

(A) where an initial or reconsidered determination involving an adverse action is revised, after such revised determination has been considered; or (iii) as to entitlement under Part A or Part B of title XVIII of the Act, or (where the amount in controversy is \$100 or more) as to the amount of benefits under Part A of such title XVIII or of health services to be provided by a Health Maintenance Organization without additional costs, any party to such a determination may, pursuant to section 205, 221, 1831, 1869, or 1876 of the Act, as applicable, file a written request for a hearing on the determination. After a reconsidered determination of a claim for benefits under Part B of title IV (Black Lung benefits) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 921-925), a party to the determination may file a written request for a hearing on the determination.

(b) *Request for hearing.* * * *

(2) Unless for good cause shown an extension of time has been granted, a request for hearing must be filed within 60 days after the receipt of the notice of the reconsidered or revised determination, or after an initial determination described in 42 CFR 405.1502(b)(2), (c), (d)(2), and (e) (see §§ 404.933, 410.631, and 416.1433 of this chapter and 42 CFR 405.722, 405.1530, 405.1531, and 405.2060).

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LEGAL SERVICES CORPORATION

45 CFR Parts 1606 and 1625

Procedures Governing Denial of Refunding

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule separates the Corporation's denial of refunding regulations from its termination regulations and revises the denial of refunding regulations. This action is needed because denial of refunding proceedings are excessively costly and time-consuming. This rule simplifies and expedites denial of refunding proceedings to the extent consonant with the statutory requirement for a timely, full and fair hearing for recipients.

DATES: Comments must be received on or before September 14, 1983.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal

Services Corporation, 733 15th Street NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

General

This proposed rule establishes a new Part 1625 for denial of refunding procedures which are presently included in Part 1606 with termination procedures. Part 1606 is left intact except for technical amendments removing references to denial of refunding and subsections referring exclusively to denial of refunding. The significant changes effected by the new regulation are summarized below:

Definitions

Section 1625.2 differs from the corresponding § 1606.2 in two ways.

First, the definition of denial of refunding is simplified to cover only a reduction of 10 percent or more in annualized funding level; reference to a reduction of \$20,000 or more is eliminated. Furthermore, the whole of what is presently § 1606.2(a)(3) concern the addition of a new condition or restriction on the recipient's grant not generally applicable to all recipients of the same class is also eliminated.

Second, the proposed regulation excludes changes in the level annualized funding "apportioned among all recipients of the class" by the uniform application of a statistical formula for the reallocation of funding among members of the class" from the definition of denial of refunding, thus recognizing the Corporation's ability to reallocate resources on the basis of 1980 census data.

Grounds for Denial of Refunding

The major difference between the proposed § 1625.3 and the current § 1606.3 is the addition of a new subsection (d) allowing denial of refunding when "the Corporation finds that another organization, whether a current recipient or not, could better serve eligible clients in the recipient's service area." The purpose of this change is to insure "the most economical and effective delivery of legal assistance" pursuant to Section 1007(a)(3) of the Legal Services Corporation Act by allowing the Corporation to transfer some or all of the funding of a recipient to another organization when that organization could better serve clients in the service area. This decision, like other denial of refunding decisions, will only be made after the recipient has been afforded full

procedural rights under Section 1011 of the Act and this regulation. Such rights include the right to examine the application of and question representatives of the organization or organizations which the Corporation proposes to fund in place of the recipient.

Another change in the grounds for denial of refunding is that in § 1625.3 (b) and (c) failures of performance by recipients are required to be "significant" rather than "substantial" to support a denial of refunding. This change is intended to reduce the magnitude of the failure required to justify denial of refunding, while continuing to exclude minor or technical violations or failures to provide efficient and effective legal services.

Finally, in § 1625.3(b), a recipient is no longer entitled to prior notice of and opportunity to correct a specific violation of law, regulation, grant condition, etc. Under the more general criterion of § 1625.3(c), a recipient is still entitled to such notice. The reason for this change is that a recipient should know whether it is engaged in a significant violation of law, regulation, etc. It may not be as obvious, however, if its legal assistance is not economical and effective; consequently, a second chance is warranted under this broader criterion.

Prehearing Procedures

The proposed regulation streamlines prehearing procedures. The required "informal conference" provided for in § 1606.6 is abolished, although there is nothing in the regulation forbidding such a conference if the parties so desire. The prehearing conference provided for in § 1606.9 is retained in § 1625.7.

Procedures for challenges to the hearing officer have been shortened and simplified by restricting them to written submission of evidence and arguments and by requiring that specific statements or actions by the hearing officer be cited to support any claim of personal bias against the recipient.

Time Periods

Throughout the proposed rule, the time periods within which procedural steps should be completed have been reduced with the goal of completing the procedure in 60 days, as contrasted with the goal of 90 days in Part 1606. For example, the proposed rule states that the hearing should begin not less than 20 days after the issuance of the preliminary determination rather than not more than 45 days after this action. The hearing officer is urged to issue the recommended decision within 10 rather

than 20 days of the close of the hearing. The recipient has 5 rather than 10 days after receipt of the recommended decision to request review by the President of the Corporation.

The Hearing

The hearing procedures set out in § 1625.8 of the proposed rule are similar to those in § 1606.10 with two exceptions. The first is that there is no longer any provision for the intervention of parties other than the recipient and the Corporation, as was provided in § 1606.10. This deletion is pursuant to the general thrust of the proposed rule towards simplifying and streamlining the denial of refunding proceedings. Deletion of this provision does not prevent either party in a proceeding under § 1625.3(d) from examining representatives of a proposed new recipient that the Corporation asserts could better serve the clients in the current recipient's service area.

The second change is the addition of a new § 1625.8(h)(2) specifically providing "that the validity of Corporation rules, regulations, guidelines, and instructions published pursuant to § 1008(e) of the act may not be challenged in a denial of refunding proceeding.

Burden of Proof

The proposed regulation retains the requirement that the Corporation must prove, by a preponderance of the evidence, any disputed fact relied upon as justification for denial of refunding. However, the burden of proof with respect to other issues is shifted to the recipient. Thus, the proposed rule requires the recipient to establish that the Corporation lacked a substantial basis for denying refunding, while § 1606.11 required the Corporation to establish a substantial basis for denying refunding.

Reimbursement

Current § 1606.17 allows a recipient reimbursement for expenses incurred to the extent it prevails. The proposed rule, § 1625.14, would limit reimbursement to situations in which the recipient prevails and the hearing officer finds the Corporation's position to have been "substantially without merit."

Notice

Section 1606.20 requires that all notices concerning a denial of refunding proceeding be sent to the program director, but states only that they "may" be sent to the chairperson of the recipient's Board. The corresponding § 1625.17 requires that all such notices be sent to both the program director and the chairperson of the Board.

List of Subjects in 45 CFR Parts 1606 and 1625

Administrative practice and procedure, legal services.

PART 1606—[Amended]

For the reasons set out above, 45 CFR Part 1606 is proposed to be amended as follows:

1. Part 1606, *Procedures Governing Termination of Financial Assistance and Denial of Refunding*, is renamed "Procedures Governing Termination of Financial Assistance."

2. The authority citation for Part 1606 reads as follows:

Authority: Sec. 1006(b) (1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1008(e), 1011 (42 U.S.C. Sections 2996e(b) (1) and (3), 2996f(a)(1), 2996f(a)(3), 2996f(a)(9), 2996f(d), 2996g(e), 2996j.

§ 1606.1 [Amended]

3. Section 1606.1 is amended by removing the phrase "or refunding denied."

§ 1606.2 [Amended]

4. Section 1606.2 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

5. Newly redesignated § 1606.2(c) is further amended by removing the phrase "or that refunding should be granted or denied."

6. Section 1606.3 is removed in its entirety and §§ 1606.4 through 1606.20 are redesignated §§ 1606.3 through 1606.19.

7. The references to the following sections are redesignated as indicated wherever they appear in Part 1606.

Old section	New section
1606.5	1606.4
1606.5(b)	1606.4(b)
1606.6	1606.5
1606.7	1606.6
1606.8	1606.7
1606.9	1606.8
1606.9(c)	1606.8(c)
1606.10	1606.9
1606.13(b)	1606.12(b)
1606.15	1606.14
1606.18	1606.17
1606.19	1606.18

8. Newly redesignated § 1606.3 is revised to read as follows:

§ 1606.3 Grounds for termination.

A grant or contract may be terminated when:

(a) Termination is required by, or will implement a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class or a funding policy, standard, or criterion approved by the Board, except

that termination shall not be based on Corporation rule, regulation, guideline, or instruction that was not in effect when the current grant was made or when the current contract was entered into; or

(b) 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 term or condition of a current or prior grant from or contract with the Corporation. In the absence of unusual circumstances, a grant or contract shall not be terminated for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action; or

(c) There has been substantial failure by a recipient to use its resources to provide economical and effective legal assistance of high quality as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation or guideline issued by the Corporation. In the absence of unusual circumstances, a grant or contract shall not be terminated for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action.

§ 1606.4 [Amended]

9. Newly redesignated § 1606.4(a) is amended by removing the phrase "or that refunding should be denied."

§ 1606.10 [Amended]

10. Newly redesignated § 1606.10(a) is amended by removing the words "or denial of refunding."

11. Newly redesignated § 1606.10(b) is amended by removing the words "or denying refunding."

§ 1606.12 [Amended]

12. Newly redesignated § 1606.12(a)(1) is amended by removing the words "or granting refunding."

13. Newly redesignated § 1606.12(a)(2) is amended by removing the words "or denying refunding."

§ 1606.16 [Amended]

14. Newly redesignated § 1606.16 is amended by removing the words "or refunding is granted."

§ 1606.17 [Amended]

15. Newly redesignated § 1606.17 is amended by removing the phrase "or to refunding" is the first sentence

§ 1606.18 [Amended]

16. Newly redesignated § 1606.18 is amended by removing the phrase "or to deny refunding."

For the reasons set out above a new 45 CFR Part 1625 is proposed to be added as follows:

PART 1625—DENIAL OF REFUNDING

Sec.	
1625.1	Purpose.
1625.2	Definitions.
1625.3	Grounds for denial of refunding.
1625.4	Preliminary determination.
1625.5	Initiation of proceedings.
1625.6	Presiding officer.
1625.7	Pre-hearing procedures.
1625.8	Conduct of the hearing.
1625.9	Burden of proof.
1625.10	Recommended decision.
1625.11	Final decision.
1625.12	Extension of time and waiver.
1625.13	Right to counsel.
1625.14	Reimbursement.
1625.15	Interim funding.
1625.16	Termination funding.
1625.17	Notice.

Authority: Sec. 1006(b) (1) and (3), 1007(a)(1), 1007(a)(3), 1007(a)(9), 1007(d), 1008(e), 1011 (42 U.S.C. 2996e(b) (1) and (3), 2996f(a)(1), 2996f(a)(3), 2996f(a)(g), 2996f(d), 2996g(e), 2996j.

§ 1625.1 Purpose.

This part is intended to provide a fair, impartial, timely and flexible process for reaching a final determination when there is reason to believe that refunding of a grant or contract should be denied. At the same time, this part seeks to avoid unnecessary and precipitous disruption in the delivery of legal assistance to eligible clients.

§ 1625.2 Definitions.

(a) "Denial of refunding" means a decision that after the expiration of a grant or contract a recipient:

- (1) Will not be provided financial assistance; or
- (2) Will have its annual level of financial support reduced to an extent that is not required either by a change of law, or a reduction in the Corporation's appropriation that is apportioned among all recipients of the class in proportion to their current level of funding, or by the uniform application of a statistical formula for the reallocation of funding among the members of a class, and is more than 10 percent below the recipient's annual level of financial assistance under its current grant or contract.

(b) "Director of a recipient" means the person who has overall day-to-day responsibility for management of operations by the recipient.

(c) "Presiding officer" means the person appointed by the President to recommend a decision that refunding should be granted or denied.

§ 1625.3 Grounds for denial of refunding.

Refunding may be denied when:

(a) Denial is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class, or a funding policy, standard, or criterion approved by the Board; or

(b) There has been significant failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation; or

(c) There has been significant failure by a recipient to use its resources to provide economical and effective legal assistance of high quality as measured by generally accepted professional standards, the provisions of the act, or a rule, regulation or guideline issued by the Corporation. In the absence of unusual circumstances, refunding shall not be denied for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action; or

(d) The Corporation finds that another organization, whether a current recipient or not, could better serve eligible clients in the recipient's service area.

§ 1625.4 Preliminary determination.

(a) Where there is reason to believe that refunding should be denied, the Corporation shall serve a written preliminary determination upon the recipient, which shall state the grounds for the proposed action, and shall identify, with reasonable specificity, any facts or documents relied upon as justification for that action.

(b) The preliminary determination shall advise the recipient that it may, within 10 days of receipt of the preliminary determination, make written request for a review of the preliminary determination in accordance with the procedures under this part.

(c) The preliminary determination shall also advise the recipient of its right to receive interim funding, and to request termination funding under Sections 1625.15 and 1625.16.

(d) If the recipient advises the Corporation it will not seek review, or if it fails to request review within the time prescribed in paragraph (b) of this section, the preliminary determination shall become final.

§ 1625.5 Initiation of proceedings.

Within 7 days after receipt of a request for continued review made under § 1625.4(b), the Corporation will send the recipient an acknowledgment, enclose a copy of these procedures, and notify the recipient of the name of the

presiding officer appointed by the President, of the attorney representing the Corporation, of the proposed date, time and place of the hearing, and of the next steps in the review process.

§ 1625.6 Presiding officer.

(a) The presiding officer shall be appointed by the President, and shall be a person who is familiar with legal services and supportive of the purposes of the Act, who is independent, and who is not an employee of the Corporation.

(b) Within 5 days of receipt of notice of the name of the presiding officer, the recipient may file a written notice that it objects to the presiding officer on the basis that this person does not fit the criteria or paragraph (a) of this section or has made statements or taken actions indicating personal bias against the recipient.

(c) Within 10 days thereafter, the President shall consider the recipient's objection(s) with any supporting documentation and either retain or replace the presiding officer, and shall promptly notify the recipient of the decision.

(d) No objection to the appointment of a presiding officer may be made unless presented in the manner specified in this section.

§ 1625.7 Pre-hearing procedures.

(a) A pre-hearing conference may be ordered by the presiding officer, and shall be ordered if requested by either the recipient or the Corporation. The matters to be considered at the conference shall include:

- (1) Proposals to define and narrow the issues;
- (2) Efforts to stipulate the facts, in whole or in part;
- (3) The probable number, identity, and order of presentation of exhibits and witnesses;
- (4) The possibility of presenting the case on written submission or oral argument;
- (5) The advance submission of some or all of the direct testimony in writing;
- (6) Any necessary variation in the date, time and place of the hearing;
- (7) Discussion of settlement; and
- (8) Such other matters as may be appropriate.

(b) With or without a pre-hearing conference, the presiding officer may establish specific procedures consistent with this part for conduct of the hearing. The presiding officer may require or permit written submission of statements discussing any matter described in paragraph (a) of this section as well as any other arguments and supporting material at any time prior to the hearing.

(c) The presiding officer, may, at any time prior to the completion of the hearing, require either party, upon sufficient notice, to produce a relevant document in its possession; the presiding officer may require either party to produce a person in its employ to testify at the hearing.

§ 1625.8 Conduct of the hearing.

(a) The hearing shall be scheduled to commence at the earliest appropriate date no less than 20 days after the date of the notice to the recipient required under § 1625.5.

(b) The hearing shall be held at a place convenient to the recipient and the community it serves. A hearing affecting more than one community shall be held in a single centrally located place unless the presiding officer determines that additional hearing places are required.

(c) The presiding officer shall preside over the hearing, avoid delay, maintain order, conduct a fair hearing, and insure that an adequate record of the facts and issues is made.

(d) The hearing shall be open to the public, unless, in the interests of justice or maintaining order, the presiding officer shall determine otherwise.

(e) Unless the parties agree as a result of the pre-hearing conference to present all or part of the case on written submission or oral argument, the Corporation and the recipient each may present its case by written or oral documentary evidence, conduct examination and cross-examination or witnesses, examine any document submitted by another party, and submit rebuttal evidence.

(f) If a party fails, without good cause, to produce a person or document required under § 1625.7(c), the presiding officer may make a finding adverse to the party, or any lesser determination may be made.

(g) Technical rules of evidence shall not apply. The presiding officer shall make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(h)(1) Official notice may be taken of published policies, rules, regulations, guidelines, and instruction of the Corporation, of any matter of which judicial notice may be taken in Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(2) The validity of rules, regulations, guidelines and instructions duly published under Section 1008(e) of the Act shall not be challenged in a denial of refunding proceeding.

(i) The hearing will be recorded at Corporation expense. The Corporation will send one copy of the transcript to the recipient and the presiding officer as soon as it is received.

(j) At the discretion of the presiding officer, the parties may be required or allowed to submit post-hearing briefs or proposed findings and conclusions. A party should note any major judicial transcript errors in an addendum to its post-hearing brief (or if no brief will be submitted, in a letter submitted within a time limit set by the presiding officer.)

(k) The transcript and any post-hearing briefs or letters will become part of the record.

§ 1625.9 Burden of proof.

The Corporation shall have the obligation of proving, by a preponderance of the evidence contained in the record, any disputed fact relied upon by the Corporation as justification for denial of refunding; with respect to all other issues, the recipient shall have the obligation to establish that the Corporation lacked a substantial basis for denying refunding.

§ 1625.10 Recommended decision.

(a) As soon as practicable after the hearing is completed and after submission of post-hearing briefs or proposed findings and conclusions, if any, and normally within 10 days after conclusion of the hearing or final submissions, the presiding officer shall issue a written recommended decision:

(1) Granting refunding; or

(2) Granting refunding subject to any modification or condition that may appear necessary and appropriate on the basis of information disclosed at the hearing or adduced from the record; or

(3) Denying refunding.

(b) The recommended decision shall contain findings of the significant and relevant facts and shall state the reasons for the recommended decision. Findings of fact shall be based solely on evidence disclosed at the hearing or adduced from the record or on matters of which official notice was taken.

§ 1625.11 Final decision.

(a) If neither the Corporation nor the recipient requests review by the President, a recommended decision shall become final 10 days after receipt by the recipient.

(b) The recipient or the Corporation may seek review by the President of a recommended decision. A request shall be made in writing within 5 days after receipt by the party of the recommended decision, and shall state in detail the reasons for seeking review.

(c) As soon as practicable after receipt of a request for review of a recommended decision, and normally within 10 days, the President shall adopt, modify, or reverse the recommended decision, or direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of § 1625.10(b).

(d) A decision by the President shall become final upon receipt by the recipient.

§ 1625.12 Extention of time and waiver.

(a) Any period of time provided in these rules may, upon good cause shown and determined, be extended:

(1) By the person making the preliminary determination, prior to the time the presiding officer is designated;

(2) By the presiding officer, prior to the issuance of a recommended decision; or

(3) By the President at any time.

(b) Requests for extension of time shall be considered in light of the overall objective that the procedures prescribed by this part ordinarily shall be concluded within 60 days of the preliminary determination.

(c) Any other provisions of these rules may be waived or modified:

(1) By the presiding officer with the assent of the recipient and counsel for the Corporation; or

(2) By the President upon good cause shown and determined.

§ 1625.13 Right to counsel.

At a hearing under § 1625.8, the Corporation and the recipient each shall be entitled to be represented by counsel, or by another person. The person designated to represent a party may be an employee, or may be outside counsel retained for the purpose. Unless prior written approval is received from the Corporation, the fee paid to outside counsel shall not exceed the hourly equivalent of the rate of level V of the executive schedule specified in section 5316 of title 5, United States Code.

§ 1625.14 Reimbursement.

If refunding is granted after a preliminary determination has been issued under § 1625.11, a recipient shall be entitled to receive reimbursement from the Corporation for reasonable and actual expenses that were required in connection with proceedings under this part, to the extent it has prevailed, and where the hearing officer finds the Corporation's position to have been substantially without merit.

§ 1625.15 Interim funding.

(a) Failure by the Corporation to meet a time requirement of this part shall not entitle a recipient to refunding of its grant or contract.

(b) 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.

§ 1625.16 Termination funding.

After a final determination to deny refunding, and without regard to whether a hearing has 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 present clients.

§ 1625.17 Notice.

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

Dated: August 10, 1983.

Alan R. Swendiman,
General Counsel.

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. 74-09; Notice 13]

Child Restraint Systems for Use in Motor Vehicles and Aircraft

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard 213, *Child restraint systems*, so that the current requirements for child restraints in that standard and in the Federal Aviation Administration's (FAA) Technical Standard Order (TSO) C100, *Child Restraint Systems*, are combined into a single standard. The TSO requirements would be adopted essentially verbatim. Simultaneous with the issuance of the combined standard, the FAA plans to take action to permit child restraints certified as meeting the combined Standard 213 to be used in aircraft.

As amended, Standard 213 would provide child restraint manufacturers with a choice between certifying their

restraints for use in motor vehicles alone or for use in both motor vehicles and aircraft. Manufacturers which choose the former alternative would have to label their seats as being not certified for aircraft use.

The amendments to Standard 213 are intended to encourage families traveling by air to use child restraints for their children before, during, and after the air travel portion of their trips. Such use is not possible for many families since most child restraints certified for use in motor vehicles cannot currently be used in aircraft. This factor acts to discourage families from taking their child restraints with them in aircraft. By combining the NHTSA and FAA standards in a single standard under the administration of a single agency and testing the ability of current child restraint models to meet the TSO requirements, the Department of Transportation (DOT) will speed certification of child restraints for use in both motor vehicles and aircraft. The FAA has indicated that it will permit use of existing child restraints which are substantively identical to ones produced and certified under amended Standard 213.

DATE: Comments must be submitted not later than September 29, 1983. The proposed effective date is 180 days after the date of publication of the final rule in the *Federal Register*.

ADDRESSES: Comments should refer to the docket number and be submitted to Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. (Docket hours are 8:00 a.m. to 4:00 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. Val Radovich, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-2264).

SUPPLEMENTARY INFORMATION: The NHTSA has long been aware of the benefits of child restraints, and concerned about the needless deaths and injuries suffered by young children in crash situations. Recently the agency has been making concerted efforts to encourage the use of child restraints each time a young child is travelling.

Safety Problem

This notice addresses the issue of the safety of very young children (age 4 or less) in motor vehicles and aircraft. This issue is a significant one, particularly as to motor vehicles. In 1981, 633 young children were killed while riding as

passengers in motor vehicles and about 1,800 were seriously injured.

Parents cannot adequately protect their very young children against this risk of injury and death by either holding them in their lap or fastening a simple lap belt around them. The energy imposed during sudden stops even at speeds as low as 15-20 mph makes it impossible for a person to hold and protect a child in his or her arms. Using a safety belt is equally inadequate for the purpose (especially for children under the age of 1) because of the physical dimensions, bone structure, and weight distribution of very young children.

NTSB Recommendation

The agency's concerns were heightened by recent suggestions of the National Transportation Safety Board (NTSB). The NTSB recently considered the problem of the safety of very young children in motor vehicles and aircraft and urged that a variety of actions be taken to promote the use of child restraints. It urged that all States adopt laws requiring that infants and very young children be placed in child restraints when riding in motor vehicles. It also recommended that the DOT simplify its standards specifying performance requirements for child restraints. (NTSB Safety Recommendations A-83-1, issued February 24, 1983).

NHTSA Child Restraint Standard

Protection of very young children in motor vehicles and aircraft requires a supplementary seating device to position and hold them in place. As an initial step toward ensuring the availability of such devices, NHTSA issued Standard 213 in 1970. The standard, which was issued under the National Traffic and Motor Vehicle Safety Act (the Safety Act), became effective in 1971. As then drafted, it specified various static tests to promote the safe performance of child restraints.

The standard was issued in its current form in 1979 and became effective January 1, 1981. Under the current standard, the performance of child restraint systems is evaluated in dynamic tests under conditions simulating a frontal crash of an average car at 30 mph. The restraint system is anchored by a lap belt, and, if provided with the restraint, by a supplementary anchorage belt (known as a tether strap). An additional frontal impact test at 20 mph is conducted for restraints equipped with either tether straps or internal harness and arm rests. In that additional test, child restraints with