

believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 3, 2006. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on June 7, 2006.

**Donna R. McCord,**

*Acting Area Director, Western Flight Services Operations.*

[FR Doc. 06–5516 Filed 6–16–06; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 31

[TD 9266]

RIN 1545–BE32

#### Application of the Federal Insurance Contributions Act to Payments Made for Certain Services

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

**ACTION:** Final regulation.

**SUMMARY:** This document contains final regulations relating to payments made for service not in the course of the employer's trade or business, for domestic service in a private home of the employer, for agricultural labor, and for service performed as a home worker within the meaning of section 3121(d)(3)(C) of the Internal Revenue Code (Code). These final regulations provide guidance concerning the application of the Federal Insurance Contributions Act (FICA) to these payments. These final regulations affect employers that make these payments and employees that receive these payments. These final regulations provide guidance to assist these taxpayers in complying with the law.

**DATES:** *Effective Date:* These regulations are effective June 19, 2006.

*Applicability Dates:* The regulations relating to payments made for service not in the course of the employer's trade or business and/or for service performed as a home worker within the meaning of section 3121(d)(3)(C) apply to cash remuneration paid on or after January 1, 1978. The regulations relating to

payments made for domestic service in a private home of the employer apply to cash remuneration paid on or after January 1, 1994. The regulations relating to payments for agricultural labor apply to cash remuneration paid on or after January 1, 1988. The regulations relating to computation to the nearest dollar of cash remuneration for domestic service in a private home of the employer apply to cash remuneration paid on or after January 1, 1994.

**FOR FURTHER INFORMATION CONTACT:**

Selvan Boominathan of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities), (202) 622–0047 (not a toll-free call).

**SUPPLEMENTARY INFORMATION:**

#### Background

This document contains amendments to the Employment Tax Regulations (26 CFR part 31) under sections 3102, 3121(a), 3121(a)(7), 3121(a)(8), 3121(a)(10), and 3121(i) of the Code. The Federal Insurance Contributions Act (FICA) generally imposes tax on each employer and employee. Under section 3111, FICA tax is imposed on the employer in an amount equal to a percentage of the wages paid by that employer. Under section 3101, FICA tax is also imposed on the employee in an amount equal to a percentage of the wages received by the employee with respect to employment. Section 3102 requires the employer to collect the tax imposed under section 3101 by deducting and withholding the amount of the tax from the wages as and when paid. Section 3121(a) defines wages for FICA tax purposes as all remuneration for employment unless otherwise excepted. Sections 3121(a)(7) (relating to domestic service in a private home of the employer and to service not in the course of the employer's trade or business), 3121(a)(8) (relating to agricultural labor) and 3121(a)(10) (relating to service performed as a home worker within the meaning of section 3121(d)(3)(C)) provide exceptions to the definition of wages for FICA tax purposes. Section 3121(i)(1) provides that in the case of domestic service described in section 3121(a)(7)(B), any payment of cash remuneration for such service which is more or less than a whole-dollar amount, to the extent prescribed by regulations, may be computed to the nearest dollar.

Proposed regulations under sections 3102, 3121(a), 3121(a)(7), 3121(a)(8), 3121(a)(10), and 3121(i) were published in the **Federal Register** (70 FR 50228–01) on August 26, 2005, and corrected in the **Federal Register** (70 FR 54680–

01) on September 16, 2005. No written or electronic comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. Accordingly, the proposed regulations are adopted by this Treasury decision.

#### Explanation of Provisions

These final regulations amend the existing regulations to reflect current law.

The final regulations relating to payments made for service not in the course of the employer's trade or business and/or to payments made for service as a home worker amend existing regulations §§ 31.3102–1, 31.3121(a)–2(c), 31.3121(a)(7)–1 and 31.3121(a)(10)–1 to reflect changes implemented by the Social Security Amendments of 1977 (the 1977 Act), Public Law 95–216 (91 Stat. 1509, 1555), and to be applicable to cash remuneration paid on or after January 1, 1978 (the effective date of the 1977 Act). For cash remuneration paid prior to January 1, 1978, taxpayers should rely on the regulations applicable at the time such cash remuneration was paid.

The final regulations relating to payments made for domestic service in a private home of the employer amend existing regulations §§ 31.3102–1, 31.3121(a)–2(c), and 31.3121(a)(7)–1 to reflect changes implemented by the Social Security Domestic Employment Reform Act of 1994 (SSDERA), Public Law 103–387 (108 Stat. 4071), and to be applicable to cash remuneration paid on or after January 1, 1994 (the effective date of the SSDERA). For cash remuneration paid prior to January 1, 1994, taxpayers should rely on the regulations applicable at the time such cash remuneration was paid.

The final regulations relating to payments for agricultural labor amend existing regulations §§ 31.3102–1, 31.3121(a)–2(c) and 31.3121(a)(8)–1 to reflect changes implemented by the Social Security Protection Act of 2004 (SSPA), Public Law 108–203 (118 Stat. 493, 536), the Omnibus Budget Reconciliation Act of 1987 (the 1987 Act), Public Law 100–203 (101 Stat. 1330, 1330–287), and the Technical and Miscellaneous Revenue Act of 1988 (the 1988 Act), Public Law 100–647 (102 Stat. 3342, 3793), and to be applicable to cash remuneration paid on or after January 1, 1988 (the effective date of the 1987 Act and the 1988 Act). For cash remuneration paid prior to January 1, 1988, taxpayers should rely on the regulations applicable at the time such cash remuneration was paid.

The final regulations relating to computation to the nearest dollar of

cash remuneration for domestic service in a private home of the employer amend existing regulations under § 31.3121(i)-1 to reflect changes implemented by the SSDERA and to be applicable to cash remuneration paid on or after January 1, 1994 (the effective date of the SSDERA). For cash remuneration paid prior to January 1, 1994, taxpayers should rely on the regulations applicable at the time such cash remuneration was paid.

### Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

### Drafting Information

The principal authors of these regulations are Selvan V. Boominathan and Michael A. Swim, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities).

### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Unemployment compensation.

### Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR part 31 is amended as follows:

### PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 continues to read, in part, as follows:

*Authority:* 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 31.3102-1 is amended by:

- 1. Revising paragraph (b).
- 2. Redesignating paragraph (c) as paragraph (d).
- 3. Adding new paragraphs (c) and (e).

■ The additions and revision read as follows:

#### § 31.3102-1 Collection of, and liability for, employee tax; in general.

\* \* \* \* \*

(b) The employer is permitted, but not required, to deduct amounts equivalent to employee tax from payments to an employee of cash remuneration to which the sections referred to in this paragraph (b) are applicable prior to the time that the sum of such payments equals—

- (1) \$100 in the calendar year, for service not in the course of the employer's trade or business, to which § 31.3121(a)(7)-1 is applicable;
- (2) The applicable dollar threshold (as defined in section 3121(x)) in the calendar year, for domestic service in a private home of the employer, to which § 31.3121(a)(7)-1 is applicable;
- (3) \$150 in the calendar year, for agricultural labor, to which § 31.3121(a)(8)-1(c)(1)(i) is applicable; or
- (4) \$100 in the calendar year, for service performed as a home worker, to which § 31.3121(a)(10)-1 is applicable.

(c) At such time as the sum of the cash payments in the calendar year for a type of service referred to in paragraph (b)(1), (b)(2), (b)(3) or (b)(4) of this section equals or exceeds the amount specified, the employer is required to collect from the employee any amount of employee tax not previously deducted. If an employer pays cash remuneration to an employee for two or more of the types of service referred to in paragraph (b)(1), (b)(2), (b)(3) or (b)(4) of this section, the provisions of paragraph (b) of this section and this paragraph (c) are to be applied separately to the amount of remuneration attributable to each type of service. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of employee tax, see § 31.6413(a)-1.

\* \* \* \* \*

(e)(1) The provisions of paragraphs (a) and (d) of this section apply to any payment made on or after January 1, 1955.

(2) The provisions of paragraphs (b) and (c) of this section that apply to any payment made for service not in the course of the employer's trade or business or for service performed as a home worker within the meaning of section 3121(d)(3)(C) apply to any such payment made on or after January 1, 1978. The provisions of paragraphs (b) and (c) of this section that apply to any payment made for domestic service in a private home of the employer apply to

any such payment made on or after January 1, 1994. The provisions of paragraphs (b) and (c) of this section that apply to any payment made for agricultural labor apply to any such payment made on or after January 1, 1988. For rules applicable to any payment for these services made prior to the dates set forth in this paragraph (e)(2), see § 31.3102-1 in effect at such time (see 26 CFR part 31 contained in the edition of 26 CFR Parts 30 to 39, revised as of April 1, 2006).

■ **Par. 3.** Section 31.3121(a)-2 is amended by:

- 1. Revising paragraph (c)(1).
- 2. Redesignating paragraphs (c)(2) and (c)(3) as paragraphs (c)(3) and (c)(4), respectively.
- 3. Adding new paragraph (c)(2).
- 4. Revising newly designated paragraph (c)(3).
- 5. Adding paragraph (d).

The additions and revisions read as follows:

#### § 31.3121(a)-2 Wages; when paid and received.

\* \* \* \* \*

(c)(1) The first \$100 of cash remuneration paid, either actually or constructively, by an employer in any calendar year to an employee for—

(i) Service not in the course of the employer's trade or business, to which § 31.3121(a)(7)-1 is applicable, shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar year that the sum of such cash payments made within such year is at least \$100; or

(ii) Service performed as a home worker within the meaning of section 3121(d)(3)(C), to which § 31.3121(a)(10)-1 is applicable, shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar year that the sum of such cash payments made within such year is at least \$100.

(2) Cash remuneration paid, either actually or constructively, by an employer in any calendar year to an employee for domestic service in a private home of the employer to which § 31.3121(a)(7)-1 is applicable, and before the sum of the payments of such cash remuneration equals or exceeds the applicable dollar threshold (as defined in section 3121(x)) for such year, shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar year that the sum of such cash payments made within such year equals or exceeds the applicable dollar threshold (as defined in section 3121(x)) for such year.

(3) Cash remuneration paid, either actually or constructively, by an

employer in any calendar year to an employee for agricultural labor to which § 31.3121(a)(8)–1 is applicable, and before either of the events described in paragraphs (c)(3)(i) and (c)(3)(ii) of this section has occurred, shall be deemed to be paid by the employer to the employee at the first moment of time in such calendar year that—

(i) The sum of the payments of such remuneration is \$150 or more; or

(ii) The employer's expenditures for agricultural labor in such calendar year equals or exceeds \$2,500, except that this paragraph (c)(3)(ii) shall not apply in determining when such remuneration is deemed to be paid under this paragraph if such employee—

(A) Is employed as a hand-harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment;

(B) Commutes daily from his permanent residence to the farm on which he is so employed; and

(C) Has been employed in agriculture less than 13 weeks during the preceding calendar year.

\* \* \* \* \*

(d)(1) The provisions of paragraphs (a) and (b) of this section apply to any payment of wages made on or after January 1, 1955.

(2) The provisions of paragraph (c) of this section that apply to any payment of wages made for service not in the course of the employer's trade or business or for service performed as a home worker within the meaning of section 3121(d)(3)(C) apply to any such payment made on or after January 1, 1978. The provisions of paragraph (c) of this section that apply to any payment of wages made for domestic service in a private home of the employer apply to any such payment made on or after January 1, 1994. The provisions of paragraph (c) of this section that apply to any payment of wages made for agricultural labor apply to any such payment made on or after January 1, 1988. For rules applicable to any payment of wages for these services made prior to the dates set forth in this paragraph (d)(2), see § 31.3121(a)–2 in effect at such time (see 26 CFR part 31 contained in the edition of 26 CFR Parts 30 to 39, revised as of April 1, 2006).

■ **Par. 4.** Section 31.3121(a)(7)–1 is amended by:

■ 1. Revising paragraphs (c)(1) and (c)(2).

■ 2. Adding paragraphs (c)(3), (d) and (e).

The additions and revisions read as follows:

**§ 31.3121(a)(7)–1 Payments for services not in the course of employer's trade or business or for domestic service.**

\* \* \* \* \*

(c) *Cash payments.* (1) The term *wages* does not include cash remuneration paid by an employer in any calendar year to an employee for—

(i) Domestic service in a private home of the employer, unless the cash remuneration paid in such year by the employer to the employee for such service equals or exceeds the applicable dollar threshold (as defined in section 3121(x)) for such year; or

(ii) Service not in the course of the employer's trade or business, unless the cash remuneration paid in such year by the employer to the employee for such service equals or exceeds \$100.

(2) The tests relating to cash remuneration are based on the remuneration paid in a calendar year rather than on the remuneration earned during a calendar year. The following example illustrates this provision:

*Example.* On March 31, 2004, employer X pays employee A cash remuneration of \$100 for service not in the course of X's trade or business. Such remuneration constitutes wages subject to the taxes even though \$10 thereof represents payment for such service performed by A for X in December 2003.

(3) In determining whether wages have been paid either for domestic service in a private home of the employer or for service not in the course of the employer's trade or business, only cash remuneration for such service shall be taken into account. Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as lodging, food, clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the cash-remuneration test is met. If an employee receives cash remuneration from more than one employer in a calendar year for domestic service in a private home of the employer or for service not in the course of the employer's trade or business, the pertinent cash-remuneration test is to be applied separately to the remuneration received from each employer.

(d) *Cross references.* (1) For provisions relating to deduction of employee tax or amounts equivalent to the tax from cash payments for the services described in this section, see § 31.3102–1;

(2) For provisions relating to time of payment of wages for such services, see § 31.3121(a)–2;

(3) For provisions relating to computations to the nearest dollar of any payment of cash remuneration for domestic service in a private home of the employer, see § 31.3121(i)–1.

(e) *Effective dates.* (1) The provisions of this section apply to any cash payment for service not in the course of the employer's trade or business made on or after January 1, 1978 and for domestic service in a private home of the employer made on or after January 1, 1994.

(2) For rules applicable to any cash payment made prior to the dates set forth in paragraph (e)(1), see § 31.3121(a)(7)–1 in effect at such time (see 26 CFR part 31 contained in the edition of 26 CFR Parts 30 to 39, revised as of April 1, 2006).

■ **Par. 5.** Section 31.3121(a)(8)–1 is amended by:

■ 1. Revising paragraphs (c), (d), and (e).

■ 2. Adding paragraph (h).

The addition and revisions read as follows:

**§ 31.3121(a)(8)–1 Payments for agricultural labor.**

\* \* \* \* \*

(c) *Cash payments.* (1) The term *wages* does not include cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

(i) The cash remuneration paid in such year by the employer to the employee for such labor is \$150 or more; or

(ii) The employer's expenditures for agricultural labor in such year equal or exceed \$2,500, except that this paragraph (c)(1)(ii) shall not apply in determining whether remuneration paid to an employee constitutes wages for agricultural labor if such employee—

(A) Is employed as a hand-harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment;

(B) Commutes daily from his permanent residence to the farm on which he is so employed; and

(C) Has been employed in agriculture less than 13 weeks during the preceding calendar year.

(2) The application of the provisions of paragraph (c)(1) of this section may be illustrated by the following example:

*Example.* Employer X pays A \$140 in cash for agricultural labor in calendar year 2004. X makes no other payments to A during the year and makes no other payment for agricultural labor to any other employee.

Employee A is not employed as a hand-harvest laborer. Neither the \$150-cash-remuneration test nor the \$2,500-employer's-expenditures-for-agricultural-labor test is met. Accordingly, the remuneration paid by X to A is not subject to the taxes. If in 2004 X had paid A \$140 in cash for agricultural labor and had made expenditures of \$2,360 or more to other employees for agricultural labor, the \$140 paid by X to A would have been subject to tax because the \$2,500-employer's-expenditures-for-agricultural-labor test would have been met. Or, if X had paid A \$150 in cash in 2004 and made no other payments to any other employee for agricultural labor, the \$150 paid by X to A would have been subject to tax because the \$150-cash-remuneration test would have been met.

(d) *Application of cash-remuneration test.* (1) If an employee receives cash remuneration from an employer both for services which constitute agricultural labor and for services which do not constitute agricultural labor, only the amount of such remuneration which is attributable to agricultural labor shall be included in determining whether cash remuneration of \$150 or more has been paid in the calendar year by the employer to the employee for agricultural labor. The following example illustrates this paragraph (d)(1):

*Example.* Employer X operates a store and also is engaged in farming operations. Employee A, who regularly performs services for X in connection with the operation of the store, works on X's farm when additional help is required for the farm activities. In the calendar year 2004, X pays A \$140 in cash for services performed in agricultural labor, and \$4,000 for services performed in connection with the operation of the store. X has no additional expenditures for agricultural labor in 2004. Since the cash remuneration paid by X to A in the calendar year 2004 for agricultural labor is less than \$150, the \$150-cash-remuneration test is not met. The \$140 paid by X to A in 2004 for agricultural labor does not constitute wages and is not subject to the taxes.

(2) The test relating to cash remuneration of \$150 or more is based on the cash remuneration paid in a calendar year rather than on the remuneration earned during a calendar year. It is immaterial if such cash remuneration is paid in a calendar year other than the year in which the agricultural labor is performed. The following example illustrates this paragraph (d)(2):

*Example.* Employer X pays cash remuneration of \$150 in the calendar year 2004 to employee A for agricultural labor. Such remuneration constitutes wages even though \$10 of such amount represents payment for agricultural labor performed by A for X in December 2003.

(3) In determining whether \$150 or more has been paid to an employee for

agricultural labor, only cash remuneration for such labor shall be taken into account. If an employee receives cash remuneration in any one calendar year from more than one employer for agricultural labor, the cash-remuneration test is to be applied with respect to the remuneration received by the employee from each employer in such calendar year for such labor.

(e) *Application of employer's-expenditures-for-agricultural-labor test.*

(1) If an employer has expenditures in a calendar year for agricultural labor and for non-agricultural labor, only the amount of such expenditures for agricultural labor shall be included in determining whether the employer's expenditures for agricultural labor in such year equal or exceed \$2,500. The following example illustrates this paragraph (e)(1):

*Example.* Employer X operates a store and also is engaged in farming operations. Employee A, who regularly performs services for X in connection with the operation of the store, works on X's farm when additional help is required for the farm activities. In calendar year 2004, X pays A \$140 in cash for services performed in agricultural labor, and \$4,000 for services performed in connection with the operation of the store. X has no additional expenditures for agricultural labor in 2004. Since X's expenditures for agricultural labor in 2004 are less than \$2,500, the employer's-expenditures-for-agricultural-labor test is not met. The \$140 paid by X to A in 2004 for agricultural labor does not constitute wages and is not subject to the taxes.

(2) The test relating to an employer's expenditures of \$2,500 or more for agricultural labor is based on the expenditures paid by the employer in a calendar year rather than on the expenses incurred by the employer during a calendar year. It is immaterial if the expenditures are paid in a calendar year other than the year in which the agricultural labor is performed. The following example illustrates this paragraph (e)(2):

*Example.* Employer X employs A to construct fences on a farm owned by X. The work constitutes agricultural labor and is performed over the course of November and December 2003. A is not employed by X at any other time, however X does have other employees to whom X pays remuneration of \$2,000 for agricultural labor in 2003. X pays A \$140 in cash in November 2003 and \$140 in cash in January 2004, in full payment for the work. The \$140 payment to A made in November is not wages for calendar year 2003 because the \$150-cash-remuneration test is not met and X's total expenditures for agricultural labor for such year are not equal to or in excess of \$2,500. The \$140 payment to A made in January is not wages for 2004 because the \$150 cash-remuneration test is

not met. However, if X pays additional remuneration to employees for agricultural labor in 2004 that equals or exceeds \$2,360, the employer's-expenditures-for-agricultural-labor test will be met and the \$140 paid by X to A in 2004 will be considered wages. It is immaterial that the work was performed in 2003.

\* \* \* \* \*

(h) *Effective dates.* The provisions of this section apply to any payment for agricultural labor made on or after January 1, 1988. For rules applicable to any payment for agricultural labor made prior to January 1, 1988, see § 31.3121(a)(8)-1 in effect at such time (see 26 CFR part 31 contained in the edition of 26 CFR parts 30 to 39, revised as of April 1, 2006).

■ **Par. 6.** Section 31.3121(a)(10)-1 is revised to read as follows:

**§ 31.3121(a)(10)-1 Payments to certain home workers.**

(a) The term *wages* does not include remuneration paid by an employer in any calendar year to an employee for service performed as a home worker who is an employee by reason of the provisions of section 3121(d)(3)(C) (see § 31.3121(d)-1(d)), unless the cash remuneration paid in such calendar year by the employer to the employee for such services is \$100 or more. The test relating to cash remuneration of \$100 or more is based on remuneration paid in a calendar year rather than on remuneration earned during a calendar year. If cash remuneration of \$100 or more is paid in a particular calendar year, it is immaterial whether such remuneration is in payment for services performed during the year of payment or during any other year.

(b) The application of paragraph (a) of this section may be illustrated by the following example:

*Example.* A, a home worker, performs services for X, a manufacturer, in 2003 and 2004. In the performance of the home work A is an employee by reason of section 3121(d)(3)(C). In March 2004, A returns to X articles made by A at home from materials received by A from X in 2003. X pays A cash remuneration of \$100 for such work when the finished articles are delivered. The \$100 includes \$10 which represents remuneration for home work performed by A in 2003. The entire \$100 is subject to the taxes. Any additional cash remuneration paid by X to A in 2004 for such services is also subject to the taxes.

(c) In the event an employee receives remuneration in any one calendar year from more than one employer for services performed as a home worker of the character described in paragraph (a) of this section, the regulations in this section are to be applied with respect to the remuneration received by the

employee from each employer in such calendar year for such services. This exclusion from wages has no application to remuneration paid for services performed as a home worker who is an employee under section 3121(d)(2) (see § 31.3121(d)-1(c)) relating to common law employees.

(d) Cash remuneration includes checks and other monetary media of exchange. Remuneration paid in any other medium, such as clothing, car tokens, transportation passes or tickets, or other goods or commodities, is disregarded in determining whether the \$100 cash-remuneration test is met. If the cash remuneration paid in any calendar year by an employer to an employee for services performed as a home worker of the character described in paragraph (a) of this section is \$100 or more, then no remuneration, whether in cash or in any medium other than cash, paid by the employer to the employee in such calendar year for such services is excluded from wages under this exception.

(e)(1) For provisions relating to deductions of employee tax or amounts equivalent to the tax from cash payments for services performed as a home worker within the meaning of section 3121(d)(3)(C), see § 31.3102-1.

(2) For provisions relating to the time of payment of wages for services performed as a home worker within the meaning of section 3121(d)(3)(C), see § 31.3121(a)-2.

(3) For provisions relating to records to be kept with respect to payment of wages for services performed as a home worker within the meaning of section 3121(d)(3)(C), see § 31.6001-2.

(f) The provisions of this section apply to any payment for services performed as a home worker within the meaning of section 3121(d)(3)(C) made on or after January 1, 1978. For rules applicable to any payment for services performed as a home worker within the meaning of section 3121(d)(3)(C) made prior to January 1, 1978, see § 31.3121(a)(10)-1 in effect at such time

(see 26 CFR part 31 contained in the edition of 26 CFR parts 30 to 39, revised as of April 1, 2006).

■ **Par. 7.** Section 31.3121(i)-1 is amended as follows:

- 1. Redesignate the existing text as paragraph (a).
- 2. Remove the language “quarter” each place it appears and add “year” in its place in newly designated paragraph (a).
- 3. Add new paragraph (b).  
The addition reads as follows:

**§ 31.3121(i)-1 Computation to nearest dollar of cash remuneration for domestic service.**

\* \* \* \* \*

(b) The provisions of this section apply to any cash payment for domestic service in a private home of the employer made on or after January 1, 1994. For rules applicable to any cash payment for domestic service in a private home of the employer made prior to January 1, 1994, see § 31.3121(i)-1 in effect at such time (see 26 CFR part 31 contained in the edition of 26 CFR parts 30 to 39, revised as of April 1, 2006).

**Mark E. Matthews,**  
*Deputy Commissioner for Services and Enforcement.*

Approved: June 8, 2006.

**Eric Solomon,**  
*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. E6-9532 Filed 6-16-06; 8:45 am]  
**BILLING CODE 4830-01-P**

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of a revision to the South Coast Air Quality Management District (District) portion of the California State Implementation Plan (SIP). This revision was proposed in the **Federal Register** on March 29, 2006. The revision adds qualifying electric generating facilities to the list of stationary sources that are allowed to use emission reduction credits from a bank of credits maintained by the District. We are approving the revision of a local District rule that was approved in 1996 under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on July 19, 2006.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2006-0281 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Laura Yannayon, EPA Region IX, (415) 972-3534, [Yannayon.Laura@epa.gov](mailto:Yannayon.Laura@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

**I. Proposed Action**

On March 29, 2006 (71 FR 15656), EPA proposed to approve a revision of District Rule 1309.1, Priority Reserve Bank, into the California SIP.

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2006-0281; FRL-8182-2]

**Revisions to the California State Implementation Plan, South Coast Air Quality Management District**

**AGENCY:** Environmental Protection Agency (EPA).

Local agency	Rule number	Rule title	Adopted	Submitted
SCAQMD .....	1309.1	Priority Reserve .....	05/03/02	12/23/02

We proposed to approve this revision of Rule 1309.1 because we determined that the revision complied with the relevant CAA requirements. Our proposed action contains more information on the revised rule and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received two comment letters: one from Adams Broadwell Joseph & Cardozo on behalf of California Unions for Reliable Energy, Kristopher

Johns and Donald Lee Selby, Jr. (hereinafter collectively “CURE”) and one from the District. We have prepared a separate detailed response to CURE’s comment that is available in the final docket on this rulemaking. In this action, we are providing a summary of the comment and our response.