

public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

*Worldwide Web (WWW).* In addition to being available in the docket, an electronic copy of today's proposal will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg/>. The TTN at EPA's Web site provides information and technology exchange in various areas of air pollution control.

*Direct Final Rule.* A direct final rule identical to the proposal is published in the Rules and Regulations section of today's **Federal Register**. If we receive any adverse comment pertaining to the amendments in the proposal, we will publish a timely notice in the **Federal Register** informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments concerning the withdrawn amendments in a subsequent final rule. If no relevant adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in the action.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of today's **Federal Register**. For further supplementary information, the detailed rationale for the proposal and the regulatory revisions, see the direct final rule published in a separate part of this **Federal Register**.

#### Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of today's **Federal Register**.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impact of today's proposed rule on small entities, small entity is defined as: (1) A small business whose parent company

has fewer than 500 employees, according to Small Business Administration size standards established under the NAICS for the industries affected by today's rule; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule amendments on small entities, I certify that the proposed rule amendments will not have a significant economic impact on a substantial number of small entities. The proposed rule amendments provide clarification and corrections to the NESHAP for refractory products manufacturing. This action includes minor corrections and clarifications to the Refractory Products Manufacturing NESHAP that do not add any additional requirements.

Although the direct final rule amendments will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of the direct final rule amendments on small entities. The EPA has limited the amendments to changes that clarify ambiguities of the Refractory Products Manufacturing NESHAP, correct citations to the General Provisions, and clarify the complex batch testing requirements of the Refractory Products Manufacturing NESHAP. The EPA believes that the amendments will simplify the NESHAP and will not add additional burden to regulated entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 7, 2005.

**Stephen L. Johnson,**

*Administrator.*

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## LEGAL SERVICES CORPORATION

### 45 CFR Part 1621

#### Notice of Rulemaking Workshop—Request for Expressions of Interest in Participation

**AGENCY:** Legal Services Corporation.

**ACTION:** Notice of Rulemaking Workshop and Request for Expressions of Interest in Participation in Workshop.

**SUMMARY:** LSC is conducting a Rulemaking Workshop in connection with its rulemaking to consider revisions to its regulations on client grievance procedures at 45 CFR part 1621. LSC hereby solicits expressions of interest in participation in the Workshop from the regulated community, its clients, advocates, the organized bar and other interested parties.

**DATES:** Expressions of interest must be received by February 24, 2006.

**FOR FURTHER INFORMATION CONTACT:** Victor M. Fortuno, Vice President & General Counsel, Legal Services Corporation, 3333 K St. NW., Washington, DC 20007; (202) 295-1620 (phone); 202-337-6831 (fax) or [vfortuno@lsc.gov](mailto:vfortuno@lsc.gov).

**SUPPLEMENTARY INFORMATION:** The Legal Services Corporation ("LSC") has initiated a rulemaking to consider revisions to 45 CFR part 1621 (Client Grievance Procedure). As part of this rulemaking proceeding, LSC conducted a Rulemaking Workshop on January 18, 2006. LSC is convening a second Rulemaking Workshop prior to the development of a Draft Notice of Proposed Rulemaking. The Rulemaking Workshop will be held on March 23, 2006, from 9 a.m.-5 p.m., e.s.t. The Rulemaking Workshop will be held in LSC's Conference Center, on the 3rd floor of 3333 K St. NW., Washington, DC, 20007.

Under the LSC Rulemaking Protocol: Rulemaking Workshops [\* \* \*] enable LSC Board members and staff to meet with stakeholders prior to the development of a draft NPRM to discuss, but not negotiate, LSC rules and regulations. LSC believes the Notice and Comment process, including Rulemaking Workshops, [\* \* \*] allow for an effective dialog between LSC and its recipients and other interested parties, in those instances in which Negotiated Rulemaking is not used.

When the Board has decided to initiate a rulemaking and to conduct a Rulemaking Workshop, [LSC's Office of Legal Affairs] will work with the Board and staff to select a date for the Rulemaking Workshop and will invite participants from the interested stakeholder community. The Workshop will be a meeting at which the participants hold open

discussions designed to elicit information about problems or concerns with the regulation (or certain aspects thereof) and provide an opportunity for sharing ideas regarding how to address those issues. The Workshop is not intended [to] develop detailed alternatives or to obtain consensus on regulatory proposals. Upon the conclusion of the Workshop, the Board shall provide LSC staff with policy guidance on the issues discussed to aid staff in the development of the Draft Notice of Proposed Rulemaking ("NPRM").

67 FR 69762, 69763 (November 19, 2002).

During the first workshop, the participants had a wide-ranging discussion and identified a number of issues. These can be summarized as follows:

- The importance of and reason for having a client grievance process, including how the client grievance process also can be an important part of a positive client/applicant relations program and serve as a source of information for programs and boards in assessing service and setting priorities;
- Whether programs can be more "proactive" in making clients and applicants aware of their rights under the client grievance procedure, but do so in a positive manner that does not create a negative atmosphere at the formation of the attorney-client relationship. It was noted that while informing clients of their rights can be empowering, suggesting at the outset that they may not like the service they receive is not conducive to a positive experience. Query whether an "ombudsman" position would be appropriate in this context;
- It is unclear how some complaints should be categorized. Is a complaint that a recipient refused to take an appeal for a client represented at the trial or initial hearing level a complaint about the manner or quality of service or a complaint about the denial of service?;
- The appropriate role of the governing body in the client grievance/client relations process;
- Challenges presented in providing proper notice of the client grievance procedure to applicants and clients who are served only over the telephone and/or email/internet interface;
- Application of the process to Limited English Proficiency clients and applicants;
- Whether and to what extent it is appropriate for the composition of a grievance committee to deviate from the approximate proportions of lawyers and clients on the governing body, e.g. by a higher proportion of clients than the governing body has generally;

• Challenges presented by a requirement for in-person hearing and what other options may be appropriate;

• Whether the limitation of the grievance process related to denials of service to the three enumerated reasons for denial in the current rule is too limited given the wide range of reasons a program may deny someone service;

• Whether the regulation appropriately addresses issues of client confidentiality in LSC access to complaint files;

• Whether the grievance process should include cases handled by non-staff such as PAI attorneys, volunteers, attorneys on assignment to the grantee (often as part of a law firm pro bono program);

• Whether and to what extent it is appropriate for a recipient to abrogate the client grievance process, e.g., where the recipient is facing potential litigation requiring notification to the malpractice insurance carrier or where the complainant poses a reasonable threat to the health and safety of recipient employees or governing body members;

• When does an inquiry become an application for service for which there could be a denial and a grievance process? Sometimes a person who calls a program is not clear about whether they just want some information or are actually seeking legal assistance, and other times if a caller asks about something the program does not handle, they may hang up or be referred to another provider before ever going through an intake process;

• Whether and to what extent it is appropriate for a grantee to provide assistance to a client/applicant in the filing of a complaint; and

• Whether and to what extent it is appropriate for a grantee to provide assistance to a client at a grievance hearing.

With this notice, LSC is inviting expressions of interest from the interested stakeholder community to participate in a second Rulemaking Workshop. This second Workshop is intended to further explore issues identified during the first Workshop, along with identifying any issues which may not have been discussed in the first Workshop. LSC is particularly interested in soliciting further input from both client representatives and LSC programs, especially hotline-only programs and others programs where in-person contact between staff and clients/applicants is difficult or non-existent (such as in service areas with widely disbursed and rural client populations), on the issues and

challenges presented by the client grievance procedure and regulation.

Expressions of interest should be forwarded in writing to Victor M. Fortuno, Vice President & General Counsel, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007. Such expressions of interest may be alternatively sent via e-mail to [vfortuno@lsc.gov](mailto:vfortuno@lsc.gov) or via fax to 202-337-6831, but must be received by close of business on December 2, 2005. LSC will select participants shortly thereafter and will inform all those who expressed interest of whether or not they have been selected.

The Workshops will be open to public observation but only persons selected will be allowed to participate. Participants are expected to cover their own expenses (travel, lodging, etc.). LSC may consider providing financial assistance to participants for whom travel costs would represent a significant hardship and barrier to participation. Any such person should so note in his/her expression of interest for LSC's consideration.

**Victor M. Fortuno,**

*Vice President & General Counsel.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### **Endangered and Threatened Wildlife and Plants; 90-Day Finding for a Petition To List the Island Marble Butterfly as Threatened or Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the island marble butterfly (*Euchloe ausonides insulanus*) as an endangered species under the Endangered Species Act of 1973, as amended (Act). We find that the petition presents substantial scientific information indicating that listing the island marble butterfly may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species, and we will issue a 12-month finding to determine if the petitioned action is warranted. To assist and ensure that the review is comprehensive, we are soliciting information and data regarding this species.