DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

[Docket No. DEA–419F]

Schedules of Controlled Substances: Placement of Eluxadoline Into Schedule IV

Correction

In notice document 2015–28718, beginning on page 69861 in the issue of Thursday, November 12, 2015, make the following correction:

On page 69861, in the first column, in the eighteenth and nineteenth lines from the bottom, ''December 17, 2015'' should read ''December 14, 2015''.

[FR Doc. C1–2015–28718 Filed 11–13–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9743]

RIN 1545–BL62

Transitional Amendments To Satisfy the Market Rate of Return Rules for Hybrid Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide guidance regarding certain amendments to applicable defined benefit plans. Applicable defined benefit plans are defined benefit plans that use a lump sum-based benefit formula, including cash balance plans and pension equity plans, as well as other plans that have formulas with an effect similar to a lump sum-based benefit formula. These final regulations relate to previously issued final regulations that specify permitted interest crediting rates for purposes of the requirement that an applicable defined benefit plan not provide for interest credits (or equivalent amounts) at an effective rate that is greater than a market rate of return. These final regulations permit a plan sponsor of an applicable defined benefit plan that does not comply with the market rate of return requirement to amend the plan in order to change to an interest crediting rate that is permitted under the previously issued final hybrid plan regulations without violating the anti-cutback rules of section 411(d)(6). These regulations affect sponsors, administrators, participants, and beneficiaries of these plans.

DATES: *Effective Date:* These regulations are effective on November 16, 2015.

Applicability Date: These regulations generally apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer). These regulations cease to apply for amendments made on or after the first day of the first plan year that begins on or after January 1, 2017 (or, for collectively bargained plans, on or after a later date specified in the regulations).

FOR FURTHER INFORMATION CONTACT: Neil S. Sandhu or Linda S.F. Marshall at (202) 317–6700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 411(a)(13) and 411(b)(5) of the Internal Revenue Code (Code).

Generally, a defined benefit pension plan must satisfy the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b) in order to be qualified under section 401(a) of the Code. Sections 411(a)(13) and 411(b)(5), which modify the minimum vesting standards of section 411(a) and the accrual requirements of section 411(b), were added to the Code by section 701(b) of the Pension Protection Act of 2006, Public Law 109–280 (120 Stat. 780 (2006)) (PPA '06). Sections 411(a)(13) and 411(b)(5) and certain related effective date provisions were subsequently amended by the Worker, Retiree, and Employer Recovery Act of 2008, Public Law 110–458 (122 Stat. 5092 (2008)) (WRERA '08).

Under section 411(b)(5)(B)(i), a statutory hybrid plan is treated as failing to satisfy the requirements of section 411(b)(1)(H) (which provides that the rate of an employee's benefit accrual must not be reduced because of the attainment of any age) if the terms of the plan provide any interest credit (or an equivalent amount) for any plan year at a rate that is in excess of a market rate of return. Section 411(b)(5)(B)(i) is generally effective for plan years beginning after December 31, 2007.

Section 411(d)(6) provides generally that a plan does not satisfy section 411 if an amendment to the plan decreases a participant's accrued benefit. For this purpose, a plan amendment that has the effect of eliminating or reducing an early retirement benefit or a retirement-type subsidy or eliminating an optional form of benefit with respect to benefits attributable to service before the amendment is treated as reducing accrued benefits.

Sections 204(b)(5)(B)(i) and 204(g) of the Employee Retirement Income Security Act of 1974, Public Law 93–406 (88 Stat. 829 (1974)), as amended (ERISA), contain rules that are parallel to sections 411(b)(5)(B)(i) and 411(d)(6), respectively. Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these final regulations for purposes of ERISA, as well as the Code. Thus, these final regulations apply for purposes of sections 411(b)(5)(B)(i) and 411(d)(6) of the Code, as well as for purposes of sections 204(b)(5)(B)(i) and 204(g) of ERISA.

Section 1.411(d)–4, A–2(b)(1), of the Income Tax Regulations provides, in part, that the Commissioner may, consistent with the provisions of § 1.411(d)–4, provide for the elimination or reduction of section 411(d)(6) protected benefits that have already accrued to the extent that such elimination or reduction is necessary to permit compliance with other requirements of section 401(a). The Commissioner may exercise this authority only through the publication of revenue rulings, notices, and other documents of general applicability.

Section 1.411(d)–4, A–2(b)(2)(i), provides that a plan may be amended to eliminate or reduce a section 411(d)(6) protected benefit, within the meaning of § 1.411(d)–4, A–1, if the following three requirements are met: The amendment constitutes timely compliance with a change in law affecting plan qualification; there is an exercise of section 7805(b) relief by the Commissioner; and the elimination or reduction of the section 411(d)(6) protected benefit is made only to the extent necessary to enable the plan to continue to satisfy the requirements for qualified plans.

Final regulations (TD 9505) (2010 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64123). Additional final regulations (TD 9693) (2014 final hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on September 19, 2014 (79 FR 56442) (collectively, the 2010 and 2014 final hybrid plan regulations are referred to herein as the final hybrid plan regulations). The final hybrid plan regulations provide, effective for plan years that begin on or after January 1, 2016, a list of interest crediting rates

and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) that a plan not provide an effective rate of return in excess of a market rate of return, while not permitting other rates. The provisions that provide for a list of rates are set forth at § 1.411(b)(5)–1(d)(1)(iii), (d)(1)(vi), and (d)(6)(i).

Interest crediting rates can be broadly characterized as either investment-based rates or rates that are not investment-based rates. An investment-based rate is a rate of return provided by actual investments, taking into account the return attributable to any change in the value of the underlying investments. A rate of return that is based on the rate of return for an index that measures the change in the value of investments can also be considered to be an investment-based rate. Rates that are not investment-based rates are either fixed rates of interest or bond-based rates (such as yields to maturity of bonds).

Section 1.411(b)(5)–1(d)(3) and (d)(4) sets forth permitted rates that are not investment-based rates, such as the third segment rate described in section 417(e)(3)(D) or 430(h)(2)(C)(iii), the yield on 30-year Treasury Constant Maturities, and a fixed 6 percent rate of interest. Section 1.411(b)(5)–1(d)(5) sets forth permitted investment-based rates, such as the rate of return on certain regulated investment companies (RICs), as defined in section 851, and the rate of return on plan assets. As provided in § 1.411(b)(5)–1(d)(6), certain annual (or more frequent) floors are permitted in combination with the bond-based rates and cumulative floors (in excess of the cumulative zero floor required under section 411(b)(5)(i)(II)) are permitted in combination with either the bond-based rates or the investment-based rates.

Section 1.411(b)(5)–1(e)(3) provides that the right to future interest credits determined in the manner specified under the plan and not conditioned on future service is a factor that is used to determine the participant's accrued benefit for purposes of section 411(d)(6). Accordingly, section 411(d)(6) protection applies not only to interest credits that have already been credited but also to future interest credits that are not conditioned on future service.

Proposed hybrid plan transition regulations (REG–111839–13) (2014 proposed regulations) were published by the Treasury Department and the IRS in the **Federal Register** on September 19, 2014 (79 FR 56305). The 2014 proposed regulations would permit an amendment to change the interest crediting rate under a hybrid plan from a rate not on the list to a rate on the list of interest crediting rates and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) for plan years that begin on or after January 1, 2016.

Written comments in response to the 2014 proposed regulations were received, and a public hearing was held on January 9, 2015. After consideration of the comments received, the provisions in the 2014 proposed regulations are adopted by this Treasury decision, subject to a number of changes that are summarized in this preamble.

Explanation of Provisions

A number of commenters requested that the regulations provide for sufficient time for plan sponsors to implement amendments pursuant to these regulations to change a plan's interest crediting rate to a permissible rate. In addition, these commenters pointed out that these amendments are often interrelated with amendments required to comply with the 2014 final hybrid plan regulations, and that plan sponsors often consider and implement all of the required amendments at the same time. In response to these comments, these final regulations delay the applicability date of certain provisions under sections 411(a)(13) and 411(b)(5) in the final hybrid plan regulations, including those provisions that provide a list of interest crediting rates and combinations of rates that satisfy the requirement of section 411(b)(5)(B)(i) that the plan not provide an effective rate of return in excess of a market rate of return. Under these regulations, these provisions are generally effective for plan years that begin on or after January 1, 2017.

Prior to the first day of the first plan year that begins on or after January 1, 2017, a plan that uses an interest crediting rate that is not permitted under the final hybrid plan regulations must be amended to change to an interest crediting rate that is permitted under those regulations. Although a plan is permitted to be amended to change the interest crediting rate with respect to benefits that have not yet accrued, an amendment that reduces the interest crediting rate with respect to benefits that have already accrued would ordinarily be impermissible under section 411(d)(6).

In order to resolve the conflict between the market rate of return rules of section 411(b)(5)(B)(i) and the anti-cutback rules of section 411(d)(6), these regulations permit a plan with a noncompliant interest crediting rate to be amended with respect to benefits that have already accrued so that its interest crediting rate complies with the market rate of return rules. If the applicable requirements of these regulations are satisfied, such an amendment is permitted with respect to benefits that have already accrued, but only with respect to interest credits that are credited for interest crediting periods that begin on or after the later of the effective date of the amendment or the date the amendment is adopted (the applicable amendment date within the meaning of § 1.411(d)–3(g)(4)).[1] To qualify for this treatment, the amendment must be adopted prior to and effective no later than the applicability date of the regulatory market rate of return rules (generally, the first day of the first plan year that begins on or after January 1, 2017, with a delayed applicability date for collectively bargained plans).

Like the 2014 proposed regulations, these regulations permit amendments that bring the plan into compliance by changing the specific feature that causes the plan's interest crediting rate to be noncompliant, while not changing other features of the existing rate. If the noncompliant interest crediting rate has more than one noncompliant feature, then each noncompliant feature must be addressed separately in the prescribed manner. Examples are included to illustrate the application of these rules.

The standard in these final regulations for resolving this conflict between section 411(d)(6) and section 411(b)(5)(B)(i) is generally comparable to the standard under the rules of § 1.411(d)–4, A–2(b)(1) and (b)(2)(i) with respect to the Commissioner's exercise of authority to resolve a conflict between section 411(d)(6) and another qualification requirement under section 401(a). The Treasury Department and the IRS believe this approach is the most appropriate manner to resolve the conflict between the market rate of return rules of section 411(b)(5)(B)(i) and the anti-cutback rules of section 411(d)(6).[2]

If a noncompliant rate involves one or more variable rates or a variable rate together with a fixed rate, it is not

[1] Thus, these regulations do not permit a reduction in the hypothetical account balance as of the applicable amendment date.

[2] A plan may have been amended to change its interest crediting rate under the rules of section 1107 of PPA '06. Section 1107 of PPA '06 provided relief from the requirements of section 411(d)(6) for amendments made pursuant to a change in law under PPA '06 if the amendment was adopted by the last day of the first plan year that began on or after January 1, 2009 (or 2011, in the case of a governmental plan as defined in section 414(d)). If an interest crediting rate adopted under the rules of section 1107 of PPA '06 is not permitted under the final hybrid plan regulations, then these final regulations permit a subsequent amendment to change the rate to a rate permitted under the final hybrid plan regulations.

always readily apparent which specific feature or component rate causes the rate to be noncompliant. In addition, if either the existing rate or any of the potential corrections involves variable components, it is impossible to determine with certainty at the time of amendment the single amendment that in all cases that will result in the least reduction to the participant's accrued benefit as of the participant's annuity starting date. Thus, in response to a number of comments on the 2014 proposed regulations that more flexibility to amend noncompliant features be provided, the final regulations in many cases permit a plan sponsor to choose one of two or more alternative amendments in order to bring a plan into compliance.

A number of commenters specifically requested that the rules in the transition regulations permit any noncompliant bond-based rate to be capped at the third segment rate. The Treasury Department and the IRS agree that this is an appropriate approach. Accordingly, an additional option has been added in each case involving bond-based rates so that any noncompliant variable rate that is not an investment-based rate (including the greater of two or more non-investment based variable rates) may be capped at the third segment rate. If this approach is used, the third segment rate cap would have to satisfy the rules that apply to the use of the third segment rate as an interest crediting rate. Thus, the cap could be any of the third segment rates that may be used as an interest crediting rate and the cap would have to use a permissible lookback month and stability period. Note, however, that if any noncompliant composite rate is limited so that it does not exceed a third segment rate cap, that limit would also apply with respect to any annual fixed minimum rate that is part of the noncompliant composite rate. Therefore, the annual interest crediting rate (taking into account the cap) could be lower than the otherwise applicable fixed minimum rate.[3]

A special rule has been added to the regulations to clarify that an amendment to correct a noncompliant feature that provides for a greater interest crediting rate than the specific amendment set forth in the regulations also does not violate section 411(d)(6). Thus, for example, in any case in which it is permissible to address a noncompliant rate by capping the rate at the third segment rate, it would also be permissible to address the noncompliant rate simply by switching to the third segment rate. Similarly, an amendment to switch to the third segment rate together with a permitted fixed minimum rate would be permissible.

These final regulations also provide flexibility with respect to noncompliant investment-based rates. In particular, if a plan credits interest using a noncompliant investment-based rate and there is no permitted investment-based rate with similar risk and return characteristics as the plan's impermissible rate, then, as an alternative to the specified corrective amendment that was in the proposed regulations, an amendment to switch to the third segment rate with a 4 percent fixed minimum rate is permitted. The regulations also clarify the specified corrective amendment that was in the proposed regulations by providing that it is permissible in such a case to switch to a permitted investment-based rate that is otherwise similar to the plan's impermissible investment-based rate but without the risk and return characteristics of the impermissible rate that caused it to be impermissible (generally requiring the use of a rate that is less volatile than the plan's impermissible investment-based rate but is otherwise similar to that rate).

The preamble to the 2014 final hybrid plan regulations contained a discussion of statutory hybrid plans that permit participants to choose from among a menu of hypothetical investment options. Because of the significant concerns relating to the use of these plan designs, the Treasury Department and the IRS continue to study the issues raised in the preamble to the 2014 final hybrid plan regulations related to these plans, and it is possible that the Treasury Department and the IRS will conclude that such plan designs are not permitted. Nevertheless, the Treasury Department and the IRS understand that some of these plans contain one or more hypothetical investment options that provide for a rate of return that is not permitted under the final hybrid plan regulations. A special rule is included in these regulations in order to address the noncompliance that results from the availability of at least one hypothetical investment option that provides for an impermissible rate of return. This special rule provides that the rules of these final regulations may be applied separately to correct each impermissible hypothetical investment option. Alternatively, with respect to such a plan that permitted a participant to choose an interest crediting rate from among a menu of hypothetical investment options on September 18, 2014, pursuant to plan provisions that were adopted on or before September 18, 2014, this special rule provides that the entire menu of investment options may be treated as an impermissible investment-based rate for which there is no permitted investment-based rate with similar risk and return characteristics (so that the rule of § 1.411(b)(5)–1(e)(3)(vi)(C)(*7*) does not apply). As a result, plans described in the preceding sentence may be amended to eliminate a participant's ability to choose an interest crediting rate from among a menu of hypothetical investment options in accordance with § 1.411(b)(5)–1(e)(3)(vi)(C)(*9*). The inclusion of this special rule with respect to plan designs that permit participant direction of interest crediting rates is merely intended to address the noncompliance that results from the availability of a hypothetical investment option that provides for an impermissible rate of return, and should not be construed to create any inference as to the permissibility of these plan designs in general.

The preamble to the 2014 proposed regulations specifically requested comments as to an amendment to bring a plan into compliance if the plan credits interest using a composite rate that is an investment-based rate of return with an impermissible annual (or more frequent) fixed or variable rate. Many commenters requested flexibility to choose among options in such a case because there is no single correction that is the best correction for all cases. The Treasury Department and the IRS agree that, for this type of interest crediting rate, no single correction method is the most appropriate method for all cases. Therefore, the final regulations provide that it is permissible either to eliminate the fixed minimum rate (or any variable non-investment based rate) and eliminate any reduction to the investment-based rate, or to switch to the third segment rate (preserving any fixed minimum rate to the maximum extent permitted).

In response to comments inquiring about the treatment of plans that provide for a cumulative floor (such as, for example, in order to comply with section 411(d)(6) in connection with a prior amendment to change the plan's interest crediting rate on accrued pay credits), the regulations provide for a special rule that applies with respect to a participant under a plan that takes into account a minimum rate of return that applies less frequently than annually or that determines the participant's benefit as of the annuity

[3] This limitation on an otherwise applicable minimum rate may have implications for plans that require an annual minimum rate in order to satisfy the anti-backloading rules of section 411(b)(1).

starting date as the benefit provided by the greatest of two or more account balances and that minimum rate or benefit based on two or more account balances does not satisfy the market rate of return rules. If this rule applies, the plan must be amended to provide that the benefit for a participant is based solely on the benefit (and the associated interest crediting rate with respect to that benefit) that is greatest for that participant as of the applicable amendment date for the amendment adopted pursuant to these regulations. In addition, the plan must be further amended pursuant to the other rules in these regulations if the remaining interest crediting rate does not satisfy the market rate of return rules.

In response to comments as to the permissibility of rounding interest crediting rates and the need for the regulations to provide section 411(d)(6) relief for plans that use an impermissible rounding rule, the regulations provide for a rounding rule and also provide for section 411(d)(6) relief for transitional amendments to comply with this rounding rule. Under the rounding rule, a plan is not treated as failing to meet the requirement that a plan not credit interest at a rate that exceeds a market rate of return merely because the plan determines interest credits for an interest crediting period by rounding the calculated interest rate or rate of return. Under this rule, an annual rate may be rounded to the nearest multiple of 25 basis points (or a smaller rounding interval). If a plan provides for the crediting of interest more frequently than annually, then the rounding interval must not exceed a pro-rata portion of 25 basis points. Notwithstanding the preceding sentence, a plan is permitted to round to the nearest basis point regardless of the length of the interest crediting period.

Several commenters identified the need for section 411(d)(6) relief for plans that provide for rules that apply upon plan termination that do not comply with the plan termination rules in the final hybrid plan regulations. In response to these comments, the regulations provide for section 411(d)(6) relief for transitional amendments made to enable a plan to comply with the plan termination rules in the final hybrid plan regulations.

In response to the comment request included in the 2014 proposed regulations with respect to all aspects of those proposed rules, the Department of Treasury and the IRS received a number of comments with respect to provisions of the 2014 final hybrid plan regulations instead of the 2014 proposed regulations. These final regulations delay the applicability date of certain provisions in the 2014 final hybrid plan regulations (and provide for a special delayed applicability date for collectively bargained plans), but do not otherwise address comments on provisions of the 2014 final hybrid plan regulations.[4]

Effective/Applicability Dates

These regulations generally apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer), and they do not apply for amendments made on or after the first day of the first plan year that begins on or after January 1, 2017. However, for collectively bargained plans, these regulations continue to apply for amendments made before the first day of the first plan year that begins on or after January 1, 2019, unless the last collective bargaining agreement ratified on or before November 13, 2015 expires before January 1, 2019, in which case these regulations cease to apply to amendments made on or after the first day of the first plan year that begins on or after the later of the date on which the last applicable collective bargaining agreement expires or January 1, 2017.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Neil S. Sandhu and Linda S.F. Marshall, Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

§ 1.411(a)(13)–1 [Amended]

■ **Par. 2.** For each entry listed in the ''Location'' column, remove the language in the ''Remove'' column and add the language in the ''Add'' column in its place.

Location	Remove	Add
§ 1.411(a)(13)–1(d)(3)(i), third sentence.	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section, as applicable.
§ 1.411(a)(13)–1(d)(3)(i), fifth and sixth sentences.	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section (as applicable).
§ 1.411(a)(13)–1(d)(4)(ii)(A), second sentence.	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section (as applicable).
§ 1.411(a)(13)–1(d)(4)(ii)(C), second sentence.	For plan years that begin on or after January 1, 2016 ..	For plan years described in paragraph (e)(2)(ii)(A) or (e)(2)(ii)(B) of this section (as applicable).

[4] Proposed regulations (REG–132554–08) under sections 411(a)(13), 411(b)(1), and 411(b)(5) (2010 proposed hybrid plan regulations) were published by the Treasury Department and the IRS in the **Federal Register** on October 19, 2010 (75 FR 64197). The Treasury Department and the IRS received written comments on the 2010 proposed hybrid plan regulations, and a public hearing was held on January 26, 2011. The 2014 final hybrid plan regulations, which finalized the 2010 proposed hybrid plan regulations, took into account the comments received prior to publication of the 2014 final hybrid plan regulations.

■ **Par. 3.** Section 1.411(a)(13)–1 is amended by revising paragraph (e)(2)(ii) to read as follows:

§ 1.411(a)(13)–1 Statutory hybrid plans.

* * * * *

(e) * * *

(2) * * *

(ii) *Special effective date*—(A) *In general.* Except as otherwise provided in this paragraph (e)(2)(ii), paragraphs (b)(2), (3), and (4) of this section apply to plan years that begin on or after January 1, 2017.

(B) *Collectively bargained plans.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before November 13, 2015, that constitutes a collectively bargained plan under the rules of § 1.436–1(a)(5)(ii)(B), paragraphs (b)(2), (3), and (4) of this section apply to plan years that begin on or after the later of—

(*1*) January 1, 2017; and

(*2*) The earlier of—

(*i*) January 1, 2019; and

(*ii*) The date on which the last of those collective bargaining agreements terminates (determined without regard to any extension thereof on or after November 13, 2015).

* * * * *

§ 1.411(b)(5)–1 [Amended]

■ **Par. 4.** For each entry listed in the ''Location'' column, remove the language in the ''Remove'' column and add the language in the ''Add'' column in its place.

Location	Remove	Add
§ 1.411(b)(5)–1(b)(1)(ii)(F) ...	For plan years that begin on or after January 1, 2016 ..	For plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable).
§ 1.411(b)(5)–1(b)(1)(iii), third sentence.	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable).
§ 1.411(b)(5)–1(b)(2)(i), third sentence.	for plan years that begin on or after January 1, 2016	for plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section, as applicable.
§ 1.411(b)(5)–1(e)(2)(ii)(B)(*1*), second sentence.	the first plan year that begins on or after January 1, 2016.	the first plan year described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable).
§ 1.411(b)(5)–1(e)(3)(ii)(D) ...	For plan years that begin on or after January 1, 2016 ..	For plan years described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section (as applicable).

■ **Par. 5.** Section 1.411(b)(5)–1 is amended by:

■ 1. Adding a new sentence between the second and third sentences of paragraph (d)(1)(iv)(A);

■ 2. Adding paragraph (d)(1)(iv)(E);

■ 3. Adding paragraphs (e)(3)(vi) and (vii); and

■ 4. Revising paragraph (f)(2)(i)(B).

The additions and revisions read as follows:

§ 1.411(b)(5)–1 Reduction in rate of benefit accrual under a defined benefit plan.

* * * * *

(d) * * *

(1) * * *

(iv) * * *

(A) * * * In addition, a plan is permitted to round the calculated interest rate or rate of return in accordance with paragraph (d)(1)(iv)(E) of this section.

* * * * *

(E) *Rounding of interest crediting rate.* A plan is not treated as failing to meet the requirements of this paragraph (d) merely because the plan determines interest credits for an interest crediting period by rounding the calculated interest rate or rate of return in accordance with this paragraph (d)(1)(iv)(E). An annual rate may be rounded to the nearest multiple of 25 basis points (or a smaller rounding interval). If a plan provides for the crediting of interest more frequently than annually, then the rounding interval must not exceed a pro-rata portion of 25 basis points. Notwithstanding the preceding sentence, a plan is permitted to round to the nearest basis point regardless of the length of the interest crediting period.

* * * * *

(e) * * *

(3) * * *

(vi) *Transitional amendments needed to satisfy the market rate of return rules*—(A) *In general.* Notwithstanding the requirements of section 411(d)(6), if the requirements set forth in this paragraph (e)(3)(vi) are satisfied, a plan may be amended to change its interest crediting rate with respect to benefits that have already accrued in order to comply with the requirements of section 411(b)(5)(B)(i) and paragraph (d) of this section. A plan amendment is eligible for the treatment provided under this paragraph (e)(3)(vi)(A) to the extent that the amendment modifies an interest crediting rate that does not satisfy the requirements of section 411(b)(5)(B)(i) and paragraph (d) of this section in the manner specified in paragraph (e)(3)(vi)(C) of this section.

(B) *Rules of application*—(*1*) *Multiple noncompliant features.* If a plan's interest crediting rate has more than one noncompliant feature as described in paragraph (e)(3)(vi)(C) of this section, then each noncompliant feature must be addressed separately in the manner specified in paragraph (e)(3)(vi)(C) of this section.

(*2*) *Definition of investment-based rate.* The application of the rules of paragraph (e)(3)(vi)(C) of this section to an interest crediting rate depends on whether the interest crediting rate is an investment-based rate. For purposes of this paragraph (e)(3)(vi), an investment-based rate is a rate based on either a rate of return provided by actual investments (taking into account the return attributable to any change in the value of the underlying investments) or a rate of return for an index that measures the change in the value of investments. A rate is an investment-based rate even if it is based only in part on a rate described in the preceding sentence.

(*3*) *Timing rules for permitted amendments.* The rules under this paragraph (e)(3)(vi) apply only to a plan amendment that is adopted prior to and effective no later than the first day of the first plan year described in paragraph (f)(2)(i)(B)(*1*) or (f)(2)(i)(B)(*3*) of this section, as applicable. In addition, the rules under this paragraph (e)(3)(vi) apply to a plan amendment only with respect to interest credits that are credited for interest crediting periods that begin on or after the applicable amendment date (within the meaning of § 1.411(d)–3(g)(4)).

(*4*) *Amendments that provide for greater interest crediting rates.* If a plan is amended in accordance with paragraphs (e)(3)(vi)(C)(*1*) through (*10*) of this section to switch from a noncompliant rate to a compliant rate and is subsequently amended to switch to a second compliant rate that can

never be less than the first compliant rate, then the second amendment does not violate section 411(d)(6). If, instead, the plan is amended to switch from the noncompliant rate to the second compliant rate in a single amendment, that amendment also does not violate section 411(d)(6). For example, if it is permitted under paragraph (e)(3)(vi)(C) of this section to first amend the plan to credit interest using the lesser of the current rate and a rate described in paragraph (d)(3) of this section, it is then permissible to amend the plan to credit interest using that rate described in paragraph (d)(3) of this section. In such a case, it is also permissible to amend the plan to switch from the current rate to a rate described in paragraph (d)(3) of this section in a single amendment.

(*5*) *Cumulative floors, including floors resulting from a prior change in rates with section 411(d)(6) protection.* This paragraph (e)(3)(vi)(B)(*5*) applies to a plan that takes into account a minimum rate of return that applies less frequently than annually. This paragraph (e)(3)(vi)(B)(*5*) also applies to a plan that determines the participant's benefit as of the annuity starting date as the benefit provided by the greatest of two or more account balances (for example, in order to comply with section 411(d)(6) in connection with a prior amendment to change the plan's interest crediting rate). In either case, this paragraph (e)(3)(vi)(B)(*5*) applies with respect to a participant only if the requirements of paragraph (d)(6) of this section are not satisfied with respect to that participant. If this paragraph (e)(3)(vi)(B)(*5*) applies with respect to a participant, the plan must be amended to provide that the benefit for the participant is based solely on the benefit (and the associated interest crediting rate with respect to that benefit) that is greatest for that participant as of the applicable amendment date for the amendment made pursuant to this paragraph (e)(3)(vi). In addition, the plan must be further amended pursuant to the other rules in this paragraph (e)(3)(vi) if the remaining interest crediting rate does not satisfy the requirements of paragraph (d) of this section.

(*6*) *Plans that permit participant direction of interest crediting rates.* This paragraph (e)(3)(vi)(B)(*6*) applies in the case in which a plan permits a participant to choose an interest crediting rate from among a menu of hypothetical investment options and at least one of those hypothetical investment options provides for an interest crediting rate that is not permitted under paragraph (d) of this section (so that the plan fails to satisfy the requirements of paragraph (d) of this section). In such a case, the rules of this paragraph (e)(3)(vi) may be applied separately to correct each impermissible investment option. Alternatively, with respect to such a plan that permitted a participant to choose an interest crediting rate from among a menu of hypothetical investment options on September 18, 2014, pursuant to plan provisions that were adopted on or before September 18, 2014, the entire menu of investment options may be treated as an impermissible investment-based rate for which there is no permitted investment-based rate with similar risk and return characteristics (so that the rule of paragraph (e)(3)(vi)(C)(*7*) of this section does not apply). As a result, plans described in the preceding sentence may be amended to eliminate a participant's ability to choose an interest crediting rate from among a menu of hypothetical investment options in accordance with paragraph (e)(3)(vi)(C)(*9*) of this section.

(C) *Noncompliant feature and amendment to bring plan into compliance*—(*1*) *Timing or other rules related to determining interest credits not satisfied.* If a plan has an underlying interest rate that generally satisfies the rules of paragraph (d) of this section but that does not satisfy the rules relating to how interest credits are determined and credited as set forth in paragraph (d)(1)(iv) of this section, then the plan must be amended either—

(*i*) To correct the aspect of the plan's interest crediting rate that fails to comply with the rules of paragraph (d)(1)(iv) of this section with respect to its underlying interest crediting rate; or

(*ii*) If the plan's interest crediting rate is a variable rate that is not an investment-based rate of return, to provide that the plan's interest crediting rate is the lesser of that variable rate and a rate described in paragraph (d)(3) of this section that satisfies the rules of paragraph (d)(1)(iv) of this section.

(*2*) *Fixed rate in excess of 6 percent.* If a plan's interest crediting rate is a fixed rate in excess of the rate described in paragraph (d)(4)(v) of this section, then the plan must be amended to reduce the interest crediting rate to an annual interest crediting rate of 6 percent.

(*3*) *Bond-based rate with margin exceeding maximum permitted margin.* If a plan's interest crediting rate is a noncompliant rate that consists of an underlying rate described in paragraph (d)(3) or (d)(4) of this section except that the plan applies a margin that exceeds the maximum permitted margin under paragraph (d)(3) or (d)(4) of this section to the underlying rate, then the plan must be amended either—

(*i*) To reduce the margin to the maximum permitted margin for the underlying rate used by the plan; or

(*ii*) To provide that the plan's interest crediting rate is the lesser of the plan's noncompliant rate and a rate described in paragraph (d)(3) of this section (together with any fixed minimum rate that was part of the noncompliant rate, reduced to the extent necessary to comply with paragraph (d)(6)(ii) of this section).

(*4*) *Bond-based rate with fixed minimum rate applied on an annual or more frequent basis in excess of the highest permitted fixed minimum rate.* If a plan's interest crediting rate is a composite rate that consists of a variable rate described in paragraph (d)(3) or (d)(4) of this section in combination with a fixed minimum rate in excess of the highest permitted fixed minimum rate under paragraph (d)(6)(ii)(A)(*2*) or (B)(*2*) of this section (as applicable), then the plan must be amended in one of the following manners:

(*i*) To reduce the fixed minimum rate to the highest permitted fixed minimum rate that may be used in combination with the plan's variable rate;

(*ii*) To credit interest using an annual interest crediting rate of 6 percent; or

(*iii*) To provide that the plan's interest crediting rate is the lesser of the plan's noncompliant composite rate and a rate described in paragraph (d)(3) of this section (together with a fixed minimum rate of 4 percent).

(*5*) *Greatest of two or more variable bond-based rates.* If a plan's interest crediting rate is a composite rate that is the greatest of two or more variable rates described in paragraph (d)(3) or (d)(4) of this section, then the plan must be amended to provide for an interest crediting rate that is the lesser of the composite rate and a rate described in paragraph (d)(3) of this section.

(*6*) *Other impermissible bond-based rates.* If, after application of the rules of paragraphs (e)(3)(vi)(C)(*1*) through (*5*) of this section, a plan's interest crediting rate is a variable rate that is not an investment-based rate of return and is not described in paragraph (d)(3) or (d)(4) of this section, then the plan must be amended either—

(*i*) To provide for an interest crediting rate based on a variable rate described in paragraph (d)(3) or (d)(4) of this section that has similar duration and quality characteristics as the plan's variable rate, if such a rate can be selected; or

(*ii*) To provide for an interest crediting rate that is the lesser of the plan's

variable rate and a rate described in paragraph (d)(3) of this section.

(*7*) *Impermissible investment-based rate that can be replaced with a permissible rate that has similar risk and return characteristics.* If a plan's interest crediting rate is an investment-based rate of return that is not described in paragraph (d)(5) of this section and a permitted investment-based rate described in paragraph (d)(5)(ii)(A), (d)(5)(ii)(B), or (d)(5)(iv) of this section that has similar risk and return characteristics as the plan's impermissible investment-based rate can be selected, then the plan must be amended to provide for an interest crediting rate based on such a permitted investment-based rate.

(*8*) *Investment-based rate with an annual or more frequent minimum rate that is either a fixed rate or a non-investment based variable rate.* If a plan's interest crediting rate is an investment-based rate of return that would be described in paragraph (d)(5) of this section except that the plan uses an annual or more frequent minimum rate that is either a fixed rate or a non-investment based variable rate in conjunction with the investment-based rate, then the plan must be amended either—

(*i*) To credit interest using that investment-based rate of return described in paragraph (d)(5) of this section without the minimum rate and eliminating any reduction (or other adjustment) to the investment-based rate; or

(*ii*) To provide that the plan's interest crediting rate is a rate described in paragraph (d)(3) of this section (together with any fixed minimum rate, reduced to the extent necessary to comply with paragraph (d)(6)(ii) of this section).

(*9*) *Other impermissible investment-based rates.* If, after application of the rules of paragraphs (e)(3)(vi)(C)(*1*), (*7*), and (*8*) of this section, a plan's interest crediting rate is an investment-based rate that is not described in paragraph (d)(5) of this section, then the plan must be amended either—

(*i*) To provide for an interest crediting rate that is an investment-based rate that is described in paragraph (d)(5) of this section and that is otherwise similar to the plan's impermissible investment-based rate but without the risk and return characteristics of the impermissible investment-based rate that caused it to be impermissible (generally requiring the use of a rate that is less volatile than the plan's impermissible investment-based rate but is otherwise similar to that rate); or

(*ii*) To provide that the plan's interest crediting rate is a rate described in paragraph (d)(3) of this section with a fixed minimum rate of 4 percent.

(D) *Examples.* The following examples illustrate the application of the rules of this paragraph (e)(3)(vi). Each plan has a plan year that is the calendar year, and all amendments are adopted on October 1, 2016, and become effective for interest crediting periods beginning on or after January 1, 2017. Except as otherwise provided, the interest crediting rate under the plan satisfies the timing and other rules related to crediting interest under paragraph (d)(1)(iv) of this section.

Example 1. (i) *Facts.* A plan determines interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for the last week of the preceding plan year (which is an impermissible lookback period for this purpose pursuant to paragraph (d)(1)(iv)(B) of this section because it is not a month).

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*1*) of this section, the plan must be amended in one of two manners. It may be amended to determine interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for a lookback month that complies with the requirements of paragraph (d)(1)(iv)(B) of this section. Alternatively, the plan may be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section.

Example 2. (i) *Facts.* A plan determines interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities for the last week of the preceding plan year, plus 50 basis points.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(B)(*1*) of this section, the plan must be amended to correct both the impermissible lookback period and the excess margin. Accordingly, pursuant to paragraph (e)(3)(vi)(C)(*1*) and (*3*) of this section, the plan may be amended to determine interest credits for a plan year using the average yield on 30-year Treasury Constant Maturities (with no margin) for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section. Alternatively, the plan may be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section for a period that complies with the requirements of paragraph (d)(1)(iv)(B) of this section.

Example 3. (i) *Facts.* A plan credits interest for a plan year using the rate of return on plan assets for the preceding plan year.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*1*) of this section, the plan must be amended to determine interest credits for each plan year using the rate of return on plan assets for that plan year.

Example 4. (i) *Facts.* A plan credits interest using the average yield on 30-year Treasury Constant Maturities for December of the preceding plan year with a minimum rate of 5.5 percent per year.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*4*) of this section, the plan must be amended to change the plan's interest crediting rate. The new interest crediting rate under the plan may be the average yield on 30-year Treasury Constant Maturities for December of the preceding plan year with a minimum rate of 5 percent per year. Alternatively, the new interest crediting rate under the plan may be an annual interest crediting rate of 6 percent. As another alternative, the existing noncompliant composite rate may be capped so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section, with a minimum rate of 4 percent as a floor on the entire resulting rate.

Example 5. (i) *Facts.* A plan credits interest using the greater of the unadjusted yield on 30-year Treasury Constant Maturities and the yield on 1-year Treasury Constant Maturities plus 100 basis points.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*5*) of this section, the plan must be amended to cap the existing composite ''greater-of'' rate so that the composite rate cannot exceed a third segment rate described in paragraph (d)(3) of this section.

Example 6. (i) *Facts.* A plan credits interest using a broad-based index that measures the yield to maturity on a group of intermediate-term investment grade corporate bonds.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*6*) of this section, the plan must be amended in one of two manners. The plan may be amended to credit interest using a second segment rate described in paragraph (d)(4)(iv) of this section. Alternatively, the plan may be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section.

Example 7. (i) *Facts.* A plan credits interest using the rate of return for a broad-based index that measures the yield to maturity on a group of short-term non-investment grade corporate bonds.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*6*)(*ii*) of this section, the plan must be amended to cap the existing rate so that it cannot exceed a third segment rate described in paragraph (d)(3) of this section.

Example 8. (i) *Facts.* A plan credits interest using the rate of return for the S&P 500 index. To bring the plan into compliance with the market rate of return rules, the plan sponsor amends the plan to credit interest based on the rate of return on a RIC that is designed to track the rate of return on the S&P 500 index.

(ii) *Conclusion.* The amendment satisfies the rule of paragraph (e)(3)(vi)(C)(*7*) of this section.

Example 9. (i) *Facts.* A plan credits interest based on the rate of return on a collective trust that holds a portfolio of equity investments, which provides a rate of return that is reasonably expected to be not significantly more volatile than the broad U.S. equities market or a similarly broad international equities market. To bring the plan into compliance with the market rate of return rules, the plan sponsor amends the plan to credit interest based on the actual rate of return on the assets within a specified subset of the plan's assets that is invested in the collective trust and that satisfies the requirements of paragraph (d)(5)(ii)(B) of this section.

(ii) *Conclusion.* The amendment satisfies the rule of paragraph (e)(3)(vi)(C)(*7*) of this section.

Example 10. (i) *Facts.* A plan credits interest for a plan year using the rate of return on a RIC that has most of its investments concentrated in the semiconductor industry.

(ii) *Conclusion.* Pursuant to paragraph (e)(3)(vi)(C)(*9*) of this section, the plan must be amended in one of two manners. The plan may be amended to provide for an interest crediting rate that is an investment-based rate that is described in paragraph (d)(5) of this section and that is similar to the plan's impermissible investment-based rate except to the extent that the risk and return characteristics of the impermissible investment-based rate caused it to be impermissible. Thus, the plan may be amended to provide for an interest crediting rate based on the rate of return on a RIC that is invested in a broader sector of the market than the semiconductor industry (such as the overall technology sector of the market), provided that the sector in which the RIC is invested is broad enough that the volatility requirements of paragraph (d)(5)(iv) of this section are satisfied. Alternatively, the plan may be amended to provide that the plan's interest crediting rate is a third segment rate described in paragraph (d)(3) of this section with a fixed minimum rate of 4 percent.

Example 11. (i) *Facts.* A plan was amended in 2014 to change its interest crediting rate for all interest crediting periods after the applicable amendment date of the amendment. The amendment changed the rate from the yield on 30-year Treasury Constant Maturities to the rate of return on aggregate plan assets under paragraph (d)(5)(ii)(A) of this section. The amendment also provided for section 411(d)(6) protection with respect to the account balance as of the applicable amendment date (by providing that the account balance after the applicable amendment date will never be smaller than the account balance as of the applicable amendment date credited with interest using the yield on 30-year Treasury Constant Maturities).

(ii) *Conclusions.* (A) *Participants benefiting under the plan.* With respect to those participants who were benefiting under the plan as of the applicable amendment date of the amendment described in paragraph (i) of this *Example 11,* the requirements of paragraph (e)(3)(iii) of this section (which provides a special market rate of return rule to permit certain changes in rates for participants benefiting under the plan) are satisfied. Accordingly, no amendment is required under this paragraph (e)(3)(vi) with respect to those participants.

(B) *Participants not benefiting under the plan.* With respect to those participants who were not benefiting under the plan as of the applicable amendment date of the amendment described in paragraph (i) of this *Example 11,* the requirements of paragraph (e)(3)(iii) of this section are not satisfied and, accordingly, the ''greater-of'' rate resulting from the section 411(d)(6) protection does not satisfy the requirements of paragraph (d)(6) of this section. As a result, pursuant to paragraph (e)(3)(vi)(B)(*5*) of this section, it must be determined on a participant-by-participant basis which account balance provides the benefit that is greater as of the applicable amendment date for the amendment made pursuant to this paragraph (e)(3)(iv) (the transitional amendment). If, as of the applicable amendment date for the transitional amendment, the account balance credited with interest after the change in rates using the yield on 30-year Treasury Constant Maturities is greater, then the plan must be amended to provide that the participant's benefit is based solely on that account balance credited with interest using the yield on 30-year Treasury Constant Maturities. On the other hand, if, as of the applicable amendment date for the transitional amendment, the account balance using the rate of return on aggregate plan assets is greater, then the plan must be amended to provide that the participant's benefit is based solely on that account balance credited with interest at the rate of return on aggregate plan assets.

(vii) *Plan termination amendments.* A plan amendment with an applicable amendment date on or before the first day of the first plan year described in paragraph (f)(2)(i)(B)(*1*) or (*3*) of this section (as applicable) is not treated as reducing accrued benefits in violation of section 411(d)(6) merely because the amendment changes the rules that apply upon plan termination in order to satisfy the requirements of paragraph (e)(2) of this section.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(B) *Special effective date*—(*1*) *In general.* Except as otherwise provided in this paragraph (f)(2)(i)(B), paragraphs (d)(1)(iii), (d)(1)(iv)(D) and (E), (d)(1)(vi), (d)(2)(ii) and (v), (d)(5)(ii)(B), (d)(5)(iv), (d)(6), (e)(2), (e)(3)(iii), (iv) and (v), and (e)(4) of this section apply to plan years that begin on or after January 1, 2017 (or an earlier date as elected by the taxpayer).

(*2*) *Transitional amendments.* Paragraphs (e)(3)(vi) and (vii) of this section apply to plan amendments made on or after September 18, 2014 (or an earlier date as elected by the taxpayer).

(*3*) *Collectively bargained plans.* In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified on or before November 13, 2015, that constitutes a collectively bargained plan under the rules of § 1.436–1(a)(5)(ii)(B), the paragraphs referenced in paragraph (f)(2)(i)(B)(*1*) of this section apply to plan years that begin on or after the later of—

(*i*) January 1, 2017; and

(*ii*) The earlier of January 1, 2019; and the date on which the last of those collective bargaining agreements terminates (determined without regard to any extension thereof on or after November 13, 2015).

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: November 3, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2015–28915 Filed 11–13–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0994]

RIN 1625–AA00

Safety Zone; Unknown Substance in the Vicinity of Kelley's Island Shoal, Lake Erie; Kelley's Island, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters of the Lake Erie in the vicinity of Kelley's Island Shoal, OH. This zone is intended to restrict vessels from a portion of Lake Erie due to the presence of an unknown substance emanating from an unknown vessel. This temporary safety zone is necessary to protect people and vessels from the hazards associated with this event.

DATES: This rule is effective without actual notice from November 16, 2015 until 8 p.m. November 24, 2015. For the purposes of enforcement, actual notice will be used from 2 p.m. October 25, 2015, until November 16, 2015.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2015–0994 and are available online by going to *www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.