13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely affects the status of a geographical area, does not impose any new requirements on sources, or allow a state to avoid adopting or implementing other requirements and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E7–14983 Filed 8–1–07; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

AGENCY: Legal Services Corporation.

ACTION: Termination of Rulemaking and Notice of Proposed Rulemaking.

SUMMARY: LSC is terminating a rulemaking it initiated in 2001 to consider broad revisions to its regulation on restrictions on legal assistance. Contemporaneously, LSC is initiating a new rulemaking to consider a proposal of limited scope to amend section 1626.10(a) of this regulation to permit LSC grant recipients to provide legal assistance to otherwise financially eligible citizens of the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau legally residing in the United States.

DATES: The open rulemaking published on September 10, 2001 (66 FR 46977) is terminated as of August 2, 2007. Comments on this NPRM are due on September 4, 2007.

ADDRESSES: Written comments on the NPRM may be submitted by mail, fax or e-mail to Mattie Cohan, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007; 202–295–1624 (ph); 202–337–6519 (fax); *mcohan@lsc.gov.*

FOR FURTHER INFORMATION CONTACT: Mattie Cohan, Senior Assistant General Counsel, 202–295–1624 (ph); *mcohan@lsc.gov.*

SUPPLEMENTARY INFORMATION:

Termination of Open Rulemaking

The LSC Board of Directors identified 45 CFR Part 1626 as an appropriate subject for rulemaking on January 27, 2001. On June 30, 2001, the LSC President and the Chair of the Operations and Regulations Committee made a determination to proceed with the initiation of a Negotiated Rulemaking to consider amendments to Part 1626. In accordance with the LSC Rulemaking Protocol, LSC published a notice in the **Federal Register** formally soliciting suggestions for appointment to the Negotiated Rulemaking Working Group from the regulated community, its clients, advocates, the organized bar and other interested parties (66 FR 46977, September 10, 2001). After receiving submissions of interest, a Working Group was appointed. Each organization which timely requested to participate was appointed to the Working Group. The Working Group met three times without coming to consensus on several issues. Subsequently, work on the 2001 rulemaking was deferred in 2003 by the previous Board of Directors pending the appointment and confirmation of the present Board. No further action on the rulemaking has been taken since that time.

During the past several years as LSC has considered its rulemaking agenda, neither Management nor recipients have suggested reinitiating work on this broad rulemaking. As such, LSC is of the opinion that consideration of broad revision of Part 1626 is no longer necessary or appropriate. Accordingly, with the publication of this notice LSC is terminating the open rulemaking.

New Notice of Proposed Rulemaking

LSC-funded legal services providers are permitted to provide legal assistance only to citizens of the United States and aliens upon whom eligibility has been expressly conferred by statute. LSC regulations at 45 CFR Part 1626 implement the various existing statutory authorities and set forth the eligibility standards based on citizenship and eligible alien status. Since 1996 Part 1626 has limited the eligibility of citizens of the Republic of the Marshall Islands (''RMI'') and the Federated States of Micronesia (''FSM'') and the Republic of Palau to services provided in those respective nations (unless the applicant is otherwise eligible under Part 1626). In connection with LSC's development of a 2007 Rulemaking Agenda, the Legal Aid Society of Hawai'i (LASH) and Legal Aid of Arkansas (LAA) have both requested that LSC engage in rulemaking to change the section 1626.10(a) to provide for the eligibility of citizens of RMI, FSM and Palau legally residing in the United States for legal assistance from LSC-funded programs.

LSC agrees that there is sufficient reason and authority for LSC to amend its regulation in this regard. To that end, the Operations and Regulations Committee of the LSC Board of Directors considered a Draft NPRM and the Board of Directors approved this NPRM for publication and comment at their respective meetings on July 28, 2007.

History of FAS Eligibility for Legal Assistance From LSC-Funded Programs

At the time of the creation of LSC in 1974, the countries that are now the sovereign nations of the Republic of the Marshall Islands (''RMI''), the Federated States of Micronesia (''FSM''), and the Republic of Palau were possessions of the United States, known as the Trust Territories of the Pacific Islands (''the Trust Territories''). The LSC Act defined the Trust Territories as a ''State'' for the purposes of the Act. The Act thus conferred eligibility for LSC-funded legal services to Trust Territory residents to the same extent provided to residents of any other State of the United States. Section 1002(8) of the LSC Act, 42 U.S.C. 2996a(8).

In 1983, Congress placed the first statutory restrictions on representation of aliens on LSC recipients in LSC's appropriations bill for that year, Public Law 97–377. That law provided that none of the funds appropriated could be expended to provide legal assistance for or on behalf of any alien unless the alien was a resident of the U.S. and otherwise met certain statutorily specified criteria. On its face, this language would have appeared to imply that all non-U.S. citizens, including residents of RMI, FSM and Palau would be subject to these restrictions, notwithstanding their eligibility under the LSC Act. To deal with this problem, LSC included a ''special eligibility section'' (§ 1626.10) in the implementing regulations on representation of aliens, 45 CFR part 1626, to exempt residents of the Trust Territory from the alien restrictions imposed by Congress.

In 1986 the trust governing the relationship between the U.S. and the Trust Territories was terminated. At that time the former Trust Territories were recognized as independent nations and a new relationship with RMI, FSM and Palau was created by the signing of two Compacts of Free Association, one with RMI and FSM and the other with Palau. The Compact with RMI and FSM contemplates the provision of certain services and programs of the U.S. to those nations. Specifically, section 224 of the Compact of Free Association with RMI and FSM provides that:

> The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may agree from time to time to the extension of additional United States grant assistance, services and programs as provided by the laws of the United States, to the Marshall Islands or the Federated States of Micronesia, respectively.

The Compact of Free Association Act of 1985 (''CFA Act'') (Pub. L. 99–239, codified at 48 U.S.C. 1901 *et seq.*), which implemented the Compact, provides express authority for the provision of LSC-funded legal services. Specifically, section 105(h)(1)(A) of the CFA Act provides that:

> * * * pursuant to section 224 of the Compact the programs and services of the [Legal Services Corporation] shall be made available to the Federated States of Micronesia and to the Marshall Islands.

The implementing act for the Compact with Palau makes section 105 of the CFA Act applicable to the Republic of Palau. 48 U.S.C. 1932(b).[1]

After the signing of the respective Compacts and the corresponding implementing statutes, the FAS remained covered by the special eligibility section of Part 1626, notwithstanding their change in legal status vis-à-vis their relationship with the United States. In 1989 that section of the regulation was amended to make the section more precise in light of the termination of the trust. Under this version of the rule, the special eligibility section provided:

> (a) *Micronesia.* The alien restriction stated in the appropriations acts is not applicable to the legal services program in the following Pacific island entities:
> (1) Commonwealth of the Northern Marianas;
> (2) Republic of Palau;
> (3) Federated States of Micronesia;
> (4) Republic of the Marshall Islands
> All citizens of these entities are eligible to receive legal assistance, provided they are otherwise eligible under the [LSC] Act.

54 FR 18812 (April 29, 1989). The preamble to the Final Rule adopting this language explained that this change was intended to ''restate[] congressional intent that residents of these political entities be eligible to be clients of a legal services program.'' Id. at 18110. The special eligibility section addressing the FAS remained as set forth above until 1996.

As a result of new statutory restrictions contained in the LSC FY 1996 appropriations legislation (Pub. L. 104–134), additional changes to Part 1626 were made in 1996. Although the statutory amendments did not address this issue, § 1626.10(a) was again revised, this time in response to comments from the LSC Office of Inspector General (OIG). As explained in the preamble to the 1996 Final Rule:

> The OIG suggested that both the prior rule and the interim rule dealt with the question of special eligibility incorrectly and urged that the final rule refer only to the legal services programs serving people who were citizens of those jurisdictions. The effect of this change would be to make financially eligible citizens of the Federated States of Micronesia, the Republic of the Marshall Islands and the Republic of Palau only eligible for legal services from the recipients serving those areas * * *. They would not be eligible for services from any other recipients unless they also came within one of the categories of eligible aliens listed in section 1626.5 * * *.

62 FR 19413 (April 21, 1997). The OIG's comments were based upon its interpretation of the CFA Act that the language of the CFA Act provides authority for the provision of services within those nations, but does not expressly confer individual eligibility for services to the citizens of those nations without reference to where the service is to be provided. The Board considered the matter, agreed with the OIG analysis, and revised § 1626.10(a) as follows.

> This part [1626] is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated

[1] RMI, FSM and Palau are collectively referred to as the ''Freely Associated States'' or ''FAS.'' This designation will be used throughout the remainder of the supplementary information section.

States of Micronesia, or the Republic of the Marshall Islands.

62 FR 19413 (April 21, 1997); 45 CFR 1626.10(a). Thus, since 1996 otherwise financially eligible residents of the FAS seeking assistance from legal services providers in the United States may only receive such assistance if they meet the alien eligibility requirements of § 1626.5.

Alternative Interpretation of the Compact Act

During the last session of Congress, legislation was passed in the Senate by unanimous consent on September 29, 2006, which would have definitively clarified the issue by clearly stating that LSC services were to be available to the citizens of the FAS. Specifically, section 5 of S.1830, provided:

SEC. 5. AVAILABILITY OF LEGAL SERVICES.

Section 105(f)(1)(C) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(C)) is amended by inserting before the period at the end the following: '', which shall also continue to be available to the citizens of the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands who legally reside in the United States (including territories and possessions)''.

The report accompanying S.1830 explained that:

Section 5 clarifies that section 105(f)(1)(C) of the CFAAA is intended to continue eligibility for the programs and services of the Legal Services Corporation for FSM and RMI migrants who legally reside in the United States. Legal Services Corporation eligibility was extended by the first Compact Act in 1986 (Pub. L. 99–239), but in 1996, without any further action by Congress, the Legal Services Corporation, by rule, terminated the eligibility of FSM and RMI migrants. Section 104(e) of the original Compact Act, and of the CFAAA, state that it is 'not the intent of Congress to cause any adverse consequences for an affected area,' which are defined as Hawaii, Guam, the CNMI, and American Samoa. The Legal Services Corporation is one of those programs which had assisted local communities, in both the 'affected areas' and in the mainland U.S., in responding to the impacts and needs of FSM and RMI citizens who were residing in U.S. communities. This section would restore eligibility as it existed from 1986 to 1996.

Similar legislation was introduced in the House, but was not acted on during the course of the 109th Congress. Accordingly, there was no final legislation enacted into law on this subject in the last Congress. More recently, on January 12, 2007, S. 283, the Compact of Free Association Amendments Act was introduced in the Senate. On February 15, 2007, the bill was reported out of the Senate Committee on Energy and Natural Resources, accompanied by a written report. The operative language of the bill and report dealing with the availability of legal assistance from LSC recipients to citizens of the FAS, regardless of where they are obtaining those services, is the same as in last year's Senate bill (quoted above). A similar bill, H.R. 2705, has also been introduced in the House. As of the publication of this notice, both of the bills are still pending.

In addition, LSC received a letter dated June 1, 2007, from David Cohen, Deputy Assistant Secretary for Insular Affairs at the Department of Interior. In his letter, Deputy Assistant Secretary Cohen stated:

I can assure you that it is consistent with Federal policy under the Compacts and the [implementing] public laws * * * to allow FAS citizens lawfully resident in the United States to receive LSC services. * * * We are not aware of any intention to permit the extension of LSC benefits to FAS citizens in the FAS but to prevent the extension of those benefits to FAS citizens during their lawful residence in the United States.

Subsequently, representatives of LSC met with the Deputy Assistant Secretary, several members of his staff and an attorney from the Department of State. They reiterated their understanding of the Compact and the CFA Act. In particular, they explained that the United States and the FAS countries negotiated the Compacts as essentially an aid package and that the Departments of Interior and State, as well as the FAS nations themselves, consider the extension of benefits to the FAS to include the extension of benefits to FAS citizens, regardless of where those citizens are lawfully residing (in the FAS or the United States). As an example, they noted that the CFA Act extends the Pell Grant (educational grants) program to the FAS and that the grants are provided to FAS citizens regardless of whether they are attending institutions of higher education in the FAS or in the United States. Similarly, FAS citizens are eligible for Job Corps services being provided in the United States.

In light of the above, it would appear that LSC's interpretation of the CFA Act, while permissible, was not the only permissible reading and perhaps, in hindsight, not the best available reading. Moreover, LSC appears to be within its legal authority under the law to amend § 1626.10 to permit FAS citizens to receive legal assistance anywhere LSC services are provided without requiring independent eligibility under Part 1626.

Need for Amendment of the Regulation—FAS Citizens in the United States

When LSC was created in 1974, there were probably no more than a few thousand Micronesians living in Guam and Hawai'i, and a scattering in the continental United States. Even when the first Compact was negotiated in 1986, there were probably still less than ten thousand Micronesians living within U.S. territory, still mostly in Guam and Honolulu. However, when the Compact was renegotiated and extended in 2002 it was then known that the migration pattern was showing greatly increased numbers in the continental United States. According to the Embassy of FSM there are, in addition to the traditionally high populations of Micronesians in Guam and Hawai'i, at least 30,000 to 40,000 FSM citizens living or going to school in the continental U.S. Further, LAA has noted in its request to LSC for rulemaking on this issue that there are also 6,000 to 10,000 Marshallese living in Northwest Arkansas alone.

Thus, while there was relatively little demand for legal services among FAS citizens in the United States in 1996, the increased migration of FAS citizens to the United States has significantly increased the potential demand for legal services among members of that community. The inability of financially eligible FAS citizens in the U.S. to access legal services from LSC programs assistance is a growing problem for the U.S. FAS community. LASH, for example, has noted that that FAS citizens working in Hawai'i are more likely to be victims of unscrupulous employers because they believe that such citizens have little recourse to legal services to protect their employment rights.

Proposed Amendment of Section 1626.10(a)

LSC is proposing to amend section 1626.10(a) to redesignate the existing language in paragraph (a) as paragraph (a)(1) and to add a new paragraph (a)(2) to read as follows: ''All citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that are they otherwise eligible under the Act.'' This language makes explicit that FAS citizens are eligible under Part 1626 for legal assistance and is consistent with the other eligibility provision in section 1626.10 addressing the eligibility of Canadian-born American Indians at least 50% Indians by blood, members of

the Texas Band of Kickapoo and foreign nationals seeing assistance pursuant to the Hague Convention. 45 CFR 1626.10(b); 1626.10(c); and 1626.10(d). The ''otherwise eligible'' language is meant to refer to financial eligibility (for the provision of LSC-funded legal assistance'') and to the permissibility of the legal assistance provided under applicable law and regulation.

List of Subjects in 45 CFR Part 1626

Aliens, Grant programs—law, Legal services, Migrant labor, Reporting and recordkeeping requirements.

For reasons set forth above, and under the authority of 42 U.S.C. 2996g(e), LSC proposes to amend 45 CFR Part 1626 as follows:

PART 1626—Restrictions on Legal Assistance to Aliens

1. The authority citation for part 1626 continues to read as follows:

Authority: Pub. L. 104–208, 110 Stat 1321; Pub L. 104–134, 110 Stat. 3009.

2. Amend § 1626.10 by revising paragraph (a) to read as follows:

§ 1626.10 Special eligibility questions.

(a)(1) This part is not applicable to recipients providing services in the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, or the Republic of the Marshall Islands.

(2) All citizens of the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands residing in the United States are eligible to receive legal assistance provided that are they otherwise eligible under the Act.

* * * * *

Victor M. Fortuno,

Vice President and General Counsel.

[FR Doc. E7–15043 Filed 8–1–07; 8:45 am]

BILLING CODE 7050–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 216, 232, and 252

RIN 0750–AF71

Defense Federal Acquisition Regulation Supplement; Payments on Cost-Reimbursement Contracts for Services (DFARS Case 2006–D066)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to provide for interim payments under cost-reimbursement contracts for services within 30 days, instead of the current DoD policy of making payments within 14 days. The change will not apply to small business concerns.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before October 1, 2007, to be considered in the formation of the final rule.

ADDRESSES: You may submit comments, identified by DFARS Case 2006–D066, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: dfars@osd.mil.* Include DFARS Case 2006–D066 in the subject line of the message.
- *Fax:* (703) 602–7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. John McPherson, OUSD(AT&L)DPAP(CPF), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.
- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. John McPherson, (703) 602–0296.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS 232.906 presently provides for interim payments on cost-reimbursement contracts for services within 14 days after receipt of a proper payment request. The proposed rule would revise this policy to provide for payment to other than small business concerns within 30 days. The proposed change will allow DoD to better cash manage payments without having a significant impact on small business concerns. The proposed change is consistent with the policies of other Government agencies, which do not pay in 14 days. These payments are subject to the Prompt Payment Act.

This proposed rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule makes no change to payment procedures for small business concerns. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006–D066.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply, because the proposed rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 216, 232, and 252

Government procurement.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

Therefore, DoD proposes to amend 48 CFR Parts 216, 232, and 252 as follows:

1. The authority citation for 48 CFR Parts 216, 232, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 216—TYPES OF CONTRACTS

2. Section 216.307 is added to read as follows:

216.307 Contract clauses.

(a)(i) The following apply to interim payments on cost-reimbursement contracts for services:

(A) For contracts with other than small business concerns, insert the standard due date of the ''30th'' day in paragraph (a)(3) of the clause at FAR 52.216–7.

(B) For contracts with small business concerns, insert the ''14th'' day in paragraph (a)(3) of the clause at FAR 52.216–7.

(ii) For interim payments on cost-reimbursement contracts for other than services, insert the ''14th'' day in paragraph (a)(3) of the clause at FAR 52.216–7.

PART 232—CONTRACT FINANCING

3. Section 232.906 is revised to read as follows: