during fog. To eliminate possible confusion, two long blasts is the signal to be used at this bridge.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by amending § 117.785 to read as follows:

§ 117.785 Tacoma Harbor, Tacoma, Wash.; bridges.

* * * * *

(e) (1) (i) * * *

(D) Blair Waterway; State of Washington highway bridge at East 11th Street: Two long blasts.

* * * * *

(f) * * *

(3) *Blair Waterway, State of Washington highway bridge at East 11th Street and Hylebos Waterway, State of Washington highway bridge at East 11th Street.*

(i) The draw need not open from 6:30 a.m. to 8:30 a.m., and from 3:30 p.m. to 5:30 p.m., Monday through Friday, except federal holidays, for vessels of less than 1,000 gross tons, unless—

(A) The vessel has a vessel of 1,000 gross tons or over in tow; or

(B) The vessel is proceeding to pick up a vessel of 1,000 gross tons or over for towing.

(ii) The draw shall open as soon as possible, in an emergency situation, after notice is given to the City of Tacoma Department of Public Works.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g) (2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 155 (g) (2); 49 CFR 1.46(c) (5), 33 CFR 1.05-1 (c) (4))

Effective date. This revision shall become effective on June 7, 1976.

Dated: April 27, 1976.

D. J. RILEY,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.76-12796 Filed 4-30-76;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER VII—VETERANS ADMINISTRATION

PART 3—ADJUDICATION

Pension, Compensation, and Dependency and Indemnity Compensation

The Administrator of Veterans' Affairs amends Part 3 of Title 38, Code of Federal Regulations, to implement provisions of Pub. L. 94-169 (89 Stat. 1013).

Pub. L. 94-169, enacted December 23, 1975, increased pension and parents' dependency and indemnity compensation rates and raised the maximum annual income limitations effective January 1, 1976. The act also made numerous technical changes in Title 38, United States Code, to eliminate references to specific gender. Section 101 of Title 38, United States Code, was amended to incorporate definitions of "spouse" and "surviving spouse." These latter changes remove implications that benefits under Title 38, United States Code, may not be available equally to male and female veterans and their spouses. Amendments to §§ 3.3(d), 3.50, 3.52, 3.53 and 3.54 of Title 38, Code of Federal Regulations, reflect the technical changes relating to gender and the statutory definition of spouse and surviving spouse. Amendments to §§ 3.3(b) and 3.16 relating to service pension for veterans delete provisions pertaining to Indian Wars since the last known Indian War veteran died June 18, 1973. An amendment to § 3.3(c) deletes a reference to effective date which no longer has significance.

These amendments to the regulations do not effect any substantive changes in entitlement or benefits but are made to conform the regulatory language with the language of the basic statutory provisions and to delete obsolete regulatory provisions. Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments are editorial in nature.

1. In § 3.3, paragraphs (b), (c) (1) and (3) and (d) (1) and (2) (introduction) are revised to read as follows:

§ 3.3 Pension.

* * * * *

(b) *Service pension; Spanish-American War.* Basic entitlement exists if the veteran: (1) Had 70 (or 90) days or more active service during the Spanish-American War; or

(2) Was discharged or released from such service for a disability service-connected without benefit of presumptive provisions of law, or at the time of discharge had such a service-connected disability, shown by official service records, which in medical judgment would have justified a discharge for disability. (38 U.S.C. 512)

(c) *Disability pension; Mexican border period, and later war periods.* Basic entitlement exists if the veteran: (1) Served 90 days or more in either the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era, or served an aggregate of 90 days or more in separate periods of service during the same or during different war periods, including service during the Spanish-American War; or

* * * * *

(3) Is permanently and totally disabled from non-service-connected disability not due to his (or her) own willful misconduct or vicious habits, or by reason of having attained the age of 65 years. (38 U.S.C. 502, 521)

(d) *Death pension*—(1) *Indian war.* Basic entitlement exists for the surviving spouse or child of a deceased veteran of an Indian war if the veteran's service meets the requirements of 38 U.S.C. 511. (38 U.S.C. 534, 535)

(2) *Spanish-American War.* Basic entitlement exists for the surviving spouse or child of a deceased veteran if the veteran:

* * * * *

2. Section 3.16 is revised as follows:

§ 3.16 Service pension.

In computing the 70 or 90 days required under § 3.3(b) active service which began before or extended beyond the war period will be included if such service was continuous. Broken periods of service during a war period may be added together to meet the requirement for length of service.

3. Section 3.50 is revised to read as follows:

§ 3.50 Wife, widow or spouse.

(a) *Wife.* "Wife" means a persons whose marriage to the veteran meets the requirements of § 3.1(j).

(b) *Widow.* Except as provided in § 3.52, "widow" means a person whose marriage to the veteran meets the requirements of § 3.1(j) and who was the lawful spouse of the veteran at the time of the veteran's death and

(1) who lived with the veteran continuously from the date of marriage to the date of the veteran's death except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the spouse, and

(2) who has not remarried or (in cases not involving remarriage) has not since the death of the veteran and after September 19, 1962, lived with another person of the opposite sex and held herself (himself) out openly to the public to be the spouse of such other person. On and after January 1, 1971, the requirement of this paragraph (b) (1) is that she (he) be unmarried and not living with another person of the opposite sex and holding herself (himself) out openly to the public as the spouse of such other person. (38 U.S.C. 101(3); Pub. L. 94-169; 89 Stat. 1013)

(c) *Spouse and surviving spouse.* "Spouse" means a person of the opposite sex who is a wife or husband and the term "surviving spouse" means a person of the opposite sex who is a widow or widower provided the marriage meets the requirements of § 3.1(j) or, as to accrued benefits, § 3.52. (38 U.S.C. 101 (31); Pub. L. 94-169; 89 Stat. 1013)

4. In § 3.52, paragraphs (c) and (d) are revised to read as follows:

§ 3.52 Marriages deemed valid.

Where an attempted marriage of a claimant to the veteran was invalid by reason of a legal impediment, the marriage will nevertheless be deemed valid if:

* * * * *

(c) The claimant cohabited with the veteran continuously from the date of marriage to the date of his or her death as outlined in § 3.53, and

(d) No claim has been filed by a legal surviving spouse who has been found entitled to gratuitous death benefits other than accrued monthly benefits covering a period prior to the veteran's death. (38 U.S.C. 103(a))

5. Section 3.53 is revised to read as follows:

§ 3.53 **Continuous cohabitation.**

(a) *General.* The requirement that there must be continuous cohabitation from the date of marriage to the date of death of the veteran will be considered as having been met when the evidence shows there was no separation due to the fault of the surviving spouse. Temporary separations which ordinarily occur, including those caused for the time being through fault of either party, will not break the continuity of the cohabitation.

(b) *Findings of fact.* The statement of the surviving spouse as to the reason for the separation will be accepted in the absence of contradictory information. If the evidence establishes that the separation was by mutual consent and that the parties lived apart for purposes of convenience, health, business, or any other reason which did not show an intent on the part of the surviving spouse to desert the veteran, the continuity of the cohabitation will not be considered as having been broken. State laws will not control in determining questions of desertion; however, due weight will be given to findings of fact in court decisions made during the life of the veteran on issues subsequently involved in the application of this section.

6. In § 3.54, the introductory portion preceding paragraph (a), and paragraph (a) (1) are revised to read as follows:

§ 3.54 **Marriage dates.**

A surviving spouse may qualify for pension, compensation, or dependency and indemnity compensation if the marriage to the veteran occurred before or during his or her service or, if married to him or her after his or her separation from service, before the applicable date stated in his section.

(a) *Pension.* Death pension may be paid to a surviving spouse who was married to the veteran:

(1) One year or more prior to the veteran's death, or

* * * * *

Effective date. These VA Regulations are effective April 26, 1976.

Approved: April 26, 1976.

By direction of the Administrator:

[SEAL] ODELL W. VAUGHN, *Deputy Administrator.*

[FR Doc.76-12780 Filed 4-30-76;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Subparagraph (3) of § 177.4(c), Special Allowances, which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Public Law 91-95) is amended to provide for the payment of such an allowance for the period January 1, 1976, through March 31, 1976, inclusive.

In light of the directives in the Emergency Insured Student Loan Act of 1969 with respect to the factors that the Secretary of Health, Education, and Welfare is to consider and the officials with whom he is to consult in setting the rate of the special allowance, and since a comment period would cause delay of at least 30 days, following each quarterly 3-month period, it has been determined pursuant to 5 U.S.C. 553 that the solicitation of comment as to the rate of the special allowance for any particular quarter is both impracticable and contrary to the public interest.

Effective Date. Pursuant to Section 431 (d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

Section 177.4(c) (3) is amended as follows:

§ 177.4 **Payment of interest benefits, administrative cost allowances and special allowance.**

* * * * *

(c) Special allowances.

* * * * *

(3) Special allowances are authorized to be paid as follows:

* * * * *

(xxvii) For the period January 1, 1976, through March 31, 1976, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of 1¼ percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

Dated: April 14, 1976.

T. H. BELL, *U.S. Commissioner of Education.*

(Catalog of Federal Domestic Assistance No. 13.460 Guaranteed Student Loan Program)

Approved: April 28, 1976.

MARJORIE LYNCH, *Acting Secretary of Health, Education, and Welfare*

[FR Doc.76-12911 Filed 4-30-76;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

Preservation of Records

On October 15, 1974, the Atomic Energy Commission published in the FEDERAL REGISTER (39 FR 36871) proposed amendments of its regulations in Parts 20, 30, 31, 32, 34, 40, 50, 55, 70, 115, and 150 which would prescribe time periods for applicant and licensee retention of certain records, and provide that if a retention period is not otherwise provided, such records shall be maintained by the licensee or applicant until the Commission authorizes their disposition. Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments by November 29, 1974.

Subsequently, in accordance with the Energy Reorganization Act of 1974, Pub. L. 93-438, the Nuclear Regulatory Commission was established on January 19, 1975 and assumed the licensing and related regulatory functions of the former Atomic Energy Commission.

After consideration of the comments on the proposed rule and other factors involved, the Nuclear Regulatory Commission has adopted the proposed amendments, with certain modifications, in the form set forth below.

A majority of the comments suggested deletion or modification of the proposed amendments of sections VII and XVII of Appendix B of Part 50 which would have required that quality assurance records be "maintained for the lifetime of the facility". The proposed amendments of sections VII and XVII of Appendix B are not being adopted at this time. Licensees will continue to be required to retain quality assurance records for the periods specified in the technical specifications of their license or in other appropriate regulatory provisions.

A commenter suggested that the amendments be revised to include references to other documents in addition to regulatory provisions, license conditions and technical specifications and to specify which document would be controlling in the event the documents provide for different retention periods for the same records. The amendments set forth below provide that the regulations would be controlling in all cases unless the Commission has granted a specific exemption from the record retention requirement specified in the regulations under the applicable regulatory provision for granting such exemptions.

The proposed amendment of § 50.59 (b) would have required that records of changes in the facility and in procedures, and records of tests and experiments, be maintained for the lifetime of the facility. One commenter suggested that § 50.59(b) be amended to require that records of changes in the facility and records of tests and experiments be maintained for at least the duration of the license and the records of changes in procedures be maintained for a period of two years from the date of change. A second commenter objected to including "tests and experiments" in this category of preservation for the lifetime of the facility since this provision would be more restrictive than ANSI Standard N 45.2.9-1974 and would not be consistent with Technical Specifications for some licenses. The proposed amendment of § 50.59(b) has been modified to (1) require that records of changes in the facility be maintained until the date of termination of the license, and (2) require that records of changes in procedures and records of tests and experiments be maintained for a period of five years.

It was suggested also that the Commission review the need for maintenance of specific categories of records and the specific maintenance periods for these records, revise the proposed amendments, and publish the revision as proposed amendments for comments. In view of the number of comments received in response to the proposed rule, it is the Commission's view that issuance of a revised proposed rule would not develop additional substantive comments. Further, the recordkeeping requirements in the regulations have been the subject of rule making actions prior to their adoption and the rule which is the subject of this notice does not change or add to the records requirements except with respect to the retention periods.

It was recommended also that after adoption of the rule the Commission should assure that records maintenance requirements of all Agreement States are, or will be within a relatively short time after adoption of the rule, identical to those of the Commission. This recommendation has not been adopted since compatibility of the Commission—Agreement State programs for the regulation of materials covered by the agreements does not require that the pertinent regulations be identical.

Paragraph 40.61(c)(1) has been revised to provide that if source material is combined or mixed with other licensed material and subsequently treated in a manner which makes direct correlation of a receipt record with a transfer, export, or disposition record impracticable, evaluative techniques such as first-in-first-out may be used for purposes of the records retention requirements of § 40.-61(c).

Paragraph 70.51(b)(3) has been amended to require that records of receipt, acquisition, inventory, or import of special nuclear material be maintained for five years following transfer or export of such material, and to require that records of inventory maintained to demonstrate compliance with Paragraph 70.58(h) shall be maintained for six months. Paragraph 70.51(b)(4) has been changed to require that records of export of special nuclear material be retained for five years after the export is made. Paragraph 70.51(b)(5) has been amended to require that records of transfers of special nuclear material between material balance areas required by § 70.51(e)(1)(v) be maintained for five years.

Language has been included in the rule set forth below to clarify that the required records may be either the original or a reproduced copy or microform provided that the reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of reproducing a clear and legible copy after storage for the period specified by Commission regulations.

It was recommended that the proposed rule be revised to delete all requirements to maintain records indefinitely and to replace such provisions with a requirement to furnish a copy of the record to the Commission upon termination of the license or permit authorizing the activity. The suggestion that copies of records be furnished to the Commission has not been adopted since it would not be possible as a practical matter for the Commission to accept and retain all such records generated by licensees. The word "indefinitely" has been deleted in the pertinent language. Thus, where a specific retention period is not provided, the amendments provide that the records shall be maintained by the licensee or applicant until the Commission authorizes their disposition.

The rule set forth below requires that records of tests showing compliance with the requirements of § 31.5(c)(2) be maintained for one year after the next required test is performed or until the sealed source is transferred or disposed of. Records showing compliance with the requirements of § 31.5(c)(3) must be retained for a period of two years after the date of the recorded event or until the device is transferred or disposed of. Paragraph 34.25(c) requires that records of leak tests of radiographic sources be maintained for 6 months after the next required leak test is performed or until the source is transferred or disposed of.

Section 32.52 is amended to require that records of transfer of byproduct material in devices generally licensed under § 31.5 shall be maintained for a period of five years after the transfer.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to 10 CFR Parts 20, 30, 31, 32, 34, 40, 50, 55, 70, and 150 are published as a document subject to codification.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The first sentence of § 20.102(c)(2) of 10 CFR Part 20 is revised to read as follows:

§ 20.102 Determination of accumulated dose.

* * * * *

(c) * * *

(2) The licensee shall retain and preserve records used in preparing Form NRC-4 until the Commission authorizes their disposition. * * *

2. Section 20.401(c) is revised to read as follows:

§ 20.401 Records of surveys, radiation monitoring, and disposal.

* * * * *

(c)(1) Records of individual exposure to radiation and to radioactive material which must be maintained pursuant to the provisions of paragraph (a) of this section and records of bioassays, including results of whole body counting examinations, made pursuant to § 20.108, shall be preserved until the Commission authorizes disposition.

(2) Records of the results of surveys and monitoring which must be maintained pursuant to paragraph (b) of this section shall be preserved for two years after completion of the survey except that the following records shall be maintained until the Commission authorizes their disposition: (i) records of the results of surveys to determine compliance with § 20.103(a); (ii) in the absence of personnel monitoring data, records of the results of surveys to determine external radiation dose; and (iii) records of the results of surveys used to evaluate the release of radioactive effluents to the environment.

(3) Records of disposal of licensed material made pursuant to §§ 20.302, 20.303, or 20.304 shall be maintained until the Commission authorizes their disposition.

(4) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(5) If there is a conflict between the Commission's regulations in this part, license condition, or technical specification, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission pursuant to § 20.501, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

3. Section 30.51 of 10 CFR Part 30 is revised to read as follows:

§ 30.51 Records.

(a) Each person who receives byproduct material pursuant to a license issued pursuant to the regulations in this part and Parts 31-36 shall keep records showing the receipt, transfer, export, and disposal of such byproduct material.

(b) Records which are required by the regulations in this part and Parts 31-36 or by license condition shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, such records shall be maintained until the Commission authorizes their disposition.

(c)(1) Records of receipt of byproduct material which must be maintained pursuant to paragraph (a) of this section shall be maintained as long as the licensee retains possession of the byproduct material and for two years following transfer, export, or disposal of the byproduct material. (2) Records of export of byproduct material shall be maintained for two years after such event. (3) Records of transfer of byproduct material shall be maintained by the licensee who transferred the material for five years after such transfer. (4) Records of disposal of byproduct material shall be maintained in accordance with § 20.401 (c) of this chapter.

(d) (1) Records which must be maintained pursuant to this part and Parts 31–36 may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part and Parts 31–36, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part and Parts 31–36 for such records shall apply unless the Commission, pursuant to § 30.11, has granted a specific exemption from the record retention requirements specified in the regulations in this part or Parts 31–36.

4. Section 30.54 of Part 30 is amended by adding the following sentence at the end of paragraph (a):

§ 30.54 Control and accounting procedures for tritium.

(a) * * * The written material control and accounting procedures shall be maintained as long as the licensee retains possession of the tritium and for two years following transfer or export of the tritium.

* * * * *

PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

5. Section 31.5 of 10 CFR Part 31 is amended by changing the semicolon at the end of paragraph (c) (4) to a period and adding the following sentences at the end of paragraph (c) (4):

§ 31.5 Certain measuring, gauging or controlling devices.

* * * * *

(c) * * *

(4) * * * Records of tests for leakage of radioactive material required by paragraph (c) (2) of this section shall be maintained for one year after the next required leak test is performed or until the sealed source is transferred or disposed of. Records of tests of the on-off mechanism and indicator, required by paragraph (c) (2) of this section, shall be maintained for one year after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of. Records which are required by paragraph (c) (3) of this section shall be maintained for a period of two years from the date of the recorded event or until the device is transferred or disposed of;

* * * * *

PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

6. Section 32.20 of 10 CFR Part 32 is amended by revising the first sentence to read as follows:

§ 32.20 Same: records and material transfer reports.

Each person licensed under § 32.18 shall maintain records of transfer of material for a period of two years after such transfer, identifying, by name and address, each person to whom byproduct material is transferred for use under § 30.18 of this chapter or the equivalent regulations of an Agreement State, and stating the kinds and quantities of byproduct material transferred. * * *

7. Section 32.52 is amended by adding the following sentence at the end of paragraph (c):

§ 32.52 Same: material transfer reports and records.

Each person licensed under § 32.51 to distribute devices to generally licensed persons shall:

* * * * *

(c) * * * The records required by this paragraph shall be maintained for a period of five years from the date of the recorded event.

PART 34—LICENSES FOR RADIOGRAPHY AND RADIATION SAFETY REQUIREMENTS FOR RADIOGRAPHIC OPERATIONS

8. Section 34.24 of 10 CFR Part 34 is amended by revising the second sentence to read as follows:

§ 34.24 Radiation survey instruments.

* * * Each radiation survey instrument shall be calibrated at intervals not to exceed three months and after each instrument servicing and a record shall be maintained of the results of each instrument calibration and date thereof for two years after the date of calibration. * * *

9. Paragraph (c) of § 34.25 is amended by revising the last sentence to read as follows:

§ 34.25 Leak testing, repair, tagging, opening, modification and replacement of sealed sources.

* * * * *

(c) * * * Records of leak test results shall be kept in units of microcuries and maintained for inspection by the Commission for six months after the next required leak test is performed or until the sealed source is transferred or disposed of.

10. Section 34.26 is revised to read as follows:

§ 34.26 Quarterly inventory.

Each licensee shall conduct a quarterly physical inventory to account for all sealed sources received and possessed under his license. The records of the inventories shall be maintained for two years from the date of the inventory for inspection by the Commission, and shall include the quantities and kinds of byproduct material, location of sealed sources, and the date of the inventory.

11. Section 34.27 is amended by revising the prefatory language to read as follows:

§ 34.27 Utilization logs.

Each licensee shall maintain current logs, which shall be kept available for two years from the date of the recorded event, for inspection by the Commission, at the address specified in the license, showing for each sealed source the following information:

* * * * *

12. Paragraph (b) of § 34.33 is amended by revising the last sentence to read as follows:

§ 34.33 Personnel monitoring control.

* * * * *

(b) * * * The film badge reports received from the film badge processor and records of the pocket dosimeter and pocket chamber readings shall be maintained for inspection by the Commission until the Commission authorizes their disposition.

13. Paragraph (d) of § 34.43 is revised to read as follows:

§ 34.43 Radiation surveys and survey records.

* * * * *

(d) Records shall be kept of the surveys required by paragraph (c) of this section. Such records shall be maintained for inspection by the Commission for two years after completion of the survey. If the survey was used to determine an individual's exposure, however, the records of the survey shall be maintained until the Commission authorizes their disposition.

PART 40—LICENSING OF SOURCE MATERIAL

14. Section 40.61 of 10 CFR Part 40 is revised to read as follows:

§ 40.61 Records.

(a) Each person who receives source material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, export, and disposal of such source material.

(b) Records which are required by the regulations in this part or by license condition shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, such records shall be maintained until the Commission authorizes their disposition.

(c) (1) Records of receipt of source material which must be maintained pursuant to paragraph (a) of this section shall be maintained as long as the licensee retains possession of the source material and for five years following transfer, export, or disposition of the source material. (2) Records of export of source material shall be maintained for five years after such event. (3) Records of transfer of source material shall be maintained by the licensee who transferred the material until the Commission authorizes their disposition. (4) Records of disposal of source material shall be maintained in accordance with § 20.401 (c) of this chapter. (5) If source material is combined or mixed with other licensed material and subsequently treated in a manner which makes direct correlation of a receipt record with a transfer, export, or disposition record impossible, evaluative techniques such as first-in-first-out may be used for purposes of the records retention requirements of this paragraph.

(d) (1) Records which must be maintained pursuant to this part may be the original or reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 40.14, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

15. Paragraph (p) of § 50.54 is amended by revising the last sentence to read as follows:

§ 50.54 Conditions of Licenses.

* * * * *

(p) * * * The licensee shall maintain records of changes to the plan made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Commission a report containing a description of each change within two months after the change is made.

16. Section 50.59 is amended by adding the following sentence at the end of paragraph (b):

§ 50.59 Changes, tests and experiments.

* * * * *

(b) * * * The records of changes in the facility shall be maintained until the date of termination of the license, and records of changes in procedures and records of tests and experiments shall be maintained for a period of five years.

17. In § 50.71 of 10 CFR Part 50, new paragraphs (c) and (d) are added to read as follows:

§ 50.71 Maintenance of records, making of reports.

(c) Records which are required by the regulations in this part, by license condition, or by technical specification, shall be maintained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, such records shall be maintained until the Commission authorizes their disposition.

(d) (1) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or technical specification, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 50.12, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 55—OPERATORS' LICENSES

18. Appendix A of 10 CFR Part 55 is amended by revising paragraph 5 to read as follows:

REQUALIFICATION PROGRAM REQUIREMENTS

* * * * *

5. *Records.*

a. Records of the requalification program shall be maintained for a period of two years from the date of the recorded event to document the participation of each licensed operator and senior operator in the requalification program. The records shall contain copies of written examinations administered, the answers given by the licensee, results of evaluations and documentation of any additional training administered in areas in which an operator or senior operator has exhibited deficiencies.

b. Records which must be maintained pursuant to this appendix may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

c. If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 55.7, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 70—SPECIAL NUCLEAR MATERIAL

19. Section 70.32 is amended by revising the prefatory language of the last sentence of paragraph (c) and revising the last sentence of paragraph (e) to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) * * * The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval, for a period of five years from the date of the change, and shall furnish to the Commission a report containing a description of each change within: * * *

* * * * *

(e) * * * The licensee shall maintain records of changes to the plan made without prior Commission approval, for a period of two years from the date of the change, and shall furnish to the Commission a report containing a description of each change within two months after the change is made.

20. Section 70.51 is amended by revising paragraph (b) and adding a new paragraph (i) to read as follows:

§ 70.51 Material balance, inventory and records requirements.

* * * * *

(b) (1) Each licensee shall keep records showing the receipt, inventory (including location), disposal, acquisition, import, export, and transfer of all special nuclear material in his possession regardless of its origin or method of acquisition.

(2) Records which are required by the regulations in this part or by license condition shall be maintained for the period specified by the appropriate regulation or license condition. If a retention period is not otherwise specified by regulation or license condition, such records shall be maintained until the Commission authorizes their disposition.

(3) Records of receipt, acquisition, physical inventory, or import of special nuclear material which must be maintained pursuant to paragraph (b)(1) of this section shall be maintained as long as the licensee retains possession of the material and for five years following transfer or export of such material. Records of inventory maintained to demonstrate compliance with paragraph 70.58(h) shall be maintained for six months.

(4) Records of export of special nuclear material shall be maintained for five years after such event.

(5) Records of transfer of special nuclear material to other persons shall be maintained by the licensee who transferred the material until the Commission authorizes their disposition. Records required by paragraph (e)(1)(v) of this section shall be maintained for five years.

(6) Records of disposal of special nuclear material shall be maintained in accordance with § 20.401(c) of this chapter.

* * * * *

(i) (1) Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(2) If there is a conflict between the Commission's regulations in this part, license condition, or other written Commission approval or authorization pertaining to the retention period for the same type of record, the retention period

specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 70.14, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

21. Section 150.18 of 10 CFR Part 150 is amended by adding the following sentences at the end of paragraph (a):

§ 150.18 Control and accounting procedures for tritium.

(a) * * * The written material control and accounting procedures shall be maintained as long as the licensee of the Agreement State retains possession of the tritium and for two years following transfer or export of the tritium. Records which must be maintained pursuant to this part may be the original or a reproduced copy or microform if such reproduced copy or microform is duly authenticated by authorized personnel and the microform is capable of producing a clear and legible copy after prolonged storage.

* * * * *

Effective date. These amendments become effective on June 2, 1976.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Secs. 201, as amended, 301, Pub. L. 93-438, 88 Stat. 1242, 88 Stat. 1248, Pub. L. 94-79, 89 Stat. 413, (42 U.S.C. 5841, 5871)).

Dated at Washington, D.C., this 28th day of April 1976.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-12851 Filed 4-30-76;8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Increased Pricing Flexibility; Reallocation of Increased Product Costs Among Products by Resellers and Retailers

A. *Introduction.* In its notice of proposed rulemaking and public hearing on proposals for increased pricing flexibility, issued October 17, 1975 (40 FR 49372, October 22, 1975) the FEA proposed, among other things, to permit reallocation of increased product cost among products by resellers and retailers. Other proposals related to regional pricing by refiners, resellers and retailers; elimination of the once-a-month price increase limitation applicable to sales of gasoline and No. 2 oils by refiners, resellers and retailers; and review of FEA Ruling 1975-16 concerning non-product cost increases.

The proposal to eliminate the once-a-month price increase limitation was adopted by FEA in a regulation amendment effective January 1, 1976 (41 FR 1267, January 7, 1976). The proposal to permit regional pricing by refiners, resellers and retailers contains issues of considerable complexity and this matter remains under review by FEA. The FEA has also reached no decision as yet concerning possible clarification and/or modification of Ruling 1975-16 or the regulations which are the subject of that ruling.

The regulation amendment adopted today permits resellers and retailers to reallocate increased product costs among products in the same general manner that refiners are permitted to reallocate increased product costs for purposes of determining maximum allowable prices (i.e., increased product costs generally may be reallocated to, but not from, gasoline; no increased product costs attributable to any product may be reallocated to propane, No. 2 oils, or aviation jet fuel; and increased product costs may be reallocated among the various products included in the category of general refinery products as defined in § 212.31 (other than propane) but may not be reallocated to the general refinery products category from any other product).

Fourteen written comments (including two late comments) and eight oral presentations were received on the proposal to permit reallocation of increased product costs among products by resellers and retailers. All of these comments and presentations were considered by FEA, as well as other information available to it, in arriving at the regulatory amendment adopted today.

B. *Comments.* Nearly all comments received favored adoption of the proposal to permit reallocation of increased product costs among products sold by resellers and retailers to the same extent that such reallocation is permitted to refiners. This proposal was generally favored because it was viewed as a measure which would put resellers and retailers on an "equal footing" with refiners under the regulations and would constitute a further step toward the desired goal of increased pricing flexibility and removal of unnecessary regulations.

It should be noted that some resellers and retailers sell essentially only one petroleum product (such as gasoline or home heating oil) and those resellers and retailers which do sell more than one petroleum product typically do not sell as wide a range of petroleum products as refiners typically do. To this extent, the amendments adopted today cannot provide all resellers and retailers with the same degree of flexibility to reallocate product cost increases as refiners generally enjoy. Nevertheless, the amendments adopted today do provide a further measure of pricing flexibility to resellers and retailers and generally do make available to them the same regulatory authority to reallocate product cost increases as is available to refiners.

FEA's refiner rules permit more than a proportionate amount of product cost increases to be passed through in gasoline prices essentially for two reasons: (1) to a considerable degree motor gasoline consumption is discretionary (especially in comparison with consumption of home heating oil or propane), and it seems fairer to permit the products the consumption of which is relatively more discretionary to bear a disproportionate share of increased product costs, and (2) since gasoline sales constitute the largest proportion (about half) of refinery output higher prices for gasoline can be expected to contribute significantly to the important national goal of energy conservation through reduced demand. To the extent that these reasons support the FEA policy of permitting gasoline prices to bear a disproportionate amount of increased product costs at the refiner level, those same reasons support the permissive reallocation of product cost increases to gasoline prices at the reseller and retailer level.

Some comments indicated concern that the reallocation of increased product costs permitted for gasoline or other products at the refiner level, if extended to the reseller and the retailer level, might result in a degree of compounding of this effect which was not anticipated. However, there are several factors which FEA believes will limit any undue "compounding" and avoid any undue price increases on any petroleum products. As mentioned above, there are many resellers and retailers which are one-product dealers (i.e., dealers which do not sell more than one petroleum product or do not sell additional petroleum products in sufficient quantity for there to be any significant price impact if product cost increases are permitted to be reallocated to their large volume primary product). These dealers will not be able to reallocate any product cost increases to any significant degree. In addition, those resellers and retailers which do have a wide range of petroleum products will not necessarily reallocate costs to the same products or in the same manner as the refiner from which they obtain supplies and may in fact reallocate costs in a manner which will counteract the price effect of the refiner's cost reallocation. Finally, the presence of strong price competition, particularly at the retail level, should serve to restrain in practice the pricing results which theoretically might result from a regulation amendment designed to afford increased pricing flexibility.

It was also suggested in the comments that reallocation of costs by resellers and retailers might "undo" the effects of cost reallocation by refiners, to the extent that resellers and retailers uniformly reallocate costs away from products that refiners have reallocated costs toward, or vice versa. It has already been noted that one-product marketers and other marketers which do not have as broad a range of products as refiners will not be able to reallocate costs to the same extent as refiners (if at all). In addition, there is the further consideration that resellers and retailers cannot be expected to act with unanimity with respect to reallocation of product cost increases, but to reallocate costs within the limitations of the regulations, depending upon a variety of marketing considerations. Authority to reallocate at the reseller/retailer level is expected to be used primarily to alleviate particular local or re-