

1983. Specifically, the State revised Regulation VI of the Texas Air Control Board (TACB) Regulations to include provisions for permit fees. This notice approves these revisions to the SIP and amends 40 Code of Federal Regulations (CFR) 52.2270.

EFFECTIVE DATE: This rulemaking will be effective on October 14, 1983 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this proposed action should be addressed to Donna M. Ascenzi of the EPA Region 6 office (address below). Copies of the State's submittal may be examined during normal business hours at the following locations:

EPA, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270
Texas Air Control Board, 6330 Hwy. 290 East, Austin, Texas 78723
EPA, Public Information Reference Unit, 401 M Street SW., Room 2922, Washington, D.C. 20460
Office of the Federal Register, 1100 L Street NW., Rm. 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Donna M. Ascenzi, State Implementation Plan Section, Air Branch, EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270 (214) 767-1518.

SUPPLEMENTARY INFORMATION: On May 13, 1983, the Governor of Texas, after adequate notice and public hearing, submitted revisions to the Texas SIP. Specifically, the State revised Regulation VI of the TACB Regulations to include provisions relating to charging and collecting fees for permits.

The revisions to Regulation VI entitled, "Control of Air Pollution by Permits for New Construction or Modification," consisted of the addition of a new § 116.11 which specifies affected permit applicants, methods for determining fees and conditions under which fees are not required.

EPA has reviewed the State's submittal against the requirements for charging permit fees specified under § 110(a)(2)(K) of the Clean Air Act, and has developed an evaluation report¹ which discusses the technical aspects of the revisions in detail. This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 and TACB offices listed above.

Based on the Agency's review, EPA has determined that the revisions meet the requirements of § 110(a)(2)(K) of the

Act and is hereby approving these revisions to the Texas SIP.

The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 14, 1983. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2).]

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Section 110(a) of the Clean Air Act, 42 U.S.C. 7410(a).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: August 4, 1983.
William D. Ruckelshaus,
Administrator.

PART 52—[AMENDED]

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

Subpart SS—Texas

1. In § 52.2270, paragraph (c) is amended by adding a new subparagraph (52) which reads as follows:

§ 52.2270 Identification of plan.

(c) * * *
(52) A revision to Regulation VI (i.e., the addition of § 116.11) was adopted by the Texas Air Control Board on

December 3, 1982, and submitted by the Governor on May 13, 1983.

[FR Doc. 83-21910 Filed 8-12-83; 8:45 am]
BILLING CODE 6560-50-M

LEGAL SERVICES CORPORATION

45 CFR Part 1607

Composition of Recipient Governing Bodies

AGENCY: Legal Services Corporation.
ACTION: Final Guideline.

SUMMARY: This Guideline answers questions which have arisen as to compliance with the amended 45 CFR Part 1607 concerning composition of recipient Boards. This Guideline will not be a part of the Code of Federal Regulations, but will be the authoritative interpretation of the amended regulation.

EFFECTIVE DATE: September 14, 1983.

ADDRESS: Office of General Counsel, Legal Services Corporation, 733 15th Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: On June 28, 1983 the Legal Services Corporation published a proposed Guideline interpreting and prescribing methods of complying with the amended 45 CFR Part 1607 concerning the composition of recipient governing bodies. Interested parties were given 30 days to comment and 34 comments were received, two of which supported the Guideline and 32 of which advocated changes therein. All comments were fully considered. Several comments criticized the Guideline as generally inconsistent with 45 CFR Part 1607 and Pub. L. 97-377. The Corporation researched the legislative history of Pub. L. 97-377 before publishing the proposed Guideline and concluded that there was no indication that any provision of the proposed Guideline was in conflict with either the language or intent of that statute. As for 45 CFR 1607, the Guideline has narrowed the range of options which might be available under that regulation, but such a narrowing is clearly permissible, especially in view of the fact that the Guideline went through the notice and comment procedure required for publication of a regulation.

Waivers

In response to specific comments, the last sentences of the introductory paragraph and Section 1 concerning

¹ EPA Review of Texas SIP Revisions to Regulation VI for Permit Fees, June 1983.

waivers were rearranged and reworded to make it clear that all recipients will automatically receive, upon request, an extension of time to comply until December 15, 1983. A further extension until March 15, 1984 is available if compliance would be "impossible or unduly burdensome." The Corporation rejected the argument that the need to amend recipient by-laws or shorten the terms of recipient board members should be accepted as a sufficient reason for such further extension. In some instances in which incumbents' terms need to be shortened an incumbent board member could resign and receive an appointment by the new appointing authority. The Corporation intends that the process of compliance be completed in most instances by December 15, 1983; this would not happen if such common reasons were to be the basis of a waiver.

Qualifications of Bar Associations

Numerous comments opposed the restriction of appointing power to geographical bar associations in the proposed Guideline. The issue of the inclusion of special interests and minority bar associations received close and prolonged consideration, but it was determined that the restriction of appointment power for the 51% to geographical bar associations best serves the purpose of the Continuing Resolution by giving general membership bar associations control of a majority of the seats on recipient Boards. It is to be noted that there is nothing to preclude an appointing bar association from accepting recommendations or even nominations from such minority or specialized bar associations for some of these seats.

Which Bar Associations Appoint?

There were several comments that even when there is a single bar association with 51% of the attorneys in an area, recipients should still be free to use a combination of bar associations. The Corporation does not agree with this argument. The Continuing Resolution did provide for both methods of appointment, but such a provision was necessary because often no one bar association will have majority status. It is certainly within the discretion of the Corporation in administering this provision to provide that a single bar association be preferred over a combination of bar associations. The Corporation has carefully limited this provision to majority bar associations "coextensive" with a recipient's service area. Thus, a majority state bar association does not have a claim to all of the 51% attorney slots, unless the

program's service area is statewide, although it can form one component of a coalition. Likewise, a majority county bar association has such a claim only if a program's service area is coincident with its county. Again, it is to be noted that a single majority bar association may accept recommendations or nominations by other bar associations.

Proportional Appointments

Several comments objected to the requirement that the appointments made by a combination of bar associations be distributed "in reasonable proportion to their membership." Considering the examples cited, the Corporation believes this provision has been misinterpreted to require strict, numerical proportionality. The word "reasonable" is intended to preclude such an interpretation and to give recipients the very flexibility they seek. For example, a multi-county program with one large county and several small counties could give one representative to each small county (unless these counties were extremely small relative to the one large county) and give perhaps 3 or 4 representatives to the large county. It would not be necessary to double or triple the size of the board to represent each county, since strict, numerical proportionality is not intended.

Additional Attorney Board Members

The section regarding appointments of the additional 9% attorney board members has been reworded to make it clear that recipients may allow special interest bar associations and other organizations interested in legal services to appoint these board members. This is permissive, not mandatory. Furthermore, in response to several comments, the word "primarily" has been deleted before "interested", thus broadening the range of organizations that may participate.

Women and Minority Attorneys

This section received considerable criticism because programs are not allowed to require specific appointments of women and minorities. The Corporation considered this issue carefully in the proposed Guideline and decided that, if voluntary persuasion did not work, the recipient should request a review of the resulting appointments by the Corporation. This method has been criticized as cumbersome and ineffective, but the Corporation has concluded that it best serves the two purposes of preserving the bar associations' independent appointive power as discussed below and providing

a process to correct any failure to reflect the population of the area served.

Method of Selection

The Corporation maintains that the primary intent of Congress was to vest the power to appoint 51% of recipient boards in bar associations and remove control of these appointments from the recipients, so as to have an independent appointing authority, rather than a self-perpetuating one. Consequently, the Corporation has not accepted any suggestions to modify the section of this Guideline concerning the selection process.

List of Subjects in 45 CFR Part 1607

Legal services.

Authority: Pursuant to Sec. 1008(e) Pub. L. 93-355, 88 Stat. 378 (42 U.S.C. Sec. 2996g(e) and Pub. L. 97-377, 96 Stat. 1874, the following Legal Services Corporation Guideline is adopted:

LSC Guideline 83-1, Interpretation of and Compliance With 45 CFR 1607, as Amended, Concerning Recipient Governing Bodies

The Legal Services Corporation's regulation relating to the governing bodies of recipients, 45 CFR Part 1607, requires that 51% of each recipient's governing body be comprised of licensed attorneys appointed by state, county or municipal bar association(s) whose membership includes a majority of attorneys practicing in the service area. Recipients are required to be in compliance with Part 1607 by September 15, 1983, subject to the waiver provisions of Section 1 below.

1. Waivers

Section 1607.7(c) permits the President of the Legal Services Corporation to extend the time for compliance with the requirements of this part in the event that compliance by September 15, 1983 would be impossible or unduly burdensome (in addition, the waiver provisions of § 1607.5 still apply to recipients which had a non-attorney majority on their Board as of July 25, 1974). Any recipient so requesting will be granted an extension until December 15, 1983. Reasons common to most recipients, such as the need to amend bylaws or shorten the terms of incumbent board members, will not be deemed sufficient to justify an extension of time in which to comply beyond December 15, 1983. No such extension may run past March 15, 1984.

2. Definition of State, County or Municipal Bar Association

a. To qualify as a state, county or municipal bar association, a bar association must be open to all licensed attorneys within a designated jurisdiction and not be designed to appeal to a segment of the bar on the basis of racial or ethnic characteristics, gender, religion or specialized interest. Parish, borough, judicial circuit or multi-county bars qualify under this section.

b. Where the service area of a recipient is coextensive with the jurisdiction of a state, county, or municipal bar association, and that association includes among its membership a majority of attorneys licensed in the area served, that bar association shall be offered the opportunity to appoint 51% of the recipient's board members. If no such bar association exists, or if it declines the offer to appoint 51% of the recipient's board members, a combination of state, county and municipal bar associations representing the majority of attorneys practicing in the recipient's service area, as determined by the recipient, shall appoint 51% of the board members. When a combination of bar associations is utilized, the appointment power shall be distributed by the recipient in reasonable proportion to the membership of each association.

3. Additional Attorney Board Members

Recipients may allow special interest bar associations or other organizations interested in the delivery of legal services to the poor to appoint the additional 9% of the recipient's board members who must be attorneys.

4. Women and Minority Attorneys

Recipients must ensure that the attorney members of their boards of directors reasonably reflect the population of the area served. Precise proportional representation is not required, however, nor is the designation of specific seats on the board. The recipient's plan for compliance must contain adequate information to allow the Regional Office to conclude that the appointing bar association(s) will make a reasonable and substantial effort to include women and minorities. If the recipient finds that the appointments made by a bar association or combination of bar associations do not reflect the

population of the area served, the recipient shall request a review thereof by the Corporation.

5. Method of Selection

The appropriate state, county or municipal bar association or combination of bar associations has the power to appoint 51% of the recipient's board members. This power may not be restricted by recipients. The appropriate bar association or combination of associations may determine the method or methods by which it will select the board members. The bar association may adopt methods including consultation with and/or receiving nominations from other groups, including client groups. However, no particular method of selection may be required by a recipient.

Dated: August 10, 1983.

Alan R. Swendiman,

General Counsel.

(FR Doc. 83-22254 Filed 8-12-83, 8:45 am)

BILLING CODE 6820-35-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1300

[Ex Parte No. 387]

Railroad Transportation Contracts

AGENCY: Interstate Commerce Commission.

ACTION: Amendment of Final Rules.

SUMMARY: In response to the Rail Safety and Service Improvement Act of 1982, section 502, which removed wood pulp, wood chips, pulpwood, and paper from the equipment limitation provisions of 49 U.S.C. 10703(k)(1), the Commission modified 49 CFR 1030.6 to exclude these items (49 FR 23648, May 26, 1983). Through oversight, the reporting requirements at 49 CFR 1300.313(a)(5)(ii) were not modified to reflect this change. Accordingly, 49 CFR 1300.313(a)(5)(ii) must also be modified to exclude these commodities.

EFFECTIVE DATE: These rules will become effective on August 15, 1983.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION:

List of Subjects in 44 CFR Part 1300

Agricultural commodities, Intermodal transportation, Railroads.

This notice amends that portion of the final rules codified at 49 CFR 1300.313 in order to comport with the new provisions set forth in section 502 of the Rail Safety and Service Improvement Act of 1982 (Pub. L. No. 97-468).¹ Accordingly, Title 49 of the Code of Federal Regulations is amended by revising paragraph (a)(5)(ii) of § 1300.313 as follows:

PART 1300—[AMENDED]

§ 1300.313 Content of contract summary: format.

• • • • •

(a) • • •

(5) • • •

(ii) In addition to paragraph (i) if agricultural commodities (including forest products but not including wood pulp, wood chips, pulpwood or paper), a certified statement by the participating rail carrier/carriers:

• • • • •

We certify that this modification of rules which merely codifies appropriately section 502, will not have a significant economic impact on a substantial number of small entities.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

This modification is issued pursuant to 49 U.S.C. 10101a, 10321 and 10713, and 5 U.S.C. 553.

Decided: August 8, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

(FR Doc. 83-22188 Filed 8-12-83, 8:45 am)

BILLING CODE 7035-01-M

49 CFR Part 1307

[Ex Parte No. MC-98; Sub-1]

Investigation Into Motor Carrier Classification

AGENCY: Interstate Commerce Commission.

ACTION: Postponement of compliance date to Final Policy Statement.

SUMMARY: In a notice published at 48 FR 10063, March 10, 1983, and clarified at 48

¹ Section 502 reads as follows:

Section 10713(k)(1) of Title 49, United States Code is amended, by striking "and paper" and inserting in lieu thereof "but not including wood pulp, wood chips, pulpwood or paper."