

Discussion: This amendment clarifies the rules to exclude the filing of motions for attorney's fees with the Board of Directors.

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#### §9.05 Informal Resolutions and Settlement Agreements.

(b) Formal Settlement Agreement. The parties may agree formally to settle all or part of a disputed matter in accordance with section 414 of the Act. In that event, the agreement shall be in writing and submitted to the Executive Director for review and approval. *If the Executive Director does not approve the settlement, such disapproval shall be in writing, shall set forth the grounds therefor, and shall render the settlement ineffective.*

(c) Requirements for a Formal Settlement Agreement. A formal settlement agreement requires the signature of all parties on the agreement document before the agreement can be submitted to the Executive Director. A formal settlement agreement cannot be rescinded after the signatures of all parties have been affixed to the agreement, unless by written revocation of the agreement voluntarily signed by all parties, or as otherwise [required] permitted by law.

(d) Violation of a Formal Settlement Agreement. If a party should allege that a formal settlement agreement has been violated, the issue shall be determined by reference to the formal dispute resolution procedures of the agreement. If the particular formal settlement agreement does not have a stipulated method for dispute resolution of an alleged violation of the agreement, the following dispute resolution procedure shall be deemed to be a part of each formal settlement agreement approved by the Executive Director pursuant to section 414 of the Act: Any complaint regarding a violation of a formal settlement agreement may be filed with the Executive Director no later than 60 days after the party to the agreement becomes aware of the alleged violation. Such complaints may be referred by the Executive Director to a Hearing Officer for a final and binding decision. The procedures for hearing and determining such complaints shall be governed by subparts F, G, and H of these rules.

Discussion: The Board disagrees with comments that assert the Office has no statutory authority to settle disputes regarding the alleged violation of settlement agreements. Under section 414 of the Act, the Executive Director is clearly given plenary authority to approve all settlement agreements under the Act entered into at any stage of the administrative or judicial process. No settlement agreement can "become effective" unless and until such approval has been given. The Office is concerned that many settlement agreements do not include provisions for disposition of controversies regarding alleged violations of the agreement. Rather than consider initiating a practice of withholding approval of settlement agreements which do not include provisions setting forth dispute resolution procedures, the Office is providing all parties, by notice and rule, the option to include their own dispute resolution provisions, or default to the dispute resolution procedure stipulated in this proposed Rule when they enter into a settlement agreement. The word "permitted" was inserted in place of "required" as a clarification, since in this context a rescission of an approved agreement would rarely, if ever, be required by operation of law.

[[§9.06 Destruction of Closed Files. Closed case files regarding counseling, mediation, hearing, and/or appeal to the Board of Directors may be destroyed during the calendar year in which the fifth anniversary of the closure date occurs, or during the calendar year in which the fifth anniversary of the conclusion of all adversarial

proceedings in relation thereto occurs, whichever period ends later.]]

Discussion: The Executive Director and the Board of Directors have been made aware that the Office of Compliance appears to be an agency covered by the requirements of the Federal Records Act (found at Title 44 of the U.S. Code). The Records Act requires that an agency consult with the Archivist of the United States regarding any record destruction program. Therefore, the Executive Director and the Board are withdrawing this proposal at this time, and will issue a new Notice regarding this subject matter after the requirements of the Federal Records Act have been satisfied.

**§9.0716 Payments [of] required pursuant to Decisions, Awards, or Settlements under section 415(a) of the Act. Whenever a decision or award pursuant to sections 405(g), 406(e), 407, or 408 of the Act, or an approved settlement pursuant to section 414 of the Act, require the payment of funds pursuant to section 415(a) of the Act, the decision, award, or settlement shall be submitted to the Executive Director to be processed by the Office for requisition from the account of the Office of Compliance in the Department of the Treasury, and payment.**

Discussion: This proposed rule reflects the existing procedure for processing payments under section 415(a) of the Act. Since section 415 does not authorize automatic stays of judgments or awards pending appeal, parties are advised to seek such a stay from the appropriate forum. Adding an automatic stay of payment until all appeals have been exhausted would require an amendment of the Act.

#### §9.0167 Revocation, Amendment or Waiver of Rules.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

6818. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aminoethoxyvenylglycine hydrochloride (aviglycine HCl); Pesticide Tolerance [OPP-2003-0389; FRL-7341-6] received February 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6819. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bifenazate; Pesticide Tolerances for Emergency Exemptions [OPP-2003-0370; FRL-7335-6] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6820. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aldicarb, Atrazine, Cacodylic Acid, Carbofuran, et al.; Tolerance Actions [OPP-2003-0344; FRL-7338-3] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6821. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thifensulfuron mehtyl; Tolerances Actions [OPP-2003-0363; FRL-7338-6] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6822. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Bank Activities and Operations [Docket No. 04-03] (RIN: 1557-AC78) received January 20, 2004, pursuant to

5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6823. A letter from the Assistant Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, Department of the Treasury, transmitting the Department's final rule — Bank Activities and Operations; Real Estate Lending and Appraisals [Docket No. 04-04] (RIN: 1557-AC73) received January 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

6824. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Section 112(I) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry; State of South Carolina [SC-112L-2004-1-FRL-7623-8] received February 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6825. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Montana; Thompson Falls PM Nonattainment Area Control Plan [SIP No. MT-001-0005, MT-001-0006; FRL-7609-1] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6826. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County) [PA 210-4302; FRL-7616-6] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6827. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; West Virginia; MOBILE6-Based Motor Vehicle Emission Budgets for Greenbrier County and the Charleston, Huntington, and Parkersburg 1-Hour Ozone Maintenance Areas [WV063-6032a; FRL-7612-9] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6828. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Tennessee: Knox County Maintenance Plan Update [TN-257-200402(a); FRL-7616-2] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6829. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and for 2007 for the Greater Connecticut nonattainment area. [CT-057-7216g; A-1-FRL-7617-8] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6830. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans; Michigan [MI83-03; FRL-7617-7] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6831. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Redesignation and Approval of Ohio Implementation Plan [OH158-1a; FRL-76167-4] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6832. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; The 2005 ROP Plan for the Baltimore Sever 1-Hour Ozone Nonattainment Area; Revisions to the Plan's Emissions Inventories and Motor Vehicle Emissions Budgets to Reflect MOBILE6 [MD151-3107; FRL-7623-4] received February 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6833. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Florida: Southeast Florida Area Maintenance Plan Update [FL-91-200323(a); FRL-7622-1] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6834. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Delegation of Authority to the Washington State Department of Ecology, Benton Clean Air Authority, Northwest Air Pollution Authority, Olympic Regional Clean Air Agency, Puget Sound Clean Air Agency, Spokane County Air Pollution Control Authority, Southwest Clean Air Agency, and Yakima Regional Clean Air Authority for New Source Performance Standards. [FRL-7623-2] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6835. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Delegation of Authority to the Oregon Department of Environmental Quality for New Source Performance Standards [FRL-7622-6] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6836. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District [CA269-0438b; FRL-7621-2] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6837. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Primary and Secondary Drinking Water Regulations; Approval of Additional Method for the Detection of Coliforms and E.Coli in Drinking Water [FRL-7622-8] (RIN: 2040-AD90) received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6838. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Texas Underground Injection Control Program Approval Under Section 1422 of the Safe Drinking Water Act and Administered by the Railroad Commission of Texas [FRL-7622-9] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6839. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Texas Underground Injection Control Program Approved Under Section 1422 of the Safe Drinking Water Act and

Administered by the Texas Commission on Environmental Quality [FRL-7623-1] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6840. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District [CA 295-0434a; FRL-7614-9] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

6841. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Civil Monetary Penalty Inflation Adjustment Rule [FRL-7623-5] received February 11, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

6842. A letter from the Chair, Office of Compliance, transmitting Second Notice of Proposed Procedural Rule Making under Section 303(b) of the Congressional Accountability Act of 1995 for publication in the Congressional Record, pursuant to 2 U.S.C. 1384(b); jointly to the Committees on House Administration and Education and the Workforce.

#### TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

S. 1233. Referral to the Committee on the Judiciary extended for a period ending not later than April 2, 2004.

H.R. 2120. Referral to the Committee on the Judiciary extended for a period ending not later than June 1, 2004.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. CALVERT (for himself, Mr. LAMPSON, Mr. ISSA, and Mr. MCINTYRE):

H.R. 3845. A bill to amend the Act of August 13, 1946, to raise the maximum amount that may be allotted by the Secretary of the Army for the construction of small shore and beach restoration and protection projects, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. POMBO (for himself, Mr. RENZI, Mr. BACA, Mr. PEARCE, Mr. UDALL of Colorado, Mr. NUNES, Mr. UDALL of New Mexico, and Mr. DOOLEY of California):

H.R. 3846. A bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into an agreement or contract with Indian tribes meeting certain criteria to carry out projects to protect Indian forest land; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CONYERS (for himself, Mr. BERMAN, Mr. NADLER, Mr. SCOTT of Virginia, Mr. WATT, Ms. JACKSON-LEE of Texas, Ms. WATERS, Mr. DELAHUNT, Ms. BALDWIN, Mr. WEINER, Ms. LINDA T. SANCHEZ of California, Mr. ABERCROMBIE, Mr. ACEVEDO-VILA, Mr. ANDREWS, Mr. BALLANCE, Mr. BELL, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Ms.

BORDALLO, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mrs. CAPPS, Ms. CARSON of Indiana, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLYBURN, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DAVIS of Florida, Mr. DEUTSCH, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEPHARDT, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. GONZALEZ, Mr. GRIJALVA, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOFFEL, Mr. HOLT, Mr. HONDA, Mr. JACKSON of Illinois, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KILDEE, Ms. KILPATRICK, Mr. KLECZKA, Mr. KUCINICH, Mr. LAMPSON, Mr. LANTOS, Mr. LARSEN of Washington, Ms. LEE, Mr. LEWIS of Georgia, Ms. MAJETTE, Mrs. MALONEY, Mr. MATHESON, Mr. MATSUI, Ms. MCCARTHY of Missouri, Mrs. MCCARTHY of New York, Ms. MCCOLLUM, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCNULTY, Mr. MEEKS of New York, Mr. MENENDEZ, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Ms. NORTON, Mr. OLVER, Mr. OWENS, Mr. PASTOR, Mr. PAYNE, Ms. PELOSI, Mr. PRICE of North Carolina, Mr. RANGEL, Mr. RODRIGUEZ, Ms. ROYBAL-ALLARD, Mr. RUSH, Mr. SANDERS, Ms. LORETTA SANCHEZ of California, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SCOTT of Georgia, Mr. SERRANO, Mr. SHAYS, Ms. SLAUGHTER, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. TIERNEY, Mr. TOWNS, Mrs. JONES of Ohio, Mr. WALSH, Ms. WATSON, Ms. WOOLSEY, Mr. WU, and Mr. WYNN):

H.R. 3847. A bill to prohibit racial profiling; to the Committee on the Judiciary.

By Mr. HERGER:

H.R. 3848. A bill to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RODRIGUEZ (for himself, Mr. EVANS, and Mr. GUTIERREZ):

H.R. 3849. A bill to amend title 38, United States Code, to provide permanent authority for the Secretary of Veterans Affairs to continue to operate a program to provide counseling and treatment for veterans who while in military service experienced sexual trauma or sexual harassment; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Alaska (for himself and Mr. OBERSTAR):

H.R. 3850. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE (for himself and Mr. CASE):