PROPOSED RULES

(c) Any other provision of these rules may be waived or modified: (1) By the President upon good cause shown and determined.

§ 1606.16 Right to counsel.

At a hearing under § 1606.10, the Corporation and the recipient each shall be represented by counsel, or by another person. The attorney designated may be an employee, or may be outside counsel retained for the purpose, who may be compensated at the reasonable and customary rate for an attorney practicing in the vicinity of the attorney retained. Unless prior written approval is received from the Corporation, such fees shall not exceed the daily equivalent of the rate of level V of the Executive Schedule specified in Section 7331 of Title 5, United States Code.

§ 1606.17 Reimbursement.

If the recipient's grant or contract is continued or refunding is granted after a preliminary determination has been issued under § 1606.5, a recipient, at the discretion of the President, may receive reimbursement by the Corporation, in whole or in part, for reasonable and actual expenses that were required in connection with procedures under this Part.

§ 1606.18 Interim funding.

Failure by the Corporation to meet a time requirement of this Part shall not entitle a recipient to continuation of its grant or contract or to refunding. Pending a final determination under this Part, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities under the Act.

§ 1606.19 Termination funding.

After a final determination to terminate a recipient's grant or contract or to deny refunding, and without regard to whether any of the conditions of the Act or the regulations have occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibility to its current clients.

§ 1606.20 Notice.

A notice required to be sent to a recipient under this Part shall be sent to the director of the recipient, and may be sent to the chairperson of its governing body.

THOMAS EMERICK,
President, Legal Services Corp.
[FR Doc. 81-3718 Filed 12-30-77; 8:45 am]

[5820-35]

CODE OF FEDERAL REGULATIONS

5820-35

PART 1623

PROCEDURES GOVERNING SUSPENSION OF FINANCIAL ASSISTANCE

AGENCY: Legal Services Corporation.

ACTION: Proposed regulation.

SUMMARY: Section 1011 of the Legal Services Corporation Act requires that the Corporation procedures to ensure that financial assistance to a recipient will not be suspended without an opportunity for the recipient to show cause why the suspension should not be imposed. This Part responds to that requirement by specifying the circumstances in which suspension is authorized, and establishing procedures for the recipient to present its case in opposition to a proposed suspension.

DATES: Comments must be received on or before February 2, 1978.


FOR FURTHER INFORMATION CONTACT:
Stephen S. Walters, 202-776-5113.

SUPPLEMENTARY INFORMATION:
At the outset, it should be emphasized that the suspension power is not used in any way to harass an organization available to the Corporation in discharging its responsibilities under the Act. Financial assistance is continued during suspension proceedings to deny applications for refunding and to terminate financial assistance, and in most instances the Corporation establishes a new grantee to provide assistance performed by the suspended organization.

In light of these considerations, this Part provides that financial assistance can be suspended only if the recipient is guilty of a substantial failure to comply with a provision of law, a Corporation rule, regulation, guideline, or a term or condition of its current grant, or has substantially failed to provide high quality, economical, and effective legal assistance. In most cases, suspension proceedings are suspended unless the recipient has been informed of its failure and has had a reasonable opportunity to correct it.

The second major restriction on the power to suspend financial assistance is that a particular suspension cannot be in effect for a total of more than 30 days. The Corporation employee who orders suspension may set the effective date of the suspension to coincide with the Corporation's schedule for making grant payments, and may rescind or modify the suspension at any time based on considerations such as the progress made toward compliance and the ability of the recipient to continue serving existing clients.

In any case, the Corporation must terminate suspension proceedings if it believes further action is necessary. The recipient may request an extension of the suspension, but if it believes that compliance is imminent and does not wish to suffer the expense and dilution of termination proceedings.

This is proposed to amend 45 CFR part 18, Chapter XVI by adding the following new Part 1623:

§ 1623.1 Purpose.

§ 1623.2 Definition.

§ 1623.3 Subpart A—Suspension of financial assistance.

§ 1623.4 Suspension.

§ 1623.5 Time extension and waiver.

§ 1623.6 Interim funding.

Authority: Sec. 1006(b) (1) and (3), 1007 (a) (1), 1007 (a) (2), 1007 (a) (4), 1007 (a) (5), 1007 (d), 1007 (e) (1) 1011 (2) U.S.C. 2996(a) (1) and (3), 2996(a) (2), 2996(a) (3), 2996(a) (5) (d), 2996(c) (2), 2996(c) (3).

§ 1623.1 Purpose.

By providing procedures for prompt review that will ensure informed deliberation by the Corporation when there is reason to believe that financial assistance to a recipient should be suspended, this Part seeks to avoid unnecessary disruption in the delivery of legal assistance to clients.

§ 1623.2 Definition.

"Suspension" means any action temporarily suspending or curtailing financial assistance to a recipient in whole or in part prior to the expiration of the recipient's current grant from or contract with the Corporation or its predecessor.

§ 1623.3 Subpart A—Suspension of financial assistance.

§ 1623.4 Suspension.

(a) There has been substantial failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a team or condition of the recipient's current grant from or contract with the Corporation;

(b) There has been substantial failure by a recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation, or guideline issued by the Corporation.

(c) In the absence of unusual circumstances, suspension shall not take place unless the Corporation has received written notice of its failure and an opportunity to take effective corrective action.

§ 1623.4 Suspension.

(a) When there is reason to believe that financial assistance to a recipient should be suspended, the Corporation shall serve a written preliminary determination on the recipient stating the grounds and effective date for the proposed suspension, and identifying, with reasonable accuracy and detail, the circumstances relied upon as justification for the suspension. The preliminary determination shall also specify any corrective action the recipient must take to avoid or end the suspension.

(b) The preliminary determination shall advise the recipient that it may, within five days of receipt of the preliminary determination, request an informal meeting with the Corporation at which it may attempt to show that

FEDERAL REGISTER, VOL. 43, NO. 7.—TUESDAY, JANUARY 9, 1978
proposed suspension should not become effective. The Corporation shall designate the place for such a meeting and shall set the time at least five days after the recipient's request is received. The preliminary determination shall also advise the recipient that, within ten days of its receipt of the preliminary determination and without regard to whether it requested an informal meeting, it may submit written materials in opposition to the proposed suspension.

(c) The Corporation shall consider any written materials submitted by the recipient in opposition to the proposed suspension and any oral presentation or written materials submitted by the recipient at the informal meeting, if one is requested. If after considering these materials the Corporation concludes that the recipient has failed to show that the suspension should not become effective, it may suspend financial assistance to the recipient in whole or in part and under such terms and conditions as it deems proper.

(d) Written notice of the suspension shall be promptly transmitted to the recipient, and the suspension shall become effective if no written notice is received by the recipient or on such later date as is specified in the notice.

(e) The Corporation employee ordering suspension may modify or modify the terms of the suspension and, on written notice to the recipient, reinstate the suspension without further proceeding under this Part. In no event shall the total time of suspension exceed thirty days, unless the Corporation and the recipient agree to a continuation of the suspension for an additional period of time and without further proceedings under this Part.

§ 1623.5 Time extension and waiver.

(a) Any period of time provided in this Part may, upon good cause shown and determined, be extended by the person responsible for the preliminary determination under § 1623.4 as determined by the President.

(b) Requests for extensions of time shall be considered in light of the overall need to expedite the procedures prescribed by this Part where a decision or order has been concluded within 30 days of the preliminary determination.

(c) Any other provision of this Part may be waived or modified by agreement of the recipient and the Corporation, or by the President upon good cause shown and determined.

§ 1623.6 Intern funding.

Failure by the Corporation to meet a time requirement of this Part shall not entitle the recipient to continued funding. Pending the completion of suspension proceedings under this Part, the Corporation shall provide the recipient with internal procedures to maintain its current level or legal assistance activities under the Act.

THOMAS EBLE, President, Legal Services Corporation.

[FR Doc. 77-5818 Filed 12-20-77; 8:00 am]

§ 4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FMCS Docket No. MC-33, MC-47, and MC-99]

[49 CFR Parts 251 and 395]

FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Withdrawal of Notices of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Closing dockets.

SUMMARY: This notice will close the named dockets since the subject matter contained therein has been incorporated into more recent dockets by this agency.


FOR FURTHER INFORMATION CONTACT:

Mr. Gerald J. Davis, 202-423-7976, Regulations Division, Bureau of Motor Carrier Safety; or Mrs. Kathleen S. Markman, 202-423-0790, Office of Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW, Washington, D.C. 20590. Office hours are Monday through Friday from 7:45 a.m. to 4:15 p.m. EST.

SUPPLEMENTARY INFORMATION:

FMCS Docket No. MC 33, Apprenticeship Program for Drivers Less Than 21 Years Old.


FMCS Docket No. MC 46, Driver’s 4-Day Log.


Issued on December 18, 1977.

KEITH E. PERICAK, Acting Director, Bureau of Motor Carrier Safety.

[FR Doc. 77-5787 Filed 12-20-77; 8:00 am]

§ 4910-22]

[DOT No. MC-90, Notice No. 77-11]

[49 CFR Part 392]

TOXIC GASES IN TRUCK CABINS

AGENCY: Federal Highway Administration (FHWA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department of Transportation, FHWA, has received a number of complaints and inquiries alleging that toxic gases concentrations found in truck cabs exist at levels high enough to be harmful to human health and well being. This Advance Notice is being issued to invite comments and request information relative to the extent of the problem and to inquire as to what regulations, if any, should be issued. All comments will be considered before any further rulemaking action is taken.

DATES: Comments are due on or before February 3, 1978.

ADDRESS: Submit comments (original and 2 copies) to: Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Contact, Gerald J. Davis, Chief, Driver Regulation Branch, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, 202-423-7976.


SUPPLEMENTARY INFORMATION:

In April 1975, the Federal Highway Administration initiated a comprehensive investigation of toxic gases in truck cabs after having received complaints from truck drivers employed by one motor carrier that the drivers alleged that they were being exposed to equipment, because of the harmful and hazardous fumes in their tractor cab, in violation of Motor Carrier Safety Regulations (FMCSR).

The FHWA’s investigation conducted on the subject carrier showed that exhaust gases entered through openings in the cab and were sucked into through an air conditioner drain hose located directly over the engine. It was noted that one driver employed by this carrier, had been hospitalized with a high concentration of carbon monoxide in his blood. After the carrier was subjected to have taken corrective steps to alleviate the exhaust fume problem, it was decided that a FHWA observer should conduct road tests to measure the concentration of