

specify the time that the manufacturer or supplier will have to respond.

(c) If the manufacturer or supplier fails to respond adequately to the safety concerns regarding the notified use, FDA will publish a notice of its determination that the FCN is no longer effective. FDA will publish this notice in the **Federal Register**, stating that a detailed summary of the basis for FDA's determination that the FCN is no longer effective has been placed on public display and that copies are available upon request. The date that the notice publishes in the **Federal Register** is the date on which the notification is no longer effective.

(d) FDA's determination that an FCN is no longer effective is final agency action subject to judicial review.

#### **§ 170.106 Notification for a food contact substance formulation (NFCSF).**

(a) In order for the Food and Drug Administration (FDA) to accept an NFCSF, any food additive that is a component of the formulation must be authorized for its intended use in that NFCSF.

(b) FDA may publish a notice in the **Federal Register** stating that the agency has insufficient resources to review NFCSFs. From the date that this notice publishes in the **Federal Register**, FDA will no longer accept NFCSFs.

(c) An NFCSF must contain the following:

- (1) A completed and signed FDA Form No. 3479; and
- (2) Any additional documentation required to establish that each component of the formulation already may be marketed legally for its intended use.

#### **PART 171—FOOD ADDITIVE PETITIONS**

8. The authority citation for 21 CFR part 171 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 348, 371.

9. Section 171.1 is amended by revising paragraph (i)(1) to read as follows:

##### **§ 171.1 Petitions.**

(i)(1)(i) Within 15 days after receipt, the Food and Drug Administration will notify the petitioner of the acceptance or nonacceptance of a petition, and if not accepted, the reasons therefor. If accepted, the petitioner will be sent a letter stating this and the date of the letter shall become the date of filing for the purposes of section 409(b)(5) of the act. In cases in which the Food and Drug Administration agrees that a premarket notification for a food contact

substance (Food Contact Notification (FCN)) submitted under section 409(h) of the act may be converted to a petition, the withdrawal date for the FCN will be deemed the date of receipt for the petition.

(ii) If the petitioner desires, he may supplement a deficient petition after being notified regarding deficiencies. If the supplementary material or explanation of the petition is deemed acceptable, the petitioner shall be notified. The date of such notification becomes the date of filing. If the petitioner does not wish to supplement or explain the petition and requests in writing that it be filed as submitted, the petition shall be filed and the petitioner so notified.

(iii) Notwithstanding paragraph (i)(1)(ii) of this section, the petition shall not be filed if the Food and Drug Administration determines that the use identified in the petition should be the subject of an FCN under section 409(h) of the act rather than a petition.

\* \* \* \* \*

10. Section 171.7 is amended by adding paragraph (c) to read as follows:

##### **§ 171.7 Withdrawal of petition without prejudice.**

\* \* \* \* \*

(c) Any petitioner who has a food additive petition pending before the agency and who subsequently submits a premarket notification for a food contact substance (FCN) for a use or uses described in such petition shall be deemed to have withdrawn the petition for such use or uses without prejudice to a future filing on the date the FCN is received by the Food and Drug Administration.

#### **PART 174—INDIRECT FOOD ADDITIVES: GENERAL**

11. The authority citation for 21 CFR part 174 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 348, 371.

12. Section 174.5 is amended by adding paragraph (d)(5) to read as follows:

##### **§ 174.5 General provisions applicable to indirect food additives.**

\* \* \* \* \*

(d) \* \* \*

(5) Food contact substances used in accordance with an effective premarket notification for a food contact substance (FCN) submitted under section 409(h) of the act.

#### **PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD**

13. The authority citation for 21 CFR part 179 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 343, 348, 373, 374.

14. Section 179.25 is amended by revising paragraph (c) to read as follows:

##### **§ 179.25 General provisions for food irradiation.**

\* \* \* \* \*

(c) Packaging materials subjected to irradiation incidental to the radiation treatment and processing of prepackaged food shall be in compliance with § 179.45, shall be the subject of an exemption for such use under § 170.39 of this chapter, or shall be the subject of an effective premarket notification for a food contact substance for such use submitted under § 170.100 of this chapter.

\* \* \* \* \*

Dated: September 28, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 02-12661 Filed 5-20-02; 8:45 am]

BILLING CODE 4160-01-S

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#### **DEPARTMENT OF THE TREASURY**

##### **Internal Revenue Service**

##### **26 CFR Parts 1, 54, and 602**

[TD 8987]

RIN 1545-AY69, 1545-AY70

##### **Required Distributions From Retirement Plans; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correction to final and temporary regulations.

**SUMMARY:** This document contains corrections to final and temporary regulations that were published in the **Federal Register** on Wednesday, April 17, 2002 (67 FR 18988) relating to the required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts.

**DATES:** This correction is effective January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Cathy A. Vohs, (202) 622-6090 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

The final and temporary regulations that are the subject of these corrections are under sections 401, 403, 408, 457, and 4974 of the Internal Revenue Code.

## Need for Correction

As published, the final and temporary regulations contain errors that may prove to be misleading and are in need of clarification.

## Correction of Publication

Accordingly, the publication of the final and temporary regulations (TD 8987), that were the subject of FR Doc. 02-8963, are corrected as follows:

1. On page 18991, column 2, in the preamble under the paragraph heading “*Temporary Rules for Defined Benefit Plans and Annuity Contracts*”, first paragraph, line 2 from the bottom, the language “assets has been replaced with this more” is corrected to read “assets have been replaced with this more”.

### § 54.4974-2 [Corrected]

2. On page 19028, column 1, § 54.4974-2(b)(4), line 19, the language “the calendar in which the employee” is corrected to read “the calendar year in which the employee”.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel, (Income Tax and Accounting).

[FR Doc. 02-12720 Filed 5-20-02; 8:45 am]

BILLING CODE 4830-01-P

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

### 29 CFR Part 1614

RIN 3046-AA57

### Federal Sector Equal Employment Opportunity

**AGENCY:** Equal Employment Opportunity Commission.

**ACTION:** Final rule.

**SUMMARY:** The Equal Employment Opportunity Commission is publishing this final rule to implement the amendment of section 501 of the Rehabilitation Act, under the Rehabilitation Act Amendments of 1992. This rule continues the movement towards full integration of individuals with disabilities into the Federal workforce.

**DATES:** Effective June 20, 2002.

**FOR FURTHER INFORMATION CONTACT:** Carol R. Miasoff, Assistant Legal Counsel, or Mary Kay Mauren, Senior Attorney Advisor, (202) 663-4689

(voice), (202) 663-7026 (TDD). This document is also available in the following formats: large print, braille, audio tape, and electronic file on computer disk. Requests for this document in an alternative format should be made to the Publications Information Center at 1-800-669-3362.

**SUPPLEMENTARY INFORMATION:** Increasing the employment of individuals with disabilities is one of the goals of section 501 of the Rehabilitation Act of 1973, as amended (section 501),<sup>1</sup> and Title I and selected sections of Title V of the Americans with Disabilities Act (ADA).<sup>2</sup> Section 501 has prohibited the federal government, as an employer, from discriminating on the basis of disability since the late 1970's. Title I of the ADA applied similar prohibitions to private sector and state and local government employers in 1990. To promote consistent and full enforcement of these two laws, Congress amended section 501 in 1992<sup>3</sup> to adopt the employment nondiscrimination standards of the Americans with Disabilities Act (ADA).<sup>4</sup> In a Notice of Proposed Rulemaking (NPRM), the U.S. Equal Employment Opportunity Commission (EEOC or Commission) proposed to implement the 1992 Amendments by deleting the text of its old section 501 regulation, at 29 CFR 1614.203, and inserting new language to cross-reference the Commission's existing ADA regulation at 29 CFR part 1630.<sup>5</sup> The Commission now responds to public comments submitted in response to this NPRM and issues a final rule. Consistent with President George W. Bush's New Freedom Initiative, this final rule continues “the movement towards full integration of individuals with disabilities” into the workforce and promotes full compliance with section 501.<sup>6</sup>

<sup>1</sup> 29 U.S.C. 791(1994) (codified as amended). For a summary of the early history of Section 501, see *Prewitt v. United States Postal Service*, 662 F.2d 292, 301-304 (5th Cir. 1981).

<sup>2</sup> 42 U.S.C. 12101-12117, 12201-12213 (1994) (codified as amended). This goal was reaffirmed by the New Freedom Initiative of President George W. Bush (Integrating Americans with Disabilities into the Workforce, Part C: Compliance with the Americans with Disabilities Act) (Feb. 1, 2001), at <http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html> (visited 1/09/02) [hereinafter New Freedom Initiative].

<sup>3</sup> Rehabilitation Act Amendments of 1992, Pub. L. 102-569, 106 Stat. 4344, 4424 (1992) (codified as amended at 29 U.S.C. 791(g) (1994)) (1992 Amendments).

<sup>4</sup> The 1992 Amendments refer to Title I and selected sections of Title V (sections 501 through 504 and 510).

<sup>5</sup> Notice of Proposed Rulemaking to Update 29 CFR 1614.203, 65 FR 11019, March 1, 2000.

<sup>6</sup> New Freedom Initiative, *supra* note 2.

## Overview of Public Comments

The Commission received fifteen comments in response to this NPRM. Of these comments, four were from federal agencies, two were from federal unions, two from advocacy groups representing persons with disabilities, one from a group representing employment attorneys, and one from a state agency. The remaining submissions were from four individuals and one group not specifically involved with federal employees or disability rights. The Commission has carefully considered all of the comments and, as a result, has made some changes to the proposed regulation. The public comments and the text of the final regulation are discussed below.

### Nondiscrimination and Model Employer

An advocacy group for individuals with disabilities expressed concern that paragraph (a) of the proposed rule specifically referenced hiring, placement, and advancement of qualified individuals with disabilities, but did not enumerate all the types of employment discrimination prohibited by the ADA. To clarify that the ADA's broad nondiscrimination standards apply in the federal sector, this commenter suggested cross-referencing the ADA's list of prohibited activities in paragraph (a) and also deleting the specific references to hiring, placement, and advancement.

The Commission concludes that these changes are not necessary because paragraph (b) of the rule already cross references the ADA statute and regulation. Specifically, paragraph (b) states that the ADA's nondiscrimination standards apply to section 501 complaints, and cross references the ADA rule at 29 CFR part 1630. Title I of the ADA, and the ADA rule at 29 CFR part 1630, both enumerate many types of prohibited employment discrimination. In light of this cross-reference, it is unnecessary to supplement paragraph (a) to establish that the ADA's broad discrimination prohibitions apply under section 501. Furthermore, for purposes of simplicity and clarity, the Commission makes paragraph (b) the sole reference to nondiscrimination in the final rule, deleting the general nondiscrimination language from paragraph (a).

### Using the ADA Rule To Implement the 1992 Amendments

One commenter questioned the Commission's proposal to implement the 1992 Amendments by cross-referencing its ADA regulation at 29