

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
2/22/24	TX	Denton	Denton Enterprise	3/0199	12/12/23	RNAV (GPS) RWY 18L, Orig.
2/22/24	WA	Moses Lake	Grant County Intl	3/1765	11/6/23	NDB RWY 32R, Amdt 17B.
2/22/24	KY	Bardstown	Samuels Fld	3/2136	11/16/23	RNAV (GPS) RWY 3, Amdt 1A.
2/22/24	KY	Bardstown	Samuels Fld	3/2138	11/16/23	RNAV (GPS) RWY 21, Amdt 1A.
2/22/24	KY	Bardstown	Samuels Fld	3/2142	11/16/23	VOR RWY 3, Amdt 1.
2/22/24	OR	Medford	Rogue Valley Intl—Medford	3/2772	11/6/23	VOR/DME RWY 14, Amdt 5B.
2/22/24	OR	John Day	Grant County Rgnl/Ogilvie Fld	3/3840	11/6/23	RNAV (GPS) Z RWY 9, Orig—D.
2/22/24	ND	Lakota	Lakota Muni	3/5790	11/16/23	RNAV (GPS) RWY 33, Orig—A.
2/22/24	FL	Orlando	Orlando Intl	3/6102	12/19/23	RNAV (GPS) RWY 17R, Orig—D.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9987]

RIN 1545–BK95

Update to Minimum Present Value Requirements for Defined Benefit Plan Distributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document sets forth final regulations providing guidance relating to the minimum present value requirements applicable to certain defined benefit pension plans. These regulations provide guidance on changes made by the Pension Protection Act of 2006 to the prescribed interest rate and mortality table and other guidance, including rules regarding the treatment of preretirement mortality discounts and Social Security level income options. These regulations affect participants, beneficiaries, sponsors, and administrators of defined benefit pension plans.

DATES:

Effective date: These regulations are effective on January 19, 2024.

Applicability date: These regulations generally apply to distributions with annuity starting dates that occur on or after October 1, 2024.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

Section 401(a)(11) of the Internal Revenue Code (Code) provides rules that a defined benefit plan must satisfy with respect to a vested participant in order to be a qualified plan under

section 401(a). Under those rules, except as provided under section 417: (1) if the participant survives to the annuity starting date, the accrued benefit payable to the participant must be provided in the form of a qualified joint and survivor annuity (QJSA); and (2) if the participant dies before the annuity starting date and has a surviving spouse, the plan must provide a qualified preretirement survivor annuity (QPSA) to the surviving spouse.

Under section 417(e)(1), a plan may provide that the present value of a QJSA or a QPSA will be distributed immediately if that present value does not exceed the amount that may be distributed without the participant's consent under section 411(a)(11).¹ Under section 417(e)(2), if the present value of the QJSA or the QPSA exceeds that amount, then a plan may immediately distribute the present value of the QJSA or the QPSA only if the participant and the spouse of the participant (or, if the participant has died, the surviving spouse) consent in writing to the distribution.

Section 417(e)(3)(A) provides that the present value of the QJSA or QPSA must not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.²

Section 417(e)(3)(B), as amended by section 302 of the Pension Protection Act of 2006, Public Law 109–280, 120 Stat. 780 (PPA '06), provides that the term “applicable mortality table” means a mortality table, modified as appropriate by the Secretary, based on the mortality table specified for the plan year under section 430(h)(3)(A) of the Code (without regard to section 430(h)(3)(C) or (D)).

Section 417(e)(3)(C), as amended by section 302 of PPA '06, provides that the term “applicable interest rate” means

¹ Section 411(a)(11)(A) generally provides that if the present value of a participant's nonforfeitable accrued benefit exceeds \$7,000 (\$5,000 for distributions made on or before December 31, 2023), then the benefit may not be distributed immediately without the participant's consent.

² Under section 411(a)(11)(B), the present value that is used to apply the rules of section 411(a)(11) is calculated using the rules of section 417(e)(3).

the adjusted first, second, and third segment rates applied under rules similar to the rules of section 430(h)(2)(C) of the Code for the month before the date of the distribution or such other time as the Secretary may prescribe by regulations. However, for purposes of section 417(e)(3), these rates are determined without regard to the segment rate stabilization rules of section 430(h)(2)(C)(iv). In addition, under section 417(e)(3)(D), these rates are determined using the average yields for a month, rather than the 24-month average used under section 430(h)(2)(D).

Section 411(a)(13), as added by section 701(b) of PPA '06, provides that an “applicable defined benefit plan,” as defined by section 411(a)(13)(C) of the Code, is not treated as failing to meet the requirements of section 417(e) with respect to accrued benefits derived from employer contributions solely because the present value of a participant's accrued benefit (or any portion thereof) may be, under the terms of the plan, equal to the amount expressed as the hypothetical account balance or as an accumulated percentage of such participant's final average compensation.

The Department of the Treasury (Treasury Department) and the IRS issued final regulations under section 417 relating to the QJSA and QPSA requirements in 1988 (53 FR 31854, August 22, 1988), and amended those regulations in 1998 (63 FR 16898, April 3, 1998), to reflect changes to section 417(e)(3) enacted by the Retirement Protection Act of 1994, Subtitle F of Title VII of the Uruguay Round Agreements Act, Public Law 103–465, 108 Stat. 4809 (RPA '94). Section 1.417(e)–1 was further amended in 2016 (81 FR 62359, September 9, 2016) to permit defined benefit plans to bifurcate a benefit that is paid partly in the form of an annuity and partly in a more accelerated form and to apply the requirements of section 417(e)(3) only to the accelerated portion of the distribution. However, § 1.417(e)–1 was not updated at that time to reflect changes made by PPA '06.

Under § 1.417(e)–1(d)(1), a defined benefit plan generally must provide that the present value of any accrued benefit and the amount (subject to sections 411(c)(3) and 415) of any distribution, including a single sum, may not be less than the amount calculated using the applicable interest rate and the applicable mortality table. In addition, under § 1.417(e)–1(d)(1), the present value of any optional form of benefit may not be less than the present value of the normal retirement benefit determined in accordance with the preceding sentence.

Section 1.417(e)–1(d)(6) provides an exception from the minimum present value requirements of section 417(e) and § 1.417(e)–1(d) for certain distributions. This exception applies to the amount of a distribution paid in the form of an annual benefit that either does not decrease during the life of the participant (or, in the case of a QPSA, the life of the participant's spouse), or that decreases during the life of the participant merely because of (1) the death of the survivor annuitant (but only if the reduction is to a level not below 50 percent of the annual benefit payable before the death of the survivor annuitant), or (2) the cessation or reduction of Social Security supplements or qualified disability benefits.

Section 1.401(a)–20 provides rules regarding the survivor annuity requirements of sections 401(a)(11) and 417. Section 1.401(a)–20, Q&A–16, provides that, in the case of a married participant, the QJSA must be at least as valuable as any other optional form of benefit payable under the plan at the same time. Section 1.401(a)–20, Q&A–16 does not specify a particular actuarial basis for applying this requirement; therefore, this requirement may be satisfied using any set of reasonable actuarial assumptions. In addition, § 1.401(a)–20, Q&A–16 provides that a plan does not fail to satisfy the at-least-as-valuable requirement merely because the amount payable under an optional form of benefit that is subject to the minimum present value requirement of section 417(e)(3) is calculated using the applicable interest rate (and, for periods when required, the applicable mortality table) under section 417(e)(3).

Under section 401(a)(7), a plan is not a qualified plan unless the plan satisfies the requirements of section 411. Section 411(d)(6)(A) provides that a plan is treated as not satisfying the requirements of section 411 if it is amended to reduce accrued benefits (subject to certain exceptions). For this purpose, section 411(d)(6)(B) provides that a plan amendment is treated as

impermissibly reducing accrued benefits if it has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy, or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment. However, the last sentence of section 411(d)(6)(B) provides that the Secretary may by regulations provide that section 411(d)(6)(B) does not apply to a plan amendment that eliminates an optional form of benefit (other than a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy).

Notice 2007–81, 2007–2 CB 899, provides guidance on the applicable interest rate. Rev. Rul. 2007–67, 2007–2 CB 1047, provides guidance on the applicable mortality table³ and the timing rules that apply to the determination of the applicable interest rate under section 417(e)(3)(C) and the applicable mortality table under section 417(e)(3)(B).

Sections 203(e), 204(g), and 205(g) of the Employee Retirement Income Security Act of 1974, Public Law 93–406, 88 Stat. 829, as amended (ERISA), provide rules that are parallel to Code sections 411(a)(11), 411(d)(6), and 417(e), respectively. Under section 101 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App., as amended, the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these regulations for purposes of ERISA, as well as the Code. Thus, these regulations apply for purposes of the Code and the corresponding provisions of ERISA.

In *West v. AK Steel Corporation Retirement Accumulation Pension Plan*, 484 F.3d 395, 411 (6th Cir. 2007), cert. denied 555 U.S. 1097 (2009), the court held that a preretirement mortality discount could not be used in the computation of the present value of a participant's single-sum distribution under a cash balance plan if the death benefit under the plan was equal in value to the participant's accrued benefit under the plan. The court found that, if a participant's beneficiary is entitled to the participant's entire accrued benefit upon the participant's death before attainment of normal retirement age, the use of a mortality

discount for the period before normal retirement age would result in a partial forfeiture of benefits in violation of the ERISA vesting rules that correspond to the rules of section 411(a). *Id.* See also *Berger v. Xerox Retirement Income Guaranty Plan*, 231 F.Supp.2d 804, 814 (S.D. Ill. 2002), modified and affirmed, 338 F.3d 755, 764 (7th Cir. 2003) (holding that use of a preretirement mortality discount was not warranted in determining participants' normal retirement benefits payable under plan); *Crosby v. Bowater, Inc. Ret. Plan*, 212 FRD. 350, 362 (W.D. Mich. 2002), rev'd on other grounds, 382 F.3d 587 (6th Cir. 2004), cert. denied 544 U.S. 976 (2005) (holding that accrued benefits include not only retirement benefits themselves, but also death benefits which are directly related to the value of the retirement benefits); and *McCutcheon v. Colgate-Palmolive Co.*, 62 F.4th 674 (2nd Cir. 2023) (holding that a preretirement mortality factor may not be applied to calculate the value of a participant's accrued benefit previously distributed from a cash-balance plan for purposes of determining a residual annuity). In *Stewart v. AT&T Inc.*, 354 Fed. App'x. 111, 118 (5th Cir. 2009), however, the court held that a preretirement mortality discount was appropriately applied to determine a single-sum distribution under a traditional defined benefit plan. The court distinguished *AK Steel* and *Berger* on the basis that the plans at issue in those cases did not provide for a forfeiture of the accrued benefit on the death of the participant before retirement, whereas the plan at issue in *Stewart* provided for such a forfeiture.

Proposed regulations that would update the regulations under section 417(e) and make certain clarifying changes were published in the **Federal Register** on November 25, 2016 (81 FR 85190). Comments were received on the proposed regulations, and a public hearing was held on March 7, 2017. After consideration of the comments, the proposed regulations are adopted by this Treasury decision with certain changes described in the section of this preamble entitled "Summary of Comments and Explanation of Revisions."

Summary of Comments and Explanation of Revisions

1. Overview

These regulations amend the existing regulations under section 417(e) regarding the minimum present value requirements of section 417(e)(3) in several respects. Specifically, these regulations update § 1.417(e)–1 to reflect

³ Notice 2008–85, 2008–2 CB 905, Notice 2013–49, 2013–32 IRB 127, Notice 2015–53, 2015–33 IRB 190, Notice 2016–50, 2016–38 IRB 371, Notice 2017–60, 2017–43 IRB 365, Notice 2018–2, 2018–2 IRB 281, Notice 2019–26, 2019–15 IRB 943, Notice 2019–67, 2019–52 IRB 1510, Notice 2020–85, 2020–51 IRB 1645, Notice 2022–22, 2022–20 IRB 1057, and Notice 2023–73, 2023–45 IRB 1232, set forth the section 417(e)(3) applicable mortality tables for 2009 through 2024.

changes to sections 411(a) and 417(e) made by PPA '06 and to eliminate certain obsolete provisions. These regulations also set forth other updates and clarifying changes.

2. Updates To Reflect Statutory Changes

These regulations update the existing regulations to reflect the statutory changes made by PPA '06, including the new interest rates and mortality tables set forth in section 417(e)(3) and the exception from the valuation rules for certain applicable defined benefit plans set forth in section 411(a)(13). These regulations clarify that, for purposes of section 417(e)(3), the interest rates that are published by the Commissioner are to be used without further adjustment. In addition, these regulations eliminate obsolete provisions relating to the transition from pre-1995 law to the interest rates and mortality assumptions under section 417(e)(3) as modified by RPA '94.

3. Treatment of Preretirement Mortality

These regulations adopt the rules set forth in the proposed regulations relating to the treatment of preretirement mortality discounts in determining the minimum present value of accrued benefits. Those rules address the issue raised by *AK Steel* and *Berger* of whether a plan that provides a death benefit equal in value to the accrued benefit may apply a preretirement mortality discount for the probability of death when determining the amount of a single-sum distribution.

Section 411(a) sets forth rules limiting the forfeiture of accrued benefits. Under section 411(a)(1), an employee's rights in the accrued benefit derived from employee contributions must be nonforfeitable. In addition, an employee's rights in the accrued benefit derived from employer contributions must become nonforfeitable at least as quickly as under one of the vesting schedules specified in section 411(a)(2). Section 411(a)(3)(A) provides that a right to an accrued benefit derived from employer contributions is not treated as forfeitable solely because the plan provides that it is not payable if the participant dies.

Section 411(a)(7)(A)(i) defines a participant's accrued benefit under a defined benefit plan as the employee's accrued benefit determined under the plan and, except as provided in section 411(c)(3), expressed in the form of an annual benefit commencing at normal retirement age. Section 1.411(a)-7(a)(1) provides that the term "accrued benefit" refers only to pension or retirement benefits. Consequently, accrued benefits do not include ancillary benefits not

directly related to retirement benefits, such as incidental death benefits.

A death benefit under a defined benefit plan that is payable if the participant dies before attaining normal retirement age and before benefits commence is not part of the participant's accrued benefit within the meaning of section 411(a)(7) and, accordingly, the nonforfeiture rules of section 411(a) do not apply to this type of death benefit. This is the case even if the amount of the death benefit is the same as the amount the participant would have received if, instead of dying, the participant had separated from service and elected to receive an immediate distribution. Moreover, such an ancillary death benefit can be eliminated by plan amendment without violating the anti-cutback rule of section 411(d)(6).

Consistent with this analysis, section 417(e) does not require ancillary death benefits (that is, a death benefit that is not part of the accrued benefit) to be taken into account in the calculation of the minimum present value of the accrued benefit. Accordingly, under the proposed regulations, the probability of death under the applicable mortality table generally is taken into account for purposes of determining the minimum amount of a lump sum distribution under the plan that is equal to the present value of the accrued benefit (or the optional form of benefit, if applicable) under section 417(e)(3), and that minimum amount is not required to include the present value of the death benefits provided under the plan (other than a death benefit that is part of the accrued benefit or part of the optional form of benefit for which present value is determined). Commenters generally supported this rule in the proposed regulations, and it is included in the final regulations at § 1.417(e)-1(d)(2)(ii)(A).⁴

Some commenters raised an issue regarding the effect of the rule on plan designs under which the probability of death is not taken into account in determining the amount of a single-sum distribution because the plan provides a death benefit equal in value to the

present value of the accrued benefit.⁵ These commenters expressed concern that this type of plan design might violate the requirement of § 1.401(a)-20, Q&A-16, that, for a married participant, the QJSA must be at least as valuable as any other optional form of benefit payable under the plan at the same time, and would not be eligible for the exception that applies to an optional form of benefit that is calculated in accordance with the requirements of section 417(e)(3) (because disregarding the probability of death before normal retirement age in calculating the amount of a distribution in an optional form of benefit to which section 417(e)(3) applies would increase the present value of that distribution above the minimum present value required under section 417(e)(3)).

The Treasury Department and the IRS did not intend for the rule requiring the probability of death to be taken into account for purposes of determining minimum present value to prohibit this plan design. Accordingly, these regulations expand eligibility for the exception to the rule under § 1.401(a)-20, Q&A-16, for certain optional forms of benefit. The existing exception under § 1.401(a)-20, Q&A-16, applies to an optional form of benefit that is subject to the requirements of section 417(e)(3) and is calculated using the applicable interest rate and the applicable mortality table. Under the expanded eligibility for that exception provided for in § 1.417(e)-1(d)(2)(ii)(C)(1), the amount payable under an optional form of benefit is treated as calculated using the applicable interest rate and applicable mortality table under section 417(e)(3) (and therefore is eligible for this exception) even if the amount payable is calculated taking into account both the probability of death before retirement and any death benefit under the plan.

These regulations also adopt the rule under the proposed regulations under which, for purposes of determining the present value under section 417(e)(3) with respect to the portion of the accrued benefit derived from employee contributions (the employee-provided accrued benefit) that is computed in accordance with the rules of section 411(c)(2), the probability of death before the assumed commencement date may not be taken into account. This rule is different from the rule that applies to the portion of the accrued benefit

⁴ Neither the proposed regulations nor these regulations address the applicability of a preretirement mortality adjustment in determining the actuarial equivalent of a past distribution for purposes of offsetting that actuarial equivalent against future distributions. *But see McCutcheon*, which concerned the application of a preretirement mortality adjustment to calculate the actuarial equivalent of previously distributed benefits for purposes of determining whether the plan's calculation of a residual annuity resulted in the forfeiture of a participant's accrued benefit.

⁵ These commenters noted that disregarding the probability of death in these circumstances generates the same present value as is generated by taking into account the probability of death and including the value of the death benefit in the single-sum distribution.

derived from employer contributions (the employer-provided accrued benefit) because an employee's rights in the employee-provided accrued benefit are nonforfeitable under section 411(a)(1), and the exception for death under section 411(a)(3)(A) to the nonforfeitable of the employer-provided accrued benefit does not apply to the employee-provided accrued benefit.

These regulations include an example to illustrate the application of the minimum present value requirements of section 417(e)(3) in the case of a single-sum distribution of a participant's entire accrued benefit that consists of both the employee-provided accrued benefit and the employer-provided accrued benefit. Consistent with the rules in these regulations, the example illustrates that a single-sum distribution of the participant's entire accrued benefit in this case must be no less than the sum of the minimum present value of the employee-provided accrued benefit, determined under section 417(e)(3) (applying the special rules set forth in the preceding paragraph), and the minimum present value of the employer-provided accrued benefit, determined under section 417(e)(3).

Note that Rev. Rul. 89-60, 1989-1 CB 113 (as corrected by Announcement 89-65, 1989-21 IRB 33), provides that it is sufficient for a single-sum distribution to equal the greater of: (1) the minimum present value of the employee-provided accrued benefit (determined using the actuarial assumptions specified in section 411(c)(2) and Rev. Rul. 76-47, 1976-1 CB 109, taking into account the principle illustrated in Rev. Rul. 78-202, 1978-1 CB 124), and (2) the minimum present value of the participant's entire accrued benefit using plan assumptions subject to the interest rate limitation of section 417(e). The determination under Rev. Rul. 89-60 of these minimum present values does not reflect the specification in 1994 of a mortality assumption in section 417(e)(3)(B).⁶ Several commenters noted that some plan sponsors, in the absence of updated guidance following the 1994 amendment to section 417(e), have applied a preretirement mortality discount to both the employer-provided and employee-provided portions of the accrued benefit. These regulations modify and supersede the guidance in Rev. Rul. 89-60 to the extent the revenue ruling is inconsistent with these regulations.

Several commenters raised concerns that the prohibition on taking preretirement mortality into account in

determining the present value of the employee-provided accrued benefit would require a redetermination of a participant's remaining accrued benefit if the participant had received a partial distribution in the past. As discussed in the "Applicability Dates" section of this preamble, these regulations do not change the results of calculations that were made in accordance with the rules that applied before the applicability date of these regulations. Therefore, the regulations would not require the redetermination of a participant's remaining accrued benefit in such a case.

One commenter observed that some employers would prefer not to use different factors for the employer-provided portion of a benefit and the employee-provided portion of a benefit (and accordingly would like to determine the full amount of a single-sum distribution using the factor required to be used for the employee-provided portion of the benefit). A single-sum distribution determined in this manner would be greater than the minimum single-sum distribution that would satisfy section 417(e)(3) (and therefore would not be eligible for the exception to the requirement under § 1.401(a)-20, Q&A-16). To address this concern, these regulations provide a second expansion of eligibility to use that exception. Under this rule (at § 1.417(e)-1(d)(2)(ii)(C)(2)), the amount payable under an optional form of benefit is treated as calculated using the applicable interest rate and applicable mortality table under section 417(e)(3) (and therefore is eligible for the exception to § 1.401(a)-20, Q&A-16), even if, under the plan, the present value factor used for the employer-provided portion of the benefit is the present value factor that is required to be used for the employee-provided portion of the benefit (that is, a present value factor that does not take into account preretirement mortality).

Some commenters raised concerns about the implications of the rule that the probability of death is taken into account in determining minimum present value for distributions commencing after normal retirement age. Section 1.417(e)-1(d)(1)(i)(A) provides that, for a distribution commencing after normal retirement age, the minimum present value under section 417(e)(3) is determined based on the immediate annuity rather than the accrued benefit payable as of normal retirement age. However, the extent to which the probability of death is taken into account in determining the annuity commencing after normal retirement age that is actuarially equivalent to the

accrued benefit commencing at normal retirement age is an issue that arises under section 411(a), rather than under section 417(e)(3), and is expected to be addressed in future proposed regulations under section 411(a).⁷

4. Social Security Level Income Options

The proposed regulations address the applicability of the minimum present value requirements of section 417(e)(3) to a Social Security level income option (SSLIO). An SSLIO is an optional form of benefit (within the meaning of section 411(d)(6)(B) and § 1.411(d)-3(g)(6)(ii)) under which a participant's accrued benefit is paid in the form of an annuity for the life of the participant, with additional temporary annuity payments in earlier years, before an assumed Social Security commencement age, to provide the participant with approximately level retirement income when the estimated Social Security payments are taken into account.

As noted in the Background section of this preamble, § 1.417(e)-1(d)(6) provides that the minimum present value requirements of section 417(e)(3) do not apply to the amount of a distribution paid in the form of an annual benefit that does not decrease during the life of the participant, or that decreases during the life of the participant merely because of the death of the survivor annuitant or the cessation or reduction of Social Security supplements or qualified disability benefits. A Social Security supplement is defined in § 1.411(a)-7(c)(4) as a benefit for plan participants that both commences and terminates before the age when participants are entitled to old-age insurance benefits, unreduced on account of age, under title II of the Social Security Act (42 U.S.C. Chapter 7, subchapter II), as amended, and does

⁷ The preamble to the proposed regulations requested comments on the issue of whether, in the case of a plan that provides a subsidized annuity payable upon early retirement and determines a single-sum distribution as the present value of the early retirement annuity, the present-value determination should be required to be calculated using the applicable interest rate and the applicable mortality table applied to the early retirement annuity. See *Rybarczyk v. TRW*, 235 F.3d 975, 983 (6th Cir. 2000) (an early retirement single-sum distribution option that was determined based on the early retirement annuity was not required to be calculated using the section 417(e) factors, provided that the lump sum was at least as great as the present value of the deferred annuity determined using the section 417(e) factors); but see *Costantino v. TRW*, 13 F.3d 969, 979 (6th Cir. 1994) (benefit distributions must comply with the valuation rule of § 1.411(a)-11(a)(2)). A number of comments were received on this issue, many of which noted that the topic is also addressed in § 1.411(a)-11(a)(2). These comments will be considered in connection with the development of proposed regulations under section 411(a), rather than in these regulations under section 417(e).

⁶ See section 767 of RPA '94.

not exceed those old-age insurance benefits. A Social Security supplement (other than a QSUPP as defined in § 1.401(a)(4)–12) is an ancillary benefit within the meaning of § 1.411(d)–3(g)(2) that is not a section 411(d)(6) protected benefit.

Because the periodic payments under an SSLIO decrease during the lifetime of the participant and the decrease is not the result of the cessation of an ancillary Social Security supplement, § 1.417(e)–1(d)(6) does not provide an exception from the minimum present value requirements of section 417(e)(3) for this form of benefit. The proposed regulations included an example illustrating the application of the minimum present value requirements of section 417(e)(3) to an SSLIO. Commenters expressed a variety of views regarding this example. One commenter stated that it is reasonable to apply the minimum present value requirements to an SSLIO, while another commenter maintained that the minimum present value requirements should not apply to any optional forms of benefit other than a single-sum distribution. Some commenters suggested that the minimum present value requirements should apply only to the determination of the temporary annuity payments under an SSLIO and that the implicit bifurcation rule of § 1.417(e)–1(d)(7)(ii)(B) should be expanded to permit bifurcation of that option into a temporary annuity portion and a remaining accrued benefit.

The Treasury Department and the IRS believe that it is appropriate to apply the rules of section 417(e)(3) to an SSLIO because, when a participant's lifetime benefit is paid in that form, a portion of those benefits (which may be a substantial portion of the participant's lifetime benefits) is accelerated and paid over a short period of time (that is, until assumed Social Security retirement age). Nevertheless, the Treasury Department and the IRS agree with those commenters who suggested that it is appropriate to permit a plan to satisfy section 417(e)(3) by implicitly bifurcating the participant's benefit payable in the form of an SSLIO into a temporary annuity portion and a remaining annuity benefit. As a result, the regulations include a new implicit bifurcation rule for an SSLIO at § 1.417(e)–1(d)(7)(ii)(C).

Under the new implicit bifurcation rule, the plan satisfies the minimum present value requirements of section 417(e)(3) with respect to the temporary annuity portion of an SSLIO if the plan satisfies two minimum requirements with respect to the remaining annuity benefit. First, the remaining accrued

benefit expressed in the normal form and payable at normal retirement age (or current age, if later) must be at least as great as it would be if an annuity payable in that form and commencing at that age that is actuarially equivalent to the temporary annuity (determined using the applicable section 417(e)(3) assumptions) were subtracted from the participant's accrued benefit. Second, the remaining immediate annuity expressed in the normal form must be at least as great as it would be if an immediate annuity payable in that form that is actuarially equivalent to the temporary annuity (determined using the applicable section 417(e)(3) assumptions) were subtracted from the immediate annuity. The regulations include an example illustrating the application of the minimum present value requirements of section 417(e)(3) to an SSLIO and an example to illustrate the application of the new implicit bifurcation rule to an SSLIO. A plan amendment that provides for implicit bifurcation of an SSLIO in accordance with this new rule must comply with the requirements of section 411(d)(6).

5. Section 411(d)(6) Relief for Changes in Lookback Months and Stability Periods for Mortality Table and Interest Rate

The proposed regulations retained the rules providing relief under section 411(d)(6) for a plan amendment that changes lookback months or stability periods for the applicable mortality table and applicable interest rate under section 417(e)(3). Under these rules, such a plan amendment does not violate section 411(d)(6) provided that, for a specified period, the participant is entitled to the greater of the benefits under the pre- and post-amendment timing rules. Commenters asked that this relief under section 411(d)(6) be expanded to apply to amendments that change the time for determining an interest rate or mortality table that is used for any purpose. Commenters observed that, given the requirement to use the more participant-favorable of the two sets of assumptions for a specified period, expanding this rule cannot be used to manipulate assumptions in the plan sponsor's favor.

In response, these regulations expand the rule previously set forth in the regulations under section 417(e) by adopting a comparable rule under section 411(d)(6), which is set forth in § 1.411(d)–3(a), that applies to amendments that change the time for determining an interest rate or mortality table that is used for any purpose. Under these regulations, a defined benefit plan may be amended by an

amendment that is adopted on or after January 19, 2024 to change the stability period from one stability period permitted under § 1.417(e)–1(d)(4)(ii) to a different permitted stability period, or to change the lookback month described in § 1.417(e)–1(d)(4)(iii) from one permitted lookback month to a different permitted lookback month (including an indirect change to the stability period or lookback month as a result of a change in plan year). Such an amendment may be made with respect to any plan provision under which an interest rate or mortality table is specified by reference to a stability period or a lookback month, provided that the amount of any distribution for which the annuity starting date occurs on or after the effective date of the amendment and before the end of the one year period commencing on the applicable amendment date for the amendment is determined using the more participant-favorable of the two sets of assumptions.

For an amendment that changes the time for determining an interest rate or mortality table that is used for a purpose other than the minimum present value rules of section 417(e)(3), and that is adopted before January 19, 2024, whether an impermissible cutback under section 411(d)(6) has occurred is based on applicable law on the date the amendment is adopted. Thus, for example, if a plan amendment adopted before January 19, 2024 was permitted under § 1.417(e)–1(d)(10)(ii) as in effect before the amendments made by these regulations, no violation of section 411(d)(6) will have occurred as a result of that plan amendment.

Commenters requested that relief from the anti-cutback rules of section 411(d)(6) be provided in additional situations. These situations involve plans that have been applying section 417(e) to determine the amount of a benefit but could satisfy section 417(e) using a less generous benefit calculation than is permitted under these regulations, such as the application of a preretirement mortality discount or the implicit bifurcation of a benefit paid in the form of an SSLIO. Commenters requested section 411(d)(6) relief for such a plan so that the plan could be amended to apply the less generous benefit calculation to benefits already accrued. The final regulations do not provide the requested section 411(d)(6) relief but instead provide the relief under § 1.401(a)–20, Q&A–16 described earlier in this Summary of Comments and Explanation of Provisions.

6. Applicability Dates

The changes to the regulations under section 417(e)(3) apply to distributions with annuity starting dates occurring on or after October 1, 2024, except as otherwise provided. For earlier distributions, the rules of § 1.417(e)-1(d) as set forth in 26 CFR part 1, revised as of April 1, 2023, apply (taking into account any statutory changes and guidance of general applicability relating to those statutory changes), except that taxpayers may instead apply the rules of this Treasury decision. For example, if, before October 1, 2024, a participant received a payment equal to the present value of the participant's employee-provided benefit determined in accordance with the valuation rules of section 417(e)(3) and § 1.417(e)-1(d) that applied at the time of the distribution, then the determination of the participant's remaining accrued benefit is not affected by any differences between those rules and the rules in this Treasury decision (unless the taxpayer chooses to apply the applicable rules of this Treasury decision).

The amendments to § 1.411(d)-3(a) apply to plan amendments adopted on or after January 19, 2024.

Special Analyses

1. Regulatory Planning and Review—Economic Analysis

Pursuant to the Memorandum of Agreement, Review of Treasury Regulations under Executive Order 12866 (June 9, 2023), tax regulatory actions issued by the IRS are not subject to the requirements of section 6 of Executive Order 12866, as amended. Therefore, a regulatory impact assessment is not required.

2. Regulatory Flexibility Act

It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that the regulations reflect the statutory changes to section 417(e) made by PPA '06 and also provide additional flexibility in plan design. Specifically, the regulations reflect the statute in a manner that (i) is consistent with the statutory language, (ii) provides certain clarifications, and (iii) eases and facilitates plan administration. Although the regulations might affect a substantial number of individuals, the economic impact of the regulations on small businesses is not expected to be significant. For example, while the regulations clarify the application of the minimum present value requirements of

section 417(e) to an SSLIO, most defined benefit plans sponsored by small employers do not include an SSLIO. Moreover, for those plans that do provide for SSLIOs, the regulations provide flexibility in the application of the minimum present value requirements by permitting the implicit bifurcation of the SSLIO into a temporary annuity (required to be determined using the minimum present value factors under section 417(e)(3)) and a life annuity (to which the minimum present value requirements do not apply). These regulations are not expected to result in any economically meaningful changes in behavior by small employers that sponsor defined benefit plans.

For the reasons stated, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required. Pursuant to section 7805(f), the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business, and no comments were received.

3. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. These regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

4. Executive Order 13132 (Federalism)

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These regulations do not have federalism implications, impose substantial direct compliance costs on State and local governments, or preempt State law within the meaning of the Executive order.

5. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs

designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Statement of Availability of IRS Documents

IRS Revenue Rulings, Revenue Procedures, and Notices cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS website at www.irs.gov.

Drafting Information

The principal authors of these regulations are Diane S. Bloom and Linda S.F. Marshall, Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and the IRS amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.411(d)-3 is amended by redesignating paragraph (a)(4) as paragraph (a)(5) and adding a new paragraph (a)(4) to read as follows:

§ 1.411(d)-3 Section 411(d)(6) protected benefits.

(a) * * *

(4) *Changes in lookback months and stability periods for mortality table and interest rate.* Subject to the rules of this paragraph (a)(4), a defined benefit plan may be amended by an amendment that is adopted on or after January 19, 2024 to change the stability period described in § 1.417(e)-1(d)(4)(ii) from one stability period to a different stability period or to change the lookback month described in § 1.417(e)-1(d)(4)(iii) from one lookback month to a different lookback month (including an indirect change to the stability period or lookback month as a result of a change in plan year). The amendments described in this paragraph (a)(4) may be made with respect to any plan provision under which an interest rate

or mortality table is specified by reference to a stability period or a lookback month, provided that any distribution for which the annuity starting date occurs on or after the effective date of the amendment and before the end of the one-year period commencing on the applicable amendment date for the amendment is equal to the greater of—

(i) The amount determined using the pre-amendment stability period and lookback month; and

(ii) The amount determined using the post-amendment stability period and lookback month.

* * * * *

■ **Par. 3.** Section 1.417(e)–1 is amended by:

■ a. Revising paragraphs (d)(1)(i) and (d)(2) through (4) and (6);

■ b. Adding paragraphs (d)(7)(ii)(C) and (D);

■ c. In paragraph (d)(7)(v), redesignating Examples 1 through 7 as paragraphs (d)(7)(v)(A) through (G), respectively;

■ d. In newly designated paragraphs (d)(7)(v)(A) through (G), redesignating the paragraphs in the first column as the paragraphs in the second column:

Newly redesignated paragraphs	Further redesignated as paragraphs
(d)(7)(v)(A)(i) through (iv)	(d)(7)(v)(A)(1) through (4).
(d)(7)(v)(B)(i) through (v)	(d)(7)(v)(B)(1) through (5).
(d)(7)(v)(C)(i) through (iv)	(d)(7)(v)(C)(1) through (4).
(d)(7)(v)(D)(i) and (ii)	(d)(7)(v)(D)(1) and (2).
(d)(7)(v)(E)(i) through (iv)	(d)(7)(v)(E)(1) through (4).
(d)(7)(v)(F)(i) through (iv)	(d)(7)(v)(F)(1) through (4).
(d)(7)(v)(G)(i) through (iii)	(d)(7)(v)(G)(1) through (3).

■ e. In newly designated paragraph (d)(7)(v)(C)(1), removing the language “*Example 2* of this paragraph (d)(7)(v)” and adding the language “paragraph (d)(7)(v)(B)(1) of this section (*Example 2*)” in its place;

■ f. In newly designated paragraph (d)(7)(v)(E)(1), removing the language “*Example 4* of this paragraph (d)(7)(v)” and adding the language “paragraph (d)(7)(v)(D)(1) of this section (*Example 4*)” in its place;

■ g. In newly designated paragraph (d)(7)(v)(E)(2), removing the language “*Example 4* of this paragraph (d)(7)(v)” and adding the language “paragraph (d)(7)(v)(D)(1) of this section (*Example 4*)” in its place;

■ h. Adding paragraph (d)(7)(v)(H);

■ i. Adding paragraph (d)(8)(vi);

■ j. Revising paragraph (d)(9); and

■ k. Removing paragraph (d)(10).

The revisions and additions read as follows:

§ 1.417(e)–1 Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

* * * * *

(d) * * *

(1) * * *

(i) *Defined benefit plans*—(A) *In general.* A defined benefit plan must provide that the present value of any accrued benefit and the amount (subject to sections 411(c)(3) and 415) of any distribution, including a single-sum distribution, must not be less than the amount calculated using the applicable mortality table described in paragraph (d)(2) of this section and the applicable interest rate described in paragraph (d)(3) of this section, as determined for the month described in paragraph (d)(4) of this section. In the case of an optional form of benefit payable before normal retirement age, the present value of the

optional form determined in accordance with the preceding sentence may not be less than the present value of the accrued benefit payable at normal retirement age. In the case of an optional form of benefit payable on or after normal retirement age, the present value of the optional form determined in accordance with the first sentence of this paragraph (d)(1)(i)(A) may not be less than the present value of the immediate annuity (payable in the same form as the accrued benefit is expressed). The present value determined under this paragraph (d) also applies for purposes of determining whether consent for a distribution is required under paragraph (b) of this section.

(B) *Payment of a portion of a participant’s benefit.* The rules of this paragraph (d)(1) apply with respect to a payment of only a portion of the accrued benefit in the same manner as these rules would apply to a distribution of the entire accrued benefit. See paragraph (d)(7) of this section for rules relating to such a bifurcation of a participant’s accrued benefit.

(C) *Special rules for applicable defined benefit plans.* See section 411(a)(13) and § 1.411(a)(13)–1 for an exception from the rules of section 417(e)(3) and this paragraph (d) that applies to certain distributions from plans with lump sum-based benefit formulas.

* * * * *

(2) *Applicable mortality table*—(i) *In general.* The applicable mortality table for a calendar year is the mortality table that is prescribed by the Commissioner in guidance published in the Internal Revenue Bulletin. See § 601.601(d) of this chapter. This mortality table is to be

based on the table specified under section 430(h)(3)(A), but without regard to section 430(h)(3)(C) or (D).

(ii) *Mortality discounts*—(A) *In general.* Except as provided in paragraph (d)(2)(ii)(B) of this section, the probability of death under the applicable mortality table is taken into account for purposes of determining the present value under this paragraph (d) without regard to the death benefits provided under the plan (other than a death benefit that is part of the normal form of benefit or part of another optional form of benefit, as described in § 1.411(d)–3(g)(6)(ii)(B), for which present value is determined).

(B) *Special rule for employee-provided benefit.* For purposes of determining the present value under this paragraph (d) with respect to the portion of the accrued benefit derived from employee contributions (that is determined in accordance with the rules of section 411(c)), the probability of death during the assumed deferral period, if any, is not taken into account. For purposes of the preceding sentence, the assumed deferral period is the period between the date of the present value determination and the assumed commencement date for the annuity attributable to the accrued benefit derived from employee contributions.

(C) *Exception from requirement that QJSA be most valuable form of benefit.* An optional form of benefit that is subject to the minimum present value requirement of this section is not treated as failing the requirement under § 1.401(a)–20, Q&A–16, that an optional form of benefit for a married participant may not be more valuable than the qualified joint and survivor annuity payable at the same time merely because, in applying the rules of this

section in determining the amount of the optional form of benefit, the amount payable is calculated—

(1) Taking into account both the probability of death before retirement and any death benefit under the plan, or

(2) Using the present value factor for the employee-provided portion of the benefit determined under paragraph (d)(2)(ii)(B) of this section as the present value factor for the employer-provided portion of the benefit.

(3) *Applicable interest rate*—(i) *In general.* The applicable interest rate for a month is determined using the first, second, and third segment rates for that month under section 430(h)(2)(C), as modified pursuant to section 417(e)(3)(D) (and without regard to the segment rate stabilization rules of section 430(h)(2)(C)(iv)). These section 417(e) segment rates are specified by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and are applied under rules similar to the rules under § 1.430(h)(2)–1(b). Thus, for example, in determining the present value of a straight life annuity, the first segment rate is applied with respect to payments expected to be made during the 5-year period beginning on the annuity starting date, the second segment rate is applied with respect to payments expected to be made during the 15-year period following the end of that 5-year period, and the third segment rate is applied with respect to payments expected to be made after the end of that 15-year period. The section 417(e) segment rates that are published by the Commissioner are to be used for this purpose without further adjustment.

(ii) *Examples.* The following examples illustrate the rules of paragraphs (d)(2) and (d)(3)(i) of this section:

(A) *Example 1—(1) Facts.* Plan A is a non-contributory defined benefit plan with a calendar-year plan year. The normal retirement age is 65, and all participant elections are made with proper spousal consent. Plan A includes an optional form of benefit that provides a single-sum distribution equal to the present value of the participant's accrued benefit. Plan A provides that the applicable interest rate for any distribution is determined using the segment rates as specified by the Commissioner for the month preceding the month containing the annuity starting date of the distribution. The applicable mortality table is the table specified by the Commissioner for the calendar year that contains the annuity starting date.

(2) *Analysis of minimum amount of single-sum distribution.* Participant P retires in November 2024 at age 60 and elects (with spousal consent) to receive a single-sum distribution. P has an accrued benefit of \$2,000 per month payable as a life annuity beginning at the plan's normal retirement age of 65. The applicable mortality rates for 2024 apply. For purposes of this paragraph (d)(3)(ii)(A) (*Example 1*), the section 417(e) segment rates published by the Commissioner for October 2024 are assumed to be 3.00 percent, 4.00 percent, and 5.00 percent for the first, second, and third segment rates, respectively. The present value factor for a participant, age 60, for a deferred annuity payable at age 65, calculated based on these interest rates and the applicable mortality table for 2024, is 10.432. To satisfy the requirements of section 417(e)(3) and this paragraph (d), the single-sum distribution received by P cannot be less than \$250,368 (that is, $\$2,000 \times 12 \times 10.432$).

(B) *Example 2—(1) Facts.* The facts are the same as in paragraph (d)(3)(ii)(A)(1) of this section (*Example 1*), except that Plan A provides for mandatory employee contributions. Participant Q retires in November 2024 at age 60 and elects (with spousal consent) to receive a single-sum distribution of Q's entire accrued benefit. Q has an accrued benefit of \$2,000 per month payable as a life annuity beginning at Plan A's normal retirement age of 65, consisting of an accrued benefit derived from employee contributions determined in accordance with section 411(c)(2) (Q's employee-provided accrued benefit) of \$500 per month and an accrued benefit derived from employer contributions (Q's employer-provided accrued benefit) of \$1,500 per month.

(2) *Analysis of minimum amount of the employee-provided portion of the single-sum distribution.* Pursuant to paragraph (d)(2)(ii)(B) of this section, the single-sum distribution used to settle Q's employee-provided accrued benefit may not be less than the present value of the employee-provided portion of Q's accrued benefit determined using the applicable interest and mortality rates described in paragraphs (d)(2)(i) and (d)(3)(i) of this section, but without taking into account the probability of death during the assumed deferral period in accordance with paragraph (d)(2)(ii)(B) of this section. The present value factor for a participant, age 60, for a deferred annuity payable at age 65, calculated based on the interest and mortality rates specified in paragraph (d)(3)(ii)(A) of this section (*Example 1*), taking the probability of death only after

age 65 into account, is 10.704. To satisfy the requirement of section 417(e)(3) and this paragraph (d), the single-sum distribution received by Q with respect to the employee-provided portion of the accrued benefit may not be less than \$64,224 (that is, $\$500 \times 12 \times 10.704$).

(3) *Analysis of minimum amount of the employer-provided portion of the single-sum distribution.* The single-sum distribution made to settle Q's employer-provided accrued benefit may not be less than the present value of that portion of Q's accrued benefit determined using the applicable interest and mortality rates. However, for this purpose, Plan A is permitted to take into account the probability of death during the assumed deferral period in accordance with paragraph (d)(2)(ii)(A) of this section. The single-sum distribution received by Q with respect to the employer-provided portion of the accrued benefit may not be less than \$187,776 (that is, $\$1,500 \times 12 \times 10.432$).

(4) *Analysis of minimum amount of the total single-sum distribution.* To satisfy the requirements of section 417(e)(3) and this paragraph (d), the total single-sum distribution received by Q may not be less than the sum of the minimum single-sum distribution with respect to the employee-provided and employer-provided portions of the accrued benefit, or \$252,000 ($\$64,224 + \$187,776$).

(5) *Analysis of minimum amount of partial single-sum distribution.* If Q were to receive a partial single-sum distribution (that is, a single-sum distribution that is less than \$252,000) with the balance payable as an annuity, then, in accordance with paragraph (d)(7)(iii)(D) of this section, the plan must specify the portion of the participant's accrued benefit that is settled by that distribution of the partial single-sum distribution (unless the plan uses the same single-sum factor with respect to all portions of the accrued benefit). Because the present value factor for the employee-provided benefit cannot take into account the probability of death before age 65, the plan may use the same present value factor to determine the portion of the accrued benefit that is settled by the single-sum distribution that applies to both the employee-provided and the employer-provided portions of the accrued benefit only if the factor that is used does not take into account the probability of death before age 65.

(4) *Time for determining interest rate and mortality table*—(i) *Interest rate general rule.* Except as provided in paragraphs (d)(4)(v) or (vi) of this section, the applicable interest rate to be used for a distribution is the applicable

interest rate determined under paragraph (d)(3) of this section for the applicable lookback month. The applicable lookback month for a distribution is the lookback month (as described in paragraph (d)(4)(iv) of this section) for the stability period (as described in paragraph (d)(4)(iii) of this section) that contains the annuity starting date for the distribution. The time and method for determining the applicable interest rate for each participant's distribution must be determined in a consistent manner that is applied uniformly to all participants in the plan.

(ii) *Mortality table general rule.* The applicable mortality table to be used for a distribution is the mortality table that is described in paragraph (d)(2)(i) of this section for the calendar year during which the stability period containing the annuity starting date begins.

(iii) *Stability period.* A plan must specify the period for which the applicable interest rate remains constant (the stability period). This stability period may be one calendar month, one plan quarter, one calendar quarter, one plan year, or one calendar year. This same stability period also applies to the applicable mortality table.

(iv) *Lookback month.* A plan must specify the lookback month that is used to determine the applicable interest rate with respect to a stability period. The lookback month may be the first, second, third, fourth, or fifth full calendar month preceding the first day of the stability period.

(v) *Permitted average interest rate.* A plan may apply the rules of paragraph (d)(4)(i) of this section by substituting a permitted average applicable interest rate with respect to the plan's stability period for the applicable interest rate determined under paragraph (d)(3) of this section for the applicable lookback month with respect to the plan's stability period. For this purpose, a permitted average applicable interest rate with respect to a stability period is the applicable interest rate that is computed using the average of the section 417(e) segment rates described in paragraph (d)(3) of this section for two or more consecutive months from among the first, second, third, fourth, and fifth calendar months preceding the first day of the stability period. For this paragraph (d)(4)(v) to apply, a plan must specify the manner in which the permitted average interest rate is computed.

(vi) *Additional determination dates.* The Commissioner may prescribe, in guidance published in the Internal Revenue Bulletin, other times that a plan may provide for determining the

applicable interest rate. See § 601.601(d) of this chapter.

(vii) *Example of determination of applicable interest rate—(A) Facts.* The facts are the same as in paragraph (d)(3)(ii)(A)(1) of this section (*Example 1*), except that Plan A provides that the applicable interest rate for any annuity starting date is determined using the segment rates specified by the Commissioner for the third calendar month preceding the beginning of the plan quarter that contains the annuity starting date. Plan A also provides that the applicable mortality table is the table specified by the Commissioner for the calendar year that contains the beginning of the quarterly stability period.

(B) *Analysis.* The segment rates that apply for annuity starting dates during the period beginning October 1, 2024, and ending December 31, 2024, are the segment rates for July 2024. This plan design permits the applicable interest rate to be fixed for each plan quarter and for the applicable interest rate for all distributions made during each plan quarter to be determined before the beginning of the plan quarter.

* * * * *

(6) *Exceptions—(i) In general.* This paragraph (d) (other than the provisions relating to section 411(d)(6) requirements in paragraph (d)(9) of this section) does not apply to the amount of a distribution paid in the form of an annual benefit that—

(A) Does not decrease during the life of the participant, or, in the case of a QPSA, the life of the participant's spouse; or

(B) Decreases during the life of the participant merely because of—

(1) The death of the survivor annuitant (but only if the reduction is to a level not below 50 percent of the annual benefit payable before the death of the survivor annuitant); or

(2) The cessation or reduction of a Social Security supplement or qualified disability benefit (as defined in section 411(a)(9)).

(ii) *Example of Social Security level income option—(A) Facts.* The facts are the same as in paragraph (d)(3)(ii)(A)(1) of this section (*Example 1*). Plan A also provides for an optional distribution in the form of a Social Security level income option that is actuarially equivalent to the straight life annuity payable at the same commencement date. Under this optional form, the participant receives a larger monthly payment until age 65, and a smaller monthly payment afterward, so that it is estimated that the participant will receive level monthly payments for life

(taking into account the participant's estimated Social Security benefit beginning at age 65). Based on the plan's early retirement reduction factor of 0.65 at age 60, Participant R's reduced early retirement benefit payable as a straight life annuity benefit commencing at age 60 is \$1,300 per month (which is less than the early retirement benefit that is actuarially equivalent to the accrued benefit determined using the applicable interest and mortality rates under section 417(e)(3)). Participant R's estimated Social Security benefit is \$1,000 per month beginning at age 65. Plan A provides that actuarial equivalence is determined using a 6 percent interest rate and the mortality table set forth in Revenue Ruling 2001–62, 2001–53 IRB 632.

(B) *Analysis of benefit calculation using plan factors.* Using the plan's terms for determining actuarial equivalence (an interest rate of 6 percent and the mortality table set forth in Revenue Ruling 2001–62), the present value factor for a participant, age 60, with lifetime benefits commencing at age 65 is 7.800, and the present value factor for a temporary annuity payable to that participant until age 65 is 4.278. The benefit payable to Participant R in the form of a Social Security level income option (with a decrease of \$1,000 occurring at age 65) that is actuarially equivalent to the early retirement benefit of \$1,300 is \$1,945.80 per month until age 65 and \$945.80 per month thereafter.

(C) *Analysis of minimum present value.* Because the benefit payable under the Social Security level income option decreases at age 65 and the decrease is not on account of the death of the participant or a beneficiary or the cessation or reduction of a Social Security supplement or a qualified disability benefit, the exception under this paragraph (d)(6) from the minimum present value requirements of section 417(e)(3) does not apply to the benefits payable under the plan's Social Security level income option. As illustrated in paragraph (d)(3)(ii)(A) of this section (*Example 1*), to satisfy the requirements of section 417(e)(3) and this paragraph (d), the minimum present value of a benefit payable to Participant R at age 60 cannot be less than \$250,368 (that is, $\$2,000 \times 12 \times 10.432$).

(D) *Conclusion.* Based on the applicable interest rate and applicable mortality table under section 417(e)(3) that are assumed in paragraph (d)(3)(ii)(A) of this section (*Example 1*), the present value factor for a participant, age 60, with lifetime benefits commencing at age 65 is 10.432, and the present value factor for

a temporary annuity payable until age 65 is 4.604. The present value of the benefit payable to Participant R under the Social Security level income option is \$225,901 ($\$1,945.80 \times 4.604 \times 12 + \$945.80 \times 10.432 \times 12$). Because this present value is less than the minimum present value of a benefit payable to Participant R at age 60 (\$250,368), the plan would fail to satisfy the minimum present value requirement of section 417(e)(3). However, see paragraph (d)(7)(ii)(C) of this section for a rule permitting a plan to provide for implicit bifurcation of a Social Security level income option.

(7) * * *

(ii) * * *

(C) *Bifurcation of Social Security level income option.* A plan that provides for a Social Security level income option satisfies the requirements of this paragraph (d) with respect to the temporary annuity portion of the Social Security level income option if, under the terms of the plan—

(1) The portion of the participant's accrued benefit, expressed in the normal form of benefit under the plan and commencing at normal retirement age (or at the current date, if later), that is not paid in the form of the temporary annuity is no less than the excess, if any, of—

(i) The participant's total accrued benefit under the plan expressed in that form and commencing at that age; over

(ii) The annuity payable in that form commencing at that age that is actuarially equivalent to that temporary annuity, determined using the applicable interest rate and the applicable mortality table; and

(2) The portion of the participant's immediate annuity (payable in the same form as the accrued benefit is expressed) that is not paid in the form of the temporary annuity is no less than the excess, if any, of—

(i) The participant's immediate annuity (payable in the same form as the accrued benefit is expressed); over

(ii) The immediate annuity payable in that form that is actuarially equivalent to that temporary annuity, determined using the applicable interest rate and the applicable mortality table.

(D) *Social Security level income option.* For purposes of paragraph (d)(7)(ii)(C) of this section, a Social Security level income option is an optional form of benefit under which a participant's accrued benefit is paid in the form of an annuity for the life of the participant with additional temporary annuity payments that cease at the participant's assumed Social Security commencement age and that do not exceed the participant's estimated

Social Security benefit at that age. For this purpose, a participant's estimated Social Security benefit is the estimated amount of old-age insurance benefits for the participant under title II of the Social Security Act (as amended) and the assumed Social Security commencement age is an age that is not later than the age as of which the participant is entitled to those benefits without reduction on account of age.

* * * * *

(v) * * *

(H) *Example of bifurcation of Social Security level income option—(1) Facts.*

The facts are the same as in paragraph (d)(6)(ii)(A) of this section (*Example of Social Security level income option*), except that Plan A is amended to provide for implicit bifurcation of a distribution paid in the form of a Social Security level income option, as described in paragraph (d)(7)(ii)(C) of this section. Thus, under the plan amendment, a distribution in the form of a Social Security level income option is bifurcated into a temporary annuity portion that ceases at the participant's assumed Social Security commencement age and a life annuity portion.

(2) *Analysis of bifurcation requirements.* If the requirements of paragraph (d)(7)(ii)(C) of this section are satisfied, then the temporary annuity portion of the Social Security level income option satisfies the minimum present value rules of section 417(e)(3) and this paragraph (d). In order to satisfy paragraph (d)(7)(ii)(C) of this section, there are two requirements that must be satisfied. First, the portion of the participant's accrued benefit that is not paid in the form of the temporary annuity must be no less than the excess of the participant's total accrued benefit over the annuity that is actuarially equivalent to the temporary annuity (determined using the applicable interest and mortality rates under section 417(e)(3)), both expressed in the normal form of benefit commencing at normal retirement age (or at the current date, if later). Second, the portion of the participant's immediate annuity that is not paid in the form of the temporary annuity must be no less than the excess of the participant's total immediate annuity over the immediate annuity that is actuarially equivalent to the temporary annuity (determined using the applicable interest and mortality rates under section 417(e)(3)), both expressed in the form of benefit in which the accrued benefit is expressed but commencing at the current age.

(3) *Analysis of minimum portion of accrued benefit payable as lifetime*

annuity. A temporary annuity that is payable from age 60 to 65 in the amount of \$1,000 per month is actuarially equivalent, determined using the applicable interest rate and applicable mortality table under section 417(e)(3), to a straight life annuity of \$441.33 per month payable at normal retirement age. Therefore, under the amendment, the portion of Participant R's accrued benefit that is not paid in the form of that temporary annuity must be no less than \$1,558.67 per month payable as a straight life annuity at normal retirement age (\$2,000 – \$441.33). Because the portion of the accrued benefit that is not being paid in the form of the temporary annuity determined without regard to the amendment is \$1,455.08 (the lifetime annuity of \$945.80, divided by the early retirement factor of .65), the amendment increases that portion of the accrued benefit to \$1,558.67, and the associated early retirement benefit commencing at age 60 is \$1,013.14 ($\$1,558.67 \times 0.65$).

(4) *Analysis of minimum portion of immediate benefit payable as lifetime annuity.* A temporary annuity that is payable from age 60 to 65 in the amount of \$1,000 per month is actuarially equivalent, determined using the applicable interest rate and applicable mortality table under section 417(e)(3), to a straight life annuity of \$306.20 per month commencing at age 60.

Therefore, under the amendment, the portion of the participant's immediate benefit that is not paid in the form of that temporary annuity must be no less than \$993.80 ($\$1,300 - \306.20). Because this minimum amount of immediate annuity is less than the otherwise calculated early retirement benefit at age 60 of \$1,013.14, the amendment does not increase the immediate annuity above that amount.

(5) *Conclusion.* Because the portion of the benefit under the Social Security level income option that is not paid in the form of a temporary annuity satisfies the requirements of paragraph (d)(7)(ii)(C) of this section, the plan is permitted under paragraph (d)(7)(iii)(A) of this section to treat the temporary annuity and the remaining portion of the benefit as separate distribution options for purposes of this paragraph (d). Under paragraph (d)(7)(ii)(C) of this section, the temporary annuity portion of the Social Security level income option is treated as satisfying the minimum present value requirements of section 417(e) and this paragraph (d). Because the lifetime annuity portion of the Social Security level income option is non-decreasing during the lifetime of the participant, that portion is described in paragraph (d)(6) of this section and is

therefore excepted from the requirements of section 417(e)(3). Thus, under the amendment, the combined payments payable to Participant R under the Social Security level income option of \$2,013.14 per month until age 65 and \$1,013.14 per month thereafter satisfy the requirements of section 417(e)(3) and this paragraph (d).

(8) * * *

(vi) *Applicability date for provisions reflecting PPA '06 updates and other rules.* Paragraphs (d)(1) through (4) of this section apply to distributions with annuity starting dates occurring on or after October 1, 2024. For earlier distributions, the rules of § 1.417(e)-1(d) as set forth in 26 CFR part 1, revised as of April 1, 2023, apply, except that taxpayers may instead apply the rules of paragraphs (d)(1) through (4) of this section.

(9) *Relationship with section 411(d)(6).* A plan amendment that changes the interest rate or the mortality assumptions used for the purposes described in paragraph (d)(1) of this section (including a plan amendment that changes the time for determining those assumptions) is generally subject to section 411(d)(6). However, for certain exceptions to the rule in the preceding sentence, see paragraph (d)(7)(iv) of this section (with respect to a plan amendment providing for bifurcation that was adopted before December 31, 2017), § 1.411(d)-3(a)(4) (regarding changes in lookback months and stability periods for mortality table and interest rate), § 1.411(d)-4, Q&A-2(b)(2)(v) (with respect to plan amendments relating to involuntary distributions), and section 1107(a)(2) of the Pension Protection Act of 2006, Public Law 109-280, 120 Stat. 780 (PPA '06) (with respect to certain plan amendments that were made pursuant to a change to the Internal Revenue Code made by PPA '06 or pursuant to regulations issued thereunder).

* * * * *

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: December 27, 2023.

Lily Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2024-00978 Filed 1-18-24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 950

[SATS No. WY-050-FOR; Docket ID No. OSM-2021-0004; S1D1S SS08011000 SX064A000 223S180110; S2D2S SS08011000 SX064A000 22XS501520]

Wyoming Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval with exceptions.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving with exceptions an amendment to the Wyoming regulatory program (Wyoming program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Between 1978 and 2007, the Wyoming Legislature enacted a number of revisions to the statutes governing coal exploration by drilling. On March 2, 2016, the Wyoming Environmental Quality Council approved a number of revisions to the rules governing coal exploration by drilling under the Wyoming program. The State submitted this proposal to OSMRE at its own initiative.

DATES: Effective February 20, 2024.

FOR FURTHER INFORMATION CONTACT: Jeffrey Fleischman; Director, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 4100; Casper, Wyoming 82602. Telephone: (307) 261-6550. Email: jfleischman@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Wyoming Regulatory Program
- II. Submission of the Amendment
- III. OSMRE's Findings
- IV. Summary and Disposition of Comments
- V. OSMRE's Decision
- VI. Procedural Determinations

I. Background on the Wyoming Regulatory Program

Subject to OSMRE's oversight, Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, state laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the federal regulations. See 30 U.S.C. 1253(a)(1) and (7).

On the basis of these criteria, the Secretary of the Interior conditionally approved the Wyoming program on November 26, 1980. You can find background information on the Wyoming program including the Secretary's findings, the disposition of comments, and conditions of approval in the November 26, 1980, **Federal Register** (45 FR 78637). You can also find later actions concerning Wyoming's program and program amendments at 30 CFR 950.10, 950.12, 950.15, 950.16, and 950.20.

II. Submission of the Amendment

By letter dated June 14, 2021 (Docket ID No. OSM-2021-0004), Wyoming sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). We found Wyoming's proposed amendment administratively complete on July 13, 2021.

Between 1978 and 2007, the Wyoming Legislature enacted a number of revisions to the statutes governing coal exploration by drilling. The proposed statutory revisions reflect organizational changes at the Wyoming Land Quality Division (LQD), correct a typographical error, provide more detailed instructions for plugging and sealing drill holes, incorporate provisions for the awarding of attorney fees and other litigation costs, and include more detailed instructions for bond release.

Additionally, on March 2, 2016, the Wyoming Environmental Quality Council approved a number of revisions to the rules governing coal exploration by drilling under the Wyoming program. The proposed amendment is a state initiative to update Chapter 14 of the LQD Coal Rules and Regulations, which was last revised in 1998. The revised rules were updated to include more detailed directions for plugging and sealing requirements for drill holes. The rules were also updated to include best management practices and standards adopted by the Wyoming State Engineer's Office that conform with accepted best practices by the American Society for Testing and Materials and American Water Works Association, and Wyoming Department of Environmental Quality—Water Quality Division regulations. Other revisions include a list of acceptable grout materials, requirements to plug the entire hole, immediate capping of drill holes, and adding identification numbers to facilitate inspections. Additional formatting and organizational changes were made to Chapter 14.

We announced receipt of the proposed amendment in the October 28, 2021, **Federal Register** (86 FR 59674). In the same document, we opened a public