

RULES AND REGULATIONS

the health care facilities and health maintenance organizations involved, the following policy has been developed to describe the different kinds of cases which might occur and the period of withholding which will apply for each case:

Work.—Where the Secretary makes the determination described in 42 CFR 100.106(a)(3), he will follow the following policy in establishing the time period during which reimbursement will be withheld:

(1) Where the health care facility or health maintenance organization by or on behalf of which the expenditure was made demonstrates to the satisfaction of the Secretary that a reasonable effort had been made to determine from the designated planning agency whether the expenditure was subject to review, and the designated planning agency had not informed the facility or organization within a reasonable period of time that the proposed expenditure was subject to review, the Secretary will not withhold reimbursement related to the capital expenditure.

(2) Where the designated planning agency has, in accordance with the requirements of section 1122 of the Act and its regulations (42 CFR Part 100), submitted to the Secretary its finding that such expenditure is not consistent with the standards, criteria, or plans described in § 100.104(a)(2) of the regulations, and where subparagraph (1) above is not applicable, the Secretary will withhold all reimbursement related to the capital expenditure: *Provided*, That where the designated planning agency, in accordance with § 100.106(c), submits to the Secretary a revised funding in accordance with paragraph (c)(2) of that section, the Secretary will apply the provisions of subparagraph (3) or subparagraph (4) below, whichever is applicable.

(3) Where the designated planning agency submits to the Secretary its finding that for the proponent to comply with the requirement of § 100.106 for timely notice of intent to incur the obligation for a capital expenditure, which capital expenditure was not for the purpose of providing a new service or expanding the capacity of the health care facility or health maintenance organization to offer an existing service, would have placed in jeopardy the health or the safety of the patients of the facility or organization, and that the proponent gave such notice as, in the opinion of the designated planning agency, was reasonable under the circumstances, and (ii) if the facility or organization submitted to the designated planning agency within 60 days following the date of the obligation for the expenditure or 90 days following the date of publication of this policy in the FEDERAL REGISTER, whichever is later, a complete application and (iii) the designated planning agency submits to the Secretary its finding that the capital expenditure is consistent with the standards, criteria, and plans described in § 100.104(a)(2) which apply at the time of the review by the designated planning agency, the Secretary will not withhold reimbursement related to the capital expenditure.

(4) Where the designated planning agency submits to the Secretary its finding that the capital expenditure is consistent with the standards, criteria, and plans described in § 100.104(a)(2) which apply at the time of the review by the designated planning agency, but the provisions of neither subparagraph (1) nor subparagraph (3) above apply, the Secretary will withhold reimburse-

ment related to the capital expenditure for a period of one year.

Dated: January 14, 1977.

KENNETH M. ENDICOTT,
Administrator, Health
Resources Administration.

[FR Doc.77-2401 Filed 1-25-77;8:45 am]

Title 45—Public Welfare
CHAPTER XVI—LEGAL SERVICES
CORPORATION
PART 1619—DISCLOSURE OF
INFORMATION

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. 2996-2996i ("the Act"). Section 1006(b)(1), 42 U.S.C. 2996e(b)(1), provides that the Corporation shall have the authority to enforce compliance with the Act and Corporation rules, regulations and guidelines promulgated pursuant thereto.

On September 23, 1976 (41 FR 41724) a proposed regulation on disclosure of recipient policies was published. Interested persons were given until October 26, 1976 to submit comments on the proposed regulation. All comments received were given full consideration. The following issues were among those considered before adoption of the final regulation.

COMMENT

The final regulation is a substantial revision of the draft published for comment on September 23, 1976.

The disclosure requirements of the published draft were very similar to the ones that Part 1602 imposes on the Legal Services Corporation, although the Legal Services Corporation Act applies the Freedom of Information Act to the Corporation, and not to recipients. After considering the comments received, the Corporation concluded that there is a sound basis for the distinction made by the Congress in its treatment of the Corporation and of recipients.

The published draft gave insufficient weight to the fact that a legal services office is a law firm, and that its operations are fundamentally different from those of the Corporation. Opposing attorneys and parties to lawsuits in which the other side is represented by a legal services program attempted to use the proposed regulation as a means of discovery. The regulation sought to protect against such misuse, but its description of the materials exempt from disclosure was necessarily vague and likely to raise many questions of interpretation and application. Some programs that received requests under the regulation reported difficulty in defining the scope of disclosure with respect to information relating to specific cases or clients. Requiring a legal services program to furnish any information related to a client's case might put legal services clients at a disadvantage that is unjusti-

fied by the fact that they are being assisted with funds initially provided by the Congress.

Other legal services programs received requests for information from individuals seeking to show that the recipient was violating the Act or Corporation regulations. Insofar as the draft lent itself to this use, it was inconsistent with section 1618, Enforcement Procedures, and section 1604, providing for the establishment of State Advisory Councils. An individual who has reason to believe a legal services program may have violated the Act or Corporation regulations should not undertake a private investigation or fishing expedition, but should make a complaint to the State Advisory Council, the Director of the recipient, or the Corporation. Investigation is then carried out by the Corporation, as required by Part 1618, which informs the complainant of the results.

The public has a legitimate interest in knowing the rules and regulations of the Corporation and the recipient's policies and guidelines and the names and addresses of the members of its governing body. These should be made available for public inspection during business hours at any office maintained by a recipient. Other information concerning a recipient in which the public may have a legitimate interest may be obtained by an FOIA request to the Corporation pursuant to Part 1602.

The final regulation insures that information in which the public has a legitimate interest will be disclosed, and protects recipients against burdensome or inappropriate demands.

Sec.

- 1619.1 Purpose.
- 1619.2 Policy.
- 1619.3 Referral to the Corporation.
- 1619.4 Exemptions.

AUTHORITY: Sec. 1006(b)(1), (42 U.S.C. 2996e(b)(1)); sec. 1008(e), (42 U.S.C. 2996g(e).)

§ 1619.1 Purpose.

This part is designed to insure disclosure of information that is a valid subject of public interest in the activities of a recipient.

§ 1619.2 Policy.

A recipient shall adopt a procedure for affording the public appropriate access to the Act, Corporation rules, regulations and guidelines, the recipient's written policies, procedures, and guidelines, the names and addresses of the members of its governing body, and other materials that the recipient determines should be disclosed. The procedure adopted shall be subject to approval by the Corporation.

§ 1619.3 Referral to the Corporation.

If a person requests information, not required to be disclosed by this part, that the Corporation may be required to disclose pursuant to Part 1602 of this chapter implementing the Freedom of Information Act, the recipient shall either provide the information or inform the

person seeking it how to request it from the Corporation.

§ 1619.4 Exemptions.

Nothing in this part shall require disclosure of

- (a) Any information furnished to a recipient by a client;
- (b) The work product of an attorney or paralegal;
- (c) Any material used by a recipient in providing representation to clients;
- (d) Any matter that is related solely to the internal personnel rules and practices of the recipient; or
- (e) Personnel, medical, or similar files.

Effective date: This part shall become effective February 25, 1977.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.77-2578 Filed 1-25-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1257]

PART 1033—CAR SERVICE

Priority in Movement of Fuel and Other Essential Commodities

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 21st day of January, 1977.

It appearing, That because of severe weather in the eastern portion of the United States available fuel supplies are seriously depleted; that excessive accumulations of snow and ice and extreme cold have also disrupted normal movement of freight by railroad; that shortages of fuel have caused numerous industries to discontinue operations, resulting in extensive unemployment; that supplies of food stuffs for farm animals and for humans are also being depleted; that there are needs for emergency supplies of equipment and chemicals used in removing snow from streets and highways; that certain other articles of commerce must continue to move to points of use promptly; that railroads in certain areas are unable to move currently all traffic available; that the establishment of priorities for the movement of certain commodities is essential to the national welfare; that in the opinion of the Commission an emergency exists; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1257 Priority in movement of fuel and other essential commodities.

(a) Any railroad which is unable to transport all of the freight traffic which

it would normally move by any particular train or engine shall give priority in movement, over all other traffic of all essential commodities consigned for domestic use including but not limited to the following:

Liquid fuels, including liquefied petroleum gas, diesel fuel, fuel oil, gasoline, etc.

Coal.
Animal and Poultry Feed.
Food for human consumption.
Grain, soybeans and other agricultural products for processing into foods for either human or animal consumption.

Snow removal equipment and supplies, including salt and chemicals when consigned to a federal, state, county or municipal body.
Water and sewage processing supplies and equipment essential to the continuity of water and sewage installations.

Electric power, gas and petroleum, petroleum products, distribution and communication systems supplies, materials and equipment required for the continued operation of such systems.

Military freight on bills of lading issued by transportation officers of the military services.

Material moving on bills of lading specifically certified as essential by the Department of Defense, Energy Research and Development Administration or the Federal Energy Administration.

Empty tank cars which last contained liquid fuel or which the car owner certifies will next be used to transport such commodity.

United States mail in accordance with emergency orders of the United States Postal Service.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Effective date.* This order shall become effective at 11:59 p.m., January 21, 1977.

(d) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., January 31, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4), and 17(2)).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.77-2560 Filed 1-25-77;8:45 am]

Title 50—Wildlife and Fisheries
CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Individual Wildlife Refuge Areas

The following special regulations are issued and are effective on January 1, 1977.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

ALABAMA

CHOCTAW NATIONAL WILDLIFE REFUGE

Sport fishing on the Choctaw National Wildlife Refuge, Jackson, Alabama, is permitted only on the areas designated by signs as open to fishing. These open areas, comprising 2,000 acres, are shown on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season is open year-round on all refuge waters not closed by signs.

(2) Fishing permitted during daylight hours only.

(3) Boats and motors are permitted.

(4) Trotlines are not permitted in refuge impoundments.

(5) Equipment (boats, trailers, vehicles, etc.) not permitted overnight.

(6) Boat launching is permitted only at the refuge's north end boat ramp.

ARKANSAS

BIG LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Big Lake National Wildlife Refuge, Manilla, Arkansas, is permitted on all water areas. These areas, comprising 4,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive, NE., Atlanta, Georgia 30329. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The sport fishing season on the refuge extends year-round except for closure during duck hunting season.

(2) Limb lines not permitted.

(3) Trotline fishing permitted at night.

HOLLA BEND NATIONAL WILDLIFE REFUGE

Sport fishing is permitted on all waters of Holla Bend National Wildlife Refuge. Sport fishing shall be in accordance with all applicable State and Federal regulations covering fishing, subject to the following special conditions:

(1) Fishing is permitted only during the period March 15 through September 30, daylight hours only.