

7-96-01
TTC-A-34

40 CFR Part 201

(AH-FRL-2146-8)

Special Local Determination; Interstate Rail Carrier Noise Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed amendment concerning special local determinations.

SUMMARY: Notice is hereby given that the Administrator of the Environmental Protection Agency (EPA) is withdrawing the proposed Special Local Determinations amendment to the Interstate Rail Carrier Noise Emission Regulation. The proposed amendment to 40 CFR Part 201, Subpart C, State and Local Authority was published in the November 20, 1976 Federal Register (41 FR 52317). This proposed amendment provided mandatory procedures to be followed by State and local governments in requesting consideration by the Agency under its waiver authority in Section 17(c)(2) of the Noise Control Act, 42 U.S.C. 4910(c)(2).

This action conforms to the administration's policy to reduce Federal regulatory burden where possible and practicable. Consideration for a special local determination is adequately addressed in both the Act and the regulation.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Louise Giersch, (202) 302-2935.

SUPPLEMENTARY INFORMATION: EPA proposed the amendment to clarify Federal preemption and to give to the State and local governments seeking waivers more definitive guidance as to the procedures to be followed by the Agency, and various factors in decisionmaking. Shortly after the public comment period on the proposed amendment, a review and analysis of the docket was undertaken. The docket elicited responses from five sources: one Federal agency, two State governments, one industry association and one rail carrier. The comments essentially dealt with the issue of preemption, its definition and roles and responsibilities of Federal/State and industry in this area. Additionally, the Agency's proposed procedures were discussed with a view towards further clarification and streamlining.

Section 17(c)(2) of the Act permits the Agency to determine that certain State or local actions (not in conflict with the regulation) aimed at controlling the environmental noise emitted by interstate rail carriers are permitted

where necessitated by special local conditions.

In the seven years that EPA has had Federal standards, only one State or local government has requested consideration under this section of the Act. EPA does not expect many requests in the future but in the event the Agency receives any, they can be handled on a case-by-case basis while eliminating the detailed and formal requirements identified in the proposal.

Section 17(c)(2), however, does not require nor suggest that provisions for implementation be issued in the form of regulations. Accordingly, the Administrator has thus determined that the provisions for requesting such consideration are adequately addressed in the Act and Subpart C of 40 CFR 201; consequently, there is no need to proceed with the promulgation of this amendment.

(42 U.S.C. 4910(c))

List of Subjects in 40 CFR Part 201

Railroads, Noise control.

Dated: November 22, 1982.

Ann M. Giersch,

Administrator.

[FR Doc. 82-3782 Filed 12-1-82; 843 am]

SILING CODE 6100-00-0

40 CFR Part 202

(AH-FRL 2146-9a)

Special Local Determinations; Interstate Motor Carrier Noise Emission Standards

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of proposed amendment concerning special local determinations.

SUMMARY: Notice is hereby given that the Administrator of the Environmental Protection Agency (EPA) is withdrawing the proposed Special Local Determinations amendment to the Interstate Motor Carrier Noise Emission Regulation. The proposed amendment to 40 CFR Part 202, Subpart C, State and Local Authority was published in the November 20, 1976 Federal Register (41 FR 52320). This proposed amendment provided mandatory procedures to be followed by State and local governments in requesting consideration by the Agency under its waiver authority in Section 18(c)(2) of the Noise Control Act, 42 U.S.C. 4917(c)(2).

This action conforms to the administration's policy to reduce Federal regulatory burden where possible and practicable. Consideration

for a special local determination is adequately addressed in both the Act and the regulation.

EFFECTIVE DATE: January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Louise Giersch, (202) 302-2935.

SUPPLEMENTARY INFORMATION: EPA proposed the amendment to clarify Federal preemption and to give to the State and local governments seeking waivers more definitive guidance as to the procedures to be followed by the Agency and factors to be considered. Shortly after the public comment period on the proposed amendment, a review and analysis of the docket was undertaken. The amendment to the Interstate motor carrier elicited public comment responses from 13 sources: two Federal agencies, three State/local governments, two industry associations, one motor carrier, and five motor carrier equipment manufacturers. The preponderance of the public comments dealt with the issue of preemption, primarily as it is related to Federal/state responsibilities and authorities in this area. Additionally, the procedural aspects of preparing and filing a special local determinations request were addressed with a view towards further clarification and streamlining.

Section 18(c)(2) of the Act permits the Agency to determine that certain State or local actions (not in conflict with the regulation) aimed at controlling the environmental noise emitted by interstate motor carriers are permitted where necessitated by special local conditions.

In the eight years that EPA has had standards, only one State or local government has requested consideration under 18(c)(2). EPA does not expect many requests in the future but in the event the Agency receives any, they can be handled on a case by case basis while eliminating the detailed and formal requirements identified in the proposal.

Section 18(c)(2) does not require nor suggest that provisions for implementation be issued in the form of regulations. Accordingly, the Administrator has thus determined that the provisions for requesting such consideration are adequately addressed in the Act and Subpart C of 40 CFR 202; consequently, there is no need to proceed with the promulgation of this amendment.

(42 U.S.C. 4917(c))

List of Subjects in 40 CFR Part 202

Motor carriers, Noise control.

Sign'd A.M.G.
11/22/82

Dated: November 23, 1982.
 Anna M. Gorsuch,
 Administrator.
 [FR Doc. 82-32903 Filed 12-1-82; 8:45 am]
 BILLING CODE 4980-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Medical Facility Construction and Modernization

AGENCY: Public Health Service, HHS.
ACTION: Proposed rule.

SUMMARY: Section 1620(2) of the Public Health Service Act require the Secretary to prescribe by regulation general standards of construction, modernization, and equipment for projects assisted under Title XVI of the Act. Since there have been no appropriations in recent years to carry out Title XVI, there is no need to retain the standards in regulations. Therefore, this Notice proposes to amend Part 124 of Title 42 CFR by removing provisions relating to minimum standards of construction, modernization, and equipment of hospitals and other medical facilities.

DATE: Comments must be received on or before January 31, 1983.

ADDRESS: Written comments may be addressed to the Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, Health Resources and Services Administration, 3700 East-West Highway, Center Building, Room 5-22, Hyattsville, Maryland 20782. All comments received will be available for public inspection and copying at the Division of Facilities Conversion and Utilization, Bureau of Health Maintenance Organizations and Resources Development, Room 5-50, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Grady Smith, Division of Facilities Conversion and Utilization, Bureau of Health Maintenance Organizations and Resources Development, Room 5-50 at the above address. (Telephone: 301-430-6883)

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposes to delete Subpart C (§ 124.200-203) and § 124.4(d) of Part 124 of Title 42 of the Code of Federal Regulations.

These proposed changes would remove from Part 124 requirements relating to minimum standards of construction, modernization, and equipment of hospitals and other medical facilities, and in particular the incorporation by reference of the document, "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" (DHHS Publication No. (HRA) 78-14012). That document is incorporated by reference in § 124.201. The provisions to be deleted were included in Part 124 in compliance with the requirement of Section 1620(2) of the Public Health Service Act that the Secretary prescribe by regulation general standards of construction, modernization, and equipment for projects assisted under Title XVI of the Act. Since there have been no appropriations in recent years to carry out Title XVI, there is no need to retain the standards in regulations.

Similar provisions that related to assistance provided under Title VI of the Public Health Service Act, and which also incorporated by reference the "Minimum Requirements" document, were removed from Part 53 of Title 42 on August 6, 1979 (44 FR 45948) for similar reasons. Section 124.4(d), which is proposed for deletion by this Notice, refers to one of those former Part 53 provisions and is therefore obsolete.

It is emphasized that projects with respect to which applications were approved or grants have been awarded under Titles VI and XVI but for which full project reimbursement has not yet been made will be subject to continuing compliance with the "Minimum Requirements of Construction and Equipment for Hospital and Medical Facilities" as incorporated by reference in Parts 53 and 124 at the time of the initial approval.

Although this NPRM proposes to delete the incorporation by reference the "Minimum Requirements" from regulations, the Department of Health and Human Services will continue to revise and publish these standards as technical guidance material. Since no other nationally recognized standards

for construction of health facilities exist, the "Maximum Requirements" are used by a variety of Federal, State, and local government agencies, as well as by private entities. Its use by these government agencies and private entities is not dependent on its regulatory status.

Interested persons are invited to submit written comments on the proposed regulation to the Associate Director for Health Facilities at the address given above. All relevant material received not later than 60 days after publication of these regulations in the Federal Register will be considered in the development of final regulations.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory analysis be prepared for a rule that is likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or significant adverse effects on business or employment.

The Department of Health and Human Services has determined that the proposed change to remove the "Minimum Requirements" from incorporation by reference in regulation will not affect the economy by \$100 million or more, nor will it cause a major increase in costs or prices or significant adverse effects on business or employment.

Regulatory Flexibility Act of 1980 (Pub. L. 96-354)

This Act requires that the Department prepare and publish a Regulatory Flexibility Analysis for any regulation that will have a significant economic impact on a substantial number of small entities. The Department of Health and Human Services has determined that the proposed change will not significantly impact on small entities and therefore does not require preparation of a Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

List of Subjects in 42 CFR Part 124

Grant programs—health, Health facilities, Low income persons, Minimum requirements for construction. It is therefore proposed to remove Subpart C and § 124.4(d) of Subpart A of