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OST-99-6189-15

1973. The Final Rule, establishing procedures relating to health care for handicapped infants, is codified at 45 CFR 84.55. The Supreme Court affirmed a lower court decision that invalidated and enjoined enforcement of paragraphs (b)-(e) of § 84.55 by the Department.

The Department is adding a statement clarifying the effect of the Supreme Court decision on certain provisions set forth under this section.

FOR FURTHER INFORMATION CONTACT: Marcella Haynes, Division of Policy and Special Projects, (202) 245-6671.

SUPPLEMENTARY INFORMATION: This document clarifies the status of 45 CFR 84.55(b)-(e) of the Department's regulations under section 504 of the Rehabilitation Act of 1973. 45 CFR 84.55(b)-(e) establish certain procedures regarding health care for handicapped infants. After these regulations were promulgated on January 12, 1984, they were the subject of litigation in which a United States District Court declared them invalid and enjoined their enforcement. On June 9, 1986, in the case of *Bowen v. American Hospital Association*, ___ U.S. ___, 106 S. Ct. 2101 (1986), the Supreme Court upheld the District Court, 585 F. Supp. 541 (S.D.N.Y. 1984). In order to clarify the status of these provisions, the Department is adding a statement regarding the litigation and its outcome.

PART 84—[AMENDED]

Accordingly, the Secretary is adding a clarifying statement to 45 CFR 84.55 to read as follows:

§ 84.55 Procedures relating to health care for handicapped infants.

Note.—The mandatory provisions set forth in paragraphs (b)-(e) inclusive of this section are subject to an injunction prohibiting their enforcement. In *Bowen v. American Hospital Association*, ___ U.S. ___, 106 S. Ct. 2101 (1986), the Supreme Court upheld the action of a United States District Court, 585 F. Supp. 541 (S.D.N.Y. 1984), declaring invalid and enjoining enforcement of provisions under this section, promulgated Jan. 12, 1984.

Dated: January 21, 1987.
Otis R. Bowen,
Secretary.
[FR Doc. 87-1867 Filed 1-29-87; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. I-2151]

Organization and Delegation of Powers and Duties

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final rule.

SUMMARY: This amendment revises the reservation of authority to the Secretary or the Secretary's delegatee within the Office of the Secretary with respect to the withholding or suspension of Federal Aid highway funds on a State-wide basis. This revision is necessary to eliminate the possibility of a possible ambiguity regarding the authority of the Administrators.

DATE: The effective date of this amendment is January 22, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 366-9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

The Secretary has determined that an existing reservation of authority contained in Part 1 of 49 CFR should be amended. The reservation indicates that the withholding or suspension of Federal-aid highway funds on a State-wide basis and the waiver or compromise of such withholding or suspension is reserved to the Secretary or the Secretary's delegatee within the Office of the Secretary. Specific delegations to the Administrators of the

Federal Highway Administration and the National Highway Traffic Safety Administration enable them to take all necessary actions with respect to the 55 mph statutory sections, 23 U.S.C. 141 and 154, which currently are specifically delegated to them in 49 CFR 1.48(b) (23) and (28) and 49 CFR 1.50(i) (1) and (2). The responsibilities under those statutory and regulatory sections can involve the withholding of up to ten percent of a state's Federal-aid non-interstate highway funds.

To eliminate any possible ambiguity regarding the authority of the Administrators, the specific reservation is being amended to ensure that the Administrators can fully address the above statutory sections, with respect to the 55 mph program.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, Subtitle A of 49 CFR is amended as set forth below:

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.44 is amended by revising paragraph (j) to read as follows:

§ 1.44 [Amended]

* * * * *

(j) *Withholding of funds.* Withholding or suspension of Federal-Aid Highway funds on a state-wide basis and the waiver or compromise of such withholding or suspension, except for the administration of 23 U.S.C. 141 and 154, which are specifically delegated in § 1.48(b) (23) and (28) and in § 1.50(i) (1) and (2).

* * * * *

Issued in Washington, DC, on January 22, 1987.

Elizabeth Hanford Dole,
Secretary of Transportation.

[FR Doc. 87-1768 Filed 1-29-87; 8:45 am]

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Office of the Secretary

[49 CFR Part 11

(OST Docket No. 1; Amdt. 1-2¹⁵)

ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

AGENCY: Department of Transportation (DOT), Office of the Secretary

ACTION: Final Rule

SUMMARY: This amendment revises the reservation of authority to the Secretary or the Secretary's delegatee within the Office of the Secretary.

DATE: The effective date of this amendment is January 22, 1987.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, D.C., (202) 366-9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

The Secretary has determined that an existing reservation of authority contained in Part 1 of 49 CFR should be amended. The reservation indicates that the withholding or suspension

of Federal-aid highway funds on a state-wide basis and the waiver or compromise of such withholding or suspension is reserved to the Secretary or the Secretary's delegatee within the Office of the Secretary. Specific delegations to the Administrators of the Federal Highway Administration and the National Highway Traffic Safety Administration enable them to take all necessary actions with respect to the 55 mph statutory sections, 23 U.S.C. §§141 and 154, which currently are specifically delegated to them in 49 CFR §§1.48(b)(23) and (28) and 49 CFR §§1.50(i)(1) and (2). The responsibilities under those statutory and regulatory sections can involve the withholding of up to ten percent of a state's **Federal-aid** non-interstate highway funds.

To eliminate any possible ambiguity regarding the authority of the Administrators, the specific reservation is being amended to ensure that the Administrators can fully address the above statutory sections, with respect to the 55 mph program.

List of Subjects in 49 CFR Part 1:

Authority delegations (government agencies);

Organization and functions (government agencies);

Transportation Department

1. The authority of Part 1 continues to read as follows:

AUTHORITY: 49 U.S.C. §322

2. In consideration of the foregoing, Section 1.44 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (j) to read as follows:

* * * * *

(j) Withholding of funds. Withholding or suspension of **Federal-** Aid Highway funds on a statewide basis and the waiver or compromise of such withholding or suspension, except for the administration of 23 U.S.C. §§ 141 and 154, which are specifically delegated in Part 1.48(b)(23) and (28) and in Part 1.50(i)(1) and (2).

Issued in Washington, D.C., on January 22, 1987


Elizabeth Hanford Dole
Secretary of Transportation

C. **IFIED** TO BE A TRUE
COPY OF THE ORIGINAL


Linda W. Senese
Certifying Officer