990 bill would have had the Commission study a uniform national label consolidating information required by any law to be posted on automotive fuel pumps. The Commission was to assume in such a study that a uniform national label would preempt both federal and

¹ Energy Act, Public Law 102-486, 106 Stat. 2776, 3133. The Energy Act has not yet been codified. All citations are to the session laws.

² Sec. 1503(a)(2)(A), Public Law 102-486, 106 Stat. 2776, 2998. Throughout this Notice, the term "fuel pump" or "fuel pumps" should be read to include any device that dispenses automotive fuel to consumers, even if such device technically is not a pump.

³ Sec. 1503(a)(2)(B), Public Law 102-486, 106 Stat. 2776, 2998.

⁴ Sec. 1503(b)(2)(A), Public Law 102-486, 106 Stat. 2776, 2999.

⁵ Sec. 1503(b)(2)(B), Public Law 102-486, 106 Stat. 2776, 2999.

⁶ Sec. 1503(b)(1), Public Law 102-486, 106 Stat. 2776, 2998.

⁷ Sec. 1503(c), Public Law 102-486, 106 Stat. 2776, 2999.

⁸ See Gasoline Pump Labeling: Hearing before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce, 100th Cong., 2d Sess. (1988) ("1988 Hearing").

⁹ 1988 Hearing, *supra* note 8, at 1 (remarks of Hon. Phillip R. Sharp) and 39 (statement of Hon. Daniel Oliver, Chairman, Federal Trade Commission).

¹⁰ Octane Display and Disclosure Act of 1990, H.R. 5520, 101st Cong., 2d Sess. (1990).

state labeling requirements.¹¹ By contrast, section 1503 of the Energy Act requires the Commission's study to address the consolidation only of information required by Federal law to be posted on automotive fuel pumps.¹² A hearing was held on the 1990 bill before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce on June 20, 1990.¹³

In 1991, the House considered two bills whose provisions ultimately were incorporated in section 1503 of the Energy Act: (1) Another Octane Display and Disclosure bill, H.R. 2578,¹⁴ and (2) H.R. 219, a bill that would have required a warning statement on fuel pumps directing consumers to check their vehicle owner's manual to see what grade of gasoline is recommended for their cars.¹⁵ Like the current section 1503 of the Energy Act, the 1991 version of the Octane Display and Disclosure bill directed the Commission to conduct a study of a uniform national label consolidating information required by Federal law to be posted on fuel pumps.¹⁶ Hearings were held on the two 1991 bills before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce on June 12, 1991.¹⁷

Section 1503 of the Energy Act is part of the Octane Display and Disclosure provisions contained in title XV of H.R. 776, the House bill revised in conference and enacted as the Energy Act.¹⁸ The conferees made no changes to the language of section 1503.¹⁹ Section 1503 incorporates the language of the 1991 Octane Display and Disclosure bill, and, as derived from H.R. 219's proposed warning label, also directs the Commission to consider whether a uniform national label should suggest that consumers consult their

vehicle owner's manuals for the manufacturer's recommended octane rating.²⁰

B. Scope of the Study

The study applies to labels on all devices used to dispense automotive fuels to consumers, including gasoline pumps and devices that dispense alternative fuels at service stations, recharging stations, or other points of retail sale. It evaluates the possible consolidation of information currently required by Federal law to be posted on such devices. The statute contemplates consideration of at least one possible element of uniform national label that is not currently required to be posted by Federal law: The suggestion that consumers check their vehicle owner's manuals regarding octane requirements. The legislation that requires this study also requires new Federal labeling requirements for automotive fuel pumps under section 1501 of the Energy Act and for alternative fuels under section 406 of the Energy Act, discussed below.²¹ These facts suggest that Congress did not intend to restrict the study to existing Federal requirements. Accordingly, in this study the Commission is considering issues related to the consolidation of existing and possible future Federal pump labeling requirements.

The study does not assume that a uniform national label would preempt state or local labeling requirements. Unlike H.R. 5520, which would have required such an assumption, the bill that was incorporated into section 1503 of the Energy Act requires the Commission to study the consolidation of information required by Federal law, not by any law.²² The change in language suggests that, if the Commission were to recommend a uniform national label, it should not necessarily preempt state or local labeling requirements.²³

²⁰ Sec. 1503, Public Law 102-486, 106 Stat. 2776, 2998-99.

²¹ Sec. 1501, Public Law 102-486, 106 Stat. 2776, 2996; sec. 406, Public Law 102-486, 106 Stat. 2776, 2880-81. A proposed rule implementing section 1501 of the Energy Act was published in the Federal Register on March 26, 1993. See Octane Certification and Posting, 53 FR 16464 (March 28, 1993). The Energy Act requires a final rule to be issued by July 21, 1993. The Act requires notice of a proposed rule to implement section 406 to be issued by April 23, 1994.

²² Compare Energy Act, sec. 1503(a)(2)(A), 106 Stat. at 2998, and H.R. 2578, 102d Cong., 1st Sess., sec. 4 (1991) with H.R. 5520, 101st Cong., 2d Sess., sec. 4 (1990). See also H.R. Rep. No. 101-823, 101st Cong., 2d Sess., 8 sec. (1990).

²³ Similarly, preemption of state enforcement authority by whatever Federal mechanism may be used to enforce a uniform national label appears inconsistent with the Energy Act. The Act's Octane Display and Disclosure provisions are designed to

Section 1503's direction to the Commission to weigh the consumer, environmental, and energy-saving benefits of any element of a uniform national label against the necessity for a concise, practical, and cost efficient label further suggests that, in evaluating consolidation of Federally required information, the Commission should examine informational issues, such as the length and content of messages and how consumers respond to such messages. For the same reasons, the Commission should consider whether every element of existing Federal labeling requirements should be maintained if consolidated on a uniform national label. Accordingly, the Commission will consider whether the consumer, environmental, and energy-saving benefits of the elements of labels currently required by Federal law to be posted on automotive fuel dispensers weigh in favor of including all elements of those labels on a uniform national label that must be concise, practical and cost efficient.

Because section 1503 directs the Commission to describe administrative and legislative actions needed to implement any Commission recommendations, this study also examines enforcement issues relating to Federal labeling requirements. Currently, as discussed in detail below, two separate agencies, the FTC and EPA, require labels to be posted on fuel pumps. Mechanisms for enforcing these requirements vary. Thus, consolidation of required label information poses administrative and legislative issues regarding the enforcement of uniform label requirements.

C. Current Federal Labeling Requirements

Federal law currently requires two to three labels on automotive fuel pumps: (1) A gasoline octane rating label; (2) a label identifying whether or not a pump contains unleaded gasoline,²⁴ and (3) a label regarding oxygenated gasoline in certain areas of the country during the winter.

give states greater authority to enforce against octane mislabeling. H.R. Rep. 102-474, 102d Cong., 2d Sess., pt. 2, at 151 (1992); 1991 Hearings, *supra* note 17, at 406 (statement of Rep. Philip R. Sharp). Section 1502, in particular, provides that state remedies that are not identical to the remedies provided for by the PMPA are no longer preempted. See sec. 1502, Public Law 102-486, 106 Stat. 2776, 2997-98 (to be codified at 15 U.S.C. 2824).

²⁴ Another related label must be placed in the immediate area of each gasoline pump stand or island. 40 CFR 80.22(d). The retailer may choose to place this label directly on a fuel pump, but is not required to do so. See discussion, *infra* section II, paragraph C.2.

¹¹ H.R. Rep. No. 101-823, 101st Cong., 2d Sess., 8 (1990).

¹² Compare Energy Act, sec. 1503, 106 Stat. at 2998 with H.R. 5520, 101st Cong., 2d Sess., sec. 4 (1990).

¹³ Octane Mislabeling: Hearing before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce, 101st Cong., 2d Sess. (1990) ["1990 Hearing"].

¹⁴ H.R. 2578, 102d Cong., 1st Sess. (1991).

¹⁵ H.R. 219, 102d Cong., 1st Sess. (1991). A similar bill recently was introduced in the current session of Congress. H.R. 1664, 103d Cong., 1st Sess. (1993).

¹⁶ Compare Energy Act, sec. 1503, 106 Stat. at 2998 with H.R. 2578, 102d Cong., 1st Sess., sec. 4 (1991).

¹⁷ National Energy Strategy (Part 6), Pump Labeling and Octane Cheating: Hearings before the Subcommittee on Energy and Power of the House Committee on Energy and Commerce, 102d Cong., 1st Sess. 405-506 (1992) ("1991 Hearings").

¹⁸ H.R. 776, 102d Cong., 2d Sess. (1992).

¹⁹ See H.R. Conf. Rep. No. 1018, 102d Cong., 2d Sess. (1992).

1. The Octane Label

Since June 1, 1979, the Commission has required gasoline retailers to post the octane rating of gasoline sold to consumers.²⁵ The Octane Rule, issued pursuant to title II of the Petroleum Marketing Practices Act ("PMPA"),²⁶ is intended to enable consumers to purchase gasoline with an octane rating high enough to prevent "engine knock."²⁷ It also is intended to help consumers avoid buying gasoline with an octane rating higher than their vehicles need, a practice known as "octane overbuying."²⁸

Retailers must post at least one label on each face of each gasoline dispenser through which gasoline is sold to consumers.²⁹ If two or more kinds of gasoline with different octane ratings are sold through the same dispenser, retailers must post separate labels for each kind of gasoline on each face of the dispenser.³⁰ The label, or labels, must be placed conspicuously on the dispenser in full view of consumers and as near as reasonably practical to the price of the gasoline.³¹

The Octane Rule specifies the format of the labels. All octane labels must be 3" wide x 2.5" long.³² The labels must have a yellow background, black type and black borders.³³ The Octane Rule also specifies the style, size and spacing of text, numerals and borders.³⁴ All labels must contain the following information: "Minimum Octane Rating"; "(R + M)/2 Method"; and the minimum octane rating of the gasoline to which the label applies.³⁵ The octane number is the most prominent feature of the labels. Finally, the Octane Rule prohibits including on the labels any

mark or information other than that called for by the Octane Rule.³⁶

2. The Leaded/Unleaded Gasoline Labels

In 1973, EPA promulgated regulations to implement sections 211 and 301(a) of the Clean Air Act by providing for the availability of lead-free and phosphorus-free fuel.³⁷ The regulations were intended to prevent damage to motor vehicle emission control systems from lead or phosphorus additives to gasoline.³⁸

Since July 1, 1974, EPA has required all retailers of gasoline for use in motor vehicles to affix a permanent, legible label to each gasoline pump stand to identify whether the gasoline is leaded or unleaded.³⁹ The label must state "Unleaded gasoline" if the pump stand contains dispensers for unleaded gasoline.⁴⁰ If the pump stand contains dispensers for leaded gasoline, the label must state "Contains lead anti-knock compounds" and must be located so as to be readily visible to employees and customers.⁴¹

EPA also requires every retailer of gasoline prominently and conspicuously to display in the immediate area of each gasoline pump stand a notice that Federal law prohibits the introduction of any gasoline containing lead or phosphorus into any motor vehicle labeled "Unleaded Gasoline Only."⁴² The retailer need not place the notice directly on the pump stand or the fuel dispenser, but may do so.

The Clean Air Act Amendments of 1990 prohibit the sale of leaded gasoline as a motor vehicle fuel after December 31, 1995.⁴³ EPA may revise its leaded/unleaded gasoline rule accordingly.

3. The Oxygenated Fuels Labels

Section 211(m) of the Clean Air Act⁴⁴ requires certain states to implement an oxygenated gasoline program and to revise their State Implementation Plans ("SIPs") accordingly. SIPs provide for state implementation, maintenance, and enforcement of certain air quality standards prescribed by EPA under the

Clean Air Act.⁴⁵ The oxygenated gasoline program applies to all states with carbon monoxide nonattainment areas with design values of 9.5 parts per million or more, generally based on data for 1988 and 1989.⁴⁶ The oxygenated gasoline program must require gasoline in the specified "control areas" to contain no less than 2.7% oxygen by weight during a specified "control period."⁴⁷ States may elect to adopt an averaging program using marketable oxygen credits. Under such a credit program, gasoline containing oxygen above 2.7% by weight may offset gasoline with an oxygen content below 2.7%.⁴⁸ EPA's guidelines specify that, if a state elects to adopt a credit program, it should establish a minimum oxygen content of 2.0% by weight for each gallon of gasoline.⁴⁹

Section 211(m) also requires retailers of oxygenated gasoline in control areas, in accordance with regulations promulgated by EPA, to label the fuel dispensing system with a notice that the gasoline is oxygenated and will reduce carbon monoxide emissions from motor vehicles.⁵⁰ EPA's oxygenated fuels rule requires labeling of gasoline pumps to indicate that oxygenated fuel is being dispensed, effective November 19, 1992.⁵¹ It does not restrict states from imposing additional labeling requirements.⁵²

EPA intends the oxygenated fuels labeling rule to "inform the public of

⁴⁵ See 42 U.S.C. 7410. Such plans must be adopted by the state and submitted for approval to EPA. *Id.* EPA approval of State Implementation Plans does not create new federal requirements, but simply approves requirements imposed by the states. See Approval and Promulgation of Implementation Plans, California State Implementation Plan Revision; Santa Barbara County Air Pollution Control District, 57 FR 37743, 37744 (Aug. 20, 1992).

⁴⁶ 42 U.S.C. 7410.

⁴⁷ A control area is an area designated by EPA in which only oxygenated gasoline may be sold or dispensed, because the area fails to meet certain Clean Air Act standards for the level of carbon monoxide pollution in the air. See 42 U.S.C. 7545(m); Notice of Final Oxygenated Fuels Labeling Regulations Under Section 211(m) of the Clean Air Act as Amended, 57 FR 47769, 47771 (Oct. 20, 1992). A control period is the period during which oxygenated gasoline must be sold or dispensed in any control area, because the control area is prone to high concentrations of carbon monoxide pollution during that time of the year. *Id.* For most control areas, EPA has established a control period starting November 1st and ending February 29th. For a listing of control areas and control periods, see Guidelines for Oxygenated Gasoline Credit Programs and Guidelines on Establishment of Control Periods Under Section 211(m) of the Clean Air Act as Amended, 57 FR 47853 (Oct. 20, 1992).

⁴⁸ 57 FR 47853, 47853-54.

⁴⁹ Environmental Protection Agency, "Oxygenated Gasoline Implementation Guidelines" 2 (July 27, 1992).

⁵⁰ 45 U.S.C. 7545(m).

⁵¹ 57 FR 47769, 47770.

⁵² 57 FR 47769, 47771.

²⁵ See 16 CFR part 306.

²⁶ 15 U.S.C. 2821-2824.

²⁷ Final Rule Governing Certification and Posting of Octane Numbers Under Title II of the Petroleum Marketing Practices Act, 44 FR 19160 (Mar. 30, 1979).

²⁸ *Id.*

²⁹ 16 CFR 306.9(a).

³⁰ *Id.*

³¹ 16 CFR 306.9(b). The Commission may allow certain exceptions to the placement requirements upon petition by the retailer. See 16 CFR 306.9(b)(2).

³² 16 CFR 306.11(a). To accommodate technological developments in the industry, the Commission has granted several petitions to post octane ratings on labels that differ slightly from the Octane Rule's specifications. See Sun Refining & Marketing Co., et al., 56 FR 26821 (Jun. 11, 1991); Sun Oil Co., 55 FR 1871 (Jan. 19, 1990); Exxon Corp., 54 FR 14072 (Apr. 7, 1989); Gilbarco, Inc., 53 FR 29277 (Aug. 3, 1988); Sun Oil Co., 44 FR 33740 (Jun. 12, 1979).

³³ 16 CFR 306.11(c).

³⁴ 16 CFR 306.11(a) (b).

³⁵ 16 CFR 306.11(b).

³⁶ 16 CFR 306.11(d).

³⁷ Part 80, Regulation of Fuels and Fuel Additives, 38 FR 1254, 1255 (Jan. 10, 1973).

³⁸ *Id.*; 40 CFR 80.1.

³⁹ 40 CFR 80.22(e). A pump stand or island is a discrete area allowing motor vehicles access to one or more pumps for fueling. Typically, a pump stand or island is located on a raised slab or curb of concrete and has a sign advertising the fuel available at the pump stand.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² 40 CFR 80.22(d).

⁴³ 42 U.S.C. 7545(n).

⁴⁴ 45 U.S.C. 7545(m).

the beneficial goal of section 211(m)'s mandated oxygenated gasoline program, and of reductions in carbon monoxide emissions from motor vehicles."⁵³ The rule also is intended to inform the consumer "in a clear and understandable way, while minimizing the chances of confusing the public."⁵⁴

The oxygenated fuels rule requires gasoline retailers to affix to each gasoline pump stand from which oxygenated fuel is dispensed in a control area during a control period a "legible and conspicuous" label containing one of two alternative statements.⁵⁵ In states with oxygenated gasoline programs requiring a minimum oxygen content, the label must include the statement that: "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."⁵⁶ If, however, the gasoline pump stand is in a state with an oxygenated gasoline program that has a credit program with no minimum oxygen content requirement, the label must instead state that: "The fuel dispensed from this pump meets the requirements of the Clean Air Act as part of a program to reduce carbon monoxide pollution from motor vehicles."⁵⁷ The alternative language is intended to prevent consumers from being misled into believing that the gasoline is oxygenated, when in fact it may lawfully contain no oxygen if under the state implementation plan the gasoline may be averaged with other gasoline having an oxygen content greater than a minimum oxygen standard.⁵⁸ The oxygenated fuels rule does not require identification of the oxygenate.⁵⁹

⁵³ *Id.* at 47770.

⁵⁴ *Id.*

⁵⁵ *Id.* at 47770-72 (to be codified at 40 CFR 80.35).

⁵⁶ *Id.* at 47771 (to be codified at 40 CFR 80.35(a)).

⁵⁷ *Id.* at 47772 (to be codified at 40 CFR 80.35(b)). States may elect an oxygenated fuels credit program that allows averaging of the oxygen content of gasoline, rather than prescribing oxygen content for all gasoline. In states with a credit program that does not require a minimum oxygen content for all gasoline, gasoline with no oxygen content could legally be sold in a control area during a control period, if it is averaged with gasoline having a higher oxygen content than required by the Clean Air Act minimum oxygen content standard. *Id.* at 47770.

⁵⁸ *Id.* According to EPA, no state included in the oxygenated gasoline program has yet adopted this alternative; all states electing a credit program have adopted a minimum oxygen content requirement of at least 2.0% by weight.

⁵⁹ In May 1991, as part of its regulation of gasoline volatility, EPA proposed requiring labels on gasoline pumps to identify gasoline containing the oxygenated ethanol and the percentage concentration of ethanol. Regulation of Fuels and Fuel Additives: Standards for Gasoline Volatility; and Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines:

The label must contain one of the two alternative statements in block letters of no less than 20-point bold type in a color contrasting with the background.⁶⁰ It must be placed on the vertical surface of the pump on any side that has gallon and price meters, on the upper two-thirds of the pump, in a position from which it may be clearly read by the public.⁶¹

D. Pending Federal Labeling Requirements

1. Section 1501 of the Energy Act

Section 1501 of the Energy Act requires the Commission to issue posting and certification requirements, like the octane posting and certification requirements that presently exist for gasoline, for all liquid automotive fuels other than diesel fuels no later than July 21, 1993. Section 1501 also authorizes the Commission to issue posting and certification requirements for diesel fuels, if the Commission finds such requirements appropriate after a rulemaking proceeding. A Notice of Proposed Rulemaking proposing to amend the Octane Rule pursuant to section 1501 was published in the *Federal Register* on March 26, 1993.⁶² The Commission also is conducting its ten-year regulatory review of the Octane Rule during that rulemaking proceeding.

The proposed amendments address fuel pump labeling for six alternative liquid fuels and for diesel fuel. The alternative liquid fuels are methanol; ethanol; M-85, a blend of 85% methanol with 15% gasoline; E-85, a blend of 85% denatured ethanol with 15% gasoline; liquified propane gas ("LPG"); and liquified natural gas ("LNG"). The Commission sought comments on four options for retail pump labeling of alternative fuels. Option 1 would require a label containing the octane rating of alternative fuels. Option 2 would require a label identifying the fuel being dispensed and providing a relevant non-octane rating. The

Standards for Particulate Emissions from Urban Buses, 56 FR 24242 (May 29, 1991). After reviewing comments from the public, the EPA withdrew its labeling proposal because it was not necessary for enforcing EPA's volatility fuel standards. Regulation of Fuels and Fuel Additives: Standards for Gasoline Volatility; and Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Standards for Particulate Emissions from Urban Buses, 56 FR 64704, 64705 (Dec. 12, 1991).

⁶⁰ 57 FR 47769, 47772 (to be codified at 40 CFR 80.35(a), (b)).

⁶¹ *Id.*

⁶² Octane Certification and Posting, 58 FR 16464 (March 26, 1993). The comment period originally was scheduled to end on April 26, 1993. In response to a petition, the Commission extended the comment period to May 10, 1993. Octane Certification and Posting, 58 FR 25582 (Apr. 27, 1993).

minimum propane content of LPG, the minimum methane content of LNG, and the range of hydrocarbon content of methanol, ethanol, M-85, and E-85. Option 3 would require a label stating how many gallons of the alternative fuel being dispensed is needed either (1) to replace a gallon of gasoline, or (2) to travel as far as using a gallon of gasoline would allow. Option 4 would require a label identifying the alternative fuel being dispensed, which would have to meet certain specifications. The *Federal Register* notice proposing these amendments also seeks comments as to whether the cetane ratings of diesel fuel should be certified and posted.

For each of the four options for alternative liquid fuels, and for cetane disclosures for diesel fuels, the color, type size, and typeface of the proposed label would be the same as or similar to the current octane label. The content, size and location of labels for alternative liquid fuels may vary as described in the proposed rule or as revised during the rulemaking process. For example, the dimensions of the label would vary as needed to accommodate the length of the text. Under the proposed amendments, only labels pertaining to the fuel contained in a dispenser would appear on that dispenser. Thus, the total number of labels on the fuel pump would not increase, unless a fuel pump dispenses more than one type of fuel.

2. Section 406 of the Energy Act

Section 406 of the Energy Act requires the Commission to propose by April 23, 1994, uniform labeling requirements for alternative fuels and alternative fuel vehicles, including information about costs and benefits to enable consumers to make comparisons and choices.⁶³ The required alternative fuels labeling must be simple and may be consolidated with other labels that provide information to consumers.⁶⁴ The Department of Energy ("DOE") is to provide technical assistance to the Commission in developing labeling requirements under section 406, in coordination with DOE's production of a public information

⁶³ Section 406, Public Law 102-486, 106 Stat. 2776, 2880-81. Section 301 of the Energy Act defines "alternative fuel" to mean methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (but not less than 70 percent) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquified petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel that the Secretary of Energy determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and environmental benefits. Sec. 301, Public Law 102-486, 106 Stat. 2776, 2866.

⁶⁴ *Id.*

package on the costs and benefits of the use of alternative fuels in motor vehicles under section 405 of the Energy Act.⁶⁵ The Commission will solicit public comment on proposals for implementing Section 406 in a separate proceeding that will be announced in the Federal Register. The Energy Act directs the Commission to issue a final rule by April 23, 1995.

E. Other Labels on Fuel Pumps

Fuel pump labeling differs from state to state, and locality to locality. For example, many states require fuel pumps to be labeled with gasoline ingredients, particularly alcohol.⁶⁶ State weights and measures enforcement officials post certifications on fuel pumps to indicate that the fuel satisfies state law requirements. Some states and localities also have adopted trade association standards that mandate posting of health and safety warnings.

Further, the National Conference on Weights and Measures ("NCWM"), an organization of state and local weights and measures enforcement officials, issues model labeling guidelines for fuel pumps that are often adopted by states.⁶⁷ The dispenser labeling guidelines that NCWM recommends for state consideration include the Uniform Regulation for the Method of Sale of Commodities, which provides for labeling the upper half of the front panel of a dispenser of motor fuel that contains at least one percent by volume of any oxygenate or combination of oxygenates with a statement identifying the specific type of oxygenate(s) in the fuel, such as "contains ethanol" or "with MBTE."⁶⁸

Gasoline retailers also may participate in voluntary health and safety warning

labeling programs. A widely used "Gasoline Health Warning" label urges consumers to avoid prolonged breathing of vapors, to keep their faces away from the nozzle and gas tank, and to never siphon gasoline by mouth.⁶⁹ Other information that often appears on gasoline fuel pumps includes instructions for operating the fuel pump, instructions for paying for the fuel, brand names, grades of gasoline, and advertising.

As part of this study, the Commission is soliciting data and comments regarding the nature and extent of state and local labeling requirements and information that is voluntarily posted on fuel pumps. Commenters are asked for their views regarding the need for and desirability of a uniform Federal label in light of state and local labeling requirements and voluntarily provided information.

III. Need for and Desirability of a Uniform National Label

A. Purpose

Generally, labels have two functions: (1) Informational functions, such as informing, persuading, or reminding consumers, and (2) enforcement functions, such as aiding enforcement of standards or requirements referred to on the label. The legislative history of section 1503 indicates that Congress contemplated both the informational and enforcement functions of a uniform national label in directing the Commission to study the need for such a label. The purpose of the Octane Display and Disclosure provisions of the Energy Act, including section 1503, is to "increase consumer confidence in and information about motor fuels."⁷⁰ In addition, these provisions reflect Congress' recognition "that motorists have a right to know that they are getting what they pay for and that dealers have a right to know that their competitors are not cheating."⁷¹

Another concern prompting the uniform national label study is the perception that consumers tend to purchase gasoline with an octane rating higher than their vehicles need.⁷² Representative Schumer, the principal sponsor of H.R. 219, a predecessor to one of the provisions of section 1503, indicated that octane overbuying

increases out of pocket costs to consumers and damages the environment.⁷³

B. Informational Issues

The informational functions of a uniform national label could include informing, persuading, or reminding consumers of (1) consumer benefits, such as protecting consumer safety and health, protecting vehicles, and enhancing vehicle performance; (2) environmental costs and benefits; and (3) energy-saving opportunities. These purposes to some extent overlap. The same elements on a uniform national label might serve more than one informational purpose.

I. Information Overload

In assessing whether there is a need for a uniform national label, both the quantity of information that already appears on fuel pumps and the quantity of information that might appear on such a label should be considered. One school of thought in marketing, "information overload" theory, posits that consumers make objectively worse decisions when they are provided with large amounts of information, because they selectively process the information and may ignore important factors.⁷⁴ Providing more information on a label is helpful to consumers only if information currently available on the label is inadequate. If, however, consumers have difficulty reading, understanding, and using the available label information, the value of additional information is doubtful.⁷⁵

Marketing literature identifies many factors that affect how consumers process information, including: the length and content of the message; the format in which it is presented; the individual characteristics of consumers, such as their motivation in seeking

⁷³ 1991 Hearings, *supra* note 17, at 422 (statement of Rep. Charles E. Schumer).

⁷⁴ See, e.g., Wesley A. Magat and W. Kip Viscusi, "Informational Approaches to Regulation" 14, 105 (1992); J. Wesley Hutchinson and Joseph W. Alba, "Ignoring Irrelevant Information: Situational Determinants of Consumer Learning," 18 *Journal of Consumer Research* 325, 325-26 (1991); International Advertising Association, "Labeling & Advertising: Their Functions in Consumer Information" 8 (1987); James R. Bettman, John W. Payne and Richard Staelin, "Cognitive Considerations in Designing Effective Labels for Presenting Risk Information," 5 *Journal of Public Policy & Marketing* 1, 6-7, 12 (1986); Naresh K. Malhotra, "Information Load and Consumer Decision Making," 8 *Journal of Consumer Research* 419, 427 (1982). But see David M. Grether, Alan Schwartz and Louis L. Wilde, "The Irrelevance of Information Overload: An Analysis of Search and Disclosure," 59 *S. Cal. L. Rev.* 277 (1986) (concluding that consumers generally reach successful, if not optimal, results by selectively processing information).

⁷⁵ Magat and Viscusi, *supra* note 74, at 87.

⁶⁵ See sec. 405, Public law 102-486, 106 Stat. 2776, 2880.

⁶⁶ In 1988 the General Accounting Office ("GAO") surveyed states, the District of Columbia, Puerto Rico, and U.S. territories to determine their pump labeling requirements for gasoline ingredients. General Accounting Office, "Gasoline Marketing, States' Programs For Pump Labeling Of Gasoline Ingredients" 9 (1989). Forty-seven states, the District of Columbia, Puerto Rico, and the Virgin Islands responded to the survey. *Id.* Thirty-nine of these entities required some form of pump label to disclose gasoline ingredients, including the alcohol content of gasoline. *Id.* States that require posting of alcohol content on retail pumps generally require fuel pump labels for gasoline that includes more than 1% ethanol or methanol by volume. 1988 Hearings, *supra* note 8, at 95 (statement of Richard White, American Petroleum Institute).

⁶⁷ See 1988 Hearings, *supra* note 8, at 52 (statement of N. David Smith, National Conference of Weights and Measures).

⁶⁸ U.S. Department of Commerce, National Institute of Standards and Technology, "NIST Handbook 130," 93 (1993). The same labeling language is recommended by the NCWM in section 3.1 of its Uniform Regulation for Motor Fuel. *Id.* at 129.

⁶⁹ See 1988 Hearings, *supra* note 8, at 116 (testimony of the American Petroleum Institute).

⁷⁰ H.R. Rep. 102-474, 102d Cong., 2d Sess., pt. 2, at 151 (1992); 1991 Hearings, *supra* note 17, at 406 (statement of Rep. Philip R. Sharp).

⁷¹ *Id.*

⁷² 1991 Hearings, *supra* note 17, at 420 (statement of Rep. Carlos J. Moorhead); 1991 Hearings, *supra* note 17, at 421-24 (statement of Rep. Charles E. Schumer).

information, their attention span, their cognitive skills, and their previous knowledge; and environmental factors, such as distractions and time limitations.⁷⁶ The Commission is not aware of any study that has been done of how consumers read, understand, and use information on fuel pump labels. It welcomes comments on any factors that may affect the ability of consumers to read, understand, and act upon label information posted on fuel pumps. Interested parties should address information overload issues both with regard to the content and format of a label consolidating information required to be posted by Federal law on fuel pumps and with regard to the need for such a label in light of all information displayed on fuel pumps.

It is not clear how much information is too much. According to information overload studies, consumers may focus on anywhere from one to ten pieces of information about a product in making decisions.⁷⁷ Requiring information for only some attributes of a product may lead consumers to believe that other attributes are less important.⁷⁸ How much information is provided may not be as important, however, as whether that information makes it more difficult for consumers to obtain information about the particular attributes in which they are interested.⁷⁹ The challenge of designing an effective label is to present enough information to help consumers make informed choices, but not so much information that consumers' selective reading and understanding of that information leads them to make poor decisions.⁸⁰ Although generally

consumers are more satisfied if they have more information on which to base their decisions,⁸¹ the effectiveness of a complex label may depend on how motivated consumers are to read it. Consumers who are highly motivated to read labels process more information than those who are not.⁸²

Moreover, the format of a label affects how consumers read, understand, and use the information on it.⁸³ The same information presented in different formats may result in different consumer decisions.⁸⁴ Not surprisingly, a format that makes information easier to process may improve consumer understanding and decisionmaking.⁸⁵

To be effective, a label should be designed to direct the consumer's attention to the information that is most important for the consumer to learn.⁸⁶ Information should be organized in a way that it can be easily understood and acted upon.⁸⁷ Colors, type size, symbols, and the use of graphics such as boxes and arrows can help consumers locate and read the information that they need.⁸⁸ Standardized label formats for different products help consumers recognize the label as providing

processing problems caused by consumer misperceptions).

⁸¹ In general, consumers may be more satisfied when they believe they have more information on which to base product choices. See Grether, et al., *supra* note 74, at 284-85. Consumer who lack prior knowledge or expertise tend to have more favorable attitudes toward a label if more information is provided. See Petty and Cacioppo, *supra* note 76, at 171. Because the attributes that are relied upon by consumers in making choices may differ from consumer to consumer, it may be necessary to provide information about many attributes to satisfy a substantial number of consumers. Grether, et al., *supra* note 74, at 300-01; Bettman, et al., *supra* note 74, at 7. See also Julie A. Caswell and Daniel I. Padberg, "Towards a More Comprehensive Theory of Food Labels," 7 *American Journal of Agricultural Economics* 460, 465 (1992).

⁸² Durairaj Maheswaran and Brian Sternthal, "The Effects of Knowledge, Motivation, and Type of Message on Ad Processing and Product Judgments," 17 *Journal of Consumer Research* 66, 70-71 (1990). The complexity of the message in relation to the educational level of the reader also affects the ability of the reader to understand the information. F. Kelly Shupitine and Ellen M. Moore, "Even After the Magnuson Moss Act of 1975, Warranties Are Not Easy to Understand," 14 *Journal of Consumer Affairs* 394, 402-03 (1980).

⁸³ Merely making information available does not guarantee consumers will respond to it. Magat and Viscusi, *supra* note 74, at 186.

⁸⁴ See Bettman, et al., *supra* note 74, at 2. Recent studies confirm that the manner and structure in which information is presented also substantially affect the ability of consumers to recall information. Magat and Viscusi, *supra* note 74, at 14-15, 107, 118.

⁸⁵ Bettman, et al., *supra* note 74, at 10.

⁸⁶ See Hutchinson and Alba, *supra* note 74, at 342.

⁸⁷ Magat and Viscusi, *supra* note 74, at 186; Bettman, et al., *supra* note 74, at 15.

⁸⁸ See Bettman, et al., *supra* note 74, at 15.

information or certifying quality.⁸⁹ Consistency in the format and type of information provided helps consumers read and understand new information, because they can relate the new label to their experience with a similar label.⁹⁰

Finally, environmental factors such as distractions and time constraints may affect how consumers read, understand, and use information.⁹¹ Research on grocery shopping behavior, for example, shows that consumers' use of product labels is limited by time pressure and the fact that many consumers dislike grocery shopping.⁹² Nonetheless, time pressure may help focus consumers' attention and improve decisionmaking when consumers are presented with only a limited amount of information and do not have to make complex decisions.⁹³

2. Application of Information Overload Theory to Fuel Pump Labels

Both the quantity of information on fuel pumps and the quantity of information on a uniform national label could contribute to information overload. Although Federal law currently requires only two to three labels, a fuel pump may contain seven or eight discrete labels or messages providing information required by state or local law, instructions on how to use the pump, voluntarily provided health and safety warnings or descriptions of fuel contents, and advertising. For purposes of the Commission's study of a uniform national label on fuel pumps, information load theory suggests that a fuel pump label should inform consumers of information on which they will rely in making choices. The amount of information that appears on fuel pumps and the amount of information that appears on a possible uniform national label should strike a balance between informing consumers and not overloading consumers. In striking this balance, consideration should be given to consumers' prior knowledge; any existing misperceptions (such as, for example, any tendency to equate higher octane levels with higher power); the educational level and motivation of consumers to read the

⁸⁹ Miller, J.A. "Labeling—The State of the Art," 128 (1978).

⁹⁰ See Bettman, et al., *supra* note 74, at 11.

⁹¹ See Andrews, *supra* note 76, at 221. See also Hahn, *supra* note 76, at 377; Magat and Viscusi, *supra* note 74, at 91; Hutchinson and Alba, *supra* note 74, at 327; Bettman, et al., *supra* note 74, at 2. Studies show that less accurate information processing occurs under time constraints; test subjects focus on fewer pieces of information and unduly emphasize negative information. Malhotra, *supra* note 74, at 421.

⁹² Caswell and Padberg, *supra* note 81, at 74.

⁹³ Hahn, *supra* note 76, at 377.

⁷⁶ See, e.g., Minhi Hahn, Robert Lawson, and Young Gyu Lee, "The Effects of Time Pressure and Information Load on Decision Quality," 9 *Psychology & Marketing* 365, 376-378 (1992); J. Craig Andrews, "Motivation, Ability, and Opportunity to Process Information: Conceptual and Experimental Manipulation Issues," in 15 *Advances in Consumer Research* 219, 219 (Michael J. Houston ed., 1987); Rajeev Batra and Michael L. Ray, "Situational Effects of Advertising Repetition: The Moderating Influence of Motivation, Ability, and Opportunity to Respond," 12 *Journal of Consumer Affairs* 433-34 (1986); Richard E. Petty and John T. Cacioppo, "Communication and Persuasion: Central and Peripheral Routes to Attitude Change," 170-71 (1986); Terence A. Shimp, "Promotion Management and Marketing Communications," 134-36 (2d ed. 1990).

⁷⁷ See Hutchinson and Alba, *supra* note 74, at 340-41; Grether, *supra* note 74, at 63; Malhotra, *supra* note 74, at 427.

⁷⁸ Linda R. Stanley, "A Market Test of Consumer Response to Information Disclosure," 10 *Journal of Public Policy & Marketing* 202, 206 (1991).

⁷⁹ Grether, et al., *supra* note 74, at 286-87.

⁸⁰ Bettman, et al., *supra* note 74, at 7. See also Grether, et al., *supra* note 74, at 301 (concluding that disclosure requirements should reduce the costs to consumers of learning about product attributes and should correct information

label; the ease of obtaining the same information from other sources; and time pressure and distractions that may affect consumer processing of the information provided on a fuel pump label. Care should be taken that inclusion of any statement regarding fuel attributes does not have negative implications by suggesting that other attributes are irrelevant. It also may be useful for a label to refer consumers to more detailed sources of information.

The Commission seeks information and comments regarding consumer use of information posted on fuel dispensers, and any constraints affecting consumer reading and understanding of such information at fuel stations. Specifically, commenters should address whether a uniform Federal label replacing two or three discrete labels would make it easier or more difficult for consumers to process information on the new label. Commenters also should address whether the existence of other labels on fuel pumps affects the need for or desirability of a uniform Federal label.

With regard to format, the label should be organized in a manner that directs the attention of consumers to the most important elements of information. Accordingly, the Commission seeks comments as to which of the elements that might be included on a uniform national label are most important for consumers to read and understand, if such a label were adopted. The Commission seeks comments on whether maintenance of a format similar to that of the long-established octane label is desirable to benefit from consumer familiarity with the octane label.

C. Enforcement Issues

Currently, Federal requirements that two to three labels be posted at fuel pumps are enforced by the FTC, EPA, and, in some circumstances, the states. By posting Federally required labels, sellers represent directly or indirectly that the information provided on the labels is accurate. Thus, the labels not only assure consumers that the fuel they select meets certain standards or requirements, they provide a basis for enforcement actions against mislabeling. Enforcement is not limited solely to FTC or EPA actions. Mislabeling of the octane content of gasoline, for example, may be a violation of state law and subject to state enforcement. Similarly, under EPA's guidelines, states are responsible for enforcing oxygenated gasoline labeling requirements. Below, the enforcement mechanisms for each of the currently required labels are discussed in more detail. The

Commission seeks comments as to whether current enforcement mechanisms should be maintained if current Federal labeling requirements are consolidated on a uniform national label, or whether another enforcement mechanism would be more appropriate for a uniform national label.

1. The Octane Label

At the retail level, sellers of gasoline must post an octane rating that is consistent with a certification obtained from their distributor, or with the results of the seller's testing of the gasoline. The Commission's enforcement of the Octane Rule relies on a system of testing at the refiner or producer level and repeated certification through the chain of distribution to retailers in order to provide assurance that the proper octane rating is posted and to deter mislabeling. Refiners must test and provide certification of the octane rating to distributors, which in turn use this information to provide certification of the octane rating of the gasoline they sell to retailers. The retailers then use the certification information they receive from distributors, or the results of retail level tests, to post an octane rating label on the fuel pump.

The Commission takes action against sellers who mislabel the octane content of gasoline and sellers who fail to certify octane ratings or to keep records of the certification or tests on which they based their octane ratings.⁹⁴ Violations of the Commission's Octane Rule are punishable by fines of up to \$10,000 per violation.⁹⁵ In addition to the Commission's policing of mislabeling and the Octane Rule's certification and recordkeeping requirements throughout the chain of distribution, many states routinely test gasoline at the retail level in order to determine whether the octane rating is accurate, and bring enforcement actions if there is mislabeling.⁹⁶

⁹⁴ See, e.g., *United States v. Davis Brothers Oil, Inc.*, No. IP93-458C (S.D. Ind. Apr. 4, 1993); *United States v. Midwest Petroleum Co.*, No. 4:92 CV 001438 GFG (E.D. Mo. July 24, 1992); *United States v. Henderson*, No. 392-CV-1487X (N.D. Tex. Jul. 24, 1992); *United States v. F.A. Stein Oil Co.*, No. 92-CV-532-WDS (S.D. Ill. July 14, 1992); *FTC v. Wright*, No. 92-281H (CM) (S.D. Cal. Oct. 14, 1992); *FTC v. Wright Cos.*, No. CV-S-92-157-HDM-RJ (S.D. Cal. Feb. 25, 1992). The Commission currently is conducting an enforcement sweep of distributors of gasoline to determine whether they are receiving and providing certification of the octane rating.

⁹⁵ 15 U.S.C. 45(m)(1)(A).

⁹⁶ Data on the extent of octane mislabeling differ. Christopher Dyson, "Fueling the Public, An Investigative Report on the Selling of Gasoline" 23 (1992) (published by Public Citizen); General Accounting Office, "Gasoline Marketing: Consumers Have Limited Assurance that Octane

The Commission encourages state testing and enforcement efforts and cooperates with state officials in joint enforcement actions.⁹⁷ It believes that state testing of retail gasoline pumps and state enforcement against octane mislabeling are critical.⁹⁸ Mislabeling occurs most frequently at the local level, and state enforcement is needed to address this problem.⁹⁹ Accordingly,

Ratings Are Accurate," 15 (1990). Between 1979 and 1987, the Motor Vehicle Manufacturers Association ("MVMA") found that 9% of the gasoline tested was at least 0.6 of an octane point below the posted rating in a survey of 26 areas nationwide. *Id.* A recent enforcement sweep by Minnesota found that 17% of the gasoline tested was at least 0.8 octane points below the posted octane rating. Hubert Humphrey III, "Octane Misleading in Minnesota, A Report by Minnesota Attorney General Hubert Humphrey III," 8-9 (1992). Minnesota's investigation, however, found that most mislabeling occurred at small, independent stations; was inadvertent rather than fraudulent; and did not significantly affect consumers. *Id.* The mislabeled gasoline accounted for a much smaller proportion of the gasoline sold in the state and the mislabeling occurred between types of premium gasoline varying by only one or two octane points. *Id.* at 9. Data from the MVMA in recent years show a mislabeling rate in the range of 2% to 4%. Motor Vehicle Manufacturers Association, "National Fuel Survey" (1990); Motor Vehicle Manufacturers Association, "National Fuel Survey" (1991).

⁹⁷ 1991 Hearings, *supra* note 17, at 430-31 (statement of the Federal Trade Commission); 1990 Hearing, *supra* note 13, at 18-20 (statement of the Federal Trade Commission). For example, the *Midwest Petroleum* and *Henderson* cases were brought in cooperation with the Missouri Attorney General, who filed similar cases against the same parties in Missouri state courts for violations of state law. The Commission also has provided assistance to states without formal testing programs that wished to determine whether mislabeling was occurring in their states. For example, Commission staff provided technical assistance to the Arizona Attorney General for an enforcement sweep conducted by Arizona in September, 1991. Similarly, the Commission provided assistance that formed the evidentiary basis for certain actions that the Massachusetts Division of Standards brought against several retailers in Massachusetts for mislabeling. Other such efforts are ongoing.

⁹⁸ Octane mislabeling appears to decrease after states adopt a testing program. See GAO, *supra* note 96, at 19. See also Christopher Dyson, "Comparing State Gasoline Quality Assurance Programs" 42 (1993) (published by Public Citizen). Public Citizen recently reported, however, that some 23 states lack regular gasoline testing and enforcement programs despite the extremely low cost per capita of such programs. *Id.* at vii.

⁹⁹ 1991 Hearings, *supra* note 17, at 436 (statement of the Federal Trade Commission); Hubert Humphrey III, *supra* note 96, at 7; GAO, *supra* note 96, at 20. To encourage and facilitate state enforcement, Commission staff participate in a committee of the NCWM that addresses gasoline quality issues. As a result of staff's involvement, in 1991 the NCWM included in its members' handbook a chapter about the Octane Rule and sent letters to states urging them to work with the FTC in mislabeling issues. Most recently, the FTC and the National Association of Attorneys General ("NAAG") collaborated on a Joint Enforcement Handbook for certain rules, including the Octane Rule, where the regulated entities generally are local in nature. This handbook is designed to facilitate both joint enforcement efforts and state

the Commission testified in support of amending the section of the PMPA dealing with preemption to facilitate state enforcement efforts against octane mislabeling by whatever means the enforcing state deems appropriate.¹⁰⁰ Congress enacted this amendment in section 1502 of the Energy Act.¹⁰¹

2. EPA's Fuel Pump Labels

EPA enforces its rule requiring identification of unleaded gasoline and gasoline containing lead anti-knock additives.¹⁰² It conducts routine, random testing of gasoline to check for lead content and Reid vapor pressure.¹⁰³ In the course of collecting gasoline samples, EPA checks the posting of fuel pump labels, and the posting of warning signs in the vicinity of the pump stand or island. Violations of EPA's leaded/unleaded gasoline labeling rule are punishable by fines of \$10,000 per violation for each day that the violation continues.¹⁰⁴

Individual states, however, are responsible for implementing the oxygenated gasoline program required under section 211(m) of the Clean Air Act. Each SIP¹⁰⁵ must include a "control strategy" that describes the state's enforcement measures.¹⁰⁶ EPA strongly encourages states to include in their SIPs provisions for testing gasoline and considers gasoline sampling to be part of an effective state enforcement program.¹⁰⁷ EPA's guidelines for parties regulated by oxygenated gasoline credit programs recommend a combination of testing at the refiner/producer level and certification of oxygenate levels throughout the chain of distribution.¹⁰⁸ States are required to test periodically at distributor and retail levels.¹⁰⁹ EPA

enforcement under state law in the areas addressed by the Handbook.

¹⁰⁰ 1991 Hearings, *supra* note 17, at 434-435 (statement of the Federal Trade Commission). Before it was amended by the Energy Act, section 204 of title II of the PMPA preempted state enforcement mechanisms and remedies that were not comparable to those provided by the PMPA and the Commission's Octane Rule.

¹⁰¹ Sec. 1502, Public Law 102-486, 106 Stat. 2776, 2997-98 (to be codified at 15 U.S.C. 2824).

¹⁰² See 40 CFR 80.4.

¹⁰³ Testing for Reid vapor pressure is to enforce compliance with EPA regulations pertaining to the volatility of gasoline. See 40 CFR 80.27.

¹⁰⁴ 40 CFR 80.5.

¹⁰⁵ See discussion of State Implementation Plan, *supra* section II, paragraph C.3.

¹⁰⁶ 40 CFR 51.111.

¹⁰⁷ Environmental Protection Agency, "Oxygenated Gasoline Implementation Guidelines," 18-19, 22-23 (July 27, 1992). See also 40 CFR 52.12 (states may include testing provisions in their control strategy).

¹⁰⁸ Environmental Protection Agency, *supra* note 107, at 18. See discussion of gasoline credit programs, *supra* note 57.

¹⁰⁹ *Id.* at 18-19.

recommends that states test at least 20% of retail gasoline outlets and gasoline terminal facilities for compliance with the state's oxygenated fuels regulations.¹¹⁰ EPA strongly recommends that states include in these regulations labeling provisions identical to the Federal oxygenated gasoline labeling regulations.¹¹¹

3. Enforcement Mechanisms for a Uniform National Label

The Commission seeks comments as to the appropriate enforcement mechanisms for a uniform national label. It may be preferable to maintain existing enforcement mechanisms, even if labeling required by different laws and regulated by different agencies were consolidated on a uniform national label.¹¹² There may, however, be cost-efficiencies in consolidating certain aspects of existing enforcement mechanisms, such as, for example, state testing for air quality standards under the Clean Air Act and state testing for performance characteristics, such as octane. The Commission seeks comments on whether existing enforcement mechanisms should be maintained if the disclosures being enforced are consolidated onto a uniform national label, or whether some other enforcement mechanism should be adopted for a uniform national label.

D. Perceived Need for a Uniform National Label

As part of its 1988 survey of state requirements for fuel pump labeling, the GAO asked whether there was a need for a federal uniform nationwide pump label for gasoline ingredients, and, if so, what should be included on the label.¹¹³ Forty-seven states, the District of Columbia, Puerto Rico, and the Virgin Islands (collectively referred to as "states") responded to the survey.¹¹⁴ Thirty-seven states expressed an

¹¹⁰ Environmental Protection Agency, *supra* note 107, at 19.

¹¹¹ See Notice of Final Oxygenated Fuels Labeling Regulations Under Section 211(m) of the Clean Air Act as Amended, 57 FR 47769, 47771 (Oct. 20, 1992) (to be codified at 40 CFR 80.35) and discussion, *supra* section II, paragraph C.3, for a description of the Federal labeling requirements.

¹¹² Any consolidation of existing Federal labeling requirements may require amendment of existing enforcement mechanisms. For example, the Octane Rule prohibits including any information other than that specified in the rule on the octane label. See 15 CFR 306.11(d). The final report that the Commission makes to Congress will describe the administrative or legislative changes needed to implement the Commission's recommendations.

¹¹³ GAO, *supra* note 66, at 17. The GAO's study did not attempt to discover how many consumers actually read fuel pump labels or pay attention to them. 1988 Hearing, *supra* note 8, at 92 (testimony of Keith O. Fultz, GAO).

¹¹⁴ GAO, *supra* note 66, at 9.

opinion as to whether there should be a federal uniform label for gasoline ingredients.¹¹⁵ Of these thirty-seven states, twenty-four favored such a label and thirteen opposed it.¹¹⁶ The remaining thirteen states were uncertain or had no basis to judge whether such a label was needed.¹¹⁷ The GAO reported that opponents of a uniform federal label "were concerned about enforcement or preemption of state laws."¹¹⁸ Supporters of such a label "liked the idea of uniformity."¹¹⁹

There was no consensus, however, on what information should be included on the label.¹²⁰ Some responses indicated that labeling should be directed at protecting public health and vehicle performance.¹²¹ Seventeen responses indicated that some type of information about alcohol content should be included on a uniform federal label.¹²² Below, the Commission discusses what the possible elements of such a label could be.

IV. Possible Elements of a Uniform National Label

A. Factors To Be Weighed

Section 1503 requires the Commission to weigh the consumer, environmental, and energy-saving benefits of any element of a uniform national label against the necessity for a concise, practical, and cost-efficient label. Consumer benefits may include improving the knowledge and ability of consumers to make better choices; increasing consumer confidence in and information about various fuels; improving the quality of fuel because consumers change their behavior to choose fuel that has attributes about which information is provided; increasing consumer satisfaction; or reducing prices of fuels by facilitating comparison shopping.¹²³

Environmental and energy-saving benefits may include providing information that discourages unnecessary purchases of high octane gasoline,¹²⁴ reducing dependence on

¹¹⁵ *Id.* at 11.

¹¹⁶ *Id.*

¹¹⁷ *Id.* at 3.

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 4, 12.

¹²¹ *Id.* at 12, 19-20.

¹²² *Id.*

¹²³ See H.R. Rep. 102-474, 102d Cong., 2d Sess., pt. 2, at 151 (1992); 1991 Hearings, *supra* note 17, at 406 (statement of Rep. Philip R. Sharp), 420 (statement of Rep. Carlos J. Moorhead), and 421-24 (statement of Charles E. Schumer). See also Bettman, et al., *supra* note 74, at 1.

¹²⁴ See discussion of octane overbuying, *infra* section IV, paragraph B. See also 1991 Hearings,

Continued

foreign petroleum, or encouraging the use of alternative fuels.¹²⁵ Informing consumers about environmental and energy-saving benefits of alternative fuels may help achieve those benefits, if consumers are motivated to alter their behavior to use such fuels. A recent study of consumer responses to an air pollution control campaign in Denver, Colorado, during 1985 through 1989, suggests that realizing environmental and energy-saving benefits by affecting consumers' voluntary behavior may require making changes in voluntary behavior as easy and convenient as possible and educating consumers as to the benefits their individual behavior can achieve.¹²⁶

The necessity for a concise, practical, and cost efficient label reflects the need not to overload consumers with too much information.¹²⁷ It also may include concern with the practical logistics of replacing labels and whether the benefits of the label outweigh the costs to retailers of obtaining the label and placing it on the pump. The Commission seeks comments concerning the costs and burdens of a uniform national label, relative to the costs and burdens of labels currently required by Federal law.

B. Possible Elements

If the Commission determines that a uniform national label is needed, it must report to Congress the elements that should be included on such a label. Consistent with Congress' direction to consider the consolidation of information required by Federal law to

be posted on fuel pumps, the Commission seeks comments on elements that would consolidate some or all of the information (1) currently required by Federal law to be posted on fuel pumps and (2) that may be required by Federal law as a result of the other rulemaking proceedings required by the Energy Act.¹²⁸

Congress also directed the Commission to consider as a possible element of a uniform national label a statement suggesting that drivers check their owner's manuals for the octane rating required by their vehicles.¹²⁹ The Commission seeks comments on this possible element of a uniform national label. The purpose of this statement is to discourage octane overbuying.¹³⁰ A 1991 General Accounting Office ("GAO") report on octane overbuying found that, although the evidence was somewhat inconclusive, consumers were probably buying higher octane gasoline than they need.¹³¹ Octane overbuying may occur because of consumer perceptions that more octane improves their vehicle performance or that high octane gasoline has detergent characteristics not found in other gasoline.¹³² Consumers also may view purchasing higher octane gasoline as insurance against even a low probability of engine or fuel system repairs.

The Octane Rule in part is designed to allow consumers to avoid octane overbuying, by requiring the correct minimum octane rating be posted. Providing consumers with the minimum octane rating of gasoline, as required by the Commission's Octane Rule, has significant consumer, environmental, and energy-saving benefits. Purchasing more octane than needed results in higher costs to consumers and has negative environmental and energy-saving effects.¹³³ More barrels of crude oil are required to produce higher octane gasoline, and the aromatic content of higher octane gasoline may cause harmful emissions.¹³⁴

Using a gasoline with too low an octane rating can result in loss of power

and engine damage. The vast majority of vehicles, however, require an octane rating of 87.¹³⁵ Although the octane requirements of cars increase over time, most of the increase occurs within the first 15,000 miles.¹³⁶ Public Citizen reports that this increase already is taken into account in the manufacturer's minimum octane recommendation.¹³⁷ Certain driving conditions—climbing hills, heavy loads, and hot, dry weather—may increase octane requirements, while other conditions—low temperatures, cool and humid weather, and high altitude—lower octane requirements.¹³⁸

In addition to its enforcement of the Octane Rule, the Commission has addressed octane overbuying through consumer education efforts. To mitigate the effect of consumer misperceptions about octane, the Commission has published several consumer education pieces alerting the public not to purchase higher octane gasoline than needed. In 1990, the Commission and the National Association of Attorneys General jointly released a press advisory to warn consumers of energy-related scams taking advantage of consumers' concerns about petroleum supplies following Iraq's invasion of Kuwait.¹³⁹ Among other things, the press advisory recommended that consumers check their owner's manuals for the manufacturer's recommended octane level and purchase the lowest octane gasoline that their cars can run on without knocking. In January 1991, the Commission released a brochure informing consumers of the meaning of octane ratings and directing them to check their owner's manual for the recommended octane level for their vehicle.¹⁴⁰ In cooperation with the Automobile Association of America, the Commission released a similar brochure in July of the same year.¹⁴¹ The Commission has distributed more than 55,000 of these two brochures.¹⁴² Last year, the Commission issued a final consent order prohibiting Sunoco from making any representation about the superiority of Ultra 93.5 or 94 in

¹²⁵ *supra* note 17, at 421-24 (statement of Rep. Charles E. Schumer).

¹²⁶ See H.R. Rep. No. 102-474, 102d Cong., 2 Sess., pt. 1, at 132-33 (1992).

¹²⁷ R. Bruce Hutton and Olli T. Ahtola, "Consumer Response to a Five-Year Campaign to Combat Air Pollution," 10 *Journal of Public Policy & Marketing* 242 (1991). This five-year study found that consumers learned about the campaign, developed positive attitudes and intentions to participate in the program, and changed their behavior in response to being provided information about environmental benefits. *Id.* at 252. Nonetheless, voluntary behavior, including a request that drivers not drive one day each week and that drivers cancel or postpone trips on days in which carbon monoxide levels were expected to be extremely high, produced only marginal reductions in the number of vehicle miles traveled. *Id.* By contrast, mandatory woodburning bans and the use of oxygenated fuels resulted in significant reductions in carbon monoxide pollution. *Id.* The reasons for the lack of effect of the voluntary aspects of the program varied. They included the belief that individual participation would not make a difference; the difficulty of finding an alternative to driving; the inconvenience of using available alternatives to driving; and the ease of identifying the personal costs of participating in the program, in contrast to an inability to identify direct benefits of the program. *Id.* at 252-53.

¹²⁸ See discussion of information overload, *supra* section III, paragraph B.

¹²⁹ See discussion of the rulemaking proceedings required by sections 1501 and 406 of the Energy Act, *supra* section II, paragraph D.

¹³⁰ Sec. 1503(b)(2), Public Law 102-486, 106 Stat. 2776, 2999.

¹³¹ See discussion, *supra* section III, paragraph A.

¹³² See generally General Accounting Office, "Gasoline Marketing: Premium Gasoline Overbuying May Be Occurring, But Extent Unknown" (1991). Public Citizen, a consumer advocacy group, recently concluded that consumers needlessly purchase billions of dollars of high octane gasoline. See Dyson, *supra* note 96, at 14-15 (report published by Public Citizen).

¹³³ GAO, *supra* note 131, at 16.

¹³⁴ See Federal Trade Commission, "Facts for Consumers: Octane Ratings" (January 1991).

¹³⁵ GAO, *supra* note 131, at 24.

¹³⁶ *Id.* at 16.

¹³⁷ *Id.* at 16-17.

¹³⁸ Dyson, *supra* note 96, at 3.

¹³⁹ *Id.* at 17.

¹⁴⁰ Federal Trade Commission, "FTC and Attorneys General Warn Consumers of Possible Energy-Related Scams," (Aug. 29, 1990).

¹⁴¹ Federal Trade Commission, "Facts for Consumers: Octane Ratings" (January 1991).

¹⁴² Federal Trade Commission, "Facts for Consumers: Octane Ratings" (July 1991).

¹⁴³ The American Automobile Association also distributed the July 1991 brochure. Consumer columnists around the country have addressed the issue of octane overbuying in response to the octane ratings brochures.

providing engine power or acceleration, and from representing the performance characteristics of any gasoline without competent and reliable scientific evidence to substantiate the claim.¹⁴³ The extent of octane overbuying based on misperceptions as to the effect of higher octane remains difficult to determine.

1. Statement Identifying the Fuel Being Dispensed

One of the options proposed for comment in the section 1501 proceeding to amend the Octane Rule is a label that would identify the alternative fuel being dispensed.¹⁴⁴ EPA's current fuel pump labeling requirements identify gasoline by requiring information as to whether the gasoline is unleaded, leaded, or, in certain cases, oxygenated. At this time, the octane label does not require identification of fuel as gasoline, although only gasoline pumps currently have octane labels.

A statement on a uniform national label identifying the fuel being dispensed may be needed to avoid misfueling. EPA has found that, on occasion, motorists inadvertently fill their vehicle tanks with diesel fuel instead of gasoline. Using the wrong fuel not only damages the misfueled vehicle, it causes an increase in harmful emissions. As more fuels become available to consumers, the potential for misfueling may increase.

Fuel retailers, however, have a clear incentive to identify the fuel being dispensed, because a consumer that puts the wrong fuel in a vehicle will not be happy. At a minimum, a consumer that inadvertently misfuels a vehicle will incur considerable expense and inconvenience to have the fuel tank drained. As a matter of customer relations, it is in the retailer's best interest prominently to identify the fuel being dispensed. Therefore, the costs of including this information on a uniform national label with limited space may not justify the consumer benefits that may be achieved by repeating information that the retailer has already provided.¹⁴⁵

The Commission seeks comments on whether the benefits of identifying the fuel being dispensed weigh in favor of

including such information on a uniform national label.

2. Identification of Additives

Sellers of gasoline use additives to increase octane levels and to prevent or clean up accumulations of deposits in engines and fuel supply systems. Federal law currently requires pump disclosure only of lead anti-knock additives. Although Federal regulation of additives under the Clean Air Act is expanding,¹⁴⁶ no labeling requirements are currently contemplated. Therefore, this study considers only whether EPA's unleaded/leaded gasoline labeling requirements should be consolidated on a uniform national label.

Lead damages vehicles and produces harmful emissions if introduced into the fuel systems of vehicles not designed to use leaded gasoline. After December 31, 1995, however, the lead disclosure requirement will become irrelevant to consumer choice, because sales of leaded gasoline as a motor vehicle fuel will be illegal.¹⁴⁷ Consequently, there seems to be little benefit to including this statement on a uniform national label, unless such a label is posted on fuel pumps prior to that date.

3. Relevant Performance Characteristic Rating

As discussed above, the Commission's Octane Rule requires certification and posting of the minimum octane rating of gasoline at fuel pumps. The Commission also is seeking comments in its rulemaking under section 1501 of the Energy Act as to whether the octane rating of alternative liquid fuels, or an alternative performance rating, should be required to be certified and posted.

¹⁴⁶ Beginning in 1995, the sale to consumers and distributors of gasoline not containing detergent additives will be illegal. See 42 U.S.C. 7545(1). In addition, EPA currently is conducting a rulemaking to implement the "reformulated gasoline" requirements of the 1990 Amendments to the Clean Air Act. See Regulation of Fuels and Fuel Additives: Standards for Reformulated Gasoline; Proposed Rule, 58 FR 11722 (Feb. 26, 1993); Regulation of Fuels and Fuel Additives; Standards for Reformulated and Conventional Gasoline, 57 FR 13416 (Apr. 16, 1992); Regulation of Fuels and Fuel Additives: Standards for Reformulated Gasoline, 56 FR 31176 (Jul. 9, 1991). These amendments require major changes in the ingredients of gasoline used in certain areas of the country to reduce emissions of ozone and toxic air pollutants. See 42 U.S.C. 7545(k). Gasoline which meets standards promulgated by the EPA, relating to minimum oxygen content, detergent additives, limits on emissions, and limits on benzene and aromatic hydrocarbons, will be certified by EPA as "reformulated gasoline." See 42 U.S.C. 7545(k)(10)(E). Beginning no later than January 1, 1995, gasoline sold or dispensed in certain areas of the country must be reformulated. 42 U.S.C. 7545(k)(5). EPA is not currently considering requiring a label to identify fuel pumps dispensing reformulated gasoline.

¹⁴⁷ See 42 U.S.C. 7545(n).

The Commission's rulemaking under section 406 of the Energy Act might also consider use of performance characteristic ratings as part of a label informing consumers of the costs and benefits of alternative fuels.

The Commission is considering several possible performance ratings for alternative liquid fuels in the section 1501 rulemaking proceeding, as well as cetane ratings for diesel fuels.¹⁴⁸ The options for alternative fuels include requiring certification and posting of octane ratings for liquid alternative fuels; requiring certification and posting of the minimum propane content of LPG, the minimum methane content of LNG, the range of hydrocarbon content for methanol, ethanol, M-85, and E-85; and identification of the energy value of alternative fuel relative to gasoline.¹⁴⁹ Such information might have consumer, environmental and energy-saving benefits in helping consumers select an efficient and environmentally beneficial fuel. The Commission seeks comments as to whether such information, if required by the final rule to be issued by July 21, 1993, should be consolidated on a uniform national label.

The current octane label for gasoline includes the test formula required for calculating the rating: "(R + M)/2 METHOD."¹⁵⁰ At the time the Octane Rule was issued, this disclosure was needed to show that a uniform (R + M)/2 formula was being used rather than the research octane number formula with which consumers were then more familiar.¹⁵¹ The Commission seeks comments as to whether continued disclosure of the uniform test method for minimum octane ratings has consumer, environmental, or energy-saving benefits. The Commission also seeks comments as to whether disclosure of uniform test formula information for other performance characteristics ratings for alternative fuels would have consumer, environmental, or energy-saving benefits, if labels providing such ratings for alternative fuels were to be required by the Commission under section 1501 or section 406 of the Energy Act.

4. Suggestion to Consult Vehicle's Owner's Manual

As discussed above, Congress' direction to the Commission to consider as a possible element of a uniform national label a statement referring consumers to their owner's manuals for

¹⁴³ See Sun Co., Inc., Docket No. C-3381 (May 8, 1992) (Commissioner Owen dissenting as to sufficiency of remedy).

¹⁴⁴ See discussion, *supra* section II, paragraph D.1.

¹⁴⁵ There may be an incentive, however, for a seller marginally to misrepresent the contents of a fuel by identifying it with a misleading name. Moreover, there may be consumer benefits to requiring use of a uniform name to identify a particular fuel with which consumers may not be familiar.

¹⁴⁸ See discussion, *supra* section II, paragraph D.1.

¹⁴⁹ *Id.*

¹⁵⁰ 16 CFR 306.11(b).

¹⁵¹ See Part 306—Octane Certification and Posting, 44 FR 19160, 19166 (Mar. 30, 1979).

octane requirements reflects Congress' concern with octane overbuying.¹⁵² A suggestion that consumers consult their owner's manuals may have the benefit of reducing octane overbuying, if consumers are unaware of the recommended octane rating for their vehicle. If such a statement were included on a uniform national label, it might be appropriate to apply it to all fuels by using such language as "Check your vehicle's owner's manual for the octane or other performance rating your vehicle needs." The Commission seeks comments on whether consumer, environmental, and energy-saving benefits of including such a statement on a uniform national label weigh in favor of such inclusion.

Recently, a consumer group suggested that vehicle manufacturers post each vehicle's recommended octane rating on the fuel tank inlet label required by EPA.¹⁵³ The Commission seeks comments on whether it should recommend to Congress use of the fuel tank inlet label for informing consumers of the specific octane recommendation for their vehicles, in lieu of a uniform national label directing consumers to consult their owner's manuals for that information.

5. Oxygenated Fuels Information

The Commission seeks comments on the possible consumer, environmental, and energy-saving benefits of including EPA's current labeling requirements for oxygenated fuels on a uniform national label. In particular, the Commission seeks the views of interested parties as to whether consumer choice is likely to be affected by providing information as to whether fuel is oxygenated.

6. Assurance of Compliance With Federal Requirements

In lieu of posting specific information that is required by Federal law, but does not directly assist consumers in making choices, it might be possible to consolidate such information on a uniform national label by a general statement assuring consumers that the fuel satisfies Federal requirements. Such an assurance statement might take the place of more specific references to oxygenated fuels or Clean Air Act requirements, or the test method used to determine the octane rating of gasoline. In other words, rather than consolidating all or specific elements of various disclosures, the underlying informational purposes of such

disclosures would be accomplished by consolidation in a simple assurance statement.

The Commission seeks comments as to whether a statement that "This fuel meets all Federal requirements," or another similar statement, should be included on a uniform national label, and, which, if any, more detailed information should be maintained on such a label (for example, the octane rating or other performance characteristic ratings that may be adopted in the section 1501 rulemaking). For example, a general statement that "This fuel meets all Federal requirements" could be added to existing octane rating labels, or to labels disclosing performance characteristics relevant to alternative liquid fuels and diesel fuels, if adopted in the Commission's section 1501 rulemaking.

The Commission also solicits the views of interested parties as to whether it would be particularly useful to include other information to increase consumer confidence in a label assuring compliance with Federal requirements. For example, one possible option might be to include a statement identifying an enforcement agency which consumers may contact with complaints or questions. The Commission seeks comments as to the benefits and burdens of including such additional information on a uniform national label, and as to the proper enforcement authority, if any, to be identified on the label.

V. Request for Comments

The Commission seeks comments on any issue, data, and tentative finding or conclusion in the preliminary study set forth above. The Commission also seeks comments in response to the specific questions set forth below. All comments should be referenced specifically to the section of the preliminary study or the paragraph number of the question to which they pertain.

A. Need for and Desirability of a Uniform National Label

1. Should there be a uniform national label consolidating all federal labeling requirements for devices that dispense automotive fuel to consumers?

2. Should a uniform national label consolidate only some federal labeling requirements? If so, which requirements, and why?

3. Do consumers read and pay attention to information currently posted on automotive fuel pumps? What information is read, and why? What information is not read, and why?

4. Do consumers hold any misperceptions about automotive fuels that a uniform national label could correct? What information should be provided to correct such misperceptions? What alternative means exist to correct such misperceptions?

5. Are consumers more likely to read information on one label as opposed to information on two to three labels?

6. How many discrete pieces of information is it practical to include on a uniform national label, in terms of whether consumers will be able to read that information and understand it?

7. Please submit any studies of which you are aware that address factors affecting how consumers read, understand, and use information posted on fuel pumps.

8. What factors affect how consumers read, understand, and use information posted on fuel pumps? Are these distractions or time pressures that affect how consumers read, understand, and use information posted on fuel pumps? Please explain.

9. What information is required by state or local laws to be posted on fuel pumps? What information typically is voluntarily posted on fuel pumps, including, for example, trade association or industry standard health warnings?

10. What information typically is posted in the vicinity of fuel pumps, for example, on pump stands or islands?

11. What significance or weight should be given to the presence of state, local, and voluntary labeling in determining whether a uniform national label is desirable?

12. Would a uniform national label that consolidated information inapplicable to the fuel actually being dispensed confuse consumers and make it more difficult for them to perceive information that is relevant to the fuel they are purchasing? Should a uniform national label, to the extent possible, provide information relevant only to the fuel being dispensed by the device to which the label is applied and not to other fuels, unless other fuels are to be compared to the fuel being dispensed? If it is not practical to have a single, uniform national label, should different versions of a uniform national label be used for different types of fuel?

B. Elements of a Uniform National Label

1. If there were a uniform national label, should it include each discrete piece of information set forth below:

- A statement identifying the fuel being dispensed;
- A statement identifying the presence of lead in the fuel;

¹⁵² See discussion of legislative history, *supra* section II, paragraph A, and section III, paragraph A.

¹⁵³ Dyson, *supra* note 96, at 43.

- c. A statement identifying gasoline as oxygenated;
 - d. A statement informing consumers that the gasoline meets Clean Air Act requirements under an oxygenated fuels program (i.e., the gasoline may or may not be oxygenated, yet still would comply with an averaging or credit program);
 - e. The minimum octane rating of gasoline;
 - f. The minimum cetane rating of diesel fuels;
 - g. The minimum relevant performance characteristic rating of alternative fuels;
 - h. The test method for determining octane or another performance characteristic rating identified on the label;
 - i. A statement suggesting that consumers check their vehicle's owner's manual regarding octane requirements or, if octane requirements are not relevant to the fuel being dispensed, a statement suggesting that consumers check their manuals for the fuel type or other relevant characteristic recommended by the manufacturer;
 - j. Disclosures that may be required under section 406 of the Energy Act;
 - k. Any other disclosures required under section 1501 of the Energy Act;
 - l. A general statement assuring consumers that the fuel meets Federal requirements.
2. Identify any consumer, environmental or energy-saving benefits of each discrete piece of information you selected above. Describe how each discrete piece of information would be consistent or inconsistent with the necessity for a concise, practical, and cost-efficient label.
3. If you believe that other information should be required on a uniform national label, identify that information, and any consumer, environmental or energy-saving benefits of that information. Describe how providing the information would be consistent or inconsistent with the necessity for a concise, practical, and cost-efficient label.
4. List, in order of priority, the most important information that you contend should be on a uniform national label.
5. Is there information that need not be included on a uniform national label, such as health and safety information, or particular characteristics of fuels relating to performance and vehicle protection, because fuel retailers have sufficient incentives to make consumers aware of such information?
6. Should the label contemplated by section 406 of the Energy Act be consolidated into the uniform national label contemplated by this study? If so,

should the uniform national label emphasize information that pertains to the fuel actually being dispensed? By what means?

7. If an octane or other performance characteristic rating is required that varies for different fuels or grades of fuel dispensed by the same fuel pump, is it practical to use a single consolidated label on that fuel pump?

8. If a general statement informing consumers that "This fuel meets all Federal requirements" is used in lieu of existing Federal labeling requirements, is there any other more detailed information that should be maintained on a uniform national label (for example, octane or other relevant performance characteristic ratings)? Are there consumer, environmental, or energy-saving benefits to be achieved by providing the name and telephone number of an enforcement agency to which consumers could direct complaints or inquiries about the fuel? If there are such benefits, are they limited to a label that contains a general statement about compliance with Federal requirements, or would they extend to other labels?

9. Are there any existing or pending Federal disclosure requirements that a uniform national label might satisfy by referring to a source of information other than the label? How?

10. If a uniform national label includes information that is required by Federal law to be posted only for part of the year, should the label be changed at the beginning and end of the part of the year to which the information applies, or should the label provide the information all year but identify the part of the year to which the information applies?

11. What costs, expenses, or burdens would be associated with a uniform national label if such a label were changed or updated by retailers (a) annually, (b) twice a year, or (c) monthly? How would such costs, expenses, or burdens compare to those associated with current Federal labeling requirements?

12. Do consumers consult their vehicle owner's manuals for fuel requirements? Are they likely to consult their owner's manuals at a fuel station, or elsewhere, in response to a label suggesting that they do so in order to determine the octane rating or other fuel characteristic recommended for their vehicles?

13. Would posting the recommended octane rating on the vehicle's fuel tank inlet label more effectively inform consumers of that rating than a uniform national label directing consumers to consult their owner's manuals?

14. Should the format of a uniform national label resemble the current octane label? If the contents of a national label vary for different types of fuels, should a uniform format be used so that consumers can find the same type of information in the same location on the label?

15. Is consumer choice likely to be affected by identifying fuel as oxygenated? Although consumers have no choice about whether to purchase oxygenated fuels in control areas, is it likely that oxygenated fuels might voluntarily be made available outside control areas? Would identification of gasoline as oxygenated on a uniform national label encourage use of such fuel?

C. Enforcement

1. What enforcement mechanisms should be used for a uniform national label?

2. Should each agency currently responsible for enforcing a Federal labeling requirement maintain the same responsibility if such requirement is consolidated on a uniform national label?

3. If a uniform national label included the name and telephone number of an enforcement authority, what would be the appropriate enforcement authority to which consumers could direct complaints and inquiries about the label?

4. Should the Commission recommend, if it finds a need for a uniform national label, that any legislation specifically provide that federal enforcement mechanisms do not preempt state enforcement of the standards on that label?

By direction of the Commission.

Donald S. Clark,
Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF-FRSP 935 93.1]

Family Resource and Support Programs

AGENCY: Administration on Children, Youth, and Families (ACYF); Administration for Children and Families (ACF), HHS.

ACTION: Announcement of the availability of fiscal year 1993 funds and

request for applications from States for grants for Family Resource and Support (FRS) Programs.

SUMMARY: The Administration on Children, Youth and Families announces the implementation of a new, competitive grant program to assist States to develop, expand and operate a network of local FRS programs in collaboration with existing health, mental health, education, employment and training, child welfare and other social service agencies within the State. These grants are authorized under the Claude Pepper Young Americans Act of 1990 (the Act), established by title IX of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101-501).

FRS programs are community-based services that offer sustained assistance to families. Such services promote parental competences and behaviors that will lead to the healthy and positive personal development of parents and children through:

- The provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;
- The provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and
- The creation of supportive networks to enhance the childbearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

For fiscal year 1993, Congress appropriated \$4,910,000 for FRS programs. ACYF expects to fund grants for up to three States on a competitive basis.

This announcement sets forth the requirements and application process for these grants.

DATES: The closing date for submission of applications is August 9, 1993.

ADDRESSES: Applications should be sent to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Room 341-F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Attn: Family Resource and Support Program.

FOR FURTHER INFORMATION CONTACT: Arlene Taylor (202) 205-8034.

SUPPLEMENTARY INFORMATION:

Part I: General Information

A. Background

The Family Resource and Support Center Movement and Philosophy

FRS programs are an emerging form of community-based assistance for families to build on family strengths. By strengthening families' ability to nurture their children physically, emotionally, and intellectually, FRS programs increase the likelihood that children will grow up healthy, safe, and successful. By focusing on early, comprehensive and sustained support for all parents, these programs enable parents to respond early to their children's multiple needs, within the family, and before healthy development is compromised.

Initially established as small, community-based demonstration programs, often grassroots in origin, family resource and support centers are growing in number, size and complexity. Presently, FRS programs are being replicated statewide in several States and receive substantial State financial support.

This movement has emerged throughout the United States over the last ten to fifteen years as a response to the need for better, more holistic support for families. The need for a different way of assisting parents was expressed both by parents themselves and by people who worked with families in social service and health care agencies, schools, churches, and other community-based institutions. Social workers, educators, therapists, and health care professionals have come to understand that they cannot protect, teach, or heal children in a vacuum. These professionals increasingly focus on the family unit in efforts to prevent and treat child abuse and neglect, ensure children's success in school, and keep children healthy.

The physical settings of local family resource and support centers have tended to move from church basements and kitchen tables to a variety of more conventional settings. In some communities they are drop-in centers located in renovated houses in neighborhoods or in public housing units. Some are located in health centers, social service agencies, or workplaces. Some have offices located in schools or office buildings and send home visitors into the community to visit families.

Despite the outward differences in settings for these local programs, all FRS programs work toward the basic goal of empowering parents. The relationship

between the program (represented by the professional or the staff member) and the parent is one of equality and respect, and the attitude of the program toward parents is one of partnership. The parent is not viewed as a passive recipient of services of information, but rather as an active participant in determining what services and information are offered, in what form, and under what conditions.

With this as the underlying theme, FRS centers all seek to:

1. Empower families by helping parents cope with the stresses of daily life and improving their skills and capacities to support, guide, and nurture their children;
2. Promote voluntary parental participation and ownership in the programs, without categorical restrictions on eligibility so that families do not have to identify themselves as "problematic or dysfunctional" to receive services;
3. Provide a community-based, comprehensive, developmental approach to services that are culturally and socially relevant to the families they serve;
4. Link families with other formal and informal community services and support systems that can help meet their needs, ideally before the needs intensify and reach crisis proportions; and
5. Create a supportive network designed to enhance parents' child-rearing capabilities and to compensate for the isolation and vulnerability of many families by bringing them into contact with other parents in similar circumstances.

State Initiatives

The development and financing of family support initiatives at the State level is a relatively new phenomenon, having emerged over the past seven to eight years. In many States and communities these programs are patched together with unstable sources of funding and are not well known, nor integrated into the existing service systems. A small but increasing number of States, however, have made a long-term funding commitment to supporting statewide programs. Today more than a dozen States are expanding family support initiatives that have grown out of such policy concerns as the desire to prevent child abuse and neglect (Hawaii), to reduce long-term welfare dependency through family-centered services (Iowa), to prepare children for school (Missouri and Washington), to improve family literacy (Kentucky), and to support teen parents (Maryland and Illinois). These State programs were built on several years of experience with

pilot demonstration programs in the State and were then replicated in several communities. Maryland, for example, opened four FRS centers in 1986 and has now expanded to 14 statewide. Local programs in all of the above States receive support through a grant proposal process which allows considerable room for local flexibility and creativity.

State initiatives have differed in their emphasis either on the development of a network of locally based centers that serve the nearby community or on a home-visiting model that operates out of schools or hospitals and attempts to reach all families with certain characteristics. Maryland, Illinois, Connecticut, Oregon, Vermont, and Wisconsin, for example, all chose the center-based model, while Arkansas, Hawaii, Missouri, and the States replicating the Missouri program are among those using primarily a home-visiting approach. Although center-based and home-based programs differ, most center-based programs conduct home visits and most home visitor programs also conduct group activities. Both approaches can effectively meet the challenge of building statewide systems that leave room for local flexibility and responsiveness to the needs of individual families and communities.

The organizational locus of, and the populations targeted by, these State initiatives also vary. The Minnesota, Missouri and Kentucky programs, for example, receive their funding from and are administered by the State education department, and they are universal, open to all families in the target area. The Maryland and Connecticut programs are funded largely by the State human resources department. The Maryland program currently targets teenage parents. The Connecticut program is open to all families with children up to age 17 in the site communities, but priority is given to certain target groups. The Wisconsin program receives funding from the Children's Trust Fund, which is run by an independent Child Abuse and Neglect Prevention Board, and targets services to new parents and the parents of young children through urban and rural Family Resource Centers.

Wherever the organizational locus at the State or local level, FRS centers often serve as brokers for or directly operate other Federal programs. Maximum coordination at the State and local levels is necessary to avoid duplication and confusion, and to best serve children and families. There are many Federal programs and funding sources with which State and

community FRS programs can coordinate. At the Department of Health and Human Services (HHS), these include: Head Start; Comprehensive Child Development Programs; Healthy Start; Child Abuse and Neglect; Child Care Development Block Grant; Child Welfare Services; Foster Care; Runaway and Homeless Youth Programs; Aid to Families with Dependent Children; Job Opportunities and Basic Skills (JOBS); Social Services Block Grant; Child Support Enforcement; Community Services Block Grants; Maternal and Child Health Block Grant; Substance Abuse and Mental Health Services Block Grant; Supplemental Security Income; Medicaid and more. Other Federal Departments with programs and funding which can also be coordinated for a FRS program include the Department of Agriculture (e.g., Food Stamps; Women, Infants and Children program); the Department of Labor; and the Department of Education.

Private Foundation Support

Many private foundations are supporting the FRS center movement, by funding research as well as local and statewide efforts. One recent effort, for example, is the PEW Charitable Trusts Children's Initiative. This Initiative calls for States and communities to adopt a new way of working with families, to reshape service delivery systems, and to make the investments necessary to shift from a crisis-oriented, fragmented, and often inadequate approach to one of inclusion and effective support for all children. In December 1992, PEW announced that Florida, Georgia, Kentucky, Rhode Island and Minnesota received planning grants under the Children's Initiative. States receiving any grants similar to this effort or a planning grant under the PEW Children's Initiative must address how those efforts will be coordinated with and not duplicate of those under this announcement.

Other Federal Activities

At the Federal level, the HHS has incorporated the principles of family support into many of its programs, including such programs as the Runaway and Homeless Youth Program; Head Start's Parent and Child Centers and Family Service Centers as well as parent involvement in all Head Start centers; the Comprehensive Child Development Program; and Healthy Start. The HHS has also granted waivers to several States to test innovative approaches to welfare reform, which include family support and parent education components.

In addition, the ACYF has funded, since FY 1991, a National Resource Center for Family Support Programs to serve as a central location of information and training for family resource and support programs, and to build a network of technical assistance experts to serve this rapidly growing program area. The National Resource Center for Family Support Programs, operated by the Family Resource Coalition, 200 South Michigan Avenue, Suite 1520, Chicago, Illinois 60604 (312-341-0900), can provide applicants with additional background on FRS programs.

B. Eligible Applicants

Eligibility for grants under the FRS Program is restricted to the 50 States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands (the Republic of Palau). See section 915 of the Act. The Chief Executive Officer of each State must designate an agency to administer these funds and assume responsibility for the development and implementation of a network of local FRS centers. The designated agency must be an existing State agency or other public or non-profit private entity with demonstrated ability to work with other State and community-based agencies and to provide training and technical assistance. The designated agency must also have a commitment to assuring parental participation in the design and administration of FRS programs. See sections 926(5) and 933(d) of the Act.

C. Availability and Allocation of Funds

Federal funds are available through this announcement for State grants to develop, expand, and operate a network of local FRS programs in coordination with existing health, mental health, education, employment and training, child welfare, and other social services agencies within the State. These grants are authorized by the Claude Pepper Young Americans Act of 1990 enacted under title IX of the Augustus F. Hawkins Human Services Reauthorization Act of 1990, Public Law 101-501, which was signed into law November 3, 1990. The ACYF proposes to award three grants in FY 1993 for \$1.5 million each.

ACYF will use one percent of the appropriated funds to make allotments to Indian tribes and tribal organizations. See section 934(f) of the Act. The availability of these funds will be made in a separate announcement.

Awards, on a competitive basis, will be for a one-year budget period, although project periods will be for three years. Continuation grants under these awards beyond the one-year budget period, but within the three-year project period, will be entertained in subsequent years on a non-competitive basis subject to the availability of funds, satisfactory progress by the grantee, receipt of reports required under section 933(c)(2)(B) of the Act, and determination that continued funding would be in the best interest of the government.

Regarding the reports required under section 933(c)(2) of the Act, the State must report to the Commissioner at the beginning of the third year concerning its plans for:

1. The establishment and expansion of a network of FRS programs in the State;
2. The number of FRS programs that have been expanded or newly established with grant funds under section 933;
3. The nature of those programs, including the populations served and the services provided; and
4. The extent of local community and parental participation in the development, operation, and governance of the programs.

D. Grantee Share of the Project

States must provide at least 20 percent of the total cost of the project pursuant to section 934(g) of the Act. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although States are encouraged to meet their match requirements through cash contributions.

E. Use of Funds

1. During the first 12-month funding period, the State may use the funds received under this announcement exclusively for program development. Program development may be viewed as leading to the establishment of local FRS programs. Subsequent to this funding period, grant funds shall be used for program implementation and operation unless the State requests and the Commissioner approves a waiver from this limitation. See section 933(c)(2)(A) of the Act.

2. A State that receives a grant under this announcement must use not less than 90 percent of the funds to establish local FRS programs. See Section 934(e) of the Act. Pursuant to section 933(f) of the Act, States receiving grants must:

a. Implement a community planning process involving parents, local public and private non-profit agencies responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and other social services to determine local family needs, and identify appropriate community agencies to administer such programs locally;

b. Provide core services as defined by section 926(2) of the Act (described in Part II.B.5.a. of this announcement), and other services as defined by section 926(6) of the Act (described in Part II.B.5.b. of this announcement). Such services should be provided directly or through contracts or agreements with other local agencies; and

c. Involve parents in the development, operation, and governance of the program.

3. A State may not use FRS Program funds to support traditional, crisis-oriented services which assist families only after problems occur. Instead, they should establish and support FRS programs which: are available to a wide range of parents in a community, including—to the extent possible—fathers and employed parents; reflect a philosophy of empowering families to help themselves; and have as their goal building parenting capacities as well as promoting the full and healthy development of children.

4. A State shall not use in excess of 10 percent of a grant awarded under this announcement for administrative activities at the State level. See section 934(e) of the Act.

Part II. Responsibilities of the Applicant

A. State Plan Requirements

The Chief Executive Officer of a State must submit to the Commissioner of the Administration for Children, Youth and Families (ACYF) a State plan for a 3-year period to be eligible for grants under this announcement. The State plan may be revised annually and must contain all assurances described in Part II.B. of this announcement. The State Plan must also contain a description of the proposed multi-year plans of the State for program development and implementation. See section 929 of the Act.

B. Application Requirements

A State must prepare and submit, an application signed by the Chief Executive Officer of the State.

Applications from States for grant support under this announcement must be submitted on Standard Form 424 and

the narrative section must not exceed 20 double-spaced pages. In addition to the information requested by Form 424, the application must include the following:

1. Designated State Agency

The application must include an assurance that the Chief Executive Officer of the State will designate a lead agency to assume responsibility for the development and implementation of FRS programs as required by section 933(d)(1) of the Act.

2. Effective Program Development and Coordination

Pursuant to section 933(d)(2) of the Act, the application must include an assurance that the State has a process for effective program development that:

- (a) Does not duplicate current processes or programs;
- (b) Makes publicly available a written plan for the establishment of a network of local FRS programs; and
- (c) Involves appropriate personnel in the development process, including:
 - (i) Parents and prospective participants in FRS programs;
 - (ii) Staff of existing FRS programs, if applicable, or of other multi-purpose community-based organizations;
 - (iii) Representatives of State and local government social service, health, mental health, education, employment, and economic development agencies;
 - (iv) Representatives of the business community;
 - (v) Representatives of general purpose local government;
 - (vi) Representatives of local communities in which FRS programs are likely to be located; and
 - (vii) Other individuals with expertise in the services that the FRS programs of the State intend to offer.

3. Current Programs

The application must include a description of the current family support programs in the State, the current unmet need for such services, and the intended scope of the State FRS program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies. See section 933(d)(3) of the Act.

4. State Financial Commitment

The application must include a description of the projected level of financial commitment by the State to developing a FRS program. See section 933(d)(4) of the Act.

5. Core and Other Services

The application must describe the core services and other support services to be provided by the program, and the manner in which such services will be provided. See section 933(d)(5) of the Act.

(a) "Core services," as described in section 926 of the Act, refer to:

(i) Educational and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) The early developmental screening of children to assess any needs of such children and to identify specific types of support that may be provided;

(iii) Outreach services provided to ensure (through home visits or other methods) that parents are aware of and able to participate in family resource and support program activities;

(iv) Community referral services to assist families in obtaining community resources, including health care, mental health care, employability development and job training, and other social services; and

(v) Follow-up services, provided to ensure that necessary services are received by families and are effective in meeting their needs.

(b) "Other services" as described in section 926 of the Act means such services as:

(i) Child care, early childhood development and intervention programs;

(ii) Employability development services (including skill training);

(iii) Educational services, such as scholastic tutoring, literacy training, and General Educational Degree (GED) services;

(iv) Nutrition education;

(v) Life management skills training;

(vi) Peer counseling and crisis intervention, family violence counseling, and referrals for such services;

(vii) referral for substance abuse counseling and treatment referral; and

(viii) Referral for primary health and mental health services.

6. Cultural Diversity

The application must include an assurance that the State program will maintain cultural diversity as required by section 933(d)(6) of the Act. This assurance must include a description of the cultural diversity of the population to be served by the FRS program, and the activities, resources and efforts that would be undertaken to meet their

needs in carrying out the proposed FRS program.

7. Parental Involvement

The application must describe the State's guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs. See section 933(d)(7) of the Act.

8. Low-Income Communities

The application must include an assurance that, in awarding local grants, priority will be given to programs serving low-income communities and programs serving young parents. See section 933(d)(8) of the Act.

9. Local Interagency Planning

The application must describe the local interagency planning process to be utilized to develop and implement local FRS programs as required by section 933(d)(9) of the Act.

10. Awarding Local Grants

The application must describe the criteria that the State will utilize for awarding grants for local programs so that they meet the local program requirements described in Part I.E.2. of this announcement. See section 933(d)(10) of the Act.

11. Training and Technical Assistance

The application must include a plan for providing training, technical assistance, and other assistance to local communities in program development and implementation as required by section 933(d)(11) of the Act.

12. Evaluation

Pursuant to section 933(d)(12) of the Act, the application must describe the methods to be utilized to evaluate the implementation and effectiveness of the FRS programs within the State including:

(a) Evaluations of ongoing programs;

(b) Process evaluations focusing on implementation strategies at the State and local level; and

(c) The development or adaptation of simple evaluation models for use by local FRS programs.

13. Reduction of Barriers to the Provision of Comprehensive Services

The application must describe the proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family

resource and support programs. See section 933(d)(13) of the Act. Written evidence of collaborative agreements with other agencies and organizations should be included with the application if applicable.

Part III. Criteria for Review and Evaluation of Application

In considering how applicants will carry out the responsibilities addressed under Part II of this announcement, all applications will be reviewed and evaluated against the criteria specified below.

We recognize that there may be a potential conflict for States in developing a detailed operating plan when a State may also use the first year of these grant funds for program development. Therefore, a State should describe its planned activities and focus as much as possible on its operating plan.

A. Objectives and Need for Assistance (10 Points)

The extent to which the applicant includes relevant knowledge about family-oriented programs, describes current family support programs in the State, documents an unmet need for FRS programs, and demonstrates an understanding of the service components and processes that are necessary to carry out such programs.

The degree to which the proposed objectives are specific and relate to the needs identified by the applicant. The objectives should describe the intended scope of the FRS programs to be supported by this grant, including the population(s) to be served and the communities in which the FRS programs would operate, and the manner in which the FRS programs would relate to other community services and public agencies. (Applicants with existing FRS programs operating in the State must clearly demonstrate how this grant would expand those services.)

B. Results and Benefits Expected (20 Points)

The extent to which the applicant identifies and describes realistic and measurable results and benefits to be derived by the project, and the manner in which actual results and benefits would be substantiated to determine if objectives are met.

The extent to which the proposed methods to be utilized is appropriate to evaluate the implementation and effectiveness of the FRS programs within the State, and the extent to which the project would contribute to

improved policy, practice, theory, and/or research.

The degree to which any proposed actions to be taken by the State would reduce practical and regulatory barriers to the provision of comprehensive services to families, including FRS programs.

C. Approach (Project Implementation Plan) (40 Points)

The extent to which the proposed approach presents an effective program development process that meets the requirements of section 933(d)(2) of the Act, as described in Part II.A.2. above, and would result in expanded family support services that do not duplicate existing processes or programs.

The extent to which the core services are adequate to meet the needs of the State, as required by section 933(d)(5) of the Act, and the appropriateness of the manner in which such services would be provided. (See Part II.A.5. above for a definition of "core services.")

The extent to which the State program design and guidelines would ensure that cultural diversity and parental involvement in State and local program development, policy and governance are maintained; and the adequacy of the plans to assess and demonstrate that parental involvement in program development, operation, and governance occurs.

The extent to which the State's approach would ensure that, in awarding local grants, priority would be given to programs serving low-income communities and programs serving young parents, and the extent to which the criteria that the State would utilize for awarding grants for local programs would ensure that such local programs meet the requirements of Section 933(f) of the Act. (See Part I.E.2. of this announcement.)

The extent to which the local interagency planning process to be utilized to develop and implement local FRS programs is sufficient to meet the needs of the State.

The amount and appropriateness of the State's plans for providing training and technical assistance to local communities in program development and operation.

The extent to which the applicant proposes and describes a State evaluation methodology that will be used to examine the program development and implementation process as well as the impact of local program activities on the clients served. Applicant must use an outside evaluator and must set aside no less than \$100,000 of the Federal funds per year for the evaluation effort.

The extent to which the applicant describes the plans for developing evaluation models for use by local FRS programs.

D. Organization, Staffing and Management (15 Points)

The extent to which the applicant demonstrates that the lead agency designated by the State to assume responsibility for the development and implementation of FRS programs has the ability to effectively carry out that responsibility and to coordinate FRS programs with other programs and services in the State.

The extent to which the applicant demonstrates the ability to effectively and efficiently administer the project, including a description of the staffing pattern for the proposed project, clearly linking operational staff responsibilities to project tasks and identifying the key staff describing their educational and qualifying experience.

E. Budget Appropriateness (15 Points)

The extent to which the applicant relates the proposed budget to the level of effort required to attain project objectives, including demonstrating that the project's costs are reasonable in view of the anticipated results. Applicants should also discuss how administrative costs at the State level would be kept to under 10 percent of the total Federal share.

The projected level of financial commitment by the State to develop and support a FRS program, including any commitments beyond the 20 percent match requirement. The ability of the State to secure financial commitments from a variety of sources, including public and private entities, to develop and support a FRS program.

An applicant should ensure that availability of any amount proposed as match prior to including it in this budget. The non-Federal share must be met by a grantee during the life of the project. Otherwise, ACF will disallow any unmatched Federal funds.

The extent to which grant funds would expand existing FRS programs or establish new FRS programs within the State, thereby supplementing, not supplanting, Federal, State, and local funds currently expended for FRS programs.

Part IV: The Application Process

A. Availability of Forms

All instructions and forms required for submittal of applications are included in this announcement. Additional copies of this announcement may be obtained by writing or

telephoning: Arlene Taylor, Family Services Program Specialist, Family and Youth Services Bureau, room 2427 Switzer Building, 330 C Street, SW., Washington, DC 20201, Telephone (202) 205-8034.

B. Application Submission

One signed original and two copies of the grant application must be mailed or hand delivered to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, Hubert H. Humphrey Building, room 341-F, 200 Independence Avenue SW., Washington, DC 20201, ATTN: Family Resource and Support Program.

In order to be considered for a grant under this program announcement, an application must be submitted on the forms and in the manner required by this announcement. This application must be executed by the Chief Executive Officer for the State.

C. Application Consideration and Notification

Applications which are complete and conform to the requirements of this program announcement will be reviewed and scored competitively by experts in the subject area. Applicants will be scored against the evaluation criteria listed above, and the results of this review will be a primary factor in making funding decisions. ACYF reserves the option of discussing applications with or referring them to other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal Government or the applicant. ACYF may also solicit comments from other Federal agencies, Central and Regional Office staff, interested foundations, national organizations, specialists experts, States and the general public. These comments along with those of the expert reviewers, will be considered by the Commissioner, ACYF in making funding decisions.

After final selections, successful applicants will be notified through the issuance of a Financial Assistance Award. The award will state the amount of Federal funds awarded, the purpose of the grant, the total project period, the budget period and the amount of the non-Federal matching share. Unsuccessful applicants will be notified by letter.

D. Deadline for Submission of Applications

Deadline: Applications shall be considered as meeting the announced deadline if they are either:

1. Physically received before close of business on or before the deadline date at the place specified in this program announcement. (Hand delivered applications will be accepted at the ACF Grants Office during the normal working hours of 9 a.m. to 5:30 p.m. Monday through Friday.); or

2. Sent on or before the deadline date and received by the granting agency in time for the independent review under DHHS GAM Chapter 1-62. (Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private Metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications: Applications which do not meet the criteria stated above are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: The granting agency may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if the granting agency does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

E. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, P.L. 96-511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements and regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved by OMB.

F. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," for State plan consolidation and simplification only (45 CFR 100.12). The review and comment provision of the Executive Order and Part 100 do not apply.

G. Assurance and Certifications

In addition to the assurances cited under Part II of this announcement, applicants must file a Standard Form 424B, Assurances—Non-Construction Programs and a Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free

Workplace Requirements and (2) Debarment and Other Responsibilities. These certifications are self-explanatory. Copies of these assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary.

A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on a SF 424 indicates compliance with the Drug-Free Workplace Requirements and the Debarment and Other Responsibilities certifications.

H. Cooperation in Evaluation Efforts

All applicants funded under this announcement will be required to provide information for special studies or evaluations funded by the Administration on Children, Youth and Families (ACYF). The cooperation of any third-party evaluators funded by the applicants is also required.

(Catalog of Federal Domestic Assistance Program Number 93.580 Family Resource and Support Programs)

Dated: April 16, 1993.

Joseph Mottola

Acting Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184-01-31

OMB Approval No. 0348-0043

APPLICATION FOR
FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: <i>Application</i> ☐ Construction ☐ Non-Construction <i>Preapplication</i> ☐ Construction ☐ Non-Construction		2. DATE SUBMITTED	Applicant Identifier																					
3. DATE RECEIVED BY STATE		State Application Identifier																						
4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier																						
5. APPLICANT INFORMATION																								
Legal Name:		Organizational Unit																						
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)																						
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 		7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐ <table style="width: 100%; font-size: small;"> <tr> <td>A. State</td> <td>H. Independent School Dist.</td> </tr> <tr> <td>B. County</td> <td>I. State Controlled Institution of Higher Learning</td> </tr> <tr> <td>C. Municipal</td> <td>J. Private University</td> </tr> <tr> <td>D. Township</td> <td>K. Indian Tribe</td> </tr> <tr> <td>E. Interstate</td> <td>L. Individual</td> </tr> <tr> <td>F. Intermunicipal</td> <td>M. Profit Organization</td> </tr> <tr> <td>G. Special District</td> <td>N. Other (Specify) _____</td> </tr> </table>		A. State	H. Independent School Dist.	B. County	I. State Controlled Institution of Higher Learning	C. Municipal	J. Private University	D. Township	K. Indian Tribe	E. Interstate	L. Individual	F. Intermunicipal	M. Profit Organization	G. Special District	N. Other (Specify) _____							
A. State	H. Independent School Dist.																							
B. County	I. State Controlled Institution of Higher Learning																							
C. Municipal	J. Private University																							
D. Township	K. Indian Tribe																							
E. Interstate	L. Individual																							
F. Intermunicipal	M. Profit Organization																							
G. Special District	N. Other (Specify) _____																							
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): ☐ ☐ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		9. NAME OF FEDERAL AGENCY:																						
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE:		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:																						
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):																								
13. PROPOSED PROJECT: Start Date Ending Date		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project																						
15. ESTIMATED FUNDING: <table style="width: 100%; font-size: small;"> <tr> <td>a. Federal</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td>.00</td> </tr> </table>		a. Federal	\$	.00	b. Applicant	\$	.00	c. State	\$	.00	d. Local	\$	.00	e. Other	\$	.00	f. Program Income	\$	.00	g. TOTAL	\$	.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE _____ b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$	.00																						
b. Applicant	\$	.00																						
c. State	\$	.00																						
d. Local	\$	.00																						
e. Other	\$	.00																						
f. Program Income	\$	.00																						
g. TOTAL	\$	.00																						
17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No																								
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED																								
a. Typed Name of Authorized Representative		b. Title	c. Telephone number																					
d. Signature of Authorized Representative		e. Date Signed																						

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

BILLING CODE 4164-01-C

Instructions For The SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
 - "New" means a new assistance award.
 - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
 - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184-01-M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A — BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

SECTION B — BUDGET CATEGORIES

Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS	
8.	\$	\$	\$	\$	
9.					
10.					
11.					
12. TOTALS (sum of lines 8 and 11)	\$	\$	\$	\$	

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
	13. Federal	\$	\$	\$	\$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	\$	\$	\$	\$	\$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS (sum of lines 16-19)	\$	\$	\$	\$

SECTION F - OTHER BUDGET INFORMATION (Attach additional Sheets if Necessary)	
21. Direct Charges:	22. Indirect Charges:
23. Remarks	

Instructions For The SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B. Section A. Budget Summary

Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not* requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number of each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds

needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-1—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)-(e). The amount in Column (e)

should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in

accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) secs. 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other

nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (Pub. L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to Executive Order 11738; (c) protection of wetlands pursuant to Executive Order 11990; (d) evaluation of flood hazards in floodplains in accordance with Executive Order 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under section 176(c) of the Clear Air

Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (Pub. L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with Pub. L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Preventive Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

BILLING CODE 4184-01-M

U.S. Department of Health and Human Services
Certification Regarding Drug-Free Workplace Requirements
Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant (use attachments, if needed):

Place of Performance (Street address, City, County, State, ZIP Code) _____

Check ☐ if there are workplaces on file that are not identified here.

Sections 76.630(c) and (d)(2) and 76.635(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central receipt point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, S.W., Washington, D.C. 20201.

DGMO Form#2 Revised May 1990

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transaction," provided below without modification in all lower tier

covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Lobbying—

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in

connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature

Title

Organization

Date

BILLING CODE 4184-01-M

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
11. Amount of Payment (check all that apply): \$ _____ ☐ actual ☐ planned	13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____	
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

Centers for Disease Control and Prevention

Cooperative Research and Development Agreement 93-004

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), The National Institute for Occupational Safety and Health (NIOSH), announces the opportunity for potential collaborators to enter into a Cooperative Research and Development Agreement (CRADA) to develop a commercial version of the NIOSH EARTALK system.

It is anticipated that all inventions which may arise from this CRADA will be jointly owned. The collaborator(s) with whom the CRADA is made will have an option to negotiate an exclusive or non-exclusive royalty-bearing license. The CRADA will be executed for a 2-year period with the possibility of renewal for another 2-year period.

Because CRADAs are designed to facilitate the development of scientific and technological knowledge into useful, marketable products, a great deal of freedom is given to Federal agencies in implementing collaborative research. The CDC may accept staff, facilities, equipment, supplies, and money from the other participants in a CRADA; CDC may provide staff, facilities, equipment, and supplies to the project. There is a single restriction in this exchange: CDC MAY NOT PROVIDE FUNDS to the other participants in a CRADA. This opportunity is available until 30 days after publication of this notice. Respondents may be provided a longer period of time to furnish additional information if CDC finds this necessary.

FOR FURTHER INFORMATION CONTACT:

Technical

John R. Franks, Ph.D., Bioacoustics and Occupational Vibration Section, Physical Agents Effects Branch, Division of Biomedical and Behavior Science, National Institute for Occupational Safety and Health, CDC, Robert A. Taft Laboratories, 4676 Columbia Parkway, Mailstop C-27, Cincinnati, OH 45226-1998, telephone (513) 533-8281, fax (513) 533-8510.

Business

Theodore F. Schoenborn, Technology Transfer Coordinator, National Institute for Occupational Safety and Health, CDC, 4676 Columbia Parkway, Cincinnati, OH 45226-1998,

telephone (513) 841-4305, fax (513) 841-4500.

SUPPLEMENTARY INFORMATION: The EARTALK system incorporates an optimized speech communication unit into a hearing protection system allowing workers to talk to each other easily while receiving protection from noise without the inconvenience of external boom-mounted microphones, interconnecting cabling, and squelch circuits found in existing systems. The EARTALK system will have applications in any situation where two or more workers need to be in communication including, but not limited to, construction sites, foundries, steel mills, airports, manufacturing facilities, and mining operations. The collaborator(s) and NIOSH will jointly perform the research aimed at development of a commercial system to achieve instrument ruggedness and lowest possible cost per unit system. NIOSH will provide technical expertise, consultation and guidance, system specifications, verification of system integrity, and product evaluation and testing. Since this CRADA involves the bringing together of diverse technologies, a consortium of collaborators will be considered, such as hearing protector manufacturers and/or speech communications systems manufacturers.

Applicants will be judged according to the following criteria:

1. Adequacy and technical capabilities to develop the desired technologies and product;
2. Ability to develop, produce, market, and support commercial hearing safety and speech communication systems;
3. Evidence of technical credibility; and
4. Ability to complete the CRADA in a timely fashion.

This CRADA is proposed and implemented under the 1986 Federal Technology Transfer Act: Pub. L. 99-502.

The responses must be made to: Theodore F. Schoenborn, Technology Transfer Coordinator, National Institute for Occupational Safety and Health, CDC, 4676 Columbia Parkway, Cincinnati, OH 45226.

Dated: June 18, 1993.

Richard A. Lemen,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-14972 Filed 6-24-93; 8:45 am]

BILLING CODE 4160-18-P

Food and Drug Administration

[Docket No. 93N-0215]

Parke-Davis et al.; Withdrawal of Approval of 35 New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 35 new drug applications (NDA's). The holders of the NDA's notified the agency in writing that the drug products were no longer being marketed under the NDA's and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: July 26, 1993.

FOR FURTHER INFORMATION CONTACT:

Nancy Maizel, Center for Drug Evaluation and Research (HFD-53), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed below have informed FDA that these drug products are no longer being marketed under the NDA's and requested that FDA withdraw approval of the applications. The applicants have also, by request, waived their opportunity for a hearing.

NDA No.	Drug name	Applicant name and address
3-727	Hexavibex Injection and Capsules	Parke-Davis, Division of Warner-Lambert Co., 201 Tabor Rd., Morris Plains, NJ 07950.
4-208	Salicresin Liquid	The Upjohn Co., U.S. Pharmaceutical Regulatory Affairs, 7000 Portage Rd., Kalamazoo, MI 49001-0199.
5-422	Cepacol® Lozenges	Merrell Dow Research Institute, Merrell Dow Pharmaceuticals Inc., 2110 East Galbraith Rd., P.O. Box 156300, Cincinnati, OH 45215-6300.

NDA No.	Drug name	Applicant name and address	NDA No.	Drug name	Applicant name and address	NDA No.	Drug name	Applicant name and address
5-564	Desenex® Powder	Fisons Pharmaceuticals, Fisons Corp., Jefferson Rd., P.O. Box 1710, Rochester, NY 14603.	9-990	Viadri® Powder for Injection	Pfizer Pharmaceuticals, Pfizer Inc., 235 East 42d St., New York, NY 10017.	16-799	Ortho-Novum® 1/80-Fe 28 Tablets	Do.
5-565	Desenex® Ointment and Solution	Do.	10-597	Tace® with Androgen Capsules	Merrell Dow Research Institute.	16-948	Bendopa® (levodopa) Capsules	ICN Pharmaceuticals Inc.
6-997	Promacetin Tablets	Parke-Davis, Pharmaceutical Research Division, Warner-Lambert Co., 2800 Plymouth Rd., P.O. Box 1047, Ann Arbor, MI 48106-1047.	10-798	Fungacetin Ointment, Liquid and Powder ...	The Purdue Frederick Co., 100 Connecticut Ave., Norwalk, CT 06850-3590.	17-262	Xeneisol® Solution	Mallinckrodt Inc., 675 McDonnell Blvd., P.O. Box 5840, St. Louis, MO 63134.
7-292	Polysorb Ointment	Altana Inc., 60 Baylis Rd., Melville, NY 11747.	10-849	Kynex® and Lederkyn® Tablets	Lederle Laboratories, Division of American Cyanamid Co., Pearl River, NY 10965.	17-388	Gynorest® Tablets	Solvay Pharmaceuticals, 901 Sawyer Rd., Marietta, GA 30062.
7-413	Protamine Sulfate Powder for Injection	The Upjohn Co.	15-139	Meprobamate Tablets	ICN Pharmaceuticals Inc., International Headquarters, ICN Plaza, 3300 Hyland Ave., Costa Mesa, CA 92626.	18-976	Levatol® Tablets, 10 mg (only those portions of NDA that deal with 10 mg tablets)	Reed & Carnrick Pharmaceuticals, 257 Cornelison Ave., Jersey City, NJ 07302-9988.
8-420	Rimifon Syrup and Injection ..	Roche Pharmaceuticals, Division of Hoffmann-La Roche Inc., 340 Kingsland St., Nutley, NJ 07110-1199.	16-055	Monex Otic Drops	Schering-Plough Research Institute, 2000 Galloping Hill Rd., Kenilworth, NJ 07033-0530.	19-819	Locoid® Solution	Owen/Galderma, 6201 South Freeway, P.O. Box 6600, Fort Worth, TX 76115.
8-492	Antrenyl® Tablets	Ciba Pharmaceutical Co., Division of Ciba-Geigy Corp., Summit, NJ 07901.	16-210	Ortho-Novum® SQ Tablets	R. W. Johnson Pharmaceutical Research Institute, Route 202, P.O. Box 300, Raritan, NJ 08869-0602.	50-471	Celospor® Powder for Injection	Ciba Pharmaceutical Co.
8-499	Isoniazid Tablets	Lilly Research Laboratories, Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285.	16-252	Ioprep® Solution	Johnson & Johnson Medical Inc., P.O. Box 130, Arlington, TX 76004-0130.	50-476	Rimactazid Capsules	Do.
8-822	Percorten® Injection	Ciba Pharmaceutical Co.	16-715	Ortho-Novum® 1/80 21 and 28 Tablets	R. W. Johnson Pharmaceutical Research Institute.	50-478	Nysert Suppositories	Norwich Eaton Pharmaceuticals Inc., A Procter & Gamble Co., P.O. Box 191, Norwich, NY 13815-0191.
9-427	Piptal® Tablets ..	Merrell Dow Research Institute.	16-761	Ortho-Novum® 1/50-Fe 28 Tablets	Do.	50-548	Velosef '500' and Velosef '250' Capsules	Bristol-Myers Squibb Co., U.S. Managed Health Care Group, P.O. Box 4000, Princeton, NJ 08543-4000.
9-551	Pyrazinamide Tablets	Merck Research Laboratories, Division of Merck & Co., West Point, PA 19486.				50-598	Lanabiotic Aerosol Spray	Combe Inc., 1101 Westchester Ave., White Plains, NY 10604-3597.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director of the Center for Drug Evaluation and Research (21 CFR 5.82), approval of the NDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective July 26, 1993.

Dated: June 15, 1993.

Carl C. Peck,

Director, Center for Drug Evaluation and Research.

[FR Doc. 93-14990 Filed 6-24-93; 8:45 am]

BILLING CODE 4160-01-F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. July 19 and 20, 1993, 8:30 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 19, 1993, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; open public hearing, July 20, 1993, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 5 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the

contact person before July 12, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 19, 1993, the committee will discuss the safety and effectiveness of Nefazodone HCL, New Drug Application (NDA) 20-152, Bristol-Myers, for use in the treatment of depression. Additionally, the committee will discuss preclinical toxicity data relevant to the risk/benefit assessment of Risperdal® (risperidone), New Drug Application (NDA) 20-272, Jansen Research Foundation, for use in the treatment of psychotic disorders. On July 20, 1993, the committee will discuss the safety and effectiveness of Prozac® (fluoxetine HCL), New Drug Application (NDA) 20-187, Eli-Lilly, for use in the treatment of obsessive compulsive disorder.

Anti-Infective Drugs Advisory Committee

Date, time, and place. July 22 and 23, 1993, 8:30 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 22, 1993, 8:30 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4:30 p.m.; open public hearing, July 23, 1993, 8:30 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 4:30 p.m.; Ermona B. McGoodwin or Mary Elizabeth Donahue, Center for Drug Evaluation and Research (HFD-9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5455.

General function of the committee. The committee reviews and evaluates data relating to the safety and effectiveness of marketed and investigational human drugs for use in infectious and ophthalmic disorders.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 16, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 22, 1993, the committee will discuss

new drug application (NDA) 50-605/S-017, Ceftin® (cefuroxime axetil, Glaxo) effectiveness supplement for treatment of early Lyme disease. During the morning of July 23, 1993, the committee will discuss a proposed addition to the Division of Anti-Infective Drug Products' points to consider document. This addition concerns guidance on the conduct and analysis of clinical trials of antimicrobial drug products in the treatment of sepsis and potential product labeling for products establishing effectiveness in the treatment of sepsis. During the afternoon of July 23, 1993, the committee will discuss the use of quinolone-class antimicrobials as investigational drugs in children.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: June 17, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93-14931 Filed 6-24-93; 8:45 am]

BILLING CODE 4160-01-F

International Scientific Workshop; Combined Vaccines and Simultaneous Administration: Current Issues and Perspectives

AGENCY: Food and Drug Administration, HHS

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Biologics Evaluation and Research (CBER) is announcing an international scientific workshop entitled "Combined Vaccines and Simultaneous Administration: Current Issues and Perspectives." The purpose of this workshop is to bring together the scientific, public health, and regulatory

communities to discuss issues associated with the development and use of vaccines administered either combined or simultaneously.

DATES: The workshop will be held on Wednesday, July 28, 1993, and Thursday, July 29, 1993, from 7:55 a.m. to 5:35 p.m., and Friday, July 30, 1993, from 7:55 a.m. to 5 p.m. There is no workshop fee. Because seating space is limited, early preregistration is requested.

ADDRESSES: The workshop will be held at the National Institutes of Health, Warren Grant Magnuson Clinical Center, Bldg. 10, Jack Masur Auditorium, 9000 Rockville Pike, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: For information on the agenda, registration, hotel, and travel: Pamela S. Milan, KRA Corp., 1010 Wayne Ave., suite 950, Silver Spring, MD 20910, 301-495-1591; facsimile 301-495-2919.

For information regarding this notice: JoAnn Minor, Center for Biologics Evaluation and Research (HFM-635), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-295-9074.

SUPPLEMENTARY INFORMATION: The international scientific workshop on "Combined Vaccines and Simultaneous Administration: Current Issues and Perspectives" is cosponsored by CBER; the National Vaccine Program Office; the National Institute of Allergy and Infectious Diseases; the Centers for Disease Control and Prevention; and the World Health Organization. The purpose of this workshop is to bring together the scientific, public health, and regulatory communities to discuss issues associated with the development and use of vaccines administered either combined or simultaneously. The program has been developed for the presentation and discussion of basic and clinical research and development efforts including those which impact on regulatory decisions.

Speakers and panelist will address the following topics: (1) The interface between vaccine initiatives, new technologies and vaccine development; (2) advances in the development of conjugate and combination vaccines; (3) new approaches in design and use of vaccine adjuvants; (4) new antigen delivery systems: construction and use; and (5) combination vaccines: clinical design, efficacy, and statistical issues.

Dated: June 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-14991 Filed 6-24-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93N-0072]

FDA Medical Device Incident Reporting; Notice of Public Meeting; Electronic Data Interchange Strawman Standard for Adverse Event and Problem Reporting to the FDA Centers for Biologic Evaluation and Research, Drug Evaluation and Research, Devices and Radiological Health; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it will hold an open public meeting to address issues related to medical device problem reporting. The meeting will provide a forum for information exchange about medical device adverse events and problem reporting between FDA's Center for Devices and Radiological Health (CDRH) and affected public groups such as device manufacturers, distributors, user facilities, and vendors of telecommunication and electronic data interchange (EDI) products. The agency is also announcing the availability of a partial draft standard entitled "Electronic Data Interchange Strawman Standard for Adverse Event and Problem Reporting to the Food and Drug Administration, Centers for Biologic Evaluation and Research, Drug Evaluation and Research, Devices and Radiological Health." The electronic reporting pilot program and the partial draft standard for reporting events by electronic media will be discussed at the meeting also.

DATES: The meeting will be held on Tuesday, July 13, 1993, 9 a.m. to 5 p.m. Those interested in making oral presentations must submit requests by July 2, 1993. Written comments should be submitted by July 28, 1993.

ADDRESSES: The meeting will be held at the Holiday Inn Crowne Plaza Hotel, 1750 Rockville Pike, Rockville, MD 20850. A number of rooms have been reserved at a reduced rate for meeting attendees. To reserve a hotel room for Monday night, July 12, 1993, please call the Holiday Inn Crowne Plaza (301-468-1100) prior to June 28, 1993, and specify group 3471. It is suggested that interested persons register by July 8, 1993, because space for the meeting is limited. There is no registration fee.

The partial draft standard "Electronic Data Interchange Strawman Standard for Adverse Event and Problem Reporting to the Food and Drug Administration Centers for Biologic Evaluation and Research, Drug Evaluation and