

**§ 17.84 Permits—Appendix I.**

(a) Permits issued pursuant to § 17.22 (endangered wildlife—permits for scientific purposes or for the enhancement of propagation or survival) or § 17.72 (same—plants) shall be valid for the importation or exportation of any specimen on Appendix I of the Convention.

(b) All the provisions of § 17.22, or § 17.72, as appropriate, shall apply to the application for, and the issuance of, permits under this section. In addition to the issuance criteria and the conditions of § 17.22 or § 17.72, all the provisions of Article III (Regulation of Trade in Specimens of Species Included in Appendix I) and Article VI (Permits and Certificates) of the Convention shall apply to the issuance of permits under this section. Permits issued under § 17.22 or § 17.72 shall be modified to conform to the requirements of the Convention.

**§ 17.85 Permits—Appendix II or III.**

(a) Permits issued pursuant to § 17.32 (threatened species permits—general) or § 17.82 (same—plants) shall be valid for the exportation of any specimen on Appendix II or III of the Convention.

(b) All the provisions of § 17.32 or § 17.82, as appropriate, shall apply to the application for and the issuance of permits under this section. In addition to the issuance criteria and the conditions of § 17.32 or § 17.82, all the provisions of Article IV (Regulations of Trade in Specimens of Species Included in Appendix II), Article V (Regulation of Trade in Specimens of Species Included in Appendix III) and Article VI (Permits and Certificates) of the Convention shall apply, as appropriate, to the issuance of permits under this section. Permits issued under § 17.32 or § 17.82 shall be modified to conform to the requirements of the Convention.

**§ 17.86 Countries which are parties to the Convention.**

The following countries are parties to the Convention. This list is for the convenience of the public only, and does not preclude enforcement of these regulations regarding wildlife or plants being traded with a country not listed here, but which is a party to the Convention: United States, Canada, Sweden, Chile, Nigeria, Tunisia, Cyprus, United Arab Emirates, Switzerland, Uruguay, Ecuador, Mauritius, Nepal, Peru, South Africa, Costa Rica, Brazil, Papua New Guinea, Madagascar, Niger, German Democratic Republic, Ghana, Morocco.

[FR Doc. 76-17311 Filed 6-15-76; 8:45 am]

**[ 50 CFR Part 17 ]****SEA TURTLES****Proposed Regulations Treating 3 Species as Threatened Under the "Similarity of Appearance" Clause**

The Director, United States Fish and Wildlife Service, and the Director, National Marine Fisheries Service, who share jurisdiction for sea turtles under

a Memorandum of Understanding, hereby issue a notice of proposed rule-making which would treat as threatened species, under the "Similarity of Appearance" clause of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 1533(e)), the unlisted green (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles. The proposal would also establish regulations governing these 3 unlisted species, thereby protecting the similar appearing listed sea turtles.

**BACKGROUND**

On December 5, 1969, the Endangered Species Conservation Act of 1969 (Pub. L. No. 91-135, §§ 1-6, 83 Stat. 275-278) was signed into law. This Act gave the Secretary of the Interior the power to determine certain species to be threatened with worldwide extinction and to restrict the importation of those species (Pub. L. No. 91-135, §§ 2-4, 83 Stat. 275-276). On December 2, 1970, the Secretary exercised this power and determined the hawksbill sea turtle (*Eretmochelys imbricata*), the leatherback sea turtle (*Dermochelys coriacea*), and the Atlantic ridley sea turtle (*Lepidochelys kempii*) to be threatened with worldwide extinction (35 FR 18319, 18322 (Dec. 2, 1970)). The importation of the three species was restricted, and they appeared on the U.S. List of Endangered Foreign Fish and Wildlife (Pub. L. No. 91-135, §§ 2-4, 83 Stat. 275-276; 50 CFR 17, Appendix A, Jan. 1971 ed.).

On December 28, 1973, the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; hereinafter referred to as the "Act") was signed into law. The Act redesignates the hawksbill, leatherback, and Atlantic ridley sea turtles as "endangered species" (16 U.S.C. 1533(c)(3)), and thereby restricts not only their importation, but also their exportation, transportation, taking, and sale (16 U.S.C. 1538).

The Act also provides that:

Section 4(e). The Secretary may, by regulation, and to the extent he deems advisable, treat any species as an endangered species or threatened species even though it is not listed pursuant to this section if he finds that—

(A) Such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) The effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) Such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this chapter. (16 U.S.C. 1533(e)).

In implementing the above authority, § 17.50 of Title 50, Code of Federal Regulations, provides that:

§ 17.50 General. (a) Whenever the Director determines that a species which is not endangered or threatened closely resembles an endangered or threatened species, such species shall be treated as either endangered or threatened, pursuant to section 4(e) of

the Act. Such species shall appear in list in § 17.11 with the notation "E/A" the "status" column, following either a "E" or a letter "T" to indicate whether species is being treated as endangered or threatened.

(b) In determining whether to treat species as endangered or threatened due similarity of appearance, the Director shall consider the following factors in addition to the criteria in section 4(e) of the Act:

(1) The degree of difficulty which law enforcement personnel would have in distinguishing the species in question from endangered or threatened species especially where: (i) The distinction between the endangered or threatened species and other species is based upon geographical boundaries; (ii) the normal morphological or other differentiating characteristics of the species are minute, or can be easily masked, or would not be apparent when products are processed.

(2) The additional threat posed to the endangered or threatened species by the loss of control occasioned because of the similarity of appearance; and

(3) The amount of control over transactions involving endangered or threatened species to be gained either by: (i) Imposing the same prohibitions on the species which is similar, as apply to the endangered or threatened species, or (ii) providing, where the species is treated as threatened, special rules in Subpart D of this part to distinguish the similar species from the endangered or threatened species.

Pursuant to the above provisions, the regulations of this proposal would treat the green (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as threatened species because of their similarity in appearance to the listed hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and Atlantic ridley (*Lepidochelys kempii*) sea turtles.

**FINDINGS**

(1) At various points in question, the unlisted green (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles so closely resemble in appearance the listed hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), an Atlantic ridley (*Lepidochelys kempii*) sea turtles that enforcement personnel have substantial difficulty in attempting to differentiate between the listed and unlisted species.

**Discussion:** A recent survey of agents from the U.S. Fish and Wildlife Service Division of Law Enforcement, shows the sea turtle shell is often made into jewelry, sea turtle hide is often made into shoes and leather goods, sea turtle meat is often used in soup, and sea turtle oil is often used in cosmetics. When sea turtle parts are made into products, it is extremely difficult for enforcement agents to determine whether the part used is from a listed or unlisted species. Indeed, such differentiation is difficult even for expert herpetologists. In the case of meat, oil, and small pieces of shell, differentiation is difficult, even where the parts have not been processed into products. Except for the leatherback (*Dermo-*

*chelys coriacea*) sea turtle, the same is also true in the case of skin or hide.

In addition, in the case of young specimens other than leatherbacks (*Dermochelys coriacea*), differentiation is quite difficult, particularly between the Atlantic (*Lepidochelys kempii*) and the Pacific (*Lepidochelys olivacea*) ridleys. Even with adult specimens differentiation is difficult between the ridleys, between the loggerhead (*Caretta caretta*) and the Atlantic ridley (*Lepidochelys kempii*), and occasionally between the green (*Chelonia mydas*) (including *C. agassizi* Boucourt) and the hawksbill (*Eretmochelys imbricata*).

(2) By weakening the deterrent value of the Act in protecting the listed hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and Atlantic ridley (*Lepidochelys kempii*) sea turtles, the substantial difficulty described in Finding (1) is an additional threat to such turtles.

**Discussion:** The Act protects the listed hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and Atlantic ridley (*Lepidochelys kempii*) sea turtles by prohibiting the importation, exportation, taking, and transportation or sale in interstate or foreign commerce of such species (16 U.S.C. 1538). Persons who violate the Act's prohibitions may be prosecuted civilly or criminally, and the listed species items involved in the violation may be forfeited to the United States (16 U.S.C. 1540). The Act's prohibitions and their attendant penalties deter persons from engaging in activities harmful to the listed sea turtles. However, this deterrence is greatly weakened when enforcement agents terminate investigations without prosecution in the belief that the items involved are from unlisted rather than listed species. Therefore, by weakening the Act's deterrent value, the substantial difficulty in differentiation described in Finding (1) constitutes a threat to the listed sea turtles in addition to the threats requiring their listing in the first place.

(3) Treating the unlisted green (*Chelonia mydas*) (including *C. agassizi* Boucourt), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as threatened species will substantially facilitate enforcement of the Act, and by strengthening its deterrent value, will further its policy of protecting listed sea turtles.

**Discussion:** Treating the unlisted green (*Chelonia mydas*) (including *C. agassizi* Boucourt), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as threatened species allows the establishment of regulations restricting the importation, exportation, taking, transportation, and sale of such species (16 U.S.C. 1533(e)). Regulations to do this contained in this proposal, and they are similar to the prohibitions imposed by the Act on listed sea turtles. This similarity substantially facilitates enforcement of the Act by es-

tablishing similar violations for all sea turtles, except one (flatback sea turtle (*Chelonia depressa*) not found in United States), which violations may then be investigated in similar manner.

In addition, the similarity of violations and investigative techniques will increase prosecution for violations involving listed turtles, and thereby strengthen the deterrent value of the Act and further its policy of protecting such turtles.

#### CONCLUSION

For the reasons discussed in Findings (1) through (3) above, it is deemed advisable to treat the unlisted green (*Chelonia mydas*) (including *C. agassizi* Boucourt), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as threatened species to the extent provided by the regulations of this proposal.

#### DESCRIPTION OF PROPOSED REGULATION

As already indicated, the regulations of this proposal would treat the green (*Chelonia mydas*) (including *C. agassizi* Boucourt), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as threatened species under the "Similarity of Appearance" clause of the Act (16 U.S.C. 1533(e)). Accordingly, the three species would appear as threatened species in the list of endangered and threatened wildlife in § 17.11, with the notation "S/A" to indicate that they were placed on the list to similarity of appearance.

In addition, special rules (50 CFR 17.42(b) and 50 CFR 228.81) would be established to specify the prohibitions, exceptions, and permits applicable to the three species. Subject to certain exceptions, § 17.42 (b) and § 228.81 would incorporate by reference the provisions of Title 50, Code of Federal Regulations, §§ 17.21, 17.31, and 17.52 or 228.11-228.30. Thus, the green (*Chelonia mydas*) (including *C. agassizi* Boucourt), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles would be subject to the prohibitions applicable to listed threatened species (50 CFR 17.21, 17.31), except that incidental catch by fishermen or researchers at sea would not be a prohibited taking, providing certain conditions are met, and the prohibitions on interstate commerce would not be effective until June 16, 1977. (Prohibitions on foreign commerce would be effective immediately.) Also, similarity of appearance permits (50 CFR 17.52 and 50 CFR 228.11-228.30) would be available to authorize activities otherwise prohibited for the three threatened species. However, issuance or denial of such permits would require the concurrence of both the National Marine Fisheries Service and the U.S. Fish and Wildlife Service. A similarity of appearance permit would authorize the permittee to conduct other prohibited activities upon a showing that a specimen, although similar to an endangered species, is not an endangered species.

#### RELATIONSHIP OF THIS PROPOSAL TO THE EARLIER LISTING PROPOSAL

On May 20, 1975, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service proposed to list the green (*Chelonia mydas*) (including *C. agassizi* Boucourt), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*) sea turtles as "regular" threatened species under section 4(a) of the Act (16 U.S.C. 1533(a); 40 FR 21974-21977 (amended 40 FR 25217), 21982-21986 (amended 40 FR 26043)). However, such proposal has not yet become finalized because the National Marine Fisheries Service deemed it necessary to hold public hearings and prepare an Environmental Impact Statement. The National Marine Fisheries Service and the U.S. Fish and Wildlife Service are expected to reach agreement on final listing and protective action with respect to these sea turtles sometime in May 1976. Taking into consideration the requirements of the Council on Environmental Quality with respect to final environmental impact statements, the public may expect final action on that sea turtle proposal to become effective no sooner than late summer of 1976.

In light of this additional time, the present proposal under the Act's "Similarity of Appearance" clause is deemed advisable to provide adequate protection for the already listed sea turtles (the endangered hawksbill (*Eretmochelys imbricata*), leatherback (*Dermochelys coriacea*), and Atlantic ridley (*Lepidochelys kempii*) sea turtles). However, the proposal of May 20, 1975, would itself afford protection to the listed turtles. Therefore, upon final regulations on the proposal of May 20, 1975, becoming effective, these proposed regulations will be withdrawn, or if promulgated in final, rescinded.

#### PUBLIC PARTICIPATION

The Directors desire that the final regulations of this proposal provide the most effective protection possible for the already listed hawksbill, leatherback, and Atlantic ridley sea turtles. The Directors therefore invite the public, concerned private interests, and other Government agencies to participate in this rulemaking by submitting written comments on the proposed regulations. Comments should be addressed to the Director, U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036, or to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All relevant comments received no later than September 14, 1976 will be considered in promulgating the final regulations. Such comments and other information may cause the Directors to promulgate final regulations differing from these proposed regulations.

The Services will attempt to acknowledge receipt of comments, but substan-

tive responses to individual comments may not be provided. All comments timely received will be available for public inspection during normal business hours at Suite 600, 1612 K Street, NW., Washington, D.C. and at Room 428-A, Page Building Number 2, 3300 Whitehaven Street, NW., Washington, D.C.

**ENVIRONMENTAL ASSESSMENT**

The U.S. Fish and Wildlife Service has prepared an environmental assessment concerning these regulations. The assessment concluded that an environmental

impact statement was not necessary to satisfy the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.). Copies may be obtained by writing the Director of the U.S. Fish and Wildlife Service.

This notice of proposed rulemaking is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543, 1533(e)).

Dated: June 10, 1976.

LYNN A. GREENWALT,  
Director,  
U.S. Fish and Wildlife Service.

Dated: May 19, 1976.

JACK W. GEHRINGER,  
Deputy Director,  
National Marine Fisheries Service

Accordingly, it is hereby proposed amend Part 17, Title 50, Code of Federal Regulations, as follows:

1. Section 17.11 is amended by adding to the list of endangered and threaten wildlife the following:

§ 17.11 Endangered and threaten wildlife.

Species		Range						
Common name	Scientific name	Population	Known distribution	Portion of range where threatened or endangered	Status	When listed	Special rule	
REPTILES								
Turtle, green sea	<i>Chelonia mydas</i> (including <i>C. agassizi</i> Boucourt).	NA	Tropical and temperate seas and oceans.	Entire	T(S/A)		17.42(b), 22	
Turtle, loggerhead sea	<i>Caretta caretta</i>	NA	Tropical and temperate seas and oceans.	Entire	T(S/A)		17.42(b), 22	
Turtle, Pacific ridley sea	<i>Lepidochelys olivacea</i>	NA	do.	do.	T(S/A)		17.42(b), 22	

2. Section 17.42 is amended by adding paragraph (b) to read as follows:

§ 17.42 Special rules—reptiles.

(b) Green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*).

(1) *Prohibitions.* Notwithstanding paragraph (c) of § 17.31, and subject to the provisions of paragraph (b) (2) of this section, the provisions of § 17.31 shall apply to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*).

(2) *Exceptions and permits.* (i) The prohibitions on taking (§ 17.21(c)), incorporated into § 17.31 and therefore made applicable to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*) and Pacific ridley sea turtle (*Lepidochelys olivacea*) by paragraph (b) (1) of this section, shall not include incidental catch provided: (A) The specimen was caught by fishing gear incidental to fishing effort or research not directed toward such species; (B) Any such species caught is immediately returned to its aquatic environment unless it is unconscious in which case every effort is made to resuscitate it, by turning the turtle on its back and by pumping (by foot or hand) the turtle's plastron, before returning it to the water; (C) Due care is exercised in the handling of all live specimens to prevent injuries; and (D) No sea turtle incidentally caught, or part(s) or product(s) thereof, is landed, offloaded or transshipped, or kept below deck. The term "incidental catch" shall mean the taking of a green

sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), or Pacific ridley sea turtle (*Lepidochelys olivacea*) during the course of research or fishing activities conducted at sea and not directed toward any member of the three species.

(ii) The prohibitions on delivering, receiving, carrying, transporting, shipping, selling, or offering for sale in interstate commerce (§ 17.21(e); § 17.21(f)), incorporated into § 17.31 and therefore made applicable to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*) by paragraph (b) (1) of this section, shall not apply prior to June 16, 1977.

(iii) The provisions of § 17.52 or §§ 228.11-228.30 shall apply to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*), except that the concurrence of the National Marine Fisheries Service and the U.S. Fish and Wildlife Service is required in the issuance or denial of any permit.

3. Chapter II, 50 CFR is amended by adding Part 28 consisting of Subparts A, B, C, D and E to read as follows:

**PART 228—SIMILARITY OF APPEARANCE**

**Subpart A—Introduction**

- Sec. 228.1 Purpose.
- 228.2 Scope.
- 228.3 Definitions.
- 228.4 General.
- 228.5 Treatment as endangered or threatened.
- 228.6 List of species similar in appearance to endangered or threatened species.
- 228.7-10 [Reserved]

**Subpart B—Permits for Species Similar in Appearance to Endangered or Threatened Species**

- Sec. 228.11 General.
- 228.12 Application requirements.
- 228.13 Issuance criteria.
- 228.14 Permit conditions.
- 228.15 Duration of permits.
- 228.16-30 [Reserved]

**Subpart C—Special Rules: Marine Mammals**

- 228.31-50 [Reserved]

**Subpart D—Special Rules: Marine Fish**

- 228.51-80 [Reserved.]

**Subpart E—Special Rules: Marine Reptiles**

- 228.81 Green Sea Turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*)

AUTHORITY: Endangered Species Act 1973, Pub. L. 93-205, 16 U.S.C. 1531 et seq.

**Subpart A—Introduction**

§ 228.1 Purpose.

The regulations in this part aid enforcement of conservation measures for certain fish or wildlife listed as endangered or threatened species under the Endangered Species Act of 1973 (the "Act"), by establishing rules and procedures to govern activities involving species which are similar in appearance to the listed endangered or threatened species and which are under the jurisdiction of the Secretary of Commerce.

§ 228.2 Scope.

(a) The regulations contained in this part apply only to fish or wildlife listed under the similarity of appearance provisions of the Act.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of Parts 217-222 and Part 228.

this chapter which may prescribe additional restrictions or conditions governing listed species, as appropriate.

### 228.3 Definitions.

The definitions contained in the Act in Parts 217 and 225, unless the context otherwise requires, are incorporated in this Part 228 by reference.

### 228.4 General.

(a) Whenever the Director determines that a species which is not endangered or threatened closely resembles an endangered or threatened species, such species shall be treated as either endangered or threatened, pursuant to section (e) of the Act. Such species shall appear in the list in § 17.11 with the notation S/A in the "status" column, following either a letter "E" or a letter "T" to indicate whether the species is being treated as endangered or threatened.

(b) In determining whether to treat a species as endangered or threatened due to similarity of appearance, the Director shall consider the following factors in addition to the criteria in section (e) of the Act:

(1) The degree of difficulty which law enforcement personnel would have in distinguishing the species in question from an endangered or threatened species especially where: (i) The distinction between the endangered or threatened species and other species is based upon geographical boundaries; (ii) the normal morphological or other differentiating characteristics of the species are minute, or can be easily masked, or would not be apparent when products are processed;

(2) The additional threat posed to the endangered or threatened species by the loss of control occasioned because of the similarity of appearance; and

(3) The amount of control over transactions involving endangered or threatened species to be gained either by: (i) imposing the same prohibitions on the species which is similar, as apply to the endangered or threatened species, or (ii) providing, where the species is treated as threatened, special rules in this part to distinguish the similar species from the endangered or threatened species.

### § 228.5 Treatment as endangered or threatened.

Any species listed in § 17.11, pursuant to § 228.4, shall be treated as endangered or threatened, as indicated in the "status" column.

### § 228.6 List of species similar in appearance to endangered or threatened species.

The species listed as threatened under the similarity of appearance provisions of the Act and under the jurisdiction of the Secretary of Commerce are: Green sea turtle (*Chelonia mydas* [including

*C. agassizi* Boucourt]), Loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*).

### §§ 228.7-10 [Reserved]

### Subpart B—Permits for Species Similar in Appearance to Endangered or Threatened Species

#### § 228.11 General.

Upon receipt of a complete application, and unless otherwise indicated in a special rule, the Director may issue permits for any activity otherwise prohibited with a species designated as endangered or threatened due to its similarity of appearance with an endangered or threatened species.

#### § 228.12 Application requirements.

Applications for permits under this section must be submitted to the Director by the person who wishes to engage in the activity with the similar species. Each application must include all of the following information: Documentary evidence, sworn affidavits, or other information to show species identification and the origin of the fish or wildlife (or if born in captivity, the place where born) in question. This information may be in the form of fishing or hunting licenses, hide seals, official stamps, export documents, expert opinion, bills of sale, or other appropriate information.

#### § 228.13 Issuance criteria.

Upon receiving an application completed in accordance with § 228.12, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 220.21 (b) of this subchapter, the following factors:

(a) Whether the information submitted by the applicant appears reliable; and

(b) Whether the information submitted by the applicant adequately identifies the fish or wildlife in question so as to distinguish it from any endangered or threatened fish or wildlife.

#### § 228.14 Permit conditions.

In addition to the general conditions set forth in Part 220 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(a) If indicated in the permit, a special mark, to be specified in the permit, must be applied to the fish or wildlife, and remain for the time designated in the permit; and

(b) A copy of the permit must accompany the fish or wildlife at all times.

#### § 228.15 Duration of permits.

The duration of permits issued under this section shall be designated on the face of the permit.

### §§ 228.16-30 [Reserved]

#### Subpart C—Special Rules: Marine Mammals

### §§ 228.31-50 [Reserved]

#### Subpart D—Special Rules: Marine Fish

### §§ 228.51-80 [Reserved]

#### Subpart E—Special Rules: Marine Reptiles

### § 228.81 Green Sea Turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), Loggerhead Sea Turtle (*Caretta caretta*), and Pacific Ridley Sea Turtle (*Lepidochelys olivacea*).

(a) *Prohibitions.* Notwithstanding paragraph (c) of § 17.31, and subject to the provisions of paragraph (b) of this section, the provisions of § 17.31 shall apply to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*).

(b) *Exceptions and permits.* (1) The prohibitions on taking (§ 17.21(c)), incorporated in to § 17.31 and therefore made applicable to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*) by paragraph (a) of this section, shall not include incidental catch provided: (i) The specimen was caught by fishing gear incidental to fishing effort or research not directed toward such species; (ii) Any such species caught is immediately returned to its aquatic environment unless it is unconscious in which case every effort is made to resuscitate it, by turning the turtle on its back and by pumping (by foot or hand) the turtle's plastron, before returning it to the water; (iii) Due care is exercised in the handling of all live specimens to prevent injuries; and (iv) No sea turtle incidentally caught, or part(s) or product(s) thereof, is landed, offloaded, or transhipped, or kept below deck. The term "incidental catch" shall mean the taking of a green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), or Pacific ridley sea turtle (*Lepidochelys olivacea*) during the course of research or fishing activities conducted at sea and not directed toward any member of the three species.

(2) The prohibitions on delivering, receiving, carrying, transporting, shipping, selling, or offering for sale in interstate commerce (§ 17.21(e); § 17.21(f)), incorporated into § 17.31 and therefore made applicable to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourt]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*) by paragraph (a) of this section, shall not apply prior to June 16, 1977.

(3) The provisions of § 17.52 or §§ 228.11-228.30 shall apply to the green sea turtle (*Chelonia mydas* [including *C. agassizi* Boucourtl]), loggerhead sea turtle (*Caretta caretta*), and Pacific ridley sea turtle (*Lepidochelys olivacea*), except that the concurrence of the National Marine Fisheries Service and the U.S. Fish and Wildlife Service is required in the issuance or denial of any permit.

[FR Doc.76-17403 Filed 6-15-76;8:45 am]

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 1006, 1012, 1013]

[Docket Nos. AO-356-A14, AO-347-A18, and AO-286-A26]

### MILK IN THE UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

#### Supplemental Notice of Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

This notice is supplemental to the notice of hearing which was issued on May 19, 1970 and published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21206). Notice is hereby given that the aforesaid hearing will be held as scheduled on June 22, 1976 at the Kahler Plaza Inn, 151 East Washington Street, Orlando, Florida, beginning at 9:30 a.m., with respect to proposed amendments previously announced and to additional proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Upper Florida, Tampa Bay and Southeastern Florida marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the previously announced proposed amendments, and to the additional proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

PROPOSED BY UPPER FLORIDA MILK PRODUCERS ASSOCIATION, TAMPA INDEPENDENT DAIRY FARMERS ASSOCIATION, INC., AND INDEPENDENT DAIRY FARMERS ASSOCIATION, INC.

#### PROPOSAL NO. 3

Revise the producer milk definition in the Upper Florida Order (Part 1006), the Tampa Bay Order (Part 1012), and the Southeastern Florida Order (Part 1013) to provide that milk may be diverted to

a pool plant regulated under another order for requested Class II use.

Copies of the notice of hearing, this supplemental notice of hearing, and the order may be procured from the Market Administrator, P.O. Box 11368, Fort Lauderdale, Florida 33306, or from the Hearing Clerk, Room 112-A, Administration Building, United States Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on June 11, 1976.

WILLIAM T. MANLEY,  
Deputy Administrator,  
Program Operations.

[FR Doc.76-17479 Filed 6-15-76;8:45 am]

### Federal Crop Insurance Corporation

[7 CFR Part 411]

#### FEDERAL CROP INSURANCE

##### Grapes

Pursuant to a Statement of Policy issued by the Secretary of Agriculture on July 20, 1971 (36 FR 13804), notice is hereby given that the Board of Directors of the Federal Crop Insurance Corporation is considering and tentatively approved at its meeting on May 12, 1976, an amendment to the Grape Crop Insurance Regulations for the 1967 and Succeeding Crop Years, as amended, (7 CFR 411.1 et seq.) to be effective beginning with the 1977 crop year, which would amend § 411.1 through § 411.6 in their entirety, as follows:

#### PART 411—GRAPE CROP INSURANCE

- Sec.
- 411.1 Availability of grape crop insurance.
- 411.2 Premium rates, production guarantees, and prices for computing indemnities.
- 411.3 Application for insurance.
- 411.4 Public notice of indemnities paid.
- 411.5 Creditors.
- 411.6 The application and the policy.

AUTHORITY: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.

#### § 411.1 Availability of grape crop insurance.

Grape crop insurance shall be offered for the 1977 and succeeding crop years under the provisions of § 411.1 through § 411.6 in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from a list of counties approved by the Board of Directors of the Corporation for grape crop insurance. The counties designated by the Manager shall be published by appendix to this section.

#### § 411.2 Premium rates, production guarantees, and prices for computing indemnities.

(a) The Manager shall establish premium rates, production guarantees, and prices for computing indemnities which shall be provided for on the county ac-

tuarial table on file in the office of county. Such premium rates, production guarantees, and prices for computing indemnities may be changed from year to year.

(b) The following shall apply to the transfer of any premium reduction earned under the provisions of section of the Application and Policy set forth in § 411.6 if the insured is a partner, corporation, or any other joint enterprise and there is no break in continuous participation. Upon dissolution of enterprise, such premium reduction shall be credited to the contract of any member or stockholder thereof if the Corporation determines such person is operating only land formerly operated by dissolved enterprise. Upon formation of joint enterprise, the smallest premium reduction (zero if none), which the Corporation determines would have been applicable to any insurable acreage brought into the enterprise if the enterprise had not been formed, may be credited to the joint enterprise contract.

#### § 411.3 Application for insurance.

Application for insurance may be submitted as provided in § 411.6 at the office for the county for the Corporation. The Corporation reserves the right to discontinue the taking of applications in any county, prior to the closing date for filing of applications, upon its determination that the insurance risk involved is excessive. Such closing date shall be December 10 immediately preceding the beginning of the crop year. The Corporation further reserves the right to require any application or to exclude any initially identified acreage for any year of the contract if upon inspection the risk on such acreage is excessive. If any such acreage is to be excluded the insured shall be notified of such exclusion before insurance attaches for the crop year for which the acreage is excluded.

#### § 411.4 Public notice of indemnities paid.

The Corporation shall provide for publication annually in each county at the county courthouse a listing of indemnities paid in the county.

#### § 411.5 Creditors.

An interest of a person other than the insured in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or any voluntary transfer shall not entitle the holder of the interest to any benefit under the contract other than as provided in the application and policy set forth in § 411.6.

#### § 411.6 The application and the policy.

The provisions of the Application and Policy for Grape Crop Insurance for the 1977 and Succeeding Crop Years are as follows:

Application and Policy.  
Form FCI-812-Grape