

technical presentations on *in-vitro* and *in-vivo* duck models of infection that might be used in testing disinfectants against HBV. Presentations were followed by a discussion on criteria to be used in decision making about surrogate model(s) and proposed labeling claims of registered products. It was proposed in the workshop to leave the label claim broad, such as "Effective against HBV" or "Hepadnavirucidal" and not to add information about the test organism. Submitted protocols were evaluated and discussed by all participants. At the end of the workshop an outline was presented, showing the agency's implementation plans for allowing products to be registered with HBV label claims using surrogate animal models.

### III. Public Record and Electronic Submissions

A record has been established for this action under docket number "OPP-00538A" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and other information may also be submitted electronically by sending electronic mail (e-mail) to: [opp-docket@epamail.epa.gov](mailto:opp-docket@epamail.epa.gov).

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form or encryption. Comments will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-00538A." No CBI should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries.

The official record for this action, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted in writing. The official record is the paper record maintained at the address in

ADDRESSES at the beginning of this document.

### List of Subjects

Environmental protection, Antimicrobials, Pesticides and pest, Efficacy testing, Hepatitis Virus B (HBV).

Dated: December 17, 1998.

**Frank Sanders,**

Director, Antimicrobials Division, Office of Pesticide Programs.

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### ENVIRONMENTAL PROTECTION AGENCY

[OPP-00558A; FRL-6054-5]

#### Pesticides: Science Policy Issues Related to the Food Quality Protection Act; Extension of Comment Period

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

**ACTION:** Extension of comment period on notice of availability.

**SUMMARY:** On November 5, 1998, EPA issued a notice of availability for two draft science policy papers—"Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Program" and "Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides." The comment period would have ended January 4, 1999. Due to the holidays, EPA has decided to extend the comment period two weeks.

**DATES:** Written comments must be submitted to EPA by January 19, 1999.

**ADDRESSES:** By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1132, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: [opp-docket@epa.gov](mailto:opp-docket@epa.gov). Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given in this unit, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Kempter (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 713D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-5448, e-mail: [kempter.carlton@epa.gov](mailto:kempter.carlton@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

The Agency has issued the two draft documents listed in the SUMMARY at the beginning of this document and solicited comments on them. The background on these documents can be found in the previous **Federal Register** notice published on November 5, 1998 (63 FR 59780) (FRL-6042-3). A time extension of two weeks is being provided such that the comment period will now end on January 19, 1999.

#### II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPP-00559 for "Guidance for Submission of Probabilistic Exposure Assessments to the Office of Pesticide Programs" and OPP-00560 for "Office of Pesticide Program's Science Policy on the Use of Cholinesterase Inhibition for Risk Assessments of Organophosphate and Carbamate Pesticides" (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays. The official rulemaking record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at: [opp-docket@epa.gov](mailto:opp-docket@epa.gov)

Electronic comments must be submitted as an ASCII file avoiding the

use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control numbers OPP-00559 or OPP-00560. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

### List of Subjects

Environmental protection,  
Administrative practice and procedure,  
Agricultural commodities, pesticides  
and pests.

Dated: December 21, 1998.

**Lynn R. Goldman,**

*Assistant Administrator for Prevention,  
Pesticides and Toxic Substances.*

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### Repudiation and Asset-backed Securitizations and Loan Participations

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Proposed statement of policy.

**SUMMARY:** In response to inquiries from insured depository institutions, accountants, and other parties involved in asset-backed securitizations and loan participations, the Board of Directors of the FDIC (Board) is proposing to adopt a Statement of Policy Regarding Treatment of Securitizations and Loan Participations After Appointment of the Federal Deposit Insurance Corporation as Conservator or Receiver (Statement of Policy) to clarify how the FDIC will treat securitizations and loan participations in its role as conservator or receiver of insured depository institutions. The proposed Statement of Policy provides that subject to certain conditions, the FDIC will not attempt to reclaim, recover, or recharacterize as property of the institution or the receivership estate in the case of a securitization, the financial assets transferred by the insured depository institution to a special purpose entity in connection with the securitization, or in the case of a loan participation, the undivided interest transferred to a participant in connection with the loan participation. It is anticipated that the proposed Statement of Policy would provide helpful guidance to insured depository institutions, accountants, and other

parties involved in securitizations and loan participations.

**DATES:** Comments must be received by March 1, 1999.

**ADDRESSES:** Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. Comments may be hand delivered to the guard station located at the rear of the 17th Street building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (FAX number (202) 898-3838; Internet address: comments@fdic.gov. Comments may be inspected and photocopied at the FDIC Public Information Center, Room 100, 801 17th Street NW, Washington, DC, on business days between 9:00 a.m. and 4:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Michael H. Krimminger, Senior Policy Analyst, Office of Policy Development, (202) 898-8950; Robert Storch, Chief, Accounting Section, Division of Supervision, (202) 898-8906; Thomas Bolt, Counsel, Legal Division, (202) 736-0168; Federal Deposit Insurance Corporation, Washington, D.C. 20429.

**SUPPLEMENTARY INFORMATION:** Under section 11(e)(1) of the Federal Deposit Insurance Act, 12 U.S.C. 1821(e)(1), the FDIC, as conservator or receiver of any insured depository institution, may repudiate any contract entered into by the institution before appointment of the conservator or receiver. Insured depository institutions, accountants, and other parties involved in asset-backed securitizations and loan participations have raised questions about whether the repudiation of a securitization or loan participation by the FDIC would result in the FDIC's recovery of the transferred financial assets, in the case of a securitization, or the undivided interest in a loan, in the case of a loan participation. If so, transfers of such assets or interest by insured depository institutions would likely not be accounted for as a sale under generally accepted accounting principles, which require that transferred assets be placed beyond the reach of the transferor, its creditors, or a receiver for the transferor, in order for the transfer to be accounted for as a sale.

The FDIC is considering whether to adopt the proposed Statement of Policy to provide guidance as to its treatment of securitizations and loan participations after its appointment as conservator or receiver of an insured depository institution. The proposed Statement of Policy provides that subject to certain conditions, the FDIC will not attempt to reclaim, recover, or

recharacterize as property of the institution or the receivership estate (i) in the case of a securitization, the financial assets transferred by the insured depository institution to a special purpose entity in connection with the securitization, or (ii) in the case of a loan participation, the undivided interest transferred to a participant in connection with the loan participation.

The proposed Statement of Policy applies only to securitizations and loan participations where (i) the criteria for sale accounting under generally accepted accounting principles have been satisfied (including the legal isolation test, as affected by the proposed Statement of Policy); (ii) the documentation effecting the transfer of financial assets, in the case of a securitization, or undivided interest in a loan, in the case of a loan participation, reflects the intent of the parties to treat the transaction as a sale, and not as a secured borrowing (without regard to the intended treatment of the transaction for tax purposes); and (iii) the institution received adequate consideration for the transfer at the time it was made.

The proposed Statement of Policy is set forth below. Comment is invited on all aspects of the proposal, including whether, after adoption of the Statement of Policy by the FDIC, the transfer of financial assets in connection with a securitization and the transfer of an undivided interest in a loan in the form of a loan participation by an insured depository institution would be accounted for as a sale under generally accepted accounting principles.

The Statement of Policy proposed by the Board reads as follows:

### Statement of Policy Regarding Treatment of Securitizations and Loan Participations After Appointment of the Federal Deposit Insurance Corporation as Conservator or Receiver

This Statement of Policy is issued by the Federal Deposit Insurance Corporation (FDIC) to clarify the treatment of securitizations and loan participations after appointment of the FDIC as conservator or receiver of an insured depository institution.

#### I. Definitions

As used in this Statement of Policy, the following terms have the following meanings:

A. "Beneficial interest" means debt or equity (or mixed) interests or obligations issued by a special purpose entity that entitle their holders to receive payments that depend primarily on the cash flow from financial assets owned by the special purpose entity.