• Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Do 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);

• Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in Georgia, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: January 14, 2014.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. 2014–02480 Filed 2–4–14; 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: Further notice of proposed rulemaking.

SUMMARY: This further notice of proposed rulemaking (FNPRM) proposes modifications to the rule under consideration by the Operations and Regulations Committee (Committee) of the Legal Services Corporation (LSC or Corporation) Board of Directors (Board). The FNPRM revises 45 CFR Part 1626, which governs restrictions on legal assistance to aliens. LSC seeks comments limited to the revisions to § 1626.4(c) and the proposed program letter to replace the Appendix to Part 1626. Additional information on the requests for comments is located in the **SUPPLEMENTARY INFORMATION** section.

DATES: Comments on § 1626.4(c) and the proposed Program Letter replacing the Appendix to Part 1626 are due March 7, 2014.

ADDRESSES: Written comments must be submitted to Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 337–6519 (fax) or *1626rulemaking@lsc.gov.* Electronic submissions are preferred via email with attachments in Acrobat PDF format. Written comments sent to any other address or received after the end of the comment period may not be considered by LSC.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1563 (phone), (202) 337–6519 (fax), *1626rulemaking@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. General Authorities, Impetus for Rulemaking, and Existing Rules

LSC's current appropriation restrictions, including those governing the assistance that may be provided to aliens, were enacted in 1996 and have been reincorporated annually with amendments. Section 504(a)(11) of the FY 1996 LSC appropriation prohibits the Corporation from providing funds to any person or entity (recipient) that provides legal assistance to aliens other than those covered by statutory exceptions. Sec. 504(a)(11), Public Law 104–134, Title V, 110 Stat. 1321, 1321–54 (1996).

In subsequent years, Congress expanded eligibility to discrete categories of aliens. In 1997, Congress passed the Kennedy Amendment, which allowed LSC recipients to use non-LSC funds to provide related legal assistance to aliens who were battered or subjected to extreme cruelty in the United States by family members. Sec. 502(a)(2)(C), Public Law 104–208, Div. A, Title V, 110 Stat. 3009, 3009–60 (1996). Congress limited the type of assistance that recipients could provide to ''legal assistance directly related to the prevention of, or obtaining relief from, the battery or cruelty described in'' regulations issued pursuant to VAWA (hereinafter ''related assistance''). Sec. 502(b)(2), Public Law 104–208, Div. A, Title V, 110 Stat. 3009–60. Congress renewed the Kennedy Amendment in the FY 1998 reincorporation and modification of the LSC appropriation restrictions. Sec. 502(a)(2)(C), Public Law 105–119, Title V, 111 Stat. 2440, 2511 (1997). Thereafter, LSC's annual appropriation has incorporated the FY 1998 restrictions by reference. *See, e.g.,* Public Law 113–6, Div. B, Title IV, 127 Stat. 198, 268 (2013) (LSC FY 2013 appropriation). The next expansions of eligibility came through the passage of the Victims of Trafficking and Violence Protection Act of 2000 (TVPA) and its progeny. Public Law 106–386, 114 Stat. 1464 (2000) (22 U.S.C. 7101 note). Through the TVPA, Congress directed the Board of Directors of LSC, along with Federal benefits granting agencies, to ''expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.'' Sec. 107(b)(1)(B), Public Law 106–386, 114 Stat. 1475 (22 U.S.C. 7105(b)(1)(B)). Congress passed the Trafficking Victims Protection Reauthorization Act (TVPRA) in 2003, which made certain family members of victims of severe forms of trafficking (''derivative T-visa holders'') eligible to receive legal services from LSC-funded recipients. Sec. 4(a)(2)(B)(i), Public Law 108–193, 117 Stat. 2875, 2877 (2003) (22 U.S.C. 7105(b)(1)(B)).

In January 2006, Congress passed the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA 2005). VAWA 2005 further amended section 502(a)(2)(C) of the FY 1998 LSC appropriation to expand the categories of aliens to whom recipients may provide related assistance by adding aliens who (1) are victims of sexual assault or trafficking in the United States; or (2) qualify for U-visas under section 101(a)(15)(U) of the Immigration and Nationality Act (INA).

Sec. 104, Public Law 109–162, 119 Stat. 2960, 2978 (2006). The U-visa provision of the INA allows aliens who are victims of one or more of the crimes listed therein and who may assist in law enforcement investigations or prosecutions related to such crimes, or who are family members of such victims, to remain in the United States for a limited period. 8 U.S.C. 1101(a)(15)(U). Additionally, VAWA 2005 removed the Kennedy Amendment's restriction on the use of LSC funds to provide representation to aliens who are eligible for services under VAWA 2005. Sec. 104(a)(1)(A), Public Law 109–162, 119 Stat. 2979–80. The amended text of section 502 is not codified, but the pertinent portion is available at *http://www.lsc.gov/about/lsc-act-other-laws/violence-against-women-act-public-law-109-162-2006.*

The final expansion of eligibility occurred in 2007. The FY 2008 LSC appropriation amended section 504(a)(11) of the FY 1996 LSC appropriation to extend eligibility for assistance to forestry workers admitted to the United States under the H–2B temporary worker provision in section 101(a)(15)(H)(ii)(b) of the INA. Sec. 540, Public Law 110–161, Div. B, Title V, 121 Stat. 1844, 1924 (2007).

LSC last revised Part 1626 in 1997. After the alienage restrictions were enacted in 1996, LSC adopted an interim rule to implement the restrictions. 61 FR 45750, Aug. 29, 1996. While this rule was pending for comment, Congress passed the Kennedy Amendment. LSC subsequently revised Part 1626 to implement the Kennedy Amendment. 62 FR 19409, Apr. 21, 1997, amended by 62 FR 45755, Aug. 29, 1997. In 2003, LSC added a list of documents establishing the eligibility of aliens for legal assistance from LSC grant recipients as an appendix to Part 1626. 68 FR 55540, Sept. 26, 2003. The appendix has not been changed since 2003.

After 1997, LSC apprised recipients through program letters of certain statutory changes expanding alien eligibility for legal assistance provided by LSC-funded recipients. Program Letter 02–5 (May 15, 2002) (TVPA); Program Letter 05–2 (Oct. 6, 2005) (TVPRA; superseded Program Letter 02–5); Program Letter 06–2 (Feb. 21, 2006) (VAWA 2005). The final rule would incorporate the policies set forth in Program Letters 05–2 and 06–2. Both letters will be superseded upon publication of the final rule and will be removed from the ''Current Program Letters'' page of LSC's Web site.

II. Procedural Background

As a result of the numerous amendments to the alien eligibility provisions of the FY 1996 LSC appropriation, the Corporation determined that rulemaking to update Part 1626 was appropriate. On April 14, 2013, the Operations and Regulations Committee (the Committee) of the LSC Board of Directors (the Board) recommended that the Board authorize rulemaking to conform Part 1626 to statutory authorizations. On April 16, 2013, the Board authorized the initiation of rulemaking.

Pursuant to the LSC Rulemaking Protocol, LSC staff prepared a proposed rule amending Part 1626 with an explanatory rulemaking options paper. On July 22, 2013, the Committee recommended that the Board approve the proposed rule for notice and comment rulemaking. On July 23, 2013, the Board approved the proposed rule for publication in the **Federal Register** for notice and comment. LSC published the notice of proposed rulemaking (the NPRM) in the **Federal Register** on August 21, 2013. 78 FR 51696, Aug. 21, 2013. The comment period remained open for sixty days and closed on October 21, 2013.

On January 23, 2014, the Committee considered the draft final rule for publication. After hearing from staff and stakeholders about changes to section 1626.4(c) in the final rule and the possible consequences of those changes, the Committee voted to recommend delaying final consideration of the rule pending an opportunity for public comment on those changes. On January 25, 2014, the Board voted to proceed with a further notice of proposed rulemaking. LSC is seeking comment on only that section of the final rule and does not anticipate revising the rest of the rule.

All of the comments and related memos submitted to the LSC Board regarding this rulemaking are available in the open rulemaking section of LSC's Web site at *http://www.lsc.gov/about/regulations-rules/open-rulemaking.* After the effective date of the rule, those materials will appear in the closed rulemaking section at *http://www.lsc.gov/about/regulations-rules/closed-rulemaking*

III. Discussion of Comments and Regulatory Provisions

LSC received fifteen comments in response to the NPRM. Eight comments were submitted by LSC-funded recipients, four were submitted by non-LSC funded non-profit organizations, and three were submitted by individuals. All of the comments are posted on the rulemaking page of LSC's Web site: *www.lsc.gov/about/regulations-rules.* Most commenters supported the revisions to conform Part 1626 to the statutes expanding eligibility for legal services to certain crime victims, victims of severe forms of trafficking, and H–2B forestry workers. LSC received the greatest number of comments in response to the three issues the Corporation specifically sought comment on: The distinction between the VAWA 2005 and TVPA definitions of ''trafficking,'' the geographic location of the predicate activity for eligibility, and the geographic location of the victim.

Organizational Note

In the final rule, definitions that the proposed rule placed in section 1626.4(c) would be moved to section 1626.2. As a result, paragraphs (d) through (g) of section 1626.4 would be relabeled as paragraphs (c) through (f). In the following discussion of the comments and the changes to the proposed rule, the relabeled paragraphs will be referred to by the number to be used in the final rule, except where the proposed rule is explicitly referenced.

Specific Areas in Which LSC Requested Comments

1. LSC Specifically Sought Comment on Whether the VAWA Term ''Trafficking'' Differed From the TVPA/TVPRA/INA Term ''Severe Forms of Trafficking,'' and, if so, How the Terms Are Different and What Evidence LSC Recipients Should Rely on in Distinguishing Between These Two Terms

LSC received seven comments in response to this request. Of the seven, one observed a trend of linking the VAWA and INA definitions of trafficking to the TVPA term ''severe forms of trafficking'' and suggested that the term ''severe forms of trafficking'' should control all uses of the term ''trafficking.'' The other six commenters generally agreed that the VAWA 2005 term ''trafficking'' differs from the term ''severe forms of trafficking'' used in the TVPA and the INA. All six of those commenters believed that ''trafficking'' as used in VAWA 2005 is a broader term than the TVPA's ''severe forms of trafficking.'' This belief applied to both the plain term ''trafficking'' in VAWA 2005 and the qualifying crime of trafficking for purposes of U-visa eligibility under section 101(a)(15)(U) of the INA. One commenter noted that ''the term 'trafficking' was included in the U-visa provisions to cover forms of human trafficking'' in which persons

were being trafficked, but would have difficulty meeting the ''severe forms of trafficking'' standard to obtain eligibility for benefits under the TVPA. By making trafficking a crime for which individuals could qualify for related legal assistance or a U-visa, the commenter continued, Congress extended ''protection and help [to] both the trafficking victims who could meet the severe forms test and those who could not.''

Commenters differed, however, in how they believed LSC should account for the difference in definitions. Five commenters recommended that LSC adopt VAWA 2005's broader term ''trafficking'' over the TVPA's ''severe forms of trafficking.'' A sixth commenter asserted that in determining eligibility, ''a LSC funded organization should be able to rely on the applicable state statute which would make the applicant eligible for a U visa or the federal statute which defines 'severe form of trafficking,' whichever is broader. Moreover, LSC funded organizations should be able to rely on any evidence that supports the applicable definition in a particular case.''

In order to qualify for a U-visa, an alien must be a victim of at least one of the types of criminal activity listed in section 101(a)(15)(U)(iii) of the INA. The listed crimes, which include ''trafficking,'' must ''violate[ ] the laws of the United States or occur[ ] in the United States (including in Indian country and military installations) or the territories and possessions of the United States[.]'' 8 U.S.C. 1101(a)(15)(U)(i)(IV). Neither the INA nor VAWA 2005 defines the term ''trafficking.''

The TVPA also fails to define ''trafficking,'' although it does define and use the terms ''severe forms of trafficking in persons'' and ''sex trafficking.'' 22 U.S.C. 7102. The TVPA defines ''sex trafficking'' as ''the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.'' 22 U.S.C. 7102(9). ''Severe forms of trafficking in persons'' means (a) ''sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age;'' or (b) ''the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.'' 22 U.S.C. 7102(8). The TVPA does not reference state, tribal, or territorial laws that criminalize trafficking.

LSC agrees with the commenters that the VAWA term ''trafficking,'' incorporating as it does crimes that would constitute trafficking if they violated state or federal law, is broader than both ''sex trafficking'' and ''severe forms of trafficking in persons'' as defined in the TVPA. Indeed, ''trafficking'' as used in VAWA 2005 would include both sex trafficking and severe forms of trafficking in persons, as both are defined as crimes by a federal law, the TVPA. For purposes of eligibility for services under section 1626.4, LSC would retain the proposed definitions of ''victim of trafficking'' and ''victim of severe forms of trafficking'' with minor revisions to track the relevant statutes more closely. The reason for using these definitions is that victims of trafficking under VAWA 2005 and victims of severe forms of trafficking under the TVPA are eligible for differing types of legal assistance. Trafficking victims eligible under VAWA may receive legal assistance related to battery, cruelty, sexual assault, or trafficking and other specified crimes, while victims of severe forms of trafficking under the TVPA may receive any legal assistance that is not otherwise restricted and is within the recipient's priorities. It is therefore important to retain the distinction between the two in order to ensure that individuals receive the legal assistance that is appropriate for their basis of eligibility.

LSC also sought comment on the types of evidence that recipients should rely on to distinguish between victims of trafficking under VAWA 2005 and victims of severe forms of trafficking under the TVPA. Only one commenter responded to this request, stating that the organization was unclear about what kind of information LSC sought. The commenter also stated that ''recipients should be able to rely on the definition in the statute that is applicable to the crime involved and evidence that meets that definition.'' In response to this comment, LSC would revise proposed section 1626.4(e), renumbered as section 1626.4(d) in the final rule, to separate the evidence that may be presented by individuals eligible for legal assistance under VAWA 2005 from forms of evidence that may be presented by victims of severe forms of trafficking under the TVPA. For individuals who claim eligibility based on being a victim of trafficking under VAWA 2005, section 1626.4(d)(2) would incorporate the list used in proposed section 1626.4(e). LSC notes that this list is nonexclusive, and that recipients may accept other types of credible evidence. Evidence may also include an application for a U-visa or evidence that the individual was granted a U-visa.

Section 1626.4(d)(3) would set forth the types of evidence that are unique to victims of severe forms of trafficking. These forms of evidence include a certification letter issued by the U.S. Department of Health and Human Services (HHS) or, in the case of a minor victim of severe forms of trafficking, an interim or final eligibility letter issued by HHS. Recipients may also call the HHS trafficking verification line at (202) 401–5510 or (866) 401–5510 to confirm that HHS has issued an alien a certification letter. HHS is the only federal agency authorized to certify victims of severe forms of trafficking to receive public benefits or to issue eligibility letters to minors. It is important to note that minors do not need to have an eligibility letter to be eligible for services. Recipients only need to determine that a minor meets the definition of a victim of severe forms of trafficking in 22 U.S.C. 7105(b)(1)(C).

2. LSC Specifically Sought Comment on the Geographic Location in Which the Predicate Activity Takes Place

LSC proposed to interpret the VAWA 2005 phrase ''victim of trafficking in the United States'' and the TVPA phrase ''victim of severe forms of trafficking in the United States'' to require that an alien be trafficked into or experience trafficking within the United States to be eligible for legal assistance from LSC-funded recipients. LSC believed that this interpretation was necessary because LSC read the qualifier ''in the United States'' to apply to the activity of trafficking, rather than to the victim of trafficking.

With regard to the geographical restriction as it applied to trafficking under VAWA 2005, LSC received eight comments. One commenter simply stated that LSC's interpretation was correct. Seven commenters disagreed with LSC's proposed interpretation, arguing in all instances that ''in the United States'' modified ''victim of trafficking'' or ''victim of severe forms of trafficking,'' rather than just ''trafficking.'' Of the commenters who disagreed with LSC's interpretation, four linked the VAWA 2005 language to the language in section 7105(b)(1)(B) of the TVPA authorizing LSC and federal benefits granting agencies to expand benefits and services to ''victims of severe forms of trafficking in the United States[.]'' These commenters understood the phrase ''in the United States'' to ''refer to the location of the victim, rather than the location of the abuse,'' and relied on the heading of section

7105(b), ''Victims in the United States,'' in support of their reading. One commenter noted that trafficking is a qualifying crime for U-visa eligibility, and that section 101(a)(15)(U) of the INA does not require that an alien have been a victim of one of the qualifying crimes within the United States to be eligible to receive a U-visa. Two commenters noted that VAWA 2005 authorizes the use of LSC funds to provide legal assistance to both ''victims of sexual assault or trafficking in the United States'' and aliens who qualify for a U-visa, which they asserted meant that even if LSC's interpretation were correct, LSC-funded recipients could still provide assistance to aliens who were victims of sexual assault or trafficking outside the United States because both crimes are qualifying crimes under section 101(a)(15)(U)(iii). The last commenter opposing LSC's interpretation observed that the VAWA 2005 amendments to section 502 made that section ''internally inconsistent.'' The commenter remarked that VAWA 2005 created two categories of eligibility—one for victims of battery, extreme cruelty, sexual assault, or trafficking ''in the United States,'' and one for aliens qualified for U-visa status, which specifically contemplates that qualifying crimes are those that ''violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States[.]'' 8 U.S.C. 1101(a)(15)(U)(i)(IV). Because trafficking is a qualifying crime for U-visa eligibility, the commenter continued, VAWA 2005 appears to treat trafficking inconsistently. Finally, the commenter noted that by treating trafficking as requiring activity to occur in the United States, but not placing the same requirement on sexual assault and domestic violence, which are also qualifying crimes for U-visa eligibility, the regulation is unnecessarily internally inconsistent.

The same seven commenters likewise opposed LSC's proposed interpretation of the TVPA term ''victims of severe forms of trafficking in the United States.'' Most of the commenters pointed to the plain language of the TVPA and the INA in support of their argument. First, they noted that the TVPA definition of ''severe form of trafficking in persons'' does not include a geographical limitation to trafficking activities that occur in the United States. Second, they assert that the title of section 107(b) of the TVPA, ''Victims in the United States,'' makes clear that it is the victims, rather than the activities, that must be in the United States. 22 U.S.C. 7105(b). Finally, they relied on the INA criteria for T-visa eligibility. In order to qualify for a T-visa, an alien must be a victim of a severe form of trafficking in persons; must be willing to cooperate with law enforcement, unable to cooperate due to physical or psychological trauma, or be under the age of 18; and must be ''physically present in the United States . . . on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking[.]'' 8 U.S.C. 1101(a)(15)(T).

LSC has considered all comments and has reviewed the relevant section of the INA, section 101(a)(15)(T). Section 101(a)(15)(T)(i)(II) requires that to qualify for a T visa, an alien must be a victim of severe forms of trafficking and be ''physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking[.]'' 8 U.S.C. 1101(a)(15)(T)(i)(II). The United States Citizenship and Immigration Service's (USCIS) information page for T nonimmigrant status reflects this language in a simplified form, stating that in order to be eligible for a T-visa, an alien must be ''in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry *due to trafficking*[.]'' Victims of Human Trafficking: T Nonimmigrant Status, *www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-human-trafficking-t-nonimmigrant-status* (emphasis added). The INA clearly requires that a victim of severe forms of trafficking be present in the United States as a result of trafficking activity in order to qualify for immigration relief, but it does not require that the trafficking itself occur within the United States.

It would be inconsistent with the plain language of the INA, VAWA 2005, and the TVPA and its progeny to require that an alien have been trafficked into or within the United States to qualify for legal assistance from an LSC-funded recipient. For this reason, and for the reasons stated by the commenters, LSC would revise the language in proposed section 1626.4(d)(1) to remove the requirement that an alien have been subjected to trafficking activity in the United States in order to be eligible to receive legal assistance from an LSC recipient.

LSC would also make two technical amendments to proposed section 1626.4(d). The first would rename proposed section 1626.4(d) ''Relationship to the United States,'' and section 1626.4(d)(1) ''Relation of activity to the United States.'' LSC would make these changes to reflect that although the criminal activity giving rise to eligibility under VAWA does not need to occur in the United States, the crime must have violated the laws of the United States. The second change would restate in section 1626.4(d)(1) the language from section 101(a)(15)(U)(i)(IV) of the INA that a listed crime must have violated the laws of the United States or occurred within the United States in order to be a qualifying crime for purposes of U-visa eligibility.

3. LSC Specifically Sought Comment Regarding Whether an Alien Must Be Physically Present in the United States To Receive Legal Assistance

LSC proposed that aliens eligible to receive legal assistance under one of the anti-abuse statutes would be eligible for such assistance regardless of whether they were present in the United States. LSC reasoned that the anti-abuse statutes, viewed collectively, did not require an alien to be present in the United States to be eligible to receive legal assistance. LSC received eight comments on this issue. Seven commenters agreed with LSC's proposed position. One commenter opposed.

The seven commenters responding in support of LSC's position generally noted that the position was consistent with section 101(a)(15)(U) of the INA, which contemplates that an alien who qualifies for U-visa relief may have been a victim of a qualifying crime that occurred outside the United States. One commenter pointed out that Congress amended VAWA to allow eligible victims to file petitions for relief from outside the United States. Another commenter remarked that victims of abuse may find themselves outside the United States for reasons related to the abuse if suffered here, and that the legal assistance provided by an LSC-funded recipient may be essential to ensuring that the victims are able to petition successfully for legal status.

The commenter opposing LSC's proposal first argued that LSC is improperly ''tying the removal of geographical presence in with the new applicability of assistance to aliens

receiving U visas.'' The commenter believed that the ability of aliens who were victims of qualifying crimes that occurred outside the United States to apply for U-visa relief from outside the United States ''has no bearing on territorial requirements for individuals receiving assistance from the VAWA amendments.'' Secondly, the commenter argued that allowing recipients to represent aliens not present in the United States would significantly increase the case work of LSC recipients and would likely lead to the expenditure of scarce resources in pursuit of frivolous petitions for immigration relief. None of the LSC recipients who commented on the NPRM indicated that they were unable to serve adequately aliens eligible under the anti-abuse statutes or were otherwise compromising their representation of other eligible clients.

LSC continues to believe that the proposed language is consistent with USCIS's interpretation of the U-visa provisions and with Congressional intent in removing the requirement that an alien have been a victim of battery, extreme cruelty, or sexual abuse in the United States. As discussed in the preceding section, however, the VAWA 2005 amendment to section 502(a)(2)(C) of the FY 1998 LSC appropriation is internally inconsistent with respect to whether victims of trafficking must be in the United States in order to be eligible for benefits. This is because the U-visa provision of the INA, which includes trafficking as a qualifying crime, contemplates that the trafficking may occur outside the United States, *see* 8 U.S.C. 1101(a)(15)(U)(i)(IV) (''the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States . . . .''), while the amendment to section 502(a)(C) uses the phrase ''victim of . . . trafficking in the United States.'' Sec. 104(a), Public Law 109–162, 119 Stat. 2960, 2979.

Because the modifier ''in the United States'' must be given some meaning, LSC is interpreting the VAWA 2005 term ''victim of . . . trafficking in the United States'' to mean that an alien who is seeking legal assistance as a victim of trafficking under VAWA does not need to show that the trafficking activity occurred in the United States, but must be present in the United States to be eligible for assistance. This reading is consistent with the reading that LSC is applying to the term ''victim of severe forms of trafficking in the United States'' in the TVPA.

Section 101(a)(15)(T)(i)(II) of the INA, discussed above, requires a victim of severe forms of trafficking to be present in the United States on account of such trafficking in order to be eligible for a T-visa. ''On account of such trafficking'' includes, but is not limited to, having been allowed entry to assist law enforcement in the investigation and prosecution of an act or perpetrator of trafficking. 8 U.S.C. 1101(a)(15)(T)(i)(II). LSC believes that this language also includes a victim of severe forms of trafficking abroad who flees into the United States to escape the trafficking. Under these circumstances, the victim is in the United States ''on account of such trafficking,'' and would be eligible for LSC-funded legal assistance.

Based on the comments received and the subsequent review of the INA, LSC would modify the language in proposed section 1626.4(d), renumbered as section 1626.4(c), to reflect the distinction between eligibility for victims of trafficking who qualify for a U-visa and those who are eligible under VAWA or under the TVPA. LSC would add subsection 1626.4(c)(2), ''Relationship of alien to the United States,'' to describe the circumstances under which an alien must be present in the United States to be eligible for legal assistance under the anti-abuse statutes. Section 1626.4(c)(2)(i) would state that victims of battery, extreme cruelty, or sexual abuse, or who are qualified for a U-visa, do not need to be present in the United States to receive legal assistance from LSC-funded recipients. Section 1626.4(c)(2)(ii) would address victims of severe forms of trafficking, who must be present in the United States on account of such trafficking to be eligible for LSC-funded legal assistance. Finally, Section 1626.4(c)(2)(iii) would address victims of trafficking under VAWA, who only need to be present in the United States to be eligible for assistance.

During the Committee meeting on January 23, 2014, LSC heard concerns from stakeholders. Two primary concerns were identified regarding the modified language in Section 1626.4(c)(2). The first concern was that the distinctions between victims of trafficking under VAWA, aliens qualified for a U-visa on the basis of trafficking, and victims of severe forms of trafficking under the TVPA in the final rule could have unintended consequences. The second concern was that the explicit reference to a presence requirement for victims of trafficking and severe forms of trafficking could be interpreted as precluding recipients from continuing to provide legal assistance to client victims of trafficking in the event the client left the United States after the commencement of services.

With respect to the first concern, stakeholders stated that while they had supported the language in the proposed rule, which did not contain a presence requirement for aliens eligible under any of the anti-abuse statutes, they were concerned that the field had not been given an opportunity to react to the language requiring that certain victims of trafficking be present in the United States to be eligible for LSC-funded legal assistance. They requested an additional opportunity to comment on the changes to Section 1626.4(c).

LSC believes that the distinctions drawn in Section 1626.4(c) are consistent with the interpretations of VAWA, the INA, and the TVPA that the agencies responsible for administering those statutes have adopted. However, LSC understands that these interpretations may not be the only reasonable interpretations. As a result of the discussion, the Committee recommended postponing consideration of the final rule to provide an opportunity for public comment on the changes to Section 1626.4(c). The comment period will be open for thirty days and run concurrently with the comment period for the proposed program letter to replace the Appendix to Part 1626.

LSC seeks comments regarding the interpretation of the phrase ''in the United States'' as it applies to the eligibility for services of victims of trafficking under VAWA and victims of severe forms of trafficking under the TVPA. LSC specifically requests comments on the application of the term that LSC has proposed in Section 1626.4(c)(2). Additionally, LSC specifically requests comments about whether the term ''in the United States'' as used in the VAWA amendments to section 502 of the FY 1996 LSC appropriation act applies solely to the qualifying crime of trafficking; to the qualifying crimes of battery, extreme cruelty, sexual assault, and trafficking; or to victims of the qualifying crimes, regardless of whether the crime itself occurred in the United States.

With respect to the second concern, Section 1626.4(c) would apply to the initial determination of an alien's eligibility for legal assistance under the anti-abuse statutes. Once services have commenced, a client's subsequent departure from the United States does not necessarily render the client ineligible to continue receiving services. Consistent with the Corporation's longstanding policy, the specific circumstances presented by the client's situation will determine whether representation may continue if the client is absent from the United States.

LSC determined in Program Letter 2000–2 that temporary absence from the United States does not change eligibility for aliens covered by the Section 1626.5 presence requirement. Similarly, LSC determined that the H–2A presence requirement does not require a client to continue to be in the United States beyond the H–2A employment in order to continue receiving legal assistance. *See* LSC Board of Directors Meeting, November 20, 1999, 49, *http://go.usa.gov/B3D9* (implementing the recommendations of the *Erlenborn Commission Report, http://go.usa.gov/B3Tj*).

General Comments

Comments not directed at a specific question or section of the regulations are discussed below.

LSC's Objective Regarding Inclusion of Eligible Aliens

LSC received comments during the open comment period and during the January 23, 2014 Committee meeting pertaining to the criteria that LSC established for determining the eligibility of victims of trafficking for legal assistance by LSC-funded entities and the inclusion or exclusion from eligibility of certain categories of aliens. LSC is addressing each of those comments in the discussion of the section giving rise to the comments. As an overall policy, LSC has drafted the regulation to give effect to Congress's intent that certain categories of aliens should be eligible to receive legal services from LSC recipients. In some cases, such as for victims of qualifying crimes under VAWA or H–2 visa holders, those services are limited to assistance related to the basis for eligibility. LSC's policy is to permit LSC recipients to provide all categories of eligible aliens with procedural assistance in the form of legal services to pursue the substantive rights, such as immigration relief, that Congress has given them.

Establishing Requirements for Recipient Compliance With VAWA 2005

One commenter expressed concern that the regulatory language used to expand eligibility to the categories of aliens covered by VAWA 2005 was too weak. The commenter stated that VAWA 2005 and its subsequent reauthorization acts generally contain provisions requiring DHS to issue regulations and entities receiving funding through VAWA 2005 to take certain actions within prescribed time limits after passage of the statute. The commenter recommended that LSC revise the final rule to require that recipients

- Include in their next funding or renewal of funding applications a copy of their written plans for implementing the changes called for in the final rule;
- Identify and consult with domestic violence, sexual assault, and victim services programs working to serve immigrant crime victims in the recipient's service area; and
- Submit with each funding application a copy of the recipient's plan implementing section 1626.4, including a statement of the work the recipient has done to conduct outreach to, consult with, and collaborate with victim services providers with expertise providing assistance to underserved populations.

VAWA 2005 amended section 502 of the FY 1996 LSC appropriation to authorize LSC recipients to provide legal assistance, using LSC funds or non-LSC funds, to alien victims of battery, extreme cruelty, sexual assault, or trafficking in the United States, and aliens qualified for a U-visa. VAWA 2005 does not require LSC to undertake any actions to implement the expanded authority, nor does it require LSC funding recipients to provide legal assistance to the new categories of eligible aliens. Because VAWA 2005 places no obligations on either LSC or its recipients and contains no timeframes within which they must take action, LSC would not place implementation requirements on its recipients.

Publication of Interlineated Statute

One commenter recommended that LSC should publish an interlineated statute showing the changes to section 502 of the FY 1996 LSC appropriation made by VAWA 2005 and republish an updated version each time it is amended. LSC publishes interlineated versions of the relevant statutes on the LSC Web site (*http://www.lsc.gov/about/lsc-act-other-laws/lsc-appropriations-acts-committee-reports*) and updates the page as necessary to reflect changes to the statutes. LSC believes that its practice of posting the interlineated statutes on its Web site addresses the commenter's recommendation and is sufficient to address changes to the laws affecting LSC and its recipients until the Corporation can undertake any necessary rulemaking.

Correcting Incorrect References

One commenter noted that the NPRM incorrectly referred to the ''Customs and Immigration Service,'' rather than the agency's proper name, ''Citizenship and Immigration Service.'' The references would be corrected.

Extension of the Comment Period

Four commenters recommended that LSC extend the comment period to allow other interested organizations the opportunity to comment. The commenters were three LSC-funded recipients and one national non-profit. Commenters stated that they had learned of the rulemaking shortly before the close of the comment period and that they believed the complex nature of the issues raised by the rulemaking required additional time to develop proper responses.

LSC does not believe an extension of the comment period for the August 21, 2013 NPRM is warranted. The comment period was open for sixty days, and recipients were advised of the rulemaking via email the day the NPRM was published in the **Federal Register**. For the three specific questions on which LSC sought comment, commenters overwhelmingly reached the same conclusion. On the other issues for which comments were received, commenters generally made the same recommendation. None of the four commenters requesting an extension identified any specific issue they intended to address if given additional time to respond. For these reasons, LSC does not believe it is necessary to reopen the comment period; however, as discussed previously, LSC is seeking public comments on revisions to Section 1626.4(c) only.

Section-by-Section Discussion of Comments and the Final Rule

Proposed 1626.2 Definitions

1. *Comment:* One commenter stated that the list of anti-abuse statutes in section 1626.2(f) was incomplete. The commenter recommended adding the battered spouse waiver in the Immigration and Nationality Act (INA), 8 U.S.C. 1186a(c)(4)(C), the 2013 VAWA reauthorization, and the 2005, 2008, and 2013 reauthorizations of the TVPA to the list.

Response: As a matter of law, LSC does not have the authority to extend eligibility for legal assistance provided by LSC-funded recipients to aliens eligible for the battered spouse waiver under 8 U.S.C. 1186a(c)(4)(C). Of the statutes reauthorizing VAWA and the TVPA, only the 2005 VAWA reauthorization and the TVPRA of 2003 affected the eligibility of certain aliens to receive legal assistance from LSC-funded providers. LSC will revise the references to VAWA and the TVPA to

indicate that LSC considers those statutes, as amended, as the anti-abuse statutes.

LSC would make several changes to section 1626.2. In the final rule, LSC would move the definitions of ''battered or extreme cruelty,'' ''victim of sexual assault or trafficking,'' ''victim of severe forms of trafficking,'' and ''qualifies for immigration relief'' to section 1626.2 from proposed section 1626.4(c) to consolidate definitions in Part 1626 for ease of reference and delete proposed section 1626.4(c). LSC believes that removing the definitions from the operational text of section 1626.4 will improve the readability and comprehensibility of the rule.

With respect to the definition of ''battered or extreme cruelty,'' LSC would reinstate the definition used in existing subsection 1626.2(f) in the final rule. LSC determined that the cross-reference to agency regulations defining the term did not clarify or add anything to the existing definition and could result in confusion if agencies differed in their definitions of the term.

The Corporation would also insert a definition for the term ''certification.'' ''Certification'' is a term created by the TVPA and is defined at 22 U.S.C. 7105(b)(1)(E). Certification refers to the determination made by the Secretary of HHS that an individual was subjected to severe forms of trafficking, is willing to provide all reasonable assistance to law enforcement in the investigation or prosecution of a trafficker, and has either filed a bona fide application for a T-visa that has not been rejected or has been granted continued presence to assist law enforcement by DHS.

In the final rule, LSC would make a technical amendment to the definition of ''victim of sexual assault.'' In the NPRM, proposed section 1626.4(c)(2)(i) defined ''a victim of sexual assault'' as an individual ''subjected to any conduct included in the definition of sexual assault or sexual abuse in VAWA, including but not limited to sexual abuse, aggravated sexual abuse, abusive sexual contact, or sexual abuse of a minor or ward[.]'' However, the term ''sexual abuse'' is not defined in VAWA, and the VAWA definition of ''sexual assault'' does not track the examples provided in the proposed definition. To avoid confusion, LSC would revise the definition to remove the reference to a definition of ''sexual abuse'' in VAWA and adopt by incorporation the VAWA definition of ''sexual assault.''

Finally, LSC would alphabetize the definitions in section 1626.2 for ease of reference.

Proposed 1626.3 Prohibition

LSC received no comments on the proposed technical corrections to this section.

Proposed 1626.4 Aliens Eligible for Assistance Under Anti-Abuse Laws

As stated earlier in this preamble, LSC would delete proposed section 1626.4(c) and move the definitions contained therein to section 1626.2. Proposed subsections 1626.4(d) through (g) will be renumbered as subsections 1626.4(c) through (f) in the final rule.

Proposed 1626.4(a)(2) Legal Assistance to Victims of Severe Forms of Trafficking and Certain Family Members

Paragraph (a)(2) would incorporate the policies established in Program Letter 02–5 and Program Letter 05–2. Individuals eligible for legal assistance under the TVPA and the 2003 TVPRA include individuals applying for certification as victims of severe forms of trafficking and certain family members seeking immigration relief under section 101(a)(15)(T)(ii) of the INA (8 U.S.C. 1101(a)(15)(T)(ii)).

Proposed 1626.4(b)(2) Types of Cases Constituting ''Related Legal Assistance''

1. *Comment:* One commenter suggested that LSC include within ''related legal assistance'' assistance ensuring that clients are protected by the privacy and confidentiality provisions of VAWA 2005 and are able to access the protections and benefits of education laws, including access to post-secondary educational grants and loans. According to the commenter, ''a significant component of effective representation of sexual assault victims and domestic violence victims in many cultural communities is ensuring privacy and confidentiality.'' Additionally, ''access to educational benefits and remedies under education laws to address the subsequent problems that stem from the abuse and accommodations sexual assault survivors may need in the educational context'' is an integral part of helping immigrant victims of sexual assault to move on with their lives, to stay in school, and to settle successfully in the United States.

By email dated November 25, 2013, LSC sought additional information from the commenter explaining the types of related legal assistance the commenter believed LSC recipients could provide in the context of VAWA confidentiality and privacy provisions. The commenter responded by email on December 13, 2013 with examples of assistance. The examples included ''preventing discovery of shelter records or mental health records of a victim in a custody, protection order, or criminal court proceeding,'' ''assistance with change of identity for crime victims who are witnesses eligible to participate in victim protection programs,'' and keeping information about the victim's immigration status and information contained in a victim's application for immigration relief under VAWA, 8 U.S.C. 1101(a)(15)(T), or 8 U.S.C. 1101(a)(15)(U), out of a family court case.

Response: LSC would retain the language in the proposed rule. LSC intended the examples of ''related legal assistance,'' including the list in the parenthetical, to be illustrative rather than exhaustive. LSC understands that there may be types of assistance, including assistance protecting confidentiality and privacy rights or ensuring access to education, that may constitute ''related legal assistance.'' The key factor for recipients to consider in determining whether a requested service is ''related legal assistance'' is the connection between the assistance and the purposes for which assistance can be given: escaping abuse, ameliorating the effects of the abuse, or preventing future abuse. To the extent that ensuring clients are protected by the privacy and confidentiality provisions of VAWA and the protections and benefits of education laws is necessary to help the clients escape, ameliorate the effects of, or prevent future abuse, legal assistance to secure those protections and benefits would constitute ''related legal assistance.''

Proposed 1626.4(c) Definitions of Categories of Eligible Aliens Under Anti-Abuse Statutes

As stated in the discussion of section 1626.2, LSC would delete this section and move the definitions to section 1626.2.

Proposed 1626.4(e) Evidentiary Support

1. *Comment:* LSC received four comments regarding the types of evidence that recipients may consider in support of a showing that an alien is eligible for legal assistance under one of the anti-abuse statutes. All of the comments supported the use of the list of evidentiary types taken directly from VAWA.

Response: LSC would retain the proposed text of section 1626.4(e) with respect to types of evidentiary support.

2. *Comment:* One commenter recommended that LSC revise proposed paragraphs (e) and (f) to ''clearly state that where programs may represent

individuals without regard to their citizenship or immigration status . . . programs are not required to inquire into the citizenship or immigration status of these clients.'' Another commenter similarly suggested that LSC should include language in the final rule shifting the eligibility focus at intake from citizenship or eligible alien status to victimization.

Response: LSC would retain the language of the proposed rule. VAWA 2005 authorizes, rather than requires, LSC funds to be used to represent victims of battery, extreme cruelty, sexual assault, and trafficking, or aliens who are qualified for a U-visa. Recipients are responsible for setting their own priorities and may choose not to prioritize the types of assistance that are authorized under VAWA 2005. LSC believes that recipients should retain the discretion to conduct their intake processes in the ways that they determine are the most effective at identifying clients who are eligible for services and whose cases are within the recipients' priority areas.

LSC reminds recipients that Advisory Opinion AO–2009–1008 addressed the question whether recipients must determine the immigration status of aliens who qualify for assistance under one of the anti-abuse statutes. In that opinion, the Office of Legal Affairs stated that once a recipient determined that an individual has a legal need that would qualify for the exceptions of the anti-abuse statutes to the alienage requirement, the recipient does not need to inquire into the citizenship or immigration status of that individual. The final rule does not affect the validity of the conclusion stated in AO–2009–1008.

3. *Comment:* Two commenters recommended revising the examples of changes in eligibility in section 1626.4(e). One recommended including examples of when an alien's eligibility for legal assistance may change from eligibility under an anti-abuse statute to eligibility by reason of the alien's immigration status and vice versa in the preamble to the final rule. The other recommended removing or revising the examples in section 1626.4. The commenter believed that the examples provided in proposed section 1626.4(e) were ''problematic'' because they suggested that an individual whose application for status was rejected would subsequently be deemed ineligible to receive legal assistance under the anti-abuse statutes or they were too vague about which component of the Department of Homeland Security (DHS) made the determination of ineligibility and at which stage of review the determination of ineligibility was made. The commenter also opined that the requirement in the draft rule and in Program Letter 06–2 that recipients terminate representation of an individual once DHS issued a final denial of the individual's petition for a U-visa is without basis in law. The commenter reasoned that the VAWA 2005 amendment to section 502 of the FY 1996 LSC appropriation based eligibility for services on an individual's ''qualifying'' for a U-visa, which the commenter stated ''arguably applies when there is a need for corrected documents or there is after-acquired evidence.''

Response: LSC would remove the examples from the text of the regulation. However, LSC wishes to clarify two points in response to the comments. The existing regulation defines ''rejected'' as ''an application that has been denied by DHS and is not subject to further administrative appeal. In the example of the ''final denial'' of a petition for a U-visa, LSC did not intend to create ambiguity and should have used the regulatory term ''rejected.''

With respect to subsequent eligibility, LSC did not intend the examples to suggest that an individual whose application for status was rejected because of insufficient or incomplete evidence would be ineligible for related legal assistance at a later date if the individual returned with additional evidence that he or she was a victim of battery or extreme cruelty, sexual assault, trafficking, or one of the qualifying crimes for a U-visa. The example was intended only to explain how an individual's eligibility for services may change when the application in connection with which the individual qualified for services is rejected.

LSC is sensitive to the difficulties that alien victims of abuse may have in developing and documenting credible evidence of the abuse. For purposes of eligibility, however, LSC's policy is that once the petition for a U-visa upon which an individual was determined to be eligible for services has been rejected and no further avenues of appeal are available for that petition, the individual must be deemed not qualified for a U-visa and the recipient must terminate representation consistent with applicable rules of professional responsibility unless there is another basis upon which the alien can be found eligible. The individual may be found eligible for services based on qualifying for a U-visa at a later time if the individual can provide additional evidence supporting his or her claim for eligibility.

LSC would remove the statement at the end of proposed section 1626.4(e) that recipient staff should review the evidence presented at intake to support an individual's basis for eligibility under the anti-abuse statutes. Upon further consideration, LSC determined that this sentence was unduly prescriptive about how recipients assess eligibility and appeared to set up a different rule for reviewing eligibility under the anti-abuse statutes. Recipients should have mechanisms in place for evaluating a client's continued eligibility for services, regardless of the basis of eligibility

Proposed 1626.4(f) Recordkeeping

1. *Comment:* Two commenters opposed the requirement in proposed paragraphs (f)(1) and (f)(2) that if an alien provides a visa or visa application as evidence to support his eligibility for legal services under the anti-abuse statutes, the recipient must keep a copy of the document in its files. One commenter noted that the requirement was a change in LSC policy, which currently does not require applicants to keep copies of immigration documents to prove alien eligibility. The other commenter stated that such a requirement is contrary to ''motivations and the direction of the evolution of federal VAWA confidentiality law.'' The commenter described the confidentiality provisions of VAWA as protecting not only the information contained within a VAWA, T, or U visa application, but also as preventing a third party from obtaining information about the existence of such applications except in certain carefully circumscribed cases.

Response: LSC agrees with these comments. In the final rule, LSC would replace proposed subparagraph (f) with language substantially similar to existing subsection (b): ''Recipients are not required by § 1626.12 to maintain records regarding the immigration status of clients represented pursuant to this section.'' The Corporation would include a sentence in the final rule stating that if an alien presents an immigration document as evidence of eligibility under the anti-abuse statutes, recipients shall document eligibility under the anti-abuse statutes by making a note in the client's file stating that the recipient has seen the visa or the application for a visa that supports the recipient's claim for eligibility and identifying the type of document, the applicant's alien registration number (''A number''), the date of the document, and the date of the review. The note should be signed by the staff member who reviewed the document. LSC understands the confidentiality

concerns that this approach may raise; however, recipients must be able to document the basis for an individual's eligibility. In the event an alien presents an immigration document, LSC believes that documenting the basis for eligibility by recording the type of immigration document presented is reasonable and accommodates the commenters' concern.

Proposed Section 1626.4(g) Changes in Basis for Eligibility

Because LSC would delete paragraph (c), this subsection would be relocated to paragraph (f). No other changes would be made to this subsection.

Proposed 1626.5 Aliens Eligible for Assistance Based on Immigration Status

1. *Comment:* LSC received four comments regarding proposed section 1626.5(e). The proposed change to this section updated the reference to withholding of removal under section 243(h) of the INA to section 241(b)(3) of the INA to reflect the transfer of the provision from one section of the INA to the other. The comments were substantially similar in their recommendation and rationale. The commenters recommended that persons granted withholding of deportation under prior section 243(h) of the INA should not be removed from the regulation because some persons are still subject to deportation proceedings or orders of deportation and cannot obtain withholding of removal under section 241(b)(3) of the INA.

Response: LSC made this change to the rule to reflect an update to the INA. Further research showed that Congress intended individuals with orders of exclusion or deportation to be treated the same as individuals with orders of removal. In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Congress recharacterized the actions of deportation (expulsion from the United States) and exclusion (barring from entry into the United States) into a single action—removal. Sec. 304, Public Law 104–208, Div. C, Tit. III, 110 Stat. 3009–589 (1996) (8 U.S.C. 1229a) (establishing ''removal proceedings'' as the proceedings in which an immigration judge would decide the admissibility or deportability of an alien); *see also* 8 U.S.C. 1229(e)(2) (defining ''removable'' to mean that an alien is either inadmissible under section 212 of the INA or deportable under section 237 of the INA); Sec. 308, Public Law 104–208, Div. C, Tit. III, 110 Stat. 3009–614–3009–625 (amending various sections of the INA to change references to ''deportation'' or ''exclusion'' to ''removal''). Section 309(d)(2) of IIRIRA explicitly states that for carrying out the purposes of the INA, ''any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.'' Sec. 309(d)(2), Public Law 104–208, Div. C, Tit. III, 110 Stat. 3009–627 (8 U.S.C. 1101 note).

LSC does not believe that, when Congress passed IIRIRA, it intended to bar individuals granted withholding of deportation under prior section 243(h) of the INA from continued eligibility for legal services from an LSC-funded recipient. Rather, the various provisions in IIRIRA consolidating ''deportation'' and ''exclusion'' under the umbrella of ''removal,'' combined with the deeming provision in section 309(d)(2), suggest that Congress intended the rights, remedies, and obligations attending deportation and exclusion to carry over to removal. Consequently, LSC would accept the comment and would revise section 1626.5(e) to restore the references to individuals who received withholding of deportation under prior INA section 243(h).

2. *Comment:* The same four commenters recommended that LSC include in section 1626.5 ''withholding of removal under the Convention Against Torture (CAT)'' and ''deferral of removal under CAT'' as bases for eligibility. Their reasons for the recommendation were twofold. First, withholding and deferral of removal under the CAT are ''extremely similar'' to withholding of deportation or removal under either prior section 243(h) or current section 241(b) of the INA because each type of withholding is intended to prevent an individual from being involuntarily returned to a country where his or her life or freedom would be endangered. The second reason was a practical one—that individuals may not have documentation specifying which type of withholding of removal they have received. The commenters stated that USCIS uses the same code for all three types of withholding.

Response: LSC is sensitive to the fact that individuals who have obtained withholding of removal under the CAT may need legal assistance in much the same way that individuals who have received withholding of removal under section 243(h) of the INA or deportation under prior section 241(b) of the INA do. However, Congress has not authorized LSC to extend eligibility to individuals who have obtained withholding of removal under the CAT. Because LSC has neither the authority nor the discretion to extend eligibility for LSC-funded legal assistance to these individuals, LSC would retain the text from the proposed rule.

LSC would make a technical amendment to section 1626.5(c). The first sentence of the section states that an alien who has been granted asylum by the Attorney General under Section 208 of the INA is eligible for assistance. LSC would insert the phrase ''or the Secretary of DHS'' to reflect the fact that Section 208 of the INA, 8 U.S.C. 1158, has been amended to give the Secretary of DHS the authority to grant asylum, in addition to the Attorney General. Sec. 101(a)(1), (2), Public Law 109–13; 119 Stat. 231, 302 (2005).

Proposed 1626.6 Verification of Citizenship

No comments were received on the proposed changes to this section.

Proposed 1626.7 Verification of Eligible Alien Status

LSC received comments on the proposal to remove the appendix to Part 1626 and publish the contents as a program letter or equivalent document, which will be discussed in the section on the appendix. LSC received no comments on the other proposed changes to this section.

Proposed 1626.8 Emergencies

No comments were received on the proposed changes to this section.

Proposed 1626.11 H–2 Forestry and Agricultural Workers

1. *Comment:* LSC received two comments in response to the proposed revisions to section 1626.11. LSC proposed to amend section 1626.11 to add H–2B forestry workers as a new category of aliens eligible for legal assistance from LSC-funded recipients, consistent with the FY 2008 LSC appropriation's amendment to section 504(a)(11)(E) of the FY 1996 LSC appropriation. Both comments supported the amendment, stating that the ability to represent H–2A agricultural and H–2B forestry workers enables recipients to engage more fully in investigating and enforcing labor laws, particularly wage and conditions laws. One commenter recommended that Congress should act to expand eligibility for LSC-funded legal assistance to ''all low-income workers, regardless of their immigration status.''

Response: LSC appreciates the comments in support of the revisions to section 1626.11.

LSC would make technical amendments to sections 1626.11(a) and (b) in the final rule. The original version of section 1626.11 stated that

agricultural workers ''admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)'' were eligible for legal assistance related to certain issues arising under the workers' employment contracts. 53 FR 40194, 40196, Oct. 19, 1988 (NPRM); 54 FR 18109, 18112, Apr. 27, 1989 (final rule). This language omitted the full relevant text of the statute that made nonimmigrant workers ''admitted to, *or permitted to remain in the United States under,*'' 8 U.S.C. 1101(a)(15)(h)(ii)(A) eligible for legal services. Sec. 305, Public Law 99–603, 100 Stat. 3359, 3434 (1986) (emphasis added). Congress used the same ''admitted to, or permitted to remain in'' language when it expanded eligibility to H–2B forestry workers. Sec. 540, Public Law 110–161, Div. B, Title V, 121 Stat. 1844, 1924 (2007). This same omission was made in the NPRM for this rule. 78 FR 51696, 51704, Aug. 21, 2013. The omission of this language was an oversight and LSC would amend sections 1626.11(a) and (b) to include it.

Proposed Appendix to Part 1626—Examples of Documents and Other Information Establishing Alien Eligibility for Representation by LSC Programs

1. *Comment:* LSC received seven comments in response to the proposal to remove the appendix to Part 1626 and instead publish the list of documents establishing alien eligibility as program letters or equivalent policy documents. Six commenters supported the proposal, and one commenter objected. The six commenters supporting the proposal agreed with LSC's assessment that the frequently changing nature of immigration documents and forms requires a more flexible means of disseminating up-to-date information to LSC recipients than the rulemaking procedure allows. One of the comments in support, however, recommended that LSC publish the initial program letter for public comment and establish a comment and feedback procedure for issuance of subsequent program letters. The desire for notice and comment was reflected in the one comment opposing the proposal. The commenter opposing the removal of the appendix asserted that experienced immigration practitioners are often in the best position to understand fully the types of documentation that can adequately demonstrate an eligible alien status. The commenter stated that because rulemaking is the only way to ensure an opportunity for public comment and obtaining public comment is consistent with LSC's policy of engaging in open dialogue with its stakeholders, LSC should continue publishing the list of documentary evidence as the Appendix to Part 1626.

Response: LSC agrees that practitioner input is essential to ensuring that the list of documents and other evidence of alien eligibility is complete, accurate, and useful. As stated in the preamble to the NPRM, LSC is publishing the initial program letter replacing the Appendix to Part 1626 under the LSC Rulemaking Protocol. The Rulemaking Protocol requires the Corporation to provide a comment period of at least thirty days for any regulatory changes that occur through notice and comment rulemaking. 67 FR 69762, 69764, Nov. 19, 2002. LSC does not intend that removal of the list of documents from the regulation will limit the ability of recipients to provide input into future versions of the list.

The program letter replacing the Appendix to Part 1626 is being published for public comment along with this FNPRM. The comment period will be open for thirty days from the date of publication in the **Federal Register**.

List of Subjects in 45 CFR Part 1626

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

For the reasons discussed in the preamble, the Legal Services Corporation proposes to revise 45 CFR part 1626 to read as follows:

PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

Sec.

Authority: 42 U.S.C. 2996g(e).

§ 1626.1 Purpose.

This part is designed to ensure that recipients provide legal assistance only to citizens of the United States and eligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance.

§ 1626.2 Definitions.

(a) *Anti-abuse statutes* means the Violence Against Women Act of 1994, Pub. L. 103–322, 108 Stat. 1941, as amended, and the Violence Against Women and Department of Justice Reauthorization Act of 2005, Public Law 109–162, 119 Stat. 2960 (collectively referred to as ''VAWA''); Section 101(a)(15)(U) of the INA, 8 U.S.C. 1101(a)(15)(U); and the incorporation of these statutory provisions in section 502(a)(2)(C) of LSC's FY 1998 appropriation, Pub. L. 105–119, Title V, 111 Stat. 2440, 2510 as incorporated by reference thereafter; the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386, 114 Stat. 1464 (''TVPA''), as amended; and Section 101(a)(15)(T) of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1101(a)(15)(T).

(b) *Battered or subjected to extreme cruelty* includes, but is not limited to, being the victim, of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury. Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor), or forced prostitution may be considered acts of violence. Other abusive actions may also be acts of violence under certain circumstances, including acts that, in and of themselves, may not initially appear violent but that are a part of an overall pattern of violence.

(c) *Certification* means the certification prescribed in 22 U.S.C. 7105(b)(1)(E).

(d) *Citizen* means a person described or defined as a citizen or national of the United States in 8 U.S.C. 1101(a)(22) and Title III of the Immigration and Nationality Act (INA), Chapter 1 (8 U.S.C. 1401 *et seq.*) (citizens by birth) and Chapter 2 (8 U.S.C. 1421 *et seq.*) (citizens by naturalization) or antecedent citizen statutes.

(e) *Eligible alien* means a person who is not a citizen but who meets the requirements of § 1626.4 or § 1626.5.

(f) *Ineligible alien* means a person who is not a citizen and who does not meet the requirements of § 1626.4 or § 1626.5.

(g) *On behalf of* an ineligible alien means to render legal assistance to an eligible client that benefits an ineligible alien and does not affect a specific legal right or interest of the eligible client.

(h)(1) *Qualifies for immigration relief under section 101(a)(15)(U) of the INA* means:

(i) A person who has been granted relief under that section;

(ii) A person who has applied for relief under that section and who the recipient determines has evidentiary support for such application; or

(iii) A person who has not filed for relief under that section, but who the recipient determines has evidentiary support for filing for such relief.

(2) A person who ''qualifies for immigration relief'' includes any person who may apply for primary U visa relief under subsection (i) of section 101(a)(15)(U) of the INA or for derivative U visa relief for family members under subsection (ii) of section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)). Recipients may provide assistance for any person who qualifies for derivative U visa relief regardless of whether such a person has been subjected to abuse.

(i) *Rejected* refers to an application for adjustment of status that has been denied by DHS and is not subject to further administrative appeal.

(j) *Victim of severe forms of trafficking* means any person described at 22 U.S.C. 7105(b)(1)(C).

(k) *Victim of sexual assault or trafficking* means:

(1) *A victim of sexual assault* subjected to any conduct included in the definition of sexual assault in VAWA, 42 U.S.C. 13925(a)(29); and

(2) *A victim of trafficking* subjected to any conduct included in the definition of ''trafficking'' under law, including, but not limited to, local, state, and federal law, and T-visa holders regardless of certification from the U.S. Department of Health and Human Services (HHS).

(l) *United States,* for purposes of this part, has the same meaning given that term in 8 U.S.C. 1101(a)(38) of the INA.

§ 1626.3 Prohibition.

Recipients may not provide legal assistance for or on behalf of an ineligible alien. For purposes of this part, legal assistance does not include normal intake and referral services.

§ 1626.4 Aliens eligible for assistance under anti-abuse laws.

(a) Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law:

(1) A recipient may provide related legal assistance to an alien who is within one of the following categories:

(i) An alien who has been battered or subjected to extreme cruelty, or is a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)); or

(ii) An alien whose child, without the active participation of the alien, has been battered or subjected to extreme cruelty, or has been a victim of sexual assault or trafficking in the United States, or qualifies for immigration relief under section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)).

(2)(i) A recipient may provide legal assistance, including but not limited to related legal assistance, to:

(A) An alien who is a victim of severe forms of trafficking of persons in the United States, or

(B) An alien classified as a non-immigrant under section 101(a)(15)(T)(ii) of the INA (8 U.S.C. 1101(a)(15)(T)(ii) regarding others related to the victim).

(ii) For purposes of this part, aliens described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section include individuals seeking certification as victims of severe forms of trafficking and certain family members applying for immigration relief under 8 U.S.C. 1101(a)(15)(T)(ii).

(b) (1) *Related legal assistance* means legal assistance directly related:

(i) To the prevention of, or obtaining relief from, the battery, cruelty, sexual assault, or trafficking;

(ii) To the prevention of, or obtaining relief from, crimes listed in section 101(a)(15)(U)(iii) of the INA (8 U.S.C. 1101(a)(15)(U)(iii));

(iii) To an application for relief:

(A) Under Section 101(a)(15)(U) of the INA (8 U.S.C. 1101(a)(15)(U)); or

(B) Under section 101(a)(15)(T) of the INA (8 U.S.C. 1101(a)(15)(T)).

(2) Such assistance includes representation in matters that will assist a person eligible for assistance under this part to escape from the abusive situation, ameliorate the current effects of the abuse, or protect against future abuse, so long as the recipient can show the necessary connection of the representation to the abuse. Such representation may include immigration law matters and domestic or poverty law matters (such as obtaining civil protective orders, divorce, paternity, child custody, child and spousal support, housing, public benefits, employment, abuse and neglect, juvenile proceedings and contempt actions).

(c) *Relationship to the United States.* (1) *Relation of activity to the United States.* An alien is eligible under this section if the activity giving rise to eligibility violated a law of the United States, regardless of where the activity occurred, or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States.

(2) *Relationship of alien to the United States.* (i) An alien defined in § 1626.2(b), (h), or (k)(1) need not be present in the United States to be eligible for assistance under this section.

(ii) An alien defined in § 1626.2(j) must be present in the United States on account of such trafficking to be eligible for assistance under this section.

(iii) An alien defined in § 1626.2 (k)(2) must be present in the United States to be eligible for assistance under this section.

(d) *Evidentiary support.* (1) *Intake and subsequent evaluation.* A recipient may determine that an alien is qualified for assistance under this section if there is evidentiary support that the alien falls into any of the eligibility categories or if the recipient determines there will likely be evidentiary support after a reasonable opportunity for further investigation. If the recipient determines that an alien is eligible because there will likely be evidentiary support, the recipient must obtain evidence of support as soon as possible and may not delay in order to provide continued assistance.

(2) *Documentary evidence.* Evidentiary support may include, but is not limited to, affidavits or unsworn written statements made by the alien; written summaries of statements or interviews of the alien taken by others, including the recipient; reports and affidavits from police, judges, and other court officials, medical personnel, school officials, clergy, social workers, other social service agency personnel; orders of protection or other legal evidence of steps taken to end abuse; evidence that a person sought safe haven in a shelter or similar refuge; photographs; documents or other evidence of a series of acts that establish a pattern of qualifying abuse.

(3) *Victims of severe forms of trafficking.* Victims of severe forms of trafficking may present any of the forms of evidence listed in paragraph (d)(2) of this section or any of the following:

(i) A certification letter issued by the Department of Health and Human Services (HHS).

(ii) Verification that the alien has been certified by calling the HHS trafficking verification line, (202) 401–5510 or (866) 401–5510.

(iii) An interim eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18.

(iv) An eligibility letter issued by HHS, if the alien was subjected to severe forms of trafficking while under the age of 18.

(e) *Recordkeeping.* Recipients are not required by § 1626.12 to maintain

records regarding the immigration status of clients represented pursuant to this section. If a recipient relies on an immigration document for the eligibility determination, the recipient shall document that the alien presented an immigration document by making a note in the client's file stating that a staff member has seen the document, the type of document, the client's alien registration number (''A number''), the date of the document, the date of the review, and containing the signature of the staff member that reviewed the document.

(f) *Changes in basis for eligibility.* If, during the course of representing an alien eligible pursuant to § 1626.4(a)(1), a recipient determines that the alien is also eligible under § 1626.4(a)(2) or § 1626.5, the recipient should treat the alien as eligible under that section and may provide all the assistance available pursuant to that section.

§ 1626.5 Aliens eligible for assistance based on immigration status.

Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law, a recipient may provide legal assistance to an alien who is present in the United States and who is within one of the following categories:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by section 101(a)(20) of the INA (8 U.S.C. 1101(a)(20));

(b) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 of such a citizen and who has filed an application for adjustment of status to permanent resident under the INA, and such application has not been rejected;

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the INA (8 U.S.C. 1157) (relating to refugee admissions) or who has been granted asylum by the Attorney General or the Secretary of DHS under section 208 of the INA (8 U.S.C. 1158).

(d) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the INA (8 U.S.C. 1153(a)(7), as in effect on March 31, 1980) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(e) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation or exclusion under section 243(h) of the INA (8 U.S.C. 1253(h), as in effect on Apr. 16, 1996) or withholding of removal pursuant to section 241(b)(3) of the INA (8 U.S.C. 1231(b)(3)); or

(f) An alien who meets the requirements of § 1626.10 or § 1626.11.

§ 1626.6 Verification of citizenship.

(a) A recipient shall require all applicants for legal assistance who claim to be citizens to attest in writing in a standard form provided by the Corporation that they are citizens, unless the only service provided for a citizen is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation.

(b) When a recipient has reason to doubt that an applicant is a citizen, the recipient shall require verification of citizenship. A recipient shall not consider factors such as a person's accent, limited English-speaking ability, appearance, race, or national origin as a reason to doubt that the person is a citizen.

(1) If verification is required, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct, and authentic of any of the following documents as evidence of citizenship:

(i) United States passport;

(ii) Birth certificate;

(iii) Naturalization certificate;

(iv) United States Citizenship Identification Card (INS Form 1–197 or I–197); or

(v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) A recipient may also accept any other authoritative document, such as a document issued by DHS, by a court, or by another governmental agency, that provides evidence of citizenship.

(3) If a person is unable to produce any of the above documents, the person may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

§ 1626.7 Verification of eligible alien status.

(a) An alien seeking representation shall submit appropriate documents to verify eligibility, unless the only service provided for an eligible alien is brief advice and consultation by telephone, or by other non-in-person means, which does not include continuous representation of a client.

(1) As proof of eligibility, a recipient may accept originals, certified copies, or photocopies that appear to be complete, correct, and authentic, of any documents establishing eligibility. LSC will publish a list of examples of such documents from time to time, in the form of a program letter or equivalent.

(2) A recipient may also accept any other authoritative document issued by DHS, by a court, or by another governmental agency, that provides evidence of alien status.

(b) A recipient shall upon request furnish each person seeking legal assistance with a current list of documents establishing eligibility under this part as is published by LSC.

§ 1626.8 Emergencies.

In an emergency, legal services may be provided prior to compliance with § 1626.4, § 1626.6 and § 1626.7 if:

(a) An applicant cannot feasibly come to the recipient's office or otherwise transmit written documentation to the recipient before commencement of the representation required by the emergency, and the applicant provides oral information to establish eligibility which the recipient records, and the applicant submits the necessary documentation as soon as possible; or

(b) An applicant is able to come to the recipient's office but cannot produce the required documentation before commencement of the representation, and the applicant signs a statement of eligibility and submits the necessary documentation as soon as possible; and

(c) The recipient informs clients accepted under paragraph (a) or (b) of this section that only limited emergency legal assistance may be provided without satisfactory documentation and that, if the client fails to produce timely and satisfactory written documentation, the recipient will be required to discontinue representation consistent with the recipient's professional responsibilities.

§ 1626.9 Change in circumstances.

If, to the knowledge of the recipient, a client who was an eligible alien becomes ineligible through a change in circumstances, continued representation is prohibited by this part and a recipient must discontinue representation consistent with applicable rules of professional responsibility.

§ 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 they are otherwise eligible under the Act.

(b) All Canadian-born American Indians at least 50% Indian by blood are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(c) Members of the Texas Band of Kickapoo are eligible to receive legal assistance provided they are otherwise eligible under the Act.

(d) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of the Immigration Reform and Control Act (''IRCA'') is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 1101(a)(20) of Title 8, these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, and the application has not been rejected.

(e) A recipient may provide legal assistance to indigent foreign nationals who seek assistance pursuant to the Hague Convention on the Civil Aspects of International Child Abduction and the Federal implementing statute, the International Child Abduction Remedies Act, 42 U.S.C. 11607(b), provided that they are otherwise financially eligible.

§ 1626.11 H–2 agricultural and forestry workers.

(a) Nonimmigrant agricultural workers admitted to, or permitted to remain in, the United States under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)(a), commonly called H–2A agricultural workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(b) Nonimmigrant forestry workers admitted to, or permitted to remain in, the United States under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii)(b), commonly called H–2B forestry workers, may be provided legal assistance regarding the matters specified in paragraph (c) of this section.

(c) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

(1) Wages;

(2) Housing;

(3) Transportation; and

(4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

§ 1626.12 Recipient policies, procedures and recordkeeping.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

Stefanie K. Davis,

Assistant General Counsel.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0010: 4500030114]

RIN 1018–AZ42

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Spring Pygmy Sunfish

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on our October 2, 2012, proposed designation of critical habitat for the spring pygmy sunfish (*Elassoma alabamae*) under the Endangered Species Act of 1973, as amended (Act). In accordance with section 4(b)(2) of the Act, we are considering excluding from the final designation of critical habitat lands covered by three candidate conservation agreements with assurances (CCAAs), based on the conservation benefit these agreements provide the species, the positive relationship we have with these landowners, and the potential that this action would provide an incentive for the establishment of additional CCAAs in the future. This comment period will allow all interested parties an opportunity to comment on the benefits of the exclusion or inclusion of lands covered by these existing CCAAs, particularly those lands under two recently established CCAAs. We will also accept comments on any other aspect of the proposed critical habitat rule. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before March 7, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document availability:* You may obtain copies of the October 2, 2012, proposed rule and the April 29, 2013, publication on the Internet at *http://www.regulations.gov* at Docket Number FWS–R4–ES–2013–0010. Copies of established CCAAs within proposed critical habitat can be found at *http://www.fws.gov/mississippiES/.* Documents may also be obtained by mail from the Mississippi Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R4–ES–2013–0010, which is the docket number for the critical habitat portion of the proposed rulemaking. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0010; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more details).

FOR FURTHER INFORMATION CONTACT: Stephen Ricks, Field Supervisor, Mississippi Ecological Services Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213; by telephone (601–321–1122); or by facsimile (601–965–4340). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: