(3) Commodity Credit Corporation may, by special announcements, offer to purchase other dairy products to support the price of milk.

(4) Purchase announcements setting forth terms and conditions of purchase may be obtained upon request from the United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Procurement and Sales Division, P.O. Box 2415, Washington, D.C. 20013, or the United States Department of Agriculture, Agricultural Stabilization and Conservation Service, Kansas City ASCS Commodity Office, P.O. Box 8377, Shawnee Mission, Kansas 66208.

(b)(1) Commodity Credit Corporation will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

[In dollars per pound]

| Commodity and location | Produced | |
|---|---|---|
| | before 10-1-79 | On or after 10-1-79 |
| Cheddar cheese: Standard moisture 37.8 to 39.0 pct:[1] | | |
| 40-pound blocks, U.S. grade A or higher | 1.16 | 1.24 |
| 500 pounds in fiber barrels U.S. extra grade:[2] | 1.13 | 1.21 |
| Nonfat dry milk: Spray process, U.S. extra grade:[3] | | |
| Nonfortified | .79 | .84 |
| Fortified (vitamins A and D) | .805 | [4].8525 |
| Butter: U.S. grade A or higher: New York, N. Y., and Jersey City, Newark, and Secaucus, N.J. | 1.24 | 1.34 |

[1] The price per pound for cheese which contains less than 37.8 percent moisture shall be as specified in Form ASCS-150. Copies are available in offices listed in (a)(4).

[2] Also includes granular cheese.

[3] If upon inspection bags do not fully comply with specifications, the price paid will be subject to a discount of .50 cent (½ cent) per pound of nonfat dry milk.

[4] Purchases will be discontinued after December 31, 1979, until further notice.

(2) Offers to sell butter at any location for which a price is not specifically provided for in this section will be considered at the price set forth in this section for New York, less 80 percent of the lowest published domestic railroad through freight rate for frozen butter per pound gross weight for a 60,000 pound carlot, in effect at the beginning of each marketing year (October 1), from such other point to New York City. The minimum price at any location shall be the price at New York City minus 2.5 cents per pound for butter produced before October 1, 1979, and minus 3.0 cents per pound for butter produced on or after that date. Bulk butter offered in the area consisting of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia, must have been produced in such states. Butter produced elsewhere is ineligible for offering to CCC in such states.

(c)(1) The block cheese shall be U.S. Grade A or higher; the barrel cheese shall be U.S. Extra Grade.

(2) The nonfat dry milk shall be U.S. Extra Grade, except moisture content shall not exceed 3.5 percent.

(3) The butter shall be U.S. Grade A or higher.

(d) The products shall be manufactured in the United States from milk produced in the United States and shall not have been previously owned by CCC.

(e) Purchases will be made in carlot weights specified in the announcements. Grade and weights shall be evidenced by inspection certificates issued by the U.S. Department of Agriculture.

(Secs. 201, 401, Pub. L. 439, 81st Cong. 63 Stat. 1052, 1054, as amended (7 U.S.C. 1446, 1421); secs. 4 and 5, Pub. L. 806, 80th Cong., 62 Stat. 1070, 1072, as amended (15 U.S.C. 714 b and c).)

Note.—This regulation has been determined to be significant under the USDA criteria implementing Executive Order 12044. A Final Impact Statement is available from Donald E. Friedly, Agricultural Economist, Dairy Branch, Procurement and Sales Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 5741 South Building, P.O. Box 2415, Washington, D.C. 20013, (202-447-3571).

Signed at Washington, D.C. on: October 17, 1979.

**Ray Fitzgerald,**

*Executive, Vice President Commodity Credit Corporation.*

[FR Doc. 79-33082 Filed 10-25-79; 8:45 am]

BILLING CODE 3410-05-M

## Animal and Plant Health Inspection Service

## 9 CFR Part 78

## Brucellosis Areas

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

**ACTION:** Final rule.

**SUMMARY:** These amendments add the county of Elmore in Idaho and the counties of Crawford, Dickinson, Geary, Harvey, Lincoln, Osage, Sumner, and Wabaunsee in Kansas to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas. These amendments also add the counties of Cameron and Evangeline in Louisiana to the list of Noncertified Areas and delete them from the list of Modified Certified Brucellosis Areas because it has been determined that these counties now qualify only as Noncertified Areas. The effect of this action will provide for more restrictions on cattle and bison moved interstate from these areas.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8713.

**SUPPLEMENTARY INFORMATION:** A complete list of brucellosis areas was published in the **Federal Register** (44 FR 36373-36375) effective June 22, 1979. These amendments add the county of Elmore in Idaho and the counties of Crawford, Dickinson, Geary, Harvey, Lincoln, Osage, Sumner, and Wabaunsee in Kansas, to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(l) of the regulations. These amendments add the counties of Cameron and Evangeline in Louisiana to the list of Noncertified Areas in § 78.22 and delete these counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now qualify only as Noncertified Areas as defined in § 78.1(n) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

### § 78.20 [Amended]

1. In § 78.20, paragraph (b) is amended by adding: *Idaho*: Elmore; *Kansas*: Crawford, Dickinson, Geary, Harvey, Lincoln, Osage, Sumner, Wabaunsee.

### § 78.21 [Amended]

2. In § 78.21, paragraph (b) is amended by deleting: *Idaho*: Elmore; *Kansas:* Crawford, Dickinson, Geary, Harvey, Lincoln, Osage, Sumner, Wabaunsee; *Louisiana*: Cameron, Evangeline.

### § 78.22 [Amended]

3. In § 78.22, paragraph (b) is amended by adding: *Louisiana*: Cameron, Evangeline.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 114a-1, 115, 117, 120, 121, 125, 134b,

134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

The amendment designating areas as Noncertified Areas imposes restrictions presently not imposed on cattle and bison moved from that area in interstate commerce. The restrictions are necessary in order to prevent the spread of brucellosis from such area.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 18th day of October 1979.

**Pierre A. Chaloux,**

*Deputy Administrator, Veterinary Services.*

[FR Doc. 79-32820 Filed 10-25-79; 8:45 am]

BILLING CODE 3410-34-M

## 9 CFR Parts 145, 146, 147, 445, 446, and 447

## National Poultry Improvement Plan; Transfer and Redesignation of Regulations

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

**ACTION:** Final rule.

**SUMMARY:** The responsibility for administering the National Poultry Improvement Plan (NPIP) has recently been assigned to the Animal and Plant Health Inspection Service (APHIS). Therefore, it is necessary to transfer the Poultry Improvement regulations from their present location in 9 CFR, Chapter IV, to 9 CFR, Chapter I, assigned to APHIS, and makes appropriate changes to effect the transfer.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mr. R. D. Schar, Senior Coordinator, National Poultry Improvement Plan, APHIS, VS, Bldg. 265, BARC-E, Beltsville, Maryland 20705, 301-344-2227.

**SUPPLEMENTARY INFORMATION:** A national program for the improvement of poultry, poultry products and hatcheries is administered by the Department in cooperation with various State agencies and the poultry industry, under provisions of the National Poultry Improvement Plan (NPIP). Formerly, responsibility for the NPIP was delegated to the Agricultural Research Service (ARS), which subsequently was consolidated into a new Science and Education Administration (SEA). Responsibility for NPIP has recently been delegated to APHIS (44 FR 55549). The NPIP is almost entirely a disease control program and its major objective is to provide a cooperative State-Federal program for the control of egg-transmitted and hatchery-disseminated diseases. The functions of the NPIP are essentially regulatory and are most suitable to a regulatory-oriented agency such as APHIS. The Department believes this new alignment of functions conforms more closely to the missions of the agencies involved and that placing all of the responsibility for cooperative disease control programs in APHIS will enable the Department to serve the public more efficiently. Therefore, the Poultry Improvement regulations in 9 CFR, Chapter IV, are transferred to 9 CFR, Chapter I. This document also changes references in such regulations to the Agricultural Research Service to the Animal and Plant Health Inspection Service, Veterinary Services, and makes other internal cross reference changes to correspond to the changes in numbering of the regulations.

Accordingly, Title 9, Code of Federal Regulations, is amended in the following respects:

**Parts 445, 446 and 447 [Redesignated as Parts 145, 146 and 147]**

**Parts 145, 146 and 147 [Redesignated from Parts 445, 446 and 447]**

1. The regulations currently appearing in Chapter IV, Subchapter A, Parts 445, 446, and 447 are transferred to 9 CFR Chapter I, Subchapter F, and redesignated as Parts 145, 146, and 147, respectively.

**Parts 145 and 147 [Amended]**

2. In redesignated Parts 145 and 147, wherever the words "Agricultural Research Service" appear, it is changed to read "Animal and Plant Health Inspection Service, Veterinary Services."

3. All internal references to sections of Parts 445 and 447 within the regulations are changed to sections of Parts 145 and 147, respectively, as appropriate.

(Sec. 101(b), 58 Stat. 734, (7 U.S.C. 429).)

These amendments relate to internal agency management and, therefore, the notice, public rulemaking procedure and effective date requirements contained in 5 U.S.C. 553 are omitted as unnecessary. Further, since this final rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, "Improving Government Regulations," and Secretary's Memorandum No. 1955.

Done at Washington, D.C., this 19th day of October 1979.

**Pierre A. Chaloux,**

*Deputy Administrator, Veterinary Services.*

[FR Doc. 79-32997 Filed 10-25-79; 8:45 am]

BILLING CODE 3410-34-M

## Science and Education Administration

## 9 CFR Parts 145, 146, 147, 445, 446 and 447

## National Poultry Improvement Plan; Transfer of Regulations and Vacation of Chapter

**AGENCY:** Science and Education Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The responsibility for administering the National Poultry Improvement Plan (NPIP) has recently been assigned to the Animal and Plant Health Inspection Service (APHIS). Therefore, it is necessary to transfer the Poultry Improvement regulations from their present location in 9 CFR Chapter IV, to 9 CFR Chapter I, assigned to APHIS, and vacate 9 CFR Chapter IV.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Dr. H. Graham Purchase, Acting Chief, Livestock and Veterinary Sciences Staff, MPS, AR, SEA, Building 005, BARC–W, Beltsville, Maryland 20705, 301–344–3924.

**SUPPLEMENTARY INFORMATION:** The National Poultry Improvement Plan (NPIP) is almost entirely a disease control program and its major objective is to provide a cooperative State-Federal program for the control of egg-transmitted and hatchery disseminated diseases.

Formerly, responsibility for NPIP was delegated to the Agricultural Research Service (ARS) which subsequently was consolidated into a new Science and Education Administration (SEA). Responsibility for NPIP has recently been delegated to APHIS (44 FR 55549). Therefore, the Poultry Improvement regulations in 9 CFR Chapter IV, are transferred to 9 CFR Chapter I, Animal and Plant Health Inspection Service, and 9 CFR Chapter IV is vacated.

1. Accordingly, Title 9, Code of Federal Regulations, Chapter IV, Subchapter A, is amended in the following respects:

**Parts 445, 446 and 447 [Redesignated as 145, 146, and 147]**

**Parts 145, 146 and 147 [Redesignated from 445, 446, and 447]**

1. The regulations currently in 9 CFR Chapter IV, Subchapter A, Parts 445, 446, and 447, are transferred to 9 CFR Chapter I, Subchapter F and redesignated as Parts 145, 146, and 147, respectively.

**9 CFR Chapter IV [Removed]**

2. 9 CFR Chapter IV is hereby vacated.

(Sec. 101(b), 58 Stat. 734, (7 U.S.C. 429).)

These amendments relate to internal agency management and, therefore, the notice, public rulemaking procedure and effective date requirement contained in 5 U.S.C. 553 are omitted as unnecessary. Further, since this final rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, "Improving Government Regulations," and Secretary's Memorandum No. 1955.

Done at Washington, D.C. this 19th day of October 1979.

**T. B. Kinney, Jr.,**

*Associate Deputy Director for Agricultural Research.*

[FR Doc. 79-32998 Filed 10-25-79; 8:45 am]

BILLING CODE 3410-03-M

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 226

**[Regulation Z]**

### Truth in Lending; Unofficial Staff Interpretation

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Unofficial staff interpretation.

**SUMMARY:** In response to a request, the Board is publishing the following unofficial staff interpretation of Regulation Z, (Truth in Lending), Number 1354, regarding a recent action by the Board to rescind an amendment creating an alternative in certain circumstances to the three-day cancellation right otherwise applicable to each individual advance under open-end credit accounts secured by consumers' residences. This interpretation clarifies the effect of the Board's action, which does not become effective until March 31, 1980, upon potential and existing accounts offered under the current rules.

**EFFECTIVE DATE:** October 15, 1979.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Plows, Section Chief, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. (202–452–3667).

**SUPPLEMENTARY INFORMATION:** (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public, subject to certain limitations stated in 12 CFR 261.6.

(2) Authority: 12 CFR 226.1(d)(4)(iii).

No. 1354

§ 226.9(g). Delay in revocation of § 226.9(g)(6) to March 31, 1980 intended to permit creditors to terminate or modify existing plans; not intended to create opportunity for offering new plans or expanding existing ones.

October 15, 1979.

You ask what effect the Board's decision to rescind § 226.9(g)(6) of Regulation Z (44 FR 55553, September 27, 1979) has upon new and existing open-end credit plans secured by a customer's home prior to the effective date of March 31, 1980.

The purpose of the delayed effective date was to permit creditors with plans already in existence to wind them down by March 31, 1980. The staff interprets the Board's decision to mean that no new plans will be offered and existing plans will not be expanded between the effective date of the decision (October 27, 1979) and March 31, 1980.

Sincerely,

**Janet Hart,**

*Director.*

Board of Governors of the Federal Reserve System, October 19, 1979.

**Griffith L. Garwood,**

*Deputy Secretary of the Board.*

[FR Doc. 79-33086 Filed 10-25-79; 8:45 am]

BILLING CODE 6210-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 309

### Public Disclosure of Bank Trust Department Annual Report of Assets

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Final Amendment to Existing Regulations.

**SUMMARY:** Part 309 of FDIC's regulations governing the disclosure of information held by the FDIC is being amended so as to allow for the routine public disclosure on a request basis of Trust Department Annual Reports of Assets currently filed with the FDIC by insured nonmember banks.

**EFFECTIVE DATE:** November 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Pamela E. F. LeCren, Attorney, Legal Division (202–389–4433), or John Harvey, Review Section Chief, Division of Bank Supervision (202–389–4620).

**SUPPLEMENTARY INFORMATION:** The FDIC currently obtains Trust Department Annual Reports of Assets from insured nonmember banks. The information compiled from these reports is presently used in a publication of statistical data on bank trust activities. The publication contains in some instances the data supplied by identifiable banks. On June 15, 1979, the FDIC published a proposed amendment (44 FR 34510, 44 FR 43287) to its regulations governing disclosure of information (12 CFR Part 309) that would permit routine public disclosure of these reports on request. Public comment was solicited for a period of sixty days.

A total of nine comments was received. Several objected to the proposal because it was perceived as creating a burden on banks and creating an unnecessary additional cost. Neither objection is well founded, however, as the reports are currently required to be filed with the FDIC. No additional work will be required to prepare or submit the reports. The objection was also raised in several comments that public availability of the reports would be an

invasion of the privacy of those persons who utilize the services of bank trust departments. As the reports do not identify any particular trust accounts, it is not likely that any such invasion of privacy will occur. In addition, only a limited amount of information is being made available to the public. The report only contains data on those accounts over which the trust department has sole discretion.

One comment raised the possibility that trust departments would be forced to structure investment decisions in accordance with the public's uninformed perception of their performance. The Board of Governors of the Federal Reserve and the Office of the Comptroller of the Currency have made these reports available to the public in the past and there has been no evidence of disruption of trust department activities in those banks where reports were disclosed. There is little or no reason, therefore, to anticipate such a result.

After having fully considered the public comments, the Board of Directors of the FDIC has decided to proceed with the amendment of Part 309 as set forth below. It is the opinion of the FDIC that no harm will result to insured nonmember banks as the result of public disclosure of these reports. As the information is not viewed as confidential and there is a public demand for it, disclosure is considered appropriate. Disclosure can be said to be especially appropriate in view of the current practice of disclosing to the public bank reports of condition and reports of income. (12 CFR 309.4(b)(1)).

In consideration of the foregoing, the Board of Directors of the FDIC is amending 12 CFR 309.4(b)(1) by adding at the end thereof the following new subdivision (v).

**§ 309.4 Information made available for public inspection.**

* * * * *

(b) Information made available at the Corporation's discretion.

(1) * * *

(v) Annual Trust Department Report of Assets [4a] for commercial and mutual savings banks.

By order of the Board of Directors of the Federal Deposit Insurance Corporation this 22nd day of October, 1979.

Hoyle L. Robinson,

*Executive Secretary.*

[FR Doc. 79-33065 Filed 10-25-79; 8:45 am]

BILLING CODE 6714-01-M

[4a] Trust Department report number 8020/33.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 159

[T.D. 275]

## Countervailing Duties—Certain Footwear From India

**AGENCY:** U.S. Customs Service, Treasury Department.

**ACTION:** Final Countervailing Duty Determination and Suspension of Liquidation.

**SUMMARY:** This notice is to advise the public that a countervailing duty investigation has resulted in a final determination that the Government of India has given benefits considered to be bounties or grants within the meaning of the countervailing duty law on the manufacture, production or exportation of leather shoes and uppers. It has further been determined that all other non-rubber footwear subject to this investigation has not received benefits from the Government of India considered to be bounties or grants and therefore no countervailing duties will be imposed on those products.

Certain uppers entering the United States receive duty-free treatment under the Generalized System of Preferences. Before countervailing duties will be imposed on those duty-free uppers, the U.S. International Trade Commission will investigate whether a U.S. industry is being or is likely to be injured by reason of imports of Indian shoe uppers benefiting from such bounties or grants.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Leon McNeil, Technical Branch, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (566-5492).

**SUPPLEMENTARY INFORMATION:** On November 24, 1978, a negative "Preliminary Countervailing Duty Determination" was published in this case in the Federal Register (43 FR 55028). That notice stated that it had been preliminarily determined that benefits which constituted bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1301) (hereinafter referred to as "the Act") had not been bestowed by the Government of India (GOI) to manufacturers/exporters of certain footwear.

For purposes of this notice, "certain footwear" includes footwear classifiable in item numbers 700.05 through 700.85, inclusive, of the Tariff Schedules of the United States Annotated (TSUSA) (except items 700.28, 700.51, 700.52, 700.53, 700.54, 700.60 and 700.8510). It also includes other leather articles cut or partly manufactured into forms or shapes suitable for conversion into footwear, previously classified under TSUSA item number 791.25. However, in March 1979, TSUS number 791.25 was abolished and replaced by two new tariff numbers, 791.24 and 791.26. Certain goods entering under item number 791.26 are eligible for duty-free entry under the Generalized Systems of Preferences (GSP) and therefore an injury test woud be required prior to the application of countervailing duties on these duty-free goods.

In the preliminary negative determiniation, the following programs were found not to constitute bounties or grants within the meaning of section 303 of the Act, which findings are hereby made final:

(1) *Import permits.* Indian exporters involved in this investigation are eligible to receive automatically permits to import components and raw materials used to manufacture their products, up to a fixed percentage of the f.o.b. value of their exports. These permits are negotiable and can also be transferred to "supporting" manufacturers. In the preliminary determination it was stated that to the extent the permits were transferred for cash, their receipt might be considered a "bounty or grant". At that time it did not appear that the permits are in fact sold or transferred by Indian footwear manufacturers and information supplied by the GOI since the preliminary determination has corroborated that fact.

(2) *Customs duty drawback and excise tax rebates.* The preliminary determination stated that the drawback and excise-tax rebates provided are limited to the amounts actually paid by the manufacturers of these products, and that no drawback or rebates are allowed on machinery or equipment. Non-excessive Customs duty drawbacks and excise tax rebates upon exports are not considered to be bounties or grants if they are limited to the amounts actually paid on the exported product and raw materials or components incorporated into the exported final product, as in this case.

(3) *Export insurance provided by the Export Credit and Guarantee Corporation (ECGC).* The ECGC underwrites political and commercial risks not insurable by commercial carriers. The corporation is owned by the Indian Government, but charges premiums for its policies. The availability of this insurance is determined not to be a bounty or grant because the ECGC covers its claims

from operating income, and, therefore appears to be actuarily sound.

A number of other programs were preliminarily determined as not applicable to, or not utilized by, Indian footwear manufacturers subject to this investigation, which findings are hereby made final:

(1) *Tax credit certificates.* It was alleged that exporters were entitled to receive certificates equal to 15 percent of the export value of merchandise, which would be used to offset income or business taxes owed. This program was proposed but never adopted by the Indian Government.

(2) *Grants for export promotion.* The Market Development Fund provides grants to exporters to cover a variety of trade promotion activities. The Fund was not utilized by footwear exporters during the period investigated.

(3) *Export financing through The Industrial Development Bank.* Loans under this program are limited to engineering goods and are therefore not applicable to manufacturers or exporters of the goods subject to this investigation.

(4) *Location in the Kandla Free Trade Zone.* Firms located in this area benefit from a number of import duty exemptions, foreign exchange concessions and other financial assistance from the Indian Government. There are no footwear producers or exporters in the Kandla Free Trade Zone.

(5) *Reimbursement of shipping charges.* The Government of India provides for the partial reimbursement of shipping charges on certain products shipped by air. However, since virtually all Indian footwear exports are shipped by sea, footwear exporters do not qualify for this program.

The Notice of the preliminary determination stated that before a final determination would be made in the proceeding, consideration would be given to any relevant data, views, or arguments submitted in writing and received by the Commissioner of Customs. Based upon an analysis of the information submitted subsequent to the preliminary determination, no change in the Treasury Department's position with respect to these programs is warranted.

One additional program was identified in the preliminary determination as not constituting a bounty or grant. Additional information has since been collected from the Government of India with respect to that program. The results of the analysis of that information are described below.

*Cash rebates upon export.* Exporters of certain identified products are provided a cash rebate calculated as a percentage of the f.o.b. value of the exported product which is intended to offset indirect taxes borne on the manufacture of the exported goods. For products covered by this investigation, the percentages vary from 5 to 15 percent. The preliminary determination was based on data submitted with respect to the indirect tax incidence on products receiving a 5 percent cash rebate. It was determined that indirect taxes assessed on the exported product or on items physically incorporated into the product, actually exceeded the cash rebate. These products accounted for approximately 85 percent of total Indian exports to the United States of the products covered by the investigation.

It was also indicated in that Notice that additional information would be collected with respect to products receiving 12.5 percent (uppers) and 15 percent (leather shoes) cash rebates, even though those products constitute only a small portion of Indian non-rubber footwear exports.

The Government of India supplied a breakdown of all the various indirect taxes which are allegedly borne by Indian leather shoes and uppers, but not rebated on exports. While all the indirect taxes listed are assessed on items physically incorporated into the exported product, and therefore allowable as offsets to the cash rebate, the Government of India was unable to supply documentation that all of the taxes listed were, in fact, incurred in the amounts alleged. To the extent that adequate documentation is not available to Treasury, such offsets to the export payment cannot be granted. Having reviewed the data submitted and identified the value of allowable indirect taxes, it has been determined that with respect to items receiving a 12.5 percent rebate on export (uppers) the cash rebate exceeds the allowable indirect taxes by 0.93 percent. With respect to those products receiving a 15 percent cash rebate (leather shoes), the cash rebate exceeds the allowable indirect taxes by 4.16 percent. Therefore, for the purposes of this final determination, this program operates to bestow countervailable benefits on Indian exports of these two products. However, the GOI has indicated that appropriate documentation will be submitted which will show that there are additional allowable taxes which would effectively eliminate the bounty or grant found on these two products. When submitted, this data will be reviewed.

Two remaining programs were identified in the preliminary determination as having been utilized by manufacturers/exporters of Indian footwear, but the benefits bestowed were preliminarily determined to be *de minimis* in size, and therefore not bounties or grants. The two programs are:

(1) Export financing for up to 90 days by the Government of India at rates less than those which would otherwise be commercially available; and

(2) A deduction from a firm's taxable income up to 133 percent of certain overseas business expenses incurred by the firm.

Additional company specific data was collected subsequent to the preliminary determination in order to calculate more accurately the *ad valorem* benefits received under each program. Based upon this additional information, the *ad valorem* benefit received under the export financing program has been determined to be 0.03 percent, and under the overseas business expense deduction program to be 0.05 percent.

Therefore, on the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been determined that benefits are provided by the GOI to manufacturers/exporters of footwear from India, but that, with respect to all products except those receiving 12.5 percent or 15 percent cash rebates on exports, the aggregate amount of the benefits are 0.08 percent, an amount considered *de minimis.* With respect to leather shoes, which receive a 15 percent cash rebate, the aggregate benefits are 4.24 percent *ad valorem,* and with respect to leather uppers, which receive a 12.5 percent cash rebate, the aggregate benefits are 1.01 percent *ad valorem.* The aggregate benefits bestowed on leather shoes and uppers represent the sum of the benefits received under the export cash rebate program, the preferential financing program and the overseas business expense deduction program.

Therefore, with regard to leather shoes and uppers subject to this determination, notice is hereby given that effective on or after October 26, 1979, and until further notice, upon the entry, or withdrawal from warehouse, for consumption of leather shoes and uppers, imported directly or indirectly from India which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration. To the extent it can be established to the satisfaction of the Commissioner of Customs that imports of leather shoes and uppers from India are benefiting from a bounty or grant smaller than the amount which

otherwise would be applicable under the above declaration, the smaller amount so established shall be assessed and collected.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of leather shoes and uppers from India.

As stated above, imports of certain leather shoe uppers included in TSUSA item number 791.26 from India are eligible to enter the U.S. duty-free pursuant to the GSP. In accordance with section 303(a)(2) of the Act (19 U.S.C. 1303(a)(2)), countervailing duties may not be imposed upon any article or merchandise which is free of duty in the absence of a determination by the U.S. International Trade Commission that an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such subsidized article or merchandise into the United States.

Accordingly, the International Trade Commission is being advised of this determination and effective on or after October, 26, 1979, upon the entry, or withdrawal from warehouse, for consumption of those leather uppers which are duty-free pursuant to the GSP, liquidation will be suspended until further order or publication after determination of the Commission, whichever comes first.

§ 159.47 [Amended]

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f) is amended by inserting after the last entry for "India", the words "leather shoes and uppers", in the column headed "Commodity"; the number of this Treasury Decision in the column headed "Treasury Decision"; and the words "Bounty declared-rate" in the column headed "Action".

(R.S. 251, as amended, section 303, as amended, 624, 46 Stat. 687, as amended, 759 (19 U.S.C. 66, 1303, 1624)).

This final determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 154.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,
*Acting General Counsel of the Treasury.*
October 19, 1979.

[FR Doc. 79-33127 Filed 10-25-79; 8:45 am]
BILLING CODE 4810-22-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### 21 CFR Part 510

### New Animal Drugs; Sponsor Post Office Box Number

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** This document amends the animal drug regulations to correct the post office box number for Carl S. Akey, Inc., sponsor of a new animal drug application.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** John Borders, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

**SUPPLEMENTARY INFORMATION:** Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600. *Names, addresses, and drug labeler codes of sponsors of approved applications* in paragraph (c)(1) for "Carl S. Akey, Inc." and in paragraph (c)(2) for "017790" by changing the post office box number "259" to read "607."

*Effective date:* October 26, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 18, 1979.

Lester M. Crawford,
*Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-32719 Filed 10-25-79; 8:45 am]
BILLING CODE 4110-03-M

### 21 CFR Part 520

### Oral Dosage Form New Animal Drugs Not Subject to Certification; Haloxon Boluses

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The animal drug regulations are amended to reflect approval of a supplemental new animal drug application (NADA) submitted by Burroughs Wellcome Co., providing for revised labeling provisions for haloxon boluses used as an anthelmintic in cattle.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** William D. Price, Bureau of Veterinary Medicine (HVF-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

**SUPPLEMENTARY INFORMATION:** Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709, filed a supplemental NADA (92-483V) providing revised labeling which would eliminate animal weight gaps in the dosage table for haloxon boluses. The regulation is also amended to include the statement "Give one bolus per approximately 500 pounds body weight." This type of statement has always appeared on the product's labeling but was inadvertently omitted from § 520.1120b *Haloxon boluses.*

Under the proposed BVM Supplemental Approval Policy (December 23, 1977, 42 FR 64367), this is a Category II approval. Approval of this supplemental application poses no increased human risk from exposure to residues of the new animal drug, because the actual dose provided for does not differ significantly from that which is provided for by the present label. Accordingly, this approval did not require a reevaluation of the safety and effectiveness data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended in § 520.1120b by

revising paragraph (e)(2) to read as follows:

§ 520.1120b Haloxon boluses.

* * * * *

(e) * * *

(2) It is administered by giving one bolus per approximately 500 pounds body weight (35 to 50 milligrams per kilogram of body weight).

* * * * *

*Effective date.* This regulation is effective October 26, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 18, 1979.

Lester M. Crawford,

*Director, Bureau of Veterinary Medicine.*

[FR Doc. 79-32718 Filed 10-25-79; 8:45 am]

BILLING CODE 4110-03-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

### 24 CFR Part 570

[Docket No. R-79-716]

### Community Development Block Grants; Grant Closeouts

**AGENCY:** Department of Housing and Urban Development.

**ACTION:** Interim rule.

**SUMMARY:** On June 28, 1977, the Department published at 42 FR 22019 a final rule setting forth the closeout procedures for general purpose discretionary grants made pursuant to Subpart E of this part. HUD has now determined that it is necessary to expand the applicability of these procedures to include all grants made pursuant to Title I of the Housing and Community Development Act of 1974. The amendment also adds a provision regarding termination of grants for cause, and makes certain other changes of a technical or clarifying nature. A paragraph has also been added regarding funds remaining from Small Cities Programs prior to the preparation of the Certificate of Completion.

**DATES:** Effective: November 15, 1979. Comments due: December 26, 1979.

**ADDRESS:** Interested persons should file written comments on or before December 26, 1979 with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

**FOR FURTHER INFORMATION CONTACT:** Bernard Schure, Program Completion Division, HUD/Community Planning and Development, Room 7186, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-1871.

**SUPPPLEMENTARY INFORMATION:** This Section is being promulgated as an interim rule, effective November 15, 1979, to enable hold-harmless grantees who are in the final year of their entitlement status to proceed to close out their projects in an orderly fashion. The Department believes the delay in the issuance of this rule for effect would cause hardship on the part of grantees whose programs terminate in the near future and could adversely affect the local and Federal interest in the projects. Accordingly, the Assistant Secretary for Community Planning and Development has determined that it is impracticable to follow a notice of proposed rulemaking procedure and that good cause exists for making this rule effective as soon as possible. However, interested persons are invited to submit written comments. All comments received by December 26, 1979, will be considered in the development of the final rule. Copies of comments received will be available for inspection and copying at the above address.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. A copy of the Finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

The major issues in the proposed rule are covered in the following discussion.

#### Applicability

This interim rule is applicable to all grantees who have received grant assistance under Title I of the Housing and Community Development Act of 1974 Pub. L. 93-383 (42 U.S.C. 5301 *et seq.*) including Entitlement Grants, Small Cities Grants, Secretary's Fund Grants, Urban Development Action Grants, and Categorical Program Settlement Grants. The previous rule was inapplicable to entitlement cities and urban counties, and did not by its terms cover Urban Development Action Grants and Categorical Program Settlement Grants. In order to effect the increase in scope, the rule has been edited to delete any references to specific grant categories and language has been added relating to Title I grants in general.

#### Termination for Cause

A new paragraph has been added at (§ 570.512(k) regarding termination of grants for cause, which provides that when the Secretary terminates the recipient's entire grant, or its remaining balance, pursuant to his authority under § 570.910, § 570.911 or § 570.913 of the regulations, the grant may be closed out. In such cases, however, only those provisions of this rule relating to preparation of a Certificate of Completion and final cost, and excess grant funds, shall apply.

Accordingly, 24 CFR 570.512 is amended to read as follows:

§ 570.512 Grant closeouts.

(a) *Applicability.* The policies and procedures contained herein apply to the closeout of any grants made pursuant to this Part.

(b) *Initiation of closeout.* HUD will advise the recipient to initiate closeout procedures when HUD determines, in consultation with the recipient, that there are no impediments to closeout and that the following criteria have been met or will be shortly:

(1) All costs to be paid with grant funds have been incurred, with the exception of (i) closeout costs such as payment for the final audit; and (ii) any unsettled third-party claims against the recipient. Costs are incurred when goods and services are received and/or contract work is performed. With respect to activities (such as rehabilitation of privately owned properties) which are carried out by means of revolving loan accounts, loan guarantee accounts, or similar mechanisms, costs shall be considered as incurred at the time funds for such activities are drawn from the recipient's letter of credit and initially used for the purposes described in the approved Community Development Program. The phrase "initially used for the purposes described in the approved Community Development Program" means the payment of such funds for work actually performed and is not intended to mean the initial deposits of letter-of-credit funds into the revolving loan account, loan guarantee account, or similar mechanism (such as loan or grant escrow account).

(2) With respect to any grant for which a grantee performance report is required pursuant to this Part, the last required report has been submitted and, to the extent determined necessary by HUD for purposes of the closeout, has been updated. The failure of a recipient to submit or update a report as required will not preclude HUD from effecting a grant closeout when such action is determined to be in the best Federal interest. The failure or refusal by a recipient to comply with such requirement shall be taken into account in the performance determination by

HUD in reviewing any future grant applications from the recipient. Any excess grant amount which is otherwise authorized to be retained by the recipient pursuant to 570.512(i) shall be refunded to HUD in the event of a recipient's failure to furnish the report or update it as required under this paragraph.

(3) Other responsibilities of the recipient under the grant agreement and any closeout agreement, applicable law and regulations appear to have been carried out satisfactorily, or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance, such as a good faith effort by the recipient to achieve its housing assistance plan goals for the grant period or securing performance by parties to legally-binding commitments entered into in connection with Urban Development Action Grant assistance. A final review of the recipient's compliance with the grant agreement and any closeout agreement applicable law and regulations will be made during the final audit or HUD review in lieu of final audit pursuant to § 570.512(g).

(c) *Program income.* Except as may be otherwise provided under the terms of the grant agreement or any closeout agreement program income received subsequent to grant closeout may be treated by the recipient as follows: Subject to the requirements of paragraphs (d) and (e) of this Section, such income may be treated as miscellaneous revenue, the use of which is not governed by the provisions of this part: *Provided,* that if the recipient has another ongoing grant program under this Part, the program income received subsequent to the grant closeout shall be treated as program income of the active grant program.

(d) *Disposition of tangible personal property.* The recipient shall account for any tangible personal property acquired with grant funds in accordance with Attachment N of OMB Circular A-102 "Property Management Standards."

(e) *Disposition of real property.* Proceeds derived after the closeout from the disposition of real property acquired with grant funds under this part shall be subject to the program income requirements of paragraph (c) of this section: *Provided,* That where such income may be treated as miscellaneous revenue pursuant to paragraph (c), it shall be used by the recipient for community development activities eligible pursuant to Subpart C to further the general purposes and objectives of the Act. The use of income subject to this proviso is not governed by any other requirements of this Part.

(f) *Status of housing assistance plan after closeout.* After closeout of a grant requiring a housing assistance plan, the housing assistance plan will remain in effect until one of the following occurs:

(1) The recipient submits, and HUD approves, a revised housing assistance plan.

(2) Another unit of general local goverment with overlapping jurisdiction over the same territory (e.g., and urban county, a county discretionary applicant, or any other such applicant) submits, and HUD approves, a housing assistance plan covering the territory of the original housing assistance plan.

(3) Three years elapse since the date of approval of the current housing assistance plan.

(g) *Audit.* Upon notification from HUD to initiate closeout procedures, the recipient shall arrange for a final audit to be made of its grant accounts and records in accordance with HUD Handbook IG 6505.2, "Audit Guide and Standards for Community Development Block Grant Recipients," § 570.509 of this Part, and any other audit requirements of HUD hereafter in effect. HUD may determine that, due to the nature of the recipient's program or the relatively small amount of funds which have not been audited, a final audit is not required. In such instances, HUD will notify the recipient that HUD will perform necessary reviews of documentation and activities to determine that claimed costs are valid program expenses and that the recipient has met its other responsibilities under the grant agreement.

(h) *Certificate of completion and final cost.* Upon resolution of any findings of the final audit, or if the final audit is waived, after HUD has performed the review of documentation described in paragraph (g) of this section, the recipient shall prepare a certificate of completion and final cost, in a form prescribed by HUD, and submit it to the appropriate HUD Office.

(i) *Refund of excess grant funds.* Recipient shall refund to HUD any cash advanced in excess of the final grant amount, as shown on the certificate of completion approved by HUD, except funds remaining from Small Cities programs prior to preparation of Certificate of Completion. A Small Cities Program grantee may be allowed to undertake any activity eligible under 24 CFR 570 Subpart C, "Eligible Activities", with funds which remain after completion of the originally approved activities. HUD shall determine that the proposed activity is plainly appropriate to meeting the grantee's needs and objectives. For the purposes of this paragraph, such amounts should not exceed 10 percent of the original grant or $20,000, whichever is greater, but in most cases it should not exceed $50,000. In applying to use these funds, the grantee shall follow the procedures for program amendments set forth in 24 CFR 570.434. The requirement set forth in 24 CFR 570.434(a)(1) for rating the new activity shall not apply.

(j) *Termination of grant for mutual convenience.* Grant assistance provided under this part may be cancelled, in whole or in part, by HUD or the recipient, prior to the completion of the approved community development program, when both parties agree that the continuation of the program is unfeasible or would not produce beneficial results commensurate with the further expenditure of funds. HUD shall determine whether an environmental review of the cancellation is required, and if such review is required, shall perform it pursuant to HUD Handbook 1390.1 and/or specific guidelines issued by the Secretary. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. HUD shall allow full credit to the recipient for the noncancelable obligations properly incurred by the recipient in carrying out the program prior to termination. The closeout policies and procedures contained in this section shall apply in all such cases except where the total grant is cancelled in its entirety, in which event only the provisions of § 570.512 (h) and (i) shall apply.

(k) *Termination for cause.* In cases in which the Secretary terminates the recipient's entire grant, or the remaining balance thereof, pursuant to the authority of 570.910, 570.911 or 570.913 of this Part, only the provisions of 570.512(h) and 570.512(j) of this section shall apply. Further, the Secretary may terminate an Urban Development Action Grant if it is apparent that the grantee cannot meet the requirements of the agreement within the time period. HUD shall determine whether an envionmental assessment or finding of inapplicability is required and if such review is required, HUD shall perform it pursuant to the provisions of HUD Handbook 1390.1.

(Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).)

Issued at Washington, D.C., September 19, 1979.

Robert C. Embry, Jr.,

*Assistant Secretary for Community Planning and Development.*

[FR Doc. 79-33002 Filed 10-25-79; 8:45 am]

BILLING CODE 4210-01-M

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

[T.D. 7650]

## Election of application of sections 382 and 383 of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1976

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Final regulation.

**SUMMARY:** This document provides a final regulation relating to the election to apply sections 382 and 383 of the Internal Revenue Code of 1954, as amended by the Tax Reform Act of 1976. Changes to the applicable law were made by the Tax Reform Act of 1976 and by the Revenue Act of 1978. This regulation affects all persons who may have relied on the 1976 Act changes to sections 382 and 383 (relating to limitations on carryovers resulting from corporate acquisitions), and who, pursuant to the Revenue Act of 1978, elect to have those changes apply, and provide them with the guidance needed to comply with the law.

**EFFECTIVE DATE:** October 26, 1979.

**FOR FURTHER INFORMATION CONTACT:** Mark L. Yecies of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, (202-566-3464, not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

### Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under sections 382 and 383 of the Internal Revenue Code of 1954. Section 806(e) of the Tax Reform Act of 1976 (90 Stat. 1599) amended section 382 of the Code, relating to limitations on carryovers of net operating losses resulting from corporate acquisitions. Section 806(f)(2) of the Act (90 Stat. 1605) provided a parallel amendment to section 383, relating to limitations on carryovers of unused investment credits, work incentive program credits, foreign taxes, and capital losses, resulting from those same acquisitions. Section 806(g)(2) (90 Stat. 1605) provided, generally, that the amendment to section 382(a) (and section 383 as it relates to section 382(a)) would take effect for taxable years beginning after June 30, 1978. Section 806(g)(3) (90 Stat. 1606) provided that the amendment to section 382(b) (and section 383 as it relates to section 382(b)) would apply to reorganizations occurring pursuant to plans adopted on or after January 1, 1978.

A number of technical problems regarding these 1976 Act amendments to sections 382 and 383 have been brought to the attention of Congress, which will require congressional consideration of additional revision of those provisions. Accordingly, section 368(a) of the Revenue Act of 1978 (92 Stat. 2857) postpones for 2 years the effective dates of the 1976 Act amendments. However, section 368(b) of the 1978 Act (92 Stat. 2857) allows persons who may have relied on the 1976 Act changes to elect to have those changes apply with respect to certain transactions or reorganizations. This regulation provides rules for the making of this election.

### Description of Regulation

A new provision, § 1.382-2, is added to the regulations. Section 1.382-2(a) provides, generally, that an election may be made to have sections 382 and 383, as amended by the Tax Reform Act of 1976, apply with respect to certain transactions or reorganizations. Section 1.382-2(b) indicates which taxpayer is required to make this election. Section 1.382-2(c)(1) provides, generally, that the election shall be made by making a statement on the taxpayer's timely filed income tax return for the taxable year in which the transaction(s) or reorganization occurs. Section 1.382-2(c)(1)(i) provides specific requirements as to the manner of making this election. However, § 1.382-2(c)(1)(ii) provides that, if the taxpaper's return was timely filed on or before November 26, 1979, and an election was made with that return, the election will be valid regardless of whether the election was made in the manner described in § 1.382-2(c)(1)(i). Section 1.382-2(d) provides that, if the loss corporation becomes a member of an affiliated group of corporations which files a consolidated return for the taxable year in which the transaction(s) or reorganization occurs, an election made by the common parent under the rules of § 1.382-2(c) will be valid. Finally, § 1.382-2(e) provides, generally, that if an election is made, the 1976 Act amendments to sections 382 and 383 will apply with respect to all acquisitions made by the acquiring person during the period in which the effective dates of those amendments would otherwise be postponed.

### Drafting Information

The principal author of this regulation is Mark L. Yecies of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

### Waiver of Certain Procedural Requirements of Final Treasury Directive

Section 368(b)(2) of the Revenue Act of 1978 (92 Stat. 2857) requires the election described in section 368(b)(1) of the Act and in this regulation to be filed with a taxpayer's timely filed return for the first taxable year in which a covered transaction occurs. Accordingly, there is need for immediate guidance as to the making of this election. For this reason, it has been determined by the undersigned, Jerome Kurtz, Commissioner of Internal Revenue, that it is impractical to follow the procedures of paragraphs 8 through 14 of the final Treasury Directive relating to improving government regulations, appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52120). Therefore, these requirements have not been followed.

### *Adoption of amendments to the regulations*

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The following new section is added immediately after § 1.382(c)-1:

**§ 1.382-2 Election of application of sections 382 and 383, as amended by the Tax Reform Act of 1976.**

(a) *In general.* (1) An election may be made under this section to have sections 382(a) and 383 (as it relates to section 382(a)), as amended by the Tax Reform Act of 1976, apply with respect to transactions specified in section 382(a), as so amended, occurring—

(i) During the first taxable year beginning after June 30, 1978, of the loss corporation; and

(ii) Pursuant to a written binding contract or option entered into before September 27, 1978.

(2) An election may be made under this section to have sections 382(b) and 383 (as it relates to section 382(b)), as amended by the Tax Reform Act of 1976, apply with respect to any reorganization