

These requirements were added by section 19(a) of Public Law 95-142, enacted as part of the 1977 Amendments to the Social Security Act on October 25, 1977.

When USHHAR is implemented, we plan to include in it a uniform functional chart of accounts for use by HHAs in reporting cost data and a set of uniform definitions and for those accounts. USHHAR may also include utilization and other statistical data in more detail than is being required under this regulation. These features are not included in the current cost reporting system.

This regulation is not intended to implement the requirements of section 1121 of the Social Security Act since work on USHHAR is still underway and a uniform report for HHAs is not ready at this time. The USHHAR requirements will be issued as proposed rulemaking when they have been fully developed.

We anticipate that this regulation affecting cost finding and cost apportionment for HHAs will be compatible with those to be issued under USHHAR in that it represents one module of the overall system. We also anticipate that the methodologies described in this regulation will be used to allocate and apportion costs identified and defined in USHHAR.

4. Some small HHAs commented that the requirements of the regulation should be modified to allow for a simplified cost reporting method to accommodate these HHAs.

We agree with this comment and have revised the regulation and the cost report to allow certain "small" HHAs that are not based in hospitals or skilled nursing facilities to use a simplified variation of the step-down method that will be described in greater detail in the cost report instructions. As indicated earlier, we have defined a "small" HHA as one that received less than \$35,000 in Medicare reimbursement for the immediately preceding cost reporting period, so long as this Medicare reimbursement represents less than 50 percent of the total operating cost of the HHA. We developed this definition of a "small" HHA in response to concerns expressed by the industry. Two commenters specifically proposed a definition of a "small" HHA. One definition was the \$35,000 in Medicare reimbursement and 50 percent of the total operating cost of the HHA; the other definition was \$100,000 in Medicare reimbursement and 50 percent of the total operating cost. We accepted the former definition because it was our judgment that the \$35,000 figure was a reasonable limit of program payment for permitting less detailed financial

reporting. We believe that an HHA that receives more than \$35,000 in Medicare program payments should be required to submit complete detailed information to support the appropriateness of the payments. Also, we believe that HHAs that receive more than 50 percent of their total operating costs from Medicare should not be exempted from the more detailed reporting requirements because in such situations, Medicare loses the advantage that marketplace pressures have on containing provider costs.

42 CFR Part 405 is amended as follows:

1. Section 405.404 is amended by adding a new paragraph (c) to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

(c) For cost reporting periods beginning on or after October 1, 1980, home health agencies must use the cost per visit by type of service method of cost apportionment, as specified in § 405.452(c)(5). Use of this method requires cost finding, as defined in § 405.453(b)(1).

2. Section 405.452 is amended by revising paragraph (c)(4) and adding a new paragraph (c)(5) to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

(c) *Availability of apportionment methods for cost reporting periods starting after December 31, 1971.*

(4) *New providers, except home health agencies.* All hospitals, hospital complexes, and skilled nursing facilities entering the program on or after January 1, 1979, must use the Departmental Method of apportionment starting with their first cost reporting period.

(5) *Home health agencies.* For cost reporting periods beginning on or after October 1, 1980, all home health agencies must use the cost per visit by type of service method of apportioning costs between Medicare and non-Medicare beneficiaries. Under this method, the total allowable cost of all visits for each type of service is divided by the total number of visits for that type of service. Next, for each type of service, the number of Medicare covered visits is multiplied by the average cost per visit just computed. This represents the cost Medicare will recognize as the cost for that service, subject to cost limits published by HCFA (see § 405.460).

3. Section 405.453 is amended by revising paragraph (d) to read as follows:

§ 405.453 Adequate cost data and cost finding.

(d) *Cost finding methods.* After the close of the accounting period, providers must use one of the following methods of cost finding to determine the actual costs of services furnished during that period. For cost reporting periods beginning after December 31, 1971, providers using the Departmental Method of cost apportionment must use the Step-Down Method described in paragraph (d)(1) of this section or an "Other Method" described in paragraph (d)(2) of this section. For cost reporting periods beginning after December 31, 1971, providers using the Combination Method of cost apportionment must use the modified cost finding method described in paragraph (d)(3) of this section. Effective for cost reporting periods beginning on or after October 1, 1980, home health agencies not based in hospitals or skilled nursing facilities must use the Step-Down Method described in paragraph (d)(1) of this section. (Home health agencies based in hospitals or SNFs must use the method applicable to the parent institution.) However, a home health agency not based in a hospital or skilled nursing facility that received less than \$35,000 in Medicare reimbursement for the immediately preceding cost reporting period, and for whom this reimbursement represented less than 50 percent of the total operating cost of the agency, may use a simplified version of the step-down method, as specified in instructions for the cost report issued by HCFA.

(Sections 1102, 1814(b), 1815, 1861(v), 1871 of the Social Security Act 42 U.S.C. 1302, 1395f(b), 1395g, 1395x(v), 1395hh)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: June 30, 1980.

Earl M. Collier, Jr.,
Acting Administrator, Health Care Financing Administration.

Approved: August 18, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-25823 Filed 8-26-80; 8:45 am]

BILLING CODE 4110-35-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES**45 CFR Part 1151****Nondiscrimination on the Basis of Handicap; Correction**

AGENCY: National Endowment for the Arts.

ACTION: Correction of final rule.

SUMMARY: This action corrects a typographical error that appeared in National Endowment for the Arts final regulations under section 504 of the Rehabilitation Act of 1973 published in the Federal Register April 17, 1979 (44 FR 22730 (1979)). Section 1151.34(a)(2) of the regulations erroneously includes a reference to paragraph (d) of this section. That reference should be changed to paragraph (c).

FOR FURTHER INFORMATION CONTACT: Susan Liberman, Assistant to the General Counsel, National Endowment for the Arts, 2401 E Street N.W., Washington, D.C. 20506, 202-634-6588.

Livingston L. Biddle, Jr.,

Chairman, National Endowment for the Arts.

[FR Doc. 80-26192 Filed 8-26-80; 8:45 am]

BILLING CODE 7537-01-M

INTERSTATE COMMERCE COMMISSION**49 CFR Part 1033**

[S.O. No. 1389; Amdt. 4]

Transkentucky Transportation Railroad Co., Inc., Authorized To Operate Over Tracks Abandoned by Louisville and Nashville Railroad Co.

August 21, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 4 to Service Order No. 1389.

SUMMARY: This order amends Service Order No. 1389 by extending its expiration date until 11:59 p.m., December 31, 1980. Transkentucky Transportation Railroad, Inc. (TTI) is authorized to operate over tracks abandoned by Louisville and Nashville Company between Maysville and Paris, Kentucky. TTI has filed an application with this Commission for a Certificate of Public Convenience and Necessity. This amendment continues the Service Order in effect pending the Commission's decision upon the application.

EFFECTIVE DATE: 11:59 p.m., and continuing in effect until 11:59 p.m., December 31, 1980, unless otherwise

modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275-7840.

Upon further consideration of Service Order No. 1389, (44 FR 44853, 45 FR 14863, 37843 and 45288), and good cause appearing therefor:

§ 1033.1389 [Amended]

It is ordered: § 1033.1389 *Transkentucky Transportation Railroad, Inc. Authorized to operate over tracks abandoned by the Louisville and Nashville Railroad Company.*

Service Order No. 1389 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order are extended until 11:59 p.m., December 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1980.

This action is taken under the authority of 49 U.S.C. 10304-10305 and 11121-11126.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr. Agatha L. Mergenovich, Secretary.

[FR Doc. 80-26174 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1120A

[Finance Docket No. 28990F]

Rail Carriers; Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of effective date of final rules and exemptions.

SUMMARY: On August 13, 1980, at 45 FR 53827, this Commission published a notice of final rules and exemptions exempting the acquisition by a State of

rail lines approved for abandonment, when the abandonment has not been consummated. Further, the notice exempted from our regulation the start up and termination of operation over lines abandoned or approved for abandonment, which have been acquired by a State. The rules were adopted for a modified certificate of public convenience and necessity for these operations.

In a second notice, published at 45 FR 55205, August 19, 1980, the original notice was corrected by adding the concurring separate expression of Commissioner Trantum. This second publication carried an erroneous effective date of September 18, 1980. The correct effective date of September 12, 1980 was carried in the original publication.

FOR FURTHER INFORMATION CONTACT: Richard Kelley (202) 275-7564.

SUPPLEMENTARY INFORMATION: The notice of final rules and exemptions was effective September 12, 1980.

Agatha L. Mergenovich, Secretary.

[FR Doc. 80-26177 Filed 8-26-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 32****National Wildlife Refuges in Illinois, Iowa, Minnesota, and Wisconsin**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which hunting will be permitted on portions of certain National Wildlife Refuges in Illinois, Iowa, Minnesota and Wisconsin.

DATES: Effective August 27, 1980 for duration of seasons noted below for individual refuge areas.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

George G. P. Bekeris, Area Manager, U.S. Fish and Wildlife Service, 530 Federal Building and U.S. Court House, 316 North Robert Street, St.

Paul, MN 55101. Telephone: (612) 725-7641.

Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle River, MN 56737. Telephone: (218) 449-4115.

James Heinecke, Refuge Manager, Big Stone National Wildlife Refuge, 25 N.W. 2nd Street, Ortonville, MN 56278. Telephone: (612) 839-3700.

Wayne D. Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, Post Office Box J, Carterville, IL 62918. Telephone: (618) 997-3344.

John E. Toll, Refuge Manager, Horicon National Wildlife Refuge, Route #2, Mayville, WI 53050. Telephone: (414) 387-2658.

Howard A. Lipke, Refuge Manager, Mark Twain National Wildlife Refuge, Great River Plaza, 311 N. 5th Street, Suite 100, Quincy, IL 62301. Telephone: (218) 224-8580.

James M. Carroll, Jr., Refuge Manager, Necedah National Wildlife Refuge, Star Route, Necedah, WI 54646. Telephone: (608) 565-2551.

David E. Heffernan, Refuge Manager, Rice Lake National Wildlife Refuge, Route #2, McGregor, MN 55760. Telephone: (218) 768-2402.

Ronald V. Papike, Refuge Manager, Sherburne National Wildlife Refuge, Route #2, Zimmerman, MN 55398. Telephone: (612) 389-3323.

Omer N. Swenson, Refuge Manager, Tamarac National Wildlife Refuge, Rochert, MN 56578. Telephone: (218) 847-4355.

Robert Howard, Refuge Manager, Upper Mississippi River Wild Life and Fish Refuge, 122 W. 2nd Street, Winona, MN 55987. Telephone: (507) 452-4232.

SUPPLEMENTARY INFORMATION: Hunting on portions of the following refuges shall be in accordance with all applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 406k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was

established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Illinois

Crab Orchard National Wildlife Refuge

Public hunting of upland game is permitted during the dates specified by the State of Illinois for the 1980 Upland Game Season. Hunting of upland game is prohibited from sunrise to 12:00 Noon in the refuge controlled goose hunting areas during the goose hunting season.

Minnesota

Big Stone National Wildlife Refuge

Public hunting of Hungarian partridge, cottontail, jack rabbits, gray fox squirrel, and ringnecked pheasant is permitted beginning on the opening day of seasons for these species as established by the State of Minnesota. All upland game seasons on the refuge close at sunset, November 30, 1980.

Rice Lake National Wildlife Refuge

Public hunting of ruffed grouse, ringnecked pheasant, gray and fox squirrel, cottontail, jack rabbits and snowshoe hare is permitted during the seasons for these species as established by the State of Minnesota. The open area comprises about 2,000 acres and is posted as "Public Hunting Area".

Sherburne National Wildlife Refuge

Public hunting of ruffed grouse, ringnecked pheasant, gray and fox squirrel, cottontail, jack rabbits and snowshoe hare is permitted during the seasons for these species as established by the State of Minnesota. The open area comprises 20,058 acres and is designated as Areas A and B on the refuge hunting map.

Tamarac National Wildlife Refuge

Public hunting of ruffed grouse, gray and fox squirrel, cottontail, jack rabbits and snowshoe hare is permitted during the seasons for these species as established by the State of Minnesota

on approximately 12,500 acres. An additional 18,000 acres will be open to hunting of ruffed grouse only. Hunting on this area shall be in accordance with all applicable State of Minnesota or the White Earth Band of Chippewa Indians regulations and seasons. The hunting of other upland species as may be authorized by the State of Minnesota or White Earth Band of Chippewa Indians Regulations is prohibited.

Wisconsin

Horicon National Wildlife Refuge

Public hunting is permitted of ringnecked pheasant concurrent with the opening day of this season as established by the State of Wisconsin. The closing date for the pheasant season on the refuge will correspond with the closing date of the State firearms deer season. The open area comprises 16,000 acres.

Illinois, Iowa, Minnesota, Wisconsin

Upper Mississippi Wild Life and Fish Refuge

The public hunting of upland game birds and upland game animals is permitted on the areas designated by signs as "Public Hunting Area". Restricted hunting of these species is also permitted on the areas designated by signs as "Area Closed", except that the Goose Island Closed Area in Pool 8 is closed at all times to hunting. The "Public Area" comprising 46,000 acres are delineated on maps.

Hunting shall be subject to the following special conditions: 1. Hunting on designated "Public Hunting Areas" is concurrent with the applicable state seasons during the period from the first day of the earliest fall state game bird or game animal season for that area until the end of the applicable state seasons, or until the next succeeding March 1, whichever occurs first.

2. Hunting on designated "closed" areas except for Goose Island Closed Area which is closed to hunting at all times is permitted concurrent with applicable state seasons during the period from the first day after the close of the last hunting season for ducks for that area, until the end of the applicable state seasons, or until the next succeeding March 1, whichever comes first.

3. The use of dogs for hunting and retrieving game is permitted, provided the dogs are under control at all times.

4. Taking treed raccoons with lights is permitted in accordance with existing state regulations.

Illinois, Iowa**Mark Twain National Wildlife Refuge**

Hunting of black, gray and fox squirrels is permitted on the Keithsburg (1,400 acres) and the Gardner (4,831 acres) Divisions of the Mark Twain National Wildlife Refuge. The hunting of these species is subject to the following regulations: 1. The Keithsburg Division will be open to the hunting of squirrels from September 1 through October 15, 1980, inclusive.

2. The Gardner Division will be open to the hunting of squirrels in accordance with the State season and will close on October 15, 1980.

3. Hunters on the Gardner Division must have in their possession a refuge squirrel hunting permit which will be issued free-of-charge by the Refuge Office in Quincy, Illinois.

Hunting of upland game is permitted on the Big Time Division and Turkey Island Area, Iowa, on designated areas comprising 1,760 acres during the seasons as established by the State of Iowa.

§ 32.32 Special regulations; big game; for individual refuge areas**Illinois****Crab Orchard National Wildlife Refuge**

Public hunting of white-tailed deer is permitted concurrent with shotgun and bow and arrow hunt dates as specified by the State of Illinois for the 1980 Deer Season. In Areas I, II and III (44,000 acres), hunting is permitted from ground level only. In Area II (21,000 acres), the following other conditions apply: 1. Each hunter must possess a special permit issued by the Illinois Department of Conservation showing the three-day season he/she is to hunt.

2. All hunters must check in at the Refuge Fire Station prior to hunting.

3. All hunters must comply with all special conditions listed on a handout furnished to them at the time of check-in.

Minnesota**Agassiz National Wildlife Refuge**

Public hunting of white-tailed deer is permitted concurrent with 1980 seasons as established by the State of Minnesota. The open area comprises approximately 56,500 acres. Hunting dates are as follows:

November 8-10 Bucks Only

November 15-16 Antlerless by Permit Only and Bucks

Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Big Stone National Wildlife

Public hunting of white-tailed deer is permitted concurrent with the seasons as established by the State of Minnesota. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Rice Lake National Wildlife Refuge

Public hunting of white-tailed deer is permitted with firearms during a portion of the State firearms deer season for the zone. Subject to the following special conditions: 1. Only those persons in possession of a valid Rice Lake Special Deer Permit (Area 69) issued by the Minnesota Department of Natural Resources will be allowed to enter and hunt the refuge.

2. All hunters must report to the refuge check point at the beginning and end of each day's hunt.

3. Successful hunters must have their deer checked at the refuge check station prior to transporting it outside the refuge.

4. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Sherburne National Wildlife Refuge

Public hunting of white-tailed deer is permitted concurrent with shotgun and archery seasons as established by the State of Minnesota in the following designated areas: 1. Taking of white-tailed deer by archery is permitted in Areas A and B (20,600 acres).

2. Taking of antlered bucks by shotgun is permitted in Areas A and B.

3. The shotgun antlerless permit hunt will be in Areas A, B and C (27,000 acres). Permits can be obtained from the State. Only persons possessing an antlerless permit will be allowed to hunt on the refuge during this period.

4. The muzzleloader hunt will be in Area C (7,100 acres). A special permit which must be obtained from the refuge is required for this hunt.

5. Deer taken during the Antlerless Permit and Muzzleloader hunts must be registered at the refuge check station.

6. Construction of permanent blinds, platforms or scaffolds is prohibited.

Tamarac National Wildlife Refuge

No hunting of big game (black bear or white-tailed deer) will be permitted on Tamarac National Wildlife Refuge during the 1980 season.

Wisconsin**Horicon National Wildlife Refuge**

Public hunting of white-tailed deer is permitted concurrent with the seasons as established by the State of Wisconsin for the early archery and shotgun

seasons only. The open area comprises 16,000 acres. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Necedah National Wildlife Refuge

Public hunting of white-tailed deer and unprotected mammal species as listed in the 1980 Wisconsin Big Game Hunting Regulations with bow and arrow and firearms is permitted concurrent with the seasons for these species as established by the State of Wisconsin. The following conditions apply: 1. Only that portion of the refuge located north of Turkey Track Road (12,000 acres) is open to hunting using a bow and arrow during the State early bow season.

2. Nearly all of the refuge (about 38,000 acres) is open to hunting during the State firearms and late bow seasons except those areas marked with "Area Closed . . ." signs.

3. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Iowa, Illinois, Minnesota, Wisconsin**Upper Mississippi Wildlife and Fish Refuge**

The public hunting of white-tailed deer is permitted on the areas designated by signs as "Public Hunting Areas" comprising 148,000 acres and the "closed" areas comprising 46,000 acres.

Hunting shall be subject to the following conditions: 1. Bow and gun deer hunting on designated "Public Hunting Areas" is permitted concurrent with applicable State seasons.

2. Except for the Goose Island Closed Area which is closed to hunting at all times, bow and gun deer hunting on designated "closed" area is permitted concurrent with applicable State seasons, but only during the period from the first day after the close of the last hunting season for ducks for that area, until the end of the applicable State seasons, or until the next succeeding March 1, whichever comes first.

3. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Illinois, Iowa**Mark Twain National Wildlife Refuge**

Hunting of white-tailed deer with shotgun is permitted on the Gardner Division (4,831 acres) of Mark Twain National Wildlife Refuge, Illinois, on the area designated by signs. Hunting shall be in accordance with all applicable State regulations subject to the following special conditions: 1. The hunting dates will be November 21, 22, 23, 1980 from 6:30 AM to 3:00 PM (CST).

2. A valid State-issued shotgun deer permit with Mark Twain National Wildlife Refuge designation will serve as authorization to enter the public hunting area. Permits have been issued following a May 1980 drawing.

3. Successful hunters will be required to check their deer through the Adams County Check Station near the Division.

4. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Big Game Hunting is permitted on Big Timber Division and Turkey Island Area (1,760 acres) of the Mark Twain National Wildlife Refuge, Iowa, on the areas designated by signs. Construction or use of permanent blinds, platforms or scaffolds is prohibited.

Dated: August 18, 1980.

George Bekeris,
Area Manager.

[FR Doc. 80-26223 Filed 8-26-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 222

Sperm Whale Oil and Scrimshaw; Certificates of Exemption for Pre-Act Endangered Species Parts

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: These amendments allow current holders of certificates of exemption for sperm whale oil and scrimshaw to apply for an extension of up to three additional years on those certificates. Certificate holders must make an application in accordance with the procedures authorized in these amended regulations to the National Marine Fisheries Service for a renewal of existing certificates. Applications from persons to whom an original certificate of exemption has not previously been issued will not be accepted. These amended regulations also make some nonsubstantive changes that reflect the current organizational structure of the National Marine Fisheries Service, and other editorial revisions to eliminate provisions no longer applicable.

EFFECTIVE DATE: These amended regulations shall become effective on August 22, 1980.

FOR FURTHER INFORMATION CONTACT: Eugene A. Bennett or Grace A. Sutton, Enforcement Division, F/CM5, National

Marine Fisheries Service, Washington, D.C. 20235, 202-634-7265.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) enforces all aspects of the Endangered Species Act of 1973 as amended (the Act), with respect to, but not limited to, all species of whales of the order cetacea. The aspect that is affected by these amendments is the certificates of exemption issued to dealers in scrimshaw (whale teeth and bone) and sperm whale oil, including spermaceti and its derivatives.

On July 12, 1976, Congress passed an amendment to the Act (Pub. L. 94-359) which allowed persons who held quantities of endangered species parts prior to December 28, 1973, to obtain a certificate of exemption to sell their stocks through exportation or interstate commerce. A three year maximum time period, from the date of issuance of a certificate of exemption, was allowed to persons to whom certificates were issued by NMFS for them to sell their pre-Act inventories. In the June 22, 1977 issue of the *Federal Register* (42 FR 28137-41), the NMFS published a final rule regarding certificates of exemption.

Many dealers have indicated to Congress that this initial three year period was not sufficient time to allow them to sell their inventories. Congress again amended the Act on December 28, 1979 (Pub. L. 96-159), to allow persons to whom an original certificate of exemption has been issued under the 1976 amendments (Pub. L. 94-359) to apply for an extension of their certificates of up to three additional years from the date of expiration of the original certificate. Since the 57 persons subject to this action were personally served by certified mail with the amendments and advised of the information required to apply for an extension of their certificates of exemption, notice and public procedures are unnecessary and contrary to the public interest. These amendments will therefore take effect on publication.

NOAA's Administrator has determined that these amended regulations do not constitute a significant action and therefore do not require a regulatory analysis under Executive Order 12044 and NOAA Directive 21-24.

The Assistant Administrator for Fisheries has also determined that issuance of these amended regulations would not be a major Federal action significantly affecting the quality of the human environment. Therefore the preparation of an environmental impact statement is not required.

Signed this 19th day of August 1980, at Washington, D.C.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

1. In 50 CFR Part 217 Subparts B and C are revised to read as follows:

PART 217—GENERAL PROVISIONS

* * * * *

Subpart B—Definitions

217.12 Definitions.

Subpart C—Addresses

217.21 Assistant Administrator.

217.22 Office of Marine Mammals and Endangered Species.

217.23 Enforcement Division.

Authority: Sec. 3(d), Fish and Wildlife Act of 1956, as amended, 88 Stat. 92 (16 U.S.C. 742b); sec. 11(f), Endangered Species Act of 1973, Pub. L. 93-205, 87 Stat. 884 (16 U.S.C. 1540).

* * * * *

Subpart B—Definitions

§ 217.12 Definitions.

"Act" means the Endangered Species Act of 1973, as amended (Pub. L. 93-205).

"Assistant Administrator" means the Assistant Administrator for Fisheries of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, or his authorized representative.

"Commercial Activity" means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided, however,* That it does not include the exhibition of commodities by museums or similar cultural or historical organizations.

"Country of exportation" means the last country from which the animal was exported before importation into the United States.

"Country of origin" means the country where the animal was taken from the wild, or the country of natal origin of the animal.

"Fish or wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.