

Issued in Washington, D.C., on this 10th day of March 1997.
 John Seal,
Acting Executive Director, Pension Benefit Guaranty Corporation.
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-5691-8]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of immediate final rule technical corrections.

SUMMARY: The State of Oklahoma has applied for Final authorization to revise

its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed Oklahoma's application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. As such, EPA published an immediate final rule on October 9, 1996, for 30-day public review and comment period. The EPA did not receive comments by the close of business November 25, 1996. Today's publication is a technical correction to the State Analog chart, listing the State regulations that are equivalent to the Federal rules.

DATES: Effective date: March 14, 1997. This technical correction is in regard to final authorization for Oklahoma which affirms the immediate final decision previously published, and notifies the public that the final authorization was effective on December 23, 1996.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Authorization

Coordinator, Grants and Authorization Section (6PG-G), EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, Phone number: (214) 665-8533.

SUPPLEMENTARY INFORMATION:

A. Technical Corrections

The Oklahoma Department of Environmental Quality (ODEQ) submitted a comment containing technical corrections to the State Analog chart at 61 FR 52884-52886, listing the State regulations that are equivalent to the rules promulgated to the Federal RCRA implementing regulations in 40 CFR parts 124, 260-268, and 270 that were published on October 9, 1996. Many of the dates cited in that chart were incorrect and the following chart lists the correct dates of the State analogs that are being recognized as equivalent to the appropriate Federal requirements. The following chart replaces the previously published chart.

Federal Citation	State analog
1. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, [58 FR 38816] July 20, 1993. (Checklist 125).	Oklahoma Hazardous Waste Management Act (OHWMA), as amended, 27A Oklahoma Statutes (O.S.), Supp. 1994, §§2-7-107 (A), (4) and (5), and 2-2-104, effective 1994; and Oklahoma Administrative Code (OAC) Rules 252:200-3-1, 252-200-3-2 through 252:200-3-6, effective July 1, 1995.
2. Testing and Monitoring Activities, [58 FR 46040] August 31, 1993. (Checklist 126)	OHWMA, as amended, 27A O.S., Supp. 1994, §§2-2-106, effective 1994, OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
3. Burning of Hazardous Waste in Boilers and Industrial Furnaces, [58 FR 59598] November 9, 1993. (Checklist 127)	OHWMA, as amended, 27A O.S., Supp. 1994, §§2-2-104, and 2-7-107(A)(5), effective 1994 and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
4. Hazardous Waste Management Systems; Identification and Listing of Hazardous Waste; Waste from Wood Surface Protection, [59 FR 458] January 4, 1994. (Checklist 128)	OHWMA, as amended, 27A O.S., Supp. 1994 §§2-2-104 and §2-7-106, effective 1994 and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
5. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Treatability Studies Sample Exclusion, [59 FR 8362] February 18, 1994. (Checklist 129)	OHWMA, as amended, 27A O.S., Supp. 1994 §§2-2-104 and 2-7-106, effective 1994 and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
6. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards, [59 FR 10550] March 4, 1994. (Checklist 130).	OHWMA, as amended, 27A O.S., Supp. 1994, §§2-2-104, and 2-7-107(A)(5) effective 1994, and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
7. Recordkeeping Instructions, [59 FR 13891] March 24, 1994. (Checklist 131).	OHWMA, as amended, 27A O.S., Supp. 1994, §2-2-104, and 2-7-105(5), and 2-7-106, effective 1994, and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
8. Hazardous Waste Management System; Identification and Listing of Hazardous Wastes; Wastes from Wood Surface Protection; Correction, [59 FR 28484] June 2, 1994. (Checklist 132).	OHWMA, as amended, 27A O.S., Supp. 1994 §2-7-106, and 2-2-104, effective 1994, and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.
9. Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Underground Storage, Tanks, and Underground Injection Control Systems; Financial Assurance; Letter of Credit, [59 FR 29958] June 10, 1994. (Checklist 133).	OHWMA, as amended, 27A O.S., Supp. 1994, §§2-2-104, effective 1994, and OAC Rules 252:200-3-1 through 252:200-3-6 effective July 1, 1995.
10. Hazardous Waste Management System; Correction of Listing of P015-Beryllium Powder, [59 FR 31551-31552] June 20, 1994. (Checklist 134).	OHWMA, as amended, 27A O.S., Supp. 1994, §§2-2-104, and 2-7-106, effective 1994, and OAC Rules 252:200-3-1 through 252:200-3-6, effective July 1, 1995.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action"

and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose

any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995

(Pub. L. 104-4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 11, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97-6511 Filed 3-13-97; 8:45 am]

BILLING CODE 6560-50-P

LEGAL SERVICES CORPORATION

45 CFR Part 1610

Use of Non-LSC Funds

AGENCY: Legal Services Corporation.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule revises the Legal Services Corporation's ("Corporation" or "LSC") rule concerning the use of non-LSC funds by LSC recipients. The revisions are intended to address constitutional challenges raised by the previous rule, and to ensure that no LSC-funded entity engages in restricted activities. This revised rule deletes the provisions on transfers of non-LSC funds and adds a new section setting out standards for the integrity of recipient programs.

DATES: The interim rule is effective on March 14, 1997. Comments must be submitted on or before April 14, 1997.

ADDRESSES: Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002-4250.

FOR FURTHER INFORMATION CONTACT: Victor Fortunato, General Counsel, (202) 336-8910.

SUPPLEMENTARY INFORMATION: On December 2, 1996, the Corporation published a completely revised final rule to implement Section 504 in the Corporation's FY 1996 appropriations act, Pub. L. 104-134, 110 Stat. 1321 (1996), as incorporated by the Corporation's FY 1997 appropriations act, Pub. L. 104-208, 110 Stat. 3009. Section 504 applies certain restrictions to any person or entity receiving LSC funds, effectively restricting the use of virtually all of a recipient's funds to the same degree that it restricts LSC funds. Although not required to by law, the Corporation extended the restrictions on a recipient's funds to a transfer of a recipient's non-LSC funds. Thus, the rule required that when a recipient transferred its non-LSC funds to an entity that had no LSC funds, the conditions would remain attached to the transferred funds. However, the other funds of the entity would not be affected.

In January 1997, five legal services recipients in Hawaii, Alaska, and California, together with two of their program lawyers, two non-federal funders and a client organization, filed suit in the United States District Court for the District of Hawaii challenging a number of the Section 504 restrictions as unconstitutional conditions on their use of non-LSC funds. *Legal Aid Society of Hawaii, et al. v. Legal Services Corporation*, Civil Action No. 97-00032 ACK. On February 14, 1997, the Court entered an order which preliminarily enjoined the Corporation from enforcing restrictions on the recipients' use of non-LSC funds for certain restrictions as to which the Court determined that the plaintiffs' had a fair likelihood of demonstrating an infringement of First Amendment rights. The Court's preliminary ruling was grounded in pertinent part on its understanding of the Corporation's interrelated organization policy, but also implicated the expansive reach of the Corporation's restrictions on non-LSC funds. The effect of the preliminary order is to allow those recipients who are plaintiffs in the case to use their non-LSC funds to engage in certain prohibited activities within their recipient programs during the interim period before a trial on the merits and a final ruling by the judge. This creates at least a temporary situation clearly at odds with congressional intent.

The Corporation has reviewed its policies and regulations and is making certain limited adjustments, which are

intended both to preserve the statutory system created by Congress that forbids recipients from engaging in prohibited activities and subsidizing prohibited activities with LSC funds and to respond to the constitutional concerns addressed by the Court. In making these limited revisions, the Corporation is acting to reinforce its commitment to the statutory structure of prohibitions and restrictions intended by Congress without risking the possible infringement of constitutional rights where the prohibited activities are supported entirely by non-LSC funds and carried out without subsidization by the LSC grantee. Under the Court's decision, an LSC-funded entity can engage in restricted activities. While recognizing that this initial decision is not dispositive of the issue, the Corporation is mindful that Congress clearly intended to assure that no LSC-funded entity engage in restricted activities.

The Operations and Regulations Committee ("Committee") of the Corporation's Board of Directors ("Board") held public hearings on this matter and considered a draft interim rule on March 7, 1997. The Committee recommended and the Board agreed on March 8, 1997, to publish this revised rule as an interim rule. An interim rule is necessary in order to provide prompt and critically necessary guidance to LSC recipients on the revised legal status of these regulations, address the alleged constitutional infirmities, and yet preserve the integrity of LSC-funded programs consistent with congressional intent. Accordingly, prior notice and public comment are impracticable, unnecessary, and contrary to the public interest. See 5 U.S.C. Sections 553(b)(3)(B) and 553(d)(3). This rule is effective upon publication. However, the Corporation also solicits comment on this interim rule for review and consideration by the Committee and Board. After receipt of written public comment, the Committee intends to hold public hearings to discuss the written comments and to hear oral comments. It is anticipated that a final rule will be issued, which will supersede this interim rule.

Generally, this rule deletes provisions in Section 1610.7 on the transfer of non-LSC funds and adds a new section dealing with the integrity of recipient programs. This section also formally replaces and nullifies Section 1-7 of the Corporation's 1986 Audit and Accounting Guide, which sets out the Corporation's policy on interrelated organizations.

A section-by-section analysis is provided below.