Workers' Compensation Act: Civil Money Penalties Procedures, 88 FR 62480 (Sept. 12, 2023). This rule would establish new procedures for assessing and adjudicating penalties under the LHWCA. *See* 33 U.S.C. 901–50. The rule also would set forth the procedures to contest OWCP's penalty determinations. The comment period for this notice of proposed rulemaking expired on November 13, 2023.

Summary of Comments

The Department received six comments on the proposed regulations. The commenters represented a number of stakeholders from the private sector, including group self-insurance entities, industry associations, and a business advocacy organization.

Rationale for Withdrawal

OWCP has considered the detailed feedback, analysis, and dialogue that the publication of the NPRM produced. OWCP continues to believe that there is a need for a more defined and transparent process for imposing and adjudicating penalties.

Given the range of feedback received and the need for additional examination and input, however, OWCP believes that, before proceeding with this rulemaking, it would benefit from more outreach and dialogue with interested parties and the regulated community, which it cannot complete in the near future with its limited time and resources. In addition, many aspects of the proposed rule and the penalty process are closely connected to OWCP's information technology modernization project and cannot move forward until that project is completed. Therefore, OWCP is withdrawing this proposed rule.

Conclusion

By withdrawing the proposed rule, OWCP is eliminating the pending nature of this rulemaking. OWCP intends to engage with all interested parties to discuss and consider future revision to the penalties procedures, as well as impacts on the stakeholders. If OWCP decides to establish new procedures for the imposition and adjudication of civil money penalties prescribed by the LHWCA, it will issue a new NPRM in the **Federal Register**.

Accordingly, the NPRM published in the **Federal Register** on September 12, 2023 at 88 FR 62480, is withdrawn.

Christopher Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2025–00376 Filed 1–10–25; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–101268–24]

RIN 1545–BR11

Catch-Up Contributions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document sets forth proposed regulations that would provide guidance for retirement plans that permit participants who have attained age 50 to make additional elective deferrals that are catch-up contributions. The proposed regulations reflect statutory changes made by the SECURE 2.0 Act of 2022, including the requirement that catch-up contributions made by certain catch-up eligible participants must be designated Roth contributions. The proposed regulations would affect participants in, beneficiaries of, employers maintaining, and administrators of certain retirement plans. This document also provides notice of a public hearing.

DATES: Written or electronic comments must be received by March 14, 2025. A public hearing on this proposed regulation has been scheduled for April 7, 2025, at 10 a.m. ET. Requests to speak and outlines of topics to be discussed at the public hearing must be received by March 14, 2025. If no outlines are received by March 14, 2025, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. on April 3, 2025.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–101268–24) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the ''Comments and Public Hearing'' section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically or on paper to its public docket on *www.regulations.gov*. Send paper submissions to: CC:PA:01:PR (REG–101268–24), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, call Jessica S. Weinberger at (202) 317–6349 or Jason E. Levine at (202) 317–4117; concerning submission of comments, the hearing, and the access code to attend the hearing by telephone, call the Publications and Regulations Section at (202) 317–6901 (not toll-free numbers) or email *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This notice of proposed rulemaking sets forth proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 401(k), 403(b), and 414(v) of the Internal Revenue Code (Code) relating to catch-up contributions. These proposed regulations are issued by the Secretary of the Treasury or the Secretary's delegate (Secretary) under the express delegations of authority in sections 401(m)(9), 414(v)(7)(D), and 7805(a) of the Code.

Section 401(m)(9) provides, in part, that ''[t]he Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and subsection (k).'' Section 414(v)(7)(D) provides a specific delegation of authority with respect to the requirements of section 414(v)(7)(A), stating, ''[t]he Secretary may provide by regulations that an eligible participant may elect to change the participant's election to make additional elective deferrals if the participant's compensation is determined to exceed the limitation under subparagraph (A) after the election is made.'' Section 7805(a) provides that ''the Secretary shall prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.''

Background

This notice of proposed rulemaking sets forth proposed amendments to the Income Tax Regulations under section 414(v) of the Code. Section 414(v) permits a plan to allow catch-up eligible participants to make additional elective deferrals that are catch-up contributions and sets forth requirements relating to those contributions. These proposed regulations would amend the regulations under section 414(v) to reflect changes to the catch-up contribution requirements for certain catch-up eligible participants pursuant

to sections 109, 117, and 603 of Division T of the Consolidated Appropriations Act, 2023, Public Law 117–328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act).

This document also proposes conforming amendments to the regulations under sections 401(k) and 403(b) of the Code that reflect section 603 of the SECURE 2.0 Act.

I. Statutory and Regulatory Framework

Section 414(v)(1) of the Code provides that an applicable employer plan will not be treated as failing to meet any requirement of the Code solely because it permits an eligible participant to make additional elective deferrals (as defined in section 414(v)(6)(B)) in any plan year. ''Applicable employer plan'' is defined in section 414(v)(6)(A) to mean a qualified plan under section 401(a) (qualified plan), a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b) (section 403(b) plan), an eligible deferred compensation plan under section 457 of an eligible employer described in section 457(e)(1)(A) (eligible governmental 457(b) plan),[1] an arrangement meeting the requirements of section 408(k) (SEP arrangement), or an arrangement meeting the requirements of section 408(p) (SIMPLE IRA plan). Under section 414(v)(5), an eligible participant is a participant who is generally eligible to make elective deferrals under an applicable employer plan and who would attain age 50 by the end of the taxable year, with respect to whom no further elective deferrals may (without regard to section 414(v)) be made to the plan for the plan year (or other applicable year) by reason of a limitation or restriction listed in section 414(v)(3) or a comparable limitation or restriction included in the terms of the plan.

Under section 414(v)(2)(A), the amount of additional elective deferrals that a plan may permit a participant to make pursuant to section 414(v)(1) for a taxable year is limited to the lesser of: (1) the applicable dollar amount under section 414(v)(2)(B) (referred to as the applicable dollar catch-up limit), and (2) the excess (if any) of the participant's compensation (as defined in section 415(c)(3)) for the year over any other elective deferrals of the participant for such year that are made without regard to section 414(v). Section 414(v)(2)(B)(i) provides the applicable dollar catch-up limit for an applicable employer plan other than a plan described in section 401(k)(11) (SIMPLE 401(k) plan) or a SIMPLE IRA plan. Section 414(v)(2)(B)(ii) provides the applicable dollar catch-up limit for a SIMPLE 401(k) plan or a SIMPLE IRA plan (collectively referred to as SIMPLE plans). Section 414(v)(2)(C) provides that the applicable dollar catch-up limits under section 414(v)(2)(B)(i) and (ii) are subject to annual adjustment based on changes in the cost of living. Section 414(v)(2)(D) provides that, for purposes of section 414(v)(2), all applicable employer plans, other than eligible governmental 457(b) plans, that are maintained by the same employer (as determined under section 414(b), (c), (m), or (o)) are treated as a single plan, and all eligible governmental 457(b) plans that are maintained by the same employer are treated as a single plan.

Under section 414(v)(3)(A)(i), a catch-up contribution is not, with respect to the year in which the contribution is made, subject to certain otherwise applicable limitations, including those contained in section 401(a)(30) (limiting a participant's elective deferrals during a calendar year to the amount permitted under section 402(g)), section 403(b) (including the requirement under section 403(b)(1)(E) that a contract purchased under a salary reduction agreement must meet the requirements of section 401(a)(30)), and section 457(b)(2) (limiting a participant's elective deferrals for a taxable year, determined without regard to any increase to the limitation under section 457(b)(3), to the applicable dollar amount in section 457(e)(15)). Under section 414(v)(3)(B), catch-up contributions are excluded from consideration for purposes of certain nondiscrimination tests.

Section 414(v)(4) provides that an applicable employer plan is treated as failing to meet the nondiscrimination requirements under section 401(a)(4) with respect to benefits, rights, and features unless the plan allows all catch-up eligible participants to make the same election with respect to catch-up contributions. For purposes of section 414(v)(4), all plans maintained by employers who are treated as a single employer under section 414(b), (c), (m), or (o) are treated as one plan (with the exception of a plan described in section 410(b)(6)(C)(i) for the duration of the transition period described in section 410(b)(6)(C)(ii) with respect to that plan).

Section 414(v) was added to the Code by section 631 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107–16, 115 Stat. 38, and the Treasury Department and the IRS issued comprehensive regulations under section 414(v) in 2003 (TD 9072, 68 FR 40510). Subsequently, provisions relating to catch-up contributions under section 414(v) were incorporated into regulations under sections 401(k), 403(b), and 457(b).

II. SECURE 2.0 Act Changes to Section 414(v)

A. Section 109 of the SECURE 2.0 Act

For a taxable year beginning after December 31, 2024, section 109 of the SECURE 2.0 Act amends section 414(v)(2) of the Code to increase the applicable dollar catch-up limit under section 414(v)(2)(B)(i) and (ii) in the case of a catch-up eligible participant who attains age 60, 61, 62, or 63 during the taxable year. For such a participant in an applicable employer plan other than a SIMPLE plan, the increased applicable dollar catch-up limit is 150 percent of the otherwise applicable dollar catch-up limit under section 414(v)(2)(B)(i) in effect for 2024. For such a participant in a SIMPLE plan, the increased applicable dollar catch-up limit is 150 percent of the otherwise applicable dollar catch-up limit under section 414(v)(2)(B)(ii) in effect for 2025. In either case, for a year beginning after December 31, 2025, the increased applicable dollar catch-up limit is subject to adjustment to reflect changes in the cost of living, in accordance with the last sentence of section 414(v)(2)(C).

B. Section 117 of the SECURE 2.0 Act

A SIMPLE plan is an alternative plan design under which employees of an eligible employer as defined in section 408(p)(2)(C)(i) (that is, generally, an employer that had no more than 100 employees who received at least $5,000 of compensation from the employer for the preceding calendar year) are permitted to elect to have salary reduction contributions (or elective contributions, in the case of a SIMPLE 401(k) plan) made on their behalf.[2] Among other things, section 117 of the SECURE 2.0 Act amends section 414(v)(2) of the Code to increase the applicable dollar catch-up limit under section 414(v)(2)(B)(ii) for SIMPLE plans sponsored by certain eligible employers who are described in section 408(p)(2)(E)(iv).[3] The increased

[1] Section 414(v)(6)(C) provides that section 414(v) does not apply to a participant in an eligible governmental 457(b) plan for any year for which a higher limitation applies to the participant under section 457(b)(3).

[2] The annual limit on salary reduction contributions or elective contributions is lower for SIMPLE plans than for other types of plans. However, SIMPLE plans are not subject to nondiscrimination testing, and the employer must make certain contributions.

[3] An eligible employer is described in section 408(p)(2)(E)(iv) if, during the three-taxable-year period preceding the first year that the employer

applicable dollar catch-up limit is available automatically to a SIMPLE plan sponsored by an eligible employer described in section 408(p)(2)(E)(iv) that had no more than 25 employees who received at least $5,000 of compensation from the employer for the preceding calendar year. Other eligible employers described in section 408(p)(2)(E)(iv) may make an election for the increased applicable dollar catch-up limit to apply and, if the election is made, the employer must make additional matching or nonelective contributions.

The increased applicable dollar catch-up limit, which applies to taxable years beginning after December 31, 2023, is 110 percent of the otherwise applicable dollar catch-up limit under section 414(v)(2)(B)(ii) for calendar year 2024. For a year beginning after December 31, 2024, the increased applicable dollar catch-up limit is subject to adjustment to reflect changes in the cost of living, in accordance with section 414(v)(2)(C)(ii).

C. Section 603 of the SECURE 2.0 Act

Section 603(a) of the SECURE 2.0 Act amends section 414(v) of the Code to add section 414(v)(7). Section 414(v)(7)(A) sets forth the requirement that catch-up contributions made by certain catch-up eligible participants must be designated Roth contributions (the Roth catch-up requirement). Specifically, under section 414(v)(7)(A), in the case of a catch-up eligible participant whose wages as defined in section 3121(a) (that is, wages for purposes of the Federal Insurance Contributions Act (FICA), codified at subtitle C, chapter 21 of the Code, or FICA wages) for the preceding calendar year from the employer sponsoring the plan exceeded $145,000, section 414(v)(1) applies only if any catch-up contributions made by the participant are designated Roth contributions (as defined in section 402A(c)(1)).

Section 414(v)(7)(B) provides that, in the case of an applicable employer plan with respect to which section 414(v)(7)(A) applies to any participant for a plan year, section 414(v)(1) does not apply to the plan unless the plan provides that any catch-up eligible participant may make catch-up contributions as designated Roth contributions.

Section 414(v)(7)(C) provides that section 414(v)(7)(A) does not apply to SEP arrangements or SIMPLE IRA plans. Under section 414(v)(7)(D), regulations may provide that a catch-up eligible participant may elect to change the participant's election to make catch-up contributions if the participant's compensation is determined to exceed the wage limitation under section 414(v)(7)(A) (Roth catch-up wage threshold) after the election is made. Under section 414(v)(7)(E), for taxable years beginning after December 31, 2024, the Roth catch-up wage threshold is adjusted for changes in the cost of living.

Section 603(b) of the SECURE 2.0 Act includes conforming amendments with respect to section 603(a). Section 603(b)(1) of the SECURE 2.0 Act strikes section 402(g)(1)(C) of the Code. Prior to its elimination, section 402(g)(1)(C) provided that a catch-up eligible participant's gross income did not include elective deferrals in excess of the applicable dollar amount under section 402(g)(1)(B) to the extent that the amount of those elective deferrals did not exceed the applicable dollar catch-up limit under section 414(v)(2)(B)(i) for the taxable year (without regard to the treatment of the elective deferrals by an applicable employer plan under section 414(v)).

Section 603(b)(2) of the SECURE 2.0 Act amends section 457(e)(18)(A)(ii) of the Code and, pursuant to this amendment, a portion of the catch-up contributions made to an eligible governmental 457(b) plan in accordance with section 457(b)(3) and (e)(18) by a catch-up eligible individual for the last three taxable years ending before the individual attains normal retirement age must be designated Roth contributions. The portion that is subject to this Roth requirement is the amount by which the applicable dollar catch-up limit under section 414(v)(2)(B)(i) exceeds the maximum permitted contribution set forth in section 457(b)(3) (determined without regard to section 457(e)(18)).

Under section 603(c) of the SECURE 2.0 Act, the amendments made by section 603 of the SECURE 2.0 Act apply to taxable years beginning after December 31, 2023.

III. Notice 2023–62

In August 2023, the Treasury Department and the IRS issued Notice 2023–62, 2023–37 IRB 817. Notice 2023–62 clarifies that, despite the elimination of section 402(g)(1)(C) of the Code under section 603(b)(1) of the SECURE 2.0 Act, applicable employer plans may, for taxable years beginning after December 31, 2023, continue to permit catch-up eligible participants to make elective deferrals that exceed the applicable dollar amount under section 402(g)(1)(B) of the Code (or deferrals that exceed the applicable dollar amount under section 457(e)(15)) if those contributions in excess of the applicable dollar amount satisfy the requirements for catch-up contributions under section 414(v). In addition, pursuant to Notice 2023–62, the first two taxable years beginning after December 31, 2023, are regarded as an administrative transition period with respect to the Roth catch-up requirement. During the administrative transition period, catch-up contributions made by a participant who is subject to the Roth catch-up requirement will be treated as satisfying the requirements of section 414(v)(7)(A), even if the contributions are not designated Roth contributions.

Notice 2023–62 also summarizes anticipated guidance from the Treasury Department and the IRS with respect to the implementation of section 603 of the SECURE 2.0 Act as follows: (1) the Roth catch-up requirement would not apply in the case of a catch-up eligible participant who did not have FICA wages for the preceding calendar year from the employer sponsoring the plan; (2) in the case of a catch-up eligible participant who is subject to the Roth catch-up requirement, a plan administrator and an employer would be permitted to treat an election by the participant to make catch-up contributions on a pre-tax basis as an election by the participant to make catch-up contributions that are designated Roth contributions; and (3) a catch-up eligible participant's FICA wages for the preceding calendar year from one participating employer in an applicable employer plan that is maintained by more than one employer (including a multiemployer plan) would not be aggregated with the participant's FICA wages for the preceding calendar year from another participating employer in the plan for purposes of determining whether the participant's FICA wages for that year exceeded the Roth catch-up wage threshold. The notice requested comments with respect to the anticipated guidance summarized in the notice, additional matters under consideration relating to a plan without a qualified Roth contribution program, and, more generally, the provisions of section 603 of the SECURE 2.0 Act.

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maintained the SIMPLE plan, the employer (including any member of the employer's controlled group or any predecessor of the employer or member of its controlled group) has not established or maintained a qualified plan, a section 403(a) annuity plan, or a section 403(b) plan under which contributions were made or benefits were accrued for substantially the same employees as are eligible to participate in the SIMPLE plan. *See* Q&A E–1 in Notice 2024–2, 2024–2 IRB 316.

Explanation of Provisions

I. Amendments to Regulations Under Sections 401(k) and 403(b)—Deemed Roth Catch-Up Election

Section 414(v)(7)(A) of the Code provides that in the case of a participant who is subject to the Roth catch-up requirement, section 414(v)(1) applies only if any catch-up contributions made by the participant are designated Roth contributions made pursuant to the participant's election. Notice 2023–62 requested comments on anticipated future guidance expected to permit plan administrators and employers to treat an election by a participant to make catch-up contributions on a pre-tax basis as an election to make catch-up contributions as designated Roth contributions if the participant is subject to the Roth catch-up requirement. All comments received were in favor of this approach.

Accordingly, proposed § 1.401(k)–1(f)(5)(iii) would permit a plan to provide, for taxable years beginning after December 31, 2023, that a participant who is subject to the Roth catch-up requirement is deemed to have irrevocably designated any catch-up contributions as designated Roth contributions in accordance with the requirements of § 1.401(k)–1(f)(1)(i). Under the proposed regulation, a plan that provides for such a deemed Roth catch-up election would be required, as is the case for any other designated Roth contribution, to: (1) treat catch-up contributions subject to the deemed Roth catch-up election as not excludible from the participant's gross income, and (2) maintain the catch-up contributions in a designated Roth account. A plan would be permitted to provide for a deemed Roth catch-up election without regard to whether it requires separate elections for elective deferrals that are not catch-up contributions and for additional elective deferrals that are catch-up contributions or uses a spillover design.[4] However, in accordance with section 414(v)(7)(D), the application of a deemed Roth catch-up election to a participant would be conditioned, under proposed § 1.401(k)–1(f)(5)(iv), on the participant having an effective opportunity (determined based on all of the relevant facts and circumstances, in accordance with § 1.401(k)–1(e)(2)(ii)) to make a new election that is different than the deemed election. For example, under the proposed regulation, a plan would need to permit a participant subject to a deemed Roth catch-up election to elect to cease making additional elective deferrals.

The proposed amendments to § 1.403(b)–3(c)(1) would incorporate proposed § 1.401(k)–1(f)(5)(iii) and (iv), so that a section 403(b) plan would be permitted to include a deemed Roth catch-up election, subject to the requirement to provide a participant subject to a deemed catch-up election with the effective opportunity to make a different election. This amendment would be part of a broader incorporation of all of § 1.401(k)–1(f)(3) and (5) into the rules relating to designated Roth contributions under section 403(b) plans; the incorporation of § 1.401(k)–1(f)(3), (f)(5)(i), and (f)(5)(ii) is not a substantive legal change, as these provisions were previously applicable with respect to section 403(b) plans.[5]

II. Proposed Revisions to § 1.414(v)–1

A. Overview

The proposed revisions and additions to § 1.414(v)–1 would mainly reflect changes made by sections 109 and 117 of the SECURE 2.0 Act. In particular, the revisions to § 1.414(v)–1 would: (1) reflect the increased applicable dollar catch-up limits permitted under sections 109 and 117 of the SECURE 2.0 Act (along with updated cost-of-living adjustments), and (2) clarify the application of the universal availability requirement under Code section 414(v)(4) to an applicable employer plan that permits certain catch-up eligible participants to make catch-up contributions in an amount equal to the increased applicable dollar catch-up limit for participants attaining age 60 through 63. In addition, a provision would be added to the general rules under § 1.414(v)–1(a) indicating that the rules relating to the Roth catch-up requirement under section 414(v)(7) can be found in proposed § 1.414(v)–2.

B. Increased Applicable Dollar Catch-Up Limit During the Year of Attainment of Age 60 Through 63 Under Section 109 of the SECURE 2.0 Act

Current § 1.414(v)–1(c)(2)(i) sets forth the applicable dollar catch-up limit that applies to all catch-up eligible participants in an applicable employer plan that is not a SIMPLE plan. The proposed regulations would retain that rule (other than the provisions applicable to taxable years beginning in calendar years before 2006) and would note the existence of a higher limit for individuals attaining age 60 through 63 set forth in proposed § 1.414(v)–1(c)(2)(i)(B). Specifically, proposed § 1.414(v)–1(c)(2)(i)(B) sets forth the increased applicable dollar catch-up limit that would apply for a taxable year beginning after 2024 with respect to a catch-up eligible participant in an applicable employer plan other than a SIMPLE plan who would attain age 60, 61, 62, or 63 on the participant's birthday occurring during the taxable year. The increased applicable dollar catch-up limit under proposed § 1.414(v)–1(c)(2)(i)(B) is 150 percent of the applicable dollar catch-up limit that applies during a taxable year beginning in 2024 (that is, $11,250, which is 150 percent of $7,500), adjusted for changes in the cost of living.

Similarly, current § 1.414(v)–1(c)(2)(ii) sets forth the applicable dollar catch-up limit that applies to all catch-up eligible participants in a SIMPLE plan. The proposed regulations would retain those provisions (other than the provisions applicable to taxable years beginning in calendar years before 2006) and would note the existence of a higher limit for individuals attaining age 60 through 63 set forth in proposed § 1.414(v)–1(c)(2)(ii)(B) (and a higher limit for participants in certain SIMPLE plans set forth in proposed § 1.414(v)–1(c)(2)(ii)(C)). Specifically, proposed § 1.414(v)–1(c)(2)(ii)(B) sets forth the increased applicable dollar catch-up limit that would apply for a taxable year beginning after 2024, with respect to a catch-up eligible participant in a SIMPLE plan who would attain age 60, 61, 62, or 63 on the participant's birthday occurring during the taxable year. The increased applicable dollar catch-up limit under proposed § 1.414(v)–1(c)(2)(ii)(B) is 150 percent of the applicable dollar catch-up limit that applies during a taxable year beginning in 2025 (that is, $5,250, which is 150 percent of $3,500), adjusted for changes in the cost of living.

Current § 1.414(v)–1(c)(2)(iii) provides for cost-of-living adjustments to the applicable dollar catch-up limits that

[4] Under a spillover design, a participant who would attain age 50 by the end of the taxable year makes one election with respect to elective deferrals for a plan year and, after the participant's elective deferrals reach a Code or plan limitation on elective deferrals that are not catch-up contributions, additional elective deferrals automatically begin counting toward the applicable dollar catch-up limit under section 414(v)(2).

[5] This Notice of Proposed Rulemaking (NPRM) does not propose to incorporate proposed § 1.401(k)–1(f)(5)(iii) and (iv) into the regulations relating to eligible governmental 457(b) plans because those regulations do not currently provide for the inclusion of a qualified Roth contribution program in an eligible governmental 457(b) plan. On June 22, 2016, proposed regulations relating to the inclusion of a qualified Roth contribution program in an eligible governmental 457(b) plan were published in the **Federal Register** (81 FR 40548) and those proposed regulations have not been finalized.

apply under current § 1.414(v)–1(c)(2)(i) and (ii). The proposed regulations would retain that provision and would also set forth the cost-of-living adjustments to the increased applicable dollar catch-up limits for individuals attaining age 60 through 63.

C. Increased Applicable Dollar Catch-Up Limit for Certain SIMPLE Plans Under Section 117 of the SECURE 2.0 Act

In accordance with section 117 of the SECURE 2.0 Act, proposed § 1.414(v)–1(c)(2)(ii)(C) would set forth an increased applicable dollar catch-up limit that would apply for a taxable year beginning in 2024 under a SIMPLE plan that is sponsored by an eligible employer described in Code section 408(p)(2)(E)(iv) and for which the increased applicable dollar catch-up limit under section 414(v)(2)(B)(iii) applies automatically or by election. The increased applicable dollar catch-up limit is 110 percent of the applicable dollar catch-up limit that applies during a taxable year beginning in 2024 (that is, $3,850, which is 110 percent of $3,500), adjusted for changes in the cost of living. For taxable years beginning after 2024, proposed § 1.414(v)–1(c)(2)(iii)(C) would set forth the cost-of-living adjustments to this increased applicable dollar catch-up limit.

D. Different Applicable Dollar Catch-Up Limits and Universal Availability

In accordance with the universal availability requirement in section 414(v)(4), existing § 1.414(v)–1(e)(1)(i) sets forth a general rule that an applicable employer plan that offers catch-up contributions and that is otherwise subject to section 401(a)(4) (including a plan that is subject to section 401(a)(4) pursuant to section 403(b)(12)) will not satisfy the requirements of section 401(a)(4) unless all catch-up eligible participants who participate under any applicable employer plan maintained by the employer are provided with an effective opportunity to make the same dollar amount of catch-up contributions.

The Treasury Department and the IRS do not believe that a plan should fail to satisfy the universal availability requirement merely because the plan utilizes the increased limit for catch-up eligible participants attaining age 60 through 63 that is permitted under the Code pursuant to section 414(v)(2)(E). Thus, a new provision would be added to § 1.414(v)–1(e)(1) setting forth an exception to the general rule in § 1.414(v)–1(e)(1)(i) for a plan that permits each catch-up eligible participant to make elective deferrals up to the statutory maximum dollar amount of catch-up contributions permitted with respect to the participant. Under this new exception, an applicable employer plan would not fail to satisfy the requirements of section 401(a)(4) merely because the plan allows catch-up eligible participants who are subject to the increased applicable dollar catch-up limit for participants attaining age 60 through 63 under section 414(v)(2)(E) to make catch-up contributions up to that increased limit, while permitting other catch-up eligible participants to make catch-up contributions only up to the applicable dollar catch-up limit that applies generally under section 414(v)(2)(B)(i) or (ii), as applicable.[6]

Similarly, an applicable employer plan that covers employees in both the United States and Puerto Rico would not fail to satisfy the requirements of section 401(a)(4) merely because the plan allows catch-up eligible participants whose catch-up contributions are subject to the limit set forth in section 1081.01(d)(7) of the Puerto Rico Internal Revenue Code of 2011 (13 L.P.R.A. section 30391(d)(7)), as amended (Puerto Rico Code), to make catch-up contributions only up to the amount of that limit.[7] The Treasury Department and the IRS request comments on the application of the limits in the case of an employee who performs service for an employer both in Puerto Rico and the United States in the same year.

III. Proposed § 1.414(v)–2

A. General Rules Relating to the Requirements of Section 414(v)(7)

1. Roth Catch-Up Requirement Under Section 414(v)(7)(A)

Proposed § 1.414(v)–2(a) would set forth general rules relating to the Roth catch-up requirement under section 414(v)(7)(A). Under proposed § 1.414(v)–2(a)(2), if a catch-up eligible participant in an applicable employer plan had FICA wages for the preceding calendar year from the employer sponsoring the plan (as defined in proposed § 1.414(v)–2(b)(3)) that exceeded $145,000, then section 414(v)(1) would apply with respect to the participant's elective deferrals that are catch-up contributions only if they are designated Roth contributions (as defined in section 402A(c)(1)). Under proposed § 1.414(v)–2(a)(3), the $145,000 Roth catch-up wage threshold would be subject to cost-of-living adjustments, in accordance with section 414(v)(7)(E).[8] Under proposed § 1.414(v)–2(a)(4), the Roth catch-up requirement would not apply to a participant in a SEP arrangement or a SIMPLE IRA plan, in accordance with section 414(v)(7)(C).

Consistent with section 414(v)(7)(A) and the description of anticipated guidance in Notice 2023–62, proposed § 1.414(v)–2(a)(2) would provide that a participant who did not have FICA wages exceeding $145,000 (as adjusted) from the employer sponsoring the plan for the preceding calendar year would not be subject to the Roth catch-up requirement under the plan for the current year. Proposed § 1.414(v)–2(a)(2) would define FICA wages by reference to the FICA taxes imposed by sections 3101(a) and 3111(a), not sections 3101(b) and 3111(b), and notes that the wages are taken into account for this purpose in the same year that they are taken into account for FICA tax purposes. Accordingly, an individual who did not have any FICA wages from the employer sponsoring the plan for the preceding calendar year (for example, a partner who had only self-employment income; an individual who had wages under section 3231(e) that are subject to taxation under the Railroad Retirement Tax Act, codified at title 45, chapter 9 of the United States Code, rather than FICA; or a State or local government employee whose services were excluded from the definition of employment under section 3121(b)(7) without regard to section 3121(u)) would not be subject to the Roth catch-up requirement under the plan in the current year. Similarly, an individual who received cash compensation from the employer sponsoring the plan in the preceding calendar year but nevertheless did not have any FICA wages from the employer for that year (for example, because the compensation was taxed in an earlier year pursuant to section 3121(v)(2)) would not be subject to the Roth catch-up requirement under the plan in the current year.

[6] The higher applicable dollar catch-up limit for participants attaining age 60 through 63 may, but is not required to be, included in an applicable employer plan. Thus, an applicable employer plan may also be designed to limit the catch-up contributions for those participants to the same applicable dollar catch-up limit that applies for all other catch-up eligible participants.

[7] For taxable years beginning in 2024, the limit on catch-up contributions that can be made by a participant who is eligible to make catch-up contributions under the Puerto Rico Code is $1,500.

[8] The Roth catch-up wage threshold of $145,000 would be applied to a catch-up eligible participant's 2023 FICA wages to determine whether the Roth catch-up requirement applies to the participant's catch-up contributions made for 2024. In accordance with Notice 2024–80, 2024–47 IRB 1120, the Roth catch-up wage threshold that would be applied to a catch-up eligible participant's 2024 FICA wages to determine whether the Roth catch-up requirement applies to the participant's catch-up contributions made for 2025 remains $145,000.

Further, proposed § 1.414(v)–2 would not require that the Roth catch-up wage threshold be prorated for the first year of hire. Thus, a participant who worked for the employer sponsoring the plan for only part of the preceding calendar year would be subject to the Roth catch-up requirement in the current year only if the participant had wages exceeding the full Roth catch-up wage threshold from the employer for the preceding calendar year.

2. Availability of Roth Catch-Up Contributions Under Section 414(v)(7)(B)

Section 414(v)(7)(B) provides that, in the case of an applicable employer plan with respect to which section 414(v)(7)(A) applies to any participant for a plan year, section 414(v)(1) shall not apply to the plan unless the plan provides that any catch-up eligible participant may make catch-up contributions as designated Roth contributions. In accordance with section 414(v)(7)(B), proposed § 1.414(v)–2(a)(5)(i) would provide that if any catch-up eligible participant who is subject to the Roth catch-up requirement is permitted to make catch-up contributions as designated Roth contributions under an applicable employer plan for a plan year, then the plan would be required to allow all other catch-up eligible participants to also make catch-up contributions as designated Roth contributions for the plan year.[9]

Proposed § 1.414(v)–2(a)(5)(ii) sets forth a rule that would address the application of section 414(v)(7)(B) to a plan that is subject to the qualification requirements of both section 401(a) and section 1081.01 of the Puerto Rico Code (dual-qualified plan).[10] If a dual-qualified plan that covers both employees in the United States and employees in Puerto Rico permits any catch-up eligible participant who is subject to the Roth catch-up requirement to make catch-up contributions as designated Roth contributions for a plan year, then, in accordance with section 414(v)(7)(B), the plan is generally required to permit all catch-up eligible participants to make catch-up contributions as designated Roth contributions for the plan year. The Puerto Rico Code does not provide for designated Roth contributions, but it does allow plans to offer the opportunity to make after-tax contributions. Accordingly, in the case of a dual-qualified plan that permits Roth catch-up contributions for participants in the United States, proposed § 1.414(v)–2(a)(5)(ii) would treat the requirements of section 414(v)(7)(B) as satisfied with respect to a catch-up eligible participant who is subject to section 1081.01 of the Puerto Rico Code if the plan permits the participant to make catch-up contributions as after-tax contributions within the meaning of section 1081.01(a)(15) of the Puerto Rico Code.

B. Rules of Operation for Implementing the Roth Catch-Up Requirement

1. Designated Roth Contributions That Are Treated as Catch-Up Contributions for Purposes of the Roth Catch-Up Requirement

The Treasury Department and the IRS received comments in response to Notice 2023–62 requesting clarification that designated Roth contributions made at any point within a year may be counted towards satisfaction of the Roth catch-up requirement, even if the designated Roth contributions are made earlier than the contributions that are determined to be catch-up contributions (that is, before the participant is considered to have reached an applicable limit on elective deferrals for the year).

In general, under existing § 1.414(v)–1(b)(2)(i)(A) and (c)(3), the amount of a participant's elective deferrals in excess of an applicable limit is determined as of the end of a plan year (or limitation year, in the case of the section 415(c) limit) by comparing the participant's total elective deferrals for the plan year (or total annual additions for the limitation year) with the applicable limit for the plan year (or limitation year). However, under § 1.414(v)–1(c)(3), in the case of an applicable limit that is applied on the basis of a year other than the plan year or limitation year (for example, the calendar-year limit on elective deferrals under section 401(a)(30)), the determination of whether elective deferrals are treated as catch-up contributions is made at the time they are deferred. Thus, if the timing rule in § 1.414(v)–1(c)(3) that applies for purposes of determining whether an elective deferral is a catch-up contribution also applies for purposes of determining whether a designated Roth contribution is a catch-up contribution that satisfies the Roth catch-up requirement, then, in the case of elective deferrals that are catch-up contributions because they exceed a calendar-year limit (such as the section 401(a)(30) limit), only elective deferrals that are made after reaching that limit would be taken into account in satisfying the Roth catch-up requirement.

Commenters suggested that limiting the designated Roth contributions that may be taken into account in satisfying the Roth catch-up requirement in this manner is not an appropriate approach. For example, a commenter noted that if this approach is used, then a catch-up eligible participant who would like to make elective deferrals for a calendar year in an amount equal to the sum of the section 401(a)(30) limit on elective deferrals and the applicable dollar catch-up limit would be required to make the elective deferrals as designated Roth contributions during the latter part of the year (or after the section 401(a)(30) limit is reached). This would be required even if the participant would prefer to have designated Roth contributions made throughout the year or even if the participant had already frontloaded the designated Roth contributions by making elective deferrals in an amount equal to the applicable dollar catch-up limit as designated Roth contributions during the earlier part of the year.

To address commenters' concerns, provide maximum flexibility for participants, and alleviate administrative burdens, proposed § 1.414(v)–2(b)(1) would take into account designated Roth contributions that are made prior to an applicable limit being reached for purposes of determining whether the Roth catch-up requirement is satisfied. Under proposed § 1.414(v)–2(b)(1), an elective deferral that is determined to be a catch-up contribution at the time of contribution under the timing rules in § 1.414(v)–1(c)(3) (for example, on account of exceeding the section 401(a)(30) limit) would be required to be made as a designated Roth contribution by a participant who is subject to the Roth catch-up requirement only to the extent the participant has not previously made elective deferrals as designated Roth contributions during the calendar year or taxable year equal to the applicable dollar catch-up limit. Thus, if a catch-up eligible participant's total elective deferrals that are designated Roth contributions over the course of a

[9] By contrast, if none of the participants who are subject to the Roth catch-up requirement are permitted to make catch-up contributions under a plan for a plan year (for example, if a plan does not include a qualified Roth contribution program), then section 414(v)(7)(A) would not be considered to apply to any catch-up eligible participant in the plan for the plan year (and the requirement of section 414(v)(7)(B) would not apply to the plan). This interpretation of section 414(v)(7)(B) is consistent with the Joint Committee on Taxation general explanation of the provision. *See* JCS–1–23 (December 2023).

[10] For purposes of this NPRM, a dual-qualified plan includes a plan for which an election under section 1022(i)(2) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93–406, 88 Stat. 829), as amended (ERISA), has been made.

calendar year or taxable year equal or exceed the total elective deferrals that are determined to be catch-up contributions, then the participant would satisfy the Roth catch-up requirement.[11]

2. Plans That Do Not Include a Qualified Roth Contribution Program

In accordance with section 402A(a), an applicable employer plan may, but is not required to, include a qualified Roth contribution program within the meaning of section 402A(b). However, in the case of a catch-up eligible participant who is subject to the Roth catch-up requirement, section 414(v)(1) applies only if any catch-up contributions made by the participant are designated Roth contributions. Therefore, if an applicable employer plan does not include a qualified Roth contribution program, then a participant who is subject to the Roth catch-up requirement would be prohibited from making catch-up contributions under the plan.

The proposed regulations would not require an applicable employer plan to include a qualified Roth contribution program. Thus, under the proposed regulations, an applicable employer plan that does not have a qualified Roth contribution program would be allowed to permit catch-up eligible participants who are not subject to the Roth catch-up requirement to make catch-up contributions even though catch-up eligible participants who are subject to the Roth catch-up requirement would not be permitted to make catch-up contributions.

However, the universal availability requirement under existing § 1.414(v)–1(e) provides that an applicable employer plan will be treated as failing to meet the nondiscrimination requirements under section 401(a)(4) with respect to benefits, rights, and features unless all catch-up eligible participants under the plan are provided with an effective opportunity to make the same dollar amount of catch-up contributions. Proposed § 1.414(v)–1(e)(1)(iii) would add a rule providing that an applicable employer plan would not violate the universal availability requirement merely because the plan permits each catch-up eligible participant to make elective deferrals up to the maximum dollar amount of catch-up contributions permitted under applicable law with respect to that participant. If a plan does not include a qualified Roth contribution program, then the maximum dollar amount of catch-up contributions permitted based on applicable law with respect to a catch-up eligible participant in the plan who is subject to the Roth catch-up requirement is $0. Proposed § 1.414(v)–2(b)(2) would address this situation by providing that an applicable employer plan that does not include a qualified Roth contribution program does not fail to satisfy the universal availability requirement merely because the plan (or another applicable employer plan maintained by the employer that does not include a qualified Roth contribution program) does not permit catch-up eligible participants who are subject to the Roth catch-up requirement to make catch-up contributions.

Generally, under § 1.414(v)–1(d)(4), an applicable employer plan does not violate § 1.401(a)(4)–4 merely because the group of employees for whom catch-up contributions are currently available is not a group of employees that would satisfy the minimum coverage requirements of section 410(b). Under the proposed regulations, § 1.414(v)–1(d)(4) would not apply to an applicable employer plan that does not include a qualified Roth contribution program and permits only catch-up eligible participants who are not subject to the Roth catch-up requirement to make catch-up contributions. The reason the proposed regulations would provide that § 1.414(v)–1(d)(4) does not apply to such a plan is that not all catch-up eligible employees under the plan will be able to make catch-up contributions.

Because the Roth catch-up wage threshold is slightly lower than the wage threshold used in the definition of highly compensated employee (HCE) under section 414(q)(1)(B), some non-HCEs may be subject to the Roth catch-up requirement.[12] Thus, if a plan that does not include a qualified Roth contribution program prohibits catch-up eligible participants who are subject to the Roth catch-up requirement from making catch-up contributions, while permitting other catch-up eligible participants to make catch-up contributions, then the outcome of the nondiscrimination test with respect to the availability of catch-up contributions performed under § 1.401(a)(4)–4 may be affected. Accordingly, proposed § 1.414(v)–2(b)(2) would permit such a plan to also preclude one or more catch-up eligible participants who are HCEs and who are not subject to the Roth catch-up requirement (for example, because they did not receive FICA wages for the preceding year) from making catch-up contributions if doing so facilitates satisfaction of § 1.401(a)(4)–4 with respect to the availability of catch-up contributions.

3. Determination of Employer Sponsoring the Plan

The determination as to whether the Roth catch-up requirement applies to a catch-up eligible participant is based on the amount of the participant's FICA wages for the preceding year "from the employer sponsoring the plan," but that phrase is not defined in section 414(v)(7). For purposes of determining an individual's FICA wages, the term "employer" generally means the person for whom the individual performs service as an employee under the common law standards that apply under § 31.3121(d)–1(c). Thus, for purposes of determining the individual's FICA wages, the term "employer" generally refers solely to an individual's common law employer.[13] Because the phrase "from the employer sponsoring the plan" modifies the reference to FICA wages in section 414(v)(7)(A), the determination of whether the Roth catch-up requirement applies to a participant would generally follow the FICA rules and be based on the FICA wages from the participant's common law employer.

Thus, proposed § 1.414(v)–2(b)(3) would provide that, with respect to each catch-up eligible participant who is subject to the Roth catch-up requirement, the term "employer sponsoring the plan" only refers to the participant's common law employer contributing to the plan.[14] Under the

[11] This is also the case with respect to elective deferrals that are determined to be catch-up contributions because the plan would fail the actual deferral percentage (ADP) test under section 401(k)(3) if it did not correct under section 401(k)(8). The determination of elective deferrals that are catch-up contributions because they are in excess of this ADP limit in § 1.414(v)–1(b)(1)(iii) occurs in the plan year following the plan year for which the elective deferrals are made.

[12] This is particularly true if an employer makes the top-paid group election under section 414(q)(1)(B)(ii).

[13] In general, FICA wages are determined separately by related employers. *See* § 31.3121(a)(1)–(a)(3) ("If during a calendar year the employee receives remuneration from more than one employer, the annual wage limitation does not apply to the aggregate remuneration received from all of such employers, but instead applies to the remuneration received during such calendar year from each employer."). *See also* § 31.3121(s)–1(a) ("For purposes of section . . . 3121(a)(1), except as otherwise provided . . . , when two or more related corporations concurrently employ the same individual and compensate that individual . . . , each of the corporations is considered to have paid only the remuneration it actually disburses to that individual.").

[14] This rule applies even if responsibilities under chapter 21 of the Code are imposed on a third party, such as a section 3401(d) statutory employer, a section 3504 agent, a section 3121(s) common

Continued

proposed regulation, the ''employer sponsoring the plan'' would not include other entities that are treated as a single employer with a catch-up eligible participant's common law employer under section 414(b), (c), (m), or (o). For example, if there are multiple employers participating in a plan that are treated as a single employer under the controlled group rules, each of the participating employers that is a common law employer would be a separate employer sponsoring the plan.

Similarly, in the context of catch-up contributions made to a multiple employer plan or multiemployer plan by a catch-up eligible participant subject to the Roth catch-up requirement, the ''employer sponsoring the plan'' means the participant's common law employer that is the source of the participant's FICA wages and contributions to the plan. Some commenters have suggested that the Roth catch-up requirement does not apply to a multiemployer plan because section 3(16)(B) of ERISA defines the ''plan sponsor'' of a multiemployer plan as the joint board of trustees rather than the contributing employers. Under the interpretation of section 414(v)(7)(A) suggested by the commenters, the employer that is the source of the employee's FICA wages would be a signatory of the collective bargaining agreement pursuant to which the employer's employees participate in the multiemployer plan and a contributor to that plan, but would not be the ''employer sponsoring the plan'' for purposes of section 414(v)(7)(A).[15] The Treasury Department and the IRS do not agree that this is a reasonable interpretation of section 414(v)(7)(A) because ERISA is a separate statute from the Code and does not include any provisions that directly apply, or are even parallel, to the Code's catch-up contribution rules. Rather, in the context of the Roth catch-up requirement, the ''employer sponsoring the plan'' is the common law employer that is the source of the participant's FICA wages and contributions to the multiemployer plan.

The Treasury Department and the IRS understand from comments received that multiemployer plans and other plans maintained pursuant to a collective bargaining agreement would benefit from an extended applicability date for the Roth catch-up requirement so that the terms of any applicable collective bargaining agreement can be conformed to that requirement. In response to these comments, proposed § 1.414(v)–2(e)(2)(ii) would provide that proposed § 1.414(v)–2 does not apply to a plan maintained pursuant to one or more collective bargaining agreements until the first taxable year beginning more than 6 months after the date that final regulations adding § 1.414(v)–2 to the Code of Federal Regulations are issued, or, if later, the first taxable year beginning after the date on which the last collective bargaining agreement related to the plan that is in effect on December 31, 2025, terminates (determined without regard to any extension of those collective bargaining agreements).

4. Plans With More Than One Employer Sponsoring the Plan

Consistent with the treatment of the term ''employer sponsoring the plan'' as referring to a catch-up eligible participant's common law employer without aggregation with other employers under section 414(b), (c), (m), or (o), proposed § 1.414(v)–2(b)(4) would apply the Roth catch-up requirement on the basis of FICA wages (if any) for the preceding calendar year solely from a participant's common law employer without aggregating those wages with the FICA wages from other employers, including employers that participate in the same plan or employers that are treated as a single employer together with the common law employer under section 414(b), (c), (m), or (o). Thus, a catch-up eligible participant who had FICA wages exceeding $145,000 (as adjusted) in the preceding calendar year from any employer other than the employer sponsoring the plan (as defined with respect to the participant in accordance with proposed § 1.414(v)–2(b)(3)) would not be subject to the Roth catch-up requirement under the plan in the current year if the participant did not also have more than $145,000 (as adjusted) of FICA wages for the preceding year from the employer sponsoring the plan. This is consistent with the description of anticipated guidance that was included in Notice 2023–62.

C. Treatment of Pre-Tax Catch-Up Contributions That Are Required To Be Designated Roth Contributions Under Section 414(v)(7)

1. Correcting a Violation of the Section 414(v)(7) Roth Catch-Up Requirement

Section 414(v)(7)(A) provides that section 414(v)(1) applies to catch-up contributions made by a participant who is subject to the Roth catch-up requirement only if the catch-up contributions are designated Roth contributions. If a participant who is subject to the Roth catch-up requirement makes a pre-tax elective deferral in excess of an applicable limit, then section 414(v)(1) will not apply to that elective deferral and the plan will fail to be qualified unless the plan corrects the failure. A plan is permitted to correct this type of error by distributing the additional elective deferrals that are not catch-up contributions under section 414(v)(1) from the plan in accordance with a permitted correction method specific to the limit on elective deferrals that the additional elective deferrals exceeded (for example, the correction method in § 1.402(g)–1(e) for elective deferrals that exceeded the section 401(a)(30) limit, the correction method in section 6.06(1) and (2) of Revenue Procedure 2021–30, 2021–31 IRB 172, for elective deferrals that resulted in the participant's annual additions exceeding the section 415(c) limit, or the correction method in § 1.401(k)–2(b)(2) or Appendix B, section 2.01, of Revenue Procedure 2021–30 for elective deferrals that exceeded the ADP limit).

In response to Notice 2023–62, the Treasury Department and the IRS received several comments requesting guidance that would permit a pre-tax elective deferral that exceeds an applicable limit to be treated as a designated Roth contribution in order to satisfy the Roth catch-up requirement (as an alternative to distribution of these elective deferrals from the plan). Commenters requested this guidance with respect to elective deferrals that were intended to be catch-up contributions at the time amounts were contributed (because the contributions exceeded plan or statutory limits) but which were not made as Roth contributions because of an error. Commenters also raised specific concerns relating to elective deferrals that are catch-up contributions because they exceed the ADP limit. This concern arises because the determination of whether an elective deferral exceeds the ADP limit (and, therefore, could be a catch-up contribution) cannot be made until after the close of the plan year (that is, after the elective deferral is made).

The Treasury Department and the IRS agree that a correction procedure by which a plan can correct a section 414(v)(7) failure (that is, a failure to satisfy the Roth catch-up requirement), other than through distribution from the plan of elective deferrals in excess of an

paymaster, a section 3511 certified PEO, or a section 3512 motion picture project employer.

[15] This would not be the case with respect to an employee of the joint board of trustees who participates in the plan. In that case, the joint board of trustees would be both the ''sponsor'' within the meaning of section 3(16)(B) of ERISA and the common law employer.

applicable limit which fail to comply with section 414(v)(7)(A), is warranted. Thus, proposed § 1.414(v)–2(c) would set forth additional permissible methods and related rules for correcting a pre-tax elective deferral that exceeds an applicable limit in order to comply with the Roth catch-up requirement, which are discussed in the next section of this Explanation of Provisions.[16]

2. Additional Permissible Correction Methods for Elective Deferrals That Exceed an Applicable Limit

Proposed § 1.414(v)–2(c)(2) sets forth two new methods that a plan would be permitted to use to correct a failure of the Roth catch-up requirement as it applies to elective deferrals that exceed an applicable limit. Under proposed § 1.414(v)–2(c)(2)(i), a plan would be permitted to provide for either correction method but, with respect to a plan year, the plan would be required to apply the same correction method for all participants with elective deferrals in excess of the same applicable limit.

a. Form W–2 Correction Method

Under the correction method set forth in proposed § 1.414(v)–2(c)(2)(ii), a plan would be permitted to correct a participant's pre-tax catch-up contribution that was required to be a designated Roth contribution by transferring the elective deferral (adjusted for allocable gain or loss) from the participant's pre-tax account to the participant's designated Roth account and reporting the contribution (not adjusted for allocable gain or loss) as a designated Roth contribution on the participant's Form W–2 (Wage and Tax Statement) for the year of the deferral (that is, reporting the contribution as if it had been correctly made as a designated Roth contribution). Under this correction method, the contribution (not adjusted for allocable gain or loss) would be includible in the participant's gross income for the year of the deferral as if the contribution had been correctly made as a designated Roth contribution. However, this method would not be permitted to be used if the participant's Form W–2 for that year has already been filed or furnished to the participant.[17]

b. In-Plan Roth Rollover Correction Method

Under proposed § 1.414(v)–2(c)(2)(iii), a plan would be permitted to correct a participant's pre-tax catch-up contribution that was required to be a designated Roth contribution through an in-plan Roth rollover in accordance with section 402A(c)(4)(E). Under this method, a plan would directly roll over the elective deferral (adjusted for allocable gain or loss) from the participant's pre-tax account to the participant's designated Roth account and report the amount of the in-plan Roth rollover on Form 1099–R (Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) for the year of rollover. The provisions of Notice 2010–84, 2010–51 IRB 872, and Notice 2013–74, 2013–52 IRB 819, would generally apply to an in-plan Roth rollover used to correct a section 414(v)(7) failure. Thus, the amount directly rolled over to the participant's designated Roth account would be the same as the amount reported on Form 1099–R, and the contribution (adjusted for allocable gain or loss) would be includible in the participant's gross income for the year of the rollover.

3. General Correction Requirements and Deadlines To Correct

a. Prerequisite To Correct Certain Section 414(v)(7) Failures Under the New Correction Methods

Under proposed § 1.414(v)–2(c)(3)(i), a plan would be eligible to use a new correction method with respect to pre-tax elective deferrals that exceed a statutory limit described in § 1.414(v)–1(b)(1)(i) (such as contributions that exceed the section 401(a)(30) limit or that result in the participant's annual additions exceeding the section 415(c) limit) only if the plan sponsor or plan administrator has in place practices and procedures designed to result in compliance with section 414(v)(7) at the time an elective deferral is made.[18] A plan would not meet this requirement unless the plan provides for a deemed Roth catch-up election in accordance with proposed § 1.401(k)–1(f)(5)(iii) and (iv). Under the deemed Roth catch-up election approach, if a participant who is subject to the Roth catch-up requirement has made pre-tax elective deferrals for a calendar year that equal the section 401(a)(30) limit for the taxable year that begins in the calendar year, then subsequent elective deferrals made by the participant in the calendar year would automatically be made as designated Roth contributions, even if the participant has not made an affirmative election to make catch-up contributions as designated Roth contributions. Similarly, if such a participant has made pre-tax elective deferrals for a limitation year that result in the participant's annual additions for the limitation year exceeding the section 415(c) limit, then subsequent elective deferrals made by the participant in the limitation year would automatically be made as designated Roth contributions.

If a plan does not provide for a deemed Roth catch-up election and the plan accepts a pre-tax elective deferral that would be a catch-up contribution on account of exceeding a statutory limit described in § 1.414(v)–1(b)(1)(i) and the elective deferral is required to be a designated Roth contribution in accordance with the Roth catch-up requirement, then the plan would not be eligible to use a correction method described in § 1.414(v)–2(c)(2) and, therefore, would have to use an otherwise-applicable correction method to distribute the elective deferral (for example, the correction method in § 1.402(g)–1(e) relating to an elective deferral that exceeds the section 401(a)(30) limit).[19]

A plan would not fail to meet the requirement to have in place practices and procedures that are designed to result in compliance with the Roth

[16] Commenters also suggested that a plan be permitted to avoid having to correct section 414(v)(7) failures by requiring that all catch-up contributions be made as designated Roth contributions. The Treasury Department and the IRS have considered that suggestion and concluded that, for a participant who is not subject to the Roth catch-up requirement, allowing a plan design that requires all participants' catch-up contributions to be designated Roth contributions would be inconsistent with the language of section 402A(b)(1), which provides that a designated Roth contribution must be elected by an employee ''in lieu of all or a portion of elective deferrals the employee is otherwise eligible to make.''

[17] This method would generally not be available with respect to an elective deferral that is a catch-up contribution because it exceeds the ADP limit under a plan with a calendar year plan year. This is because a participant's Form W–2 for a year is generally filed and furnished to the participant prior to determination of any catch-up contributions made by the participant because the elective deferrals exceed the ADP limit for such a plan year.

[18] A plan would not be required under proposed § 1.414(v)–2(c)(3)(i) to have such practices and procedures in place in order to correct a pre-tax catch-up contribution that is a catch-up contribution because it exceeds an employer-provided limit as described in § 1.414(v)–1(b)(1)(ii). A plan would also not be required to have such practices and procedures in place in order to correct a pre-tax elective deferral that is a catch-up contribution because it exceeds the ADP limit as described in § 1.414(v)–1(b)(1)(iii). This is because these elective deferrals are not determined to be catch-up contributions under § 1.414(v)–1(c)(3) until the last day of the plan year of deferral or in the following plan year.

[19] In the case of a plan that does not provide for a deemed Roth catch-up election, if the plan provides that it will not accept an elective deferral that exceeds an applicable limit on elective deferrals unless the elective deferral is a catch-up contribution, then the plan may be designed to automatically stop elective deferrals for a catch-up eligible participant who is subject to the Roth catch-up requirement after the participant's elective deferrals reach an applicable limit (unless the participant has designated the additional elective deferrals as Roth contributions).

catch-up requirement at the time an elective deferral is made merely because the plan determines the applicability of the Roth catch-up requirement to a participant solely on the basis of the participant's FICA wages from the employer sponsoring the plan for the preceding calendar year as reported on a timely-filed Form W–2 with respect to the participant. However, if the amount of a participant's FICA wages for the preceding calendar year that is timely reported on a Form W–2 is later determined to be incorrect, a plan would have to correct any pre-tax catch-up contributions that should have been designated Roth contributions on the basis of the adjusted FICA wages for the preceding calendar year.[20]

b. Deadline To Correct Section 414(v)(7) Failures

Proposed § 1.414(v)–2(c)(3)(iii) provides the deadlines that would apply for correction of a pre-tax catch-up contribution under the new correction methods for a section 414(v)(7) failure. Under the proposed regulation, the deadline to correct a section 414(v)(7) failure would depend on which limit is the basis for the pre-tax elective deferral being designated a catch-up contribution.[21]

If the elective deferral is a catch-up contribution because it exceeds the section 401(a)(30) limit on elective deferrals, then § 1.414(v)–2(c)(3)(iii)(A) would provide that the deadline to complete the corrective steps under proposed § 1.414(v)–2(c)(2) is April 15 of the calendar year following the calendar year for which the elective deferral was made. This is consistent with the deadline that applies for correcting excess deferrals above the section 401(a)(30) limit by distribution under § 1.402(g)–1(e).

If the elective deferral is a catch-up contribution because it results in the participant's annual additions for a limitation year exceeding the section 415(c) limit, then § 1.414(v)–2(c)(3)(iii)(B) would provide that the deadline to complete the corrective steps under proposed § 1.414(v)–2(c)(2) is the deadline that applies under § 1.415(c)–1(b)(6) for allocating amounts to the limitation year for which the elective deferral was made.

Under proposed § 1.414(v)–2(c)(3)(iii)(C), the deadline to correct a pre-tax catch-up contribution that exceeds the ADP limit under the new correction methods would be the date that is 2½ months (6 months, in the case of plans that include an eligible automatic contribution arrangement within the meaning of section 414(w)) after the close of the plan year for which the excess contribution was made. This is consistent with the deadline under § 1.401(k)–2(b)(5) for distributing excess contributions above the ADP limit in order to avoid a 10 percent excise tax on the excess contributions. Under the proposed regulations, this would also be the deadline to correct a pre-tax catch-up contribution that is a catch-up contribution because it exceeds an employer-provided limit (because the determination of catch-up contributions, which are disregarded for purposes of the ADP test, needs to be made before the performance of the ADP test).

Proposed Applicability Date

The amendments to § 1.414(v)–1 are proposed to apply with respect to contributions in taxable years that begin more than 6 months after the date that final regulations amending § 1.414(v)–1 are issued. However, the proposed regulations would permit a taxpayer to elect to apply: (1) proposed § 1.414(v)–1(c)(2)(ii)(C) and (c)(2)(iii)(C) (relating to the higher catch-up limit for certain newly-established SIMPLE plans) with respect to taxable years beginning after December 31, 2023, and (2) proposed § 1.414(v)–1(c)(2)(i)(B), (c)(2)(ii)(B), and (c)(2)(iii)(B) (relating to the higher catch-up limit applicable during the taxable year of attainment of age 60 through 63) with respect to taxable years beginning after December 31, 2024.

For a plan that is not maintained pursuant to a collective bargaining agreement, proposed § 1.414(v)–2 and the proposed amendments to §§ 1.401(k)–1 and 1.403(b)–3 are proposed to apply with respect to contributions in taxable years beginning more than 6 months after the date that final regulations adding § 1.414(v)–2 to the Code of Federal Regulations are issued. For a plan that is maintained pursuant to one or more collective bargaining agreements, proposed § 1.414(v)–2 and the proposed amendments to §§ 1.401(k)–1 and 1.403(b)–3 are proposed to apply with respect to contributions in taxable years beginning after the later of the first taxable year described in the preceding sentence, or the first taxable year that begins after the date on which the last collective bargaining agreement related to the plan that is in effect on December 31, 2025, terminates (determined without regard to any extension of those agreements). However, under the proposed regulations, a plan would be permitted to apply § 1.414(v)–2 and the amendments to §§ 1.401(k)–1 and 1.403(b)–3 with respect to contributions in taxable years beginning after December 31, 2023.

Special Analyses

I. Regulatory Planning and Review

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.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

These proposed regulations contain reporting requirements, contained in § 1.414(v)–2(c), that relate to corrections of pre-tax elective deferrals that are catch-up contributions subject to the requirement under section 414(v)(7)(A) of the Code to be designated Roth contributions. These collections of information generally would be used by the IRS for tax compliance purposes and may involve submission of a Form 1099–R to the IRS. This form and its associated burden are approved by the OMB under 1545–0119. The proposed regulation is not changing the reporting procedures already established for this form.

The proposed regulations also contain a recordkeeping requirement that plan administrators maintain written practices and procedures designed to result in real-time compliance with certain requirements of section 414(v)(7)(A). These recordkeeping requirements are expected to be usual and customary business practices that would impose no additional burden on respondents. Therefore, the recordkeeping requirement would not

[20] The Treasury Department and the IRS invite comments on whether there are scenarios in which it would not be appropriate to require correction of pre-tax catch-up contributions that are required to be designated Roth contributions on the basis of a subsequent determination that the amount of FICA wages reported on the Form W–2 was incorrect.

[21] If the applicable deadline for a new correction method under the proposed regulations is not satisfied, then a section 414(v)(7) failure would need to be corrected by a distribution from the plan in accordance with the correction principles set forth in section 6 of Revenue Procedure 2021–30.

require OMB approval under 5 CFR 1320.3(b)(2).

III. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. These proposed regulations would affect individuals and businesses, some of which may be small entities.

Even if a substantial number of small entities would be affected, the economic impact of these proposed regulations is not expected to be significant. As discussed in the Paperwork Reduction Act section of this preamble, these proposed regulations may involve reporting and ordinary recordkeeping but are not expected to result in an increase in estimated burden. Any additional recordkeeping or administrative costs resulting from the changes relating to catch-up contributions that apply to certain section 401(k) plans, 403(b) plans, and eligible governmental 457(b) plans sponsored by small entities are consistent with existing procedures and are not expected to be significant. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act is not required.

The Treasury Department and the IRS invite comments on the impacts these proposed regulations may have on small entities. Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

IV. 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. The proposed regulations do not propose any rule that would 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.

V. 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. The proposed regulations do not propose rules that would have federalism implications, impose substantial direct compliance costs on State and local governments, or preempt State law within the meaning of the Executive order.

Comments and Public Hearing

Before these proposed regulations and proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments regarding the notice of proposed rulemaking that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments will be made available at *www.regulations.gov.* Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing has been scheduled for April 7, 2025, beginning at 10 a.m. EST in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. Participants may alternatively attend the public hearing by telephone.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit an outline of the topics to be addressed and the time to be devoted to each topic by March 14, 2025 as prescribed in the preamble under the **DATES** section. A period of 10 minutes will be allocated to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing. If no outline of the topics to be discussed at the hearing is received by March 14, 2025, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify in person at the public hearing must send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number REG–101268–24 and the language TESTIFY In Person. For example, the subject line may say: Request to TESTIFY In Person at Hearing for REG–101268–24.

Individuals who want to testify by telephone at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–101268–24 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG–101268–24.

Individuals who want to attend the public hearing in person without testifying must also send an email to *publichearings@irs.gov* to have your name added to the building access list. The subject line of the email must contain the regulation number REG–101268–24 and the language ATTEND In Person. For example, the subject line may say: Request to ATTEND Hearing In Person for REG–101268–24. Requests to attend the public hearing must be received by 5 p.m. EST on April 3, 2025.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–101268–24 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–101268–24. Requests to attend the public hearing must be received by 5 p.m. EST on April 3, 2025.

Hearings will be made accessible to people with disabilities. To request special assistance during the hearing, please contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by April 2, 2025.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings notices, and other guidance 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 Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

Drafting Information

The principal authors of these proposed regulations are Jessica S. Weinberger and Jason E. Levine, of the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes (EEE)). However, other personnel from the Treasury Department and the IRS participated in the development of the proposed regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1–INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries, in numerical order, for §§ 1.401(k)–1 and 1.414(v)–2 to read in part, as follows:

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

* * * * *

Section 1.401(k)–1 also issued under 26 U.S.C. 401(m)(9).

* * * * *

Section 1.414(v)–2 also issued under 26 U.S.C. 414(v)(7)(D).

* * * * *

■ **Par. 2.** Section 1.401(k)–1 is amended by adding paragraphs (f)(5)(iii) and (iv) to read as follows:

§ 1.401(k)–1 Certain cash or deferred arrangements.

* * * * *

(f) * * *

(5) * * *

(iii) *Deemed Roth catch-up contribution elections.* For taxable years beginning after December 31, 2023, a plan that satisfies the requirements of paragraph (f)(5)(iv) of this section may provide that an employee who is subject to the requirement under section 414(v)(7) to make any catch-up contributions as designated Roth contributions is deemed to have irrevocably designated any elective deferrals that are catch-up contributions as designated Roth contributions in accordance with paragraph (f)(1)(i) of this section. In such a case, the elective deferrals must be—

(A) Treated by the employer as not excludible from the employee's gross income, in accordance with paragraph (f)(2) of this section; and

(B) Maintained by the plan in a separate account, in accordance with paragraph (f)(3) of this section.

(iv) *Election for employees subject to section 414(v)(7)(A).* A plan satisfies the requirements of this paragraph (f)(5)(iv) only if it provides to an employee who is described in paragraph (f)(5)(iii) of this section an effective opportunity (as determined under paragraph (e)(2)(ii) of this section) to make a new election that is different than the deemed election described in paragraph (f)(5)(iii) of this section.

* * * * *

■ **Par. 3.** Section 1.403(b)–3 is amended in paragraph (c)(1) by:

■ a. Removing the reference "§ 1.401(k)–1(f)(1) and (2)" and adding, in its place, the reference "§ 1.401(k)–1(f)(1), (2), (3), and (5)";

■ b. Adding the language "(or is deemed to be so irrevocably designated in accordance with § 1.401(k)–1(f)(5)(iii))" immediately following the language "otherwise eligible to make under the plan"; and

■ c. Removing the language "(within the meaning of § 1.401(k)–1(f)(2))" and adding, in its place, the language "(within the meaning of § 1.401(k)–1(f)(3))".

■ **Par. 4.** Section 1.414(v)–1 is amended by:

■ a. In the last sentence of paragraph (a)(1), removing the language "this section and § 1.402(g)–2" and adding, in its place, the language "this section, and §§ 1.414(v)–2 and 1.402(g)–2";

■ b. Adding paragraph (a)(4);

■ c. Revising and republishing paragraph (c)(2);

■ d. Adding paragraph (e)(1)(iii); and

■ e. Revising and republishing paragraph (i).

The additions and revisions read as follows:

§ 1.414(v)–1 Catch-up contributions.

(a) * * *

(4) *Catch-up contributions must be designated Roth contributions for certain participants.* For provisions relating to the requirement under section 414(v)(7) that catch-up contributions made by certain catch-up eligible participants must be designated Roth contributions, *see* § 1.414(v)–2.

* * * * *

(c) * * *

(2) *Applicable dollar catch-up limit*—(i) *Plans other than SIMPLE Plans*—(A) *In general.* Except as provided in paragraph (c)(2)(i)(B) of this section, the applicable dollar catch-up limit that applies under an applicable employer plan, other than a SIMPLE 401(k) plan described in section 401(k)(11) or a SIMPLE IRA plan described in section 408(p), for a taxable year is $5,000, as adjusted for changes in the cost of living under paragraph (c)(2)(iii)(A) of this section.

(B) *Higher limit applicable during the taxable year of attainment of age 60 through 63.* For a taxable year beginning after 2024, with respect to a catch-up eligible participant who would attain age 60, 61, 62, or 63 during the taxable year, the applicable dollar catch-up limit for the taxable year under an applicable employer plan described in paragraph (c)(2)(i)(A) of this section is $11,250 (which is 150 percent of the applicable dollar catch-up limit described in paragraph (c)(2)(i)(A) of this section for a taxable year beginning in 2024), as adjusted for changes in the cost of living under paragraph (c)(2)(iii)(B) of this section.

(ii) *SIMPLE plans*—(A) *In general.* Except as provided in paragraph (c)(2)(ii)(B) or (C) of this section, the applicable dollar catch-up limit that applies under a SIMPLE 401(k) plan described in section 401(k)(11) or a SIMPLE IRA plan described in section 408(p) for a taxable year is $2,500, as adjusted for changes in the cost of living under paragraph (c)(2)(iii)(A) of this section.

(B) *Higher limit applicable during the taxable year of attainment of age 60 through 63.* For a taxable year beginning after 2024, with respect to a catch-up eligible participant who would attain age 60, 61, 62, or 63 during the taxable year, the applicable dollar catch-up limit for the taxable year under an applicable employer plan described in paragraph (c)(2)(ii)(A) of this section is $5,250 (which is 150 percent of the applicable dollar catch-up limit under paragraph (c)(2)(ii)(A) of this section for a taxable year beginning in 2025), as adjusted for changes in the cost of living under paragraph (c)(2)(iii)(B) of this section.

(C) *Higher limit for certain SIMPLE plans.* For a taxable year beginning after 2023, the applicable dollar catch-up limit under an applicable employer plan described in paragraph (c)(2)(ii)(A) of this section that is maintained by an eligible employer meeting the requirements in section 408(p)(2)(E)(iv) is $3,850 (which is 110 percent of the applicable dollar catch-up limit in effect under paragraph (c)(2)(ii)(A) of this section for a taxable year beginning in 2024), as adjusted for changes in the cost of living under paragraph (c)(2)(iii)(C) of this section. The preceding sentence applies with respect to a taxable year only if the taxable year begins in a calendar year for which the eligible employer is described in section 408(p)(2)(E)(i)(I) or makes the election described in section 408(p)(2)(E)(i)(II).

(iii) *Cost-of-living adjustments*—(A) *In general.* For a taxable year beginning after 2006, the applicable dollar catch-up limit under paragraph (c)(2)(i)(A) or (c)(2)(ii)(A) of this section (whichever applies to the plan) is the initial amount ($5,000 or $2,500, respectively), increased for changes in the cost of living. The increase is made at the same time and in the same manner as adjustments under section 415(d), except that the base period is the calendar quarter beginning July 1, 2005, and any increase that is not a multiple of $500 is rounded to the next lower multiple of $500.

(B) *Adjustments to higher limit applicable during the taxable year of attainment of age 60 through 63.* For a taxable year beginning after 2025, the applicable dollar catch-up limit under paragraph (c)(2)(i)(B) or (c)(2)(ii)(B) of this section (whichever applies to the plan) is the initial amount ($11,250 in the case of paragraph (c)(2)(i)(B) of this section and $5,250 in the case of paragraph (c)(2)(ii)(B) of this section), increased for changes in the cost of living. The increase is made at the same time and in the same manner as adjustments under section 415(d), except that the base period is the calendar quarter beginning July 1, 2024, and any increase that is not a multiple of $500 is rounded to the next lower multiple of $500.

(C) *Adjustments to higher limit for certain SIMPLE plans.* For a taxable year beginning after 2024, the applicable dollar catch-up limit under paragraph (c)(2)(ii)(C) of this section is the initial amount ($3,850), increased for changes in the cost of living. The increase is made at the same time and in the same manner as adjustments under section 415(d), except that the base period is the calendar quarter beginning July 1, 2023, and any increase that is not a multiple of $500 is rounded to the next lower multiple of $500.

* * * * *

(e) * * *

(1) * * *

(iii) *Plans providing the statutory maximum catch-up contributions.* An applicable employer plan does not fail to satisfy the universal availability requirement of this paragraph (e) merely because of differences among catch-up eligible participants as to the dollar amount of catch-up contributions they are permitted to make, provided that each catch-up eligible participant who participates under any applicable employer plan maintained by the employer is provided with an effective opportunity to make the maximum amount of catch-up contributions permitted for that participant under section 414(v) or, if applicable, section 1081.01(d)(7) of the Puerto Rico Internal Revenue Code of 2011 (13 L.P.R.A. section 30391(d)(7)), as amended. For example, an applicable employer plan does not fail to satisfy the universal availability requirement of this paragraph (e) merely because the plan permits catch-up eligible participants who would attain age 60, 61, 62, or 63 during a taxable year to make catch-up contributions up to the increased applicable dollar catch-up limit in section 414(v)(2)(E) while only permitting other catch-up eligible participants to make catch-up contributions up to the applicable dollar catch-up limit in section 414(v)(2)(B) without regard to section 414(v)(2)(E).

* * * * *

(i) *Applicability dates*—(1) *In general.* Except as described in paragraph (i)(2) of this section or § 1.414(v)–2(e), section 414(v) applies to contributions in taxable years beginning on or after January 1, 2002. Except as provided in paragraph (i)(2) of this section, paragraphs (a) through (h) of this section apply to contributions in taxable years beginning on or after January 1, 2004.

(2) *Increases in applicable dollar catch-up limit under section 414(v)(2)*—(i) *Higher limit during the taxable year of attainment of age 60 through 63.* The amendments to section 414(v)(2) made by section 109 of Division T of the Consolidated Appropriations Act, 2023, Public Law 117–328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act) to provide for a higher applicable dollar catch-up limit for individuals who attain age 60, 61, 62, or 63 during the taxable year apply to contributions in taxable years beginning after December 31, 2024. Paragraphs (c)(2)(i)(B), (c)(2)(ii)(B), and (c)(2)(iii)(B) of this section apply to contributions in taxable years beginning after [DATE SIX MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE] (or, at the election of the taxpayer, taxable years beginning after December 31, 2024). Except as provided in paragraph (i)(2)(ii) of this section, for taxable years beginning on or before December 31, 2024, the applicable dollar catch-up limit is determined under § 1.414(v)–1(c)(2) as it appeared in the April 1, 2024, edition of 26 CFR part 1.

(ii) *Higher limit for certain SIMPLE plans.* The amendments to section 414(v)(2) made by section 117 of the SECURE 2.0 Act to provide for a higher applicable dollar catch-up limit for certain SIMPLE plans apply to contributions in taxable years beginning after December 31, 2023. Paragraphs (c)(2)(ii)(C) and (c)(2)(iii)(C) of this section apply to contributions in taxable years beginning after [DATE SIX MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE] (or, at the election of the taxpayer, taxable years beginning after December 31, 2023). For taxable years beginning on or before December 31, 2023, the applicable dollar catch-up limit for a SIMPLE 401(k) plan described in section 401(k)(11) or a SIMPLE IRA plan described in section 408(p) is determined under § 1.414(v)–1(c)(2)(ii) as it appeared in the April 1, 2024, edition of 26 CFR part 1.

■ **Par. 5.** Section 1.414(v)–2 is added to read as follows:

§ 1.414(v)–2 Catch-up contributions required to be designated Roth contributions under section 414(v)(7).

(a) *Section 414(v)(7) Roth catch-up contribution requirement*—(1) *Organization of this section.* Paragraphs (a)(2) through (5) of this section provide general rules relating to the requirements of section 414(v)(7). Paragraph (b) of this section provides certain rules of operation for implementing the requirements of section 414(v)(7) addressed in this paragraph (a). Paragraph (c) of this section provides rules relating to the treatment of pre-tax catch-up contributions that were required to be designated Roth contributions under section 414(v)(7). Paragraph (d) of this section provides examples illustrating the application of the rules of this section. Paragraph (e) of this section sets forth the statutory and regulatory effective dates relating to the section 414(v)(7) Roth catch-up requirement.

(2) *Roth catch-up contribution requirement in general.* For a taxable year beginning on or after January 1, 2024, if, for the calendar year preceding the calendar year in which the taxable year begins, a catch-up eligible participant in an applicable employer plan had wages (as defined in section 3121(a) for purposes of the taxes imposed by sections 3101(a) and 3111(a), for the year the wages are required to be taken into account for purposes of chapter 21 of the Code) from the employer sponsoring the plan (as determined under paragraph (b)(3) of this section) that exceeded the applicable Roth catch-up wage threshold, then § 1.414(v)–1(a)(1) applies only if that participant's catch-up contributions (as described in § 1.414(v)–1(a)(1)) under the plan are designated Roth contributions (as defined in section 402A(c)(1)). The Roth catch-up wage threshold that applies for

a calendar year is $145,000, as adjusted for changes in the cost of living under paragraph (a)(3) of this section.

(3) *Cost-of-living adjustment.* For a calendar year beginning after December 31, 2024, the applicable Roth catch-up wage threshold in paragraph (a)(2) of this section is the initial amount ($145,000), increased for changes in the cost of living. The increase is made at the same time and in the same manner as adjustments under section 415(d), except that the base period is the calendar quarter beginning July 1, 2023, and any increase that is not a multiple of $5,000 is rounded to the next lower multiple of $5,000.

(4) *Certain plans not subject to section 414(v)(7).* Paragraph (a)(2) of this section does not apply to a plan described in section 408(k) or (p).

(5) *Availability of designated Roth catch-up contributions*—(i) *In general.* Except as provided in paragraph (a)(5)(ii) of this section, if, under an applicable employer plan, any catch-up eligible participant who is subject to the Roth catch-up requirement under paragraph (a)(2) of this section is permitted to make catch-up contributions as designated Roth contributions for a plan year, then all catch-up eligible participants in the plan must be permitted to make catch-up contributions as designated Roth contributions for the plan year.

(ii) *Special rule for participants subject to the Puerto Rico Code.* In the case of a catch-up eligible participant who is subject to the Roth catch-up requirement under paragraph (a)(2) of this section and is subject to section 1081.01 of the Puerto Rico Internal Revenue Code of 2011 (13 L.P.R.A. section 30391), as amended (Puerto Rico Code), paragraph (a)(5)(i) of this section is treated as satisfied if, under the applicable employer plan, that participant is permitted to make catch-up contributions as after-tax contributions within the meaning of section 1081.01(a)(15) of the Puerto Rico Code.

(b) *Rules of operation*—(1) *Determination of catch-up contributions subject to section 414(v)(7) Roth requirement.* For a participant who is subject to the Roth catch-up requirement under paragraph (a)(2) of this section for a plan year, an elective deferral that, in accordance with § 1.414(v)–1(c)(3), is treated as a catch-up contribution at the time of deferral (for example, an elective deferral that is a catch-up contribution because it exceeds the section 401(a)(30) limit on elective deferrals) is required to be a designated Roth contribution only to the extent the participant has not previously made elective deferrals that are designated Roth contributions during the calendar year or taxable year equal to the applicable dollar catch-up limit under § 1.414(v)–1(c)(2). Thus, for example, if a participant who is subject to the Roth catch-up requirement under paragraph (a)(2) of this section has already made elective deferrals that are designated Roth contributions during the calendar year that equal or exceed the applicable dollar catch-up limit at the time the participant's elective deferrals reach the section 401(a)(30) limit on elective deferrals, section 414(v)(7) would not require the participant's subsequent elective deferrals for the calendar year to be designated Roth contributions even though they are treated as catch-up contributions under § 1.414(v)–1(c)(3).

(2) *Treatment of plans without qualified Roth contribution programs*—(i) *In general.* For purposes of § 1.414(v)–1(e)(1)(iii), if an applicable employer plan does not include a qualified Roth contribution program (within the meaning of section 402A(b)), then, for a catch-up eligible participant who is subject to the Roth catch-up requirement under paragraph (a)(2) of this section, the maximum amount of catch-up contributions permitted under section 414(v) is $0. Such a plan does not fail to satisfy the universal availability requirement of § 1.414(v)–1(e) merely because the plan (or another applicable employer plan maintained by the employer that does not include a qualified Roth contribution program) does not permit catch-up contributions for participants who are subject to the Roth catch-up requirement under paragraph (a)(2) of this section.

(ii) *Application of nondiscrimination requirements.* If an applicable employer plan is described in paragraph (b)(2)(i) of this section, then § 1.414(v)–1(d)(4) does not apply to the plan. As a result, a plan that has one or more highly compensated employees (as defined in section 414(q)) who are not subject to the Roth catch-up requirement under paragraph (a)(2) may need to preclude one or more of those highly compensated employees from making catch-up contributions to facilitate satisfaction of § 1.401(a)(4)–4 with respect to the availability of catch-up contributions. In such a case, the plan is not treated as failing to satisfy the universal availability requirement of § 1.414(v)–1(e) merely because of that preclusion.

(3) *Determination of employer sponsoring the plan.* For purposes of determining the employer sponsoring the plan with respect to a catch-up eligible participant, the employer is the participant's common law employer. Thus, for purposes of this section, the employer sponsoring the plan does not include other entities that are treated as a single employer with a catch-up eligible participant's common law employer under section 414(b), (c), (m), or (o).

(4) *Plans with more than one employer sponsoring the plan.* If an applicable employer plan has more than one employer sponsoring the plan (that is, the plan is sponsored by multiple employers that are aggregated under section 414(b), (c), (m), or (o), or is a multiple employer plan or a multiemployer plan), a catch-up eligible participant's wages for the preceding calendar year from one employer sponsoring the plan are not aggregated with the wages from another employer sponsoring the plan for purposes of determining whether the participant's wages for the preceding calendar year exceeded the applicable Roth catch-up wage threshold in paragraph (a)(2) of this section. Furthermore, even if a catch-up eligible participant's wages for the preceding calendar year from one employer sponsoring the plan exceeded the applicable Roth catch-up wage threshold in paragraph (a)(2) of this section, elective deferrals made from the participant's compensation from another employer sponsoring the plan that are catch-up contributions would not be required to be designated Roth contributions unless the participant's wages for the preceding calendar year from that other employer also exceeded that wage threshold.

(c) *Treatment of pre-tax catch-up contributions that are required to be designated Roth contributions*—(1) *General rule.* Subject to paragraph (c)(3) of this section, a pre-tax elective deferral in excess of an applicable limit described in § 1.414(v)–1(b)(1) that, in accordance with paragraph (a)(2) of this section, is a catch-up contribution only if it is a designated Roth contribution does not cause an applicable employer plan to fail to satisfy any requirement of the Internal Revenue Code if the failure to be a designated Roth contribution is corrected in accordance with paragraph (c)(2) of this section.

(2) *Correction of section 414(v)(7) failures*—(i) *In general.* For purposes of this paragraph (c), if an elective deferral that exceeds a statutory limit, employer-provided limit, or ADP limit (as such terms are defined in § 1.414(v)–1(b)(1)) fails to be a catch-up contribution under section 414(v)(1) because the elective deferral is not a designated Roth contribution, then the failure to satisfy section 414(v)(7) is referred to as a ''section 414(v)(7) failure'' and may be

corrected in accordance with this paragraph (c)(2). A plan may provide for either of the correction methods described in paragraphs (c)(2)(ii) and (iii) of this section, but with respect to a plan year, the plan must apply the same correction method for all participants with elective deferrals in excess of the same applicable limit.

(ii) *Permitted correction on Form W–2.* A plan may correct a section 414(v)(7) failure by transferring the catch-up contribution (adjusted for earnings and losses) from the participant's pre-tax account to the participant's designated Roth account and reporting the contribution (not adjusted for earnings and losses) as an elective deferral that is a designated Roth contribution on the participant's Form W–2 (Wage and Tax Statement) for the year in which the elective deferral was originally excluded from the participant's gross income. However, this correction method may be used only if the participant's Form W–2 for that year has not been filed or furnished to the participant.

(iii) *Permitted correction by in-plan Roth rollover.* As an alternative to the correction method permitted under paragraph (c)(2)(ii) of this section, a plan may correct a section 414(v)(7) failure by directly rolling over the catch-up contribution (adjusted for earnings and losses) from the participant's pre-tax account to the participant's designated Roth account, in accordance with section 402A(c)(4)(E), and reporting the amount of the in-plan Roth rollover on Form 1099–R (Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) for the year of the rollover.

(3) *General correction requirements*—(i) *Practices and procedures.* For a plan to be eligible to use either of the correction methods described under paragraph (c)(2) of this section with respect to an elective deferral that is a catch-up contribution because it exceeds a statutory limit described in § 1.414(v)–1(b)(1)(i), the plan sponsor or plan administrator must have in place practices and procedures designed to result in compliance with section 414(v)(7) at the time the elective deferral is made. As part of these practices and procedures, the plan must provide that the elective deferrals of a participant who is subject to the Roth catch-up requirement under paragraph (a)(2) of this section, but who has not made an affirmative election to make catch-up contributions as designated Roth contributions nor made designated Roth contributions equal to the applicable dollar catch-up limit earlier in a calendar year, are automatically treated as designated Roth contributions after the participant's pre-tax elective deferrals made during the calendar year equal the section 401(a)(30) limit on elective deferrals for the taxable year that begins in the calendar year. Similarly, the elective deferrals of such a participant who has not made an affirmative election to make catch-up contributions as designated Roth contributions nor made designated Roth contributions equal to the applicable dollar catch-up limit earlier in the limitation year must be automatically treated as designated Roth contributions after the participant's pre-tax elective deferrals result in the participant's annual additions for the limitation year exceeding the section 415(c) limit for the limitation year.

(ii) *Reliance on Form W–2.* A plan sponsor or plan administrator does not fail to have in place practices and procedures in accordance with paragraph (c)(3)(i) of this section merely because a plan determines the applicability of the section 414(v)(7)(A) Roth catch-up requirement to a participant on the basis of a timely-filed Form W–2 with respect to the participant.

(iii) *Deadlines for corrections of section 414(v)(7) failures under paragraph (c)(2) of this section*—(A) *Elective deferrals in excess of a statutory limit.* If the section 414(v)(7) failure arises with respect to an elective deferral that is a catch-up contribution because it exceeds the section 401(a)(30) limit on elective deferrals, the deadline to complete all corrective steps required under paragraph (c)(2) of this section in order to avoid a qualification failure is April 15 of the calendar year following the calendar year for which the elective deferral was made. If the section 414(v)(7) failure arises with respect to an elective deferral that is a catch-up contribution because it results in the participant's annual additions for the limitation year exceeding the section 415(c) limit, the deadline to complete the corrective steps required under paragraph (c)(2) of this section in order to avoid a qualification failure is the deadline that applies under § 1.415(c)–1(b)(6) for allocating amounts to the limitation year for which the elective deferral was made.

(B) *Elective deferrals in excess of an employer-provided limit.* If the section 414(v)(7) failure arises with respect to an elective deferral that is a catch-up contribution because it exceeds an employer-provided limit as described in § 1.414(v)–1(b)(1)(ii), the deadline to complete the corrective steps required under paragraph (c)(2) of this section in order to avoid a qualification failure is the date that is 2½ months (6 months, in the case of an applicable employer plan that includes an eligible automatic contribution arrangement within the meaning of section 414(w)) after the close of the plan year for which the catch-up contribution was made.

(C) *Elective deferrals in excess of the ADP limit.* If the section 414(v)(7) failure arises with respect to an elective deferral that is a catch-up contribution because it exceeds the ADP limit, the deadline to complete the corrective steps required under paragraph (c)(2) of this section in order to avoid a qualification failure is the date that is 2½ months (6 months, in the case of an applicable employer plan that includes an eligible automatic contribution arrangement within the meaning of section 414(w)) after the close of the plan year for which the excess contribution was made.

(d) *Examples.* The following examples illustrate the application of this section. For purposes of these examples, assume that the participant's elective deferrals under all plans of the employer do not exceed the participant's section 415(c)(3) compensation, the participant's annual additions for a limitation year do not exceed the section 415(c) limit, the taxable year of the participant is the calendar year, the plan includes a qualified Roth contribution program, and the plan year is the calendar year (except as specifically provided). Assume further that this section applies to contributions in taxable years beginning in 2026, the section 401(a)(30) limit on elective deferrals for 2026 is $24,000, the applicable dollar catch-up limit for 2026 that is applicable to each participant in the examples is $8,000, and the Roth catch-up wage threshold to be applied to 2025 FICA wages for determining applicability of the Roth catch-up requirement under section 414(v)(7)(A) for a plan year beginning in 2026 is $150,000.

(1) *Example 1: Application of Roth catch-up wage threshold*—(A) *Facts.* In January 2025, Participant A became an employee of an accounting firm that is structured as a partnership. Through October 2025, A had $151,000 of FICA wages from the accounting firm. In November 2025, Participant A became a partner in the accounting firm, and, for 2025, Participant A had a $30,000 distributive share of partnership income from the accounting firm, all of which was self-employment income. Participant A is a partner with the accounting firm for all of 2026.

(B) *Analysis.* Although Participant A is a partner with the accounting firm for the last two months of 2025 and for all

of 2026 (and thus has self-employment income rather than FICA wages for that period), Participant A had more than $150,000 in FICA wages from the accounting firm for 2025. Thus, Participant A is subject to section 414(v)(7)(A) for 2026, and if Participant A makes elective deferrals in excess of an applicable limit for 2026 under a plan sponsored by the accounting firm, those elective deferrals must be designated Roth contributions.

(2) *Example 2: Application of Roth catch-up wage threshold*—(A) *Facts.* The facts are the same as in paragraph (d)(1) of this section (*Example 1*), except that Participant A became a partner of the accounting firm in May 2025, and had FICA wages from the firm of $60,000 before becoming partner. In addition, for 2025, Participant A had a $150,000 distributive share of partnership income from the accounting firm, all of which was self-employment income.

(B) *Analysis.* Although Participant A had total compensation of $210,000 for the services Participant A performed for the accounting firm in 2025, only $60,000 of that amount were FICA wages. Because Participant A did not have more than $150,000 of FICA wages from the accounting firm for 2025, any elective deferrals in excess of an applicable limit that Participant A makes for 2026 under a plan sponsored by the accounting firm are not required to be designated Roth contributions.

(3) *Example 3: Application of section 414(v)(7)(B) to a plan with a plan year other than the calendar year*—(A) *Facts.* Participant B participates in an applicable employer plan sponsored by Employer E. The plan year begins on July 1 and ends on June 30. Participant B had $155,000 in wages within the meaning of section 3121(a) from Employer E for calendar year 2025, and is a catch-up eligible participant for calendar year 2026. For the plan year beginning July 1, 2026, and ending June 30, 2027, the plan allows all catch-up eligible participants to make catch-up contributions and requires that any elective deferrals in excess of an applicable limit made by catch-up eligible participants who are subject to the requirements of section 414(v)(7)(A) be designated Roth contributions.

(B) *Analysis.* Because Participant B's FICA wages from Employer E for calendar year 2025 exceeded $150,000, Participant B is subject to the requirements of section 414(v)(7)(A) for the first half of the plan year beginning July 1, 2026, and any catch-up contributions that Participant B makes under the plan during that period must be designated Roth contributions. Because Participant B is permitted to make catch-up contributions that are designated Roth contributions under the plan for the plan year beginning July 1, 2026 (after Participant B reaches an applicable limit (as defined in § 1.414(v)–1(b)(1)), all catch-up eligible participants under the plan must be permitted to make catch-up contributions that are designated Roth contributions for the plan year.

(4) *Example 4: Plans with more than one employer sponsoring the plan*—(A) *Facts.* Employer F and Employer G are members of a controlled group of corporations within the meaning of section 414(b). Participant C was hired by Employer F on January 1, 2025, and remained employed by Employer F through October 31, 2025. Effective November 1, 2025, Participant C transferred to Employer G and was employed by Employer G for the remainder of 2025. Participant C is employed by Employer G for all of 2026, the year in which Participant C attains age 55. Employer F reported $155,000 of FICA wages on a Form W–2 for Participant C for 2025. Employer G reported $35,000 of FICA wages on a Form W–2 for Participant C for 2025. Employers F and G are participating employers in a section 401(k) plan, Plan P. Participant C becomes eligible to participate in Plan P on January 1, 2026, and all of Participant C's elective deferrals for 2026 are made from compensation paid by Employer G.

(B) *Analysis.* Employers F and G are common law employers of Participant C during different portions of 2025, and, under paragraph (b)(3) of this section, they are both employers sponsoring the plan. Because Participant C's FICA wages from Employer G in 2025 did not exceed $150,000, Participant C is not subject to the requirements of section 414(v)(7)(A) with respect to elective deferrals that are made from compensation paid by Employer G in 2026. Accordingly, Participant C is not required to designate any catch-up contributions made for 2026 under Plan P as designated Roth contributions. This is the case even though Participant C had wages from Employer F (an employer sponsoring the plan) that exceeded $150,000 for 2025.

(5) *Example 5: Correction of section 414(v)(7) failure*—(A) *Facts.* Participant D, who attains age 55 in 2026, participates in a section 401(k) plan, Plan Q, sponsored by Employer H. Plan Q does not limit elective deferrals except as necessary to comply with sections 401(a)(30) and 415(c). Plan Q does not provide catch-up eligible participants with a separate election for elective deferrals that are in excess of the section 401(a)(30) limit and provides that such a participant is permitted to defer amounts in excess of the section 401(a)(30) limit on elective deferrals up to the applicable dollar catch-up limit for the year. For 2025, Participant D had $151,000 in wages (within the meaning of section 3121(a)) from Employer H. For 2026, Participant D elects to defer $1,250 into Participant D's account in Plan Q for each of 24 pay periods. Employer H has in place practices and procedures that are designed to prevent section 414(v)(7) failures and to result in compliance with the section 414(v)(7) Roth catch-up requirement at the time an elective deferral is made, and Plan Q provides for a deemed Roth catch-up election as described in paragraph (c)(3)(i) of this section. Nonetheless, Employer H discovers that all of Participant D's elective deferrals under Plan Q during 2026 (a total of $30,000) were pre-tax elective deferrals.

(B) *Analysis.* Because Participant D had over $150,000 in wages from Employer H for 2025, under section 414(v)(7)(A), Participant D's catch-up contributions under Plan Q for 2026 (that is, the elective deferrals that exceed the section 401(a)(30) limit) are required to be designated Roth contributions. Thus, $6,000 of Participant D's elective deferrals for 2026 (that is, the elective deferrals in excess of the section 401(a)(30) limit of $24,000) are required to be designated Roth contributions. To keep these contributions in the plan, Employer H must correct the section 414(v)(7) failure with respect to $6,000 of Participant D's pre-tax elective deferrals for 2026, using one of the methods set forth under paragraph (c)(2) of this section, by April 15, 2027 (the deadline under paragraph (c)(3)(iii)(A) of this section).

(6) *Example 6: Designated Roth contributions that can satisfy the section 414(v)(7) Roth catch-up requirement*—(A) *Facts.* The facts are the same as in paragraph (d)(5) of this section (*Example 5*), except that the first $5,000 of the $30,000 total elective deferrals Participant D makes for 2026 are designated Roth contributions. (Thus, during each of the first 4 pay periods in 2026, Participant D makes $1,250 of elective deferrals that are designated Roth contributions, and then subsequently makes $25,000 in pre-tax elective deferrals ratably over the remaining 20 pay periods.) Participant D reaches the section 401(a)(30) limit on elective deferrals during the twentieth pay period of 2026 and does not make any designated Roth contributions after reaching the section 401(a)(30) limit on elective deferrals in 2026.

(B) *Analysis.* In accordance with paragraph (b)(1) of this section, the $5,000 in elective deferrals that are designated Roth contributions that Participant D made at the beginning of 2026 can be taken into account for purposes of satisfying Participant D's Roth catch-up requirement under section 414(v)(7). Thus, the portion of Participant D's pre-tax elective deferrals that are required to be corrected is $1,000 ($6,000 of elective deferrals that are in excess of the section 401(a)(30) limit, minus $5,000 of elective deferrals that were made as designated Roth contributions within the taxable year), and Employer H must correct the section 414(v)(7) failure with respect to only $1,000 of Participant D's pre-tax elective deferrals. To keep the $1,000 in the plan, Employer H must correct the section 414(v)(7) failure using one of the methods set forth under paragraph (c)(2) of this section, by April 15, 2027 (the deadline under paragraph (c)(3)(iii)(A) of this section).

(e) *Applicability dates*—(1) *Statutory applicability date.* Section 414(v)(7) applies to contributions in taxable years beginning after December 31, 2023.

(2) *Regulatory applicability dates*—(i) *General rule.* Except as provided in paragraphs (e)(2)(ii) and (iii) of this section, this section applies to contributions in taxable years beginning after [DATE SIX MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE].

(ii) *Collectively bargained plans.* In the case of an applicable employer plan maintained pursuant to one or more collective bargaining agreements, paragraphs (a) through (d) of this section shall not apply until the first taxable year described in paragraph (e)(2)(i) of this section, or, if later, the first taxable year beginning after the date on which the last collective bargaining agreement related to the plan that is in effect on December 31, 2025, terminates (determined without regard to any extension to those agreements).

(iii) *Early implementation permitted.* A plan is permitted to apply the rules of this section to contributions in any taxable year beginning after December 31, 2023.

Douglas W. O'Donnell,

Deputy Commissioner.

[FR Doc. 2025–00350 Filed 1–10–25; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2024–0059; FRL–11682–11–OCSPP]

Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities (November 2024)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before February 12, 2025.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2024–0059, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Anita Pease, Antimicrobials Division (AD) (7510P), main telephone number: (202) 566–0736; email address: *ADFRNotices@epa.gov* or Charles Smith, Registration Division (RD) (7505T), main telephone number: (202) 566–1030, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before