

(1,1-dimethylethyl)-2-(4-(1-hydroxyethyl)benzoyl)hydrazide, calculated as the stoichiometric equivalent of tebufenozide, in or on the commodity.

\* \* \* \* \*

(b) Section 18 emergency exemptions. [Reserved]

\* \* \* \* \*

(d) Indirect or inadvertent residues. Tolerances are established for indirect or inadvertent residues of the insecticide tebufenozide, including its metabolites and degradates, in or on the commodities in the table in this paragraph when present therein as a result of the application of tebufenozide to growing crops listed in the table to paragraph (a)(1) of this section. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only the sum of tebufenozide, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, and its metabolite, 3,5-dimethylbenzoic acid 1-(1,1-dimethylethyl)-2-(4-(1-hydroxyethyl)benzoyl)hydrazide, calculated as the stoichiometric equivalent of tebufenozide, in or on the commodity.

\* \* \* \* \*

■ 20. Revise § 180.486 to read as follows:

**§ 180.486 Chlorethoxyfos; tolerances for residues.**

(a) *General.* Tolerances are established for residues of the insecticide chlorethoxyfos, including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only chlorethoxyfos, *O,O*-diethyl *O*-(1,2,2,2-tetrachloroethyl) phosphorothioate, in or on the commodity.

Commodity	Parts per million
Corn, field, forage .....	0.01
Corn, field, grain .....	0.01
Corn, field, stover .....	0.01
Corn, pop, grain .....	0.01
Corn, pop, stover .....	0.01
Corn, sweet, forage .....	0.01
Corn, sweet, kernel plus cob with husks removed .....	0.01
Corn, sweet, stover .....	0.01

(b) Section 18 emergency exemptions. [Reserved]

(c) Tolerances with regional registrations. [Reserved]

(d) Indirect or inadvertent residues. [Reserved]

■ 21. In § 180.541 revise paragraph (a) to read as follows:

**§ 180.541 Propetamphos; tolerances for residues.**

(a) *General.* A tolerance of 0.1 part per million is established for residues of the insecticide propetamphos, including its metabolites and degradates, in or on food or feed commodities when present therein as a result of the treatment of food- or feed-handling establishments with propetamphos. Direct application shall be limited solely to spot and/or crack and crevice treatment in food- or feed-handling establishments where food or feed and food or feed products are held, processed, prepared, served, or sold. Spray and dust concentrations shall be limited to a maximum of 1 percent active ingredient. For crack and crevice treatment, equipment capable of delivering a dust or a pin-stream of spray directly into cracks and crevices shall be used. For spot treatment, a coarse, low-pressure spray shall be used to avoid contamination of food, feed, or food-contact/feed-contact surfaces. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only propetamphos, 1-methylethyl-(2E)-3-((ethylamino)methoxyphosphinothioyl)oxy)-2-butenolate, in or on the commodity.

\* \* \* \* \*

■ 22. In § 180.596 revise the introductory text in paragraph (a) to read as follows:

**§ 180.596 Fosthiazate; tolerances for residues.**

(a) *General.* A tolerance is established for residues of the insecticide fosthiazate, including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only the sum of fosthiazate, *O*-ethyl *S*-(1-methylpropyl)(2-oxo-3-thiazolidinyl)phosphonothioate, and its metabolite, *O*-ethyl *S*-(1-methylpropyl)(2-(methylsulfonyl)ethyl)phosphoramidothioate, calculated as the stoichiometric equivalent of fosthiazate, in or on the commodity.

\* \* \* \* \*

■ 23. Revise § 180.620 to read as follows:

**§ 180.620 Etofenprox; tolerances for residues.**

(a) *General.* A tolerance is established for residues of the insecticide etofenprox, including its metabolites and degradates, in or on the commodity

in the table in this paragraph. Compliance with the tolerance level specified in this paragraph is to be determined by measuring only etofenprox, 2-(4-ethoxyphenyl)-2-methylpropyl 3-phenoxybenzyl ether, in or on the commodity.

Commodity	Parts per million
Rice, grain .....	0.01

(b) Section 18 emergency exemptions. [Reserved]

(c) Tolerances with regional registrations. [Reserved]

(d) Indirect or inadvertent residues. [Reserved]

[FR Doc. 2011-9937 Filed 4-26-11; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Part 64**

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-8177]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, DHS.  
**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal

Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal

financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

*National Environmental Policy Act.* This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

*Regulatory Flexibility Act.* The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage

unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This rule meets the applicable standards of Executive Order 12988.

*Paperwork Reduction Act.* This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 44 CFR Part 64**

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

**PART 64—[AMENDED]**

- 1. The authority citation for part 64 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

**§ 64.6 [Amended]**

- 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
<b>Region III</b>				
West Virginia:				
Barbour County, Unincorporated Areas	540001	November 21, 1975, Emerg; July 1, 1987, Reg; May 3, 2011, Susp.	May 3, 2011 .....	May 3, 2011.
Belington, Town of, Barbour County .....	540002	November 11, 1974, Emerg; August 1, 1979, Reg; May 3, 2011, Susp.	*.....do .....	Do.
Junior, Town of, Barbour County .....	540003	April 3, 1975, Emerg; April 17, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Philippi, City of, Barbour County .....	540004	June 26, 1974, Emerg; September 4, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
<b>Region IV</b>				
Kentucky: Glasgow, City of, Barren County	210007	November 29, 1974, Emerg; May 1, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Mississippi:				
Clay County, Unincorporated Areas .....	280036	January 19, 1978, Emerg; July 16, 1990, Reg; May 3, 2011, Susp.	.....do .....	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
West Point, City of, Clay County .....	280037	February 1, 1974, Emerg; January 5, 1978, Reg; May 3, 2011, Susp.	.....do .....	Do.
South Carolina:				
Fairfield County, Unincorporated Areas	450075	December 21, 1978, Emerg; July 19, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
Greenwood, City of, Greenwood County	450093	July 22, 1975, Emerg; February 4, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Greenwood County, Unincorporated Areas.	450094	April 21, 1978, Emerg; March 18, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Ninety Six, Town of, Greenwood County.	450244	September 17, 1986, Emerg; September 17, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
<b>Region V</b>				
Indiana:				
Alexandria, City of, Madison County .....	180149	December 13, 1974, Emerg; July 2, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Anderson, City of, Madison County .....	180150	November 7, 1974, Emerg; December 4, 1979, Reg; May 3, 2011, Susp.	.....do .....	Do.
Chesterfield, Town of, Madison County	180151	February 14, 1975, Emerg; May 1, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Elwood, City of, Madison and Tipton Counties.	180152	March 19, 1975, Emerg; May 19, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Frankton, Town of, Madison County .....	180154	June 5, 1975, Emerg; May 5, 1981, Reg; May 3, 2011, Susp.	.....d .....	Do.
Ingalls, Town of, Madison County .....	180155	March 24, 1975, Emerg; July 15, 1988, Reg; May 3, 2011, Susp.	.....do .....	Do.
Madison County, Unincorporated Areas	180442	October 23, 1990, Emerg; February 1, 1994, Reg; May 3, 2011, Susp.	.....do .....	Do.
Pendleton, Town of, Madison County ...	180156	December 26, 1974, Emerg; May 3, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
Summitville, Town of, Madison County	180157	May 5, 1975, Emerg; July 21, 1978, Reg; May 3, 2011, Susp.	.....do .....	Do.
Michigan:				
DeWitt, Charter Township of, Clinton County.	260631	August 25, 1975, Emerg; June 18, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
DeWitt, City of, Clinton County .....	260060	July 11, 1975, Emerg; December 18, 1979, Reg; May 3, 2011, Susp.	.....do .....	Do.
East Lansing, City of, Clinton and Ingham Counties.	260089	March 24, 1975, Emerg; August 1, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Elsie, Village of, Clinton County .....	260725	May 28, 1982, Emerg; July 16, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Hubbardston, Village of, Clinton and Ionia Counties.	260418	February 7, 1990, Emerg; June 1, 1995, Reg; May 3, 2011, Susp.	.....do .....	Do.
Maple Rapids, Village of, Clinton County.	260384	November 8, 1976, Emerg; September 1, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
Ovid, Village of, Clinton County .....	260318	May 1, 1975, Emerg; August 2, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
St. Johns, City of, Clinton County .....	260726	May 28, 1982, Emerg; March 16, 1988, Reg; May 3, 2011, Susp.	.....do .....	Do.
Victor, Township of, Clinton County .....	260720	May 11, 1981, Emerg; February 2, 1989, Reg; May 3, 2011, Susp.	.....do .....	Do.
Watertown, Charter Township of, Clinton County.	260291	April 16, 1974, Emerg; May 17, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
Ohio:				
Bettsville, Village of, Seneca County ....	390500	December 21, 1978, Emerg; September 30, 1988, Reg; May 3, 2011, Susp.	.....do .....	Do.
Seneca County, Unincorporated Areas	390779	April 3, 1979, Emerg; May 17, 1990, Reg; May 3, 2011, Susp.	.....do .....	Do.
Tiffin, City of, Seneca County .....	390502	May 12, 1975, Emerg; July 3, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
<b>Region VI</b>				
Arkansas:				
Crittenden County, Unincorporated Areas.	050429	May 18, 1983, Emerg; November 1, 1985, Reg; May 3, 2011, Susp.	.....do .....	Do.
Earle, City of, Crittenden County .....	050054	June 20, 1974, Emerg; January 3, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
Edmondson, Town of, Crittenden County.	050409	November 8, 1976, Emerg; March 18, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
Horseshoe Lake, Town of, Crittenden County.	055057	N/A, Emerg; January 18, 2006, Reg; May 3, 2011, Susp.	.....do .....	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Marion, City of, Crittenden County .....	050345	July 9, 1975, Emerg; September 1, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Turrell, City of, Crittenden County .....	050370	July 9, 1976, Emerg; February 1, 1988, Reg; May 3, 2011, Susp.	.....do .....	Do.
West Memphis, City of, Crittenden County.	050055	June 6, 1974, Emerg; July 16, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
<b>Region VII</b>				
Iowa:				
Beaver, City of, Boone County .....	190322	January 3, 2008, Emerg; May 3, 2011, Reg; May 3, 2011, Susp.	.....do .....	Do.
Boone, City of, Boone County .....	190555	N/A, Emerg; October 7, 1993, Reg; May 3, 2011, Susp..	.....do .....	Do.
Boone County, Unincorporated Areas ..	190846	November 9, 1993, Emerg; September 1, 1996, Reg; May 3, 2011, Susp.	.....do .....	Do.
Fort Madison, City of, Lee County .....	190184	April 11, 1974, Emerg; May 3, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
Keokuk, City of, Lee County .....	190185	March 27, 1974, Emerg; March 1, 1978, Reg; May 3, 2011, Susp.	.....do .....	Do.
Lee County, Unincorporated Areas .....	190182	September 11, 1978, Emerg; June 15, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Madrid, City of, Boone County .....	190325	October 21, 1976, Emerg; June 10, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Montrose, City of, Lee County .....	190186	August 8, 1975, Emerg; February 18, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Pilot Mound, City of, Boone County .....	190326	August 28, 1990, Emerg; July 1, 1991, Reg; May 3, 2011, Susp.	.....do .....	Do.
Kansas:				
Lane, City of, Franklin County .....	200103	December 20, 2007, Emerg; September 1, 2008, Reg; May 3, 2011, Susp.	.....do .....	Do.
Rantoul, City of, Franklin County .....	200107	August 7, 1975, Emerg; September 1, 1990, Reg; May 3, 2011, Susp.	.....do .....	Do.
Missouri:				
Blackwater, City of, Cooper County .....	290109	March 22, 1976, Emerg; December 7, 1984, Reg; May 3, 2011, Susp.	.....do .....	Do.
Boonville, City of, Cooper County .....	290110	October 9, 1974, Emerg; October 16, 1984, Reg; May 3, 2011, Susp.	.....do .....	Do.
Cooper County, Unincorporated Areas	290794	April 26, 1984, Emerg; September 1, 1989, Reg; May 3, 2011, Susp.	.....do .....	Do.
Pilot Grove, City of, Cooper County .....	290678	N/A, Emerg; November 24, 2008, Reg; May 3, 2011, Susp.	.....do .....	Do.
Nebraska:				
Cozad, City of, Dawson County .....	310059	March 7, 1975, Emerg; June 30, 1976, Reg; May 3, 2011, Susp.	.....do .....	Do.
Dawson County, Unincorporated Areas	310058	March 8, 1984, Emerg; July 1, 1988, Reg; May 3, 2011, Susp.	.....do .....	Do.
Lexington, City of, Dawson County .....	310063	March 23, 1977, Emerg; May 15, 1984, Reg; May 3, 2011, Susp.	.....do .....	Do.
Overton, Village of, Dawson County .....	310064	July 1, 1975, Emerg; September 27, 1985, Reg; May 3, 2011, Susp.	.....do .....	Do.
Sumner, Village of, Dawson County .....	310065	June 27, 1975, Emerg; September 27, 1985, Reg; May 3, 2011, Susp.	.....do .....	Do.
<b>Region VIII</b>				
North Dakota:				
Cavalier, Township of, Pembina County	380274	July 20, 1981, Emerg; July 20, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Crystal, City of, Pembina County .....	380082	July 15, 1975, Emerg; January 16, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Drayton, City of, Pembina County .....	380150	April 23, 1974, Emerg; August 1, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Drayton, Township of, Pembina County	380276	October 6, 1982, Emerg; May 1, 1986, Reg; May 3, 2011, Susp.	.....do .....	Do.
Hamilton, City of, Pembina County .....	380084	January 21, 1976, Emerg; February 17, 1988, Reg; May 3, 2011, Susp.	.....do .....	Do.
Neché, City of, Pembina County .....	380085	October 18, 1974, Emerg; July 16, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Pembina County, Unincorporated Areas	380079	May 1, 1974, Emerg; November 19, 1987, Reg; May 3, 2011, Susp.	.....do .....	Do.
Walhalla, City of, Pembina County .....	380254	May 3, 1976, Emerg; April 15, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
<b>Region X</b>				
Oregon:				
Ashland, City of, Jackson County .....	410090	August 9, 1974, Emerg; June 1, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Central Point, City of, Jackson County	410092	September 18, 1974, Emerg; September 30, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Eagle Point, City of, Jackson County ....	410093	June 5, 1974, Emerg; September 30, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Gold Hill, City of, Jackson County .....	410094	August 5, 1974, Emerg; September 17, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Jackson County, Unincorporated Areas	415589	December 31, 1970, Emerg; April 1, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
Jacksonville, City of, Jackson County ...	410095	April 4, 1975, Emerg; December 4, 1979, Reg; May 3, 2011, Susp.	.....do .....	Do.
Medford, City of, Jackson County .....	410096	June 7, 1974, Emerg; April 15, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Phoenix, City of, Jackson County .....	410097	June 11, 1975, Emerg; May 3, 1982, Reg; May 3, 2011, Susp.	.....do .....	Do.
Rogue River, City of, Jackson County ..	410098	May 17, 1974, Emerg; January 2, 1981, Reg; May 3, 2011, Susp.	.....do .....	Do.
Shady Cove, City of, Jackson County ..	410099	August 23, 1974, Emerg; September 30, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.
Talent, City of, Jackson County .....	410100	April 7, 1975, Emerg; February 1, 1980, Reg; May 3, 2011, Susp.	.....do .....	Do.

\*do = Ditto.  
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp. —Suspension.

Dated: April 15, 2011.  
**Sandra K. Knight,**  
*Deputy Federal Insurance and Mitigation Administrator, Mitigation.*  
[FR Doc. 2011-10174 Filed 4-26-11; 8:45 am]  
**BILLING CODE 9110-12-P**

**LEGAL SERVICES CORPORATION**

**45 CFR Part 1609**

**Fee-Generating Cases**

**AGENCY:** Legal Services Corporation.  
**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Legal Services Corporation’s regulation on fee-generating cases to clarify that it applies only to LSC and private non-LSC funds.

**DATES:** This final rule becomes effective on May 27, 2011.

**FOR FURTHER INFORMATION CONTACT:** Mattie Cohan, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 3333 K Street, NW., Washington, DC 20007; 202-295-1624 (ph); 202-337-6519 (fax); *mcohan@lsc.gov*.

**SUPPLEMENTARY INFORMATION:**

**Background**

This final rule follows the publication of a Notice of Proposed Rulemaking published by the Legal Services

Corporation (LSC) on February 4, 2011 proposing to amend LSC’s regulation at 45 CFR part 1609 on fee-generating cases to clarify that it applies only to LSC and private non-LSC funds. 76 FR 6381. On April 15, 2011, the LSC Board of Directors adopted the proposed changes and authorized the publication of this final rule.

Generally, the substantive LSC restrictions on LSC recipients fall into two categories: “entity restrictions” and “LSC funds restrictions.” “Entity restrictions” apply to all activities of a recipient regardless of the funding source (except for the use of tribal funds as intended) and generally originate in section 504 of LSC’s FY 1996 appropriations act (the provisions of which have been carried forward in subsequent appropriations). In contrast, “LSC funds restrictions” usually originate from the LSC Act and apply to the use of LSC funds and private funds, but not to tribal or public non-LSC funds used as intended. LSC’s regulation at 45 CFR part 1609, Fee-Generating Cases, is based on § 1007(b)(1) of the LSC Act, which provides that no funds made available by the Corporation may be used to provide legal assistance, except as per LSC regulation, with respect to any fee-generating case. The fee-generating case provision of the LSC Act is an “LSC funds restriction.” However, § 1609.3(a),

as currently written, is not limited to the use of LSC funds. Rather it reads as an “entity restriction” reaching all of an LSC recipient’s funds. Its wording follows the same structure as other entity restrictions such as part 1617—Class Actions, which states that “Recipients are prohibited from initiating or participating in any class action.” 45 CFR 617.3.

From its initial adoption in 1976 through 1996, part 1609 followed the language of the LSC Act and was expressly applied as an LSC funds restriction. At that time, § 1609.3 provided that: “[n]o recipient shall use funds received from the Corporation to provide legal assistance in a fee-generating case unless” one of the regulatory exceptions applied. 41 FR 18528 (proposed rule May 5, 1976), 41 FR 38505 (final rule Sept. 10, 1976), and 49 FR 19656 (final rule May 9, 1984) (the last final rule prior to 1996) (emphasis added).

In 1996 LSC revised part 1609 in conjunction with the enactment of the part 1642 entity prohibition on recipients claiming or collecting and retaining attorneys’ fees. In the revision the language was changed from the prior “Corporation funds” prohibition to the more general “no recipient” entity prohibition. Notably though, there is no discussion in the preamble to the proposed or final regulation of any