

BACKGROUND

The standards of performance for sewage sludge incinerators were promulgated March 8, 1974 (39 FR 9308), under section 111 of the Clean Air Act. Section 111 directs the Administrator to establish standards of performance for new stationary sources which reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated. The best system of emission reduction for sewage sludge incinerators (multiple hearth and fluid bed reactor type incinerators) was determined to be low energy venturi scrubbers.

At the time the standards were promulgated EPA was developing a standard for mercury emissions from sewage sludge incinerators and guidelines for municipal sludge management. The standard limiting mercury emissions was promulgated under section 112 (Hazardous Air Pollutants) of the Clean Air Act on October 14, 1975 (40 FR 49302), and the proposed guideline was issued for public comment on June 3, 1976, under the title "Technical Bulletin on Municipal Sludge Management: Environmental Factors."

Incineration is just one of several methods available for sludge disposal. The standards, which limit emissions of mercury and particulate matter, insure that adequate emission control systems are employed when incineration is used as the method of sludge disposal. Incineration is only a volume reduction method. After incineration, the ash, either dry or in scrubber water, remains to be disposed of to the land. Ash disposal must be designed to protect ground water, to prevent dust, and to insure no erosion to surface waters.

INVESTIGATION

In investigating Alaska's request, EPA contacted the vendors of sewage sludge incinerators and found that multiple hearth or fluid bed reactor type incinerators which can achieve the particulate matter standard are not commercially available below a size capacity of 140 kg/hr (300 lb/hr). This means that incineration would not be a disposal option where units smaller than 140 kg/hr are needed. Since the unique problems in parts of Alaska also prevent disposal by land application or sanitary landfill, sludge disposal cannot be accomplished in an environmentally acceptable manner under existing regulations. EPA concluded that a revision to the standards of performance for sludge incinerators is appropriate.

In developing a revision to the standard to accommodate the unique problems in parts of Alaska, EPA intends that the proposed exemption not create an incentive to utilize small incinerators which would not be covered under the standard. To avoid this situation the proposed exemption applies only where an owner or operator can demonstrate to the sat-

isfaction of the Administrator that land application and sanitary landfills are not feasible disposal methods for the sewage sludge. The size exemption is based on the capacity of the waste water treatment plant rather than the incinerator in order to prevent constructing multiple small incinerators rather than larger units which would be subject to the standard.

The proposed amendment of § 60.150 would not affect applicable national mercury emission standards under § 61.50 which currently regulates mercury emissions from all sludge incinerators. These standards are not subject to the exemption because control of mercury emissions can be achieved by ordinances or statutes which prevent mercury-bearing material from being introduced into the municipal waste treatment system.

PUBLIC PARTICIPATION

Interested persons may participate in this proposed rulemaking by submitting written comments (in triplicate) to the Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Don R. Goodwin. Comments on all aspects of the proposed revision are welcome. All relevant comments received not later than March 15, 1977 will be considered. Comments received will be available for public inspection and copying at the EPA Public Information Reference Unit, Room 2022 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

Authority: Sections 111, 114, and 301(a) of the Clean Air Act, as amended by sec. 4(a) of Pub. L. 91-604, 84 Stat. 1978 and by sec. 15(c) (2) of Pub. L. 91-604, 84 Stat. 1713 [42 U.S.C. 1877e-6, 1877e-9 and 1877g(a)].

Dated: January 14, 1977.

RUSSELL E. TRAIN,
Administrator.

In 40 CFR Part 60, it is proposed to amend Subpart O, by revising § 60.150 as follows:

§ 60.150 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each incinerator which combusts the sludge produced by municipal sewage treatment plants except as provided under paragraph (b) of this section.

(b) The owner or operator of a sewage sludge incinerator may apply to the Administrator for an exemption to the requirements of this subpart for any sewage sludge incinerator that is in a municipal waste treatment plant having a dry sludge capacity below 140 kg/hr (300 lb/hr). The Administrator will grant an exemption provided the owner or operator demonstrates to the Administrator's satisfaction that it is not feasible to dispose of the sludge by land application or in a sanitary landfill because of freezing conditions. For the purpose of determining the capacity of a municipal waste treatment plant under this paragraph, the dry sludge capacity of

the municipal waste treatment plant or the dry sludge capacity of the sewage sludge incinerator, whichever is greater, is used.

[FR Doc. 77-2384 Filed 1-25-77; 8:45 am]

LEGAL SERVICES CORPORATION

[45 CFR Part 1606]

FINANCIAL ASSISTANCE

Procedures Governing Applications for and Denial of Refunding

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 1011 of the Act, 42 U.S.C. 2996j, provides that the Corporation shall prescribe procedures to insure that, among other things, applications for refunding are not denied unless the grantee, contractor, or person or entity receiving financial assistance has been afforded reasonable notice and an opportunity for a timely, full, and fair hearing.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulation concerning procedures governing applications for and denial of refunding. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 713 15th Street, NW, Washington, D.C. 20005 on or before February 25, 1977. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

COMMENT

To insure that the provision of legal assistance to eligible clients would not be disrupted unnecessarily, Congress provided, in section 1011 of the Act, that a recipient's application for refunding should not be denied unless the recipient had been afforded reasonable notice and opportunity for a timely, full, and fair hearing.

The current draft was prepared after consideration of 48 written comments received in response to the publication of a proposed temporary regulation on March 13, 1976 (now in effect) and a proposed final draft on April 30, 1976, as well as lengthy analyses submitted by NLADA and FAG, and proposed drafts prepared by those organizations.

It seems a fair conclusion that section 1011 of the Act calls for procedures less elaborate than those of the Administrative Procedure Act,¹ but broadly comparable to the due process requirements applied to termination of governmental

¹ Had full APA procedures been intended, the Act could simply have adopted them as it did 5 U.S.C. 552 in section 1006(g).

financial benefits, licenses, or employment. This conclusion precludes summary procedures or any provision that is unfair, but does not compel the Corporation to imitate courtroom procedures. Most refunding decisions require the exercise of discretion and policy judgments, issues that are better settled by discussion than by adversarial confrontation. Rarely will refunding hearings be adjudicative in the conventional sense. Nor is it the purpose of the hearing to review or to challenge a decision after it has been made; the purpose is to provide an opportunity for meaningful involvement of a recipient before a final decision is reached, thereby insuring that the Corporation will not act hastily, or on mistaken grounds, or without receipt of all information and viewpoints entitled to consideration.

The major issues raised in the comments received by the Corporation should be considered by the Board.

1. GROUNDS FOR DENIAL OF REFUNDING

The requirements of section 1011 are procedural, and nothing in the Act requires the Corporation to issue a regulation stating all the grounds and criteria that may be applied in the future in considering applications for refunding. The Committee decided that it is desirable to do so, however, and that the grounds enumerated in § 1606.4 are adequate to cover all contingencies likely to occur.

This draft corrects a flaw that comments identified in the earlier one, which failed to provide a hearing on the question whether a generally applicable law or policy was being applied correctly in a particular case.

2. PRESIDING OFFICER

Section 1006.7(a)(1) states that the presiding officer "may be an officer or employee of the Corporation who has not previously been concerned with the investigation or consideration of the application for refunding, or may be a person recruited or retained from outside the Corporation who is familiar with the provision of legal services to the poor and supportive of the purposes of the Act."

Many comments urged the use of an administrative law judge or another person not employed by the Corporation in every case. The request seems unfounded.

Assuming that the presiding officer was not involved in the preliminary determination or the investigation that led to it, there cannot be a serious question about the propriety or validity of designating a Corporation official to preside at the hearing. In "The National Paralegal Institute v. The Legal Services Corporation," Civ. No. 76-1260, (August 12, 1976) the Court held that the provision of the Corporation's temporary regulations authorizing a Corporation employee to act as presiding officer satisfied the requirements of section 1011. The decision was clearly supported by Supreme Court decisions defining con-

stitutional requirements for an impartial tribunal.²

The Corporation's regulation is consistent with the one adopted by ACTION, that is also required by statute to provide a full and fair hearing before terminating funding, 42 U.S.C. 5052. It provides that the presiding officer shall be the responsible ACTION official, or at the discretion of the responsible ACTION official, an independent hearing examiner designated pursuant to the Administrative Procedure Act, 45 CFR 1206.1-7(b) (1). The ACTION regulations were published in the FEDERAL REGISTER on January 16, 1974, seven months before passage of the Legal Services Corporation Act, with its provision containing identical language. There is no reason to believe that the Congress intended to impose heavier requirements on the Corporation than on ACTION.³

The current draft authorizes appointment of a presiding officer who is not employed by the Corporation. It may be expected that an outsider will most frequently be appointed when a recipient is charged with violating the Act or failing to provide high quality assistance, and the burden of proof is upon the Corporation as provided by § 1606.11. But when the issues presented require judgments about the effective use of Corporation resources, decisions should be made by a person familiar with the overall development of Corporation policy.

3. OBLIGATIONS OF THE CORPORATION

The temporary regulation places the burden of proof in every case upon the recipient. Section 1006.11 of the current draft imposes upon the Corporation the obligation of proving, by a preponderance of the evidence, any disputed fact relied upon as a ground for denying refunding. On issues of policy, the Corporation has the obligation of showing that there is a substantial basis for denying refunding. The Committee believes there is no legal requirement for the Corporation to

² Thus, a parole revocation hearing, or one for the revocation of probation, may be conducted before an in-house presiding officer so long as he was not directly involved in the antecedent investigation. "Morrissey v. Brewer," 408 U.S. 471 (1972); "Gagnon v. Scarpelli," 413 U.S. 786 (1973). A board of physicians may first investigate and then itself bear a license suspension. "Withrow v. Larkin," 421 U.S. 35 (1975). A board composed of senior prison officials may decide a disciplinary case. "Wolf v. McDonnell," 418 U.S. 589 (1974). A "neutral investigative officer," reviewed by the hospital superintendent, can determine whether a mental patient should be transferred to the maximum security unit. "Jones v. Robinson," 440 F.2d 949 (CA-DC, 1971). A school may be denied eligibility for educating nonimmigrant alien students if the due process hearing is conducted before an official who did not participate in the investigation. "Blackwell College of Business v. Attorney General," 454 F.2d 928 (CA-DC, 1971).

³ See also 45 CFR 1007.1-7, and 45 CFR 1203.3-1, implementing 42 U.S.C. 2044(e) (OEO), and 42 U.S.C. 2926(b)(3) (Headstart), respectively.

assume these obligations, but concluded that it would be wise policy for it to do so.

The other changes from the published draft were minor or technical in nature.

PART 1606—PROCEDURES GOVERNING APPLICATIONS FOR AND DENIAL OF REFUNDING

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AUTHORITY: Secs. 1006(b) (1), (3), 1007(a) (1), 1007(a)(3), 1007(a)(5), 1007(d), 1008 (e), 1011 (42 U.S.C. 2044(b) (1) and (3), 2926(a) (1), 2926(a) (3), 2926(a) (5), 2926(d), 2926(e), 2926).

§ 1606.1 Purpose.

By affording a recipient the opportunity for a timely, full, and fair hearing that will promote informed deliberation by the Corporation when there is reason to believe an application for refunding should be denied, this part seeks to avoid unnecessary disruption in the delivery of legal assistance to eligible clients.

§ 1606.2 Definitions.

(a) "Denial of refunding" means a decision that, after expiration of its current grant or contract, a recipient—

- (1) Will not be provided with financial assistance; or
- (2) Will have its annual level of financial support reduced to an extent that is not required by a reduction in the Corporation appropriation that is apportioned among all recipients of the same class, and is either more than 10 percent or more than \$20,000 below the recipient's annual level of financial assistance under its current grant or contract; or
- (3) Will be provided with financial assistance subject to a new condition or restriction that is not generally applicable to all recipients of the same class, and that would significantly reduce the ability of a recipient to maintain its current level of legal assistance to eligible clients.

(b) "Director of a recipient" means the person who has overall day-to-day responsibility for management of operations by the recipient.

(c) "President", as used in this part, means the President (or acting President) of the Corporation, and not his designee.

(d) "Presiding Officer" means the President or a person designated by the President to recommend a final decision that an application for refunding should be granted or denied.

§ 1606.3 Application for refunding.

At least 120 days before expiration of its current grant or contract, a recipient that desires refunding shall file an application therefor with the Corporation in conformity with directions that, from time to time, may be issued by the Corporation.

§ 1606.4 Grounds for denial of refunding.

An application for refunding may be denied when:

- (a) Denial is required by law; or
- (b) Denial is required by a Corporation policy that is generally applicable to all recipients of the same class; or
- (c) There has been substantial failure by a recipient to comply with a provision of law, or a rule, regulation, or guideline issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation or a predecessor agency. In the absence of unusual circumstances, refunding shall not be denied for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action.

(d) There has been substantial failure by a recipient to provide high quality, economical, and effective legal assistance, as measured by generally accepted professional standards, the provisions of the Act, or a rule, regulation or guideline issued by the Corporation. In the absence of unusual circumstances, refunding shall not be denied for this cause unless the Corporation has given the recipient notice of such failure and an opportunity to take effective corrective action.

(e) Denial will implement a provision of the Act, or a Corporation policy, rule, regulation or guideline regarding economical or effective use of resources.

§ 1606.5 Preliminary determination.

(a) When there is reason to believe an application for refunding should be denied, the Corporation shall serve a written preliminary determination upon the recipient, which shall state the grounds for proposed denial, and shall identify, with reasonable specificity, any facts or documents relied upon as justification for denial.

(b) The preliminary determination shall advise the recipient that it may, within ten days of receipt of the preliminary determination, make written request for

- (1) A hearing under this part, or
- (2) An informal conference under § 1606.6 with a subsequent right as there provided to request a hearing.

(c) The preliminary determination shall also advise the recipient of its right to request interim or termination funding, as the case may be, under § 1606.18 or § 1606.19.

§ 1606.6 Informal conference.

On timely request by the recipient, the Corporation employee who made the preliminary determination shall conduct an informal conference with the recipient at a time and place designated by the employee. The parties thereto shall exchange views, seek to narrow the issues, and explore the possibilities of settlement or compromise. At the conclusion of the conference, which may be adjourned for deliberation or consultation, the Corporation employee may, in writing, modify, withdraw, or affirm the preliminary determination. The recipient may, within five days thereafter, make written request for a hearing under § 1606.9 through § 1606.15.

§ 1606.7 Initiation of proceedings.

Within ten days of a request for a hearing made under § 1606.5(b) or § 1606.6, the Corporation shall notify a recipient in writing of

- (a) The name of the presiding officer, and of the attorney who will represent the Corporation;
- (b) The date, time and place scheduled for a prehearing conference, if any should be requested or ordered; and
- (c) The date, time and place scheduled for the hearing.

§ 1606.8 Presiding Officer.

(a) The presiding officer may be an officer or employee of the Corporation who has not previously been concerned with the investigation or consideration of the application for refunding, or may be a person who is not an employee of the Corporation, who is familiar with the provision of legal services to the poor and supportive of the purposes of the Act.

(b) After designation, the presiding officer shall not consult with or receive communications from the employee who made the preliminary determination or from those representing the Corporation on any of the factual issues in the hearing except in the presence of, or with copies to, the recipient.

§ 1606.9 Prehearing conference.

(a) A prehearing conference may be ordered by the presiding officer, and shall be ordered if requested by either the recipient or the Corporation. The matters to be considered at the conference shall include:

- (1) Proposals to define and narrow the issues;
- (2) Efforts to stipulate the facts, in whole or in part;
- (3) The probable number, identity, and order of presentation of exhibits and witnesses;
- (4) On the agreement of the parties, the possibility of presenting the case on written submission or oral argument;
- (5) The desirability of advance submission of some or all of the direct testimony in writing;
- (6) Any necessary variation in the date, time and place of the hearing; and
- (7) Such other matters as may be appropriate.

(b) In advance of the prehearing conference, the presiding officer may require a party to submit a written statement discussing any matter described in paragraph (a) of this section. After the prehearing conference, the presiding officer may establish the procedures, consistent with this part, to be followed at the hearing.

(c) The presiding officer may, at the prehearing conference or at any subsequent appropriate time prior to completion of the hearing, require the Corporation or the recipient, on sufficient notice, to produce a relevant document in its possession, to make a report not unduly burdensome to prepare, or to produce a person in its employ to testify, if any might offer a relevant and substantial addition to the accuracy or completeness of the record. With the consent of the presiding officer, a party may make a written submission before the hearing.

§ 1606.10 Conduct of hearing.

(a) The hearing shall be scheduled to commence at the earliest appropriate date, ordinarily not later than 45 days after the notice required by § 1606.7, and, whenever practical, shall be held at a place convenient to the recipient and the community it serves. A hearing affecting more than one community or recipient shall be held in a single centrally located place unless the presiding officer determines that an additional hearing place is required.

(b) The presiding officer shall preside, conduct a full and fair hearing, avoid delay, maintain order, and insure that a record sufficient for full disclosure of the facts and issues is made. The hearing shall be open to the public unless, for good cause and in the interests of justice, the presiding officer shall determine otherwise.

(c) The presiding officer may allow any interested person or organization to participate in the hearing if such participation will not broaden the issues unduly or cause delay, and will aid in proper determination of the issues.

(1) A person or organization wishing to participate in a hearing shall request permission from the presiding officer, stating the reason for the request, and the nature of the evidence or argument to be offered; and shall notify the Corporation and the recipient of its request.

(2) The presiding officer shall notify the Corporation, the recipient, and the person or organization requesting participation whether the request has been granted, and in case of denial shall include a brief statement of the reasons therefor.

(3) The presiding officer may limit the scope or form of participation authorized under this paragraph.

(4) The Corporation and the recipient each may present its case by oral or documentary evidence, conduct examination and cross-examination of witnesses, examine any document submitted by another party, and submit rebuttal evidence.

(e) If a party fails, without good cause, to produce a person or document required under § 1606.9(c), the presiding officer may make an adverse finding on the fact or issue with respect to which production was required.

(f) Technical rules of evidence shall not apply. The presiding officer shall make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(g) Official notice may be taken of published policies, rules, regulations, guidelines and instructions of the Corporation, of any matter of which judicial notice may be taken in a federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

(h) A record or summary of the hearing shall be made in a manner determined by the presiding officer, and shall be made available to a party upon payment of its cost.

§ 1606.11 Obligations of the Corporation.

At a hearing under § 1606.10:

(a) The Corporation shall have the obligation of proving, by a preponderance of the evidence, the existence of any disputed fact relied upon as justification for denial of refunding on a ground described in paragraph (c) or (d) of § 1606.4; and

(b) On all other issues, the Corporation shall have the obligation of establishing a substantial basis for denying the application for refunding.

§ 1606.12 Briefs and argument.

(a) Within ten days after the close of the hearing, each party may, and upon request of the presiding officer, shall, submit to the presiding officer, with service upon all other parties, proposed findings of fact and argument on matters of law or policy.

(b) The presiding officer may direct or permit oral argument at the close of the hearing or after submission of briefs.

§ 1606.13 Recommended decision.

(a) As soon as practicable after the hearing, and normally within twenty days after its conclusion, the presiding officer shall issue a written recommended decision.

(1) Granting the application for refunding, subject to any modification or condition that may be deemed necessary on the basis of information adduced at the hearing; or

(2) Denying the application for refunding.

(b) The recommended decision shall contain findings of the significant and relevant facts and shall state the reasons for the decision. Findings of fact shall be based solely on the evidence adduced at the hearing or on matters of which official notice was taken.

§ 1606.14 Final decision.

(a) If neither the Corporation nor the recipient requests review by the Presi-

dent, a recommended decision shall become final ten days after receipt by a recipient.

(b) The recipient or the Corporation may seek review by the President of a recommended decision. A request shall be made in writing within ten days after receipt by the party of the recommended decision, and shall state in detail the reasons for seeking review.

(c) Within thirty days after receipt of a request for review of a recommended decision, the President may adopt, modify, or reverse the recommended decision, or direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of § 1606.13(b).

(d) If the presiding officer is the President, within thirty days after the conclusion of a hearing, a final decision that conforms to the requirements of § 1606.13 shall be issued.

(e) A decision by the President shall become final upon receipt by a recipient.

§ 1606.15 Time extension and waiver.

(a) Any period of time provided in these rules may, upon good cause shown and determined, be extended (1) By the person making the preliminary determination, prior to the time the presiding officer is designated; (2) By the presiding officer, prior to the issuance of a recommended decision; or (3) By the President at any time.

(b) Requests for extensions of time shall be considered in light of the overall objective that the procedures prescribed by this part ordinarily shall be concluded within 90 days of the preliminary determination.

(c) Any other provision of these rules may be waived or modified (1) By the presiding officer, if other than the President, with the assent of the recipient and of counsel for the Corporation, or (2) By the President upon good cause shown and determined.

§ 1606.16 Right to Counsel.

At a hearing under § 1606.10, the Corporation and the recipient each shall be entitled to be represented by counsel, or by another person. The attorney designated may be an employee, or may be outside counsel retained for the purpose, who may be compensated at the reasonable and customary rate for an attorney practicing in the vicinity of the attorney retained. Unless prior written approval is received from the Corporation, such fees shall not exceed the daily equivalent of the rate of level V of the Executive Schedule specified in section 5316 of Title 5, United States Code.

§ 1606.17 Reimbursement.

If an application for refunding is granted after a Preliminary Determination has been issued under § 1606.5, a recipient, at the discretion of the President, may receive reimbursement by the Corporation, in whole or in part, for reasonable and actual expenses that were required in connection with proceedings under this part.

§ 1606.18 Interim funding.

Failure by the Corporation to meet a time requirement of this part shall not entitle a recipient to refunding. If the Corporation fails to take final action upon an application for refunding prior to the expiration of the term of a recipient's current grant or contract, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities under the Act until

(a) The application for refunding has been approved and funds pursuant thereto received, or

(b) A final decision denying the application has been made.

§ 1606.19 Termination funding.

After a final decision to deny refunding, and without regard to whether a hearing has occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the recipient's professional responsibility to its present clients.

§ 1606.2 Notice.

A notice required to be sent to a recipient under this part shall be sent to the director of the recipient, and may be sent to the chairperson of its governing body.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc. 77-2576 Filed 1-23-77; 8:45 am]

[45 CFR Part 1621]

CLIENT GRIEVANCE PROCEDURE

Proposed Rulemaking

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 578, 42 U.S.C. 2995-2998 ("the Act"). Section 1606(b)(1), 42 U.S.C. 2996(b)(1), provides that the Corporation shall have authority to insure compliance of the Act.

Pursuant to section 1008(e) of the Act, the Corporation hereby affords notice and publishes for comment the following proposed regulations concerning client grievance procedures. Public comment will be received by the Corporation at its headquarters offices, Suite 700, 733 15th Street, NW., Washington, D.C. 20005 on or before February 25, 1977. Comments must be in writing and may be accompanied by a memorandum or brief in support thereof. Comments received may be seen at the above offices during business hours Monday through Friday.

Final regulations will be issued by the Corporation after review and consideration of public comments received pursuant to this notice.

COMMENT

A person who is denied legal assistance by a recipient, or who is dissatisfied with the assistance rendered, is unable to ob-