essential that fees be increased when necessary to cover the cost of maintaining a financially self-supporting program. The last fee increase under this program became effective on January 5, 1997. On the same effective date, Congress increased the salaries of Federal employees by 3.0 percent which included locality pay. Also, there have been normal increases in other nonpay operating costs that include utilities, office space, and reimbursable travel. In addition, recent congressional action will result in additional salary increases of appoximately 3.0 percent in 1998. Although the program's operating reserves were adequate to cover the January 5, 1997, salary increase, this will not be the case for 1998 salary increases, and a fee increase is needed.

The grading program fees need to be increased to cover the costs associated with maintaining adequate levels of service during shifting production patterns within the dairy industry. The industry changes include plant consolidations, geographical shifts of dairy production areas, and changes in the types of dairy products being manufactured and offered for inspection and grading services. To minimize the necessary fee increase, the Department has initiated cost-reduction efforts which include the reduction of staff and program overhead.

Proposed Changes

This rule proposes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increase the hourly fee for nonresident services from $52.00 to $56.00 for services performed between 6:00 a.m. and 6:00 p.m. The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel plus travel costs.

2. Increase the hourly fee for continuous resident services from $47.00 to $51.00. The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round resident basis.

Timing of Fee Increase

It is contemplated that the proposed fee increases would be implemented on an expedited basis in order to minimize the period of revenue shortfall. Accordingly, it is anticipated that the fee increases, if adopted, would become effective upon publication, or very soon after publication, of the final rule in the **Federal Register**. An approximate effective date would be January 4, 1998.

Also, a thirty day comment period is deemed appropriate in view of the need to implement any fee increases as early as possible in FY 1998.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 58 be amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for Part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

Subpart A—[Amended]

2. In subpart A, § 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $56.00 for service performed 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident services.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $51.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Dated: October 8, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–27324 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 97–016–1]

Importation of Tomatoes From France, Morocco and Western Sahara, Chile, and Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing fruits and vegetables to allow tomatoes from France, Morocco and Western Sahara, and Chile to be imported into the United States subject to certain conditions. The proposed action would provide importers and consumers in the United States with additional sources of tomatoes, while continuing to provide protection against the introduction and dissemination of injurious plant pests. We are also proposing to amend the regulations pertaining to importation of tomatoes from Spain by requiring containers of pink or red tomatoes to be sealed before shipment if the containers will transit any other fruit fly supporting areas while en route to the United States, and by requiring records to be kept by Spain's plant protection service regarding trapping practices and fruit fly captures. These actions appear necessary to prevent the introduction of exotic fruit flies into the United States.

DATES: Consideration will be given only to comments received on or before December 15, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–016–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–016–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to

inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald C. Campbell, Staff Officer, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236, (301) 734–6799; fax (301)734–5786; E-mail: rcampbell@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as ''the regulations'') prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies, that are new to or not widely distributed within the United States.

Tomatoes from France, Morocco and Western Sahara, and Chile

We are proposing to amend the regulations to allow tomatoes (*Lycopersicon esculentum*) from France, Morocco and Western Sahara, and Chile to be imported into the United States under certain conditions, which are discussed below. We are proposing to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses [1] that indicate the tomatoes can be imported under the proposed conditions without presenting any significant risk of introducing fruit flies or other injurious plant pests into the United States.

The imported tomatoes would be subject to the requirements in § 319.56–6 of the regulations. Section 319.56–6 provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be subject to inspection, disinfection, or both, at the port of first arrival, as may be required by a United States Department of Agriculture (USDA) inspector to detect and eliminate plant pests. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is infested with fruit flies or other injurious plant pests and an inspector determines that it cannot be cleaned by disinfection or treatment.

In this proposed rule, as well as in the current regulations for importing tomatoes from Spain, contained in §§ 319.56–2t and 319.56–2dd, we use the terms ''pink or red'' and ''green'' tomatoes. Green tomatoes are unripened tomatoes. Once tomatoes start to ripen, they show more and more pink coloring, which deepens to red as the tomatoes ripen.

Tomatoes From France

We are proposing to allow tomatoes to be imported from France under conditions very similar to current requirements for importing tomatoes from Spain. Section 319.56–2t includes green tomatoes from Spain in the list of fruits and vegetables that may be imported subject to inspection and disinfection at the port of arrival, in accordance with § 319.56–6 of the regulations. Section 319.56–2t allows green, or unripened, tomatoes to be imported into the United States from any area of Spain, including Almeria Province. Because green tomatoes are not a host to the Mediterranean fruit fly (Medfly), which is known to occur in Spain, or, in Spain, to any other pest of concern to the United States, they are not subject to the special conditions in § 319.56–2dd. Pink and red tomatoes from Spain are hosts, albeit poor ones, to the Medfly. Therefore, the regulations at § 319.56–2dd currently allow the importation of pink and red tomatoes only from the Almeria Province and only under certain conditions, which protect the tomatoes from Medfly infestation.

As in Spain, the pest of concern for tomatoes in France is Medfly. We are proposing to add green tomatoes from France to the list of fruits and vegetables in § 319.56–2t that may be imported into the United States subject to inspection and disinfection at the port of arrival in accordance with § 319.56–6 of the regulations. Green tomatoes are not a host to Medfly, or, in France, to any other pest of concern to the United States. We would require that, to be eligible for importation, the tomatoes must still be green upon arrival in the United States. This requirement would ensure that the tomatoes at no time, either in France or en route, become suitable Medfly host material. (As discussed later in this document, we are also proposing to add this requirement for the importation of green tomatoes from Spain.) We are also proposing to allow pink or red tomatoes to be imported into the United States from France if they are grown in the Region of Brittany and meet certain conditions.

Although Medfly is not known to exist in Brittany, incidental introductions are possible. Therefore, we propose to require that the tomatoes be grown in Brittany in greenhouses registered with, and inspected by, the Service de la Protection Vegetaux (SRPV). From June 1 through September 30, SRPV would be required to set and maintain Medfly traps baited with trimedlure at a rate of one inside and one outside each greenhouse. All traps would have to be checked every 7 days. Brittany, in the northeast of France, has a temperate climate. Temperatures from October through May are too cold for Medfly to survive. It is unlikely that Medfly would become even temporarily established in Brittany during the months of June through September, but trapping would help ensure detection of Medfly should it be introduced. Capture of a single Medfly inside or outside a registered greenhouse would immediately result in cancellation of exports to the United States from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures have been taken to preclude any future infestation. The Animal and Plant Health Inspection Service (APHIS) generally considers eradication to have occurred when there is no evidence of reproducing populations of Medfly (for example, no finding of Medfly larvae, mated females, or both male and female flies) for two life cycles of the Medfly. We propose to require SRPV to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request.

Also from June 1 through September 30, we would require that the tomatoes be packed within 24 hours of harvest, safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. These requirements do not appear to be necessary during other times of the year when the climate would not support fruit flies. At all times of the year, however, we are proposing to require the fruit fly-proof containers of tomatoes to be sealed by SRPV before shipment, and the seal number recorded on a phytosanitary certificate that must accompany the tomatoes, if the containers will transit any other fruit fly supporting areas while en route to the United States. This would ensure that the containers are not opened and exposed to fruit flies, or contaminated with fruit fly infested fruit during shipment to the United States. Flight over a fruit fly supporting area without stopping does not constitute

[1] Information on these pest risk analyses and any other pest risk analysis referred to in this document may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT** or by calling the Plant Protection and Quarantine (PPQ) fax vault at 301–734–3560.

''transit'' and thus does not trigger the SRPV seal and records requirements.

SRPV would be responsible for export certification inspection and issuance of phytosanitary certificates. We propose to require each shipment of pink or red tomatoes to be accompanied by a phytosanitary certificate issued by SRPV and bearing the declaration, ''These tomatoes were grown in registered greenhouses in the Brittany Region of France.''

The provisions for importing pink or red tomatoes from France would be added to § 319.56–2dd, and the heading for that section, which now refers only to pink or red tomatoes from Spain, would be changed.

Tomatoes From Morocco and Western Sahara

As in France and Spain, the pest of concern for tomatoes in Morocco and Western Sahara is Medfly. We are proposing to add green tomatoes from Morocco and Western Sahara to the list of fruits and vegetables in § 319.56–2t that may be imported, provided that the tomatoes are still green upon arrival in the United States, subject to inspection and disinfection at the port of arrival in accordance with § 319.56–6 of the regulations. Green tomatoes are not a host to Medfly, or, in Morocco and Western Sahara, to any other pest of concern to the United States.

We are also proposing to add provisions to § 319.56–2dd to allow pink tomatoes to be imported into the United States from El Jadida and Safi Provinces, Morocco, and from Dahkla Province, Western Sahara, under conditions similar to those discussed above for tomatoes from France. We are proposing to allow pink, but not fully ripe, red tomatoes, as an additional precaution because of the endemic presence of Medflies and Medfly host material in Morocco and Western Sahara, and the free movement of Medfly host materials throughout Morocco and Western Sahara. The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. A red tomato is more than 60 percent pink and/or red. Tomatoes at any stage of ripeness are poor hosts for Medfly, and pink tomatoes are less suitable Medfly host material than red tomatoes.

The tomatoes would have to be grown in greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF). Because of the prevalence of Medfly in Morocco and Western Sahara, the greenhouses would have to be insect-proof.

The tomatoes would only be allowed to be shipped from Morocco and Western Sahara between December 1 and April 30, inclusive. Although Morocco and Western Sahara are capable of supporting year-round populations of Medfly, population levels are lower during these months than during late spring through early autumn.

Commercial greenhouses in Morocco and Western Sahara range in size from less than 1 hectare to more than 14 hectares. Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF would be required to set and maintain Medfly traps baited with trimedlure inside the registered greenhouses at a rate of four traps per hectare. In Morocco traps would also be required outside registered greenhouses within a 2 kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap outside each registered greenhouse would be required. Fewer traps would be required in Western Sahara because of the scarcity of endemic Medfly host material and arid conditions in the tomato production areas. All traps in Morocco and Western Sahara would have to be checked every 7 days. We propose to require DPVCTRF to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request.

Capture of a single Medfly in a registered greenhouse would immediately result in cancellation of exports to the United States from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse would necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps would have to be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of two Medflies within 200 meters of a registered greenhouse and within a 1-month time period would require Malathion bait sprays within 200 meters of the trap or traps where Medflies were caught every 7 to 10 days for 60 days to ensure eradication.

As with pink and red tomatoes from France and Spain, we propose to require pink tomatoes from Morocco and Western Sahara to be packed within 24 hours of harvest, safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. The tomatoes must be pink at the time of packing. In addition, we are proposing to require that the fruit fly-proof containers of tomatoes be sealed by the Moroccan Ministry of Agriculture, Fresh Product Export (EACCE), before shipment, and the seal number recorded on a phytosanitary certificate that must accompany the tomatoes, if the containers will transit any other fruit fly supporting areas while en route to the United States. This action appears necessary to ensure that the containers are not opened and exposed to fruit flies, or contaminated with fruit fly infested fruit during shipment to the United States.

EACCE would be responsible for export certification inspection and issuance of phytosanitary certificates. We propose to require each shipment of pink tomatoes to be accompanied by a phytosanitary certificate issued by EACCE and bearing the declaration, ''These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco and were pink at the time of packing'' or ''These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing.''

The provisions for importing pink tomatoes from Morocco and Western Sahara would be added to § 319.56–2dd.

Tomatoes From Chile

In Chile the primary pests of concern in tomatoes are the tomato fruit moth (*Scrobopalpula absoluta*) and the tomato fruit fly (*Rhagoletis tomatis*). These are temperate pests that infest tomatoes at all stages of ripeness, including when they are green. USDA has determined that a methyl bromide treatment, developed in Chile, is an effective treatment for these pests in tomatoes. The treatment schedule is as follows: Methyl bromide at the rate of 48 ounces per 1,000 cubic feet at 70 °F for 2 hours. We are proposing to allow tomatoes from Chile to be imported into the United States if the tomatoes are treated in Chile with methyl bromide as described above. The treatment would have to be conducted in facilities registered with the Secretario de Agricultura y Ganaderia (SAG) and with APHIS personnel monitoring the treatments. Requiring the treatment under these conditions would ensure that the treatments were effectively administered.

In addition, we would require that the tomatoes be treated and packed within

24 hours of harvest. They would have to be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers under APHIS monitoring for transit to the airport and subsequent shipping to the United States. We believe these requirements are necessary to protect the tomatoes against reinfestation by the tomato fruit moth and fruit flies between the time of treatment and the arrival of the tomatoes in the United States.

The proposed methyl bromide treatment of tomatoes in Chile under APHIS monitoring prior to export of the tomatoes to the United States would be required due to the nature of tomato production in Chile. Tomatoes in Chile would be produced in open fields under normal cultural practices that do not incorporate safeguards to mitigate the risk of introducing tomato fruit fly and tomato fruit moth into the United States. Furthermore, the tomato fruit fly and tomato fruit moth are temperate pests that could potentially impact domestic tomato production in the United States. Post harvest methyl bromide treatment in Chile would be the only mitigative measure to ensure that tomato fruit flies and tomato fruit moths are not inadvertently shipped to the United States. By contrast, tomatoes from France, Morocco and Western Sahara, and Spain would be produced in greenhouses under a systems approach that incorporates multiple safeguards that mitigate the risk of introducing Medflies into the United States.

We propose that SAG enter into a trust fund agreement with APHIS before tomatoes from Chile could be precleared for import into the United States. A trust fund agreement is required to recover APHIS costs associated with monitoring the preclearance program in Chile. The trust fund agreement would require SAG to pay in advance all estimated costs to be incurred by APHIS in providing preclearance services during a shipping season. These costs would include administrative expenses incurred in conducting preclearance, as well as all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. SAG would be required to deposit a certified or cashier's check with APHIS for the amount of these costs for the entire shipping season, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement would further require that, if the deposit does not meet the actual costs incurred by APHIS, SAG would deposit with APHIS a certified or cashier's check for the amount of the known remaining costs, as determined by APHIS, before completion of the inspections. The agreement would also specify that unanticipated end-of-season costs must be paid upon demand, and that further service will be withheld until payment is made. If the amount SAG pays during a shipping season exceeds the total costs incurred by APHIS in providing preclearance services, the difference would be refunded to SAG by APHIS at the end of the shipping season. Requiring payment of costs in advance is necessary to help defray the costs to APHIS of providing inspection services in Chile.

The provisions for importing tomatoes from Chile would be added to § 319.56–2dd. The treatment schedule for methyl bromide would be added to the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual), which is incorporated into the regulations by reference (see 7 CFR 300.1).

Tomatoes From Spain

The regulations at § 319.56–2dd for importing pink or red tomatoes from Almeria Province in Spain already require, among other things, that the greenhouse grown pink or red tomatoes be packed within 24 hours of harvest, be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. We are proposing to require the fruit fly-proof containers of tomatoes to be sealed by the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF) before shipment, and the seal number recorded on the phytosanitary certificate that must accompany the tomatoes to the United States, if the containers will transit any other fruit fly supporting areas while en route to the United States. We believe the additional requirements for containers that will transit fruit fly supporting areas are necessary to ensure that the shipments are not opened and exposed to fruit flies or contaminated with fruit-fly infested fruit during shipment to the United States.

The regulations at § 319.56–2dd for importing pink or red tomatoes from Spain also require MAFF to maintain Medfly traps inside and outside the registered greenhouses, but do not require MAFF to maintain records regarding the trapping. We propose to require MAFF to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request. This would help ensure that trapping is done properly and that appropriate action is taken when fruit flies are found.

As discussed previously in this document, the regulations at § 319.56–2t for importing green tomatoes from Spain do not now require that the tomatoes still be green upon arrival in the United States. We propose to require that green tomatoes from Spain still be green upon arrival in the United States. This requirement would ensure that the tomatoes at no time, either in Spain or en route, become suitable host material for Medfly.

Executive Order 12866 and the Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule would allow tomatoes from France, Morocco and Western Sahara, and Chile to be imported into the United States subject to certain conditions. This proposed action would provide importers and consumers in the United States with additional sources of tomatoes, while continuing to provide protection against the introduction and dissemination of injurious plant pests. The proposal would also make some minor changes to the provisions for importing tomatoes from Spain, but these changes are not expected to have any effect on the volume of tomatoes imported from Spain, and, therefore, are not expected to have any economic impact. Under the Federal Plant Pest Act and the Plant Quarantine Act (7 U.S.C. 150dd, 150ee, 150ff, 151–165, and 167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

During 1995 about 12.3 million metric tons of tomatoes were supplied to the United States market. Domestic production accounted for about 95.4 percent of total supply. Imports from Spain accounted for less than one-tenth of one percent of total tomatoes supplied to United States consumers during 1995. Prices and sources of tomatoes supplied to the United States market are summarized in the following table.

Source of U.S. tomato supply	Quantity (metric tons)	Total value ($1,000,000)	Average value per metric ton	Percentage (% of total supply) [2]
Domestic Production	11,719,214	$1,576.01	$134.48	95.44
Imported Tomatoes [1]	559,117	404.95	724.27	4.45
Spanish Imports	657	1.11	1,695.58	0.0001
Total Supply	12,278,988	1,982.07	161.42	100.0

[1] From countries other than Spain.
[2] Percentage column may not sum due to rounding.
Sources: Agricultural Statistics 1995–96; Table 233 (figures converted to metric tons); USDA-NASS; Washington, DC.
Foreign Agriculture Trade of the United States—FY 1995 Supplement; Table 25; USDA-ERS; Washington, DC.

It is estimated that annual tomato imports will increase by about 13,700 metric tons under this proposed rule. About 6,000 metric tons are expected from Chile; the remaining 7,700 metric tons would arrive from France and Morocco and Western Sahara. Currently, Spanish imports arrive during the off-season for tomato production in the United States (December 1 through April 30) and, therefore, do not directly compete with United States tomatoes produced during the spring and summer months. Proposed tomato imports from Morocco and Western Sahara will also be restricted to arrival during the off-season. Imports from Chile and France will be allowed entry throughout the year. However, Chilean tomatoes are expected to be primarily imported during the off-season due to seasonal growing differences between the northern and southern hemispheres, and shipments from France are likely to fill a special market niche (for higher quality fresh tomatoes).

Therefore, proposed imports would largely compete with existing imports rather than with domestic production. This is further supported by the price per ton that imports currently command in the United States market. The value of imported tomatoes (from countries other than Spain) averaged $724 per metric ton during 1995. Spanish imports averaged $1,695 per metric ton during the same year. This price discrepancy is likely due to the relatively high quality of off-season tomato imports from Spain. In contrast to imports, prices for U.S. produced tomatoes averaged about $161 per metric ton. Price discrepancies between the import and domestic markets indicate that imports cannot compete with domestic supplies unless they arrive during the off-season or for specialty markets. During the off-season there may be some U.S. producers who grow greenhouse tomatoes at higher than average prices. However, this price differential is not reflected in the data.

Even if all the proposed imports were directly substitutable for domestic supplies, the net impact on United States society is anticipated to be positive. Assuming a perfectly inelastic supply, a demand elasticity of −0.5584, an initial quantity supplied of 12.3 million metric tons, and an increase in imports of 13,700 metric tons, it is estimated that average U.S. tomato prices will decline from $161.42 to $161.10 per metric ton.[2] This represents a price decrease of $0.32 per metric ton. Consumer welfare would increase by $3,935,852. United States producers, however, would experience a revenue decrease of $3,933,660, or about 0.2 percent of the total value of domestic tomato supplies. This would result in a positive, albeit small, net impact to United States society totaling about $2,192. Foreign producers realize a gain of about $2,207,070. These results are summarized in the following table.

U.S. consumer gain	U.S. producer revenue loss	Net gain to U.S. society	Foreign producer gain
$3,935,852	$3,933,660	$2,192	$2,207,070

This proposed rule would provide U.S. consumers with additional sources of tomatoes during winter months and for specialty markets. Domestic producers who propagate greenhouse tomatoes during the off-season may be slightly impacted. However, it is estimated that this proposed rule will have a negligible economic impact on domestic tomato producers. Most imports from Chile and Morocco and Western Sahara will arrive during the off-season and not directly compete with U.S. produced tomatoes. Even if imports could be readily substituted for domestic production, U.S. producers would only be marginally impacted due to the low volume of expected imports. A relatively small annual quantity increase (13,700 metric tons valued at $2.2 million) of imported tomatoes would not likely erode the market share of domestic producers.

The Regulatory Flexibility Act requires that APHIS specifically consider the economic impact of this proposed rule on ''small'' entities. The SBA has set forth size criteria by Standard Industrial Classification (SIC) which was used as a guide in determining which economic entities meet the definition of a ''small'' business.

The SBA does not maintain specific size standards for domestic entities that either import or produce tomatoes. Therefore, this analysis uses the size standards established for Vegetable and Melon Producers (SIC code 0161) and Wholesale Traders of Fresh Fruits and Vegetables (SIC code 5148). The SBA's definition of a ''small'' entity included in the vegetable and melon producer classification is one that generates less than $500,000 in annual receipts.[3] Wholesale traders of fresh fruits and vegetables are classified as ''small'' if they employ fewer than 100 people.

Currently there are about 15,438 ''small'' tomato producers and 5,122 ''small'' wholesale traders of fresh fruits and vegetables according to the SBA criteria. The proposed rule change could negligibly impact some ''small'' domestic entities. However, because the supply of tomatoes in the United States market would only increase by about

[2] The demand elasticity is obtained from J.E. Epperson and L.F. Lei, ''A Regional Analysis of Vegetable Production with Changing Demand for Row Crops Using quadratic Programming,'' Southern Journal of Agricultural Economics, Volume 21, Number 1, July 1989, pp. 87–96.

[3] Small Business Administration; Washington, DC. SBA data was modified by tomato specific information contained in the 1992 Census of Agriculture.

13,700 metric tons (less than one-tenth of one percent of total domestic supply) and domestic producers would continue to supply more than 95 percent of the tomatoes consumed in the United States each year, it does not appear that this proposed rule would have a significant economic impact on ''small'' entities. However, APHIS invites public comments concerning the potential economic effects of this proposed rule change on ''small'' United States entities. The Agency is particularly interested in identifying potential economic impacts on United States entities that produce tomatoes during the winter months. All comments will be considered prior to finalization of this Regulatory Flexibility Analysis.

Reporting and recordkeeping requirements of the proposed rule are described below under ''The Paperwork Reduction Act'' section of this document.

Executive Order 12778

This proposed rule would allow the importation of tomatoes from France, Morocco and Western Sahara, and Chile under certain conditions. If this proposed rule is adopted, State and local laws and regulations regarding tomatoes imported under this rule would be preempted while the fruit is in foreign commerce. Tomatoes are generally imported for immediate distribution and sale to the consuming public, and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect would be given to this rule, and this rule would not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 97–016–1. Please send a copy of your comments to: (1) Docket No. 97–016–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to allow tomatoes from France, Morocco and Western Sahara, and Chile to be imported into the United States subject to certain conditions. We are also proposing to amend the regulations pertaining to importation of tomatoes from Spain by requiring containers of pink or red tomatoes to be sealed before shipment if the containers will transit any other fruit fly supporting areas while en route to the United States, and by requiring records to be kept by Spain's plant protection service regarding trapping practices and fruit fly captures. These proposed regulatory revisions would facilitate the importation of tomatoes from France, Morocco and Western Sahara, Chile and Spain while ensuring that tomatoes imported into the United States do not harbor insect pests such as the Mediterranean fruit fly, tomato fruit moth, and tomato fruit fly.

The implementation of these proposed regulatory actions would require us to engage in certain information collection activities. We are seeking approval from the Office of Management and Budget (OMB) to engage in these information collection activities, which are described below.

Phytosanitary certificate: The proposed rule would require that pink or red tomatoes imported into the United States from registered greenhouses in the Brittany Region of France and pink tomatoes imported into the United States from registered greenhouses in El Jadida and Safi Provinces, Morocco, and Dahkla Province, Western Sahara, be accompanied by a phytosanitary certificate. The certificate would be issued by a representative of the plant protection agency in the respective country of origin after the representative examines the shipment and ensures that it has been prepared in compliance with our regulations.

Records of Medfly trap placement and Medfly captures: The proposed rule would require that Medfly traps be placed in and/or around registered greenhouses in Almeria Province, Spain; El Jadida and Safi Provinces, Morocco; Dahkla Province, Western Sahara; and the Brittany Region of France. Representatives from the respective national plant protection agencies would be responsible for recording trap placement, checking of traps, and Medfly captures. This information would be made available to APHIS upon request.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection requirements. We need this outside input to help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.670 hours per response.

Respondents: Foreign plant health protection authorities.

Estimated number of respondents: 6.

Estimated annual number of responses: 328.

Estimated average number of responses per respondent: 54.66.

Estimated total annual burden on respondents: 220 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, Room 404–W, 14th Street and Independence Ave., SW., Washington, DC 20250.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, and Vegetables.

Accordingly, title 7, chapter III, of the Code of Federal Regulations would be amended as follows:

PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

Authority: 7 U.S.C. 150ee, 154, 161, 162 and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), introductory text, would be revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through [insert date], has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

3. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

4. In § 319.56–2t, the table would be amended by revising the entry for tomato from Spain and by adding new entries for tomato from France and Morocco and Western Sahara, in alphabetical order, to read as follows:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
* *	*	* *	* * *
France	Tomato	(Lycopersicon esculentum)	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from the Region of Brittany and only in accordance with § 319.56–2dd of this subpart).
* *	*	* *	* * *
Morocco and Western Sahara	Tomato	(Lycopersicon esculentum)	Fruit, only if it is green upon arrival in the United States (pink fruit may only be imported from El Jadida or Safi Province, Morocco, or Dahkla Province, Western Sahara, and only in accordance with § 319.56–2dd of this subpart).
* *	*	* *	* * *
Spain	Tomato	(Lycopersicon esculentum)	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from Almeria Province and only in accordance with § 319.56–2dd of this subpart).
* *	*	* *	* * *

* * * * *

5. Section 319.56–2dd would be revised to read as follows:

§ 319.56–2dd Administrative instructions: conditions governing the entry of tomatoes.

(a) *Tomatoes (fruit) (Lycopersicon esculentum) from Spain.* Pink or red tomatoes may be imported into the United States from Spain only under the following conditions: [1]

(1) The tomatoes must be grown in the Almeria Province of Spain in greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse and within a 1-month time period will result in cancellation of exports from all registered greenhouses within 2 kilometers of any of the finds until the source of infestation is determined and the Medfly infestation is eradicated;

(5) MAFF must maintain records of trap placement, checking of traps, and any Medfly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. Transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by MAFF before shipment and the official seal number is recorded on the phytosanitary certificate; and

(7) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by MAFF and bearing the declaration, ''These tomatoes were grown in registered greenhouses in Almeria Province in Spain.''

(b) *Tomatoes (fruit) (Lycopersicon esculentum) from France.* Pink or red tomatoes may be imported into the United States from France only under the following conditions: [1]

(1) The tomatoes must be grown in the Brittany Region of France in greenhouses registered with, and

[1] The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. The surface area of a red tomato is more than 60 percent pink and/or red. Green tomatoes may be imported in accordance with § 319.56–2t of this subpart.

inspected by, the Service de la Protection Vegetaux (SRPV);

(2) From June 1 through September 30, SRPV must set and maintain one Medfly trap baited with trimedlure inside and one outside the greenhouse and must check the traps every 7 days;

(3) Capture of a single Medfly inside or outside a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation;

(4) SRPV must maintain records of trap placement, checking of traps, and any Medfly captures, and must make them available to APHIS upon request;

(5) From June 1 through September 30, the tomatoes must be packed within 24 hours of harvest. They must be safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. At all times of the year, transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by SRPV before shipment and the official seal number is recorded on the phytosanitary certificate; and

(6) SRPV is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by SRPV and bearing the declaration, ''These tomatoes were grown in registered greenhouses in the Brittany Region of France.''

(c) *Tomatoes (fruit) (Lycopersicon esculentum) from Morocco and Western Sahara.* Pink tomatoes may be imported into the United States from Morocco and Western Sahara only under the following conditions: [1]

(1) The tomatoes must be grown in the provinces of El Jadida or Safi in Morocco or in the province of Dahkla in Western Sahara in insect-proof greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF);

(2) The tomatoes may be shipped from Morocco and Western Sahara only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In Morocco, traps must also be placed outside registered greenhouses within a 2 kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap must be placed outside each registered greenhouse. All traps in Morocco and Western Sahara must be checked every 7 days;

(4) DPVCTRF must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request;

(5) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps must be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of two Medflies within 200 meters of a registered greenhouse and within a 1 month time period will necessitate Malathion bait sprays in the area every 7 to 10 days for 60 days to ensure eradication;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. The tomatoes must be pink at the time of packing. Transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by the Moroccan Ministry of Agriculture, Fresh Product Export (EACCE), before shipment and the official seal number is recorded on the phytosanitary certificate; and

(7) EACCE is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by EACCE and bearing the declaration, ''These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing'' or ''These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing.''

(d) *Tomatoes from Chile.* Tomatoes (fruit) (*Lycopersicon esculentum*) from Chile, whether green or at any stage of ripeness, may be imported into the United States only under the following conditions:

(1) The tomatoes must be treated in Chile with methyl bromide in accordance with the PPQ Treatment Manual. The treatment must be conducted in facilities registered with the Secretario de Agricultura y Ganaderia (SAG) and with APHIS personnel monitoring the treatments;

(2) The tomatoes must be treated and packed within 24 hours of harvest. Once treated, the tomatoes must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers under APHIS monitoring for transit to the airport and subsequent shipping to the United States; and

(3) Tomatoes may be imported into the United States from Chile only if SAG has entered into a trust fund agreement with APHIS for that shipping season. This agreement requires SAG to pay in advance all costs that APHIS estimates it will incur in providing the preclearance services prescribed in this section for that shipping season. These costs will include administrative expenses incurred in conducting the preclearance services; and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs for the entire shipping season, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the initial deposit is not sufficient to meet all costs incurred by APHIS, SAG must deposit with APHIS another certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during a shipping season exceeds the total cost incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season.

Done in Washington, DC, this 9th day of October 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27427 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–34–P

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Chapter XIII

Compact Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of Meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider whether to adopt a Final Rule extending the current over-order price regulation beyond its present December 31, 1997 deadline, and whether to amend the regulation, generally. The Commission will also review procedures relating to ongoing studies and consider matters of administration.

DATES: The meeting is scheduled for October 23, 1997, 9:00 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at the Grist Mill Restaurant, 520 South Street in Bow, NH.

FOR FUTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Compact Commission will hold its regular monthly meeting. The Commission will consider whether to adopt a Final Rule extending the current over-order price regulation beyond its present December 31, 1997 deadline, and whether to amend the regulation, generally. See Proposed Rule, 62 FR 47156 (September 8, 1997). The Commission will also review procedures for conducting a study of regional dairy farm cost of production and a study for assessing the regional impact of over-order price regulation. The Commission will also consider certain matters relating to administration.

Daniel Smith,

Executive Director.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress (codified at 7 U.S.C. 7256); Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.)

[FR Doc. 97–27572 Filed 10–15–97; 8:45 am]

BILLING CODE 1650–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

RIN 3064–AC13

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing to amend its regulation entitled ''Interest on Deposits.'' Section 18(g) of the Federal Deposit Insurance Act (FDI Act) requires that the FDIC by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. This regulation implements this prohibition. The proposed rule provides as an exception to the prohibition, the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the Board of Governors of the Federal Reserve System (FRB). This proposal is in accordance with the FDIC's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

DATES: Written comments must be received by the FDIC on or before December 15, 1997.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [Fax number: (202) 898–3838; Internet address: comments@fdic.gov]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Marc Goldstrom, Counsel, Regulation and Legislation Section, Legal Division, (202–898–8807); Louise Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202–942–3599).

SUPPLEMENTARY INFORMATION:

Background

Section 18(g) of the FDI Act provides that the Board of Directors of the FDIC shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. (12 U.S.C. 1828(g)). Accordingly, the FDIC promulgated regulations prohibiting the payment of interest or dividends on demand deposits at 12 CFR part 329. Section 11 of the Banking Act of 1933 (12 U.S.C. 371a) prohibits member banks from paying interest on demand deposits and is implemented by Regulation Q, (12 CFR part 217) of the FRB.

Section 18(g) of the FDI Act also provides that the FDIC shall make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB (12 U.S.C. 1828(g)). Generally, member banks, state nonmember banks and insured branches of foreign banks are subject to the same prohibition and exceptions to such prohibition, albeit under different statutes and regulations.

From time to time the FRB issues or authorizes a new exception to the prohibition applicable to member banks, and the FDIC later issues or authorizes a similar exception affecting state nonmember banks and insured branches of foreign banks. For example, the FRB recently amended its interpretation with respect to limitations on premiums given on demand deposits (62 FR 26736 (May 15, 1997)) and the FDIC later issued a similar interpretive rule affecting state nonmember banks and insured branches of foreign banks (62 FR 40731 (July 30, 1997)).

In the periods of time in which the FRB has issued or authorized an exception to the prohibition, but the FDIC has yet to act, state nonmember banks and insured branches of foreign banks faced a possible competitive disadvantage with respect to member banks. In order to eliminate the potential for any such competitive disadvantage in the future and in light of the FDIC's statutory mandate to make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks, the FDIC is proposing to create an omnibus exception to the prohibition on the payment of interest on demand