

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective as a final rule. This action is being taken to allow handicapped persons occupancy of housing financed with rural rental housing loans and to correct an omission in the eligible occupants definition. Any delay in implementing this amendment would be contrary to the public interest because handicapped persons could be denied adequate housing in rural areas. Therefore, expedient action is necessary. Further clarification will be made when the entire Subpart is revised in the near future.

As amended §1822.83, paragraphs (b) and (e)(1) read as follows:

§ 1822.83 Definitions.

(b) *Senior Citizens.*—(1) *Senior Citizen.* A person who is 62 years of age or over and in the case of a married couple may be either the wife or husband. A person younger than 62 years of age may reside with a senior citizen provided (i) the person is considered a member of the family of the senior citizen, or (ii) the persons occupancy can be shown to be necessary for the well being of the senior citizen.

(2) *Handicapped Persons.*—(i) A person, or in the case of a married couple either the husband or wife, who has an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions or if such person is a developmentally disabled individual. A developmentally disabled individual is a handicapped person with a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or other condition found to be closely related to mental retardation or to require treatment and services similar to that required for mentally retarded individuals. The developmental disability must originate before such person attains age eighteen, must have continued or be expected to continue indefinitely, and must constitute a substantial handicap to such person's ability to function normally in society. A person who is not handicapped may reside with the handicapped person provided (A) the person is considered a member of the family of the handicapped, or (B) the persons occupancy can be shown to be necessary for the well being of the handicapped.

(ii) Anywhere the term Senior Citizen appears in this Subpart, the words

"or handicapped persons" as defined in this Subpart should be read in as if they followed the words senior citizen.

(c) *Eligible occupants.*—(1) For a direct loan or a loan developed under Plan I:

(42 U.S.C. 1480 delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

Dated: June 13, 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-17106 Filed 6-20-78; 8:45 am]

[4510-27]

Title 29—Labor

CHAPTER V—WAGE AND HOUR
DIVISION, DEPARTMENT OF LABOR

PART 575—WAIVER OF CHILD
LABOR PROVISIONS FOR AGRICULTURAL
EMPLOYMENT OF 10
AND 11 YEAR OLD MINORS IN
HAND HARVESTING OF SHORT
SEASON CROPS

Provisions Governing Application for
and Granting of a Waiver

AGENCY: Wage and Hour Division,
Labor.

ACTION: Final rules.

SUMMARY: The Administrator of the Wage and Hour Division of the Department of Labor is publishing final rules governing the application for and granting of a waiver pursuant to section 13(c)(4) of the Fair Labor Standards Act of 1938, as amended. This section, added to the Act by the Fair Labor Standards Amendments of 1977, authorizes the Secretary of Labor to grant a waiver from the child labor provisions of the Act for the agricultural employment of 10 and 11 year old minors in the hand harvesting of short season crops if specific requirements are met and under conditions provided in that section of the Act or prescribed by the Secretary of Labor.

EFFECTIVE DATE: These regulations are issued pursuant to a statutory provision which relieves restrictions, and therefore in accordance with 5 U.S.C. 553(d) shall be effective June 21, 1978.

FOR FURTHER INFORMATION
CONTACT:

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SUPPLEMENTARY INFORMATION:

BACKGROUND

The Administrator of the Wage and Hour Division of the Department of Labor is publishing final regulations pursuant to section 13(c)(4) of the Fair Labor Standards Act of 1938, as amended. These regulations establish the procedures and requirements for application for and granting of a waiver of the child labor provisions of the Act for agricultural employment of 10 and 11 year old minors in hand harvesting of short season crops.

The child labor provisions of the Fair Labor Standards Act, section 12, prescribe the following minimum age standards for employment in agriculture: 16 years of age if the agricultural occupation has been declared hazardous by the Secretary of Labor, or if it is to be performed during school hours; 14 years of age if the employment is outside school hours and is in an agricultural occupation not declared hazardous by the Secretary of Labor, except that 12 and 13 year old minors may be employed in such non-hazardous occupations outside school hours either with written parental consent or on a farm where the minor's parent or person standing in place of the parent or person is also employed. Minors under 12 years of age may also be employed in such non-hazardous occupations outside school hours with written parental consent provided they work on farms where the employees are exempt from the Federal minimum wage provisions (a farm which did not use more than 500 man-days of agricultural labor during any calendar quarter during the preceding calendar year).

Minors of any age may be employed by their parent or person standing in place of their parent at any time in any occupation on a farm owned or operated by their parent or person standing in place of their parent.

Section 13(c)(4) authorizes the Secretary to grant a waiver from the standards described above to permit the employment of 10 and 11 year old minors in agriculture as hand harvesters of short season crops when specific requirements are met and in accordance with the conditions provided in the statute or prescribed by the Secretary of Labor in these regulations. (The Secretary of Labor's authority under the Act has been delegated to the Administrator of the Wage and Hour Division, Secretary's Order No. 16-75, 40 FR 55913 and Employment Standards Order No. 2-75, 40 FR 56743.) These regulations specify the

information that an employer or group of employers must submit when applying for a waiver under section 13(c)(4). The regulations also include the standards the Secretary of Labor has established for the employment of these minors under a granted waiver.

PROPOSED REGULATIONS

The regulations were published as proposed rulemaking on April 4, 1978, at 43 FR 14068. Initially comments were invited until May 4, 1978. Notice of a hearing in this matter to be held at Washington, D.C., on May 11, 1978, was published in the *FEDERAL REGISTER* on May 1 and 2, 1978, and the period for comment was extended to that date. The public hearing was held on May 11 and 12, and the record was held open for comment until May 23, 1978. Twenty seven individuals or organizations testified at the hearings and/or submitted statements for the record. In addition, the 159 written comments which were received during the entire comment period were incorporated in and made a part of the record of the hearing.

DEPARTMENT OF LABOR RESPONSE TO COMMENTS AND HEARING TESTIMONY

1. DEFINITIONS

The proposed regulations in § 575.2 set forth the definitions of terms used in the regulations. Nineteen commenters urged that the definition of "permanent residence" be amended to make it clear that a granted waiver would apply to local children and not to migratory children who, with their parents or persons standing in the place of their parents, are temporarily living in the community. The final regulations define "permanent residence" to mean the place where the minor and the minor's parent or person standing in place of parent reside year-round. The descriptive "year-round" suggested by 15 of the commenters was adopted to emphasize that only local 10 and 11 year olds, as distinguished from migrant children, could be employed under a waiver. In addition, the definition of "commute daily" was added to provide that children travel daily to and from their permanent residences.

The proposed regulations defined school hours on the basis of the official school calendars for the school districts where the minors are living while so employed and in § 575.4 required a copy of the appropriate school calendar to be filed with the application. Ten commenters objected to the use of the official school calendar (for the school district where the minor is living while so employed) as the determinant of "school hours" on the basis that such calendars are changed during the school year. Two commenters from the State of Maine

advised that their school systems recess for 3 weeks for the potato harvest, and that the schools operate day-to-day, depending on weather conditions. The final regulations thus define "outside school hours" as any period of time when the school district of the minor's permanent residence does not assemble. Section 575.4 in the final regulations thus requires the applicant to submit a statement that the employment will be outside school hours.

Ten commenters recommended adding definitions of "severe economic disruption," "deleterious to their health," "knowledgeable individual," and that "hand harvest" be defined to exclude operation of power driven equipment. These recommendations have been incorporated in the final regulations as refinements of these terms in subsections 575.5(b), (c), and (e) and 575.8(f).

2. APPLICATION FOR WAIVER

The proposed regulations in § 575.3 provided that the applications, for which no particular form was prescribed, be filed with the Administrator 6 weeks prior to the period the waiver is to be in effect. Of the 34 commenters addressing themselves to this section, 21 considered the regulations too stringent, and 13 too lenient. Some commenters who considered the requirements too lenient recommended periods as high as 90 days to provide time to give adult workers notice of available jobs, and some proposed that all applications for waivers be published in the *FEDERAL REGISTER* with a stated period for public comment. Seven commenters objected to the 6 weeks as being too long, creating problems of last minute recruitment, and inability to predict weather conditions; they suggest periods as short as 3 weeks. The final regulations are clarified to indicate that 6 weeks is not a requirement but is suggested to permit adequate time for processing the application.

Twenty commenters recommended adoption of a standardized application form and acceptance of a single application prepared by the State, on behalf of all applicants within a state, including supporting data. The Department seriously considered these practical recommendations but determined that some of the statutory requirements were too varied and closely related to the needs of each employer. The final regulations thus provide for a check list in § 575.3(b) and a new § 575.5(g) to specify data which may be submitted as a group or by geographic areas.

3. GENERAL INFORMATION REQUIRED

The proposed regulations in § 575.4 prescribed the general information an applicant must provide. The general

information required in the final regulations, with the exception of editorial revisions, remains unchanged except for the requirement that the applicant state that the employment under the waiver will be outside school hours. This replaces the proposed requirement for the submission of school calendars.

4. SUPPORTING DATA

The proposed regulations in § 575.5 defined the objective data required by the statute to be submitted by the employer or group of employers. Eighty-four commenters addressed themselves to this section, and their comments will be discussed with reference to the particular objective data.

a. Short Season Crop

The proposed regulations in § 575.5(a) provided that the Administrator would accept the statement of the agricultural extension agent for the county to the effect that the variety of the crop to be harvested is harvested within 4 weeks in the particular region as evidence that the crop has a "particularly short harvest season." Of the 8 commenters on this requirement, one indicated that a general statement from a land grant college to that effect should be adequate for the state. Other indicated that 4 weeks was too short for some crops. The Department determined that the legislative history of the statute supported 4 weeks as delineating crops with a particularly short harvest season from others. The final regulations retain 4 weeks as the standard for a particularly short harvest season but delete the requirement that the supporting data must relate to each field and substitute therefor the requirement that the crop "must ordinarily be harvested within 4 weeks." The regulations also retain the provision that the statement to that effect may be from the agricultural extension agent since there is such an agent for each county.

b. Severe Economic Disruption

The proposed regulations in § 575.5(b) provided that the Administrator would accept written statements of knowledgeable individuals that document the fact that the 12 year minimum age would cause "severe economic disruption in the industry of the employer or group of employers" on the basis of comparison of industry statistics for seasons prior to 1974 with seasons subsequent thereto. Of the 26 commenters on this requirement, 7 considered it too stringent and urged that the regulations provide that the requirement be satisfied by the employer's statement of severe economic disruption. One urged that the State should be permitted to submit a single representation of such

economic disruption on a state-wide basis. Of the 19 commenters who considered the requirement too lenient, some criticized reliance on data submitted by the employer; and some argued that the data be documented from sources outside the industry. Others recommended that the employer be required to demonstrate a percentage crop loss based on the unavailability of 10 and 11 year old hand harvesters. Some contended that the determination of severe economic disruption should be based only on the showing of a substantial current economic loss. Others argued that severe economic disruption should be documented by a showing of insufficient available labor. The final regulations require that the documentation of severe economic disruption be related to the particular operation of the employer or each employer of a group of employers. They provide that "severe economic disruption in the industry" refers to the existence of a compelling need for the employment of 10 and 11 year old hand harvesters. Evidence of this compelling need may be shown by documentation that the requisite number of workers 12 and above needed to harvest the acreage planted based on labor requirements of the employer in previous years as well as the current year cannot be recruited.

c. Deleterious to Health or Well-Being

The proposed regulations in § 575.5(c) provided that the Administrator would accept statements from knowledgeable individuals, such as educators, doctors or nurses affiliated with schools or public health facilities, that the employment of minors under a waiver would not be deleterious to their health or well-being. Of the 29 commenters on this subsection, 6 considered the requirements too stringent, and recommended that a general certification by state health agencies to lack of harm should be adequate. Another commenter considered the requirement unnecessary asserting that it was duplicative of the requirement relating to the adverse effect of pesticides on the health or well-being of 10 and 11 year old minors. Of the 23 commenters who considered the requirements too lenient, most questioned the objectivity and expertise of local individuals. The final regulations thus require that the statement be from trained medical personnel, namely, doctors, nurses, or public health officials in the region. The regulations were also changed to indicate that the "health or well-being" refers to the health or well-being generally of 10 and 11 year old hand harvesters, and not to the tolerance level of pesticides and other chemicals.

d. Pesticides and Other Chemicals

The proposed regulations in § 575.5(d) required the employer or

group of employers to submit supporting data that the "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The data required identification of each pesticide or chemical used and the projected date of last application prior to harvest, and the standards of EPA, OSHA, NIOSH, or other comparable authority which establish that each field so treated will not adversely affect the health or well-being of minors who will enter such field on the first day of the period designated in the waiver. The Environmental Protection Agency, which is the Federal agency designated for determining safety standards for the use of pesticides and chemicals for agricultural workers, advised that the standards it has established for the reentry of agricultural workers after the application of pesticides were established for adult workers and not for the pubescent child. The agency has further advised that it had not and could not on the basis of its present knowledge establish any safe reentry times for 10 and 11 year olds. Several witnesses at the hearing also testified as to their personal experience as to the adverse effects of pesticides on children. Others argued that the regulations should accept the manufacturer's reentry times (based on EPA's standards) specified as being safe for 10 and 11 year olds. This suggestion was not adopted since it was established at the hearing that EPA safe reentry times were based on adult tolerance. Moreover, it was apparent from the testimony at the hearings that the currently established EPA and other federal standards have not been shown to be safe for 10 and 11 year olds. Accordingly till such standards are developed or until the Secretary obtains information establishing by objective data that specified reentry times are safe for 10 and 11 year olds, no waivers will be granted to an employer or group of employers who have used pesticides or other chemicals on the crops to be harvested. Therefore, the final regulations provide that the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data is sufficient or if standards are subsequently developed which establish safe reentry standards for 10 and 11 year olds, such application will be considered as meeting the pesticide requirement. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds this sec-

tion will be amended to include such standards, and the applicant will then need only identify the type and level of pesticides or other chemicals used and the date of last application of same prior to harvest.

e. Individuals Age 12 Years and Above Not Available

The proposed regulations in § 575.5(e) provided that the Administrator would accept the statement of an appropriate official of the state employment service or school district verifying that sufficient (this word was omitted in the published proposed regulations) individuals 12 years and above have not placed their names on recruitment lists for hand harvesting the crops specified in the application. Of the 38 commenters on this subsection, 13 considered the requirement too stringent. They argued that the requirement was too burdensome and frustrated the asserted intent of the legislation which was to allow participation of children under 12 years in hand harvesting along with those over 12 years of age; and that the state employment service could not determine availability in advance of the application. The 25 commenters who considered the requirement too lenient, objected that the lack of names on current recruitment lists did not show actual shortages and urged utilization of the existing interstate clearance system to recruit workers. Other commenters objected to the use of the state employment service on the ground that it had been criticized for failing to service farmworkers. The final regulations establish recruitment actions which the employer or group of employers must take in order to document the unavailability of individuals 12 years and above. Specifically these actions include placing an order with the local employment service for intrastate and interstate job orders, in which the piece rate is specified, in advance of the harvest season; placing two advertisements in local newspapers or advertising over local radio stations; contacting farm labor contractors and others; contacting schools, businesses and other organizations to enlist their help. The resulting recruitment of hand harvesters 12 years and above in an insufficient number to harvest the specified crops will establish the unavailability of individuals 12 years and above. An interstate order need not be placed if the applicant can demonstrate that suitable housing is not available. In order for the Secretary to evaluate whether or not these efforts were unsuccessful in locating sufficient numbers of older employees, information on the responses received, by age, would have to be submitted. Therefore, the final regulations require the submission of such information.

f. Traditional Employment of Children Under 12 Years Without Displacing Individuals Over 16 Years

The proposed regulations in § 575.5(f) provided for the documentation that the industry of the applicant has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for individuals over 16 years of age. Documentation of the traditional aspect of such employment could include newspaper and other published reports; and documentation that such employment did not displace individuals over 16 years of age could include certification to that effect by officials of the state employment service. Of the 16 commenters on this subsection, some indicated that news articles were too casual documentation, and some indicated that individuals over 16 years were not interested in hand harvesting crops. Others considered the state employment service an inadequate information agency. Some commenters suggested that waivers be issued only in the areas (Washington, Oregon, and Maine) specifically mentioned in the legislative history as traditionally using such children. The Department considered all of these comments and determined that the language of the proposed regulations was appropriate for the information required. The final regulations retain the subsection unchanged.

5. PROCEDURES FOR ACTION ON AN APPLICATION

The proposed regulations in section 575.6 set forth the procedures the Administrator would follow when an application for a waiver is received. Two additional provisions were added to this section in the final regulations providing that a waiver shall be denied to any employer against whom a final civil money penalty is outstanding for violation of section 16(e) of the Act, and that if a waiver is granted the name and address of the employer to whom it was granted and the dates of the period the waiver will be in effect will be published in the FEDERAL REGISTER.

6. SECRETARY'S CONDITIONS FOR EMPLOYMENT UNDER A WAIVER

The proposed regulations in § 575.8 provided the terms and conditions prescribed by the Secretary for the protection of minors employed under a waiver.

With respect to other sections of the proposed regulations many commenters recommended that an employer or group of employers be required to obtain the written consent of the minor's parent or person standing in place of his/her parent to the employment of such minor under the waiver. The final regulations provide a

new subsection incorporating this requirement.

One of the Secretary's conditions limited employment under a waiver to 8 hours a day and 40 hours a week. Of the 17 commenters that addressed themselves to the hours limitation 2 commenters considered it too stringent because hours of harvest vary according to the weather and in good weather a 40 hour limit is not desirable. The other 15 commenters considered the hours too long for such young children, and recommended that it be cut to 4, 5, or 6 hours a day, and 24, 30, or 36 hours a week, with time specified for rest and lunch. The final regulations limit the hours of employment under a waiver to 5 in any one day and 30 in any workweek with a meal break of at least 30 minutes and 2 rest breaks of at least 15 minutes.

Many commenters suggested including provisions that the employer or group of employers be required to supply adequate sanitary facilities, drinking water, and first aid services. Other commenters also recommended that the employer or group of employers should be required to provide emergency transportation of the minor to the minor's permanent residence or the nearest hospital for any 10 or 11 year old who becomes ill or is injured during the normal hours of employment. The final regulations provide two new subsections requiring these conditions for employment under a waiver.

With respect to other sections of the proposed regulations many commenters expressed concern that 10 and 11 year old hand harvesters employed under a waiver might operate or be exposed to power driven farm machinery. The final regulations provide a new subsection prohibiting employment under a waiver in the operation of riding on, or in close proximity to power driven machinery and equipment.

OTHER CHANGES

In addition to the changes specified above, many editorial, organizational, and clarifying changes have been made.

These regulations have been developed under the direction and control of Xavier M. Vela, Administrator, Wage and Hour Division, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, Chapter V of Title 29 of the Code of Federal Regulations is amended to add the new Part 575 as follows:

- Sec.
- 575.1 Purpose and scope.
- 575.2 Definitions.
- 575.3 Application for waiver.
- 575.4 Information to be included in application.

- Sec.
- 575.5 Supporting data to accompany application.
- 575.6 Procedure for action on an application.
- 575.7 Statutory conditions for employment under the waiver.
- 575.8 Secretary's conditions for employment under the waiver.
- 575.9 Failure to comply with terms and conditions of the waiver.

AUTHORITY: Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; 29 U.S.C. 212, 213, 218; Secretary of Labor's Order No. 16-75, 40 FR 55913; Employment Standards Order No. 2-75, 40 FR 56743.

§ 575.1 Purpose and scope.

(a) Section 13(c)(4) was added to the Fair Labor Standards Act of 1938, as amended, by the Fair Labor Standards Amendments of 1977. This section provides that:

(A) An employer or group of employers may apply to the Secretary for a waiver of the application of section 12 to the employment for not more than 8 weeks in any calendar year of individuals who are less than 12 years of age, but not less than 10 years of age, as hand harvest laborers in an agricultural operation which has been, and is customarily and generally recognized as being, paid on a piece rate basis in the region in which such individuals would be employed. The Secretary may not grant such a waiver unless he finds, based on objective data submitted by the applicant, that—

(i) The crop to be harvested is one with a particularly short harvesting season and the application of section 12 would cause severe economic disruption in the industry of the employer or group of employers applying for the waiver;

(ii) The employment of the individuals to whom the waiver would apply would not be deleterious to their health or well-being;

(iii) The level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply;

(iv) Individuals age 12 and above are not available for such employment; and

(v) The industry of such employer or group of employers has traditionally and substantially employed individuals under 12 years of age without displacing substantial job opportunities for individuals over 16 years of age.

(B) Any waiver granted by the Secretary under subparagraph (A) shall require that—

(i) The individuals employed under such waiver be employed outside of school hours for the school district where they are living while so employed;

(ii) Such individuals while so employed commute daily from their permanent residence to the farm on which they are so employed; and

(iii) Such individuals be employed under such waiver (I) for not more than 8 weeks between June 1 and October 15 of any calendar year, and (II) in accordance with such other terms and conditions as the Secretary shall prescribe for such individuals' protection.

(b) The child labor provisions of the Fair Labor Standards Act, section 12, require the following age standards for employment in agriculture:

(1) 16 years of age in any occupation at any time;

(2) 14 and 15 years of age outside of school hours except in occupations found and declared by the Secretary to be particularly hazardous for the employment of minors under 16 years of age (subpart E-1, 29 CFR 570.70, et seq.);

(3) 12 and 13 years of age in nonhazardous occupations outside of school hours if:

(i) Such employment is with the written consent of a parent or person standing in the place of a parent of such minor, or

(ii) Such employment is on the same farm where such parent or person is also employed;

(4) Under 12 years of age in nonhazardous occupations outside of school hours if such employment is with the written consent of a parent or person standing in place of a parent of such minor, on a farm where, because of the provisions of section 13(a)(6)(A) of the Act, none of the employees are required to be paid at the wage rate prescribed by section 6(a)(5) of the Act;

(5) 10 and 11 years of age in nonhazardous occupations outside of school hours employed to hand-harvest short season crop or crops under a waiver issued pursuant to section 13(c)(4) of the Act and this part:

(6) Minors of any age may be employed by their parents or persons standing in place of their parents at any time in any occupation on a farm owned or operated by their parents or persons standing in place of their parents.

(c) This part provides the procedures to be used under section 13(c)(4) of the Act. This part describes the information and defines the supporting data that the employer or group of employers must submit when applying for a waiver of the child labor provisions for the employment of 10 and 11 year old minors as hand-harvest laborers in an agricultural operation. It further explains the specific requirements imposed by the statute for employment under a waiver and specifies the conditions prescribed by the Secretary for employment under a waiver.

§ 575.2 Definitions.

As used in this part—

"Act" means the Fair Labor Standards Act of 1938, as amended (52 Stat. 1060, as amended; 29 U.S.C. 201, et seq.).

"Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, and includes an authorized representative designated by the Administrator to perform any of the functions of the Administrator under this part.

"Agriculture" means agriculture as defined in section 3(f) of the Act and as interpreted in part 780 of this chapter.

"Commute daily" means the minors shall travel by foot, car, or other vehicle designed for transporting passengers from their permanent residences to the field or farm where they will work and return thereto at the end of each workday.

"Department" means the U.S. Department of Labor.

"Employer" means employer as defined in section 3(d) of the Act.

"Group of employers" means a number of employers who seek to be considered together for the purpose of applying for a waiver under section 13(c)(4) of the Act.

"Hand-harvest laborers" means agricultural workers engaged solely in harvesting by hand soil grown crops such as but not limited to berries, potatoes, and beans, and as interpreted in § 780.312 of this chapter.

"Outside school hours" means such periods as determined by the school district of the minor's permanent residence. These periods include before or after school hours, holidays, summer vacation, Saturdays, Sundays, or any other days on which the school for the school district does not assemble.

"Permanent residence" means the place where the minor and the minor's parent or person standing in place of a parent reside year-round.

"Secretary" means the Secretary of Labor, United States Department of Labor, or an authorized representative of the Secretary.

"Waiver" means a letter signed by the Administrator advising the named employer or group of employers that 10 and 11 year old minors may be employed in the hand-harvesting of the specified short season crop or crops for the period designated, in accordance with the terms and conditions set forth in section 13(c)(4) of the Act and this part.

§ 575.3 Application for waiver.

(a) An application for a waiver shall be filed with the Administrator of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor, Washington, D.C. 20210. To permit adequate time for processing, it is recommended that such applications be filed 6 weeks prior to the period the waiver is to be in effect.

(b) No particular form is prescribed. The application, which may be in letter form, shall be typewritten or clearly written and shall include the following information:

(1) The general information as described in section 575.4 of this part:

(i) Name and address of employer or group of employers;

(ii) Telephone number;

(iii) Location of farm(s);

(iv) Crop or crops to be hand harvested;

(v) Whether payment is customarily paid on a piece rate basis;

(vi) Requested period of waiver;

(vii) Statement that such employment shall be outside school hours;

(2) The objective data as required in section 575.5 of this part to show that:

(i) The crops have a short harvesting season;

(ii) Without 10 and 11 year olds the industry would suffer severe economic disruption;

(iii) Employment will not be deleterious to the health and well-being of 10 and 11 year olds;

(iv) The level of pesticides will not adversely affect 10 and 11 year olds;

(v) Individuals 12 years and over are not available for employment;

(vi) Employer or group of employers has traditionally used minors under 12 years and this will not displace employees 16 years or older.

(c) The application shall be signed and dated by the employer or group of employers requesting the waiver or by the authorized representative of such employer or group.

§ 575.4 Information to be included in application.

An application for a waiver pursuant to Section 13(c)(4) of the Act shall contain the following information:

(a) The name, address, and zip code of the employer, or each employer of a group of employers, and the authorized representative, if any, of an employer or group.

(b) The telephone number and area code for any employer or authorized representative from whom additional information concerning the application may be obtained.

(c) The address, location, and/or area (State, county, and/or other geographic designation), clearly identifying each employer's farm(s) or field(s) where 10 and 11 year old hand-harvest laborers are to be employed.

(d) The specific crop or crops to be hand-harvested at each designated farm or field.

(e) Substantiation of the claim that such agricultural operation "is customarily and generally recognized as being paid on a piece rate basis in the region in which such individuals would be employed." The Administrator will accept signed statements to that effect from agricultural employers and employees and others, such as agricultural extension agents, in the region of employment who are familiar with farming operations and practices in the region and with the method of compensation used in such operations and practices.

(f) Designated dates of not more than 8 weeks in any calendar year, between June 1 and October 15, during which it is anticipated that 10 and 11 year old minors will be employed in the hand-harvesting of the specified short season crop or crops.

(g) A statement that the 10- and 11-year old hand harvesters will be employed outside school hours.

§ 575.5 Supporting data to accompany application.

Objective data, as required by Section 13(c)(4) of the Act, shall also be submitted by the employer or group of employers applying for a waiver, to show that:

(a) The crop to be harvested is one with a "particularly short harvesting season." The variety of each crop to be harvested must ordinarily be harvested within 4 weeks in the region in which the waiver will be applicable. The Administrator will accept the written statement to that effect from the agricultural extension agent for the county.

(b) The 12-year minimum age prescribed by the Act for such employment would cause "severe economic disruption in the industry of the employer or group of employers applying for the waiver." Severe economic disruption in the industry refers to the consequences of not meeting a compelling need for the employment of 10- and 11-year olds to avoid loss of a significant portion of the crop. Evidence of this need includes the projected number of laborers needed to harvest the acreage planted and evidence that recruitment requirements specified in subsection (e) of this section have been complied with. Data concerning the number of hand harvest laborers used in previous years for given acreages will serve as a basis for evaluating needs for the current year. If the requisite number of workers cannot be recruited from the labor supply of 12 years and above, this would ordinarily demonstrate the compelling need for the employment of 10- and 11-year olds.

(c) The employment of minors under the waiver "would not be deleterious to their health or well-being." This refers to the prospective effect on the health or well-being generally (i.e., other than the tolerance level of pesticides or other chemicals) of 10 and 11-year old hand harvesters. The Administrator will accept signed statements to that effect from doctors, or nurses or public health officials in the region.

(d) The "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of minors employed under the waiver. The safe reentry standards established by the Environmental Protection Agency, and followed by other federal and state agencies, were established for adult workers and have not been shown to be safe for 10 and 11 year olds. Therefore, the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year

olds. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds, this section will be amended to include such standards and the applicant will then need only identify the type and level of pesticides or chemicals used and the date of last application of same prior to harvest.

(e) Individuals age 12 and above are not available for such employment. Evidence of such unavailability must be documented by the applicant by: (1) Placement of intrastate and interstate job orders, in which the piece rate is specified, with the state employment service sufficiently in advance of the harvest to allow reasonable time for the recruitment of local and migrant workers. An interstate order need not be placed if the applicant can demonstrate that suitable housing is not available. (2) Placement of at least two advertisements in local papers of general circulation or advertisements over local radio stations. (3) Contact with farm labor contractors, migrant workers, and other potential workers. (4) Contact with schools, business and labor organizations, non-profit organizations and public agencies to enlist their help. Data showing the responses received to these solicitations must be categorized by age and submitted with the waiver application to verify that older workers are not available to perform the work.

(f) The "industry of such employer or groups of employers has traditionally and substantially employed individuals under twelve years of age without displacing substantial job opportunities for individuals over sixteen years of age." Documentation that the industry has traditionally and substantially employed individuals under 12 years of age may include newspaper reports, magazine articles, research organization reports, or other appropriate sources. Data to indicate that such employment did not displace substantial job opportunities for individuals over 16 years of age may include the signed statement of an appropriate official of the employment service agency of the State (or States, if region designated crosses State lines) certifying to that fact. This certification must be based on statistical documentation for at least the previous year.

(g) In those instances where supporting data are submitted for a group of employers, the objective data required by paragraphs (a), (c), (e), and (f) of this section may be submitted for the specific geographic area, e.g., an entire county, of the group of employers. However, the information required by paragraphs (b) and (d) of this section shall be submitted on the basis of each individual employer.

§ 575.6 Procedure for action on an application.

(a) Upon receipt of an application for a waiver, the Administrator shall review all of the information and supporting data. If sufficient, the Administrator shall grant a waiver; if insufficient, the Administrator may seek further information. If such information is not made available to the Administrator, the Administrator shall deny the waiver.

(b) The Administrator shall deny the application for a waiver from any employer against whom a final civil money penalty is outstanding under section 16(e) of the Act for violation of the child labor provisions of the Act.

(c) The waiver, in the form of a letter signed by the Administrator, shall set forth the terms and conditions for employment under the waiver as provided in §§ 575.7 and 575.8. The waiver shall be issued to the employer or group of employers applying for it.

(d) If a waiver is granted there will be published in the FEDERAL REGISTER a general notice to that effect setting forth for each waiver granted: the name of the employer or the name of each employer of a group of employers; the address of each such employer, including city, state, and zip code; and the dates of the period the waiver will be in effect.

(e) If a waiver is denied, the Administrator shall give written notice of such denial to the employer or group of employers applying for a waiver. Such denial will be without prejudice to the filing of any subsequent application.

§ 575.7 Statutory conditions for employment under the waiver.

Any waiver granted pursuant to Section 13(c)(4) of the Act and this part shall require that:

(a) Employment of 10 and 11 year old minors pursuant to the waiver be outside school hours.

(b) Individuals employed commute daily from their permanent residence to the farms(s) or field(s) where employed.

(c) Such individuals be employed for not more than 8 weeks between June 1 and October 15 of any calendar year. When schools are in session, any employment under a waiver shall be confined to outside of school hours.

§ 575.8 Secretary's conditions for employment under the waiver.

The Secretary prescribes the following terms and conditions for the protection of minors employed pursuant to a waiver granted under Section 13(c)(4) of the Act:

(a) An employer or group of employers granted such a waiver shall obtain and keep on file a signed statement of the parent or person standing in the

place of the parent of each 10 and 11-year old minor employed consenting to the employment of such minor under the waiver.

(b) Any employment pursuant to a waiver shall be in compliance with applicable Federal and State laws, and any regulations issued under them.

(c) No employer or group of employers shall employ any 10 or 11 year old minor pursuant to a waiver for more than 5 hours in any one day or for more than 30 hours in any workweek with a meal break of at least 30 minutes and two rest breaks of at least 15 minutes each.

(d) An employer or group of employers granted such a waiver shall provide immediately adjacent to the field(s) to be hand harvested: (1) Adequate sanitary facilities, such as portable toilets; (2) adequate and clean drinking water in covered containers with spouts, and an adequate supply of paper or plastic cups for individual drinking use; and (3) a specified adult employee, who is appropriately equipped and is knowledgeable about first-aid treatment and readily available to give such treatment when needed.

(e) An employer or group of employers granted such a waiver shall provide emergency transportation either to the minor's permanent residence or to the nearest hospital for any 10 or 11 year old hand harvester who becomes ill or is injured during the normal hours of employment.

(f) No 10 or 11-year old employed under a waiver shall ride upon or be employed in the operation of or in the close proximity to any power driven machinery or equipment. Generally, a distance of fifty feet or more will be construed to meet the requirement that employment not be in "close proximity" to machinery or equipment.

(g) An employer or group of employers granted such a waiver who owns, operates, or causes to be operated any vehicle for the transportation of such minors shall be responsible for assuring that:

(1) Every such vehicle is in compliance with all applicable Federal and State safety and health standards and with the rules and regulations issued by the Bureau of Motor Carrier Safety, Federal Highway Administration of the U.S. Department of Transportation;

(2) Every such vehicle be designed for transporting passengers and be operated by a lawfully licensed driver; and

(3) A vehicle liability insurance policy provides insurance in an amount not less than the amounts applicable to vehicles used in the transportation of passengers under the Interstate Commerce Act and its regulations. These amounts currently are as follows:

Insurance required for passenger equipment

	12 or less passengers	More than 12 passengers
Limit for bodily injuries to or death of 1 person	\$100,000	\$100,000
Limit for bodily injuries to or death of all persons injured or killed in any 1 accident (subject to a maximum of \$100,000 for bodily injuries to or death of 1 person)	300,000	500,000
Limit for loss or damage in any 1 accident to property of others (excluding cargo) ..	50,000	50,000

(h) A copy of the waiver shall be posted or readily available at the site or sites of such employment of such minors during the entire period.

(i) The employer or group of employers shall maintain and preserve a record of the name, address, and occupation of each minor employed under the waiver in accordance with § 516.33(b) of this chapter. In addition, the record shall also include the date of birth, the name and address of the school in which the minor is enrolled, and the number of hours worked each day and each week of the designated period. Each employer required to maintain records under this part shall preserve them for a period of at least 2 years.

(j) A waiver shall be effect for the period designated therein with no provision for amendment.

§ 575.9 Failure to comply with the terms and conditions of the waiver.

If the employer or group of employers granted a waiver pursuant to Section 13(c)(4) of the Act and this part do not comply with the terms and conditions set forth in the waiver and this part, the waiver shall be null and void and the employer or group of employers will be subject to civil money penalties under Section 16(e) of the Act.

Signed at Washington, D.C. on this 19th day of June, 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-17239 Filed 6-20-78; 8:45 am]

[3810-01]

Title 32—National Defense

CHAPTER XVIII—DEFENSE CIVIL PREPAREDNESS AGENCY, DEPARTMENT OF DEFENSE

PART 1806—OFFICIAL CIVIL DEFENSE INSIGNE

Final Rule

AGENCY: Defense Civil Preparedness Agency.

ACTION: Final rule.

SUMMARY: This revision of the regulation, which governs use of the official civil defense insignia, updates the regulation by deleting obsolete provisions and more accurately reflecting the existing use of the insignia by State and local civil defense agencies.

EFFECTIVE DATE: June 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Walter Girstantas, Assistant Director for Administrative Services, Defense Civil Preparedness Agency, Room 1D487, Pentagon, Washington, D.C. 20301, 202-695-3402.

SUPPLEMENTARY INFORMATION: The FEDERAL REGISTER for Thursday, March 16, 1978 contained a proposed revision to the Defense Civil Preparedness Agency Regulation, 32 CFR Part 1806, on the Official Civil Defense Insignia 43 FR 10940. Comment on the revision was invited by April 17, 1978, but this was extended to May 17, 1978. In addition, DCPA mailed copies to all State and local civil defense agencies. Six States and 35 local agencies, and one State association of local agencies submitted comments. For the most part, such a submission either specifically endorsed the revision to the regulation, or submitted editorial or technical comments which implied no opposition.

However, two States and five political subdivisions submitted comments to the effect that the term "civil defense" and the insignia letters CD had outlived their usefulness and should be discontinued. It was believed that new developments in the area of emergency civil preparedness indicated some alternative insignia might be in order. This appears to be a minority view.

Some of the comments seemed to indicate a view that the regulation preempted the field and requires uniformity in insignia or seals. This is not the case. However, it is desirable to make it quite clear that a civil defense agency may use an insignia, even one which is a colorable imitation of the official insignia, if it believes such reflects more correctly its scopes of activities. Therefore, the purpose clause, § 1806.1, has been revised to contain a disavowal of any attempt to establish an exclusive insignia. Furthermore, DCPA has taken, and where needed will take, steps to remove any requirement that this specific insignia be marked on equipment or facilities acquired with Federal financial assistance.

There was one suggestion that the international sign be adopted as a new uniform U.S. sign. This is quite premature and the provision distinguishing this sign and the international sign is retained.

A few technical comments were submitted on placing of the names of services or States or political subdivisions on or around the insignie. These varied, and rather than try to reconcile views, it was thought best to grant wide latitude to State or local agencies. The specifics previously in § 1806.3(c) have been removed entirely. The "services" include police, fire and the like.

Editorial changes were made in §§ 1806.6 and 1806.8.

As the revision is editorial in nature, incorporates no new provisions, and has been circulated to all interested agencies, it is desirable to make same effective immediately on June 21, 1978.

Accordingly, Part 1806, Title 32, Code of Federal Regulations is revised to read:

Sec.

- 1806.1 Purpose.
- 1806.2 Definitions.
- 1806.3 Prescribed insignie.
- 1806.4 Official articles.
- 1806.5 Manufacture, reproduction and display of the prescribed insignie.
- 1806.6 Distribution, issuance, and retail sale of the prescribed insignie.
- 1806.7 Prohibited use of the prescribed insignie.
- 1806.8 Violations.

AUTHORITY. Sec. 204 and 401, Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2284 and 2253); Reorganization Plan No. 1 of 1958, 72 Stat. 1799; Executive Order 10952, 26 FR 6577; DOD Directive 5105.43; 37 FR 18636.

§ 1806.1 Purpose.

(a) The purpose of the regulations in this part is to prescribe an insignie which may be used by any State or local civil defense organization and by persons engaged in civil defense activities approved by such organizations and to establish requirements for the reproduction, manufacture, display, sale, possession, and wearing thereof.

(b) This does not mean that a State or local civil defense, civil preparedness, or emergency services organization may not, under its own authority, establish and use its own insignie, seal, or similar device. There is no attempt to preempt the field.

§ 1806.2 Definitions.

Except as otherwise stated, the following terms shall have the following meanings when used in the regulations in this part:

(a) "Director, DCPA" means the Director, Defense Civil Preparedness Agency.

(b) "Civil Defense Agency" means a unit of a State or of a political subdivision established pursuant to law and responsible for the development of those activities and measures which are authorized for civil defense organizations either under Federal or State or local law.

(c) "Civil Defense Director" means the person or body having authority over a civil defense agency and any duly authorized designee of such person or body. Such term may refer either to a State Director or to the civil defense director of a political subdivision.

(d) "Official articles" means articles designated as such by the Director, DCPA and embodying the prescribed insignie.

(e) "Organizational equipment" means equipment (other than personal equipment) which the Director, DCPA determines is necessary to a civil defense organization for civil defense purposes and which is of such a nature as to require the contribution of Federal funds, but not including items of equipment which the local community normally utilizes in combating local disasters except when required in unusual quantities dictated by the requirements of civil defense plans.

(f) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

§ 1806.3 Prescribed insignie.

(a) The prescribed insignie shall be the design covered under Letters Patent 129797, October 7, 1941, consisting of the "CD" symbol in bright red, centered within a white equilateral triangle superimposed upon a dark blue circle.

(b) The prescribed insignie may be reproduced in the above colors, in black and white, or in the color of the surface upon which reproduced and one other color: *Provided*, That if the color of the surface or the ground is orange, the triangle shall not be blue. The intent of this restriction is that this insignie shall not be confused with the international civil defense sign established in the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) and Annexes.

(c) Where appropriate, the name of a particular civil defense service, the State, or a political subdivision, may be spelled out in block letters on, in, or immediately surrounding the prescribed insignie.

(d) The dimensions of the components of the prescribed insignie when the blue circle is three inches in diameter will approximate the following: The triangle will be equilateral two and one-quarter inches on a side, each of the letters in the "CD" symbol will be three-sixteenth inches in thickness and will occupy a circle one and one-eighth inches in diameter centered in the triangle. Other sizes of the prescribed insignie will be established by diameter of the blue circle only; to the extent that the diameter of the blue

circle is greater or less than three inches, the dimensions of the other components shall be proportionately increased or decreased.

(e) The following alteration or modification of the prescribed insignie is authorized pursuant to § 1806.5(d):

Radio Amateur Civil Emergency Service. Superimposed on the official civil defense insignie a white jagged arrow edged in blue resembling a flash of lightning, symbolic of space radiation, containing the inscription "Radio" in blue letters, and extending from the upper right circumference of the blue circle and through the lower left-hand angle of the triangle. Below the triangle and within the blue circle is the inscription "RACES" in white letters.

§ 1806.4 Official articles.

(a) Official articles shall consist of the following articles embodying the insignie:

- (1) Arm bands.
- (2) Badges.
- (3) Hat bands.
- (4) Helmets.
- (5) Pennants, placards, plates, or stickers for aircraft, vehicles, or vessels.
- (6) Membership cards.

(b) No person shall possess, display, wear, or use an official article unless such person is authorized to do so by the Director, DCPA or by a Civil Defense Director: *Provided*, That this prohibition shall not apply to the possession or display of official articles by a manufacturer, wholesaler, or retailer in the normal course of business, or to display of pennants, placards, plates, or stickers on aircraft, vehicles, or vessels designated for operational use by a Civil Defense Director.

§ 1806.5 Manufacture, reproduction and display of the prescribed insignie.

(a) Any individual, association or business entity may manufacture the prescribed insignie and official articles in compliance with these regulations.

(b) The prescribed insignie may be manufactured, reproduced, and displayed only:

- (1) On official articles.
- (2) On organizational equipment.
- (3) On items of identification issued by a Civil Defense Director to permit necessary movement of persons, vehicles and equipment during a period of emergency operations.
- (4) On facilities and equipment designated for emergency operational use by a Civil Defense Director and on devices used for alerting the public in time of emergency.
- (5) On official letterheads, publications, posters, signs, advertisements, lapel pins, pennants, placards, flags, banners, certificates of membership and certificates of award used, issued, or authorized by a Civil Defense Agency or Civil Defense Director.
- (6) In connection with articles or advertisements in newspapers, maga-

zines, or other publications, or in connection with television or other public information media: *Provided*, Such use is not intended to discredit the Defense Civil Preparedness Agency or a Civil Defense Agency, or to mislead, confuse, misrepresent, defraud, or does not erroneously confer the impression of endorsement, approval, or relationship to the Defense Civil Preparedness Agency or a Civil Defense Agency.

(7) On the merit badge for "Emergency Preparedness" designed for and as authorized and awarded by the Boy Scouts of America, together with the reproduction of such merit badge on any publication or certificate of award to be used or issued by said organization in connection therewith.

(8) On such other items, whether official articles or not, as may be designated or approved by the Director, DCPA in writing.

(c) Without limitation of the foregoing, the reproduction of the prescribed insignia in connection with any publication or article used for political purposes is prohibited.

(d) No alteration or modification of the prescribed insignia may be made except as the Director may from time to time authorize.

§ 1806.6 Distribution, issuance, and retail sale of the prescribed insignia.

No distribution, issuance, or retail sale of the prescribed insignia or official articles shall be made except upon the authorization of a Civil Defense Director; the Director, DCPA; or in accordance with the regulations in this Chapter.

§ 1806.7 Prohibited use of the prescribed insignia.

No person shall possess or wear the prescribed insignia or any other device in colorable imitation thereof with intent to deceive or mislead or for the purpose of inducing the false impression that such person is engaged in the performance of an authorized civil defense service or activity.

§ 1806.8 Violations.

The manufacture, possession, or wearing by any person of the prescribed insignia or any device in colorable imitation thereof otherwise than in accordance with these regulations shall be unlawful and shall subject such person to a fine of not more than \$1,000 or imprisonment of not more than one year, or both.

Dated: June 9, 1978.

BARDYL R. TIRANA,
Director, Defense Civil
Preparedness Agency.

[FR Doc. 78-17111 Filed 6-20-78; 8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

**CHAPTER II—CORPS OF ENGINEERS,
DEPARTMENT OF THE ARMY**

**PART 207—NAVIGATION
REGULATIONS**

Fox River, Wisconsin

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule amends regulations which govern the use, administration and navigation of the locks and canals on the Fox River, Wisconsin. The regulations are amended with respect to operating hours to make all times of operation consistent throughout the system and to make certain editorial changes.

EFFECTIVE DATE: June 21, 1978.

**FOR FURTHER INFORMATION
CONTACT:**

Mr. Ralph T. Eppard at 202-693-5070 or write: Office of the Chief Of Engineers, ATTN: DAEN-CWO-N, Washington, D.C. 20314.

SUPPLEMENTARY INFORMATION: The proposed revision was published in the FEDERAL REGISTER (43 FR 14652) with the comment period expiring on 15 May 1978. We received no comments and accordingly, pursuant to the provisions of section 7 of the River and Harbor Act approved 8 August

1917 (40 Stat. 266; 33 U.S.C. 1) we are hereby amending the regulations in 33 CFR 207.460 as set forth below:

Dated: June 5, 1978.

MICHAEL BLUMENFELD,
Deputy Under Secretary of
the Army.

Section 207.460 is amended by revising paragraphs (a)(2), (a)(6)(iv) and (a)(15) as set forth below.

§ 207.460 Fox River, Wisc.

(a) * * *

(2) *Authority of Lockmaster.* The movement of all boats, vessels, tows, rafts, and floating things, both powered and nonpowered, in the canals and locks, approaches to the canals, and at or near the dams, shall be subject to the direction of the Lock Master or his duly authorized representatives in charge at the lock.

* * *

(6) Provisions for lockage service.

* * *

(iv) All craft will be given lockage at DePere and Menasha Locks between 8 a.m. and 12 midnight daily during the recreational boating season as established by the District Engineer. At all intermediate locks above DePere and below Menasha, lockages without prior notice will be provided between the hours of 10 a.m. and 6 p.m. daily. In addition lockages will be provided during certain other hours at the intermediate locks provided prior requests are made to the Corps of Engineers, Fox River Project Office.

NORMAL AND ADDITIONAL LOCKAGE TIMES

Lock location	Normal lockage times without prior request	Additional lockage times with prior request (note 1)	Notes
Menasha	8 a.m. to 12 midnight	None	None.
Appleton	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	2, 3, and 4.
Cedars	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Little Chute	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Combined	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Kaukauna	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Rapide Croche	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Little Kaukauna	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	2, 3, 4, 5, and 6.
DePere	8 a.m. to 12 midnight	None	None.

NOTE 1. a. Requests may be made either in writing, by telephone or in person to the U.S. Army, Corps of Engineers, Fox River Project Office, 1008 Augustine Street, Kaukauna, Wisc. 54130, telephone: 414-766-3531.

b. Regular business hours of the Fox River Project Office are from 7:30 a.m. to 4 p.m., Monday through Friday.

* * *

f. If, for any reason, a requested lockage will not be made or must be delayed unreasonably, prompt notice must be given to the Fox River Project Office, or, if after office hours (See "b" and "c" above), to the Lockmaster at either Menasha or DePere Locks.

NOTE 2. For lockages between 8 a.m. and 10 a.m. at all the intermediate locks:

a. Request for lockages during these hours must be received in the Fox River Project

Office no later than 1 p.m. on the day before lockage is required.

* * *

NOTE 3. For lockages between 6 p.m. and 12 midnight at all intermediate locks:

a. Requests for lockages during this period must be received in the Fox River Project Office no later than 1 p.m. on the day lockage is required.

* * *

NOTE 6. For lockages between 6 p.m. and 11 p.m. at Little Kaukauna Lock:

Lockages will be granted north and south-bound at Little Kaukauna Lock without prior request from 6 p.m. to 11 p.m. on Friday, Saturday, Sunday, and holidays from the weekend before Memorial Day through the weekend after Labor Day.

* * *

(15) *Commercial statistics.* (i) As required by section 11 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555), owners, agents, masters, or clerks of vessels plying the waterway shall submit a report on such activities for statistical purposes which shall contain the following information:

Name of vessel.
Name and address of owner or operator.
Type of vessel—steam, motor, sail, barge, or other type.
Number of passengers.
Net registered tonnage—if not registered, approximate net tonnage.
Maximum draft at time of passage.
Cargo—by commodities, expressed in tons, or other units by which such commodities are customarily measured, giving origin and destination.

(ii) The report shall be mailed promptly to the District Engineer, Chicago District, Corps of Engineers, Attn: Construction-Operations Division-Statistics, 219 South Dearborn Street, Chicago, Ill. 60604 on forms furnished free of charge by that office. On written request, persons or corporations making frequent use of the waterway may be granted permission to submit monthly statements in lieu of reports by trips.

* * *

AUTHORITY: (40 Stat. 266; 33 USC 1)

NOTE.—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

[FR Doc. 78-17110 Filed 6-20-78; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART I—GENERAL PROVISIONS

National Cemeteries

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: The Veterans Administration issues regulations to the operation of the Department of Memorial Affairs (National Cemetery System). The purpose is to inform the public of the eligibility criteria for headstones and markers, interments and burial of remarried spouses and other matters related to national cemeteries and the headstone and marker program.

EFFECTIVE DATE: June 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Earl W. Zieg, Veterans Administration, Department of Memorial Affairs (40D), 810 Vermont Avenue, NW., Washington, DC 20420, 202-389-5235.

SUPPLEMENTAL INFORMATION: On page 1628 of the FEDERAL REGISTER of January 11, 1978, there was published a notice of proposed regulatory development to revise § 1.600 and to add §§ 1.601 through 1.632 relating to the operation of the Department of Memorial Affairs (National Cemetery System).

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. One comment was received. No changes to the regulations are required as a result of the comment.

Since these regulations were published for comment, the Director, National Cemetery System has also been designated as the Chief Memorial Affairs Director due to a reorganization of the Veterans Administration.

The proposed regulations are adopted with change in organizational title and are set forth below.

Approved: June 14, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

Section 1.600 is revised and §§ 1.601, 1.602, 1.603, 1.604, 1.620, 1.621, 1.630, 1.631, and 1.632 are added so that the added and revised material reads as follows:

Sec.

1.600 The National Cemetery System.

Sec.

1.601 Advisory Committee on Cemeteries and Memorials.

1.602 Names for national cemetery activities.

1.603 Gifts and donations.

1.604 Law enforcement and standards of conduct.

1.605-1.619 [Reserved]

1.620 Eligibility for burial.

1.621 Disinterments from national cemeteries.

1.622-1.629 [Reserved]

1.630 Headstones and markers.

1.631 Eligibility for headstone or marker.

1.632 Headstone and marker application required.

AUTHORITY.—§§ 1.600 to 1.632 issued under 72 Stat. 1114, as amended, 87 Stat. 75; 38 U.S.C. 210, Chapter 24.

§ 1.600 The National Cemetery System.

The National Cemetery System authorized by 38 U.S.C. Chapter 24 (the National Cemeteries Act of 1973) consists of all cemeteries under the jurisdiction of the Veterans Administration on June 18, 1973, and the national cemeteries, soldiers' lots, confederate plots, cemeteries and monuments, and a national monument site and the Government-owned lots in the Congressional Cemetery, Washington, D.C., which were transferred on September 1, 1973, from the Department of the Army to the Veterans Administration, and any additional cemeteries designated by the Administrator. The Chief Memorial Affairs Director serves concurrently as the Director, National Cemetery System.

§ 1.601 Advisory Committee on Cemeteries and Memorials.

Responsibilities in connection with Committee authorized by 38 U.S.C. Chapter 24 are as follows:

(a) The Administrator shall appoint the Committee members and consult with the Committee with respect to the administration of the cemeteries, selection of cemetery sites, the erection of appropriate memorials and the adequacy of Federal burial benefits.

(b) The Chief Memorial Affairs Director will schedule the frequency of meetings, make presentations before the Committee, participate when requested by the Committee, evaluate Committee reports and recommendations and make recommendations to the Administrator based on Committee actions.

(c) The Committee will evaluate and study cemeterial, memorial and burial benefits proposals or problems submitted by the Administrator or Chief Memorial Affairs Director, and make recommendations as to course of action or solution. Reports and recommendations will be submitted to the Administrator for transmission to Congress.

§ 1.602 Names for national cemetery activities.

(a) *Responsibility.* The Administrator is responsible for naming national