

mittee as appropriate, within 20 working days of receipt of the appeal by the Agency. In unusual circumstances, and upon notification to the requester, a ten day extension of the time period may be authorized but only to the extent that such extension does not extend beyond 10 working days any time extension used under the initial review of the request.

(e) If the final determination is affirmative, the requester will be notified immediately and the requested material will be forwarded promptly in accordance with the procedure described in § 602.16 for notifications of initial determinations.

(f) If the final determination is to withhold a record in whole or in part, the requester will be notified immediately of the determination, the reasons therefore, and his right to judicial review.

(g) All decisions shall be indexed and available for inspection and copying in the same manner as other Agency final orders and opinions, if any, under 5 U.S.C. 552(a)(2).

Subpart F—Annual Report to the Congress § 602.50 Requirements for annual report.

(a) On or before March 1 of each calendar year, ACDA shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include the following information:

(1) The number of determinations made by ACDA not to comply with requests for records made to the Agency under this part and the reasons for each such determination;

(2) The number of appeals made by persons under Subpart E of this part, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) The names and titles or positions of each person responsible for the denial of records requested under this part, and the number of instances of participation for each;

(4) The results of each proceeding conducted pursuant to 5 U.S.C. 552(a)(4) (F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) A copy of this Part 602 and any other rule or regulation made by ACDA regarding 5 U.S.C. 552;

(6) A copy of the fee schedule and the total amount of fees collected by ACDA for making records available under this part; and

(7) Such other information as indicates efforts to administer fully this part.

(b) The FOI Officer shall be responsible for preparing the report for review and submission to the Congress by the Executive Officer of ACDA.

Dated: November 28, 1975.

FRED C. IKLE,
Director.

[FR Doc. 75-32710 Filed 12-3-75; 8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (IN- CLUDING MENTAL RETARDATION RE- SEARCH FACILITIES), TEACHING FA- CILITIES, STUDENT LOANS, EDUCA- TIONAL IMPROVEMENT AND SCHOLAR- SHIPS

Subpart X—Financial Distress Grants to Schools of Nursing

In the FEDERAL REGISTER of April 3, 1975 (40 FR 14932), the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposed to amend Part 57 by adding a new Subpart X to implement former section 805(b) of the Public Health Service Act (42 U.S.C. 296d(b)) authorizing the Secretary to award grants to assist public or nonprofit private schools of nursing which are in serious financial straits to meet operational costs required to maintain quality educational programs or which have special need for financial assistance to meet accreditation requirements.

Subsequent to publication of the notice of proposed rulemaking, Congress enacted the Nurse Training Act of 1975 (Pub. L. 94-63, title IX) which, effective July 1, 1975, repeals section 805 of the Public Health Service Act and adds a new section 815 continuing the authority of former section 805(b). In substance the new section 815 extends the same program of financial distress grants to schools of nursing which was formerly authorized by section 805(b). New section 815(b)(1) provides that the Secretary may not approve or disapprove an application for a grant except after consultation with the National Advisory Council on Nurse Training. Such consultation was formerly required under section 807 of the Public Health Service Act, and is provided for in § 57.2306(a) of the proposed regulations.

Since the financial distress program authorized by the new section 815 is substantively the same as that which was previously authorized under section 805 (b), the Department will adopt the proposed regulations with several minor changes to conform with the Nurse Training Act of 1975, as set forth below. Throughout the regulations, references to the statutory authority for financial distress grants have been changed from the former section 805(b) of the Public Health Service Act to the new section 815. In addition, references to other sections of title VIII of the Public Health Service Act have been revised to conform with the redesignation of such sections under the Nurse Training Act of 1975. (For example, sections 841 and 843 of the Public Health Service Act, which are referred to in § 57.2302 of the proposed regulations, are redesignated as sections 851 and 853, respectively.)

The notice of proposed rulemaking which was published on April 3, 1975, offered interested persons the opportunity to participate in the rulemaking through

submission of comments on or before May 5, 1975.

The only comment received concerned the eligibility of church-affiliated schools of nursing for financial distress grants and the related question of discrimination on the basis of religion in the admission of students to such schools. The writer expressed the view that grants to such schools would be in violation of the establishment of religion clause of the First Amendment to the Constitution. The Department recognizes the complexity of the issue of aid to church-affiliated educational institutions. This issue is currently before the Supreme Court in the form of a challenge to a State's program of general institutional support to all schools of higher education: "Roemer v. Board of Public Works of the State of Maryland" (Supreme Court No. 74-730). In light of the pendency of this issue and the lack of any statutory indication that church-affiliated institutions should be excluded from the financial distress grants program, which provides funds solely for the purposes of meeting operating costs of the nursing education programs of nursing schools or to assist such schools in meeting their accreditation requirements, it would be premature for the Department to prohibit such eligibility as a matter of law at this time.

The Department, however, has decided to make explicit in the regulations the existing constitutional prohibition against Federal assistance for sectarian instruction or other religious activities. In accordance with the Supreme Court's decision in "Tilton v. Richardson", 403 U.S. 672 (1970), concerning restrictions on the use of funds for sectarian activities, § 57.2308 of the proposed regulations has been revised to prohibit recipients of financial distress grant funds from using such funds for religious purposes.

With respect to the issue of discrimination on the basis of religion in the admission of students to church-affiliated schools, the Department considers such discriminatory practices to be contrary to the nurse training objectives of the financial distress grant program. The purpose of the program is to aid nursing schools which are in serious financial difficulty in order that they may continue to train nurses and thereby increase the supply and improve the distribution of nurses in the United States. Any nursing school which denies admission to qualified applicants for reasons unrelated to their qualification for the training involved, such as religion or creed, is less effective in meeting the nurse training needs of the Nation in that it arbitrarily excludes an element of the population which otherwise would be available to provide needed nursing services. Moreover, the capacity of such a school will not be utilized to the extent it would be were its students freely selected from among those persons best qualified to pursue its training program. For these reasons, a provision has been added to § 57.2309 of the proposed regulations, "Nondiscrimination," prohibiting grantees from discriminating on the basis of religion in the admission of individuals to their training programs.

Section 57.2309 of the proposed regulations, "Nondiscrimination," has also been revised to include a provision calling attention to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, relating to nondiscrimination of the handicapped. Finally, several minor editorial or technical changes have been made in the regulations as proposed. Accordingly, a new Subpart X is added to 42 CFR Part 57 and is adopted as set forth below.

Effective date. These regulations are effective December 4, 1975.

Dated: October 23, 1975.

R. MOURE,
Acting Assistant Secretary
for Health.

Approved: November 21, 1975.

MARJORIE LYNCH,
Acting Secretary.

Subpart X—Financial Distress Grants to Schools of Nursing

- Sec.
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AUTHORITY: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); sec. 815, 89 Stat. 358 (42 U.S.C. 296j).

§ 57.2301 Applicability.

The regulations of this subpart are applicable to the award of grants pursuant to section 815 of the Public Health Service Act (42 U.S.C. 296j) to assist public or nonprofit private schools of nursing which are in serious financial straits to meet operational costs required to maintain quality educational programs or which have a special need for financial assistance to meet accreditation requirements.

§ 57.2302 Definitions.

All terms not defined herein shall have the same meaning as given them under Title VIII of the Act. As used in this subpart:

(a) "Act" means the Public Health Service Act, as amended.

(b) (1) "Construction" means the construction and equipping of new buildings and the acquisition and expansion of existing buildings (including related costs, such as architects' fees, acquisition of land, offsite improvements, and the initial equipping of such buildings), and (2) the remodeling, alteration and repair of existing buildings.

(c) "Council" means the National Advisory Council on Nurse Training (established by section 851 of the Act).

(d) "Fiscal year" means the Federal fiscal year as defined in 31 U.S.C. 1020(a).

(e) "Secretary" means the Secretary of Health, Education, and Welfare, and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved has been delegated.

(f) "School" or "school of nursing" means a school of nursing as defined in section 853(b) of the Act and which is accredited as provided in section 853(f) of the Act.

(g) "State" means any one of the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Canal Zone, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

§ 57.2303 Eligibility.

To be eligible for a grant under this subpart the applicant shall:

(a) (1) Be a school as defined in § 57.2302(f)(1) with operating income insufficient to meet operational costs required to maintain quality educational programs or (2) with special need for financial assistance to meet accreditation requirements of a nonrecurring nature. For purposes of this paragraph, a school will be considered to have such "special need" for financial assistance where the requirements necessary in order to have the program of education in professional nursing of such school accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Commissioner of Education cannot be met within the school's operating income.

(b) Be located in a State as defined in § 57.2302(g).

§ 57.2304 Application.

(a) Each eligible school desiring a grant under this subpart shall submit an application in such form and at such time as the Secretary may require.

(b) Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this subpart.

(c) The application shall contain a full and adequate description of the purpose for which the application is made, the manner in which the applicant intends to utilize funds awarded in accordance with this subpart, the proposed plan to eliminate the need for support under this subpart, and such other pertinent information as the Secretary may require.

§ 57.2305 Assurances required.

(a) Pursuant to section 815(b)(2) of the Act, the applicant shall submit an assurance satisfactory to the Secretary that

¹ Applications and instructions may be obtained from the Division of Nursing, Bureau of Health Manpower, Health Resources Administration, Department of Health, Education, and Welfare, 9000 Rockville Pike, Bethesda, Maryland 20014.

the applicant will expend in carrying out its functions as a school of nursing during the fiscal year for which the grant is sought, an amount of non-Federal funds (excluding costs of construction as defined in § 57.2302(b) at least as great as the average amount of non-Federal funds (excluding expenditures of a non-recurring nature, including costs of construction as defined in § 57.2302(b) expended for this purpose during the 3 fiscal years immediately preceding such fiscal year. The determination of the average amount of non-Federal funds expended by a new school during such 3-year period shall be the average for such of the preceding years as expenditures were actually made in carrying out the functions of the school: *Provided*, That the Secretary may, after consultation with the Council, waive the above requirements with respect to any school if he determines that the application of such requirement to such school would be inconsistent with the purposes of section 815 of the Act.

(b) The Secretary may in individual cases require additional assurances where he finds that such additional assurances are necessary to carry out the purposes of section 815 of the Act.

§ 57.2306 Grant awards.

(a) Within the limits of funds available for such purpose, the Secretary, after consultation with the Council, may award grants to those applicants whose support will best promote the purposes of section 815 of the Act, taking into consideration among other pertinent factors:

(1) The extent of the applicant's financial need to meet its costs of operation to maintain quality educational programs or to meet accreditation requirements;

(2) The actions which the applicant has taken or proposes to take to ameliorate the problem;

(3) The alternatives available to the applicant to meet its need for financial assistance; and

(4) The merit of the applicant's proposed plan to eliminate the long-range need for support under this program.

(b) The amount of any award under this subpart shall be determined by the Secretary on the basis of his estimate of the sum necessary to carry out the purposes of the applicant's approved plan.

(c) All grant awards shall be in writing and shall set forth the amount of funds granted and the period for which such funds will be available for obligation by the grantee, generally a 12-month period.

(d) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, or other award with respect to any approved plan or portion thereof.

§ 57.2307 Grant payments.

The Secretary shall from time to time make payments to a grantee of all or a

portion of any grant award, either in advance or by way of reimbursement for expenses incurred or to be incurred to the extent he determines such payments necessary to promote prompt initiation and advancement of the approved project.

§ 57.2308 Expenditure of grant funds.

(a) Grant funds awarded to schools for the purpose of meeting costs of operation to maintain quality educational programs may be expended in accordance with the applicable provisions of the Act, the regulations of this subpart, and the terms and conditions of the award to meet any operating costs of the school during the period for which the grant is made, including the liquidation of obligations incurred either by the grantee or parent institution prior to the date of the grant award to the extent such obligations were incurred for costs properly considered operating costs of the school: *Provided*, That such funds shall not be expended for (1) construction as defined in § 57.2302(b) (except that grant funds may be used for alteration and renovation); (2) student aid; or (3) depreciation, amortization or use charges: *And, provided, further*, That such funds shall not be expended for sectarian instruction or for any religious purpose. Such funds will be available for a fixed period set forth on the grant award statement based upon the Secretary's estimate of the time necessary to permit the school to utilize the grant funds to meet such operating costs.

(b) Grant funds awarded to schools for the purpose of meeting accreditation requirements shall be expended solely for carrying out the school's approved plan in accordance with the applicable provisions of the Act, the regulations of this subpart, the terms and conditions of the award and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74: *Provided*, That grant funds may only be used to pay direct costs: *And, provided, further*, That such funds shall not be expended for sectarian instruction or for any religious purpose. Such funds will be available for obligation through the end of the fiscal year following the fiscal year in which the grant is sought.

§ 57.2309 Nondiscrimination.

(a) Attention is called to the requirements of section 855 of the Act and to 45 CFR Part 83 which together provide that the Secretary may not make a grant, loan guarantee, or interest subsidy payment under Title VIII of the Act to, or for the benefit of any entity unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) Attention is called to the requirements of Title VI of the Civil Rights Act of 1964 and in particular to section 601 of such Act which provides that no person in the United States shall, on the grounds of race, color, or national

origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such Title VI, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 80).

(c) Attention is called to the requirements of Title IX of the Education Amendments of 1972 and in particular to section 901 of such Act which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. A regulation implementing such Title IX, which is applicable to grants made under this subpart, has been issued by the Secretary with the approval of the President (45 CFR Part 86).

(d) Attention is called to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(e) The Secretary may not make a grant under this subpart to an entity unless the application for such grant contains assurances satisfactory to the Secretary that the entity will not discriminate on the basis of religion in the admission of individuals to its training programs.

(f) Grant funds used for alteration or renovation shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (Sept. 24, 1965), as amended, and with the applicable rules, regulations, and procedures prescribed pursuant thereto.

§ 57.2310 Grantee accountability.

(a) *Accounting for grant award payments.* All payments made by the Secretary shall be recorded by the grantee in accounting records separate from the records of all other funds, including funds derived from other grant awards. With respect to each award the grantee shall account for the sum total of all amounts paid by presenting or otherwise making available evidence satisfactory to the Secretary of expenditures for costs meeting the requirements of this subpart.

(b) *Accounting for royalties.* Royalties received by grantees from copyrights on publications or other works developed under the grant, or from patents or inventions conceived or first actually reduced to practice in the course of or under such grant shall be accounted for as follows:

(1) Patent royalties, whether received during or after the grant period, shall

be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee, pursuant to the Department's patent regulations (45 CFR Parts 6 and 8).

(2) Copyright royalties, whether received during or after the grant period, shall first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials, and any royalties in excess of the costs of publishing or producing the materials shall be distributed in accordance with Chapter 1-420, Department of Health, Education, and Welfare Grants Administration Manual.²

(c) *Grant Closeout.*—(1) *Date of final accounting.* A grantee shall render, with respect to each approved project, a full account, as provided herein, as of the date of the termination of grant support. The Secretary may require other special and periodic accounting.

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each grant the total sum of (i) any amount not accounted for pursuant to paragraphs (a) and (b) of this section and (ii) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assigns by set off or other action as provided by law.

§ 57.2311 Publications and copyright.

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a grant under this subpart, subject to a royalty-free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate and dispose of such materials, and to authorize others to do so.

§ 57.2312 Inspection and audit.

Any application for a grant under this subpart shall constitute the consent of the applicant to inspections of the facilities, equipment and other resources of the applicant at reasonable times by the Secretary and the Comptroller General of the United States or any of their duly authorized representatives. In addition, the acceptance of a grant award under this subpart shall constitute the consent of the grantee to inspections and fiscal audits by such persons of the supported activity and of progress and fiscal records relating to the use of grant funds.

² The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

§ 57.2313 Applicability of 45 CFR Part 74.

The relevant provisions of the following subparts of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants awarded pursuant to this subpart:

Subpart

- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

§ 57.2314 Additional conditions.

The Secretary may with respect to any grant impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the approved activity, the interests of the public health or the conservation of grant funds, including where applicable that the school agree (a) to disclose any financial information or data deemed by the Secretary to be necessary to determine the sources or causes of that school's financial distress, (b) to conduct a comprehensive cost analysis study in cooperation with the Secretary, and (c) to carry out appropriate operational and financial reforms on the basis of information obtained in the course of a comprehensive cost analysis study or on the basis of other relevant information.

[FR Doc. 75-32401 Filed 12-3-75; 8:45 am]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF INTERIOR

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5550; A-061629, AA-8353]

ALASKA

Partial Revocation of Executive Order No. 8278; Withdrawal of Lands for Native Selection; Transfer of Lands from Department of the Navy to the Coast Guard; Partial Revocation of Public Land Order No. 5187; Amendment of Public Land Order No. 5184

By virtue of the authority vested in the President and pursuant to sections 11(b)(3) and 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 696 (hereafter referred to as the Act), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Executive Order No. 8278 of October 28, 1939, as amended, which withdrew lands for the Department of the Navy for naval purposes, is hereby revoked so far as it affects the following described lands:

Starting from Corner No. 5, U.S. Survey 2539 go east, 8,440 feet to a point on the 5-6 line of said survey, thence N. 47°09' E., 4,500 feet to Corner No. 1, which is the point of beginning; thence N. 42°51' W., 7,636 feet to Corner No. 2; N. 47°09' E., 3,925 feet to Corner No. 3; S. 42°51' E., 7,636 feet to Corner No. 4; S. 47°09' W., 3,925 feet to the point of beginning. Containing approximately 688.05 acres.

2. The lands described in paragraph 1 are hereby withdrawn pursuant to section 11(b)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), for selection by the Koniag Regional Corporation and appropriate village corporations within that Region.

3. Executive Order No. 8278 of October 28, 1939, as amended, which withdrew lands for use of the Department of the Navy for naval purposes is hereby revoked so far as it affects the following described lands, for the reason that said lands were on May 21, 1975, transferred pursuant to section 2571a, Title 10, U.S.C. (1970), to the Coast Guard, Department of Transportation for defense purposes and said lands are hereby reserved to the Coast Guard for such purposes:

All public land and water within the former Kodiak Naval Station and Kodiak Naval Communication Station more particularly described as:

KODIAK ISLAND

All land and water withdrawn by E.O. No. 8278 of October 28, 1939, as amended by PLO No. 1182 of July 1, 1956, and PLO No. 4119 of December 13, 1966, excepting those lands described in paragraph 1.

Containing approximately 29,182 acres.

4. Public Land Order No. 5187 of March 15, 1972, which withdrew lands in military reservations for the protection of the public interest under section 17 (d)(1) of the Act is hereby revoked so far as it relates to the lands described in paragraph 1 of this order.

5. Public Land Order No. 5184 of March 9, 1972, which withdrew certain lands for classification and reclassification under section 17(d)(1) of the Act is hereby amended to include the lands described in paragraph 1 of this order.

6. Prior to any conveyance of the lands described in paragraph 1, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181-287 (1970), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 1, 1975.

[FR Doc. 75-32700 Filed 12-3-75; 8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-14; Notice 4]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection; Correction

In FR Doc. 75-21282, appearing at page 33977 in the issue of Wednesday, August 13, 1975, a conforming amendment of the date "August 15, 1975" as it appears in S6.2 and S6.3 of the standard was inadvertently omitted, although this change to these underlying sections is necessary to fully extend the effectiveness of S4.1.2.3 of the standard as intended.

Accordingly, the date "August 15, 1975", appearing in sections S6.2 and S6.3 of Standard No. 208, *Occupant Crash Protection*, is changed to "August 31, 1976".

(Sec. 103, 119 Pub. L. 80-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51)

Issued on November 28, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc. 75-32732 Filed 12-3-75; 8:45 am]

[Docket No. 3-3; Notice 11]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Flammability of Interior Materials

This notice establishes a new section, S3A. *Definitions*, in Motor Vehicle Safety Standard No. 302, 49 CFR 571.302.

On September 16, 1975, the NHTSA published in the Federal Register its response to a petition for reconsideration of Motor Vehicle Safety Standard No. 302, *Flammability of interior materials* (40 FR 42746). The rule established a definition of the term "occupant compartment air space" that was supposed to be added to "S3A. *Definitions*." The wording of the amendment was faulty, however, since the *Definitions* section had not yet been established in Standard No. 302. This notice corrects the error by adding that section to the standard.

Petitions have been received from General Motors Corporation, Motor Vehicle Manufacturers Association, American Motors Corporation, and Ford Motor Company requesting that the definition of "occupant compartment air space" in Notice 9 be revoked. These petitions will be addressed in a separate notice. The purpose of this notice is only to promulgate the section heading which was omitted in error from Notice 9.

In light of the above, in place of the amendment numbered 1. in Docket 3-3, Notice 9 (40 FR 42746, September 16, 1975), Motor Vehicle Safety Standard No. 302 is amended by adding a new S3A. *Definitions*, reading as follows:

S3A. Definitions.

"Occupant compartment air space" means the space within the occupant compartment that normally contains refreshable air.

Effective date: December 4, 1975. Because this amendment is of an interpretative nature and makes no substantive change in the rule, it is found for good cause shown that an immediate effective date is in the public interest.

(Sec. 103, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51)

Issued on November 28, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-32733 Filed 12-3-75; 8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

[Ex parte No. 54]

PART 1010—COMPETITIVE BIDS

Bids of Carriers Subject to the Clayton Antitrust Act

DECEMBER 1, 1975.

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 20th day of November, 1975.

It appearing, That by order of the Commission, dated October 6, 1919, as amended October 4, 1920, this proceeding was instituted for the purpose of establishing the rules and regulations pertaining to competitive bidding for the securities, supplies, other articles of commerce, and certain contracts, as directed by section 10 of the Clayton Antitrust Act (38 Stat. 734, 15 U.S.C. 20), which regulations are presently found in 49 CFR 1010.1 to 1010.7;

It further appearing, That, by petition filed August 29, 1975, Southern Railway Company, of Washington, D.C., and Union Pacific Railroad Company, of Salt Lake City, Utah, both class I railroads subject to Part I of the Interstate Commerce Act, request that the regulations found at 49 CFR 1010.1(b) and 1010.2(a) be amended; that at present the regulations read, as pertinent herein, as follows:

Section 1010.1(b)

* * * Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date on or before which the bids must be submitted * * *

Section 1010.2(a)

Every bid to receive consideration shall be submitted at the place specified in the notice on or before noon of the day on which the bids shall be opened after noon and before 6 o'clock, on the day and at the place and by the person or persons designated in the notice * * *;

that the petition seeks to amend the regulations to read as follows:

Section 1010.1(b)

* * * Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date and time at or before which the bids must be submitted, and the person by whom * * * (modification underscored)

Section 1010.2(a)

Every bid to receive consideration shall be submitted at the place and at or before the hour specified in the notice for the receipt of bids. The time specified may be any hour from 10:00 a.m. until 3:00 p.m. of any business day, and the bids shall be opened after the specified hour and before six o'clock on the day and at the place and by the person or persons designated in the notice * * * (modifications in *italics*);

and, that the reason for the proposed modifications is that at the present time the winning bidder is unable to confirm its own sales of the securities, etc., resulting in unnecessary risks which will be alleviated by the proposed modification;

It further appearing, That statements in support of the modifications of the regulations were submitted by spokesmen for Salomon Brothers; Merrill Lynch, Pierce, Fenner & Smith Incorporated; Halsey, Stuart & Co., Inc.; Burlington Northern Inc.; The Chesapeake and Ohio Railway Company, The Baltimore and Ohio Railroad Company and Western Maryland Railway Company jointly; Norfolk and Western Railway Company; Seaboard Coast Line Railroad Company; and The Atchison, Topeka and Santa Fe Railway Company; and that all the supporting statements maintain that the procedural modifications requested in the petition are reasonable and will improve the procedure for competitive bidding;

It further appearing, That, as presently set forth in the above regulations, the procedure and notice requirements may be, under certain circumstances, cumbersome and result in unnecessary risks to the winning bidders; that the modifications of the regulations would eliminate such difficulties; and that under these circumstances and for other good cause, the regulations should be modified as shown below; and

It further appearing, That such modifications constitute procedural rule changes within the exception to section 553 of the Administrative Procedure Act; and that notice and hearing of the proposed modifications are therefore not required.

It is ordered, That for the aforesaid reasons, the regulations found at 49 CFR 1010.1(b) and 1010.2(a), as modified and set forth below, be, and they are hereby, adopted;

It is further ordered, That this order shall become effective on the date of service;

It is further ordered, That except as herein modified, the report and order of October 6, 1919, in this proceeding, as amended by order of October 4, 1920, and as modified and supplemented, shall remain in full force and effect; and

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof 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.

[SEAL]

ROBERT L. OSWALD,
Secretary.

NOTE: This decision is not a major Federal action having a significant impact on the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

§ 1010.1 Specifications, form of proposal and contract; publication of request of bids; variation from the generally applicable procedure.

(b) The carrier shall publish in each case a request for bids in at least two daily newspapers of general circulation, at least two publications in each week for 2 weeks, the first publication to be at least 2 weeks immediately preceding the day when the bids are to be submitted; one such newspaper shall be published or shall be of general circulation in the city or town where the principal operating office of the carrier is located and the other newspaper shall be published in one other of the following cities nearest to the operating or financial office of the carrier or the place where the contract is to be performed, namely: New York, N.Y., Boston, Mass., Chicago, Ill., St. Louis, Mo., Atlanta, Ga., San Francisco, Calif., and Portland, Oreg.; and a printed copy of the published notice in each case shall be posted in plain view, for 2 weeks immediately preceding the day on which bids are to be received, on a bulletin board, designated for that purpose, in a public and conspicuous place in the building where the principal operating office of the carrier is located.

(1) Such published notices shall describe in general but intelligible terms the proposed contract, giving its serial number, and the special matter or things for which bids are requested, and the date and time at or before which the bids must be submitted, and the person by whom the office at which the bids submitted will be received and opened as provided in this part. The carrier may in said notice reserve the right to reject, any and all bids and may, at its option, require each bidder to tender a bond in a reasonable sum to be therein named, with sufficient surety or sureties conditioned upon the faithful and prompt performance of the terms of the contract.

§ 1010.2 Opening of bids; bonds; forms and contents of bids.

(a) Every bid to receive consideration shall be submitted at the place and at or before the hour specified in the notice for the receipt of bids. The time specified may be any hour from 10:00 a.m. until 3:00 p.m. of any business day, and the bids shall be opened after the specified hour and before six o'clock on the day and at the place and by the person or persons designated in the notice. Each bidder may attend in person or by duly authorized representative at the opening of the bids, and shall be afforded an opportunity to do so and to examine each bid. The bids shall forthwith be tabulated in conformity with the form of proposal prepared