(2) Repetitive Requirements

(i) *What if no gaps are found at the bush areas during any inspection required by this AD?* Repeat the inspection specified in paragraph (d)(1)(i) of this AD at intervals not to exceed 500 hours TIS.

(ii) *What if any gap is found at the bush area that is less than 0.125 inches in length during any inspection required by this AD?* Repeat the inspection specified in paragraph (d)(1)(i) of this AD at intervals not to exceed 100 hours TIS provided the gaps do not increase to 0.125 inches or more in length. If the gap has not increased during 3 additional inspections and continue to not increase, then the inspection intervals may be increased to 500 hours TIS.

(iii) *What if any gap is found at the bush areas that is 0.125 inches or more in length during any inspection required by this AD?* Prior to further flight, replace the bushes with parts specified in the service information identified in this AD. Inspect the replacement bushes at intervals not to exceed 500 hours TIS in accordance with paragraph (d)(1)(i) of this AD.

(e) *What procedures must be used to accomplish all actions of this AD?* Shorts Service Bulletin No. 53–68, which incorporates the following pages:

Pages	Revision level	Date
6, 7, 8, 9, 10, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, and 25	Original Issue	January 10, 1996.
12	Revision No. 1	May 30, 1996.
3	Revision No. 2	September 1998.
1, 2, 4, 5, 11, 15, and 16	Revision No. 3	May 1999.

(f) *Can I comply with this AD in any other way?* Yes.

(1) You may use an alternative method of compliance or adjust the compliance time if:

(i) Your alternative method of compliance provides an equivalent level of safety; and

(ii) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

(2) This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(g) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4140; facsimile: (816) 329–4090.

(h) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(i) *Who should I contact if I have questions regarding the service information?* Direct all questions or technical information related to Shorts Service Bulletin 53–68, to Short Brothers plc, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. You may examine this service information at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

(j) *Are any service bulletins incorporated into this AD by reference?* Yes. You must accomplish the actions required by this AD in accordance with Shorts Service Bulletin 53–68, which incorporates the following pages:

Pages	Revision level	Date
6, 7, 8, 9,10, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, and 25	Original Issue	January 10, 1996.
12	Revision No. 1	May 30, 1996.
3	Revision No. 2	September 1998.
1, 2, 4, 5, 11, 15, and 16	Revision No. 3	May 1999.

The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Short Brothers plc, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. You can look at copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(k) *Has the airworthiness authority for the State of Design addressed this action?* Yes. The subject of this AD is addressed in British Airworthiness Directive 009–01–96, not dated.

(l) *When does this amendment become effective?* This amendment becomes effective on March 20, 2000.

Issued in Kansas City, Missouri, on January 20, 2000.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–2001 Filed 1–31–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children and Families

45 CFR Part 1303

RIN 0970–AB87

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 issuing this final rule to implement timelines for conducting administrative hearings on adverse actions taken against Head Start grantees and to make additional changes to the regulations designed to expedite the appeals process.

EFFECTIVE DATES: March 2, 2000.

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Administration on Children, Youth and Families, 330 C Street, SW, Washington, DC 20447; (202) 205–8572.

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 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 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. 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. Summary of the Major Provisions of the Final Rule

The authority for this final rule is section 646 of the Head Start Act (42 U.S.C. 9841), as amended by Public Law 103–252, Title I of the Human Services Amendments of 1994.

ACF's changes to the regulations are designed to expedite the appeals process and as specifically required by section 646(c) to specify a timeline for administrative hearings on adverse actions taken against grantees, and a timeline for conducting the administrative hearing and issuing a decision. The final rule implements these requirements.

Overall, the final rule on timelines, including the conforming changes to other affected sections of the appeals requirements in part 1303, will save time and expenses while continuing to allow due process to grantees appealing a proposed termination or denial of refunding. In the past, a number of appeal proceedings have been protracted and costly, partly because of the absence of statutory or regulatory timelines for holding a hearing. Under the final rule on timelines, decisions can be rendered in a shorter period of time thus allowing quicker removal of a deficient grantee. This will help ensure that children and their families receive high quality Head Start services from a qualified provider.

III. Rulemaking History

On June 30, 1998, the Administration on Children, Youth and Families (ACYF) published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (63 FR 35554) proposing: (1) Timelines for the conducting of administrative hearings on adverse actions taken against Head Start grantees; and (2) additional changes to the regulations designed to expedite the appeals process. Copies of the proposed rule were mailed to all Head Start grantees and delegate agencies. Interested parties were given 60 days in which to comment. ACYF received comments from three Head Start grantees and a private law firm interested in Head Start appeals.

IV. Section by Section Discussion of the Comments on the NPRM

Of the four parties commenting on the NPRM, one was a general expression of support for the proposed rule, while the other comments were directed at specific sections of the NPRM. Only those sections for which comments were made or to which technical changes were made are discussed below. The discussion of the sections follows the order of the NPRM table of contents and a notation is made wherever the section designations have been changed or deleted in the final rule.

Section 1303.14 Appeal by a Grantee From a Termination of Financial Assistance

Section 1303.14(c)

Comment: One commenter agreed that ACF should provide detailed notices of termination of refunding. However, the commenter believes that changes to the proposed rule would make it more equitable and would help to streamline the appeals process. The comment states that implicit in the Head Start Act's requirement for a full and fair hearing is a requirement that sanctions are available to the Departmental Appeals Board (The Board) for application to either party. Accordingly, the significant sanctions for various failures as detailed in the NPRM should be equally applicable to ACF. Without such uniformity, the commenter stated that the regulations would be in violation of the Head Start Act's requirement for a fair hearing process.

Response: Sanctions may be applied to both parties under the proposed regulations. It is unclear what additional sanctions the commenter wishes imposed on the public if the Federal agency should fail to comply with the requirements of the proposed provisions. What ACF has proposed are sanctions that would compel the issuance of clear statements of the findings and the factual and legal bases for them. We believe this is fair to grantees while permitting the removal of poor grantees from the program, both of which are within the statutory purposes of the program. For these reasons, we have made no changes based on this comment.

Section 1303.14 (c)(i) Notice of Termination

Comment: One commenter is concerned that the notice requirements being imposed upon ACF are not written with the same degree of specificity as § 1303.14(d)(1–7) pertaining to the requirements for Grantee Notices of Appeal. The commenter believes that ACF should be required to submit the termination in writing, submit the findings of fact, relevant citations for violations, and notice of right to appeal.

Response: The current regulations require specific statements about proposed actions. The proposed regulations would require specific findings of fact and citations of legal and policy provisions applicable to the

proposed action. We believe this is adequate. Moreover, if for any reason they are not adequate, the Departmental Appeals Board can require greater specificity. We note also that the proposed and existing regulations require that termination and denial of refunding letters give notice of appeal rights.

The proposed rule requires that the notice spell out in specific terms the legal basis for the termination. The object is to reduce the need for the grantee to supplement its initial notice with additional filings after the appeal is filed, which will streamline and expedite the appeals process. Therefore, for the foregoing reasons, we have not changed this section in the final rule.

Sections 1303.14(c)(6) and 1303.15(d)(4) Sanctions

Comment: Two commenters are concerned that these sections, though they provide sanctions to be levied against ACF, do not provide for a timeline upon which ACF is barred from reissuing the termination. The commenters state that this section does not offer the deterring effect as intended and that it imposes responsibilities upon ACF, but fails to provide the enforcement element. However, the sanctions provided in § 1303.14(e) against the grantee/delegate are much more punitive than those provided against ACF.

Response: For the reasons stated above in response to the previous comment, we believe that the sanctions proposed against ACF in the event that a notice of termination is deficient provide a fair remedy. Furthermore, it would be inappropriate to penalize the public due to an error by the Federal agency. Keeping an unqualified grantee in the program would do just that. Providing a corrected notice avoids that and gives the grantee all the notice due it. Therefore, we have not made any changes.

Section 1303.14(d)(1–5) Document Production

Comment: One commenter was particularly concerned that § 1303.14(d)(5), which requires the grantee to submit a detailed request and justification for the production of documents, is unduly burdensome and serves as an effort to impede its ability to address the many issues against it in the notice of termination. The commenter believes that it should be sufficient that the request for the production of documents is relevant to the issues at hand. The commenter states that § 1303.14(c)(i) sets forth the requirements for the notification of the termination of the grant. It also believes that if § 1303.14(c)(i) was specific it would provide the grantee sufficient notice and allow the grantee to be more specific in its appeal. The commenter believes that as the regulation is now written, it should be fair to assume that any request for documents is in support of an anticipated defense in the appeal. Therefore, the commenter believes it should follow that a grantee/delegate agency should be able to request documents that are relevant to the appeal. Furthermore, the commenter believes that grantees should not be required to lay out their arguments before they are allowed to answer the allegations. The commenter believes this regulation as it is now written essentially requires that.

Response: We do not believe these objections are meritorious. Current practice and the proposed regulations require specific notice. Also, requiring a showing of relevance and reasonable basis for believing a document exists is not equivalent to requiring a full explanation of a grantee's arguments. Even if it were, the parties have to lay out their arguments or positions at the outset anyway. We also note the fact that non-renewal and termination actions rarely arise overnight. Rather, grantees have been in contact with ACF over the specifics of non-compliance deficiencies. Considerable exchange of views and information is generally the case.

Generally, on-site reviews have been conducted and the findings shared with the grantee, including the bases for those findings. Morever, with respect to documentation, the vast majority of the documents are those obtained by ACF from the grantee itself. It has been ACF's experience that considerable time is wasted on so-called ''fishing expeditions'' when blanket requests are filed for documents without any objective reason to believe they exist. The purpose of the regulation is to avoid those situations.

There is no desire to deny a party the ability to request and obtain relevant documents. There is a desire to avoid unfounded and generalized requests that are not based on some reasonable basis to believe the documents exist.

ACF would also note that generally it files all documents in its possession that pertain to the case, except those that are privileged. It does this even when it does not expect to rely on a particular document. The purpose in doing this is to avoid haggling over production of documents and to expedite the process. This also helps ensure that the Board has the fullest possible picture of the grantee and the dispute, and that the documents are available should they become relevant to an issue during the course of the proceedings.

Section 1303.14(d)(1–7)

Comment: One commenter suggests that the rule be clarified to indicate whether the grantee's funding will be affected during the appeals process and whether the proposed change would supplement the existing section or act as a substitute to the current section.

Response: The NPRM proposes no changes in this regard and current regulations provide for continued funding to a grantee during the appeals process unless the grant has also been suspended.

Sections 1303.14(d)(e) and 1303.15(h) Appeal

Comment: We received two comments on this section. The first indicated that the increase in time for a grantee to file an appeal from 10 to 30 days is clearly warranted. Nevertheless, the commenter believes that the new requirements for the content of the appeal not only are unworkable but also are prejudicial to grantees because they will force grantees, even more than before, to do a dump of all documents in their possession remotely related to their appeal in order to ensure that all documents necessary to a grantee's case are available at the hearing. The commenter believes that an appropriate change to the proposed rule would be to provide for a process similar to that already informally employed by the Board— an initial submission of documents followed by a final submission after the conclusion of discovery and rulings on preliminary motions. Such a process is very common in judicial and administrative proceedings and provides the parties a real opportunity to respond to fully developed issues.

Second, the commenter suggests that the requirement that the grantee provide all documents that are relevant is also prejudicial in that any documents not immediately submitted will be excluded under the proposed rules. Thus, to mount an effective defense, a grantee will be forced to expend significant sums on attorney time and other costs in order to search files for any documents remotely related to the appeal and submit them. The commenter argues, therefore, that the result of this proposed rule will be to give grantees a Hobson's choice of either high costs to file an appeal (costs that are largely not covered by Head Start) or exclusion of potentially crucial documents.

Response: We have considered the comments objecting to the requirement that grantees submit all relevant documents with their original appeals. The crux of the objection is that this will force grantees to dump all documents that might conceivably be relevant, resulting in excessive search time and, presumably, an unduly cumbersome record, although the latter point was not raised. We believe there is some merit to this comment.

In response to this comment, we have changed § 1303.14(d) by adding a new paragraph (6) and renumbering proposed paragraphs (6) and (7) as (7) and (8), respectively. Also, for purposes of clarity, we have added a time-frame for ACF's response to the appeal. The new paragraph (6) reads as follows:

> Grantees may submit additional documents within 14 days of receipt of the documentation submitted by ACF in response to the grantee's appeal and submission of documents. The ACF response to the appeal and initial submittals of the grantee shall be filed no later than 30 days after ACF's receipt of the material. In response to such a submittal by the grantee, ACF may submit additional documents should it have any, or request discovery in connection with the new documents, or both, but must do so within 10 days of receipt of the additional filings.

ACF believes this substantially meets the concerns of the commenter, while still providing for expeditious conduct of the appeal. It also permits ACF to obtain more information on the new documents if it is unfamiliar with them. ACF does not believe any change to paragraph (e) of the regulation is necessary as a result of the change. The sanctions would apply if a grantee did not submit the documents at the outset, or within 14 days of receipt of the ACF initial filing, if the conditions for an exception do not exist. Of course, these provisions do not mean that all documents submitted by the parties are automatically entitled to be admitted into the record. The Board may exclude irrelevant documents, or those for which authenticity cannot be established, or for other appropriate reasons as the Board determines.

Section 1303.15(d)(4) Appeal by a Grantee From a Denial of Refunding

Comment: One commenter objects to 30 days for a grantee to initially appeal and suggested 60 days instead, with a possibility of one 30-day extension due to extreme unavoidable circumstances. In order to make the notice from ACF more useful, the commenter proposes that ACF be required to structure its notice of termination or denial of refunding in a manner similar to a complaint in Federal court with numbered paragraphs containing factual allegations. The commenter states that in this way, as in a court of law, a grantee can provide a specific response to each factual allegation and between the termination notice and the grantee's responses, it will be clear what facts, if any, are clearly in dispute.

The increase in time for a grantee to file an appeal from 10 to 30 days is clearly warranted. Nevertheless, the commenter believes that the new requirements for the content of the notice of appeal not only are unworkable but also are prejudicial to grantees.

Response: The proposed revision to paragraph (d) clarifies the existing rule by requiring ACF to state in specific details the legal basis of the decision to deny refunding to a grantee. As stated in the NPRM, the objective is to reduce the need for the grantee to supplement its initial appeal with additional filings and thereby streamline and expedite the appeals process.

The increase in the amount of time to appeal a termination from 10 to 30 days is being made to give grantees more time in which to develop their initial appeal submission, which will allow for quicker resolution of appeals. The comment presented by a public agency regarding this change states that it is fair and supports the proposed change. If more time is needed, it may be requested of the Departmental Appeals Board in advance of the due date in accordance with § 1303.8. Further, ACF does not believe that using court practice as a model is either necessary or desirable. Administrative proceedings are generally designed to be less formal and to be expeditious, goals not furthered by the suggestion. In view of the foregoing, we did not change the rule.

Section 1303.14(h) Right To Participate in Hearing

Comment: One commenter believes that the ability of a Head Start grantee to participate in the hearing process should not be impacted by the fact that they are a delegate agency. The commenter believes delegate agencies should be able to participate as a matter of right.

Response: We do not support this suggestion. First, the appeal right by statute is vested in a grantee and not in its delegate agencies. Secondly, a grantee may elicit evidence and testimony from delegate agencies and their personnel in support of its appeal, if such evidence and testimony is available, and present that as part of its own case. Thirdly, the proposed regulation does afford a delegate whose conduct is the source of grounds for non-renewal or termination the right to participate. ACF does not see the need to automatically expand the number of parties in a proceeding. Any other party may petition the Board to participate under the proposed regulations. It is ACF's intent that under those circumstances the Board will apply the tests under 45 CFR 16.16 in determining the right to participate. One of those conditions is that the intervention not cause undue delay. We would note that the costs of intervention by a delegate agency that is not appearing as a matter of right are not allowable costs under the grantee's grant.

Section 1303.15(d)(3) Appeal by a Grantee From Denial of Refunding

In reviewing the NPRM, we realized that we had inadvertently failed to revise this paragraph to conform it to the comparable provision on terminations. The termination provisions are in Section 1303.14(c). We have done so in the final rule. We believe it is clear that the intent with respect to termination and non-renewal actions was to have them be as identical as possible since they are, for all practical purposes, identical actions. They are separately provided for due to the Head Start Act's reference to them as separate actions. We have made the assumption that those who commented on the termination provisions would have the same comments about them in the denial of refunding section. Our responses to those comments are the same here.

Section 1303.16(d) Conduct of Hearing

Comment: One commenter said that ACF's justification for the use of written direct testimony is that it is more efficient and reduces the hearing time and expense. However, the commenter maintains that ACF and the agency/delegates still will have to provide written testimony, which can be more time consuming and expensive.

Further, the commenter maintains that written direct testimony does not allow for the many nuances that may arise with live direct testimony. Also, the commenter argues that the use of prepared direct testimony does not provide active participation by the presiding officer.

One commenter believes that prepared testimony is prejudicial to grantees.

Response: ACF does not believe that the comments warrant a change in the regulations as proposed. ACF has experience with the use of prepared direct testimony in these and similar cases.

That experience does not support the commenter's view that it impairs the Board's ability to assess credibility and the demeanor of witnesses. While there may be rareinstances when a key witness is not subject to cross-examination or questioning by the Board, in our view that would be a rare occurrence. As to the cost savings, by way of clarification not only is there a reduction in transcript costs, but there is also a reduction in travel costs for all the Federal personnel and Federal witnesses.

Moreover, as we noted in the preamble to the NPRM, the use of prepared direct testimony reduces the time of the hearing. A major public benefit of this is that Federal personnel are therefore away from their other duties for less time. This means there is less disruption in the conduct of Federal business. Since these personnel also have to provide services to other grantees, this is another major benefit of the use of prepared direct testimony.

As to the comment that use of prepared direct testimony will preclude a grantee from making its case to the Board, we know of no evidence to support that statement. Our experience is that a grantee can make its case to the Board using prepared direct testimony. ACF has the same view of the comment that the use of prepared direct testimony will cost grantees more money than live direct testimony. Even if true, however, we do not believe thatthose costs would be comparable to the added costs to taxpayers of having to pay added travel costs of keeping Federal personnel and witnesses on-site during a week or more of live direct testimony.

ACF does not believe that the use of prepared direct evidence favors or prejudices any party. The provision operates equally on all parties with respect to the presentation of evidence. Observing the demeanor of witnesses is a consideration that applies to all witnesses and that intrinsically does not work for or against one party over another. Therefore, ACF does not consider the comments as warranting any change to the proposed regulations.

We believe the comment that the proposal would limit a grantee's ability to advocate for itself and children and their families is not valid. First, as noted above, our experience is that grantees can advocate for themselves when the procedure of prepared direct testimony is used. Second, ACF is charged with advocating for children and their families as well. Therefore, they are not without advocacy on their behalf. Indeed, concern over thechildren and families is the motivating factor in the intense efforts ACF engages in to secure interim grantees to take over services after non-renewal or termination of a grant. Moreover, as the District Court recently noted in denying a preliminary injunction brought by a Head Start grantee whose grant was terminated, a grantee does not have standing to raise the concerns of children and their families in receiving Head Start services from a particular provider. *Mansfield-Richland-Morrow Total Operation Against Poverty* v. *Donna E. Shalala,* ''Memorandum Opinion,'' p. 18, November 25, 1998.

Section 1303.17 Time for Hearing and Decision

Comment: Four commenters expressed concern regarding the amount of time for a hearing and decision. According to the commenters, the new timelines proposed by ACF have two defects.

First, the commenters believe that the rule is not clear concerning the 60-days for a decision; specifically,whether the 60-days begins to run after briefing and oral arguments or from some other point in time.

Second, with respect to the overall timelines, there was a concern that the timelines would drive up the cost of hearings to grantees. By requiring complex litigation to be concluded in approximately seven to nine months, it is stated that ACF will succeed in forcing grantees to utilize more attorneys to keep up with the demands of such litigation.

Response: We changed the regulation to clarify that the 60 days for a decision starts when the record for an appeal is closed. The record is closed when the last permissible submission is received by the Board.

In response to the first part of this comment we have changed the last sentence of § 1303.17(a) to provide that the 60 day period for the decision begins to run after the Board's receipt of the last permissible submittal. The submittal of unauthorized material will not stay or prolong the due date of the final decision.

There is no reason to believe that the total amount of attorney time devoted to an appeal will change because of the timelines. The fact it will be expended over a shorter period of time does not necessarily mean more attorney time will be required or that costs will be greater. The intent of Congress is to expedite these appeals and that is of prime importance.

V. Impact Analysis

Executive Order 12866

Executive Order 12866 requires 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 this rule is consistent with these priorities and principles. This final rule implements the statutory requirement for Head Start grantee appeals to be heard and decided within certain, defined time frames.

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. While these regulations would affect small entities, they would not affect a substantial number. For this reason, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act 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 recordkeeping requirements inherent in a proposed or final rule. This final rule contains information collection in § 1303.14, (written grantee appeal) § 1303.15 (appeal of denial of refunding) and § 1303.16(d) (written direct testimony) which have been submitted to OMB for review and approval.

The respondents to the information collection requirements in the rule are Head Start grantees, which may be State or local nonprofit or for-profit agencies or organizations.

The Department needs to require the collection of certain information to conform to the administrative rules that provide for a hearing by grantees against which adverse action is contemplated.

The grantees that will be affected by these requirements will be those for which the Department is contemplating adverse action either by terminating financial assistance or by denying an application for funding.

Based upon our experience we estimate that adverse action would be contemplated against ten grantees in a given year. A written grantee appeal (addressed in § 1303.14) and an appeal of denial of refunding (addressed in § 1303.15) is a one time activity which

is preceded by one action which is to research the allegations by checking program records and preparing a written response. We previously estimated the time it would take to research records and prepare a letter at 16 hours per instance for a total burden of 160 hours, approved under OMB control number 0980–0242. There is no new additional burden anticipated in the final rule for these sections.

A new burden is estimated for written direct testimony (addressed in § 1301.16(d)). We estimate an additional burden of 10 hours for each grantee for a total new burden of 100 hours annually.

The Administration for Children and Families (ACF) will consider comments by the public on these proposed collections of information in:

Evaluating whether the proposed collections are necessary for the proper performance of the functions of ACF, including whether the information will have practical utility;

Evaluating the accuracy of ACF's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

Enhancing the quality, usefulness, and clarity of the information to be collected; and

Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, *e.g.,* permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in this final rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments to OMB for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Wendy Taylor.

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 most cost-effective and 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.

Executive Order 13132

Executive Order 13132 on Federalism applies to policies that have federalism implications, defined as ''regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule does not have federalism implications as defined in the Executive order.

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 1303

Administrative Practice and Procedure, Education of the disadvantaged, Grant programs-social programs, Reporting and recordkeeping requirements.
PART='1303'≤

For the reasons set forth in the Preamble, 45 CFR part 1303 is amended to read as follows:

PART 1303—APPEAL PROCEDURES FOR HEAD START GRANTEES AND CURRENT OR PROSPECTIVE DELEGATE AGENCIES

1. The authority citation for part 1303 continues to read as follows:

Authority: 42 U.S.C. 9801 *et seq.*
'45' PART='1303'≤

2. Section 1303.14 is amended by republishing paragraph (c), introductory text, revising paragraphs (c)(1), (2) and (5); removing paragraph (e); redesignating paragraphs (d) and (f) through (j) as paragraphs (f) through (k); adding new paragraphs (c)(6), (d) and (e); and revising the newly redesignated paragraph (h), to read as follows:

§ 1303.14 Appeal by a grantee from a termination of financial assistance.

* * * * *

(c) A notice of termination shall set forth:

(1) The legal basis for the termination under paragraph (b) of this section, the factual findings on which the termination is based or reference to specific findings in another document that form the basis for the termination (such as reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, regulations, or policy issuances on which ACF is relying for its determination.

(2) The fact that the termination may be appealed within 30 days to the Departmental Appeals Board (with a copy of the appeal sent to the responsible HHS official and the Commissioner, ACYF) and that such appeal shall be governed by 45 CFR part 16, except as otherwise provided in the Head Start appeals regulations, and that any grantee that requests a hearing shall be afforded one, as mandated by 42. U.S.C. 9841.

* * * * *

(5) That the grantee's appeal must meet the requirements set forth in paragraph (d) of this section.

(6) That a failure by the responsible HHS official to meet the requirements of this paragraph may result in the dismissal of the termination action without prejudice, or the remand of that action for the purpose of reissuing it with the necessary corrections.

(d) A grantee's appeal must:

(1) Be in writing;

(2) Specifically identify what factual findings are disputed;

(3) Identify any legal issues raised, including relevant citations;

(4) Include an original and two copies of each document the grantee believes is relevant and supportive of its position (unless the grantee has obtained permission from the Departmental Appeals Board to submit fewer copies);

(5) Include any request for specifically identified documents the grantee wishes to obtain from ACF and a statement of the relevance of the requested documents, and a statement that the grantee has attempted informally to

obtain the documents from ACF and was unable to do so;

(6) Grantees may submit additional documents within 14 days of receipt of the documentation submitted by ACF in response to the grantee's appeal and initial submittals. The ACF response to the appeal and initial submittals of the grantee shall be filed no later than 30 days after ACF's receipt of the material. In response to such a submittal, ACF may submit additional documents should it have any, or request discovery in connection with the new documents, or both, but must do so within 10 days of receipt of the additional filings;

(7) Include a statement on whether the grantee is requesting a hearing; and

(8) Be filed with the Departmental Appeals Board and be served on the responsible HHS official who issued the termination notice and on the Commissioner of ACYF. The grantee must also serve a copy of the appeal on any delegate agency that would be financially affected at the time the grantee files its appeal.

(e) The Departmental Appeals Board sanctions with respect to a grantee's failure to comply with the provisions of paragraph (d) of this section are as follows:

(1) If in the judgment of the Departmental Appeals Board a grantee has failed to substantially comply with the provisions of the preceding paragraphs of this section, its appeal must be dismissed with prejudice.

(2) If the Departmental Appeals Board concludes that the grantee's failures are not substantial, but are confined to one or a few specific instances, it shall bar the submittal of an omitted document, or preclude the raising of an argument or objection not timely raised in the appeal, or deny a request for a document or other ''discovery'' request not timely made.

(3) The sanctions set forth in paragraphs (e)(1) and (2) of this section shall not apply if the Departmental Appeals Board determines that the grantee has shown good cause for its failure to comply with the relevant requirements. Delays in obtaining representation shall not constitute good cause. Matters within the control of its agents and attorneys shall be deemed to be within the control of the grantee.

* * * * *

(h) If the responsible HHS official initiated termination proceedings because of the activities of a delegate agency, that delegate agency may participate in the hearing as a matter of right. Any other delegate agency, person, agency or organization that wishes to participate in the hearing may request permission to do so from the Departmental Appeals Board. Any request for participation, including a request by a delegate agency, must be filed within 30 days of the grantee's appeal.

* * * * *

3. Section 1303.15 is amended by revising paragraphs (b)(2), (d)(1) and (d)(3), and adding new paragraphs (d)(4), (f), (g) and (h) to read as follows:

§ 1303.15 Appeal by a grantee from a denial of refunding.

(b) * * *

(2) Any such appeals must be filed within 30 days after the grantee receives notice of the decision to deny refunding.

* * * * *

(d) * * *

(1) The legal basis for the denial of refunding under paragraph (c) of this section, the factual findings on which the denial of refunding is based or references to specific findings in another document that form the basis for the denial of refunding (such as reference to item numbers in an on-site review report or instrument), and citation to any statutory provisions, regulations or policy issuances on which ACF is relying for its determination.

* * * * *

(3) If the responsible HHS official has initiated denial of refunding proceedings because of the activities of a delegate agency, the delegate agency may participate in the hearing as a matter of right. Any other delegate agency, person, agency or organization that wishes to participate in the hearing may request permission to do so from the Departmental Appeals Board. Any request for participation, including a request by a delegate agency, must be filed within 30 days of the grantee's appeal.

* * * * *

(4) A statement that failure of the notice of denial of refunding to meet the requirements of this paragraph may result in the dismissal of the denial of refunding action without prejudice, or the remand of that action for the purpose of reissuing it with the necessary corrections.

* * * * *

(f) If the responsible HHS official has initiated denial of refunding proceedings because of the activities of a delegate agency, that delegate agency may participate in the hearing as a matter of right. Any other delegate agency, person, agency or organization that wishes to participate in the hearing may request permission to do so from the Departmental Appeals Board. Any request for participation, including a request by a delegate agency, must be filed within 30 days of the grantee's appeal.

(g) Paragraphs (i), (j), and (k) of 45 CFR 1303.14 shall apply to appeals of denials of refunding.

(h) The Departmental Appeals Board sanctions with respect to a grantee's appeal of denial of refunding are as follows:

(1) If in the judgment of the Departmental Appeals Board a grantee has failed to substantially comply with the provisions of the preceding paragraphs of this section, its appeal must be dismissed with prejudice.

(2) If the Departmental Appeals Board concludes that the grantee's failure to comply is not substantial, but is confined to one or a few specific instances, it shall bar the submittal of an omitted document, or preclude the raising of an argument or objection not timely raised in the appeal, or deny a request for a document or other ''discovery'' request not timely made.

(3) The sanctions set forth in paragraphs (h)(1) and (2) of this section shall not apply if the Departmental Appeals Board determines that a grantee has shown good cause for its failure to comply with the relevant requirements. Delays in obtaining representation shall not constitute good cause. Matters within the control of its agents and attorneys shall be deemed to be within the control of the grantee.
PART='1303'≤

4. Section 1303.16 is amended by redesignating paragraphs (d) through (g) as paragraphs (e) through (h); adding a new paragraph (d); and revising newly redesignated paragraph (f) to read as follows:

§ 1303.16 Conduct of hearing.

* * * * *

(d) Prepared written direct testimony will be used in appeals under this part in lieu of oral direct testimony. When the parties submit prepared written direct testimony, witnesses must be available at the hearing for cross-examination and redirect examination. If a party can show substantial hardship in using prepared written direct testimony, the Departmental Appeals Board may exempt it from the requirement. However, such hardship must be more than difficulty in doing so, and it must be shown with respect to each witness.

* * * * *

(f) Any person or organization that wishes to participate in a proceeding may apply for permission to do so from the Departmental Appeals Board. This

application must be made within 30 days of the grantee's appeal in the case of the appeal of termination or denial of refunding, and as soon as possible after the notice of suspension has been received by the grantee. It must state the applicant's interest in the proceeding, the evidence or arguments the applicant intends to contribute, and the necessity for the introduction of such evidence or arguments.

5. Section 1303.17 is added to read as follows:

§ 1303.17 Time for hearing and decision.

(a) Any hearing on an appeal by a grantee from a notice of suspension, termination, or denial of refunding must be commenced no later than 120 days from the date the grantee's appeal is received by the Departmental Appeals Board. The final decision in an appeal whether or not there is a hearing must be rendered not later than 60 days after the closing of the record, i.e., 60 days after the Board receives the final authorized submission in the case.

(b) All hearings will be conducted expeditiously and without undue delay or postponement.

(c) The time periods established in paragraph(a) of this section may be extended if:

(1) The parties jointly request a stay to engage in settlement negotiations,

(2) Either party requests summary disposition; or

(3) The Departmental Appeals Board determines that the Board is unable to hold a hearing or render its decision within the specified time period for reasons beyond the control of either party or the Board.

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

Dated: June 16, 1999.

Olivia A. Golden,

Assistant Secretary for Children and Families.

Approved: October 5, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 00–2049 Filed 1–31–00; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. RSPA–97–2095; Amendment 195–66]

RIN 2137–AC 11

Pipeline Safety: Adoption of Consensus Standards for Breakout Tanks; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Correcting amendments.

SUMMARY: This document corrects a final rule published April 2, 1999 (64 FR 15926). The final rule incorporates by reference consensus standards for aboveground steel storage tanks into the hazardous liquid pipeline safety regulations. This document makes two minor corrections to the final rule. First, it adds an industry publication, American Petroleum Institute (API) 1130 to the list of incorporated references. Second, it corrects the reference to the API Standard 653 to include Addendum 2.

DATES: Effective February 1, 2000. The incorporation by reference of the publication stated in the rule was approved by the Director of the Federal Register as of February 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mike Israni, (202) 366–4571, or e-mail: mike.israni@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

When RSPA published the final rule in the **Federal Register**, it inadvertently omitted industry publication API 1130, Computational Pipeline Monitoring (1st Edition, 1995), from 49 CFR 195.3, Matter incorporated by reference. This document corrects this omission in the reference list by adding a reference to API 1130 in § 195.3 (c)(2)(ii) and by renumbering subsequent references. Also, in the final rule the preamble section listed API Standard 653 (Addenda 1 and 2), but the regulatory text section listed API Standard 653 (Addendum 1). This document corrects this discrepancy by specifying API Standard 653 (Addenda 1 & 2) in both places. We regret any confusion these omissions may have caused.

List of Subjects in 49 CFR Part 195

Incorporation by reference, Breakout tanks, Hazardous liquids and Petroleum, Carbon dioxide, Pipeline safety, Reporting and recordkeeping requirements.

RSPA amends Part 195 of title 49 of the Code of Federal Regulations as follows:

PART 195—TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE

Accordingly, 49 CFR Part 195 is corrected by making the following correcting amendments:

1. The authority citation for Part 195 continues to read as follows:

Authority: 49 U.S.C. 5103, 60102, 60104, 60108, 60109, 60118; and 49 CFR 1.53. PART='195'≤

2. In § 195.3, (c)(2) is amended by redesignating existing paragraphs (c)(2)(ii) through (c)(2)(xv) as (c)(2)(iii) through (c)(2)(xvi) respectively, by adding a new paragraph (c)(2)(ii) and by revising redesignated paragraph (c)(2)(xiv) to read as follows:

§ 195.3 Matter incorporated by reference.

* * * * *

(c) * * *

(2) * * *

(ii) API 1130 ''Computational Pipeline Monitoring'' (1st Edition, 1995).

* * * * *

(xiv) API Standard 653 ''Tank Inspection, Repair, Alteration, and Reconstruction'' (2nd edition, December 1995, including Addenda 1 & 2).

* * * * *

Issued in Washington, DC on October 27, 1999.

Kelley S. Coyner,

Administrator.

[FR Doc. 00–340 Filed 1–31–00; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE20

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Blackburn's Sphinx Moth from the Hawaiian Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine *Manduca blackburni,* the Blackburn's sphinx moth, to be an endangered species under the Endangered Species Act of 1973, as amended (Act). Historically, this species occurred on the Hawaiian islands of Kauai, Oahu, Molokai, Maui, and Hawaii, but until