

first sentence, is incorrect and should also read December 29, 1997.

The notice also contains an error in the regulatory text which requires correction.

List of Subjects in 37 CFR Part 253

Copyright, Music, Radio, Television.

Accordingly, 37 CFR part 253 is corrected by making the following correcting amendments:

PART 253—USE OF CERTAIN COPYRIGHTED WORKS IN CONNECTION WITH NONCOMMERCIAL EDUCATIONAL BROADCASTING

1. The authority citation for part 253 continues to read as follows:

Authority: 17 U.S.C. 118, 801(b)(1) and 803.

§ 253.7 Recording rights, rates and terms.

2. In § 253.7, paragraph (b)(4), correct the parenthetical “(per half” to read “(per half hour)”.

Dated: December 11, 1997.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 97-32792 Filed 12-15-97; 8:45 am]

BILLING CODE 1410-33-P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 255

[Docket No. 96-4 CARP DPRA]

Mechanical and Digital Phonorecord Delivery Rate Adjustment Proceeding

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document clarifies the dates for filing comments and Notices of Intent to Participate published in the **Federal Register** notice of December 1, 1997, announcing a proposed rulemaking concerning the adjustment of the physical phonorecord and digital phonorecord delivery royalty rates.

FOR FURTHER INFORMATION CONTACT: Tanya M. Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707-8380. Telefax: (202) 707-8366.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking concerning the adjustment of royalty rates for the making and distribution of a physical phonorecord and a digital phonorecord

delivery contains two dates for filing comments and Notices of Intent to Participate. The correct date, December 29, 1997, is announced in the date caption. The second date, December 31, 1997, stated in the section entitled, Comments and Notices of Intent to Participate, page 63507, third column, is incorrect and should also read December 29, 1997.

Dated: December 11, 1997.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 97-32791 Filed 12-15-97; 8:45 am]

BILLING CODE 1410-33-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1302

RIN 0970-AB52

Head Start Program

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

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administration on Children, Youth and Families is issuing this notice of proposed rulemaking to amend its procedures regarding replacement of Indian tribal grantees. The proposed change would add provisions to implement a new statutory provision that allows Indian tribes which are Head Start grantees to identify an agency, and request that the agency be designated by the Department as an alternative grantee, when the grantee is terminated or denied refunding.

DATES: In order to be considered, comments on this proposed rule must be received on or before February 17, 1998.

ADDRESSES: Please address comments to the Associate Commissioner, Head Start Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. Beginning 14 days after close of the comment period, comments will be available for public inspection in Room 2217, 330 C Street, S.W., Washington, D.C. 20201, Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Douglas Klafehn, Deputy Associate Commissioner, Head Start Bureau, Administration for Children, Youth and

Families, P.O. Box 1182, Washington, D.C. 20013; (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 primarily to low-income preschool children, age three to the age of compulsory school attendance, and their families. In addition, Section 645A of the Head Start Act provides authority to fund programs for families with infants and toddlers, known as Early Head Start programs. To help enrolled children achieve their full potential, Head Start programs provide comprehensive health, nutritional, educational, social and other services. 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 1996, Head Start served 752,000 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, the Head Start Act and implementing regulations permit up to 10 percent (and more for Indian tribes under certain circumstances) 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 Proposed Regulation

The authority for this Notice of Proposed Rulemaking (NPRM) 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 Service Amendments of 1994. Section 646(e) directs the Secretary to specify a process by which an Indian tribe may identify an agency, and request that the agency identified be designated as the Head Start agency providing services to the tribe, if (a) financial assistance to the tribal grantee is terminated, and (b) the

tribe would otherwise be precluded from providing Head Start services to its members because of the termination. The Act specifies that the regulation must prohibit the designation as Head Start grantee of an agency that includes an employee who served on the administrative or program staff of the terminated agency when that employee was responsible for a deficiency that was the basis for the termination.

The proposed rule:

- Adds a new definition for Indian tribe;
- Provides that an Indian tribe may identify an agency to serve as the alternative grantee at the time that it receives a notice of termination or a notice of denial of refunding;
- Allows the tribe to participate in the selection of the replacement grantee;
- Allows the tribe a second opportunity to identify an alternative agency if the Department finds the first agency identified by the tribe is not an eligible agency capable of operating a Head Start program. If the second agency identified by the tribe is not selected as a Head Start grantee, a replacement grantee will be designated under 45 CFR Part 1302.

III. Section by Section Discussion of the NPRM

Section 1302.2 Definitions

We propose to add to this section a definition for the phrase "Indian tribe," which is the same definition that appears in Section 637(10) (42 U.S.C. § 9832(10)) of the Head Start Act.

Section 1302.30 Procedure for Identification of Alternative Agency

Section 1302.30 outlines the procedures by which an Indian tribe may identify an agency to the Department as an alternative grantee and request that the agency be designated as a grantee in the event that the tribe has been terminated or denied refunding as Head Start grantee. While section 646(e)(1)(A) of the Head Start Act refers only to the "termination" of financial assistance, we have interpreted "termination" in this section to mean either termination of a grant or denial of refunding of the grantee, as there is no substantive difference between these two actions in terms of their impact on a grantee's Head Start program.

Section 1302.30(a) states that a grantee may take advantage of this procedure only if it was the sole agency that was receiving funding to provide Head Start services to the tribe, and if the members of the tribe would otherwise be precluded from receiving Head Start services because of the

termination or denial of refunding. These basic qualifying criteria are found in Section 646(e)(1) of the Head Start Act.

Under section 1302.30(b) of the proposed procedures the Department, if it moves to terminate or deny refunding to a tribal grantee, must notify the grantee that it may propose an alternative agency to the Department, in writing, within the time limits established for appealing the Department's decision to deny refunding or terminate the grant at 45 CFR § 1303.14(c) and 45 CFR § 1303.15(b)(2).

If the Department finds that the alternative agency identified by the tribe is not an agency that is both eligible and capable of operating a Head Start program, the Department will, under section 1302.30(b)(3), so notify the tribe, and the tribe will have another opportunity to identify an alternative agency and request the designation of that agency as the alternative agency. This must be done within 15 days of the Department's sending notification to the grantee that the agency identified is unsuitable. Section 1302.30(b)(4) specifies that if the Department finds this second agency also not capable of operating a Head Start program, a replacement grantee will be selected by the Department according to the regulations under 45 CFR part 1302. Funding of the grantee will continue during any appeal, as provided under section 1302.30(c). The steps outlined in this proposed regulation for designation of an alternative agency identified by the tribe will be carried out during the appeal process.

Section 1302.30(d) provides that if the tribe does not identify an agency and request that it be appointed as alternative agency, the Department will seek a permanent replacement grantee under 45 CFR part 1302.

Section 1302.31 Requirements of Alternative Agency

The purpose of this section is to make clear that any agency designated by the Secretary to replace the grantee serving the Indian tribe must meet the minimum requirements for Head Start agencies as established by the Head Start Act. These are minimum requirements, which no agency designated a Head Start agency may fail to meet. However, merely satisfying these requirements does not qualify an agency to be a Head Start grantee. The Department will analyze the capabilities and experience of the agency identified by the tribe to determine whether that agency is capable of operating a Head Start program. This analysis will be

guided by the criteria for agency designation found in section 641(d) of the Head Start Act and sections 1302.10 (b) (1) to (5) and 1302.11 (a) to (c) of this Part.

Section 1302.32 Alternative Agency—Prohibition

This section states that the tribe may not designate as an alternative agency an agency which includes an employee who served on the administrative or program staff of the Indian tribal grantee, and who was responsible for a deficiency that was the basis of the termination or denial of refunding described in section 1302.30. It also specifies that the Department, not the tribe, reserves the right to determine whether an employee was responsible for a deficiency within the meaning and context of this section.

IV. 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 proposed rule is consistent with these priorities and principles. This Notice of Proposed Rulemaking sets forth a process whereby an Indian tribe that is being terminated as a Head Start grantee may identify an alternative agency and request that the alternative agency be designated as the Head Start agency providing services to the tribe. The costs of implementing this rule are not significant.

Regulatory Flexibility Act of 1980

The Regulatory 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, Pub. L. 104-13, all Departments are required to submit collections of information contained in proposed rules published for public comment in the

Federal Register to the Office of Management and Budget for review and approval. This NPRM does not contain collection of information as defined in the Paperwork Reduction Act and implementing regulations.

List of Subjects in 45 CFR Part 1302

Education of disadvantaged, Grant programs—social programs, Selection of grantees.

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

Dated: November 24, 1997.

Olivia A. Golden,

Assistant Secretary for Children and Families.

For the reasons set forth in the Preamble, 45 CFR Part 1302 is proposed to be amended as follows:

1. The Authority citation for Part 1302 continues to read as follows:

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

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

2. Section 1302.2 is amended by adding a definition for “Indian Tribe” to read as follows:

§ 1302.2 Definitions.

* * * * *

Indian tribe means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such Act (43 U.S.C. 1601 *et seq.*) that is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

* * * * *

3. A new Subpart D, containing new sections 1302.30, 1302.31, and 1302.32, is added to read as follows:

Subpart D—Replacement of Indian Tribal Grantees

§ 1302.30 Procedure for identification of alternative agency.

(a) An Indian tribe whose Head Start grant has been terminated, or which has been denied refunding as a Head Start grantee, may identify an agency and request the responsible HHS official to designate such agency as an alternative agency to provide Head Start services to the tribe if:

(1) The tribe was the only agency that was receiving federal financial assistance to provide Head Start services to members of the tribe; and

(2) The tribe would be otherwise precluded from providing such services to its members because of the termination or denial of refunding.

(b)(1) The responsible HHS official, when notifying a tribal grantee of the intent to terminate financial assistance or deny its application for refunding, must notify the grantee that it may identify an agency and request that the agency serve as the alternative agency in the event that the grant is terminated or refunding denied.

(2) The tribe must identify the alternate agency to the responsible HHS official, in writing, within the time for filing an appeal under 45 CFR Part 1303.

(3) The responsible HHS official will notify the tribe, in writing, whether the alternative agency proposed by the tribe is found to be eligible for Head Start funding and capable of operating a Head Start program. If the alternative agency identified by the tribe is not an eligible agency capable of operating a Head Start program, the tribe will have 15 days from the date of the sending of the notification to that effect from the responsible HHS official to identify another agency and request that the agency be designated. The responsible HHS official will notify the tribe in writing whether the second proposed alternate agency is found to be an eligible agency capable of operating the Head Start program.

(4) If the tribe does not identify a suitable alternative agency, a replacement grantee will be designated under these regulations.

(c) If the tribe appeals a termination of financial assistance or a denial of refunding, it will, consistent with the terms of 45 CFR Part 1303, continue to be funded pending resolution of the appeal. However, the responsible HHS official and the grantee will proceed with the steps outlined in this regulation during the appeal process.

(d) If the tribe does not identify an agency and request that the agency be appointed as the alternative agency, the responsible HHS official will seek a permanent replacement grantee under these regulations.

§ 1302.31 Requirements of alternative agency.

The agency identified by the Indian tribe must establish that it meets all requirements established by the Head Start Act and these requirements for designation as a Head Start grantee and that it is capable of conducting a Head Start program. The responsible HHS official, in deciding whether to designate the proposed agency, will analyze the capacity and experience of the agency according to the criteria

found in section 641(d) of the Head Start Act and §§ 1302.10(b) (1) through (b)(5) and 1302.11 of this part.

§ 1302.32 Alternative agency—prohibition.

(a) No agency will be designated as the alternative agency pursuant to this Subpart if the agency includes an employee who:

(1) Served on the administrative or program staff of the Indian tribal grantee, and

(2) Was responsible for a deficiency that:

(i) Relates to the performance standards or financial management standards described in the Head Start Act; and

(ii) Was the basis for the termination or denial of refunding described in § 1302.30 of this part.

(b) The responsible HHS official shall determine whether an employee was responsible for a deficiency within the meaning and context of this section.

[FR Doc. 97–32748 Filed 12–15–97; 8:45 am]

BILLING CODE 4184–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 21 and 74

[MM Docket No. 97–217; DA 97–2547]

MDS and ITFS Two-Way Transmissions

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: In this Order Extending Time for Filing Comments and Reply Comments (“Order”), comment is sought on additional proposals for amendment of the Commission’s rules to enable Multipoint Distribution Service (“MDS”) and Instructional Television Fixed Service (“ITFS”) licensees to engage in fixed two-way transmissions. In addition, the comment period in this docket is extended in order to allow for proper consideration of the proposals.

DATES: Comments must be filed on or before January 8, 1998, and reply comments on or before February 9, 1998. Written comments by the public on the Initial Regulatory Flexibility Analysis are due January 8, 1998.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael J. Jacobs, (202) 418–7066 or