

Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mr. Harry E. Odell, Borough Clerk, P.O. Box 25, Point Pleasant, New Jersey 08742.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Borough of Point Pleasant Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Point Pleasant map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 13, 1976.

J. ROBERT HUNTER,  
Acting Federal  
Insurance Administrator.

[FR Doc.76-13077 Filed 5-4-76; 8:45 am]

[Docket No. FT-1101]

#### PART 1916—CONSULTATION WITH LOCAL OFFICIALS

Notice of Changes Made in Determinations of the Borough of Sea Bright, New Jersey, Base Flood Elevations

On January 8, 1976, at 41 FR 1475, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas. The list included Flood Insurance Rate Maps for portions of the Borough of Sea Bright, New Jersey.

The Federal Insurance Administration, after consultation with the Chief Executive Officer of the community, has determined that it is appropriate to modify the base (100-year) flood elevations of some locations in the Borough of Sea Bright. These modified elevations are currently in effect and amend the Flood Insurance Rate Map, which was in effect prior to this determination. A revised rate map will be published as soon as possible. The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (P.L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, P.L. 90-448) 42 U.S.C. 4001-4128, and 24 CFR Part 1916.

For rating purposes, the new community number is 345317A, and must be used for all new policies and renewals.

Under the above-mentioned Acts of 1968 and 1973, the Administrator must develop criteria for flood plain management. In order for the community to continue participation in the National Flood Insurance Program, the community must use the modified elevations to carry out the flood plain management measures of the Program. These modified elevations will also be used to calculate the

appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

From the date of this notice, any person has 90 days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data. All interested parties are on notice that until the 90-day period elapses, the Administrator's new determination of elevations may itself be changed.

Any persons having knowledge or wishing to comment on these changes should immediately notify:

Mayor Cecile Norton, 1099 East Ocean Avenue, Sea Bright, New Jersey 07760.

Also, at this location is the map showing the new base flood elevations. This map is a copy of the one that will be printed. The numerous changes made in the base flood elevations on the Borough of Sea Bright Flood Insurance Rate Map make it administratively infeasible to publish in this notice all of the base flood elevation changes contained on the Borough of Sea Bright map.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 F.R. 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 F.R. 2680, February 27, 1969, as amended by 39 F.R. 2787, January 24, 1974.)

Issued: April 14, 1976.

H. B. CLARK,  
Acting Federal  
Insurance Administrator.

[FR Doc.76-13078 Filed 5-4-76; 8:45 am]

#### Title 40—Protection of Environment

##### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 511-5]

#### PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

##### PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS—VARIANCES

###### Circumstances Under Which Variance May Be Submitted

###### PURPOSE

The purpose of this promulgation is to specify the circumstances under which a variance may be submitted to and approved by EPA as a State Implementation Plan (SIP) revision.

On December 16, 1975 (40 CFR 58317), the Administrator published a Notice of Proposed Rulemaking on this subject. The preamble to the proposal contains a lengthy discussion of the history underlying the proposal as well as an explanation of the impact of the proposal.

###### PROVISIONS

Although the variance issue has been debated for some time, the term has never been defined. The definition below

is EPA's definition of the term. State and/or local agencies may retain their own definitional schemes. Similarly this rulemaking is not designed to impact on internal State procedures for the issuance of variances, except to the extent that the Clean Air Act requires a public hearing on any variance submitted as a revision to the SIP. Individual variances would, however, have to meet the substantive standards imposed herein before they may be approved by the Administrator.

The rulemaking is intended to implement the principles set forth in *Train v. NRDC et al*, 421 U.S. 60 (1975). The decision held that variances extending past attainment dates could be issued by States and approved by EPA as SIP revisions if the variances were shown not to interfere with attainment and maintenance of the national ambient air quality standards. In accordance with this holding, existing sections 51.11(g) and 51.15(d) (compliance schedules) are revoked since these provisions restrict variances to the pre-attainment date period.

Similarly, the section which presently deals with postponements (51.32(f)) is revised.

A new section, 51.34(a), explaining what requirements have to be met in order for a variance to be approved as a plan revision, is added.

Section 52.56, which disapproved all state plans to the extent that they allowed variances to extend beyond the attainment dates specified in the applicable implementation plan, is revoked. Also withdrawn are the proposed variance regulations which were published along with section 52.26 on September 26, 1974 (see 40 FR 34752).

Due to an oversight, the December 16, 1975, proposal did not contain any mention of an EPA-promulgated variance provision for the State of Indiana which was, in all respect, substantially identical to the September 26th promulgation. To correct this oversight, this action revokes Section 52.791 of the Indiana Plan that was promulgated on February 6, 1974.

The exact environmental and economic impact of this regulation can only be determined on a case-by-case basis. As indicated above, no variance can be approved by EPA if it would interfere with attainment or maintenance of national ambient air quality standards.

###### PUBLIC COMMENT

A thirty day public comment period accompanied the December 16, 1975, FEDERAL REGISTER proposal. All comments (including some received after the deadline) have been reviewed. In the estimation of the Agency, no comment warranted any change in the rulemaking as proposed.

The public comments were from state and local agencies, industry, utilities, a manufacturing institute, and an environmental group.

The item which received the most comment was the requirement that all variances be accompanied by a demonstration that the variance would not inter-



ference with attainment and maintenance of national ambient air quality standards. EPA believes that the need for such a demonstration is made explicit by the language of the *Train* case and by the requirements of Section 110(a)(3)(A) of the Clean Air Act. EPA's response to this comment and to all other comments of significance is contained in a separate document which may be obtained from or inspected at the EPA Public Information Reference Unit, Room 2922, Waterside Mall, Washington, D.C. 20460. The document is also available for public inspection in the libraries of the EPA regional offices.

The Agency believes that good cause exists for making this rulemaking immediately effective because such action will enable the States to begin submitting variances to EPA without unnecessary and further delay.

This Notice of Final Rulemaking is issued under the authority of Sections 110 and 301 of the Clean Air Act as amended, 42 U.S.C. 1857c-5 and 1857g.

Dated: April 29, 1976.

JOHN QUARLES,  
Acting Administrator.

Part 51 of Title 40, Code of Federal Regulations, is amended as follows:

1. In § 51.1, paragraph (y) is added as follows:

§ 51.1 Definitions.

(y) "Variance" means the temporary deferral of a final compliance date for an individual source subject to an approved regulation, or a temporary change to an approved regulation as it applies to an individual source.

§ 51.11 [Amended]

2. In § 51.11, paragraph (g) is revoked.

§ 51.15 [Amended]

3. In § 51.15, paragraph (d) is revoked.

4. In § 51.32, paragraph (f) is revised to read as follows:

§ 51.32 Request for 1-year postponement.

(f) Notwithstanding the requirements of this section, a State's implementation plan may be revised in accordance with § 51.6 to permit a source to comply after the applicable attainment date with an emission limitation of that plan if such plan, as revised, continues to provide for attainment and maintenance of the national standards as provided in §§ 51.12, 51.13, and 51.14.

5. In Subpart C, § 51.34 is added as follows:

§ 51.34 Variances.

(a) In order to be considered for approval as a revision to the State implementation plan, a variance must be submitted by the State in accordance with the requirements of § 51.6.

Part 52 of Title 40, Code of Federal Regulations, is amended as follows:

§ 52.26 [Removed].

6. Section 52.26 is revoked.

§ 52.791 [Removed].

7. Section 52.791 is revoked.

[FR Doc.76-13111 Filed 5-4-76;8:45 am]

[PP6F1694/R89; FRL 533-5]

PART 180—TOLERANCE AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

O,O-Diethyl S-[2-(Ethylthio)Ethyl]

Phosphorodithioate

On November 28, 1975, notice was given (40 FR 55381) that Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120, had filed a petition (PP6F1694) with the Environmental Protection Agency (EPA). This petition proposed that 40 CFR 180.183 be amended by establishing a tolerance for residues of the insecticide O,O-Diethyl S-[2-(ethylthio)ethyl] Phosphorodithioate in or on the raw agricultural commodity peanut hulls at 0.3 part per million. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought, and there is no reasonable expectation of residues in eggs, milk, or the meat, fat, or meat byproducts of livestock as delineated in 180.6(a)(3). The tolerance established by amending 40 CFR 180.183 will protect the public health. Therefore, it is concluded that the tolerance should be established as set forth below.

Any person adversely affected by this regulation may, on or before June 4, 1976, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. 1019, East Tower, 401 M St. SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on May 5, 1976, Part 180, Subpart C, is amended by revising § 180.183 as set forth below.

Dated: April 28, 1976.

EDWIN L. JOHNSON,  
Deputy Assistant Administrator  
for Pesticide Programs.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348a(d)(2)))

Section 180.183 is amended by revising the paragraph beginning "0.3 part per million \* \* \*" to include a tolerance for peanut hulls.

§ 180.183 O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate; tolerances for residues.

0.3 part per million in or on coffee, corn grain including field corn and sweet corn (kernels plus cob with husk removed), peanut hulls, popcorn, sugarcane, and wheat grain.

[FR Doc.76-12961 Filed 5-4-76;8:45 am]

Title 45—Public Welfare

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1600—DEFINITIONS

Promulgation and Implementation

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996l ("the Act"). The Corporation is authorized to promulgate regulations implementing the purposes and provisions of the Act, and it has adopted some regulations, prepared others for public comment, and is preparing additional regulations for future proposal and adoption.

Part 1600 has been redesignated as a "Definitions" section, and when the regulations are complete will include every term that requires definition and is used with a uniform meaning in the regulations. When statutory context or Corporation policy requires that a term be given another meaning in a particular regulation, the special definition will be set forth therein. A uniform definition may also be repeated for convenient reference in a regulation where it is used. A term applicable only to a single regulation will be defined therein.

The following definitions appear in regulations that have been adopted, or proposed for publication thus far.

§ 1600.1 Definitions.

As used in these regulations, Chapter XVI, unless otherwise indicated, the term

"Act" means the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996l.

"Appeal" means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

"Attorney" means a person who provides legal assistance to eligible clients and who is authorized to practice law in the jurisdiction where assistance is rendered.

"Corporation" means the Legal Services Corporation established under the Act.

\* See FR Doc. 76-12959 infra.



"Director of a recipient" means a person directly employed by a recipient in executive capacity who has overall day-to-day responsibility for management of operations by a recipient.

"Eligible Client" means a person or group determined to be eligible for legal assistance under the Act.

"Employee" means a person employed by the Corporation or by a recipient.

"Fee Generating Case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

"Legal Assistance" means the provision of any legal services consistent with the purposes and provisions of the Act.

"Outside Practice of Law" means the provision of legal assistance to a client who is not entitled to receive legal assistance from the employer of the attorney rendering assistance, but does not include, among other activities, teaching, consulting, or performing evaluations.

"President" means the President of the Corporation or the President's designee.

"Public Funds" means funds received from a Federal, State, or local government, or any instrumentality of a government, or from an independent organization that expends funds received from a government.

"Recipient" means any grantee or contractor receiving financial assistance from the Corporation under Section 1006 (a) (1) (A) of the Act.

"Staff Attorney" means an attorney more than one half of whose annual professional income is received from a recipient that limits its activities to providing legal assistance to clients eligible for assistance under the Act.

"Tribal Funds" means funds received from an Indian tribe, or from a private foundation, for the benefit of an Indian tribe.

(Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-29961.)

THOMAS EHRLICH,  
President,  
Legal Services Corporation.

[FR Doc.76-12951 Filed 5-4-76; 8:45 am]

## PART 1604—OUTSIDE PRACTICE OF LAW General Policy

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-29961 ("the Act"). Section 1007(a) (4), 42 U.S.C. 2996f(a) (4), provides that the Corporation shall issue guidelines concerning the outside practice of law by attorneys employed full time in legal assistance activities.

On March 12, 1976 (41 FR 10629) a proposed regulation on outside practice of law was published. Interested persons were given until April 11, 1976 to submit comments on the proposed regulation. All comments submitted with respect to

the outside practice of law were given full consideration and the following issues were taken into account in re-drafting the regulation:

**Purpose.** Section 1007(a) (4) of the Act and its legislative history show that Congress contemplated that outside practice by legal services lawyers would be regulated by the Corporation. Some outside practice is both unavoidable and desirable, if a lawyer is to satisfy the legitimate demands made upon him or her as an officer of the Court and as a responsible participant in community life. At the same time, it is essential to insure that a legal services lawyer does not compete with lawyers in private practice, is not burdened by excessive court appointments, and does not undertake other professional commitments that might prevent the rendering of the highest quality full time legal assistance to eligible clients.

**Definition.** In response to comments received, a technical change was made in the definition of "outside practice" in Section 1604.2, to make clear that work done for a client, not eligible for services under the Act, who is a client of the attorney's employer, is not "outside practice". The change was necessary because some recipients receive funds from other sources for the purpose of serving a particular category of clients, e.g., the aged, who may not be eligible under the Act. In addition, the change permits the Corporation to make grants to, or contracts with, private law firms. Teaching, consulting, evaluating, and other similar activities are also excluded from the coverage of this Part.

**Safeguards.** Section 1604.3 prohibits outside practice if the director of a recipient has determined that such practice will interfere with the attorney's full time responsibilities. There are only two situations in which a recipient may permit an attorney to engage in compensated outside practice of law. If Section 1604.3 is satisfied, a newly employed attorney may conclude cases from a previous practice if he or she does so expeditiously; and an attorney may accept appointment under a court rule or practice of general applicability. Uncompensated outside practice may be authorized under Section 1604.5 if the requirement of Section 1604.3 is met, and the practice is undertaken on behalf of a close friend or family member, or for a civic, or charitable group, or pursuant to court appointment under a generally applicable rule or practice.

Accordingly, the Board of the Legal Services Corporation adopts the final regulation, as set forth below, to become effective on June 3, 1976, pursuant to section 1008(e) of the Act.

Sec.

1604.1 Purpose.

1604.2 Definitions.

1604.3 General policy.

1604.4 Compensated outside practice.

1604.5 Uncompensated outside practice.

**AUTHORITY:** Sec. 1007(a) (4), 1008(e) (42 U.S.C. 2996f(a) (4) 2996g(e)).

### § 1604.1 Purpose.

This Part is designed to permit an attorney to comply with the reasonable demands made upon all members of the Bar and officers of the Court, so long as those demands do not hinder fulfillment of the attorney's overriding responsibility to serve those eligible for assistance under the Act.

### § 1604.2 Definitions.

(a) "Attorney", as used in this Part, means a person who is employed full time in legal assistance activities supported in major part by the Corporation, and who is authorized to practice law in the jurisdiction where assistance is rendered.

(b) "Outside practice of law" means the provision of legal assistance to a client who is not entitled to receive legal assistance from the employer of the attorney rendering assistance, but does not include, among other activities, teaching, consulting, or performing evaluation.

### § 1604.3 General policy.

No attorney shall engage in any outside practice of law if the director of the recipient has determined that such practice is inconsistent with the attorney's full time responsibilities.

### § 1604.4 Compensated outside practice.

A recipient may permit an attorney to engage in the outside practice of law for compensation if Section 1604.3 is satisfied, and

(a) The attorney is newly employed and has a professional responsibility to close cases from a previous law practice, and does so as expeditiously as possible; or

(b) The attorney is acting pursuant to an appointment made under a court rule or practice of equal applicability to all attorneys in the jurisdiction, and remits to the recipient all compensation received.

### § 1604.5 Uncompensated outside practice.

A recipient may permit an attorney to engage in uncompensated outside practice of law if Section 1604.3 is satisfied, and the attorney is acting

(a) Pursuant to an appointment made under a court rule or practice of equal applicability to all attorneys in the jurisdiction; or on behalf of

(b) A close friend or family member; or

(c) A religious, community, or charitable group.

THOMAS EHRLICH,  
President,  
Legal Services Corporation.

[FR Doc.76-12952 Filed 5-4-76; 8:45 am]

## PART 1605—APPEALS ON BEHALF OF CLIENTS

### Efficient and Effective Use of Corporation Funds

The Legal Services Corporation was established pursuant to the Legal Serv-



ices Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f ("the Act"). Section 1007(a)(7) of the Act requires recipients to establish guidelines, consistent with regulations promulgated by the Corporation, for review of appeals taken on behalf of clients.

A proposed regulation was issued on March 12, 1976 (41 FR 10629), and interested persons were given until April 11, 1976 to submit comments on the proposed regulation. All comments received by the Corporation with respect to appeals were given full consideration and the following issues were taken into account in redrafting the regulation:

**Coverage of Part 1605.** Section 1007(a)(7) of the Act requires all recipients to establish guidelines, consistent with Corporation Regulations, for review of appeals. Since the purpose is to insure efficient utilization of Corporation resources, this Part does not apply to any part of a recipient's practice that is undertaken with other than Corporation funds. (Comments received noted that the published draft did not address the problem of mixed practices.) The Part requires a recipient to establish a policy and procedure for review of every appeal, as defined by local usage, taken to an appellate court from the decision of any court or tribunal.

**Standards for Review.** Aside from that clarifying change, the only other changes are the addition of some relevant statutory language omitted from the published draft, and a fuller, but substantively unchanged, statement of the standards for review. A recipient is required to adopt a review policy that discourages frivolous appeals and gives appropriate weight to priorities in resource allocation required by the Act, the Corporation, or its own governing body, but does not interfere with an attorney's professional responsibilities to a client.

Accordingly, the Board of Directors of the Legal Services Corporation adopts the final regulation, as set forth below, to become effective on June 3, 1976, pursuant to section 1008(e) of the Act.

- Sec.  
1605.1 Purpose.  
1605.2 Definition.  
1605.3 Review of appeals.

**AUTHORITY:** Sec. 1007(a)(7), 1008(e), 42 U.S.C. 2996f(a)(7), 2996g(e).

#### § 1605.1 Purpose.

This Part is intended to promote efficient and effective use of Corporation funds. It does not apply to any case or matter in which assistance is not being rendered with funds provided under the Act.

#### § 1605.2 Definition.

"Appeal" means any appellate proceeding in a civil action as defined by law or usage in the jurisdiction in which the action is filed.

#### § 1605.3 Review of Appeals.

The governing body of a recipient shall adopt a policy and procedure for review of every appeal to an appellate court taken from a decision of any court or tribunal. The policy adopted shall

- (a) Discourage frivolous appeals, and
- (b) Give appropriate consideration to priorities in resource allocation adopted by the governing body, or required by the Act, or Regulations of the Corporation; but
- (c) Shall not interfere with the professional responsibilities of an attorney to a client.

THOMAS EHRLICH,  
President,

Legal Services Corporation.

[FR Doc. 76-12953 Filed 5-4-76; 8:45 am]

### PART 1612—RESTRICTIONS ON CERTAIN ACTIVITIES<sup>1</sup>

#### Picketing, Boycotts, Strikes, Illegal Activities; Legislative and Administrative Representation

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f ("the Act"). Section 1006(b)(5) of the Act requires the Corporation to issue regulations implementing the Act's restrictions on picketing, boycotts, strikes and illegal activities by employees of the Corporation and of recipients, as well as restrictions on legislative and administrative representation using Corporation funds.

Temporary regulations were published on September 12, 1975 (40 FR 42362) and became effective on October 14, 1975. Proposed final regulations were published on March 5, 1976 (41 FR 9571), and interested persons were given until April 5, 1976 to submit comments on the proposed final regulations. All comments received by the Corporation with respect to the proposed final regulations were given consideration and the regulations were reorganized and revised substantially in light of those comments. In addition, Part 1600 was renumbered and now appears as Part 1612. This change was made to permit the inclusion of a general "Definitions" section (now Part 1600), and to establish a more logical order for future regulations.

The following considerations were taken into account in redrafting the proposed final regulations:

**Prohibition Against Encouraging Action by Other People.** The Act contains a number of provisions designed to prevent legal services attorneys from engaging in activities unrelated to the provision of legal assistance to eligible clients. The prohibitions against direct participation by attorneys presented no difficult issues of interpretation; but the prohibition against encouraging others to engage in lawful activities such as public demonstrations and picketing presented the major policy issue in this Part. In construing the prohibition we tried to reconcile demands presented by the Code of Professional Responsibility, the Constitution, and the intent of Congress.

We believe a lawyer is obligated to advise a client about lawful alternatives to litigation<sup>2</sup> and we do not think Con-

gress intended to prevent such advice.<sup>3</sup> An appropriate construction of the term "encourage" would permit such advice, and at the same time, would satisfy the restriction against vagueness and overbreadth in the First Amendment area, and the parallel ethical constraint against external interference with a lawyer's professional judgment.<sup>4</sup>

The legislative history of the Act suggests that the intention of Congress was to prevent lawyers from deliberately prodding others toward activities they otherwise might not engage in; so from the many possible meanings of "encourage" we chose those that seemed best suited to convey that intention, and replaced "encourage" with the words "exhort, direct, or coerce others to engage in such activities, or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow." The definition of "encouraging" that appeared in Sections 1600.3(a)(2) and 1600.3(a)(3), as published, is now superfluous, and has been omitted.

**Men's Rea Requirement.** The final regulations modify the prohibitions of Section 1600.2 by the addition of mens rea requirements. To invoke Corporation sanctions, an employee's direct participation in prohibited activities must be undertaken "knowingly", and action leading another to engage in such activities must be taken "intentionally". These requirements were added in the belief that there is no place for absolute liability in the First Amendment area, and that Congress did not intend to impose it.

**Other Illegal Activity.** As published, the proposed regulations did not interpret the Act's prohibition against "other illegal activity". Section 1612.2(b)(1)(C), as here presented, bars illegal activity that is inconsistent with an employee's responsibilities under the Act, Corporation Regulations, or the Code of Professional Responsibility. These categories seem sufficient to cover the situations when the Corporation should add its sanctions to those imposed by the law.

**Legal Assistance Activities.** The definition of "carrying out legal assistance activities" that appeared in the published version of Section 1600.3(a)(1) included any time during which an attorney "could reasonably be expected to provide legal advice or representation." That phrase has been dropped because it introduced unnecessary uncertainty into a reasonably clear provision. The definition of "legal assistance activities" now appears in Section 1612.1.

**Attorney-Client Relationship.** A single provision, Section 1612.3, replaces the repetitive disclaimers and exception found in the published version of Section 1600.3(a)(2) and its terminal proviso.

<sup>2</sup> See Ethical Considerations 7-7 and 7-8 of the ABA Code of Professional Responsibility.

<sup>3</sup> See Section 1006(b)(3) of the Act; Conference Report p. 21-22; House Report p. 7.

<sup>4</sup> See, e.g., ABA Committee on Ethics and Professional Responsibility, Formal Opinion 334 (1974), p. 7.

<sup>1</sup> See FR Doc. 76-12951 supra.



**Legislative and Administrative Representation.** Section 1600.4, now 1612.4, has been rewritten for greater clarity, but no substantive changes were made. It follows the Act in permitting "lobbying" efforts to be made on behalf of any client of the recipient if the client may be affected by a particular legislative or administrative measure, but prohibits soliciting a client for the purpose. For practical and economic reasons we permit a client to be represented for "lobbying" purposes by a different person than the one who may represent him in other matters. In allowing this we are supported by ABA Formal Opinion 334, note 3 *supra*, which states that the client of a legal services office "has a lawyer-client relation with its staff of lawyers which is the same as any other client who retains a law firm to represent him. It is the firm, not the individual lawyer, who is retained."

Subsection 1612.4(b) was added in response to comments received on the proposed regulations. It makes explicit what was previously implied, that the prohibition against "lobbying" does not prevent queries to the Corporation or to governmental agencies; nor does it prevent furnishing information to clients about legislative or administrative developments.

**Enforcement.** The only change in the Enforcement Section is the addition of sub-section 1612.6(b) (3), which requires a recipient to consult the General Counsel of the Corporation before suspending or terminating an employee for violation of the provisions of this Part. The requirement serves to promote uniform interpretation of the Part, and also insures that the Corporation will be notified of any serious violation.

Accordingly, the Board of Directors of the Legal Services Corporation adopts the final regulations, as set forth below, to become effective on June 3, 1976 pursuant to Section 1008(e) of the Act.

- Sec.  
1612.1 Definition.  
1612.2 Public demonstrations and other activities.  
1612.3 Attorney-client relationship.  
1612.4 Legislative and administrative representation.  
1612.5 Enforcement.

**AUTHORITY:** Secs. 1006(b) (5), 1007(a) (5), 1011, 1008(e), P.L. 93-355, 88 Stat. 378 (42 U.S.C. 2996e(b) (5), 2996f(a) (5), 2996j, 2996g (e)).

#### § 1612.1 Definition.

"Legal assistance activities", as used in this Part, means any activity

- (a) Carried out during an employee's working hours;
- (b) Using resources provided by the Corporation or by a recipient; or
- (c) That, in fact, provides legal advice, or representation to an eligible client.

#### § 1612.2 Public demonstrations and other activities.

(a) While carrying out legal assistance activities under the Act no employee shall

- (1) Knowingly participate in any public demonstration, picketing, boycott,

or strike, except as permitted by law in connection with the employee's own employment situation; or

(2) Intentionally exhort, direct, or coerce others to engage in such activities, or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow.

(b) While employed under the Act, no employee shall, at any time,

- (1) Knowingly participate in any
- (i) Rioting or civil disturbance;
- (ii) Activity in violation of an outstanding injunction of any court of competent jurisdiction; or

(iii) Any other illegal activity that is inconsistent with an employee's responsibilities under the Act, Corporation Regulations, or the Code of Professional Responsibility; or

(2) Intentionally exhort, direct, or coerce others to engage in such activities, or otherwise usurp or invade the rightful authority of a client to determine what course of action to follow.

#### § 1612.3 Attorney-client relationship.

Nothing in this Part shall prohibit an attorney from

(a) Informing and advising a client about legal alternatives to litigation or the lawful conduct thereof;

(b) Attending a public demonstration, picketing, boycott, or strike for the purpose of providing legal assistance to a client; or

(c) Fulfilling the professional responsibilities of an attorney to a client.

#### § 1612.4 Legislative and administrative representation.

(a) No funds made available to a recipient by the Corporation shall be used, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body; except that

(1) An employee may engage in such activities in response to a request from a governmental agency or a legislative body, committee, or member made to the employee or to a recipient; and

(2) An employee may engage in such activities on behalf of an eligible client of a recipient, if the client may be affected by a particular legislative or administrative measure; but no employee shall

(i) Solicit a client for the purpose of making such representation possible, or

(ii) Solicit a group of clients for the purpose of representing it with respect to matters of general concern to a broad class of persons as distinguished from the interests of a particular client.

(b) Nothing in this section is intended to prohibit an employee from

(1) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies; or

(2) Informing a client about a new or proposed statute, executive order, or administrative regulation; or

(3) Communicating with the Corporation for any purpose.

#### § 1612.5 Enforcement.

(a) The Corporation shall have authority, in accordance with procedures set forth in Title 45 of the Code of Federal Regulations, at § 1067.1-4(b) (relating to suspension), or at §§ 1067.1-5 through 1067.1-11 (relating to termination)

(1) To suspend or terminate the employment of an employee of the Corporation who violates the provisions of this Part; and

(2) To suspend or terminate financial assistance to a recipient which fails to insure that its employees refrain from activities proscribed by the Act or by this Part; provided that

(i) No suspension of employment or financial assistance shall be continued for longer than 30 days unless the recipient or employee of the Corporation is provided notice and an opportunity for a hearing in accordance with the procedures relating to termination cited above, and

(ii) The term "OEO" in the above-referenced regulations shall mean the Corporation, and the term "responsible OEO official" shall mean the President of the Corporation, or, if no President is in office, the Chairman of the Board or his designee.

(b) A recipient shall

(1) Advise employees about their responsibilities under this Part; and

(2) Establish procedures, consistent with the notice and hearing requirements of Section 1011 of the Act, for determining whether an employee has violated a provision of this Part; and shall establish a policy for determining the appropriate sanction to be imposed for a violation, including

(i) Administrative reprimand if a violation is found to be minor and unintentional, or otherwise affected by mitigating circumstances;

(ii) Suspension and termination of employment; and

(iii) Other sanctions appropriate for the enforcement of this regulation; and

(3) Consult the General Counsel of the Corporation before suspending or terminating the employment of any person for violation of this Part.

THOMAS EHRLICH,  
President,

Legal Services Corporation.

[FR Doc. 76-12959 Filed 5-4-76; 8:45 am]

#### Title 47—Telecommunication

#### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20147]

#### PART 91—INDUSTRIAL RADIO SERVICES

#### Report and Order; Correction

In the matter of amendment of Part 2 and 91 of the Commission's Rules and



Regulations to permit assignment of frequencies in the 420-450 MHz band for non-Government radiolocation.

In the Report and Order in the above entitled proceeding, FCC 76-228, which was released on March 16, 1976, and published in the FEDERAL REGISTER on March 19, 1976, (41 FR 11517) paragraph 2 in the appendix should be amended so that the frequency table in § 91.604(a) reads as follows:

§ 91.604 Frequencies available.

(a) \* \* \*

Frequency or band	Class of station(s)	Limitation(s)
310.....do.....		2
420 to 450.....do.....		20
2450 to 2500.....do.....		3

Released: April 30, 1976.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] VINCENT J. MULLINS,  
Secretary.

[FR Doc.76-13064 Filed 5-4-76; 8:45 am]

Title 12—Banks and Banking  
CHAPTER V—FEDERAL HOME LOAN  
BANK BOARD

PART 505a—RECORDS MAINTAINED  
ON INDIVIDUALS

Amendments Relating to Records  
Maintained on Individuals

APRIL 28, 1976.

The following summary of the amendments adopted by this Resolution is included for the reader's convenience and is subject to the full explanation in the preamble and to the specific provisions in the regulations.

I. Existing Regulations. (a) Disclosure of a record or information contained in a record system must be made promptly after notification of satisfactory identification, but no time limit is provided for such disclosure.

(b) No appeal of a denial of access to a record is provided.

(c) No procedure is provided for an individual seeking access to the accounting of disclosures from his record.

(d) No means is provided for an individual to obtain assistance in preparing a request to amend a record.

(e) No means is provided for an individual to obtain assistance in preparing (1) a request for review of a denial of access or a denial of a request to amend a record or (2) an appeal of an initial adverse ruling on such request.

II. Amendments. (a) Require disclosure of a record or information contained in a record system within 30 working days after notification of satisfactory identification, unless the individual is informed in writing within 30 working days of the reason additional time is required and when it is anticipated that access will be granted.

(b) Provide an individual denied access to a record the same appeals procedure as one whose request to amend a record has been refused or who otherwise disagrees with the initial determination of his request.

(c) Provide the same procedure to obtain access to the accounting of disclosures from a record as that provided to obtain information concerning records maintained by the Board which may contain personal information, but exclude certain disclosures from the accounting to which the individual shall be granted access.

(d) Provide that an individual may obtain assistance in preparing a request for amendment of a record from the official designated by the Board to receive requests for information concerning the record system involved.

(e) Provide that an individual who has been denied access to a record or whose request to amend a record has been refused or who otherwise disagrees with the initial determination of his request may obtain assistance from the Office of Housing and Urban Affairs in preparing a request for review by the Chairman of the Board or his designee.

III. Reason for Amendments. To facilitate disclosure to an individual of agency records pertaining to him and to provide additional procedures for review of requests pertaining to such records.

The Federal Home Loan Bank Board considers it desirable to amend §§ 505a.3, 505a.5, 505a.7, and 505a.9 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505a.3, 505a.5, 505a.7, and 505a.9) for the purpose of providing additional procedures to the Board's regulations relating to records maintained on individuals to insure that each individual shall be able to exercise fully his rights under the Privacy Act of 1974 (P.L. 93-579; 5 U.S.C. 552a).

The provision in § 505a.3 which provides procedures whereby an individual may request information concerning records maintained by the Board which may contain personal information is extended to include a request for access to the accounting of disclosures from such records to other persons.

The provision in § 505a.5 requiring that disclosure be made promptly after sufficient identification is provided is amended to specify a period of 30 working days following receipt of identification during which period disclosure shall be made or the individual informed in writing of the reason for delay and the anticipated date access will be granted. The provision excluding from the information to which an individual has a right to access that compiled in reasonable anticipation of a civil action or proceeding is extended to also exclude certain disclosures from his record to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity.

Section 505a.7, which pertains to an individual's request to amend his record, is amended to provide for assistance in

preparing such request from the official designated by the Board to receive said request.

Section 505a.9 provides for appeals of initial adverse determinations of requests to amend records. The amendment broadens these provisions to apply to appeals of refusals to grant individuals access to their records and provides that the individual may obtain assistance from the Office of Housing and Urban Affairs in preparing an appeal to the Chairman of the Board or his designee.

The Board finds that notice and public procedure are unnecessary under 12 CFR 508.11 and 5 U.S.C. § 553(b), since the amendment facilitates the exercise of existing rights under P.L. 93-579, and that publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. § 553(d) prior to effective date is unnecessary for the same reason.

Accordingly, the Board hereby amends §§ 505a.3, 505a.5, 505a.7, and 505a.9 to read as set forth below, effective May 5, 1976.

1. Section 505a.3 is amended by revising paragraph (b) thereof to read as follows:

§ 505a.3 Procedures for requests pertaining to individual records in a record system.

(b) Any individual seeking information concerning records maintained by the Board which may contain personal information pertaining to such individual, including any present or former employee, officer, or agent seeking information concerning records other than those described in paragraph (a) of this section, or any individual seeking access to the accounting of disclosures from his record, shall submit a written request to the agency official designated by the Board. The request shall state the full name and address of the individual and identification of the record system or systems believed to contain the record or information sought.

2. Section 505a.5 is amended by revising paragraphs (a) and (c) thereof to read as follows:

§ 505a.5 Disclosure of requested information to individuals.

(a) After notification of satisfactory identification pursuant to § 505a.4(d), the Board designee shall determine whether the stated record system contains a record or information pertaining to such individual and shall so inform him. If such record or information is contained in the record system, disclosure shall be made within 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date such identification is received, unless the individual is informed in writing within such 30 days of the reason additional time is required and the anticipated date of access. Disclosure shall be made to such individual (or his representative upon notarized written consent of the