Title of documents	Incorporated by reference at—
ANSI/ASME Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Pressure Vessels, Divisions 1 and 2, including Nonmandatory Appendices, 1998 Edition; July 1, 1999 Addenda, Rules for Construction of Pressure Vessels, by ASME Boiler and Pressure Vessel Committee Subcommittee on Pressure Vessels; and all Section VIII Interpretations, Divisions 1 and 2, Volumes 43 and 44.	§ 250.803(b)(1), (b)(1)(i); § 250.1629(b)(1), (b)(1)(i).
* * * * * *	*

Dated: December 3, 1999.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 99–31873 Filed 12–14–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970–AB98

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF) Administration for Children and Families (ACF), HHS.

ACTION: Final rule.

SUMMARY: The Administration on Children, Youth and Families is amending the Head Start regulations governing policies and procedures on selection and funding of grantees. The amendment removes the section on priority for previously selected Head Start agencies in open competitions for Head Start grants. We are removing this section because of increased confusion among existing Head Start grantees about the meaning of ''priority'' as ACYF acts to replace grantees who have been terminated or relinquish their grant. This change clarifies that the ''priority'' provided under the Head Start Act (''Act'') applies to annual refunding of existing grantees and not to competition to select a grantee to serve an unserved area or an area previously served by a grantee no longer with the program. Removal of this section does not affect the ongoing funding or operation of Head Start grantees.

DATES: This rule is effective January 14, 2000.

FOR FURTHER INFORMATION CONTACT: James Kolb (202) 205–8580.

SUPPLEMENTARY INFORMATION:

I. Program Purpose

Head Start is authorized under the Head Start Act (42 U.S.C. 9801 *et seq.*). It is a national program providing comprehensive developmental services primarily to low-income preschool children, primarily age three to the age of compulsory school attendance, and their families. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. Also, section 645A of the Head Start Act provides authority (authorized in 1994) to fund programs for families with infants and toddlers. Programs receiving funds under the authority of this section are referred to as Early Head Start programs.

Additionally, Head Start programs are required to provide for the direct participation of the parents of enrolled children in the development, conduct, and direction of local programs. Parents also receive training and education to foster their understanding of and involvement in the development of their children. In fiscal year 1998, Head Start served 823,000 children through a network of over 2,000 grantees and delegate agencies.

While Head Start is intended to serve primarily children whose families have incomes at or below the poverty line or who receive public assistance, Head Start policy permits up to 10 percent of the children in local programs to be from families who do not meet these low-income criteria. The Act also requires that a minimum of 10 percent of the enrollment opportunities in each program be made available to children with disabilities. Such children are expected to participate in the full range of Head Start services and activities with their non-disabled peers and to receive needed special education and related services.

II. Discussion of the Final Rule

The Administration for Children and Families (ACF) published on March 24, 1999, a Notice of Proposed Rulemaking (NPRM) proposing to remove § 1302.12, entitled ''Priority for previously selected Head Start agencies'' from the regulations governing the selection of Head Start grantees. This change was necessary to make it clear that the application of the priority provided by section 641(c) of the Head Start Act does not apply to competitions to select a grantee to serve an unserved area or an area previously served by a grantee no longer with the program. (The 1998 Head Start reauthorization, however, provides priority to a delegate agency that functioned in the community when the Secretary is designating a Head Start agency but this change would not affect this rule.) We made no changes to the final rule.

Eliminating § 1302.12 clarifies that priority applies to the annual refunding of existing grantees providing services within their communities, not to other circumstances such as selection of a replacement grantee. The threshold requirement under Section 641(d) of the Head Start Act for holding a competition for award of Head Start funding is that there be no entity in the ''community'' which is eligible for a priority. ''Community'' is defined in Section 641(b) as ''a city, county, multicity or multicounty unit within a State, an Indian reservation (including Indians in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.'' Under 45 CFR 1305.3(a), each grantee must specify in its annual application for refunding the ''service area'' to be served. The grantee must define its service area by ''county or sub-county area, such as a municipality, town or census tract or a federally-recognized Indian reservation,'' and it must not overlap with the service areas where other grantees have been designated to provide services, except where the service area of a Tribe includes a non-reservation area in which it serves children native to the reservation. A Head Start agency's approved service area defines the community it is serving. A community which has not previously been served, or was served by a grantee no longer participating in the program, by definition is one in which no grantee is currently providing Head Start services within the community, and therefore one for which the grantee must be

selected through a competition under Section 641(d) rather than through application of the priority provided under Section 641(c). (In the Notice of Proposed Rulemaking we referred to Section 641(a) as prohibiting selection of a Head Start grantee to provide services outside its current ''service area.'' Upon further reflection, we have determined that this interpretation of the requirements of Section 641(a) is neither the best interpretation nor is it necessary to support the decision to withdraw 45 CFR 1302.12 from the Head Start regulations. In addition, we have determined that there are circumstances where a current Head Start grantee would be considered eligible under Section 641(a) to receive a replacement grant through a competitive process. This would be the case where the Head Start grantee can demonstrate that it meets all of the requirements for designation under Section 641(a), including that the area it is applying to serve would be part of a single ''community'' as that term is defined under Section 641(b) with the area it is now serving if the grantee receives the replacement grant.)

One comment from a private, non-profit agency was received. The commenter suggested that instead of removing it, the priority should be expanded to include any agency already operating a Head Start or Early Head Start program. At a minimum, the commenter suggests leaving the regulation as it is.

We do not accept this recommendation. The comment ignores the statutory provision in Section 641(d) of the Head Start Act which requires that where no organization in the community is eligible for a priority that a competition must be held. In addition, it ignores the requirement in 45 CFR 1305.3(a) that each grantee must specify in its annual application for refunding the ''service area'' to be served. Thus, the mere fact that an agency is operating a Head Start program in the vicinity is not sufficient to establish priority for that agency. Finally, while the Head Start Act provides for long-term stability for grantees who are performing well by not requiring repeated re-competition, opening up an unserved area to healthy competition among agencies in the community to be served will help assure that a high-quality Head Start program will be operating in the community.

[Note: The references to Section 641 of the Head Start Act in this Preamble reflect, where appropriate, the recent reauthorization changes made to the Head Start Act in the Coats Human Services Reauthorization Act of 1998, Public Law 105–285, enacted October 27, 1998. The Head Start statutory changes in the Reauthorization Act do not affect the removal of 45 CFR 1302.12.]

We want to emphasize again that this rule does not affect in any way the annual refunding of existing grantees to continue to provide Head Start services in their approved service area. Grantees will continue to receive this priority for funding without interruption. Only when a grantee is terminated or relinquishes its grant, or in the case of an unserved area, and the area thus has no provider, does this rule have an effect.

III. Impact Analyses

Executive Order 12866

Executive Order 12866 require that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that the removal of 45 CFR 1302.12 is consistent with these priorities and principles. This regulation has been reviewed by OMB under E.O. 12866.

Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a ''significant economic impact on a substantial number of small entities'' an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. Removal of section 1302.12 does not affect any Head Start grantees, including those that are small entities. The change brings the regulations into conformity with requirements of the regulations and the statute.

Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting or record-keeping requirement inherent in a proposed or final rule. This final rule does not contain any reporting or recordkeeping requirements and therefore is not subject to the PRA.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

If a covered agency must prepare a budgetary impact statement, section 205 further requires that it select the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule and is consistent with the statutory requirements. In addition, section 205 requires a plan for informing and advising any small government that may be significantly or uniquely impacted by the proposed rule.

We have determined that this final rule will not impose a mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of more than $100 million in any one year. Accordingly, we have not prepared a budgetary impact statement, specifically addressed the regulatory alternatives considered, or prepared a plan for informing and advising any significantly or uniquely impacted small government.

Congressional Review of Rulemaking

This rule is not a ''major'' rule as defined in Chapter 8 of 5 U.S.C.

The Family Impact Requirement

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires a family impact assessment affecting family well-being.

We have determined that this action will not affect the family. Therefore, no analysis or certification of the impact of this action was developed.

List of Subjects in 45 CFR Part 1302

Education of disadvantaged, Grant programs-social programs.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 29, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: October 27, 1999.

Donna E. Shalala,

Secretary.

For the reasons set forth in the Preamble, 45 CFR part 1302 is amended to read as follows:

PART 1302—POLICIES AND PROCEDURES FOR SELECTION, INITIAL FUNDING, AND REFUNDING OF HEAD START GRANTEES, AND FOR SELECTION OF REPLACEMENT GRANTEES

1. The authority citation for Part 1302 is revised to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*

§ 1302.12 [Removed]

2. Section 1302.12 is removed.

[FR Doc. 99–32420 Filed 12–14–99; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 96–83; FCC 99–360]

Preemption of Local Zoning Regulation of Satellite Earth Stations and Restrictions on Over-the-Air Reception Devices: Television Broadcast Service, Direct Broadcast Satellite and Multichannel Multipoint Distribution Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition on reconsideration.

SUMMARY: This document denies three petitions seeking reconsideration of the *Second Report and Order* in which the Over-the-Air Reception Devices rule was expanded to apply to antenna restrictions on rental property where the viewer has exclusive use or control. The Commission also concluded in the *Second Report and Order* that antenna restrictions on common or restricted access areas were beyond the scope of statutory authority for the rule. This document concludes that the findings in the *Second Report and Order* are reaffirmed, as no new facts or arguments are raised in these petitions for reconsideration.

EFFECTIVE DATE: December 15, 1999.

FOR FURTHER INFORMATION CONTACT: Eloise Gore at (202) 418-7200 or via internet at *egore@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Order on Reconsideration,* CS Docket No. 96–83, FCC 99–360, adopted November 19, 1999 and released November 24, 1999. The complete text of this *Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters, 445 12th Street, SW., Washington, DC 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036, or may be reviewed via internet at http://www.fcc.gov/csb/

Synopsis of Order on Reconsideration of the Second Report and Order

1. Three petitions were filed by: (1) Community Associations Institute (''CAI Petition''); (2) Personal Communications Industry Association (PCIA), Teligent, Inc., Association for Local Telecommunications Services, WinStar Communications, Inc., and Nextlink Communications, Inc. (collectively, ''PCIA Petition); and (3) Association for Maximum Service Television and the National Association of Broadcasters (''NAB) (collectively, ''NAB Petition''), requesting reconsideration of certain decisions in the *Second Report and Order,* which amended 47 CFR 1.4000, to prohibit restrictions on over-the-air reception devices on rental property.

2. CAI asks the Commission to reconsider the decision to permit tenants, who live in community associations, to install individual antennas without the permission of the home or unit owner from whom they rent. It argues that the only way for homeowners to prevent damage to their own property is through prior approval of tenants' antenna installations. While prematurely filed, the Commission addresses the merits of CAI's petition and concludes that there is not sufficient justification presented for allowing homeowners who rent out their property to require prior approval of antenna installations. Moreover, the threat of property damage in connection with antenna installation, as well as prior approval by a property owner, were issues which were already amply discussed and decided in the *Second Report and Order* and *Order on Reconsideration* of the *First Report and Order* (63 FR 67422), respectively.

3. The PCIA Petition seeks reconsideration of the Commission's conclusion in the *Second Report and Order* that prohibiting antenna restrictions in common or restricted access areas is beyond the authority granted to the Commission by Section 207 of the Telecommunications Act. Section 207 authorizes neither the imposition of affirmative duties on property owners nor the compensation mechanism necessary to avoid a potentially unconstitutional taking of private property. While PCIA Petitioners disagree with the Commission analysis in the *Second Report and Order,* they do not offer evidence or arguments that were not already thoroughly considered and discussed in the *Second Report and Order.*

4. Similarly, the NAB Petition disagrees with the Commission's analysis and interpretation of Section 207, but it too fails to offer new arguments or evidence to justify reconsideration of the Commission's conclusions in the *Second Report and Order.*

5. The parties have presented no new arguments or facts in the pleadings filed and the Commission is not required to reconsider arguments that have already been considered. Consequently, the Commission denies the petitions for reconsideration and affirms the *Second Report and Order.*

6. Accordingly, *it is ordered* that pursuant to Section 1, 4(i), 5(c) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 155(c) and 405, the petitions for reconsideration filed by the Community Associations Institute; by the Personal Communications Industry Association, Teligent, Inc., the Association for Local Telecommunications Services, WinStar Communications, Inc., and Nextlink Communications, Inc.; and by the Association for Maximum Service Television and the National Association of Broadcasters *are denied.*

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–32409 Filed 12–14–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2 and 95

[WT Docket No. 99–66, RM–9157, FCC 99–363]

Establishment of a Medical Implant Communications Service in the 402–405 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes a Medical Implant Communications Service (MICS) operating in the 402–405 MHz band. MICS operations will consist of high-speed, ultra-low power, non-voice transmissions to and from implanted medical devices such as cardiac pacemakers and defibrillators. The rules will allow use of newly-developed, life-saving medical technology without harming other users of the frequency band.

DATES: Effective January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Gene Thomson, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0634. TTY (202) 418–7233.