result whether the discrimination takes place directly through payments or services, or indirectly through deductions from purchase invoices or other similar means. In addition, the giving or knowing inducement or receipt of proportionally unequal promotional allowances may be challenged under sections 2(a) and 2(f) of the Act, respectively, where no promotional services are performed in return for the payments, or where the payments are not reasonably related to the customer's cost of providing the promotional services. *See, e.g., American Booksellers Ass'n* v. *Barnes & Noble,* 135 F. Supp. 2d 1031 (N.D. Cal. 2001); *but see United Magazine Co.* v. *Murdoch Magazines Distrib., Inc.* 2001 U.S. Dist. Lexis 20878 (S.D.N.Y. 2001). Sections 2(a) and 2(f) of the Act may be enforced by disfavored customers, among others.

Example 1: A customer should not induce or receive advertising allowances for special promotion of the seller's product in connection with the customer's anniversary sale or new store opening when the customer knows or should know that such allowances, or suitable alternatives, are not available on proportionally equal terms to all other customers competing with it in the distribution of the seller's product.

Example 2: Frequently the employees of sellers or third parties, such as brokers, perform in-store services for their grocery retailer customers, such as stocking of shelves, building of displays and checking or rotating inventory, etc. A customer operating a retail grocery business should not induce or receive such services when the customer knows or should know that such services (or usable and suitable alternative services) are not available on proportionally equal terms to all other customers competing with it in the distribution of the seller's product.

Example 3: Where a customer has entered into a contract, understanding, or arrangement for the purchase of advertising with a newspaper or other advertising medium, such as the Internet, that provides for a deferred rebate or other reduction in the price of the advertising, the customer should advise any seller from whom reimbursement for the advertising is claimed that the claimed rate of reimbursement is subject to a deferred rebate or other reduction in price. In the event that any rebate or adjustment in the price is received, the customer should refund to the seller the amount of any excess payment or allowance.

Example 4: A customer should not induce or receive an allowance in excess of that offered in the seller's advertising plan by billing the seller at ''vendor rates'' or for any other amount in excess of that authorized in the seller's promotional program.

(b) *Third party liability.* Third parties, such as advertising media, may violate section 5 of the Federal Trade Commission Act through double or fictitious rates or billing. An advertising medium, such as the Internet, a newspaper, broadcast station, or printer of catalogues, that publishes a rate schedule containing fictitious rates (or rates that are not reasonably expected to be applicable to a representative number of advertisers), may violate section 5 if the customer uses such deceptive schedule or invoice for a claim for an advertising allowance, payment or credit greater than that to which it would be entitled under the seller's promotional offering. Similarly, an advertising medium that furnishes a customer with an invoice that does not reflect the customer's actual net advertising cost may violate section 5 if the customer uses the invoice to obtain larger payments than it is entitled to receive.

Example 1: A newspaper has a ''national'' rate and a lower ''local'' rate. A retailer places an advertisement with the newspaper at the local rate for a seller's product for which the retailer will seek reimbursement under the seller's cooperative advertising plan. The newspaper should not send the retailer two bills, one at the national rate and another at the local rate actually charged.

Example 2: A newspaper has several published rates. A large retailer has in the past earned the lowest rate available. The newspaper should not submit invoices to the retailer showing a high rate by agreement between them unless the invoice discloses that the retailer may receive a rebate and states the amount (or approximate amount) of the rebate, if known, and if not known, the amount of rebate the retailer could reasonably anticipate.

Example 3: A radio station has a flat rate for spot announcements, subject to volume discounts. A retailer buys enough spots to qualify for the discounts. The station should not submit an invoice to the retailer that does not show either the actual net cost or the discount rate.

Example 4: An advertising agent buys a large volume of newspaper advertising space at a low, unpublished negotiated rate. Retailers then buy the space from the agent at a rate lower than they could buy this space directly from the newspaper. The agent should not furnish the retailers invoices showing a rate higher than the retailers actually paid for the space.

§ 240.14 Meeting competition.

A seller charged with discrimination in violation of sections 2(d) and (e) may defend its actions by showing that particular payments were made or services furnished in good faith to meet equally high payments or equivalent services offered or supplied by a competing seller. This defense is available with respect to payments or services offered on an area-wide basis, to those offered to new as well as old customers, and regardless of whether the discrimination has been caused by a decrease or an increase in the payments or services offered. A seller must reasonably believe that its offers are necessary to meet a competitor's offer.

§ 240.15 Cost justification.

It is no defense to a charge of unlawful discrimination in the payment of an allowance or the furnishing of a service for a seller to show that such payment or service could be justified through savings in the cost of manufacture, sale or delivery.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2014–23137 Filed 9–26–14; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9695]

RIN 1545–BL54

Employee Retirement Benefit Plan Returns Required on Magnetic Media

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the requirements for filing certain employee retirement benefit plan statements, returns, and reports on magnetic media. The term magnetic media includes electronic filing, as well as other magnetic media specifically permitted under applicable regulations, revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. These regulations affect plan administrators and employers maintaining retirement plans that are subject to various employee benefit reporting requirements under the Internal Revenue Code (Code).

DATES: *Effective Date:* These regulations are effective September 29, 2014.

Applicability Date: For dates of applicability, see §§ 301.6057–3(f), 301.6058–2(f), and 301.6059–2(f).

FOR FURTHER INFORMATION CONTACT: William Gibbs or Pamela Kinard at (202) 317–6799 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 301. On August 30, 2013, a notice of proposed rulemaking (REG–111837–13) relating to the requirements

for filing certain employee retirement benefit plan statements, returns, and reports on magnetic media was published in the **Federal Register** (78 FR 53704). The proposed regulations provide that a plan administrator (or, in certain situations, an employer maintaining a plan) required by the Code or regulations to file at least 250 returns during the calendar year that includes the first day of the plan year must use magnetic media to file certain statements, returns, and reports required under sections 6057, 6058, and 6059 of the Code. Comments responding to the notice of proposed rulemaking were received. No public hearing was requested or held. After consideration of all the comments, the proposed regulations are adopted as modified by this Treasury decision.

Summary of Comments and Explanation of Revisions

I. Use of FIRE System for Filing Form 8955–SSA

The proposed regulations under section 6057 provide that a registration statement required under section 6057(a) or a notification required under section 6057(b) must be filed on magnetic media if the filer is required by the Code or regulations to file at least 250 returns during the calendar year that includes the first day of the plan year. Magnetic media is defined as electronic filing or other media specifically permitted under applicable regulations, revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter.

The form used to satisfy the requirement to file the registration statement under section 6057 is Form 8955–SSA, ''Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits.'' The preamble to the proposed regulations noted that many filers of the Form 8955–SSA already voluntarily file electronically with the IRS, but did not identify the system currently used to file electronically.

Commenters expressed concern that not identifying the ''Filing Information Returns Electronically'' (FIRE) system as the system currently used to file the Form 8955–SSA electronically could imply that the use of the FIRE system is not (or, in the near future, will not be) an acceptable system to file the Form 8955–SSA electronically. In response to this concern, the Department of the Treasury and the IRS confirm that the FIRE system is an acceptable electronic system to file the Form 8955–SSA. If, in the future, the IRS replaces the FIRE system with another electronic filing system, sufficient time will be provided to filers of the Form 8955–SSA to accommodate programming and other implementation needs.

Commenters also stated that certain aspects of the FIRE system need improvement, including the lack of an efficient batch processing system and costs associated with using the system. The specific requirements of the FIRE system are outside the scope of these regulations, but comments on possible FIRE system improvements have been forwarded to the staff at the IRS responsible for the FIRE system.

II. Application of the E-File Mandate to One-Participant Plans

The proposed regulations under section 6058 provide that a return required under section 6058 must be filed on magnetic media if the filer is required by the Code or regulations to file at least 250 returns during the calendar year that includes the first day of the plan year. The preamble to the proposed regulations noted that filers of the Form 5500, ''Annual Return/Report of Employee Benefit Plan,'' and Form 5500–SF, ''Short Form Annual Return/Report of Small Employee Benefit Plan,'' are already required, pursuant to Department of Labor (DOL) rules, to file these returns electronically through the computerized ERISA Filing Acceptance System (EFAST2). The preamble to the proposed regulations also noted that, while electronic filing is not available for the Form 5500–EZ, ''Annual Return of One-Participant (Owners and their Spouses) Retirement Plan,'' certain filers that would otherwise file the Form 5500–EZ on paper may instead file the Form 5500–SF electronically through EFAST2.

One commenter asked whether the proposed regulations impose additional filing obligations, other than the requirement to file electronically, on one-participant plans that meet the 250-return threshold for mandatory electronic filing. In particular, the commenter asked whether a one-participant plan would now be required to file an actuarial report under section 6059 when filing the Form 5500–SF in lieu of a paper Form 5500–EZ.

In response to this comment, the Department of the Treasury and the IRS confirm that a one-participant plan (or a foreign plan) required to file electronically must use the Form 5500–SF to file the information required on the Form 5500–EZ, but will not be required to attach to the filing a Schedule SB, ''Single-Employer Defined Benefit Plan Actuarial Information,'' or Schedule MB, ''Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information.''

III. Economic Hardship Waiver

As noted in the proposed regulations, the Commissioner may waive the requirement to file electronically in cases of undue economic hardship. Because the Department of the Treasury and the IRS believe that electronic filing will not impose significant burdens on the taxpayers covered by these regulations, the Commissioner anticipates granting waivers of the electronic filing requirement in only exceptional cases. The Department of the Treasury and the IRS anticipate issuing guidance that will set forth procedures whereby a taxpayer may request a hardship waiver for electronically filing the Form 8955–SSA and the Form 5500 series. The Department of the Treasury and the IRS anticipate that the guidance would not provide hardship waiver procedures for any electronic filing requirement for a form that a filer is already required to file electronically, such as Form 5500 and Form 5500–SF, which filers are already required to file electronically through EFAST2.

IV. Request To Extend Proposed Effective Date

Commenters requested that the effective date of these regulations be extended from the effective date set forth in the proposed regulations. The proposed regulations provided that they would be effective for plan years that begin on or after January 1, 2014, but only for filings with a filing deadline (not taking into account extensions) after December 31, 2014. With respect to the filing requirements under section 6057, commenters specifically requested that the IRS confirm that the use of the existing FIRE system will satisfy the electronic filing requirement for the Form 8955–SSA through 2016. Because there is no current plan to change the electronic system used to file the Form 8955–SSA prior to the end of calendar year 2016, and significant changes to the form itself are not anticipated, these regulations generally retain the proposed effective date for section 6057 filings. However, the regulations do provide an extended effective date for plans with short 2014 plan years by providing that these regulations only apply to filings with a filing deadline on or after July 31, 2015. For example, a plan with a short 2014 plan year ending November 30, 2014, would have a filing deadline of June 30, 2015, and thus would not be required to file electronically for that plan year.

With respect to the filing requirements under sections 6058 and 6059, these regulations extend the effective date by 12 months, so that the regulations generally apply to returns and actuarial reports required to be filed for plan years that begin on or after January 1, 2015, but only for filings with a filing deadline (not taking into account extensions) after December 31, 2015. As announced in the proposed regulations, the IRS anticipates adding items on the Form 5500 and Form 5500–SF relating solely to Code requirements and intends to provide an optional paper-only form containing those Code-related items for use by small filers. It is anticipated that the form will be available to satisfy the filing requirements with respect to the 2015 plan year.

V. Certain Delinquent Filers Required To File on Paper

Notice 2014–35 (2014–23 IRB 1072) provides administrative relief from IRS penalties under sections 6652(d), 6652(e), and 6692 for a failure to file timely in accordance with annual reporting requirements under sections 6047(e), 6057, 6058, and 6059. This administrative relief from IRS penalties applies to late filers that satisfy the requirements of the Delinquent Filer Voluntary Compliance Program (''DFVC Program'') administered by DOL. In order to be eligible for relief from the IRS penalties for a plan year, the late filer, within a certain time period after completing the filing under the DFVC Program, must file on paper with the IRS any delinquent Form 8955–SSA for the plan year.

Similarly, Revenue Procedure 2014–32 (2014–23 IRB 1073) establishes a pilot program providing administrative relief for late filers of the Form 5500–EZ. In general, in order to receive relief from IRS penalties, the late filer must submit a complete Form 5500–EZ, including all required schedules and attachments, for each plan year for which the late filer is seeking penalty relief. A complete return for a plan year consists of a signed, filled-out paper version of the Form 5500–EZ for that plan year.

Although the Department of the Treasury and IRS generally encourage filers to file electronically whenever possible, the IRS currently does not have the capability to accept electronic filing of a delinquent Form 8955–SSA or Form 5500–EZ. Thus, a delinquent filing of a Form 8955–SSA or Form 5500–EZ that complies with the paper filing requirements in Notice 2014–35 and Rev. Proc. 2014–32, is excluded from the electronic filing requirements under these regulations. The IRS will announce those statements and returns that are excluded from electronic filing under these regulations in its publications, forms, and instructions.

Effective Date

The regulations apply to employee retirement benefit plan statements and notifications required to be filed under section 6057 for plan years that begin on or after January 1, 2014, but only for filings with a filing deadline (not taking into account extensions) on or after July 31, 2015.

For employee retirement benefit plan returns and reports required to be filed under sections 6058 and 6059, the regulations apply for plan years that begin on or after January 1, 2015, but only for filings with a filing deadline (not taking into account extensions) after December 31, 2015.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that 5 U.S.C. 533(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. In addition, it is hereby certified that any collection of information contained in this regulation will not have a significant economic impact on a substantial number of small entities, and therefore no flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Office of Chief Counsel for Advocacy of the Small Business Administration for comments on its impact on small businesses.

The certification is based on the fact that §§ 301.6057–1, 301.6058–1, and 301.6059–1 currently require filing with the IRS of information under sections 6057, 6058, and 6059 in accordance with applicable forms, schedules, and accompanying instructions. The regulations merely require that this information be filed electronically by persons required to file at least 250 returns for the calendar year, consistent with section 6011(e)(2)(A), which provides that, in prescribing regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form, the Secretary shall not require any person to file returns on magnetic media unless the person is required to file at least 250 returns during the calendar year. Many small entities are unlikely to file 250 returns or more during the calendar year. Filers of the Form 5500 and Form 5500–SF are already required to file the returns electronically through EFAST2 pursuant to DOL regulations. In addition, many filers of the Form 8955–SSA already voluntarily file electronically with the IRS through the use of the FIRE system.

Further, if a taxpayer's operations are computerized, reporting in accordance with the regulations should be less costly than filing on paper. The Department of the Treasury and the IRS have determined that taxpayers should be able to comply at a reasonable cost with the requirement in these regulations to file employee retirement statements, returns, and reports on magnetic media. In addition, the regulations provide that the IRS may waive the electronic filing requirements upon a showing of economic hardship.

Drafting Information

The principal authors of these regulations are William Gibbs and Pamela R. Kinard, Office of Division Counsel/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 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Seals and insignia, Statistics and Taxes.

Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 1.** The authority for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7508* * *

■ **Par. 2.** Section 301.6057–3 is added to read as follows:

§ 301.6057–3 Required use of magnetic media for filing requirements relating to deferred vested retirement benefit.

(a) *Magnetic media filing requirements under section 6057.* A registration statement required under section 6057(a) or a notification required under section 6057(b) with respect to an employee benefit plan

must be filed on magnetic media if the filer is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year that includes the first day of the plan year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. In prescribing revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site, the Commissioner may direct the type of magnetic media filing. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(b) *Economic hardship waiver.* The Commissioner may waive the requirements of this section in cases of undue economic hardship. The principal factor in determining hardship will be the amount, if any, by which the cost of filing the registration statements or notifications on magnetic media in accordance with this section exceeds the cost of filing the registration statements or notifications on other media. A request for a waiver must be made in accordance with applicable published guidance, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter. The waiver will specify the type of filing (that is, a registration statement or notification under section 6057) and the period to which it applies. In addition, the waiver will be subject to such terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a filer required to file a registration statement or other notification under section 6057 fails to file the statement or other notification on magnetic media when required to do so by this section, the filer is deemed to have failed to file the statement or other notification. See section 6652(d) for the amount imposed for the failure to file a registration statement or other notification required under section 6057. In determining whether there is reasonable cause for the failure to file the registration statement or notification under section 6057, § 301.6652–3(b) and rules similar to the rules in § 301.6724–1(c)(3)(ii) (regarding undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section.

(1) *Magnetic media.* The term *magnetic media* means electronic filing, as well as other media specifically permitted under applicable regulations, revenue procedures, or publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(2) *Registration statement required under section 6057(a).* The term *registration statement required under section 6057(a)* means a Form 8955–SSA (or its successor).

(3) *Notification required under section 6057(b).* The term *notification required under section 6057(b)* means either a Form 8955–SSA (or its successor) or a return in the Form 5500 series (or its successor).

(4) *Determination of 250 returns*—(i) *In general.* For purposes of this section, a filer is required to file at least 250 returns if, during the calendar year that includes the first day of the plan year, the filer is required to file at least 250 returns of any type, including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(ii) *Definition of filer.* For purposes of this section, the term *filer* means the plan administrator within the meaning of section 414(g). If the plan administrator within the meaning of section 414(g) is the employer, the special rules in § 1.6058–2(d)(3)(iii) will apply.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(4) of this section:

Example. In 2015, P, the plan administrator of Plan B, is required to file 252 returns (including Forms 1099–R, ''Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.;'' Form 8955–SSA, ''Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits;'' Form 5500, ''Annual Return/Report of Employee Benefit Plan;'' and Form 945, ''Annual Return of Withheld Federal Income Tax''). Plan B's plan year is the calendar year. Because P is required to file at least 250 returns during the 2015 calendar year, P must file the 2015 Form 8955–SSA for Plan B electronically.

(f) *Effective/applicability date.* This section is applicable for registration statements and other notifications required to be filed under section 6057 for plan years that begin on or after January 1, 2014, but only for filings with a filing deadline (not taking into account extensions) on or after July 31, 2015.

■ **Par. 3.** Section 301.6058–2 is added to read as follows:

§ 301.6058–2 Required use of magnetic media for filing requirements relating to information required in connection with certain plans of deferred compensation.

(a) *Magnetic media filing requirements under section 6058.* A return required under section 6058 with respect to an employee benefit plan must be filed on magnetic media if the filer is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year that includes the first day of the plan year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet site, the Commissioner may direct the type of magnetic media filing. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(b) *Economic hardship waiver.* The Commissioner may waive the requirements of this section in cases of undue economic hardship. The principal factor in determining hardship will be the amount, if any, by which the cost of filing the return on magnetic media in accordance with this section exceeds the cost of filing the returns on other media. A request for a waiver must be made in accordance with applicable published guidance, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter. The waiver will specify the type of filing (that is, a return required under section 6058) and the period to which it applies. In addition, the waiver will be subject to such terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a filer required to file a return under section 6058 fails to file the return on magnetic media when required to do so by this section, the filer is deemed to have failed to file the return. See section 6652(e) for the amount imposed for the failure to file a return required under section 6058. In determining whether there is reasonable cause for failure to file the return, § 301.6652–3(b) and rules similar to the rules in § 301.6724–1(c)(3)(ii) (regarding undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section.

(1) *Magnetic media.* The term *magnetic media* means electronic filing, as well as other media specifically permitted under applicable regulations, revenue procedures, or publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(2) *Return required under section 6058.* The term *return required under*

section 6058 means a return in the Form 5500 series (or its successor).

(3) *Determination of 250 returns*—(i) *In general.* For purposes of this section, a filer is required to file at least 250 returns if, during the calendar year that includes the first day of the plan year, the filer is required to file at least 250 returns of any type, including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(ii) *Definition of filer.* For purposes of this section, the term *filer* means the employer or employers maintaining the plan and the plan administrator within the meaning of section 414(g).

(iii) *Special rules relating to determining 250 returns.* For purposes of applying paragraph (d)(3)(ii) of this section, the aggregation rules of section 414(b), (c), (m), and (o) will apply to a filer that is or includes an employer. Thus, for example, a filer that is a member of a controlled group of corporations within the meaning of section 414(b) must file the Form 5500 series on magnetic media if the aggregate number of returns required to be filed by all members of the controlled group of corporations is at least 250.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(3) of this section:

Example. In 2016 Employer X (the plan sponsor of Plan A) and P (the plan administrator of Plan A) are required to file 267 returns. Employer X is required to file the following: one Form 1120, ''U.S. Corporation Income Tax Return;'' 195 Forms W–2, ''Wage and Tax Statement;'' 25 Forms 1099–DIV, ''Dividends and Distributions;'' one Form 940, ''Employer's Annual Federal Unemployment (FUTA) Tax Return;'' and four Forms 941, ''Employer's Quarterly Federal Tax Return.'' P is required to file 40 Forms 1099–R, ''Distributions From Pensions, Annuities, Retirement, Profit-Sharing Plans, IRAs, Insurance Contracts, etc.'' P and Employer X are jointly required to file one Form 5500 series return. Plan A's plan year is the calendar year. Because P and Employer X, in the aggregate, are required to file at least 250 returns during the calendar year, the 2016 Form 5500 for Plan A must be filed electronically.

(f) *Effective/applicability date.* This section is applicable for returns required to be filed under section 6058 for plan years that begin on or after January 1, 2015, but only for filings with a filing deadline (not taking into account extensions) after December 31, 2015.

Par. 4. Section 301.6059–2 is added to read as follows:

§ 301.6059–2 Required use of magnetic media for filing requirements relating to periodic report of actuary.

(a) *Magnetic media filing requirements under section 6059.* An actuarial report required under section 6059 with respect to an employee benefit plan must be filed on magnetic media if the filer is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year that includes the first day of the plan year. Actuarial reports filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. In prescribing revenue procedures, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site, the Commissioner may direct the type of magnetic media filing. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(b) *Economic hardship waiver.* The Commissioner may waive the requirements of this section in cases of undue economic hardship. The principal factor in determining hardship will be the amount, if any, by which the cost of filing the reports on magnetic media in accordance with this section exceeds the cost of filing the reports on other media. A request for a waiver must be made in accordance with applicable published guidance, publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter. The waiver will specify the type of filing (that is, an actuarial report required under section 6059) and the period to which it applies. In addition, the waiver will be subject to such terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a filer required to file an actuarial report under section 6059 fails to file the report on magnetic media when required to do so by this section, the filer is deemed to have failed to file the report. See section 6692 for the penalty for the failure to file an actuarial report. In determining whether there is reasonable cause for failure to file the report, § 301.6692–1(c) and rules similar to the rules in § 301.6724–1(c)(3)(ii) (regarding undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section.

(1) *Magnetic media.* The term *magnetic media* means electronic filing, as well as other media specifically permitted under applicable regulations, revenue procedures, or publications, forms, instructions, or other guidance on the IRS.gov Internet Web site. See § 601.601(d)(2)(ii)(*b*) of this chapter.

(2) *Actuarial report required under section 6059*—(i) *Single employer plans.* For a single employer plan, the term *actuarial report required under section 6059* means the Schedule SB, ''Single-Employer Defined Benefit Plan Actuarial Information,'' of the Form 5500 series (or its successor).

(ii) *Multiemployer and certain money purchase plans.* For multiemployer and certain money purchase plans, the term *actuarial report required under section 6059* means the Schedule MB, ''Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information,'' of the Form 5500 series (or its successor).

(3) *Determination of 250 returns*—(i) *In general.* For purposes of this section, a filer is required to file at least 250 returns if, during the calendar year that includes the first day of the plan year, the filer is required to file at least 250 returns of any type, including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(ii) *Definition of filer.* For purposes of this section, the term *filer* means the plan administrator within the meaning of section 414(g). If the plan administrator within the meaning of section 414(g) is the employer, the special rules in § 1.6058–2(d)(3)(iii) will apply.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(3) of this section:

Example. In 2016, P, the plan administrator of Plan B (a single employer defined benefit plan), is required to file 266 returns (including Forms 1099–R ''Distributions From Pensions, Annuities, Retirement, Profit-Sharing Plans, IRAs, Insurance Contracts, etc.'' and one Form 5500 series). Plan B's plan year is the calendar year. Because P is required to file at least 250 returns during the calendar year, P must file the 2016 Schedule SB of the Form 5500 series return for Plan B electronically.

(f) *Effective/applicability date.* This section is applicable for actuarial reports required to be filed under section 6059 for plan years that begin on or after January 1, 2015, but only for filings with a filing deadline (not taking

into account extensions) after December 31, 2015.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: September 23, 2014.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2014–23161 Filed 9–26–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 51

[NPS–WASO–16649; PX.XVPAD0517.00.1]

RIN 1024–AE22

Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: We are amending our concessions contracts regulations to clarify that the Director may amend or extend a prospectus soliciting proposals for a concession contract prior to and including the proposal due date and may award a temporary concession contract. We are also updating consolidated information collection requirements.

DATES: This rule is effective September 29, 2014.

FOR FURTHER INFORMATION CONTACT: Jo Pendry, National Park Service Acting Chief of Commercial Services, by telephone: 202–513–7156 or email: *jo_pendry@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Park Service (NPS) issues concession contracts to provide commercial visitor services in over 150 units of the National Park System under the authority of the NPS Concessions Management Improvement Act of 1998 (Pub. L. 105–391; 16 U.S.C. 5951–5966 (1998 Act). Title 36 CFR Part 51, adopted in 2000, implements the 1998 Act. This rule clarifies an ambiguity in 36 CFR 51.11, eliminates outdated procedural restrictions in 36 CFR 51.24, and updates 36 CFR 51.104. You may view information about the NPS Commercial Services Program at *http://concessions.nps.gov.*

Amending or Extending a Prospectus (36 CFR 51.11)

Title 36 CFR 51.11 describes when the NPS may amend or extend the solicitation period for a prospectus seeking proposals for a concession contract opportunity. As written, the regulation could be interpreted to limit the agency's needed ability to amend or extend a solicitation on the date the solicitation period expires. This rule clarifies that the NPS may amend a prospectus or extend the submission date prior to and on the proposal due date.

Awarding a Temporary Concession Contract (36 CFR 51.24)

Under the 1998 Act, the NPS may award temporary concession contracts for a term not to exceed three years in order to avoid an interruption of services to the public. (16 U.S.C. 5952(11)).

The current 36 CFR 51.24 describes the circumstances under which the NPS may award a temporary concession contract. When the NPS promulgated 36 CFR Part 51 in 2000, it provided in § 51.24 that, except in limited circumstances, the Director could not issue a temporary concession contract to continue visitor services provided under an extended contract. This regulatory restriction was the result of a policy decision of the NPS rather than a requirement of the 1998 Act. Although the NPS has successfully awarded replacement contracts within the term limits of contracts and authorized extension periods, the inventory of concession contracts currently includes several extended, complex contracts with respect to which the NPS may need the flexibility to award a temporary contract upon contract expiration in order to assure that visitor services continue uninterrupted. This rule amends § 51.24(a) to provide this flexibility. The NPS anticipates it will exercise this authority sparingly and only when the award of a temporary contract is the only practical alternative to an interruption of visitor services.

In addition, the NPS is deleting the text of 36 CFR 51.24(b) in its entirety except for the last sentence in the current subsection, which will be moved to become the last sentence in the amended § 51.24(a) for purposes of determining the existence of a preferred offeror when awarding a temporary concession contract to continue services under an extended concession contract. The current § 51.24(b) only applies to contracts that were in effect as of November 13, 1998, and that either had been extended as of that date or were due to expire by December 31, 1998, and were subsequently extended. There are no longer any existing NPS concession contracts that fall within these limitations, and this provision is no longer needed.

We are also making two conforming amendments. We are deleting the current reference to § 51.24(b) in § 51.22, and we are also revising the current reference to § 51.24(b) stated in § 51.24(c) and replacing it with a reference to § 51.24(a).

Update to OMB Approval of Information Collection (36 CFR 51.104)

In November 2013, the Office of Management and Budget (OMB) approved our request to consolidate the information collection requirements associated with applying for and operating NPS concessions (previously approved under four separate control numbers: 1024–0029, 1024–0125, 1024–0126, and 1024–0231) into one single control number, 1024–0029. Upon receiving OMB approval for the renewal and consolidation of 1024–0029, we discontinued OMB Control Numbers 1024–0125, 1024–0126, and 1024–0231. We are amending § 51.104 to reflect this change.

Summary of Public Comments

We published the proposed rule at 79 FR 45390 (August 5, 2014). We accepted comments through the mail, hand delivery, and through the Federal eRulemaking Portal at *http://www.regulations.gov.* Comments were accepted through September 4, 2014, and we received two timely comments. Both comments supported the proposed rule and did not request any change. After considering the public comments and after additional review, we did not make any changes in the final rule.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive Order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant,