Register. The Committee recommended and the Board agreed to publish the rule as an interim rule. However, the Corporation also solicited public comment on the rule for review and consideration by the Committee and Board.

One comment was received by the Corporation on this rule which expressed approval of the interim rule and made no recommendations for changes. The Committee held public hearings on the interim rule on September 29, 1996, and made a recommendation to the Board on September 30, 1996, to adopt the interim rule as a final rule with no revisions. The Board adopted the rule as recommended.

A section-by-section discussion of the final rule is provided below. See note 1.

Section 1632.1 Purpose

The purpose section implements the new statutory restrictions on involvement of LSC recipients in redistricting activities. The prior rule [1] was not based on any express statutory restriction, but on policies adopted by a former board of directors.

Section 1632.2 Definitions

Section 1632.2 is amended by revising the definition of ''redistricting'' and adding paragraph designations to the definitions. The revision to ''redistricting'' is not substantive and is only intended to track more closely the statutory restriction contained in the Corporation's appropriations act.

Section 1632.3 Prohibition

The prohibition in § 1632.4(a) of the prior rule has been revised and renumbered as § 1632.3(a) to track the statutory restriction in the Corporation's appropriations act. Also, some language which simply restates the definition of redistricting has been deleted, since its repetition was confusing and unnecessary. Paragraph (b) clarifies that not all litigation brought under the Voting Rights Act of 1965 is prohibited. Only litigation which involves redistricting activities as defined by this rule is prohibited.

Section 1632.4 Recipient Policies

A new § 1632.4 requires recipients to adopt written policies to implement the requirements of this part.

[1] References to the ''prior rule'' refer to the rule prior to the interim rule. Because the interim rule and final rule are the same, explanations of the revisions here are essentially the same as in the interim rule.

Miscellaneous Changes

All provisions of the prior rule's § 1632.4 on permissible activity have been deleted. Paragraph (a) of the prior rule, on litigation brought under the Voting Rights Act, has been moved and is now included in § 1632.3 of this final rule. Paragraph (b) of the prior rule was deleted because it was contrary to current law as it would have allowed a recipient to use some non-LSC funds for redistricting activities. Such use of non-LSC funds is now prohibited by this final rule as required by LSC's appropriations act. Finally, paragraphs (c) and (d) in the prior rule have been deleted, because they simply restate law that is already reflected in other regulations.

List of Subjects in 45 CFR Part 1632

Grant programs—law; Legal services.

For reasons set forth in the preamble, 45 CFR part 1632 is revised to read as follows.

PART 1632—REDISTRICTING

Sec.
1632.1 Purpose.
1632.2 Definitions.
1632.3 Prohibition.
1632.4 Recipient policies.

Authority: 42 U.S.C. 2996e(b)(1)(A); 2996f(a)(2)(C); 2996f(a)(3); 2996(g)(e); 110 Stat. 3009; 110 Stat. 1321(1996).

§ 1632.1 Purpose.

This part is intended to ensure that recipients do not engage in redistricting activities.

§ 1632.2 Definitions.

(a) *Advocating or opposing any plan* means any effort, whether by request or otherwise, even if of a neutral nature, to revise a legislative, judicial, or elective district at any level of government.

(b) *Recipient* means any grantee or contractor receiving funds made available by the Corporation under sections 1006(a)(1) or 1006(a)(3) of the LSC Act. For the purposes of this part, *recipient* includes subrecipient and employees of recipients and subrecipients.

(c) *Redistricting* means any effort, directly or indirectly, that is intended to or would have the effect of altering, revising, or reapportioning a legislative, judicial, or elective district at any level of government, including influencing the timing or manner of the taking of a census.

§ 1632.3 Prohibition.

(a) Neither the Corporation nor any recipient shall make available any funds, personnel, or equipment for use in advocating or opposing any plan or proposal, or representing any party, or participating in any other way in litigation, related to redistricting.

(b) This part does not prohibit any litigation brought by a recipient under the Voting Rights Act of 1965, as amended, 42 U.S.C. 1971 *et seq.*, provided such litigation does not involve redistricting.

§ 1632.4 Recipient policies.

Each recipient shall adopt written policies to implement the requirements of this part.

Dated: November 26, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–30621 Filed 11–29–96; 8:45 am]

BILLING CODE 7050–01–P

45 CFR Part 1633

Restriction on Representation in Certain Eviction Proceedings

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises the Legal Services Corporation's (''LSC'' or ''Corporation'') interim regulation that prohibits the representation of persons in public housing eviction proceedings when such persons have been charged with or convicted of engaging in certain illegal drug activity. The prohibition in the prior rule applied only to LSC funds. This rule is revised to implement new legislation that extends the prohibition to a recipient's non-LSC funds. Revisions are also made to respond to comments received by the Corporation.

DATES: This final rule is effective on January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, at (202) 336–8910.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation's regulation, 45 CFR Part 1633, prohibits recipients from representing persons in public housing eviction proceedings when such persons have been charged with or convicted of engaging in certain illegal drug activity. The prior rule applied the prohibition only to a recipient's LSC funds. The interim rule extended the prohibition to a recipient's non-LSC funds as required by § 504(a)(17) of the Corporation's Fiscal Year (''FY'') 1996 appropriations act, Pub. L. 104–134, 110 Stat. 1321 (1996). The Corporation's FY 1997 appropriations act, Pub. L. 104–208, 110 Stat. 3009 (1996), retains the restriction by incorporating Section 504 of the FY 1996 appropriations act by reference.

Background

In order to implement the new statutory restriction in its FY 1996 appropriations act, on May 19, 1996, the Operations and Regulations Committee (''Committee'') of the LSC Board of Directors (''Board'') requested LSC staff to prepare an interim rule. The Committee held hearings on staff proposals on July 9 and 19, and the Board adopted an interim rule on July 20 for publication in the Federal Register. However, the Corporation also solicited public comment on the interim rule for review and consideration by the Committee and Board.

Nine comments were received by the Corporation, and the Committee held public hearings on Sept. 29, 1996, to review the comments and consider revisions to the interim rule. The Committee made several recommendations to the Board for revisions to the rule based largely on the comments. The Board adopted the Committee's recommendations as a final rule on September 30, 1996.

Generally, the revisions to this final rule, as did the interim rule, implement § 504(a)(17) of Public Law 104–134, which prohibits the Corporation from providing funds to recipients that defend persons in public housing eviction proceedings who have been charged with certain illegal drug activities, regardless of the source of the funds used to pay for the representation. In addition, revisions have been made in response to comments requested by the Corporation on policy guidelines announced by the United States Department of Housing and Urban Development (''HUD'') in March 1996, after the LSC Board initially adopted part 1633 on February 24, 1996.

A section-by-section discussion is provided below.

Section 1633.1 Purpose

This section is revised to reflect new law that applies the prohibition in this rule to all of a recipient's funds. The final rule retains the language of the interim rule.

Section 1633.2 Definitions

The definition of ''charged with'' has been revised to better conform with the intent of the rule. While the interim rule left the language of this section unchanged from the prior rule, the Board revised the definition of ''charged with'' in this final rule to better conform with the overall intent of the rule. The revised definition clarifies that a person must be charged by a governmental entity having the authority to make such charges. The prohibition on representation applies only when a formal charge of illegal drug activity, whether by information or indictment or their equivalent, has been made by the appropriate authority and is pending against a person, or when there has been a conviction. Thus, the prohibition on representation of a person does not apply when a charge has been dismissed or the person has been acquitted of the illegal drug activity. *See* 63 FR 14250–14251 (April 1, 1996).

Section 1633.3 Prohibition

Except for the change which extended the prohibition in this section to a recipient's non-LSC funds, the interim rule did not alter the prior rule. In this final rule, however, the Board has made further changes in response to the comments received as a result of the Corporation's request for comments on conforming the rule to the new HUD policy guidelines on public housing evictions.

The Corporation received 8 comments opposed to extending the rule's prohibition to incorporate the HUD policies. On the other hand, the Corporation also received one comment from the Public Housing Authorities Directors Association (''Housing Association''), which represents approximately 1700 public housing authorities, suggesting several changes to conform to the HUD policy.

One element of the HUD policy requires housing authorities to include in each tenant's lease a provision holding the leaseholder responsible for the actions of all members of the household and guests. The Housing Association suggested that, because housing authorities are now required by law to initiate eviction proceedings against a household ''even if the illegal activity was not undertaken by the head of the household,'' the Corporation should adopt this policy in part 1633. Comments opposing the inclusion of this policy in part 1633 stated that innocent tenants should not be denied representation in eviction proceedings because of the alleged actions of another family member. These comments explained that most of these innocent tenants are poor and legal services programs may be their only source of representation. According to one comment, the innocent family members often need legal protection from the drug abuser and to single them out for denial of legal assistance would ''stand justice on its head.''

The LSC Board agreed that the prohibition should not be extended to family members. Section 504(a)(17), which expressly limits the prohibition to the person who has been charged with certain drug activities, does not require the Corporation to adopt the HUD policy. While the HUD policy may require housing authorities to begin eviction proceedings based on the activity of other family members in the drug abuser's household, no legislation prohibits legal services attorneys from representing such family members regarding their eviction.

The Housing Authority also commented that the underlying legislation for this rule is deficient in that it does not apply the restriction on representation to a person who has been charged with the manufacture and use of a controlled substance. The prohibition in the interim rule tracked the statutory language and only prohibited representation of persons who have been charged with the illegal sale or distribution of a controlled substance.

The Board agreed to revise the final rule to add other drug activities that would pose a danger to the people in the housing communities. The Board determined the changes to be consistent with the Congressional intent to address the evil of drug dealing in public housing projects. Thus, the rule now prohibits a recipient from defending any person in an eviction proceeding if that person ''has been charged with or has been convicted of the illegal sale, distribution or manufacture of a controlled substance, or possession of a controlled substance with the intent to sell or distribute.''

Another issue raised by the Housing Association was whether part 1633 is intended to give legal services programs the authority to determine whether, in a particular case, the drug activity constitutes a threat to the health and safety of the housing project's tenants. The Board agreed that the rule already clearly assumes that such authority lies with the Housing Authorities. Recipients are prohibited from representing a client when a Housing Authority has brought an eviction proceeding on the basis that the drug activity threatens the health and safety of the other tenants. Since it is the Housing Authority that brings the eviction proceeding and the proceeding must be based on the health and safety factor, then it is the decision of the Housing Authority that is operative for the purposes of this rule. Accordingly, no changes were made in the final rule to address this concern.

The Housing Association also recommended that more specific language be used in the rule stating that eviction proceedings contemplated by this rule may be initiated even when the illegal drug activity takes place outside

of the housing premises. The Board determined that there is no need to address this issue in the rule. There is nothing in the rule that limits the prohibition to drug activity on the housing premises. It is the decision of the Housing Authority whether to allege that illegal drug activity threatens the health or safety of other tenants, regardless of where it has taken place. When an eviction proceeding is initiated alleging such a threat and the other terms of the rule are met, legal services programs may not provide representation to the persons charged with the violations.

Finally, the Housing Association opposed the provision in the interim rule that representation is prohibited if ''the person has been charged with or, within one year, prior to the date when services are requested from a recipient, has been convicted of the illegal sale or distribution of a controlled substance.'' [emphasis added]. According to the Housing Association, this one-year provision exceeds statutory authority and ''does not adequately address the wide variety of circumstances that are associated with illegal drug activities.'' The Board agreed to delete the one-year provision on the grounds that it is unnecessary, because a Housing Authority must allege and presumably demonstrate in court that drug related activities are a current threat to the health and safety of the other tenants. The Board did make a revision to § 1633.3(b) of the final rule, however, to clarify that the illegal drug activity for which the person has been charged currently threatens the health and safety of other tenants.

List of Subjects in 45 CFR Part 1633

Grant programs-law, Legal services.

For reasons set forth in the preamble, 45 CFR part 1633 is revised to read as follows:

PART 1633—RESTRICTION ON REPRESENTATION IN CERTAIN EVICTION PROCEEDINGS

Sec.
1633.1 Purpose.
1633.2 Definitions.
1633.3 Prohibition.
1633.4 Recipient policies, procedures and recordkeeping.

Authority: 42 U.S.C. 2996e(a), 2996e(b)(1)(A), 2996f(a)(2)(C), 2996f(a)(3), 2996g(e); 110 Stat. 3009; 110 Stat. 1321 (1996).

§ 1633.1 Purpose.

This part is designed to ensure that in certain public housing eviction proceedings recipients refrain from defending persons charged with or convicted of illegal drug activities.

§ 1633.2 Definitions.

(a) *Controlled substance* has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802);

(b) *Public housing project* and *public housing agency* have the meanings given those terms in section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a);

(c) *Charged with* means that a person is subject to a pending criminal proceeding instituted by a governmental entity with authority to initiate such proceeding against that person for engaging in illegal drug activity.

§ 1633.3 Prohibition.

Recipients are prohibited from defending any person in a proceeding to evict that person from a public housing project if:

(a) The person has been charged with or has been convicted of the illegal sale, distribution, or manufacture of a controlled substance, or possession of a controlled substance with the intent to sell or distribute; and

(b) The eviction proceeding is brought by a public housing agency on the basis that the illegal drug activity for which the person has been charged or for which the person has been convicted threatens the health or safety of other tenants residing in the public housing project or employees of the public housing agency.

§ 1633.4 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

Dated: November 26, 1996.

Victor M. Fortuno,

General Counsel.

[FR Doc. 96–30622 Filed 11–29–96; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1, 2, 15, 24 and 97

[ET Docket No. 93–62]

Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation

AGENCY: Federal Communications Commission.

ACTION: Correction to final rule.

SUMMARY: This document contains corrections to the final rules adopted in the *Report and Order* regulations, which were published on August 7, 1996 (61 FR 41006). The rules relate to the permissible exposure limits from FCC-regulated transmitters as contained in § 1.1307.

EFFECTIVE DATE: August 6, 1996.

FOR FURTHER INFORMATION CONTACT:

David Sylvar, Office of Engineering and Technology, (202) 418–2424.

SUPPLEMENTARY INFORMATION:

Background

The final rules that are the subject of these corrections, supersede § 1.1307 with respect to evaluating the environmental effect of radio frequency radiation. In addition, § 1.1301, § 2.1091, and § 2.1093 have been added to further define and clarify the FCC's requirements under the National Environmental Policy Act of 1969.

Need for Correction

As published, the final rules contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on August 7, 1996 the final rules in ET Docket 93–62, which were the subject of FR Doc. 96–20082, is corrected as follows:

1. Page 41011, first column, second paragraph, the third sentence is revised to read as follows:

''Of these 295 owners, 158 or 54 percent had annual revenues of 10.5 million or less.''

2. Page 41011, first column, third paragraph, the first sentence is revised to read as follows:

''In summary, based on the foregoing extreme analysis using census data, we estimate that our rules will apply to as many as 1,155 commercial and non-commercial television stations (78 percent of all stations) that could be classified as small entities.''

3. Page 41011, second column, first paragraph, the second sentence is revised to read as follows:

''That represents approximately 32 percent of commercial radio stations.''

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–30662 Filed 11–29–96; 8:45 am]

BILLING CODE 6712–01–M