Employee Benefit Plans

Explanation No. 2A

Minimum Vesting Standards

Defined Benefit Plans

Note:

Plans submitted during the Cycle A submission period must satisfy the applicable changes in plan qualification requirements listed in Section IV of Notice 2015-84, 2014-52 I.R.B. 1 (the 2015 Cumulative List).

This publication contains copies of:
Form 5624, Worksheet 2A
Form 8401, Deficiency Checksheet 2A

These forms are included as examples only and should not be completed and returned to the Internal Revenue Service.

The purpose of the Worksheet Number 2A (Form 5624) and this explanation is to identify major problems in the area of plan vesting. However, there may be issues not mentioned in the worksheet that could affect the plan's qualification.

The worksheet applies only to plans to which Internal Revenue Code section 411 applies, except plans mentioned in section 411(e) (such as governmental plans) and plans that cover participants who are employed in maritime or seasonal industries.

Generally, a "Yes" answer to a question on the worksheet indicates a favorable conclusion while a "No" answer signals a problem concerning plan qualification This rule may be altered by specific instructions for a given question. Please explain any "No" answer in the space provided on the worksheet.

The sections cited at the end of each paragraph of explanation are to the Internal Revenue Code, the Income Tax Regulations, and the Department of Labor (DOL) Regulations; Rev. Rul. means Revenue Ruling.

A basic requirement to keep in mind for the vesting standards is that each participant's vested interest must satisfy the statutory minimum at all times. A plan that generally provides faster vesting than the statutory minimum will not fail to qualify merely because the plan does not adhere to the specific language found in the statute. For example, a plan that provides full and immediate vesting at age 21 would satisfy the statutory minimum vesting requirements even though language about a requirement for years of service is not found in the plan.

The Service's review of a determination letter application filed in the Cycle A submission period will not consider the 2014 final hybrid plan regulations (other than the delay in the effective date of certain provisions in the 2010 final hybrid plan regulations set forth in section 1.411(b)(5) l(f)(2)(i)(B)).

IRS

The technical principles in this publication may be changed by future regulations or guidelines.

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I. Years of Service and Breaks in Service

This section applies only to plans in which years of service are a factor in determining a participant's vested interest. Therefore, DO NOT complete this section if the plan provides full and immediate vesting for each participant. Questions a. through f. and l. through p. apply to plans that count hours of service. Questions g. through p. apply to plans that use the elapsed time method of counting service.

Line a. A vesting computation period is a 12-consecutive¬month period used to determine whether an employee has completed a year of service for vesting purposes. Any plan must designate a vesting computation period, except a plan that uses an "elapsed time" method of counting service, or a plan in which years of service are not a factor in determining a participant's vested interest.
DOL Regs. 2530.200b-1(a)

Line b. Depending on the definition of "hour of service" and the method used to count these hours, a plan must credit an employee with 1 year of service for vesting if the employee completes at least 1000, 870, or 750 hours of service in a vesting computation period.

(i) (H = 1000) A plan that counts all hours of service, or that uses an equivalency based on a period of employment (day, week, semi-monthly payroll period, month, or shift), cannot require the completion of more than 1000 hours of service.
411(a)(5)(A)
DOL Regs. 2530.200b-1(a)
DOL Regs. 2530.200b-3(e)

(ii) (H = 870) A plan that counts "hours worked," or that uses an equivalency based on earnings for an employee who is compensated on an hourly rate, cannot require the completion of more than 870 hours of service.
DOL Regs. 2530.200b-3(d)(1)
DOL Regs. 2530.200b-3(f)(1)

(iii) (H = 750) A plan that counts "regular time hours," or that uses an equivalency based on earnings for an employee who is compensated on a basis other than an hourly rate, cannot require the completion of more than 750 hours of service.
DOL Regs. 2530.200b-3(d)(2)
DOL Regs. 2530.200b-3(f)(2)

Answer the following by using the applicable method of counting hours (i, ii, or iii above).

Line c. If a plan counts all hours of service, credit each hour for which (1) an employee is paid or entitled to payment for the performance of duties, (2) an employee is paid or entitled to payment because of a period of time during which no duties are performed, and (3) back pay is either awarded or agreed to by the employer. Note: Item (2) may be limited to 501 hours for any single occurrence.
DOL Regs. 2530.200b-2(a)

If a plan credits hours of service by an equivalency based on a period of service, and an employee is required to be credited with at least 1 hour of service under the paragraph above, then, depending on the basis used, the plan must credit hours of service as follows:

Basis of Equivalency	Number of Hours Credited
Day	at least 10
Week	at least 45
Bi-weekly payroll period	at least 95
Month	at least 190

DOL Regs. 2530.200b-3(e)

If a plan counts "hours worked," credit each hour for which an employee is paid or entitled to payment for the performance of duties; also credit hours for which back pay is awarded, or agreed to, by the employer to the extent that the back pay covers a period in which the employee would have been employed in the performance of duties for the employer
DOL Regs. 2530.200b-3(d)(3)(i)

If a plan counts "regular time hours," credit each hour for which an employee is paid or entitled to payment for the performance of duties (except hours for which a premium rate is paid).
DOL Regs. 2530 200b-3(d)(3)(ii)

If a plan credits hours of service by an equivalency based on earnings for an employee who is compensated on an hourly rate, an employee must be credited during a computation period with at least the number of hours equal to either the employee's total earnings—

(1) from time to time during the computation period, divided by the hourly rate of those times; or

(2) for performance of duties during the computation period divided either by the employee's lowest hourly rate during that time, or by the lowest hourly rate payable to an employee in the same, or a similar, job classification.
DOL Regs. 2530.200b-3(f)(1)(i)

If a plan credits hours of service by an equivalency based on earnings, and determines compensation other than on an hourly rate, the employee must be credited during a computation period with at least the number of hours equal to his or her total earnings for duties performed during that period, divided by the employee's lowest hourly rate of compensation during the same period. (See the DOL Regulations). NOTE: If the same hourly rate of compensation is used for all employees, this method may result in discrimination in favor of highly compensated employees.
DOL Regs. 2530.200b-3(f)(2)

Line d. If H = 1000 in b. above, answer this question; otherwise check N/A. If a plan credits hours of service for periods during which no duties are performed, the plan must designate the method of determining the number of hours to be credited and the method of crediting the hours to the computation periods. The plan must conform to the requirements of DOL Regulations section 2530.200b-2(b) and (c). Section 2530.200b-2(f) of the DOL Regulations, however, also indicates that a plan is not required to state these rules if they are incorporated by reference.
DOL Regs. 2530.200b-2(b) & (c) DOL Regs. 2530.200b-2(f)

Line e. A plan may disregard certain service before the employee has 5 consecutive 1-year breaks in service. If all of an employee's service with an employer is counted for determining the nonforfeitable accrued benefit, the plan need not provide these rules. In this case, check N/A.

Depending on the definition of "hour of service" and the method used to count these hours, a plan may charge an employee with a break in service for any vesting computation period in which the employee fails to complete more than B hours of service. The number required for B, if a certain method of counting hours is used, equals half of the hours used in question b, of this section of the worksheet. Therefore, a plan may provide that an employee be charged with a break in service if in a computation period the employee fails to complete: more than 500 hours of service in a plan that counts all hours of service; or, more than 435 hours if the basis used is "hours worked"; or, more than 375 hours if the basis is "regular time hours."
DOL Regs. 2530.200b-3
DOL Regs. 2530.200b-4

Line f. An individual shall be credited with certain hours of service if such individual is absent from work for any period by reason of (1) pregnancy of the individual, (2) birth of a child of the individual, (3) placement of a child with the individual in connection with an adoption or (4) caring for a child described in (2) or (3) immediately following such birth or placement. This credit is credit for maternity or paternity leave. Credit for maternity or paternity leave is only made to avoid a break in service and not to obtain a year of service. The absence does not have to be approved leave.

Credit for maternity or paternity leave is required only if such leave is on account of the reasons described above. Thus if an individual quits employment with employer A and two years later adopts a child, no credit under this provision would be given if the individual eventually returns to work for employer A because said individual's absence from employer A's workplace is on account of quitting and not on account of the adoption of or the caring for the child immediately following the adoption.

Hours of service must be credited to the computation period in which the first hour of maternity or paternity leave occurs, if such individual would experience a break in service with respect to such computation period if such maternity or paternity leave is not credited and such individual will not experience a break in service if such maternity or paternity leave is credited. If such maternity or paternity leave is not credited to the first computation period, it is credited to the second computation period whether or not it is needed to preclude a break in service.

The rules may be illustrated with the following example: Individual A goes on paid maternity leave on March 1, 1986 of a calendar year computation period after earning 300 hours of service. The plan defines a year of service as a computation period in which the employee earns 1000 hours. The employer provides for paid maternity leave for a period not to exceed 300 hours.

Under the normal rules for crediting service paid maternity leave must be credited for service. Therefore, individual A in 1986 would not experience a break in service even if the hours required to be credited under REA are not so credited. Accordingly, no hours of service would be credited to the first computation period in 1986. Therefore, all such hours of service are credited in the second computation period of 1987.

The number of hours credited with respect to a computation period is the number of hours such individual would normally have worked in the computation period if such individual were not on maternity or paternity leave. In the event that the number is not ascertainable, the plan may credit 8 hours with respect to any day said individual is absent for leave on account of maternity or paternity leave. The plan may limit the number of hours credited to any computation period to the number of hours needed to avoid a break in service, i.e., 501 hours, 436 hours, 376 hours depending on how hours are counted. The plan may provide that the participant has the burden of proving that the absence was by reason of one of the covered causes.

The plan can use a simplified method for complying with the requirements relating to maternity and paternity absences. If the plan's break in service rules require a minimum of six consecutive one year breaks in service for service to be disregarded (versus the statutory minimum of five), then the plan will not have to include any special rules relating to maternity and paternity absence. This simplified method is available only if the plan computes years of service on the basis of hours of service or permitted equivalencies. It does not apply to elapsed time plans.

411(a)(6)(E)
1.410(a)-9

Line g. The employment commencement date must be no later than the date on which the employee first performs an hour of service for the employer. The severance from service date is the earlier of the date the employee quits, retires, is discharged, or dies or the first anniversary of the first day of a period of absence from service for any reason other than quitting, retiring, discharge, or death.
The employee must be credited with service equal to at least the time between the employment commencement date and the severance from service date.
1.401(a)-7(b) & 411(a)(5)(B)

Line h. Generally, a plan must aggregate all separate periods of service, except for any that may be disregarded due to the rule of parity. Alternatively, instead of keeping separate periods of service, the plan may aggregate by adjusting the employment commencement date. If the plan uses this alternative to credit the aggregate period of service, check “Yes” for question h.
1.410(a)-7(b)(6)(ii)

Line i. A period of severance is the period of time between the employee’s severance from service date and the date the employee again performs an hour of service for the employer.

If an employee severs from service by quitting, being discharged, or retiring, and then performs an hour of service within 12 months of the severance from service date, the plan must consider the period of severance as a period of service.

Also, if an employee severs from service for any reason other than quitting, being discharged, or retiring and within the next 12 months or less quits, is discharged, or retires and then performs an hour of service within 12 months of the date on which he or she was first absent from service, the plan must consider that period of severance as a period of service.
1.410(a)-7(d)(1)(iii) & 411(a)(5)(B)

Line j. The break in service rules allow a plan to disregard certain service before the employee has 5 consecutive breaks in service. If all of an employee’s service with an employer is counted for vesting, the plan need not provide these rules. In this case, check N/A for this question.

If a plan uses elapsed time, substitute “1-year period of severance” for “1-year break in service.” A 1-year period of severance is a 12-consecutive-month period beginning on the severance from service date and ending on the first anniversary of that date provided that within this period the employee does not perform an hour of service for the employer maintaining the plan.
1.410(a)-7(d)(4) & 411(a)(5)(B)

Line k. An individual shall not incur the first 12-month period of severance that would otherwise be counted if said period is attributable to maternity or paternity leave. Such 12 month period is neither counted as a year of service nor as a period of severance. Maternity or paternity leave is a period an individual is absent from work by reason of (1) pregnancy of the individual, (2) birth of the child of the individual, (3) placement of a child with the individual for adoption or (4) caring for a child described in (2) or (3).

Credit for maternity or paternity leave is required only if such leave is on account of the reasons described above. Thus, if an individual quits employment with employer A and two years later adopts a child, no credit under this provision could be given if the individual eventually returns to work for employer A because such individual’s absence from employer A’s workplace is on account of quitting and not on account of the adoption of or the caring for the child immediately following the adoption.

If an individual works until July 1, 1986, is first absent from employment on July 1,1986, on account of maternity or paternity leave, and on July 1, 1989 performs an hour of service, the period of service must include the period from the employment commencement date until June 30, 1987 (one year after the date of separation for a reason other than employee quit, retirement, discharge or death). The period from July 1, 1987 to June 30, 1988 is neither a period of service nor a period of severance. The period of severance would be from July 1, 1988 to June 30, 1989.411(a)(6)(E)(iii) 1.410(a)-9

Line l. In general, for vesting purposes, count all years of service with the employer who maintains the plan. However, there are several exceptions to the general rule. Years of service before an employee reaches age 18 may be excluded. If a plan uses a vesting computation period, count the vesting computation period in which an employee becomes 18 as a year of service. If a plan uses elapsed time, count the period after the employee becomes 18 when figuring the employee’s period of service. Years of service excluded for years prior to age 22 under the law before the Retirement Equity Act may not subsequent to the effective date of the Retirement Equity Act be excluded unless 1) such service is before age 18, or 2) such service would be excluded under the Rule of Parity prior to the Retirement Equity Act. This change only applies to those with an hour of service after REA’s enactment.

Except for top-heavy years, a contributory plan that uses a vesting computation period may exclude a year of service in which an employee made no mandatory contributions, if the absence of the contribution was the only reason the employee was ineligible to participate in the plan. A year of service in which a partial mandatory contribution was made may not be excluded, regardless of the effect on participation. If a plan uses elapsed time, exclude only the period in which the mandatory contribution was not made. You may disregard years of service before the employer maintained the plan or a predecessor plan as well as years of service not required to be taken into account because of a break in service. (For a definition of a predecessor plan see Regs. section 1.411(a)- 5(b)(3)(v)(B).) You may also disregard the years of service completed before January 1, 1971, unless the employee completed 3 years of service (whether or not consecutive)

any time after December 31, 1970. (In determining whether an employee completed 3 years of service under this rule, do not apply the other exceptions described in this paragraph.) Finally, you may disregard plan years completed before section 411 applied to the plan, if the service would have been disregarded under any terms of the plan which at that time served as break-in-service rules.
411(a)(4)
1.411(a)-5(a) & (b)

Line m. For vesting purposes, count all years of service with the employer, including the years spent as a nonparticipant and those when the employee was in a category of employees excluded from the plan, unless one of the exceptions noted in section 411 (a)(4) applies (see l. above).

Years of service excluded for years prior to age 22 under the law before the Retirement Equity Act may not subsequent to the effective date of REA be excluded unless 1) such service is for years prior to age 18, or 2) such service would be excluded under the Rule of Parity prior to REA. This change only applies to those with an hour of service after REA's enactment.
411(a)(4)

Line n. For vesting purposes, years of service with an employer must include credit for service with other related employers (while related) that are members of a controlled group of corporations, (see section 1563(a) without regard to subsection (a)(4) and (e)(3)(C)), and trades or businesses under common control and affiliated service groups, (see sections 414(b), (c) and (m)).
414(b), (c) and (m)
1.411(a)-5(b)(3)(iv)(B)

Line o. If the employer maintains the plan of a predecessor employer, service with the predecessor is counted as service with the employer if the employer is not maintaining the plan of a predecessor employer, check N/A.
414(a)(1)

Line p. Services of any employee who is a leased employee to any employer aggregated under section 414(b), (c), or (m) must be credited for vesting purposes whether or not such individual is eligible to participate in the plan. Thus, for example, if an individual was an employee of X, participates in plan Y and separates from service with X subsequent to accruing a benefit in plan Y but prior to obtaining vesting in plan Y, begins working immediately with leasing company Z and through company Z is leased back to X, and is now excluded from plan Y, such service as a leased employee to X must be counted in plan Y for purposes of determining vesting, breaks in service, etc., of such individual's prior accrued benefit.
414(n)(4)
Notice 84-11

II. Vesting on Separation From Service — Return to Service Without a Break in Service

A distinction should be made between a separation from service and a break in service. A participant may separate from service without affecting his or her position on the vesting schedule, if the participant returns to service with the employer before incurring 5 consecutive breaks in service.

For example: A plan has a vesting computation period that coincides with the calendar year. An employee separates from service after January 1, after completing 300 hours of service. The employee later returns to covered employment and completes more than 200 hours of service before December 31 of the same year.

Of course, an employee would have a break in service without a separation from service in any vesting computation period in which the employee completes 500 or less hours of service while remaining employed by the employer.

Line a. In a given vesting computation period, it is possible that a participant will avoid a break in service but will not complete sufficient hours of service to be credited with a year of service. In this case the participant will remain in the same position on the vesting schedule (without advancement).
1.411(a)-6

III. Vesting on Return to Service After a Break in Service

Line a. A plan must require that if a participant with any nonforfeitable interest returns to employment after a 1-year break in service, the service completed before the break must be considered in determining the participant's vested interest in both pre-break and post-break benefit accruals after he or she has completed no more than 1 year of service. Figure service from the date of return to employment. After the waiting period is satisfied, count it for vesting in the accruals. However, in certain insured plans, service completed after 5 consecutive breaks in service need not be considered in determining vesting in pre-break employer-derived benefit accruals.
411(a)(6)(B), (C) and (D), 411(b)(1)(F) & 1.411(a)-6(c)(1)

Line b. Under the "Rule of Parity" in a plan that uses a vesting computation period, if a participant who has no nonforfeitable interest in employer-derived accrued benefits has a break in service, the plan is not required to consider pre-break service in determining the participant's vested interest in employer-derived benefit accruals if the number of consecutive 1-year breaks in service equals or is more than the greater of 5 or the number of years of pre-break service (whether or not consecutive). The aggregate years of service completed before the break does not include service that need not be counted because of earlier breaks.

For a plan that uses elapsed time, if the participant has a year of severance, the plan is not required to consider prior periods of service in determining the participant's vested interest in employer-derived benefit accruals if the latest period of severance equals or is more than the greater of 5 years or the prior periods of service.
411(a)(6)(D)
1.411(a)-6(c)(1)(iii)
1.410(a)-7(d)(7)

IV. Contributory Plans

Line a. A plan cannot provide that an employee may forfeit any part of his or her accrued benefit that resulted from employer contributions because of the withdrawal of the employee's own contributions after the employee is at least 50 percent vested in his or her accrued benefit that is the result of employer contributions.
401(a)(19)
411(a)(3)(D)
1.401(a)-19

Line b. If forfeitures cannot occur because of a withdrawal of mandatory employee contributions, check N/A.
Except for top-heavy years, a plan may permit a participant to forfeit all or part of the participant's accrued benefit that resulted from employer contributions because of withdrawal of any mandatory employee contributions if the participant is less than 50 percent vested in the accrued benefit. However, if the forfeiture is permitted, the forfeited amounts must be restored when the participant repays the amount of mandatory employee contributions withdrawn. The repayment may include interest on the withdrawn amount. Figure this interest, compounded annually from the date of withdrawal, at the rate specified in Code section 411 (c)(2)(C).

When a participant has a right to part of the employer's benefit from contributions made before September 2, 1974, the right is not treated as forfeitable even though part of the benefit may be forfeited by the participant's withdrawal of an amount that resulted from the benefit. However, the benefit must have been the result of mandatory contributions by the participant before September 2, 1974, and the amount that could have been forfeited must not be more than the amount withdrawn. This rule does not apply to plans with mandatory contributions made after September 2, 1974.

The plan may require repayment no earlier than (i) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently reemployed, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (ii) in the case of any other withdrawal, 5 years after the date of the withdrawal.
411(a)(3)(D)(iii)
411(a)(4)(B)
1.411(a)-7(d)(2)

V. Cash-Outs and Immediate Distributions

Line a. A cash-out is a distribution of all or some portion of the participant's nonforfeitable accrued benefit accompanied by a forfeiture of the nonvested benefit and a disregard of service to which the distributed amount was attributable. If the plan does not contain cash-out provisions, complete only this line. Note that the plan may not forfeit the nonforfeitable benefit unless there has been a distribution or the break in service rules otherwise permit the forfeiture. Thus, a plan may not forfeit the participant's nonforfeitable benefit upon separation from service (without a distribution) even though the plan provides for restoration of the forfeited benefit upon the participant's return to service.
411(a)(7)(B) & (C)

Line b. An involuntary cash-out distribution must be an amount not less than the participant's entire nonforfeitable accrued benefit, including employee-derived benefits other than deductible employee contributions. The amount may not exceed $5,000. The participant's consent will be required if the present value of the nonforfeitable benefit is greater than $5.000 and the benefit is immediately distributable. A benefit is immediately distributable if any part of the benefit may be distributed before the later of normal retirement age or age 62. If a participant has attained NRA, but has not yet attained age 62 (or vice versa), the participant's failure to consent to a distribution is deemed to be an election to defer commencement of payment sufficient to satisfy section 401(a)(14). For plans subject to section 417, spousal consent is also required unless the present value of the nonforfeitable benefit does not exceed $5,000, or the distribution is in the form of a qualified joint and survivor annuity. Also, in a plan subject to section 417, participant and spousal consent to an immediate distribution will be required where such distribution is after the "annuity starting date" (defined in section 417(f)(2)), even if the nonforfeitable accrued benefit does not exceed $5,000. See requirements for direct rollover of a mandatory distribution of more than $1,000 to an individual retirement plan when the participant does not make an affirmative election to have that amount paid in a direct rollover to an eligible retirement plan or to receive the distribution directly.
Explanation No. 4 401(a)(31)(B), Notice 2005-5, Notice 2005-95

Line c. All cash-outs (voluntary or involuntary) must be made due to an employee's termination of participation in the plan; the distribution is considered the result of the termination if it is made no later than the close of the second plan year after the plan year of termination, unless it can be shown under a facts and circumstance test that a later distribution is also on account of termination.
411(a)(7)(B)
1.411(a)-7(d)(4)(i) & (ii)

Line d. A plan that provides for voluntary or involuntary cash-outs must contain a repayment provision. However, repayment need not be permitted by the plan unless the employee received a distribution that is less than the present value of the employee's accrued benefit and the employee resumes employment. If any part of the employee's accrued benefit at the time of distribution is forfeitable, it is a distribution of less than the present value of the accrued benefit. The plan may require that interest on the full amount of the distribution must also be paid.

The plan may provide that repayment must be made (i) in the case of a withdrawal on account of separation from service, before the earlier of 5 years after the first date on which the participant is subsequently reemployed, or the close of the first period of 5 consecutive 1-year breaks in service commencing after the withdrawal; or (ii) in the case of any other withdrawal, 5 years after the withdrawal. A participant who is cashed-out and who, upon subsequent reemployment, repays the full amount must be reinstated in the full array of section 411 (d)(6) protected benefits that existed with respect to his or her benefit prior to the cash-out. (See VII.c., below.)
1.411(d)-4 Q&A 2(a)(2)(iii)

Line e. For an involuntary cash-out, the only service of an employee that may be disregarded in figuring an employee's accrued benefit is that service for which a payment was received. For a voluntary cash-out, an employee may receive less than the total nonforfeitable accrued benefit. Then, to get the accrued benefit not required to be taken into account at any time, multiply the employee's total accrued benefit at that time (figured as though there was no distribution) by a fraction. The numerator is the amount of the distribution, and the denominator is the present value of the employee's total nonforfeitable benefit immediately before the distribution. Service disregarded under this section may not be disregarded when determining employees' eligibility to participate or their position on the plan's vesting schedule.
411(a)(7)(B)
1.411(a)- 7(d)(4)(iii)

Line f. PPA' 06 provides special rules regarding distributions made to a participant in a statutory hybrid plan.
A statutory hybrid plan is a defined benefit plan that contains a statutory hybrid benefit formula. A statutory hybrid benefit formula is either a lump sum-based benefit formula or a formula that is not a lump sum-based benefit formula but that has an effect similar to a lump sum-based benefit formula.

A lump sum-based formula is a formula under which the accumulated benefit is expressed as the current balance of a hypothetical account maintained for the participant (cash balance formula) or as the current value of an accumulated percentage of the participant's average compensation (PEP formula). Whether a benefit formula is a lump sum-based benefit formula is determined based on how the accumulated benefit of a participant is expressed under the terms of the plan, and does not depend on whether the plan provides an optional form of benefit in the form of a single-sum payment.

A participant's accumulated benefit at any date means the participant's benefit, as expressed under the terms of the plan, accrued to that date. For this purpose, if a participant's benefit is expressed under the terms of the plan as the current balance of a hypothetical account or the current value of an accumulated percentage of the participant's average compensation, the participant's accumulated benefit is expressed in that manner regardless of how the plan defines the participant's accrued benefit.

Under the 2010 proposed regulations, a cash balance formula or PEP formula would have had to provide that the portion of the participant's accrued benefit that is determined under that formula must be actuarially equivalent (using reasonable actuarial assumptions) to the cash balance account or PEP accumulation upon attainment of normal retirement age in order to apply the relief of section 411(a)(13)(A).

The provisions of the proposed regulations may be applied for plan years beginning prior to January 1, 2017. The plan may also apply another reasonable interpretation of the Code for plan years prior to January 1, 2017.

A statutory hybrid formula also includes a type of formula that is not lump sum-based but has an effect similar to a lump sum-based formula. A benefit formula that is not a lump sum-based formula has an effect similar to a lump sum-based benefit formula if the formula provides that a participant's accumulated benefit is expressed as a benefit that includes the right to adjustments for a future period (including a pattern of repeated plan amendments) and the total dollar amount of adjustments is reasonably expected to be smaller for a participant than for a similarly situated, younger individual. For this purpose, an individual is similarly situated to another individual if the individual is identical to that other individual in every respect that is relevant in determining a participant's benefit under the plan, except for age. Answer "No" to this question if the formula is not a lump sum-based formula even if it has an effect similar to a lump sum-based formula. Note that this type of formula is not eligible for the relief of section 411(a)(13)(A). For a plan that has reflected the 2014 regulations, this type of formula is also not eligible for the safe-harbor design relief under section 411(b)(5)(A (discussed in section VIII). The plan is not required to reflect these provisions because they are not on the 2015 cumulative list, however; it is acceptable if these provisions are included.

Employee contributions, if any, are disregarded when determining whether the formula is a lump sum-based benefit formula. Employee contributions, post-retirement benefit adjustments and actuarial reductions for early commencement under a traditional defined benefit formula are disregarded when determining if the benefit formula has an effect similar to a lump sum-based benefit formula.

An example of a benefit formula that has an effect similar to a lump sum-based benefit formula is a variable annuity formula, which is a benefit formula under a defined benefit plan that provides that the amount payable is periodically adjusted by reference to the difference between a rate of return and a specified assumed interest rate. However, if the specified assumed interest rate is at least five percent, then the formula is not treated as having an effect similar to a lump sum-based benefit formula. (See below for an additional rule effective for plan years beginning on or after January 1, 2017, and please refer to sections 1.411(a)(13)-1 and 1.411(b)(5)-1 for special rules for variable annuity plans.)

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

The following provisions are applicable for plan years that begin on or after January 1, 2017, to determine if a benefit formula is a statutory hybrid benefit formula:

(1) A benefit formula does not constitute a lump sum-based benefit formula unless a distribution of the benefits under that formula in the form of a single-sum payment equals the accumulated benefit under that formula (except to the extent the single-sum payment is greater to satisfy the requirements of section 411(d)(6));

(2) A benefit formula does not constitute a lump sum-based benefit formula unless the portion of the participant's accrued benefit that is determined under that formula and the then-current balance of the hypothetical account or the then-current value of the accumulated percentage of the participant's average compensation are actuarially equivalent (determined using reasonable actuarial assumptions) either upon attainment of normal retirement age or at the annuity starting date for a distribution with respect to that portion.

(3) With respect to a formula that has an effect similar to a lump sum-based benefit formula, the right to adjustments for a future period means the right to any changes in the dollar amount of benefits over time, regardless of whether those adjustments are denominated as interest credits.

(4) With respect to a variable annuity formula, the rate of return on plan assets (or specified market index) by reference to which the benefit formula adjusts must be a rate of return described in section 1.411(b)(5)-1(d)(5) (which includes, in the case of a benefit formula determined with reference to an annuity contract for an employee issued by an insurance company licensed under the laws of a State, the rate of return on the market index specified under that contract).

(5) For a plan that provides a benefit based on an accumulated percentage of the participant's average compensation and does not credit interest after the participant ceases to earn accruals, if the plan defines the accumulated benefit as a single-sum payment at normal retirement age (for a participant who is currently younger than normal retirement age), then this plan is not a statutory hybrid plan. But if it defines the accumulated benefit as a current value, then this is a statutory hybrid plan.
411(a)(13)(C)
1.411(a)(13) – 1(d)
1.411(b)(5)-1(b)(5)
1.411(a)(13)-1(b)(2)

Line g. The requirement that a plan must either provide an actuarial increase after normal retirement age or satisfy the requirement for suspension of benefits under section 411(a)(3)(B) applies to lump sum-based formulas. Accordingly, with respect to a participant who continues in employment after attainment of the plan's normal retirement age, a plan with a lump sum-based benefit formula violates the requirements of section 411(a) if the balance of the hypothetical account or the value of the accumulated percentage of the participant's average compensation is not increased sufficiently to satisfy the requirements of section 411(a)(2) for distributions commencing after normal retirement age, unless the plan suspends benefits in accordance with section 411(a)(3)(B). This provision is intended to prevent the situation in which interest credits and additional principal credits are not sufficient to provide any actuarial increase required due to delayed retirement, using reasonable actuarial assumptions.
1.411(a)(13)-1(b)(2)(i)

Line h. The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

The plan must provide that the balance of the hypothetical account or the accumulated percentage of the participant's average compensation may not be reduced except as a result of:

(1) Benefit payments;

(2) Qualified domestic relations orders under section 414(p);

(3) Forfeitures that are permitted under section 411(a) (such as charges for providing a qualified preretirement survivor annuity);

(4) Amendments that would reduce the accrued benefit but that are permitted under section 411(d)(6);

(5) Adjustments resulting in a decrease in the balance of the hypothetical account due to the application of interest credits that are negative for an interest crediting period; and

(6) In the case of a formula that expresses the accumulated benefit as an accumulated percentage of the participant's average compensation, adjustments resulting in a decrease in the dollar amount of the accumulated percentage of the participant's average

compensation--

(A) Due to a decrease in the dollar amount of the participant's average compensation; or

(B) Due to an increase in the integration level, under a formula that is integrated with Social Security (for example, as a result of an increase in the Social Security taxable wage base or in Social Security covered compensation).
For example, the plan cannot provide that a participant's hypothetical account balance in a cash balance plan is reduced for plan expenses.
1.411(a)(13)-1(b)(2)(ii)

Line i. The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

If the plan provides optional forms of payments other than a single-sum distribution, then the relief of section 411(a)(13)(A) is only applicable for that optional form if the amount of the benefit payable in that form is equal to or greater than the actuarial equivalent (using reasonable actuarial assumptions) of the then-current balance of the hypothetical account maintained for the participant or the then-current value of the accumulated percentage of the participant's average compensation.

If the amount payable under an optional form of benefit is not at least the actuarial equivalent, using reasonable actuarial assumptions, of the then-current balance of a hypothetical account maintained for the participant or the then-current value of an accumulated percentage of the participant's average compensation, then the relief under section 411(a)(13)(A) does not apply in determining whether the optional form of benefit is the actuarial equivalent of the portion of the accrued benefit determined under the lump sum-based benefit formula. As a result, payment of that optional form of benefit must satisfy the rules generally applicable to payment of the accrued benefit under a defined benefit plan (without regard to the special rules of section 411(a)(13)(A)), including the requirements of section 411(a)(2) and, for optional forms subject to the minimum present value requirements of section 417(e)(3), those minimum present value requirements.
1.411(a)(13)-1(b)(3)

Line j. The relief of section 411(a)(13)(A) generally applies only to the portion of the participant's benefit that is determined under a lump sum-based benefit formula and does not apply to any portion of the participant's benefit that is determined under a formula that is not a lump sum-based benefit formula. That is, if the participant's accrued benefit equals either the "greater of," the "sum of," or the "lesser of" the accrued benefit under a lump sum-based benefit formula and the accrued benefit under another formula that is not a lump sum-based formula, a single-sum payment of the participant's entire benefit must reflect the present value of the benefit that is not a lump sum-based benefit (determined in accordance with section 417(e)(3)) when making the comparison.

For a plan that has reflected the 2014 final regulations, a single-sum payment of the participant's entire benefit must be no less than the "greater of," the "sum of," or the "lesser" of the then-current accumulated benefit under the lump sum-based benefit formula and the present value, determined in accordance with section 417(e), of the benefit under the formula that is not a lump sum-based formula. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list, however; it is acceptable if these provisions are included.
1.411(a)(13)-1(b)(4)(ii)

Line k. The plan must specify the interest rates used to determine the present value of accrued benefits and the amount of any distribution, including lump sum distributions which cash-out the participant's benefit, except to the extent permitted for benefits determined under a lump sum based formula, This interest rate may not exceed the limits under section 417 as amended by section 302 of PPA '06 and by section 103 of the Worker, Retiree, and Employer Recovery Act of 2008. This interest rate applies in determining the present value of benefits for purposes of the $5,000 test, as well as in determining the actual amount of any distribution, other than certain annuity distributions described in line l., below.
401(a)(25), 417(e)(3)

Line l. The plan must specify the interest rate and the mortality table to be used in determining the present value of accrued benefits and the amount of any distribution, including lump sum distributions that cash-out the participant's benefit. Except to the extent permitted for benefits determined under a lump sum based formula, the present value is not permitted to be less than the present value calculated by using the "applicable interest rate" and the "applicable mortality rate."

For plan years beginning prior to January 1, 2008, the term "applicable interest rate" is defined as the annual rate of interest on 30-year Treasury securities for the month before the date of distribution.

For plan years beginning on or after January 1, 2008, the applicable interest rate is generally determined using the adjusted first, second, and third segment rates determined without regard to a 24 month average (referred to as the monthly spot segment rate) for the plan's designated lookback month, applied under rules similar to the rules of section 430(h)(2)(C).

However, for plan years beginning in 2008, 2009, 2010 and 2011, section 417(e)(3)(D)(i) provides a transition rule that phases in the use of the segment rates over a the five year period. For the transition period the applicable interest rate is a blend of the segment interest rate and the 30-year Treasury Rate (determined as of the plan's designated lookback month), where the blend is based on the percentages in the table below for the stated year in which begins the plan year that includes the month of distribution:

Plan Year Beginning in	Segment Rate %	30-Year Treasury Rate %
2008	20%	80%
2009	40%	60%
2010	60%	40%
2011	80%	20%

For plan years beginning after the transition period (i.e. 2012 and later), the applicable interest rate is the adjusted first, second, and third segment rates (the monthly spot segment rates) determined without regard to blending with the 30-year Treasury rate.

The applicable mortality table for 2008 is set forth in Rev. Rul. 2007-67, 2007-2 C.B. 1047. The applicable mortality table for 2009 through 2013 is set forth in Notice 2008-85, 2008-2 C.B. 905. The applicable mortality table for 2014 and 2015 are set forth in Notice 2013-49; 2013-2 C.B. 127. The applicable mortality table for 2016 is set forth in Notice 2015-53; 2015-33 C.B. 190.

If a plan uses an interest rate or a mortality table other than the applicable interest rate and the applicable mortality table, then, for purposes of determining the amount of a distribution in a form other than an annual benefit that is described in the next sentence, actuarial equivalence must be determined on the basis of the applicable mortality table and applicable interest rate under section 417(e), if it produces a greater benefit. An annual benefit is described in this sentence if it is an annual benefit that (i) is nondecreasing for the life of the participant or, in the case of a qualified preretirement survivor annuity, the life of the participant's spouse; or (ii) decreases during the life of the participant merely because of (a) the death of the survivor annuitant (but only if the reduction is to a level not below 50% of the annual benefit payable before the death of the survivor annuitant) or (b) the cessation or reduction of Social Security supplements or qualified disability payments.
1.417(e)-1(d)

Line m. A plan must specify the period for which the applicable interest rate remains constant. This stability period may be one calendar month, one plan quarter, one calendar quarter, one plan year, or one calendar year. The applicable interest rate for the stability period may be determined as the applicable interest rate for any one of the five calendar months preceding the first day of the stability period. The applicable interest rate to be used for a distribution is the rate determined for the applicable look-back month. The applicable look-back month for a distribution is the look-back month for the month (or longer stability period) that contains the annuity starting date for the distribution. Alternatively, a plan may provide that, instead of the interest rate for a single look-back month, it will use an average of applicable interest rates based on two or more consecutive permitted look-back months, provided the plan specifies how the average is computed.
1.417(e)-1(d)(4)

Line n. If the plan specifies interest rates or mortality tables for calculating equivalent amounts of optional forms of benefit in addition to the section 417(e)(3) rates, it must provide that a participant's benefit must be at least as great as the benefit produced by using the applicable interest rate and the applicable mortality table. This may mean applying the section 417 applicable interest rate and applicable mortality table to certain options for certain participants and applying another plan rate or table to those options for other participants.
1.417(e)-1(d)(5)
Notice 2007-67

Line o. The plan cannot immediately distribute any benefits where the present value of the vested accrued benefit (taking into consideration benefits derived from both employer and employee contributions, other than rollover contributions) exceeds $5,000 without the consent of the participant. The test applies both for determining if cash-outs require consent and for the distribution amount. In checking cash-out provisions one must also be aware of the requirements of section 417(e) for plans subject to the joint and survivor provisions. Worksheet No. 3, dealing with qualified joint and survivor and qualified preretirement survivor annuities, details the requirements under section 417(e). Among other things, please note that spousal consent is required, and a special rule applies for cash-outs after the annuity starts.
411(a)(11)
417(e)

Line p. Section 411(a)(8) provides that the term "normal retirement age" means the earlier of (A) the time a plan participant attains normal retirement age under the plan or (B) the later of age 65 or the fifth anniversary of the time a plan participant commenced participation in the plan. A plan's normal retirement age is relevant for a number of purposes, including determining the date at which a participant is eligible to receive his or her normal retirement benefit and calculating the amount of the benefit received.

Pursuant to section 1.401(a)-1(b)(2), which was finalized on May 22, 2007, plans may permit in-service distributions upon attainment of normal retirement age. Under the regulation, a plan cannot have a normal retirement age that is less than an age reasonably representative of the typical retirement age for the industry in which the covered workforce is employed. A normal retirement age of 62 or greater is deemed reasonably representative of the typical retirement age for the industry; below age 62, the sponsor must demonstrate the normal retirement age is reasonably representative of the typical retirement age for the industry (substitute "age 50" for "age 62" in the case of a plan where substantially all of the participants are qualified public safety employees (within the meaning of section 72(t)(10)(B)). If the plan's normal retirement age is at or above age 55, the IRS will give deference to a good faith determination made by the employer (or, in the case of a multiemployer plan, made by the trustees) that the normal retirement age is reasonable under the industry standard described above assuming that the determination is reasonable under the facts and circumstances which includes documentation supporting the retirement age for the industry. If the plan's normal retirement age is below age 55, it is presumed to be earlier than the earliest age that is reasonable under the industry standard described above unless the Commissioner determines otherwise under the facts and circumstances.

Notice 2007-69, 2007-2 C.B. 468, provided a transition rule as follows: for the first plan year beginning after June 30, 2008, plans that, immediately prior to May 22 2007, had normal retirement ages that were below age 62 (but would not permit any participant hired at age 18 or older to attain NRA before age 40) would not be disqualified, provided the plan sponsor adopts a good faith interim amendment to comply with the regulation or reasonably and in good faith determines that no such amendment is necessary, although a demonstration may still be necessary. This relief is not applicable to plans that are not required to be amended to raise the plan's normal retirement age effective before the first day of the first plan year beginning on or after July 1, 2008 – that is, governmental plans and some collectively bargained plans.

Notice 2007-69 also provided that if a plan's normal retirement age, as in effect under the plan immediately prior to May 22, 2007, was below age 55 (but would not permit any participant hired at age 18 or older to attain NRA before age 40), the plan sponsor's good faith determination of the typical retirement age for the industry will be given deference until the date the Service rules on the plan's NRA, provided the sponsor's determination was reasonable under the facts and circumstances and the sponsor requests a private letter ruling on the plan's NRA by June 30, 2008. If, during the ruling process, it is determined that the plan's NRA does not reasonably represent the typical retirement age for the industry, the plan's NRA will be required to be raised only prospectively from the date of issuance of the private letter ruling. If the plan sponsor chooses not to request a private letter ruling, the plan will still be eligible for the relief described in the preceding paragraph, assuming the plan's NRA, as in effect under the plan on May 22, 2007, would not permit any participant hired at age 18 or older to attain NRA before age 40.

'Applicable plans' within the meaning of Code section 411(f), as added by Division P of the Consolidated and Further Continuing Appropriations Act of 2015, can provide for a retirement age which would not otherwise meet minimum age requirements supplied by other provisions of ERISA and the Code and regulations thereunder. For purposes of this subsection, an applicable plan is a defined benefit plan the terms of which, on or before December 8, 2014, provided for a normal retirement age which is the earlier of (i) an age otherwise permitted under ERISA section 3(24), or (ii) the age at which a participant completes the number of years (not less than 30 years) of benefit accrual service specified by the plan.

A plan shall not fail to be treated as an applicable plan solely because the normal retirement age described in the preceding sentence only applied to certain participants or only applied to employees of certain employers. A defined benefit plan shall be an applicable plan only with respect to an individual who -(i) is a participant in the plan on or before January 1, 2017, or (ii) is an employee at any time on or before January 1, 2017, of any employer maintaining the plan, and who becomes a participant in such plan after such date.

Plan amendments that are adopted to raise the plan's normal retirement age in compliance with section 1.401(a)-1(b)(2) above are interim amendments under Rev. Proc. 2007-44, 2007-2 C.B. 54. Accordingly, the remedial amendment period with respect to section 1.401(a)-1(b)(2) and (3) is extended to the end of a plan's applicable 5-year or 6-year remedial amendment cycle (described in section 6.01 of Rev. Proc. 2007-44) that includes the date on which the remedial amendment period would otherwise end, if, by that date, the plan sponsor either adopts a good faith interim amendment to comply with section 1.401(a)-1(b)(2) and (3) or reasonably and in good faith determines that no amendment is required. Such an amendment is excepted from the anti-cutback rules of section 411(d)(6) to the extent that it eliminates a participant's right to an in-service distribution at the earlier age. In order to comply with section 411(a) and section 411(d)(6), however, a plan subject to section 411 for which the normal retirement age has been raised to comply with the new regulations must ensure that a participant who became or would have become eligible for payment of benefits at the normal retirement age under the prior plan terms, and who has severed from employment with the employer or employers maintaining the plan, continues to be eligible for payment at the same age and in at least the same amount as under the prior plan terms with respect to benefits accrued prior to the applicable amendment date (within the meaning of section 1.411(d)-3(g)(4)).

The NRA regulations were originally effective for governmental plans for plan years beginning on or after January 1, 2009, but in Notice 2009-86 the Service and Treasury announced their intention to amend the NRA regulations to change the effective date for governmental plans to plan years beginning on or after January 1, 2013. Notice 2009-86 also provides that governmental plan sponsors may rely on the notice with respect to this extension until the NRA regulations are amended. In Notice 2012-29, the Service and Treasury again announced their intention to amend the 2007 NRA regulations to change the effective date for governmental plans to annuity starting dates that occur in plan years beginning on or after the later of (1) January 1, 2015 or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is 3 months after the final regulations are published in the Federal Register. Governmental plan sponsors may rely on this notice with respect to the extension until such time as the 2007 NRA regulations are so amended.

411(a)(8)
411(d)(6)
411(f)
1.401(a)-1(b)(2)
1.411(d)-4, Q&A-12
Notice 2007-69, 2007-2 C.B. 468.

Notice 2012-29; 2012-1 C.B. 872;

Line q. A plan may permit "in-service" distributions to a participant who has attained age 62 (or normal retirement age, if earlier) and has not separated from employment at the time of the distribution, in accordance with section 401(a)(36).
401(a)(36)

VI. Vesting Schedule

The plan's vesting schedule identifies the factor to be used when determining a participant's nonforfeitable interest in the accrued benefit derived from employer contributions.

Line a. If any portion of the participant's accrued benefit under a defined benefit plan is determined under a statutory hybrid benefit formula (including both lump sum-based formula and formula that is not a lump sum-based formula but has effect similar to a lump sum-based formula), the plan must provide that upon attainment of three years of vesting service a participant must be no less than 100 percent vested. This includes the situation where the participant's accrued benefit is determined as the larger of two (or more) benefit formulas and at least one of those formulas is a statutory hybrid benefit formula even if the larger benefit is ultimately determined under a formula that is not a statutory hybrid benefit formula. It is important to note that the plan does not necessarily have to use a 3-year cliff vesting schedule, as long as the plan provides that affected participants are 100% vested after no more than 3 years of service. For example, the plan may provide that a participant is 20% vested after 1 year of vesting service, 50% after two years of vesting service, and then 100% after three years of vesting service.

For a plan not in existence on June 29, 2005, section 411(a)(13)(B) applies to plan years that end on or after June 29, 2005.
For a plan in existence on June 29, 2005, section 411(a)(13)(B) applies to plan years that begin on or after January 1, 2008. However, the plan sponsor may elect to have the requirements of section 411(a)(13)(B) apply for any period on or after June 29, 2005, and before the first plan year beginning after December 31, 2007.
411(a)(13)(B)
1.411(a)(13)-1(c)
1.411(a)(13)-1(e)(1)(iii)
1.411(b)(5) – 1(f)(1)(iii)(A)(2)

Line b. In general, a defined benefit plan must provide vesting at a rate at least equal to one of the two vesting schedules described in section 411(a)(2)(A). Section 411(a)(2)(A)(ii) is satisfied if an employee is 100% vested in the employer-derived accrued benefit after no more than 5 years of service ("5-year cliff" vesting). Section 411 (a)(2)(A)(iii) is satisfied if an employee is 20% vested after 3 years of service and an additional 20% for each subsequent year of service with 100% vesting after 7 years of service ("3 to 7 year graded" vesting). (For years beginning before the applicable effective date in the Small Business Job Protection Act of 1996, a multiemployer plan could provide for 10-year cliff vesting for employees covered under a multiemployer collective bargaining agreement. A multiemployer plan may not retain 10-year cliff vesting with respect to participants who have more than one hour of service under the plan in a plan year beginning on or after the applicable effective date, but must satisfy one of the vesting schedules in section 411 (a)(2)(A) . The applicable effective date is the earlier of January 1, 1999, or the later of January 1, 1997, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates.) A plan's vesting schedule cannot merely satisfy the requirements of any one of the applicable permissible vesting schedules in section 411(a)(2)(A) in a given year without satisfying the requirements of that particular vesting schedule for all years. For example, a plan other than a multiemployer plan that provides no vesting for the first four years of service and then provides 60 percent vesting after 5 years of service with an additional 20 percent for each subsequent year to provide 100 percent vesting after 7 years of service would not satisfy the requirement. This schedule would satisfy a composite of the requirements of either "5-year" or "3-7 year" vesting for all years but would not meet the requirements of either one of these schedules for all years.

A plan may not continue to use the "4-40" vesting schedule because it does not provide vesting at a rate at least equal to one of the vesting schedules described in section 411(a)(2).
411(a)(2)
1.411(a)-3
Rev. Proc. 89-29

Line c. A new vesting schedule substituted by a plan amendment must satisfy one particular vesting schedule of the schedules listed in section 411(a)(2)(A) for each year of service, but this does not have to be the same schedule (of those listed in section 411(a)(2)(A)) as the plan satisfied before the amendment. Therefore, a plan that provides for 100 percent vesting only after 5 years of service may be amended to "3 to 7 year" vesting provided the requirements of section 411(a)(10) are met.
1.411(a)-3(a)(3)

VII. Accrued Benefits

Code section 411(b)(1) sets out three alternative minimum rates at which a participant's benefit must accrue under a defined benefit plan. The plan's benefit formula must satisfy any one of these standards at all times. In a particular year the plan must satisfy the test for all future years in a prospective manner. It is not permissible for a plan to satisfy one test in a given year and fail that test in a second year, even though it might satisfy another of the three tests in the second year. For example, a plan that accrues a benefit at a rate of 1.5 percent for the first 6 years of participation, 2 percent for the next 6 years, 14 percent in the 13th year and 2.6 percent in later years would satisfy the 1331/3 percent test for the first 12 years only while satisfying the fractional test in the 13th and later years but not before.

The plan’s vesting schedule is applied to the accrued benefit. A participant has a nonforfeitable right to a percentage (as determined by a plan’s vesting schedule) of the benefit that is accrued as of a given date and not, for example, a projected benefit such as that payable at normal retirement date.

A plan under which a participant’s normal retirement age changes to an earlier date upon completion of a stated number of years of service typically will not satisfy the vesting or accrual rules of section 411.

Line a. Insured Plans.

i. The rules pertaining to accrual of benefits are considered satisfied by a plan funded exclusively by the purchase of insurance contracts if certain requirements are met. The insurance contracts must satisfy the requirements of Code sections 412(e)(B) and (C). The plan must be funded entirely with individual insurance contracts that provide for level annual premiums beginning with participation. Also, premiums for benefits under the contracts must be paid no later than an individual’s normal retirement age. An employee’s accrued benefit as of any date must not be less than the cash surrender value of the employee’s insurance contracts as of that date, assuming that sections 412(e)(3)(D), (E) and (F) are satisfied. These sections concern when premium payments must be made, and the prohibition on security interests and policy loans under the contracts. If the plan is one described in this paragraph, complete only questions b.(i) and f. of the worksheet.
411(b)(1)(F)
1.411(b)-1(d)(2)

Line b. General

i. A plan may not qualify if it provides for a decrease in a participant’s (or beneficiary’s) benefit payments, or in a separated participant’s nonforfeitable right to benefits, because of an increase in social security benefits after September 2, 1974, or, if later, either the date of separation or the date of the first receipt of benefits, whichever comes first.
401(a)(15)

ii. It is not necessary that every plan specifically identify an accrual computation period. A benefit formula such as 1 percent of total compensation for a year of service would satisfy the accrual rules by incorporating the accrual computation period into the benefit formula. A plan using elapsed time need not use an accrual computation period. However, a plan may designate any 12-consecutive-month period as the accrual computation period. The actual time periods need not be the same for all participants (for example, a 12-month period measured from date of hire), except that the length of the periods designated must be the same for all participants.

A plan may specify any number of hours of service in a given accrual computation period to accrue a full year’s benefit. A participant who has less than the specified number of hours, will receive a prorated accrual, but a participant who has less than 1000, 870, or 750 hours of service in the period (depending on the basis the plan chooses) need not accrue any benefit in the period.

If the plan defines benefits in terms of hours or compensation and does not adjust the benefit for a less than full time employee to reflect the equivalent full time benefit, the plan may not then prorate the accrual rate. A plan may change accrual computation periods which may result in a gap between the new and the old periods. Credit for a partial year of participation must be given to a participant for the intervening time. See DOL Regulations section 2530.204-2(c), (d), and (e) for rules governing the application of these requirements.
DOL Regs. 2530.204-2(c), (d)

iii. In figuring service for benefit accrual, only the following may be disregarded:

(1) service before an employee first becomes a participant;

(2) service that may be disregarded because of breaks in service for purposes of eligibility under section 410(a)(5);

(3) for a plan that uses accrual computation periods, a computation period during which an employee is not credited with 1000 (870 or 750 if the plan properly provides) hours of service;

(4) service that may be disregarded under the vesting “rule of parity” in section 411 (a)(6)(D).
NOTE: A plan that does not use accrual computation periods (including a plan that uses elapsed time) cannot disregard the service in (3).

To apply the accrual rates to years before the effective date of ERISA, consider all service from an employee’s date of participation in the plan to determine the employee’s accrued benefit. When it is impossible to determine the date an employee began participation, the employee is presumed to have begun participation on the date he or she began employment covered by the plan. This presumption may be rebutted by the facts and circumstances of the particular case.
DOL Regs. 2530.204-1(b)
DOL Regs. 2530.204-2(b)
DOL Regs. 2530.204-3(a)

iv. If a plan does not use an accrual computation period or if a plan uses an accrual computation period and an employee can only begin

participation on the first day of an accrual computation period, check N/A for this question. If an employee can enter (or re-enter) on a different date, take into account all hours of service required to be credited during the entire accrual computation period to determine whether the employee has 1000 (870 or 750) in the period. If the employee has at least 1,000 hours, the employee must receive a partial year of participation which is at least a ratable part of a full year, but may be based only on the service credited after the date participation started or restarted.
DOL Reg. 2530.204-2(c)(3)

v. and vi. A plan may defer the accrual of benefits on behalf of a participant until the participant has completed 2 continuous years of service not separated by a break. However, determine the rate of benefits that begin to accrue after the 2-year delay as if the delay had not occurred. For this purpose, credit an employee with a year of service for eligibility computation periods in which the employee completed 1000, 870, or 750 hours or more of service.
411(b)(1)(E)
1.411(b)-1(d)(1)
DOL Regs. 2530.204-4

Line c. Normal Retirement Benefit

i. The accrued benefit under a cash balance formula is determined by projecting the hypothetical account to normal retirement age using the plan's interest crediting rate in effect as of the date of determination, and then converting the projected account to an annuity benefit. This same approach is used for PEP formulas that credit interest after accruals cease.
Notice 96-8

ii. The plan must provide a formula under which each participant's actual accrued benefit can be determined in each plan year. For example, a benefit payable at normal retirement age, which is defined as 30 percent of a participant's average compensation for the highest 3 consecutive years and which accrues at the rate of 2 percent for each year of the first 15 years of participation, meets this requirement. In addition, a plan that provides a specified benefit not related to years of service, such as $100 a month payable for life regardless of service, would also satisfy this requirement if the benefit accrues at a rate satisfying one of the formulas. A benefit formula that simply provides a normal retirement benefit of 30 percent of average compensation would not be sufficient because it does not state a rate of accrual before normal retirement. Similarly, a benefit formula of a "participant's share of the auxiliary fund" would be insufficient unless the plan contained specific assumptions elsewhere that would be used to determine each participant's "share of the auxiliary fund" for any particular year. Normally, the accrued benefit would fail one of the accrued benefit rules.
411(a)(7)(A)(i)
411(b)(1)

iii. The normal retirement benefit for purposes of accrual rules means the greater of the benefit beginning at normal retirement age or the benefit that would be payable to the participant commencing at any earlier age.

The normal retirement benefit under a plan is determined without regard to medical or disability benefits not more than the qualified disability benefit. For this purpose, a qualified disability benefit is not more than the amount of the benefit that would be payable to the participant if he or she separated from service at normal retirement age.

In addition, the "normal retirement benefit" does not include the value of any joint and survivor annuity to the extent that it is more than the value of what the participant would be entitled to receive under a single life annuity. If a joint and survivor and a life annuity were to provide equal payments to identical participants, the cost of the joint and survivor to the employer would have to be greater to finance the additional cost of the survivor annuity. To the extent that the employer pays the extra cost, the survivor annuity is said to be "subsidized" by the employer. The value of this subsidy is not included in the "normal retirement benefit."

Determine the early retirement benefit under a plan without regard to any qualified plan benefit provided for a participant which begins before benefits become payable to a participant under Title II of the Social Security Act. Qualified plan benefits are not more than social security benefits and terminate when the participant is eligible for social security benefits. They are designed to provide social security supplements for an eligible participant who retires before social security benefits begin. The supplements approximate all or a part of the retirement benefits that will be provided by social security. Social security supplemental payments cannot be more than the applicable social security benefit and must terminate when the social security benefits begin. A benefit, however, that is identified as a social security supplement but that is more than the social security benefit or continues beyond the point when social security begins could be a retirement benefit that must be considered when determining whether the accrual rules are met.

Ignore actuarial subsidies when determining whether the normal or early retirement benefit is greater. The following is an example of an actuarial subsidy:

Plan A provides for a benefit equal to 1 percent of high 5-year compensation for each year of service and a normal retirement age of 65. The plan also provides for a full benefit without any actuarial reduction for any employee at age 55 with 30 years of service. Although the actuarial value of the early retirement benefit could be more than the actuarial value of the benefit of the normal retirement age, the normal retirement benefit would not include the greater actuarial value of the early retirement benefit. Actuarial subsidies are ignored here.

When a plan is integrated with the social security benefits, the early retirement benefit may be adjusted for decreases under the plan formula caused by increases in social security benefits that occur on or after early retirement age.

In the case of a top-heavy plan the normal retirement benefit must reflect the minimum top-heavy benefit. Thus, the accrued benefit of a nonkey employee must be the greater of 1) the accrued benefit under the plan's accrual formula (determined under section 411(b) accrual rates adjusted to reflect top-heavy minimums) and 2) the top-heavy minimum accrued benefits.
411(a)(9)
1.411(a)-7(c)

Line d. Methods
Defined benefit plans are required to satisfy one of three accrued benefit rates that are designed to limit the "back-loading" permitted under the plan. Before ERISA, many plans provided for an accelerated rate of benefit accrual in the employee's later years. An employee might accrue a benefit equal to 1 percent of compensation for each year of service until age 55, and 2 percent a year after age 55. This technique is known as "backloading." Limits were put on back-loading; otherwise, a plan could provide the minimal accruals until an employee's last years of employment, at which point very large accruals could be provided.

In general, plans that meet the accrual rules are divided into two categories—plans that parallel the language of the statute and plans that otherwise satisfy the requirements though they do not contain specific statutory language.

The plan may state the method by which it is accruing benefits either by restating the language of the statue or by setting up its own method. In the first category all that needs to be ascertained is whether the statutory concepts are faithfully reproduced and properly applied. In the second category, the plan's accrual formula does not use statutory language and the plan's method of accrual must be evaluated to determine if it comes within the parameters of the statute.

If a plan was in existence before ERISA, or gives past service credit for years before ERISA, special rules apply. Evaluate the plan's method of accrual against the standards for pre-ERISA accruals set forth in section 411(b)(1)(D).

If a plan determines the accrued benefit under more than one plan formula, the accrued benefit under all such formulas must be aggregated to determine whether the plan satisfies one of the three accrual methods. However effective for plan years beginning on or after January 1, 2009, a plan that determines a participant's accrued benefit as the greatest of the benefits determined under two or more separate formulas is permitted to test under the 133-1/3 method for each formula separately if each of the separate formulas uses a different basis for determining benefits. For example, a plan is eligible for this special rule if it provides an accrued benefit equal to the greater of the benefits under two formulas, one of which determines accrued benefits on the basis of highest average compensation and the other of which determines accrued benefits on the basis of career average compensation. As another example, a defined benefit plan that bases benefits on highest average compensation and that is amended to add a statutory hybrid benefit formula that provides for pay credits to be made based on each year's compensation is eligible for this separate testing exception.
1.411(b)-1(a)(1)

If any portion of the participant's accrued benefit under the plan is determined under a statutory hybrid benefit formula, the rate of accrual must be determined on a "benefits" basis. Benefits accruing under a cash balance formula or PEP formula that credits interest after accruals cease are determined by projecting the hypothetical account to normal retirement age and then converting the projected account to an annuity benefit. For this purpose, the value of all relevant factors (such as interest crediting rate and the applicable interest rates and mortality table under section 417(e)(3)) used to determine benefits for the current plan year is kept constant in determining the annual rates of accrual for future years.
Rev. Rul. 2008-7.

i. 1331/3 Percent Test:
Under the 1331/3 percent rule, a plan amendment that increases the rate of accrual more than the otherwise permissible limits will be treated as having been in effect for all plan years. For purposes of this exception, the accrual rate for years before the amendment is considered to be the same rate as that made effective by the amendment. (See item B of this section for an example of this.)
The same rule applies when a plan is initially drafted to provide for periodic increases in the accrual rate that are more than the otherwise acceptable limit. The plan will satisfy the 1331/3 percent alternative if the increased accrual rate applies equally to any individual who is or could be a plan participant, for example, when all participants under the plan at any given time will be accruing benefits at the same rate. (See example in Item B of this section.)

A. The benefit payable at normal retirement age must equal the accrued benefit at that time. For example, a plan with a benefit of 1 percent a year for service but 50 percent of compensation at age 65 would not meet this requirement.

B. If a plan is to satisfy this alternative, the accrual rate for any plan year cannot be more than 1331/3 percent of the accrual rate for any prior plan year (on a non-cumulative basis); that is, each plan year can be tested against any single prior plan year whether or not consecutive, and the accrual rate for the year tested cannot be more than 1331/3 percent of the accrual rate for the prior plan year selected. In applying this test, the "normal retirement benefit" must be adjusted for ancillary benefits; and other factors, such as compensation, are considered to remain constant. See VII.c.iii. of these explanations.

The following example demonstrates this rule: A plan that provides an accrual rate of 1 percent of a participant's benefit for each of the first 5 years of participation, 11/3 percent for each of the next 5 years, and 17/9 percent for the remaining years, does not satisfy the 1331/3 percent test. Even though no single consecutive increase is more than a factor of 11/3 of the preceding accrual rate, the rate for years after each participant's 10th year of participation (17/9) is more than the rate for the first 5 years (1 percent) by more than the factor of 1 1/3. However, a plan which provides that for the first 5 years of its existence all participants would accrue benefits at the rate of 1 percent a year, and during the next 5 years at 11/3 percent, and 17/9 percent for the remaining years, would satisfy the 1331/3 percent test. It would also be satisfied if the increased rates of accrual were caused by plan amendments that would apply equally to all participants at the same time regardless of years of participation. Under the last two examples, all participants under the plan at any given time accrue benefits at the same rate. In the first example, the plan fails to satisfy the test because the rate of accrual increased to more than 133-1/3% of the rate of accrual for participants with fewer years of participation.

C. If a cash balance plan (or PEP that credits interest to the accumulated benefit after benefit accruals cease) relies on a specified interest rate to pass the 133 -1/3 percent test, the plan terms must preclude the interest crediting rate from falling below that rate. However, a variable interest crediting rate that was negative for the prior plan year would not be treated as failing to satisfy this requirement for the current plan year merely because the calculation is performed assuming that the variable rate is zero for the current plan year and all future plan years. However, the combination of the plan's interest crediting rate and any guaranteed minimum interest rate must be limited to a market rate of return as provided under IRC section 411(b)(5)(B)(i).
1.411(b)-1(b)(2)

ii. Three Percent Test:

In most cases a unit benefit plan would not meet this alternative. For example, a plan with an entry age of 21 and normal retirement age of 65 that pays a unit benefit of 1percent of compensation a year would not satisfy the 3 percent test. Under this plan a participant could achieve a benefit of 1 percent times 44 years of service or 44 percent total compensation by age 65. However, to satisfy the 3 percent test, this 44 percent benefit would have to accrue at a minimum rate of 3 percent of benefit a year or 1.32 percent compensation (3% x 44% comp.) a year Therefore, the requirement of the 3 percent test that the benefit accrues within 331/3 years cannot be satisfied in a plan that, by its terms, contemplates a longer accrual period.
1.4411(b)-1(b)(1)

A. The 3-percent rule cannot be applied to certain integrated plans. Under this rule, an employee must accrue full benefit after 331/3 years. Since participants generally could enter a plan at age 21, they must accrue full benefit by age 541/3. Under Rev. Rul. 71-446, 1971-2 C.B. 187, the flat benefit integration limit and the offset integration limit must be reduced if an employee may separate from service and receive a benefit before age 65. If the plan were fully integrated, the requirement of full accrual at 541/3 for an employee entering at 25 could cause the plan to fail to integrate properly.
Rev. Rul. 75-480, 1975-2 C.B. 131

B. To apply the 3 percent test to any plan that bases retirement benefit on compensation during any period, determine the normal retirement benefit on the basis of compensation earned during consecutive years of service, as specified in the plan, but not more than 10 years, during which compensation was the highest.
1.411(b)-1(b)(1)(ii)(A)

C. To determine the plan's normal retirement benefit for purposes of applying the 3 percent test, figure the benefit based on the earliest possible entry age for any individual who is or could be a participant under the plan. If the plan does not state a minimum entry age, assume an entry age of 0 for this purpose.
1.411(b)-1(b)(1)(i)

D. If the 3 percent test is being applied for a participant who will not accrue a normal retirement benefit by the plan's normal retirement age (due to insufficient years of service), consider years of participation after normal retirement age. 1.411(b)-1(b)(1)(i)

E. If the answers to B., C., and D. are "Yes," the plan may satisfy this alternative if, for each year of participation each participant accrues not less than 3 percent of benefit to which he or she would be entitled if he or she participated in the plan for 331/3 years and until age 65 (or any earlier retirement age under the plan). To apply the test, adjust the normal retirement benefit for ancillary benefits. Treat social security and other factors, such as compensation, as remaining constant for all future years. See VII.c.iii. of these explanations.

F. Under the 3 percent test, a participant's accrued benefit at any time must equal or be more than 3 percent of the normal retirement benefit multiplied by the years of participation (not more than 331/3). As previously noted, years of participation include years after the normal retirement age if the years are needed to accrue 100 percent of the participant's benefit. This can be expressed as follows:

Accrued benefit = 3% x Normal Retirement Benefit x Years of Participation

The following is a step by step approach to the use of this test:

(1) Figure the plan's normal retirement benefit, assuming the earliest possible entry age (if not specified by the plan, use 0).

(2) Figure theplan's greatest possible early retirement
benefit in the same manner.

(3) Adjust (1) and (2) for ancillary benefits, if necessary. (See VII.c.iii. of instructions.)

(4) Multiply the larger of (1) or (2), as adjusted by 3 percent. (5) The plan's accrued benefit must, in the aggregate, equal or be more than (4) times years of participation.

If the plan's accrued benefit is equal to or larger than (5) above, all other requirements are met, it passes this test. 1.411(b)-1(b)

iii. Fractional Rule:

A. If the fractional rule is being applied to a benefit based on average compensation, figure the rate of compensation on the basis set forth in the plan but in no case apply the test to a benefit based on compensation for a period of more than 10 years of service immediately before the date the benefit is determined.

B.and C. The fractional rule operates to prevent back-loading and ensures a proportional rate of benefit accrual. It compares the part of the final benefit payable to a participant at any time (for example, accrued benefit) to the normal retirement benefit. This is multiplied by a ratio of years of actual participation to years from entry to normal retirement age (NRA).

This relationship may be expressed as follows:

Accrued Benefit	Normal Retirement	x	Actual Years of Participation
		=	Total Years of Participation from Entry to NRA

If the plan accrues benefits at the same rate for all years, this part of the test is satisfied. If the left side of the formula is more, the plan is "front-loaded" with benefits accruing more rapidly in early years. This is acceptable and the test is satisfied.
When accrual rates vary between years, test the plan to be sure it meets this standard in "critical years," that is, the last year before an increase in the accrual rate. For example, a plan may provide a benefit of 2 percent compensation for the first 5 years of participation. 1 percent for the next 5, and 11/2 percent for the remaining years. The plan should be tested for compliance with the fractional rule in the last year when the accrual rate is lowest (year 10). This is the "critical year." In applying the test adjust the normal retirement benefit for ancillary benefits. Treat social security and other factors, such as compensation, as remaining constant for all future years. See VII.c.iii. of these explanations.

The following is an example of the mathematical application of this test using the facts in the example in the paragraph above:

Year of Participation	Percent of Compensation
1-5	2
5-10	1
10-NRA	1 1/2

Normal retirement age is 65.

Compensation is average over the last 10 years before the date that a benefit is determined.
Entry age is 25.

The "critical year" is 10. The benefit in year 10 for a participant who entered at age 25 is 15 percent of compensation. The maximum possible benefit is 60 percent of compensation. The participant has 10 years of participation out of a possible 40. The formula is as follows:

15% = 60% x 10÷40
15% = 15%

The fractional test is satisfied.

When an individual accrues a benefit in an accrual computation period that begins after an accrual computation period in which the participant was not credited with a full year of participation, the participant must accrue the fractional rule benefit which is attributable to the new continuous period of participation at least ratably over the new period. One method of doing this is to change the denominator of the fraction in the accrual computation period following the accrual computation period in which less than a full year is credited, to equal the numerator plus the years remaining to normal retirement age.
Rev. Rul. 81-10, 1981-1 C.B. 172
1.411(b)-1(c)

Line e. The top-heavy rules require that the accrued benefits of a top-heavy plan may not be less at any point in time than the minimum top-heavy benefit. Nothing in the top-heavy rules permits a plan to fail to satisfy the accrued benefit rules. Consider for example a plan that provides 1/2 of 1% per year of service that becomes top-heavy in year X after participant A has 6 years of service at age 55. The plan provides that the accrued benefit shall not be less than the top-heavy minimum.

The accrual under the plan would be as follows:

Formula Year	(1) Accrued Benefit Under Formula	(2) Min Top Heavy Accrual	(3) Greater of (1) & (2)	(4) Increases in Accrual
X	3%	0	3	–
X+1	3-1/2	2	3-1/2	1/2
X+2	4	4	4	1/2
X+3	4-1/2	6	6	2

This plan would fail to satisfy the $133^{1/3}$ % rule. It could also be shown to fail to satisfy the other accrued benefit rules.
There are many ways in which this problem could be resolved. First the plan could (but is not required to) credit 2% for each top-heavy year as additional accruals until the 20% maximum is reached. This would satisfy both the top-heavy minimum and the accrued benefit rules by providing more generous benefits. Second, the plan could provide an accelerated accrual less generous than the first alternative which would satisfy both the top-heavy minimum and the accrued benefit rules. This result may be achieved by providing future accruals not less than the greater of 1) the required top- heavy minimum or 2) a ratable accrual from the current accrued benefit to the projected benefit at normal retirement age where such projected benefit includes the top-heavy minimums. Other methods may also be acceptable.

Line f. Allocation of Accrued Benefit Between Employer and Employee Contributions.
A plan's vesting schedule determines a participant's nonforfeitable interest in his or her accrued benefit from employer contributions at a given time. To determine a participant's accrued benefit that resulted from employer contributions, it is necessary to distinguish that amount from any benefit that accrues from the employee's contributions (which are always fully vested). The regulations prescribe the methods to use to determine the benefit from the employee contribution. When a plan allows voluntary employee contributions, keep separate accounts for the funds.

i. The plan must keep separate accounts for voluntary employee contributions. The employee's accrued benefit from his or her voluntary contributions is simply the employee's account balance, adjusted for experience. If there are no voluntary employee contributions, check N/A.
411(b)(2), (c)(2) & (d)(5)
1.411(c)-1(a)

ii., iii. and iv. The accrued benefit that resulted from employer contributions on any date is the amount that is more than the total accrued benefit of the employee, less the accrued benefit from the employee's mandatory contributions.
A mandatory contribution is an amount contributed to the plan by an employee, and is required as a condition of employment, participation under the plan, or to obtain benefits (or additional benefits) under the plan resulting from employer contributions. This includes amounts used to provide ancillary benefits (such as death benefits) and that otherwise satisfy the above definition of mandatory.
The accrued benefit resulting from mandatory employee contributions as of any date is the amount equal to the employee's accumulated contributions expressed as an annual benefit commencing at normal retirement age, using an interest rate that would be used under the plan under section 417(e)(3) (as of that determination date). The employee's accumulated contributions is the total of the mandatory contributions made by the employee plus interest thereon computed as follows.

For years prior to the first plan year that section 411 applied to the plan (i.e., pre-ERISA), add interest, if any, at the rate provided by the plan. For plan years to which section 411 applies but before the 1988 plan year, compound interest at the rate of 5% annually. From the beginning of the 1988 plan year up to the determination date, compound interest annually using the rate that is 120% of the Federal mid-term rate as in effect under section 1274 for the first month of the plan year. For the period beginning with the determination date and ending on the date the employee attains normal retirement age, compound interest annually using the interest rate that would be used under the plan under section 417(e)(3) (as of the determination date).
411(c)(2)
1.411(c)-1

VIII. Age Discrimination

Section 411(b)(1)(H)(i) provides that a defined benefit plan fails to comply with the minimum accrual standards of section 411(b) if an employee's benefit accrual is ceased, or the rate of an employee's benefit accrual is reduced, because of the attainment of any age. Parallel rules appear in section 4(i) of the Age Discrimination in Employment Act (ADEA) and in section 204(b)(1)H) of ERISA. If, under the terms of a plan, any individual who is or could be a participant would cease or experience a reduction of benefit accrual because of the attainment of any age, the plan impermissibly discriminates on account of age. Whether there is an actual participant at any particular age is not relevant.

Sections 411(b)(5) and 1.411(b)(5)-1 provide safe-harbor plan designs that are deemed to satisfy the age discrimination testing standard. These sections also impose requirements that the statuary hybrid plans must meet regarding interest rate credits in order to satisfy the age discrimination standards, as well as minimum accrual standards for certain plan conversions.

Line a. Accumulated Benefit
A plan is not treated as failing to meet the requirements of section 411(b)(1)(H)(i) with respect to an individual who is or could be a partic-

ipant if, as of any date, the accumulated benefit of the individual would not be less than the accumulated benefit of any similarly situated, younger individual who is or could be a participant. Thus, this test involves a comparison of the accumulated benefit of an individual who is or could be a participant in the plan with the accumulated benefit of each similarly situated, younger individual who is or could be a participant in the plan.

If a plan fails to satisfy this test, the plan is not necessarily age-discriminatory. Rather, such a plan would have to satisfy the general age discrimination rule under section 411(b)(1)(H)(i). See section X line a. Note that the Service has not issued guidance requiring a specific method for demonstrating compliance with rules preventing age discrimination other than the safe-harbors mentioned above.

For a plan that has reflected the 2014 regulations, the ability to use the safe-harbor formula measures equal to the accumulated percentage of average compensation or the hypothetical account balance is limited to lump sum-based formulas. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list, however; it is acceptable if these provisions are included. The plan-design safe harbor under section 411(b)(5)(A) is effective for periods beginning on or after June 29, 2005.
411(b)(5)(A)
1.411(b)(5)-1(b)

i) The comparison test is based on any one of the following benefit measures, each of which is referred to as a safe-harbor formula measure:

(A) The annuity payable at normal retirement age (or current age, if later) if the accumulated benefit of the participant under the terms of the plan is an annuity payable at normal retirement age (or current age, if later).

(B) The current balance of a hypothetical account maintained for the participant if the accumulated benefit of the participant is the current balance of a hypothetical account.

(C) The current value of an accumulated percentage of the participant's average compensation if the accumulated benefit of the participant is the current value of an accumulated percentage of the participant's average compensation.

If the participant's accumulated benefit under the plan is expressed in terms of only one safe-harbor formula measure and no similarly situated, younger individual who is or could be a participant has an accumulated benefit that is expressed in terms of any measure other than that same safe-harbor formula measure, then the safe harbor provided by sections 411(b)(5)(A) and 1.411(b)(5)-1(b)(1)(i) is available with respect to this participant. In contrast, for example, if a plan provides that the accumulated benefit of participants who are age 55 or older is expressed under the terms of the plan as a life annuity payable at normal retirement age (or current age if later) and the plan provides that the accumulated benefit of participants who are younger than age 55 is expressed as the current balance of a hypothetical account, then the safe harbor does not apply to individuals who are or could be participants and who are age 55 or older.

If there is a subsidized early retirement benefit included in a participant's accumulated benefit, the subsidized portion is disregarded for purposes of determining whether the safe harbor is satisfied.
411(b)(5)(A)
1.411(b)(5)-1(b)(1)(i)
1.411(b)(5)-1(b)(1)(ii)

ii) If an individual's accumulated benefit is subject to multiple formulas that are expressed in terms of a different safe-harbor formula measure, the plan is deemed to satisfy the accumulated benefit test for age discrimination if the plan (a) satisfies the test separately for benefits determined in terms of each safe-harbor measure and (b) the formula options that are available for younger individuals are limited to those deemed to be no more valuable than those provided to older individuals, as shown in the table below. For a given benefit available to older individuals, an "x" in a column means that type of formula in that column is not treated as more valuable if it is available to a younger participant. For example, if an individual's accumulated benefit is expressed as a choice of benefits determined under two or more benefit formulas, then the accumulated benefit for a similarly situated, younger individual can be expressed as a choice of two or more benefit formulas but could not be expressed as the "sum of" or "greater of" two or more benefit formulas.

Type of Formula Available to Older Individual	Type of Formula Available to Younger Individual		
	Sum of	Greater	Choice of
Sum of	X	X	X
Greater		X	X
Choice of			X

In addition, regardless of the type of benefit formula available to an older individual, the benefit available to a younger individual may always be a benefit that is determined in terms of only one of the benefit formulas available to the older individual.

For a plan that has reflected the 2014 regulations, if the plan provides that a participant's accumulated benefit is expressed as the lesser of two or more benefit formulas, then the accumulated benefit of a similarly situated, younger individual can only be expressed as the lesser of two or more benefit formulas. The plan is not required to reflect these provisions because they are not on the 2015 cumulative

list, however; it is acceptable if these provisions are included.
411(b)(5)(A)
1.411(b)(5)-1(b)(1)(ii)

Line b. Market rate of return

i) Section 411(b)(5)(B)(i) provides that to satisfy the requirements of section 411(b)(1)(H), a statutory hybrid plan must provide that for any plan year, the interest crediting rate with respect to benefits determined under a statutory hybrid benefit formula is not greater than a market rate of return.

The interest crediting rate, or effective rate of return, for a period with respect to a participant equals the total amount of interest credits for the period divided by the participant's accumulated benefit at the beginning of the period.

An interest credit means the following adjustments to a participant's accumulated benefit under a statutory hybrid benefit formula, to the extent not conditioned on current service and not made on account of imputed service (as defined in section 1.401(a)(4)-11(d)(3)(ii)(B))--

(1) Any increase or decrease for a period, under the terms of the plan at the beginning of the period, that is calculated by applying a rate of interest or rate of return (including a rate of increase or decrease under an index) to the participant's accumulated benefit (or a portion thereof) as of the beginning of the period; and

(2) Any other increase for a period, under the terms of the plan at the beginning of the period.

An increase to a participant's accumulated benefit is not treated as an interest credit to the extent the increase is made as a result of a plan amendment providing for a one-time adjustment to the participant's accumulated benefit. However, a pattern of repeated plan amendments, each of which provides for a one-time adjustment to a participant's accumulated benefit, will cause such adjustments to be treated as provided on a permanent basis under the terms of the plan.

In the case of a plan that was in existence on June 29, 2005 (regardless of whether the plan was a statutory hybrid plan on that date), section 411(b)(5)(B)(i) applies to plan years that begin on or after January 1, 2008. A plan sponsor may elect to have the requirements of section 411(b)(5)(B)(i) apply for any period on or after June 29, 2005, and before the first plan year beginning after December 31, 2007. In accordance with section 1107 of the PPA '06, an employer was permitted to adopt an amendment to make this election as late as the last day of the first plan year that begins on or after January 1, 2009 if the plan operated in accordance with the election. Section 1.411(b)(5)-1(e)(3)(vi) of the final 2015 regulations provides relief from the requirements of section 411(d)(6) that is similar to that provided in PPA section 1107, but only to the extent necessary to comply with the market rate of return provisions of PPA '06. Final 2015 regulations were finalized and published on November 16, 2015. In the case of a plan not in existence on June 29, 2005, section 411(b)(5)(B)(i) applies to the plan on and after the later of June 29, 2005, and the date the plan becomes a statutory hybrid plan.

The statute does not define a market rate of return. Accordingly, before the effective date of the 2014 final regulations (plan years beginning on or after January 1, 2017), the plan sponsor can rely on a reasonable interpretation of section 411(b)(5)(B)(i) for a definition of market rate of return.

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

An interest crediting rate is not in excess of a market rate of return only if the plan terms provide that the interest credit for each plan year is determined using one of the following specified interest crediting rates. Please note that these rates are not safe-harbor rates. The plan must use one of the interest crediting rates (or a rate that is defined so that it cannot be greater than that rate). The plan can use the lesser of two rates as long as one of the rates is on the list below:

(1) The first, second and third segment rates described in section 430(h)(2)(C)(i), (ii) and (iii) (which are generally used for purposes of applying the minimum funding requirements for single-employer defined benefit plans). The third segment rate is also referred to as the rate of interest on long-term investment grade corporate bonds. Section 40211(a) of the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21), added section 430(h)(2)(C)(iv) to the Internal Revenue Code, generally effective for plan years beginning on or after January 1, 2012. Section 430(h)(2)(C)(iv) provides that each of the three segment rates for a plan year is adjusted as necessary to fall within a specified range that is determined based on an average of the corresponding segment rates for the 25-year period ending on September 30 of the calendar year preceding the first day of that plan year. Section 2003 of the Highway and Transportation Funding Act of 2014, Public Law 113-159 (HATFA), modified the ranges set forth in section 430(h)(2)(C)(iv).

A statutory hybrid plan is permitted to credit interest using one of the unadjusted segment rates (without regard to section 430(h)(2)(C)(iv)) or one of the adjusted segment rates (as adjusted by application of section 430(h)(2)(C)(iv)), as specified under the terms of the plan. If future interest credits with respect to principal credits that have already accrued are determined using either an adjusted or an unadjusted segment rate, then any subsequent amendment to change to another interest crediting rate with respect to those principal credits (including a change from the adjusted rate to an unadjusted segment rate, or vice versa) must satisfy the requirements of section 411(d)(6).

(2) A rate equal to the sum of any one of the following rates of interest based on government bonds and associated margins:

Interest Rate Bond Index	Associated Margin
The discount rate on 3-month Treasury Bills	175 basis points
The discount rate on 12-month or shorter Treasury Bills	150 basis points
The yield on 1-year Treasury Constant Maturities	100 basis points
The yield on 3-year Treasury Constant Maturities	50 basis points
The yield on 7-year or shorter Treasury Constant Maturities	25 basis points
The yield on 30-year or shorter Treasury Constant Maturities	0 basis points

(3) The rate of increase with respect to an eligible cost-of-living index that is adjusted at least annually, as described in section 1.401(a)(9)-6, A-14(b). However, the index described in section 1.401(a)(9)-6, A-14(b)(2) (i.e., a consumer price index that is based on prices of all items (or all items excluding food and energy)) is increased by 300 basis points.

(4) A rate equal to a fixed rate of six percent per year.

(5) Actual rate of return on the aggregate assets of the plan assets, including both positive returns and negative returns, if the assets are diversified so as to minimize the volatility of returns.

(6) Actual rate of return on the assets within a specific subset of plan assets, including both positive and negative returns, if the plan's provisions comply with the conditions described in section 1.411(b)(5)-1(d)(5)(ii). These conditions include:

(A) The subset of plan assets is diversified so as to minimize the volatility of returns;

(B) The aggregate fair market value of qualifying employer securities and qualifying employer real property held in the subset of plan assets does not exceed 10 percent of the fair market value of the aggregate assets in the subset; and

(C) The fair market value of the assets within the subset of plan assets approximates the liabilities for benefits that are adjusted by reference to the rate of return on the assets within the subset, determined using reasonable actuarial assumptions.

(7) Annuity contract rates. These are the rates of return on annuity contracts for the employee issued by an insurance company licensed under the laws of a State.

(8) Rate of return on a regulated investment company (RIC), as defined in section 851 (e.g. mutual fund), that is reasonably expected to be not significantly more volatile than the broad United States equities market or a similarly broad international equities market.
411(b)(5)(B)(i)
1.411(b)(5)-1(d)(1)(i)
1.411(b)(5)-1(d)(1)(ii)
1.411(b)(5)-1(d)(1)(iii)
1.411(b)(5)- 1(d) (3)
1.411(b)(5)- 1(d)(4)
1.411(b)(5)-1(d)(5)

ii) The plan must specify the method for determining interest credits. A plan that is using any specified interest crediting rate can determine interest credits for each current interest crediting period based on the effective periodic interest crediting rate that applies over the period.

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

A plan that is using one of the interest crediting rates described in sections 1.411(b)(5)-1(d)(3) and 1.411(b)(5)-1(d)(4) (i.e., rates based on government bonds with margins, eligible cost of living indices, and first, second and third segment rates) may determine interest credits for a stability period based on the interest crediting rate for a specified lookback month with respect to that stability period. The rules for selecting the stability period and the lookback month under section 1.417(e)-1(d)(4) apply here. Accordingly, the plan must specify the period for which the applicable interest rate remains constant. This stability period may be one calendar month, one plan quarter, one calendar quarter, one plan year, or one calendar year. The plan must specify the lookback month that is used to determine the applicable interest rate. The lookback month may be the first, second, third, fourth, or fifth full calendar month preceding the first day of the stability period. No other lookback periods are allowed.

The stability period and lookback month need not be the same as those used under the plan for purposes of section 417(e)(3). For example, if a plan contains one benefit formula that is a statutory hybrid benefit formula, and one benefit formula that is not a statutory hybrid benefit formula, the plan can determine the interest crediting rate for the statutory hybrid benefit formula using a different stability

period and lookback month from those used to calculate the present value under section 417(e)(3) for any benefit determined under a formula that is not a statutory hybrid benefit formula.
1.411(b)(5)-1(d)(1)(iv)(B)

iii) Interest credits under a plan must be provided on an annual or more frequent periodic basis (for example, daily, monthly, or quarterly) and interest credits for each interest crediting period must be credited as of the end of the period.
1.411(b)(5)-1(d)(1)(iv)(C)

iv) The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

If a plan provides for the crediting of interest more frequently than annually based on one of the annual interest rates that is not in excess of a market rate of return, then the plan must provide that each periodic interest credit is determined using an interest crediting rate that is no greater than a pro rata portion of the applicable annual interest crediting rate. For plans that apply a daily crediting of interest, the pro rata rule is considered met if the plan uses a daily crediting rate that is 1/360 of the applicable annual interest crediting rate. In addition, interest credits based on one of the annual interest rates that are not in excess of a market rate of return are not treated as creating an effective rate of return that is in excess of a market rate of return merely because the effective rate of return is greater than the annual interest rate due to compounding. Thus, for example, if a plan's terms provide for interest to be credited monthly and for the interest crediting rate to be equal to the interest rate on long-term investment grade corporate bonds and the applicable annual rate on these bonds for the plan year is six percent, then the accumulated benefit at the beginning of each month could be increased as a result of interest credits by as much as 0.5 percent per month during the plan year without resulting in an interest crediting rate that is in excess of a market rate of return.
1.411(b)(5)-1(d)(1)(iv)(C)

v) The plan shall not be treated as providing an interest crediting rate that exceeds a market rate of return merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.
411(b)(5)(B)(i)(I)

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

A plan may determine the interest crediting rate as the greater of two or more different rates, but only if: (1) each rate separately satisfies the requirements of a market rate of return, and (2) the combination of rates is described in section 1.411(b)(5)-1(d)(6).The following combinations of rates are permitted.

(1) A rate that equals the greater of either the first, second, or third segment rates described in section 1.411(b)(5)-1(d)(3) and section 1.411(b)(5)-1(d)(4)(iv), and an annual interest rate of four percent or less (or a pro rata portion of an annual interest rate of four percent or less for plans that provide interest credits more frequently than annually);

(2) A rate that equals the greater of one of the rates based on government bonds with margins as described in section 1.411(b)(5)-1(d)(4)(ii) and the eligible cost-of-living indices as described in section 1.411(b)(5)-1(d)(4)(iii) (these two sets of rates are also referred to as Notice 96-8 rates), and an annual interest rate of five percent or less (or a pro rata portion of an annual interest rate of five percent or less for plans that provide interest credits more frequently than annually);

(3) An effective interest crediting rate which yields, as of the participant's annuity starting date, an accumulated benefit that is equal to the greater of--

(A) The accumulated benefit determined using one of the interest crediting rates that is not in excess of a market rate of return as described in 1.411(b)(5)-1(d)(3), 1.411(b)(5)-1(d)(4) and 1.411(b)(5)-1(d)(5); and

(B) The accumulated benefit determined as if the plan had used a fixed annual interest crediting rate equal to three percent (or a lower rate) for all principal credits that are credited under the plan to the participant during the guarantee period (minimum guarantee amount).

The guarantee period is the prospective period that begins on the date the cumulative floor begins to apply to the participant's benefit and that ends on the date on which that cumulative floor ceases to apply to the participant's benefit.

(4) An effective interest crediting rate which yields, as of each annuity starting date after normal retirement age, a benefit that is equal to the greater of--

(A)The benefit based on the accumulated benefit determined using an interest crediting rate that is not in excess of a market rate of return as described in 1.411(b)(5)-1(d); and

(B) The benefit that satisfies the requirements of section 411(a)(2).

1.411(b)(5)-1(d)(1)(vi)
1.411(b)(5)-1(d)(6)(i)
1.411(b)(5)-1(d)(6)(ii)
1.411(b)(5)-1(d)(6)(iii)(A) and (B)
1.411(b)(5)-1(e)(3)(iii)
1.411(b)(5)-1(e)(4)

vi) An interest crediting rate is not in excess of a market rate of return if the rate can never be in excess of a particular rate that does not exceed the market rate of return.

In addition, a statutory hybrid plan does not provide an effective interest crediting rate that is in excess of a market rate of return merely because the plan determines an interest credit by applying different rates to different predetermined portions of the accumulated benefit, provided each rate does not exceed the market rate of return.
1.411(b)(5)-1(d)(1)(v)
1.411(b)(5)-1(d)(1)(vii)

vii) A statutory hybrid plan must provide that the participant's benefit under the statutory hybrid benefit formula determined as of the participant's annuity starting date is no less than the benefit determined as if the accumulated benefit were equal to the sum of all principal credits credited under the plan to the participant as of that date. For a plan that has reflected the 2014 final regulations, this rule applies only as of an annuity starting date with respect to which a distribution of the participant's entire vested benefit under the plan's statutory hybrid benefit formula as of that date commences. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

A principal credit is any increase to a participant's accumulated benefit under a statutory hybrid benefit formula that is not an interest credit. Thus, for example, a principal credit includes an increase to a participant's accumulated benefit to the extent the increase is conditioned on current service or made on account of imputed service. As a result, a principal credit includes an increase to the value of an accumulated percentage of the participant's highest average compensation. In addition, a principal credit generally includes an increase to a participant's accumulated benefit to the extent the increase is made as a result of a plan amendment providing for a one-time adjustment to the participant's accumulated benefit. As a result, a principal credit includes an opening hypothetical account balance or opening accumulated percentage of the participant's average compensation.
411(b)(5)(B)(i)
1.411(b)(5)-1(d)(2)(i)
1.411(b)(5)-1(d)(1)(ii)(D)

Line c. Conversion amendments
An amendment is a conversion amendment with respect to a participant if--

(A) The amendment reduces or eliminates the benefits that, but for the amendment, the participant would have accrued after the effective date of the amendment under a benefit formula that is not a statutory hybrid benefit formula (and under which the participant was accruing benefits prior to the amendment). For this purpose, only amendments that eliminate or reduce benefits described in section 411(a)(7) that would otherwise have accrued, or a retirement-type subsidy described in section 411(d)(6)(B)(i), that would otherwise accrue as a result of future service are treated as amendments. and

(B) After the effective date of the amendment, all or a portion of the participant's benefit accruals under the plan are determined under a statutory hybrid benefit formula.

i) The plan must provide that in the case of an individual who was a participant in the plan immediately before the date of adoption of the conversion amendment, the participant's benefit at any subsequent annuity starting date is not less than the sum of--

(A) The participant's section 411(d)(6) protected benefit (as defined in section 1.411(d)-3(g)(14)) with respect to service before the effective date of the conversion amendment, determined under the terms of the plan as in effect immediately before the effective date of the conversion amendment; and

(B) The participant's section 411(d)(6) protected benefit with respect to service on and after the effective date of the conversion amendment, determined under the terms of the plan as in effect after the effective date of the conversion amendment.

Section 411(d)(6) protected benefits include the accrued benefit under the plan, an early retirement benefit or a retirement-type subsidy, and an optional form of benefit.

When comparing the benefits at an annuity starting date, the benefits attributable to the opening hypothetical account balance or opening accumulated percentage can be substituted for the section 411(d)(6) protected benefit with respect to service before the effective date of the conversion amendment. In this case, the plan must provide that the amount of the benefit payable in the optional form under the lump sum-based benefit formula that is attributable to the opening hypothetical account balance or opening accumulated percentage is not less than the benefit under the comparable optional form of benefit provided by the section 411(d)(6) protected benefit with respect to service before the effective date of the conversion amendment.

The 2010 proposed regulations included a proposed rule whereby certain plans could satisfy the conversion protection requirements by establishing an opening hypothetical account balance without a subsequent comparison of benefits at the annuity starting date. The proposed rule included a number of requirements intended to make it reasonably likely that the hypothetical account balance used to replicate the pre-conversion benefit (the opening hypothetical account balance and interest credits on that account balance) would in most, but not necessarily all, cases provide a benefit at least as large as the pre-conversion benefit for all periods after the conversion amendment. See proposed regulation section 1.411(b)(5)-1(c)(3)(iii).

The 2014 final regulations eliminated this option. Consequently, if in reliance on the 2010 proposed regulations, a plan sponsor used the proposed rule to satisfy the conversion protection requirements for plan years that began on or after January 1, 2012, then the plan must be amended so that distributions with an annuity starting date in a plan year that begins on or after January 1, 2016 satisfy the rules in the final regulations with respect to conversion amendments.

The effective date of a conversion amendment is the date as of which the reduction of the participant's benefits occurs. In accordance with section 411(d)(6), the date of a reduction of those benefits cannot be earlier than the date of adoption of the conversion amendment. It is important to note that it is possible that the effective date of a conversion amendment may be different for individual plan participants. For example, if a participant transfers from employment covered by a plan that is not a statutory hybrid plan to employment covered by a statutory hybrid plan, the participant is considered to be subject to a conversion amendment as of the date of transfer .

The requirements of section 411(b)(5)(B)(ii), 411(b)(5)(B)(iii), and 411(b)(5)(B)(iv) apply to a conversion amendment that both is adopted on or after June 29, 2005, and takes effect on or after June 29, 2005.
411(b)(5)(B)(ii)
411(b)(5)(B)(iii)
411(b)(5)(B)(iv)
1.411(b)(5)-1(c)
Proposed reg. 1.411(b)(5)-1(c)(3)(iii)

Line d. Plan termination

i) The interest crediting rate used under the plan to determine a participant's accumulated benefit for interest crediting periods that end after the plan termination date must be equal to the average of the interest rates used under the plan during the 5-year period ending on the plan termination date.

This provision is effective for periods beginning on or after June 29, 2005.

The 2010 proposed regulations provided that if a plan's interest crediting rate was the actual rate of return on plan assets, the annuity contract rate, or the rate of return on certain RIC, then the interest crediting rate that applied for the interest crediting period for purposes of determining the average interest crediting rate is deemed to be equal to the third segment rate under section 430(h)(2)(C)(iii) for the last calendar month ending before the beginning of the interest crediting period, as adjusted to account for any minimums or maximums that applied in the period but without regard to other reductions that applied in the period.

The provisions of the proposed regulations may be applied for plan years beginning prior to January 1, 2017. The plan may also apply another reasonable interpretation of the Code for plan years prior to January 1, 2017.

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

If a plan's interest crediting rate was the actual rate of return on plan assets, the annuity contract rate, or the rate of return on certain RIC (as described in section 1.411(b)(5)-1(d)(5)), or an interest crediting rate that had the potential to be negative for an interest crediting period that begins before the first plan year that begins on or after January 1, 2017, then the second segment rate under section 430(h)(2)(C)(ii) (determined without regard to section 430(h)(2)(C)(iv), i.e., MAP-21 and HATFA adjustments) for the last calendar month ending before the beginning of the interest crediting period must be used in lieu of the actual interest crediting rates when determining the 5-year average interest rate.
411(b)(5)(B)(vi)(I)
1.411(b)(5)-1(e)(2)(ii)

ii) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate must be equal to the average of the interest rates used under the plan during the 5-year period ending on the plan termination date.
411(b)(5)(B)(vi)(II)

This provision is effective for periods beginning on or after June 29, 2005.

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

(1) If for the entire 5-year period ending on the plan termination date, the plan provides for a mortality table in conjunction with an interest rate to be used to convert a participant's accumulated benefit (or a portion thereof) to an annuity, then for an annuity starting date after the plan termination date, the plan must use the mortality table specified under the plan for purposes of converting a participant's accumulated benefit to an annuity as of the termination date. This mortality table is used regardless of whether it was used during the entire 5-year period ending on the plan termination date. For this purposes, if the mortality table specified in the plan as of the plan termination date is a mortality table that is updated to reflect expected improvements in mortality experience (such as occurs with the applicable mortality table under section 417(e)(3)), then the table used for an annuity starting date after the plan termination date takes into account updates through the annuity starting date.

The interest rate used for purposes of converting a participant's accumulated benefit to an annuity for annuity starting dates after the plan termination date is the interest rate specified under the plan. However, if the interest rate used under the plan for purposes of converting a participant's accumulated benefit to an annuity has not been the same fixed rate during the 5-year period ending on the plan termination date, then the interest rate used for purposes of converting a participant's accumulated benefit to an annuity for annuity starting dates after the plan termination date is the average interest rate that applied for this purpose during the 5-year period ending on the plan termination date.

(2) If, as of the plan termination date, a tabular annuity conversion factor (i.e., a single conversion factor that combines the effect of interest and mortality) is used to convert a participant's accumulated benefit (or a portion thereof) to an annuity and that same fixed tabular annuity conversion factor has been used during the entire 5-year period ending on the plan termination date, then the plan must use that same tabular annuity conversion factor after the plan termination date. However, if the tabular annuity conversion factor used to convert a participant's accumulated benefit (or a portion thereof) to an annuity is not described in the preceding sentence (including any case in which the tabular annuity conversion factor was a fixed conversion factor that changed during the 5-year period ending on the plan termination date), then the plan must use the average of the tabular annuity conversion factors used under the plan for that purpose during the 5-year period ending on the plan termination date.

(3) If a separate mortality table was not used for the entire 5-year period prior to plan termination, then the plan is treated as having used a tabular annuity conversion factor to convert a participant's accumulated benefit (or a portion thereof) to an annuity for the entire 5-year period ending on the plan termination date. As a result, the rules of paragraph (2) above apply to determine the annuity conversion factor used for purposes of converting a participant's accumulated benefit (or portion thereof) to an annuity for annuity starting dates after the plan termination date. For this purpose, if a separate mortality table and separate interest rate applied for a portion of the 5-year period, that mortality table and interest rate are used to calculate an annuity conversion factor and that factor is treated as having been the tabular annuity conversion factor that applied for that portion of the 5-year period.
411(b)(5)(B)(vi)(II)
1.411(b)(5)-1(e)(2)(iii)

IX. Amendments Affecting Accrued Benefits and Vesting

This section applies to plan amendments that affect, either directly or indirectly, the accrued benefit or the vesting schedule under the plan. Code sections 411(a)(10) and 411 (d)(6) generally prohibit any plan amendment that would decrease the accrued benefit of any participant or the nonforfeitable percentage applicable to any participant.

Line a. If the plan's vesting schedule is not being changed, check N/A.

If the vesting schedule is being amended, for every employee who is a participant on the amendment adoption date or the amendment effective date, whichever is later, the nonforfeitable percentage (determined as of that date) of the participant's right to the employer derived accrued benefit may not be less than the participant's percentage figured under the plan without regard to the amendment. For example, if a plan is being amended to replace a 3 to 7 year vesting schedule with 5 year cliff vesting, a participant who has three years of service at the time of the amendment and elects to go under the new schedule must be 20% vested in the amount accrued in the fourth year (as well as in amounts accrued in the first three years).
1.411(a)-8(a)

Line b. If the plan's vesting schedule is not being changed, or if the schedule is being changed but the nonforfeitable percentage under the amended schedule cannot, at any time, be less than the percentage determined under the old schedule, check N/A.

Although each participant's nonforfeitable percentage, as of the amendment's adoption or effective date, may not be less under the new schedule than it would have been under the old schedule (see a., above), the new schedule may provide for lower nonforfeitable percentage in future years. For example, if a plan replaced a 5 year vesting schedule with a 3 to 7 year vesting schedule, a participant with four years of service on the date of the change could have 40 percent vesting after the change which was more than 0 percent vesting before the change. However, when the participant earned a fifth year of service, the participant's vesting would only be 60 percent under the new schedule whereas it would have been 100 percent under the old schedule.

If this reduction in future vesting can occur, the plan must provide that each participant who has completed 3 years of service with the employer and whose nonforfeitable percentage is determined under the new vesting schedule may elect to have the nonforfeitable percentage determined under the old vesting schedule.

The plan may limit the period for this election, and the election may be irrevocable.
1.411(a)-8T(b)

Lines c., d., e., f. and g. If the IRS has approved the amendment as being retroactive, and it may decrease accrued benefits under Code section 412(d)(2), and ERISA section 302(d)(2), check N/A.

No other plan amendment may decrease, either directly or indirectly, the accrued benefit of any plan participant. Plan provisions that may indirectly decrease a participant's accrued benefit include, but are not limited to, those relating to years of service and breaks in service for benefit accruals, and to actuarial factors for determining optional or early retirement benefits.

If the plan provides a lump-sum based benefit, the benefits attributable to future interest credits with respect to a hypothetical allocation accrue at the same time that the benefits attributable to the hypothetical allocation accrue. Accordingly, reducing prospective interest crediting rates on the account balance as of the date of the amendment is an impermissible cutback in accrued benefits.

An amendment to determine the applicable interest rate under the section 417(e)(3) rules in effect beginning on or after January 1, 2008, will not violate the anti-cutback rules solely because of a reduction in accrued benefits or a deduction in the amount of any distribution if the cause of such reduction is the substitution of the modified segment rates for the 30-year Treasury rates for the same period. However, if the amendment changes the time for determining the interest rate, the requirements of section 1.417(e)-1(d)(1)(ii) of the regulations must be satisfied. In addition, if the cause of the reduction is an amendment to substitute the modified segment rates for a rate that is not the 30-year Treasury rate, the amendment must satisfy the anti-cutback rules of section 411(d)(6).

Section 1.417(e)-1(d)(1)(ii) of the regulations provides that plan amendments that directly or indirectly result in a change in the time for determining the applicable interest rate will not be treated as reducing accrued benefits in violation of section 411 (d)(6) if the plan language provides that any distribution for which the annuity starting date occurs in the one year period commencing at the time the amendment is adopted must use the interest rate as provided under the terms of the plan after the effective date of the amendment, determined at either the date for determining the interest rate before the amendment or the date for determining the interest rate after the amendment, whichever is the larger distribution. If the amendment is retroactively effective, the period in the preceding sentence begins with the effective date and ends one year after the adoption date.

Pursuant to section 1107 of PPA "06, an amendment to incorporate by reference the applicable mortality table under section 417(e)(3) prescribed by guidance issued by the Commissioner will not violate the anti-cutback rules solely because of a reduction in accrued benefits or a reduction in the amount of any distribution if the cause of such reduction is the substitution of the applicable mortality table for the prior applicable mortality table. See V.g. of these explanations. Any changes in the method of determining early retirement or optional retirement benefits are subject to the protection of the anti-cutback provisions. Such changes may take the form of providing actuarial reduction where early retirement benefits were either previously not actuarially reduced or reduced by nonactuarial reduction factors, by changing the method of determining actuarial equivalence, or any other change which may reduce such benefits. Benefit changes are not precluded. The plan must provide, however, that the benefit available at any future date will not be less (with respect to an individual who either before or after the amendment satisfies the pre-amendment requirements for such benefit) than the benefit accrued as of the date of the amendment.

"Section 411(d)(6) protected benefits" are benefits described in section 411(d)(6)(a), early retirement benefits and retirement-type subsidies, and optional forms of benefit. A plan amendment that has the effect of eliminating or reducing such benefits (other than to the extent provided in regulations), with respect to benefits accrued prior to the amendment, is treated as an impermissible cutback of section 411(d)(6) protected benefits. The protection of section 411(d)(6) also applies in the case of plan mergers, transfers, and transactions amending or having the effect of amending a plan to transfer plan benefits.
1.411(d)-4 Q&As 1(a) & 2(a)(3)

An optional form of benefit is a distribution form with respect to an employee's benefit that is available under the plan and is identical with respect to all features relating to the distribution form, including the payment schedule, timing, commencement, medium of distribution, the portion of the benefit to which such distribution features apply and the election rights with respect to such optional forms. Thus, to the extent there are any differences in such features, the plan provides separate optional forms of benefit. For example, a joint and 50 percent survivor annuity and a joint and 75 percent survivor annuity are separate optional forms, regardless of whether they are actuarially equivalent. Likewise, a distribution that is available in cash or in employer securities consists of two separate optional forms of benefit. A benefit payable at different times (such as early or late retirement), or upon the occurrence of different events or the satisfaction of different conditions, consists of separate optional forms of benefit. A pattern of repeated plan amendments providing for substantially similar benefits in similar situations for substantially consecutive, limited periods of time will be treated as creating a protected optional form to the extent necessary to carry out the purposes of section 411(d)(6). For example, a pattern of repeated plan amendments providing that a particular optional form of benefit is available to certain named employees for a limited period of time may result in that optional form being treated as provided under the terms of the plan to all covered employees without regard to the limited period of time and the limited group of named employees. However, patterns of repeated plan amendments adopted and effective before July 11, 1988 are to be disregarded in determining whether such amendments have created an ongoing optional form of benefit under the plan.
1.411(d)-4 Q&A 1(b)
1.411(d)-4 Q&A 1(c)

The following benefits are among those not subject to the protection of section 411(d)(6): ancillary life insurance protection, social security supplements described in section 411(a)(9), the availability of loans (other than the distribution of an employee's accrued benefit upon

default under a loan), the right to make employee contributions or elective deferrals, and the right to direct investments.
1.411(d)-4 Q&A 1(d)

The defined benefit feature of an employee's benefit under a defined benefit plan and the separate account feature of a defined contribution plan are section 411(d)(6) protected benefits. Eliminating the defined benefit feature or the separate account feature benefit of an employee's benefit by the transfer of benefits between defined benefit and defined contribution plans violates section 411(d)(6) unless the transfer satisfies the requirements described below.

For this purpose, a transfer includes any transaction amending or having the effect of amending a plan or plans to transfer benefits. For example, if a defined benefit plan provides that a participant who has attained normal retirement age may elect to have the single sum value of his or her benefit maintained in a segregated account which is invested separately from the rest of the trust and credited with its own income (or loss), the "transfer" of the participant's benefit to the segregated account will violate section 411(d)(6) unless the requirements described below are met.

If the following requirements are satisfied, a transfer of a participant's benefit between qualified plans that eliminates or reduces section 411 (d)(6) protected benefits will not violate section 411(d)(6):

1. The transfer must meet the requirements of section 414(l), relating to the transfer of assets and liabilities.

2. The transferor plan must provide that the transfer is conditioned upon a voluntary, fully informed election by the participant to transfer his or her benefit to another plan maintained by the employer.

3. If the transferor plan is terminating, it must satisfy the requirements of section 401(a)(2) (regarding the prohibition against reversion prior to the satisfaction of all liabilities) and section 411(d)(6).

4. If the transferor plan is not terminating, the participant must be given the option of leaving his or her benefit in the transferor plan to the extent the transferor plan would otherwise be prohibited from immediately distributing the benefit without the required consent(s)).

5. If the transferor plan is subject to sections 401(a)(11) and 417 (relating to survivor benefit requirements), the applicable spousal consent requirements must be met with respect to the transfer.

6. The section 417 notice requirements that pertain to a waiver of the qualified joint and survivor annuity form must be met with respect to the participant and spousal transfer election.

7. The participant whose benefits are transferred must be eligible to receive an immediate distribution from the transferor plan under terms of the plan which satisfy section 401(a). This would generally prohibit the transfer of a participant's benefit from an employer's ongoing pension plan to its profit-sharing plan prior to normal retirement age while the participant is still employed by the employer.

8. The amount of the benefit transferred must equal the entire nonforfeitable accrued benefit under the plan of the participant whose benefit is being transferred. This amount must at least equal the greater of any single sum distribution provided under the transferor plan for which the participant is eligible or the present value of the participant's accrued benefit payable at normal retirement age. This amount must be calculated by using an interest rate that is subject to the restrictions of section 417(e) and may not exceed the limitations of section 415.

9. The participant must be fully vested in the transferred benefit in the transferee plan.

10. If the transfer is from a defined contribution plan to a defined benefit plan, the defined benefit plan must provide each participant whose benefits have been transferred a minimum benefit equal to the benefit derived solely on the basis of the amount transferred, expressed as an annuity payable at normal retirement age.

A transfer that is made pursuant to these elective transfer rules is treated as a distribution for purposes of section 401(a) (other than the minimum distribution requirements of section 401(a)(9). Thus, a transfer option is a protected optional form of benefit and is also subject to the nondiscrimination requirements of section 401(a)(4). (See Worksheet No. 5, Coverage and Discrimination.) Also, the transfer is subject to the cash-out rules and the early termination requirements of section 411(d)(2).

The foregoing elective transfer rules are effective beginning August 10, 1988. Prior to this date, a transfer of benefits from a defined benefit to a defined contribution plan (or vice versa) that does not satisfy the foregoing elective transfer rules will not violate section 411 (d)(6) because of the elimination of protected benefits if the following requirements are met:

1. The transferred benefits must have been distributable under the plan or could have been distributable under section 401(a).

2. The transferee plan provides, or is amended to provide, all section 411(d)(6) protected benefits provided under the transferor plan with respect to the benefit transferred.

3. The transferred benefits are treated as held under a transferee plan for purposes of the requirements of section 401(a)(11) and 417. (See Worksheet No.3, Joint and Survivor Requirements.)

4. The transferred amounts meet the requirements of section 414(l).

5. The transferred benefits do not exceed the limitations of section 415.

The regulations provide that under certain circumstances protected benefits may be eliminated or reduced. These circumstances include the situation where such an elimination or reduction is necessary to retain qualified status because of a change in law, provided the plan is timely amended to comply with the change in law and section 7805(b) relief is granted. Also, pursuant to transition rules in regulations sections 1.401(a)-4 and 1.411(d)-4, certain protected benefits may be eliminated under certain circumstances in order to comply with those regulations. If a plan has more than two joint and survivor annuity options which are actuarially equivalent and otherwise identical (e.g., joint and 50 percent, 75 percent, and 100 percent), it may generally eliminate the options that fall between the lowest and highest survivor benefit percentages (i.e., in this case, the joint and 75 percent survivor annuity). A plan may also eliminate the right to a future distribution in the form of property (other than cash) if on plan termination a participant may elect to receive the optional form of benefit in the specified property. A plan may be amended to add an involuntary cash-out provision or to change the threshold amount for an involuntary cash-out. A plan may also be amended to eliminate or change a provision for loans, to eliminate provisions permitting transfers of benefits between plans of the employer, and to make certain de minimis changes in the timing of benefits. There are also special exceptions for ESOPs.
1.401(a)-4 Q&A 5
1.411(d)-4 Q&As 2, 3 & 8

In general, a plan may not be amended to add or modify conditions with respect to section 411(d)(6) protected benefits if the amendment would result in any further restriction. However, objective conditions may be added to benefits that have not yet accrued and may also be added to accrued protected benefits if permitted under the transition rules or the permissible benefit cutback provisions of the regulations.
1.411(d)-4 Q&A 7

Section 411(d)(6) provides no exception for plan termination.
411(d)(6)
1.401-1(b)(1)(i)
1.401(a)(4), 1.411(d)-4
1.411(d)-3(b)
Rev. Rul. 81-12, 1981-1 C.B. 228
Rev. Rul. 85-6, 1985-1 C.B. 494
Notice 87-20, 1987-1 C.B. 456

A single-employer plan under which benefits are guaranteed under ERISA, may be amended after August 31, 2012, to eliminate an optional form of benefit containing a prohibited payment (as described under section 436(d)(5) of the code, provided that: 1) the enrolled actuary of the plan certifies that the plans adjusted funding target attainment percentage (AFTAP, as defined in section 436(j)(2) of the code) is less than 100 percent, and 2) the plan is not permitted to pay any prohibited payment due to the requirements of section 436(d)(2) of the code and section 206(g)(3)(B) of ERISA (because the plan sponsor is a debtor in a bankruptcy case), and 3) the court adjudicating the bankruptcy case has issued an order, after notice and hearing, finding that, unless the amendment eliminating the optional form of benefit is adopted, the plan will be terminated in a distress or involuntary termination before the plan sponsor emerges from bankruptcy, and 4) the Pension Benefit Guaranty Corporation has issued a determination similar to the bankruptcy court in number 3, above.
1.411(d)-4 A-2(b)(2)(xii)

Line h. For purposes of section 411(d)(6), 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. Thus, to the extent that benefits have accrued under the terms of a statutory hybrid plan that entitle the participant to future interest credits, an amendment to the plan to change the interest crediting rate must satisfy section 411(d)(6) if the revised rate under any circumstances could result in interest credits that are smaller as of any date after the applicable amendment date (within the meaning of section 1.411(d)-3(g)(4)) than the interest credits that would be provided without regard to the amendment.

The following is an exception to the rule above:

(1) There is no anti-cutback violation if the change is from one of the interest crediting rates described in 1.411(b)(5)-1(d)(4) (i.e., rates based on government bonds with margins, eligible cost-of-living indices, first and second segment rates and a fixed rate of interest) to the long-term investment grade corporate bond rate (i.e., the third segment rate as described in 1.411(b)(5)-1(d)(3)), provided the following conditions are satisfied:

(A) The amendment only applies to interest credits to be credited after the effective date of the amendment;

(B) The effective date of the amendment is at least 30 days after adoption of the amendment; and

(C) On the effective date of the amendment, the new interest crediting rate is not lower than the interest crediting rate that would have applied in the absence of the amendment.

The section below reflects the 2014 final regulations. The plan is not required to reflect these provisions because they are not on the 2015 cumulative list. However, it is acceptable if these provisions are included.

For plan years beginning on or after January 1, 2017, the following additional condition applies if a plan is using the exception above:

(D) If prior to the amendment the plan used a fixed annual floor in connection with a rate described in 1.411(b)(5)-(d)(4)(ii), 1.411(b(5)-1(d)(4)(iii) or 1.411(b)(5)-1(d)(4)(iv) (i.e., rates based on government bonds with margins, eligible cost of living indices, and first and second segment rates), the floor must be retained after the amendment to the maximum extent permissible under 1.411(b)(5)-1(d)(6)(ii)(A) (which provides an annual floor of four percent). Thus, for example, if prior to the amendment a plan was using a fixed annual floor of 4.5 percent in connection with the yield on 30-year Treasury Constant Maturities, then, if the plan is amended to change the rate to the third segment rate, it must provide a fixed annual floor of four percent.

(2) With respect to a plan using an interest crediting rate described in 1.411(b)(5)-1(d)(3) or 1.411(b)(5)-1(d)(4) (i.e., rates based on government bonds with margins, eligible cost of living indices, and first, second and third segment rates), if a plan amendment changes the lookback month or stability period used to determine interest credits, the amendment is not treated as reducing accrued benefits in violation of section 411(d)(6) if the following conditions are satisfied:

(A) If the plan amendment is effective on or after the adoption date, any interest credits credited for the one-year period commencing on the date the amendment is effective must be determined using the lookback month and stability period provided under the plan before the amendment or the lookback month and stability period after the amendment, whichever results in the larger interest credits.

(B) If the plan amendment is adopted retroactively (that is, the amendment is effective prior to the adoption date), the plan must use the lookback month and stability period resulting in the larger interest credits for the period beginning with the effective date and ending one year after the adoption date.

(3) If a statutory hybrid plan that credits interest using an interest crediting rate equal to the rate of return on a RIC that ceases to exist, whether as a result of a name change, liquidation, or otherwise, the plan is not treated as violating section 411(d)(6) provided that the rate of return on the successor RIC is substituted for the rate of return on the RIC that no longer exists, for purposes of crediting interest for periods after the date the RIC ceased to exist. In the case of a name change or merger of RICs, the successor RIC means the RIC that results from the name change or merger involving the RIC that no longer exists. In all other cases, the successor RIC is a RIC selected by the plan sponsor that has reasonably similar characteristics, including characteristics related to risk and rate of return, as the RIC that no longer exists.
1.411(b)(5)-1(e)(3)(i)
1.411(b)(5)-1(e)(3)(ii)
1.411(b)(5)-1(e)(3)(iv)
1.411(b)(5)-1(e)(3)(v)

Line i. Pursuant to section 1.411 (d)-4, Q&A 10 of the income tax regulations, an amendment to eliminate an age 70½ distribution option may apply only to benefits with respect to employees who attain age 70½ in or after a calendar year, specified in the amendment, that begins after the later of December 31, 1998, or the adoption date of the amendment. An age 70½ distribution option is an optional form of benefit under which benefits payable in a particular distribution form commence at a time during the period that begins on or after January 1 of the calendar year in which an employee attains age 70½ and ends April 1 of the immediately following calendar year.
A plan using this relief generally may not preclude an employee who retires after the calendar year in which the employee attains age 70½ from receiving an optional form of benefit that would have been available if the employee had retired in the calendar year in which the employee attained age 70½. The amendment must be adopted no later than the last day of the GUST remedial amendment period.
1.411(d)-4, Q&A 10

New Regulations

EGTRRA amended section 411(d)(6) to require the Service to issue regulations that provided that section 411(d)(6) did not apply to any plan amendment that reduces or eliminates benefits or subsidies that create significant burdens or complexities for the plan and plan participants, unless such amendment adversely affects the rights of any plan participant in more than a de minimis manner. Final regulations, which apply to amendments that are adopted and effective after August 12, 2005, set forth conditions under which a plan amendment is permitted to eliminate or reduce and early retirement benefit, a retirement-type subsidy, or an option form of benefit that creates significant burdens or complexities for the plan and plan participants.
1.411(d)-3(b)

Section 411(d)(6) protection applies to a participant's entire accrued benefit (including the future interest credits under a statutory hybrid formula). For purposes of determining whether or not a participant's accrued benefit is decreased, all plan amendments affecting, directly or indirectly, the computation of accrued benefits are taken into account and, in determining whether a reduction has occurred, all plan amendments with the same applicable amendment date (the later of the adoption date or the effective date of the amendment) are treated as one plan amendment. A plan is treated as decreasing an accrued benefit if it is amended to eliminate or reduce a section 411(d)(6)(b) protected benefit. The simultaneous multiple amendment rule is expanded to apply to section 411(d)(6)(B) protected benefits (early retirement benefits retirement-type subsidies and optional forms of benefit).
1.411(d)-3(a)(2)(ii),1.411(d)-3(b)(1)(iii).

Section 411(d)(6) does not provide protection for benefits that are ancillary, other rights and features, or any other benefits not described

in section 411(d)(6). 1.411(d)-3(b)(i). A plan may be amended to eliminate or reduce an early retirement benefit, retirement-type subsidy, or an optional form of benefit with respect to benefits that accrue after the applicable amendment date. See 1.411(d)-3(b)(ii) .
The final regulations define key terms relating to the anti-cutback rules. The term early retirement benefit means the right to commence distribution of a retirement-type benefit at a particular date after severance from employment and before normal retirement age.
1.411(d)-3(g)(6)(i).

Retirement-type benefits are either the payment of a distribution alternative with respect to an accrued benefit or the payment of any other benefit under a defined benefit plan that is permitted to be in a qualified pension plan, continues after retirement and is not an ancillary benefit.
1.411(d)-3(g)(6)(iii).

Retirement-type subsidy means the excess of the actuarial present value of a retirement-type benefit over the actuarial present value of the accrued benefit commencing at normal retirement age or at actual commencement if later.
1.411(d)-3(g)(6)(iv).

Ancillary benefit means social security supplements, benefits payable in the event of disability (to the extent the benefit exceeds the benefit otherwise payable) but only if the total benefit does not exceed the maximum qualified disability benefit, life insurance benefits, medical benefits described in section 401(h), death benefits under a defined benefit plan other than a death benefit that is part of an optional form of benefit, plant shutdown benefits or other similar benefits in a defined benefit plan that do not continue past retirement age, do not affect the payment of the accrued benefit, and are permitted to be in a qualified plan.
1.411(d)-3(g)(2).

Redundant

A plan may be amended to eliminate an optional form of benefit for a participant with respect to benefits accrued before the applicable amendment date if the optional form of benefit is considered redundant. In order to eliminate an optional form of benefit as redundant, a retained optional form of benefit that is in the same family of optional forms must be available to the participant and the participant's rights with respect to that retained optional form of benefit may not be subject to materially greater restrictions than those that apply with respect to the optional form being eliminated. Additionally the plan amendment eliminating the optional form of benefit may not apply to an optional form of benefit with an annuity commencement date that is earlier than the number of days in the maximum QJSA period. If the retained optional form of benefit does not commence on the same annuity starting date as the optional form of benefit being eliminated, or if the actuarial present value of the retained benefit commencing on the annuity starting date is less than the present value of the optional form being eliminated, the plan amendment must satisfy the burdensome and de minimis standards of the regulations.
1.411(d)-3(c).

Optional forms of benefit that are core options may not be eliminated as redundant unless the retained optional form is identical to the eliminated core option except for differences in actuarial factors and annuity starting dates.
1.411(d)-3(c)(3)(ii).

Core Options

A plan may be amended to eliminate an optional form of benefit with respect to benefits accrued before the applicable amendment date if the plan, after the amendment, offers certain core options to plan participants with respect to benefits attributable before and after the amendment. The plan must offer the following core options: Straight life annuity, Joint and Contingent Annuity with 75% survivor annuity, 10 year term certain and life annuity and the most valuable option for a participant with a short life expectancy. Plan amendments can not apply with respect to an optional form of benefit with an annuity commencement date that is earlier than four years after the date the amendment is adopted. Burdensome and de minimis standards must be satisfied if the retained optional form of benefit does not commence on the same annuity starting date as the optional form of benefit being eliminated, or if the actuarial present value of the retained benefit commencing on the annuity starting date is less than the present value of the optional form being eliminated.
1.411(d)-3(d).

Burdensome and De Minimis

The redundancy rule and the core options rule impose additional requirements in the case of a plan amendment eliminating an optional form of benefit that had the effect of eliminating an early retirement benefit or reducing a retirement-type subsidy. Under these requirements an amendment is permitted only if the early retirement benefit or retirement-type subsidy creates significant burdens and complexities for the plan and plan participant and the elimination does not adversely affect the rights of any plan participant in more than a de minimis manner. Whether an early retirement benefit, retirement-type subsidy or an actuarial factor creates burdens and complexities is based on facts and circumstances. With respect to early retirement benefits the de minimis standard is satisfied if the retained optional form of benefit and the eliminated optional form of benefit have annuity starting dates that are within six months of each other. With respect to retirement-type subsidies, the eliminated optional form of benefit must not exceed the actuarial present value of the retained optional form of benefit by more than a de minimis amount. A de minimis amount is defined as an amount that is no more than the greater of 2% of the retirement-type subsidy under the eliminated optional form (prior to the amendment) or 1% of the participant's compensation for the prior plan year.
1.411(d)-3(e).

Utilization Rule

The utilization rule provides a method for eliminating optional forms, early retirement subsidies and retirement-type benefits that are rarely used. A plan is permitted to be amended to eliminate an optional form of benefit that is available to at least a minimum number of participants who are taken into account during a relevant period if no participant has elected that optional form during the relevant period. *1.411(d)-3(f).*

Central Laborers' Pension Fund v. Heinz

A plan amendment that decreases a participant's accrued benefit, or places greater restrictions or a participant's right to a section 411(d)(6) protected benefits, violates section 411(d)(6), even if the amendment merely adds a restriction or condition that is permitted under the vesting rules of section 411(a). 1.411(d)-3(a)(3). Revenue Procedure 2005-23 limited the retroactive effect of Central Laborers' for qualified plans pursuant to section 7805(b). The revenue procedure provides that a plan will not be disqualified solely on account of a plan amendment adopted prior to June 7, 2004 that violated section 411(d)(6) adding or expanding a suspension of benefit provision permitted under section 411(a)(3) if certain requirements are satisfied. See Rev. Proc. 2005-23, 2005-1 C.B. 991, as modified by Rev. Proc. 2005-76, 2005-2 C.B. 1139.

X. Miscellaneous

Line a. A defined benefit plan will not be treated as meeting the minimum vesting standards of section 411 (and, therefore, will not be considered a qualified plan under section 401(a)) if under the plan an employee's benefit accrual is ceased, or the rate of accrual is decreased, because of the attainment of any age. This rule is effective for plan years beginning on or after January 1, 1988 with respect to employees who have an hour of service in such years. A plan will violate this requirement if optional forms of
benefit, ancillary benefits, or other rights or features that are provided with respect to benefits attributable to credited service prior to a certain age are not provided with respect to benefits attributable to credited service after that age. This requirement will also be violated if, because of the participant's attainment of a certain age, his or her compensation after such age is not taken into account in determining accrual of benefits.

Discontinuance or reduction of accruals or rates of accrual and differences in rates of accrual between participants will not violate this requirement if the discontinuance, reduction or difference is not based directly, or indirectly, on the attainment of any age. For example, where the accrual of benefits under the fractional rule produces different rates of accrual among participants depending on the number of years of service each participant would have between commencement of participation and normal retirement age, this difference in rates of accrual does not violate this rule.

A plan will not be treated as failing the minimum vesting standards merely because the plan contains a limitation on the maximum number of years of service or participation that are taken into account in determining benefits under the plan, or merely because the plan contains a limitation on the amount of benefits a participant will receive under the plan, provided any limitation is not based directly or indirectly on the attainment of any age. However, if a plan contains a limit on the number of years of credited service that are taken into account, years of service that have been disregarded in determining accruals for pre-1988 plan years because of the attainment of any age may not be applied towards this limit. Furthermore, for 1988 and later plan year accruals, a defined benefit plan may not disregard, because of the participant's attainment of any age, years of service completed or compensation earned after such age, including years of service and compensation before the 1988 plan year. This does not, however, require the plan to take into account for accrual years of service before the employee becomes a participant or years of service completed before the 1988 plan year in which the participant was ineligible to make employee contributions.

Limitations that are not determinable except by reference to age are considered based directly on age. An example of such a limitation would be a provision which would disregard service for benefit accrual after the participant becomes eligible for social security benefits. Whether a limitation is based indirectly on age is a question of facts and circumstances.
For purposes of determining whether a plan satisfies the prohibition against discontinuing or reducing accruals on account of age, the following are not taken into account in determining the rate of accrual: the subsidized portion of an early retirement benefit, social security supplements, and qualified disability benefits.

The following example demonstrates this rule: Employer
X maintains a calendar year defined benefit plan that provides a normal retirement benefit of 1% of a participant's average annual compensation for the three consecutive years of highest compensation, multiplied by the participant's years of credited service under the plan. Normal retirement age is age 65. The terms of the plan, prior to the 1988 plan year, provide that service and compensation earned after normal retirement age are not taken into account in determining a participant's normal retirement benefit. Participant A turns 65 in December 1985 and continues in employment until February 1988. As of December 31, 1985, A had 35 years of credited service under the plan and during 1986 and 1987, A completed an additional two years of service. Assuming the plan does not reduce the accrual otherwise required by section 411(b)(1)(H) in one of the permitted manners described below, upon retirement in February 1988, A must be entitled to a normal retirement benefit of 37% of the average annual compensation for his three consecutive years of highest compensation, including compensation earned after 1985.

Continued accruals are not required where they would violate section 415 or cause the plan to fail to meet the integration requirements or to be discriminatory.

Note that the Service has not issued guidance requiring any specific method for demonstrating compliance with rules preventing age discrimination other than the safe-harbors available to the statutory hybrid plan.

Line b. A plan may provide that, in the case of a participant who has attained normal retirement age as of the end of a plan year, the benefit accrual that would otherwise be required under the foregoing rules for the plan year is reduced. First, the plan may provide that the otherwise required accrual is reduced by the actuarial equivalent of total plan benefit distributions made to the participant by the close of the plan year. The following rules apply in making this reduction.

1. "Total plan benefit distributions" are limited to distributions made during plan years for which the plan could provide for the suspension of the participant's benefit in accordance with section 203(a)(3)(B) of ERISA and DOL regulations.

2. Distributions are disregarded to the extent the total amount of distributions made to the participant by the close of the plan year exceeds the total amount of the distributions the participant would have received by the close of the plan year if the distributions had been made in the plan's normal form of benefit. For example, if the participant receives his or her benefit in a form which provides greater monthly payments than the normal form, only the amount the participant would have received in the normal form are taken into account, (e.g., if the normal form is a life and 10 year certain annuity, a participant will receive greater monthly benefits if he or she elects to receive the benefit in the optional form of a straight life annuity).

3. The reduction for any plan year cannot reduce the otherwise required accrual below zero. In other words, this reduction can never result in reducing the participant's normal retirement benefit to below what it was at the close of the prior plan year.

Thus, if the plan provides for this reduction, it must accrue a benefit for the plan year in accordance with the plan's benefit formula, taking into account all years of credited service, reduced (but not below the normal retirement benefit for the prior plan year) by the annual benefit which is the actuarial equivalent of total benefit distributions (determined in accordance with 1. and 2., above) made by the close of the plan year. If such actuarially equivalent benefit is greater than the total accruals otherwise required under section 411(b)(1)(H)(i) for the years in which distributions that aretaken into account were made, then no accrual is needed for that plan year to satisfy section 411(b)(1)(H)(i). Therefore, under this reduction provision, the plan must determine the accrual required for a given plan year by comparing actuarial equivalent of the total of distributions with the accruals required for a period consisting of the current and prior plan years.

Under the second type of permitted reduction the accrual that is otherwise required for a plan year is reduced (again, not below zero) by the amount of any actuarial adjustment under the plan (including the adjustment described in d. and e., below), in the benefit payable for the plan year because of a delay in payment of benefit after normal retirement age. The following rules apply in making this reduction:

1. An actuarial adjustment is taken into account only to the extent it is made to the greater of (a) the retirement benefit as of the close of the prior year, including any actuarial adjustment made for the prior plan year, and (b) the normal retirement benefit as of the close of the prior year, determined by including benefit accruals required under section 411(b)(1)(H)(i).

2. If the retirement benefit, as actuarially adjusted for the plan year, exceeds the normal retirement benefit determined by including the accruals required for the plan year under section 411(b)(1)(H)(i), the plan must provide the participant the greater benefit.

Thus, if a plan provides for this reduction, the benefit to which the participant is entitled at the close of a plan year is the greater of the normal retirement benefit plus the additional accruals required by section 411(b)(1)(H)(i) and the benefit the participant was entitled to receive at the end of the prior year under this rule, actuarially adjusted. As an example, assume a participant attains normal retirement age at the close of year 1. At the end of year 2, the participant must be entitled to receive the greater of the normal retirement at normal retirement age, actuarially increased, or the normal retirement benefit determined by taking into account the additional accrual under section 411(b)(1)(H)(i) for year 2. If the normal retirement benefit with the additional accrual is greater, then at the end of year 3, the participant must be entitled to received the greater of this amount, actuarially increased, or the normal retirement benefit determined by taking into account the additional accruals under section 411(b)(1)(H)(i) for years 2 and 3.

There is a special rule regarding this reduction that applies if the plan suspends the participant's benefit payments in accordance with section 203(a)(3)(B) of ERISA and DOL regulations and does not provide for an actuarial adjustment to the normal retirement benefit on account of delayed payment. Then, the participant must be entitled to receive a retirement benefit at the close of the plan year that is determined by including the accruals required by section 411(b)(1)(H)(i) without regard to any offset for actuarial adjustment.
A plan is not precluded from applying the first method of reduction in certain years and the second method in other years.
Proposed regs. 1.411(b)-2

Line c. A plan will violate section 401(a), including section 401(a)(25) and section 411(d)(6), if it may directly or indirectly deny a section 411(d)(6) protected benefit through the discretion of the employer or third parties, such as plan administrators. (See section IX for the definition of "section 411(d)(6) protected benefits.")
1.411(d)-4 Q&A 4, 5 & 6

Lines d. and e. The Small Business Job Protection Act of 1996 (SBJPA) amended section 401(a)(9) to provide that the "required beginning date" for distributions to commence to an employee from a qualified plan is the later of the April 1 of the calendar year after the calendar year in which the employee attained age 70½ or retired. This change is effective for years after 1996. Prior to the SBJPA, the "required beginning date" was the April 1 of the calendar year after the calendar year in which the employee attained age 70½.. The SBJPA change is not applicable to 5 percent owners. (For further details, see Explanation #9).

In connection with this change, section 401(a)(9) was amended to provide an employee's accrued benefit in a defined benefit plan must be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan. This actuarial increase does not apply to governmental or church plans. Accordingly, in the case of an employee (other than a 5% owner) who retires in a calendar year after the calendar year in which the employee attains age 70½ the actuarial increase in the employee's accrued benefit under a defined benefit plan must begin on the April 1 following the calendar year in which the employee attains age 70½ (January 1, 1997 in the case of an employee who attained age 70½ prior to 1996). The actuarial increase ending date is the date on which benefits commence after retirement in an amount sufficient to satisfy section 401(a)(9) This actuarial increase does not apply if a plan is retaining a requirement that minimum distributions under a plan to an employee must commence no later than April 1 of the calendar year following the calendar year in which the employee attains age 70½,, in an amount sufficient to satisfy section 401 (a)(9) as in effect prior to the SBJPA.

The amount of actuarial increase payable as of the end of the period for actuarial increases must be no less than the actuarial equivalent of the employee's retirement benefits that would have been payable as of the date the actuarial increase must commence plus the actuarial equivalent of additional benefits accrued after that date, reduced by the actuarial equivalent of any distributions made after that date The actuarial increase is generally the same as and not in addition to the actuarial increase required for that same period under section 411 to reflect any delay in payments after normal retirement, except that the actuarial increase required under section 401(a)(9)(C) must be provided even during the period during which an employee is in ERISA section 203(a)(3)(B) service.
401(a)(9)(C)(iii)
Notice 97-75, Q&A 41

Employee Benefit Plan

Defined Benefit Plans Minimum Vesting Standards

(Worksheet Number 2A – Determination of Qualification)

Instructions – All items must be completed. A "Yes" answer generally indicates a favorable conclusion is warranted while a "No" answer indicates a problem exists. Please use the space on the worksheet to explain any "No" answer. See Document 6390, Explanation Number 2A, for guidance in completing this form.

The technical principles in this worksheet may be changed by future regulations or guidelines.

Name of plan

I. Years of Service and Break In Service	Plan Reference	Yes	No	N/A
Note – Questions g.-k. do not apply to plans that use hours of service as a basis for determining service for vesting purposes. Questions a.-f. do not apply to plans that use the elapsed time method of determining service. Questions l.-p. must be considered for all plans.				
a. Does the plan designate a "vesting computation period"? [2002]				
b. Is an employee required to complete no more than H hours of service during the "vesting computation period" to be credited with a year of service? [2003]				
c. Does the plan credit hours of service in accordance with Department of Labor (DOL) Regulations? [2004]				
d. If the plan credits hours of service for periods when no duties are performed, does the plan incorporate, in its own words or by reference, the rules for determining and crediting these hours? [2005]				
e. Is a "break in service" defined as a vesting computation period when the employee is not credited with more than B hours? [2006]				
f. Does the plan credit service to the appropriate computation period in order to avoid a break in service for employees on maternity or paternity leave? [2007]				
g. Does the plan credit an employee with a period of service, beginning no later than the employment commencement date and ending no sooner than the severance from service date? [2008]				
h. Does the plan determine an employee's total period of service by aggregating all individual periods, unless the periods of service may be disregarded under the rule of parity? [2009]				
i. In determining an employee's period of service, does the plan take into account certain periods of severance? [2010]				
j. Is a 1-year period of severance defined as a 12-consecutive-month period beginning on the severance from service date and during which the employee does not perform an hour of service for the employer? [2011]				
k. Is the first period of severance ignored to the extent that such period is attributable to maternity or paternity leave? [2012]				
l. Are all years of service counted for vesting purposes, except as provided in Internal Revenue Code section 411(a)(4)? [2013]				
m. Are years of service with the employer before the participant entered the plan, including years of service with the employer in noncovered employment, counted for vesting purposes? [2014]				
n. Are years of service with other members of a controlled group of corporations, or with trades or businesses under common control, or with other organizations that comprise an affiliated service group counted for vesting purposes? [2015]				
o. When the employer maintains the plan of a predecessor employer, does the plan provide that service with the predecessor is counted as service with the employer? [2016]				
p. Is service of individuals who are leased employees of any controlled group or affiliated service group counted? [2017]				

II. Vesting on Separation From Service-Return to Service Without Break in Service	Plan Reference	Yes	No	N/A
Note – For purposes of determining service under the elapsed time method, a break in service is a 1-year period of severance				
a. Does an employee continue to vest, starting at the point in the vesting schedule where the employee left employment, in both the pre-separation and post-separation accruals? [2019]				
III. Vesting on Return to Service After a Break in Service	**Plan Reference**	**Yes**	**No**	**N/A**
a. If a participant separates from service with a nonforfeitable interest, does the plan require that, upon re-employment, the pre-break service will be considered for purposes of determining vested interest in benefit accruals resulting from employer contributions after a year of service is completed? [2022]				
b. If an employee who has no vested interest from service and is re-employed before the number of consecutive 1-year breaks in service equals or exceeds the greater of 5 or the number of years of service whether or not consecutive ("Rule of Parity"), does the plan require that upon re-employment the pre-break service will be considered for purposes of determining the vested interest in benefit accruals that resulted from employer contributions after a year of service is completed? [2023]				
IV. Contributory Plans-Complete Only if Plan Permits Employee Contributions (Voluntary or Mandatory)	**Plan Reference**	**Yes**	**No**	**N/A**
a. Is a forfeiture because of withdrawal of employee contributions precluded when the employee is at least 50 percent vested in the accrued benefits that resulted from employer contributions? [2027]				
b. If a plan permits a forfeiture on withdrawal of mandatory employee contributions when an employee is less than 50 percent vested in accrued benefits that resulted from employer contributions, does the plan provide for restoration of forfeited amounts on repayment of withdrawn employee contributions plus interest? [2028]				
V. Cash-Outs and Immediate Distributions	**Plan Reference**	**Yes**	**No**	**N/A**
a. For purposes of determining an employee's accrued benefit that resulted from employer contributions, does the plan not disregard years of service performed for which the employee received a cash-out? (If the answer is "Yes," skip to (f))				
b. If an involuntary cash-out, must the employee receive a distribution of the present value of the entire nonforfeitable benefit that resulted from employer contributions? [2033]				
c. Are such distributions made because of the termination of the employee's participation in the plan? [2034]				
d. Is the value of the employee's accrued benefit restored when the employee repays the full amount of the distribution as provided by regulations? [2035]				
e. Does the plan disregard service only for which an employee receives payment? [2036]				
f. Is the plan a statutory hybrid plan that determines benefits under a lump sum-based benefit formula? (If the answer is "No", mark "N/A" and skip to (k))				
g. Does the plan provide an actuarial increase or provide for suspension of benefits and the applicable notice for participants who have an annuity starting date that is after normal retirement age? [2037]				
h. Does the plan limit the reductions to the accumulated benefit according to section 1.411(a)(13)-1(b)(2)(ii)? *(Note to Reviewer: Mark N/A for Cycle A. Explanation contains Cycle E information. The plan is not required to reflect these provisions because they are not on the 2015 Cumulative List. However, it is acceptable if these provisions are included.)*				

V. Cash-Outs and Immediate Distributions - Continued	Plan Reference	Yes	No	N/A
i. If an optional form of benefit is not at least the actuarial equivalent of the then-current balance of a hypothetical account maintained for the participant or the then-current value of an accumulated percentage of the participant's average compensation, does the payment of that optional form of benefit satisfy the rules generally applicable to payment of the accrued benefit under a defined benefit plan, including section 411(a)(2) and section 417(e)(3) *(if applicable)*? *(Note to Reviewer: Mark N/A for Cycle A. Explanation contains Cycle E information. The plan is not required to reflect these provisions because they are not on the 2015 Cumulative List. However, it is acceptable if these provisions are included.)*				
j. If only a portion of the benefit is determined under lump sum-based formula and the plan relies on the relief under section 411(a)(13)(A), does the plan provide that the portion of the participant's benefit that is determined under a formula that is not a lump sum-based formula must satisfy section 411(a), section 411(c) and section 417(e)? (If the entire benefit is determined under a lump sum-based formula, mark "N/A" and skip to (o).) [2040]				
k. Is the interest rate for valuing accrued benefits and determining the amount of distributions specified by the plan? [2043, 2044]				
l. Does the plan satisfy the section 417 interest and mortality table limitations? [2043, 2044]				
m. Does the plan define the stability period and look-back period used to determine the section 417 interest rate limitation? [2045]				
n. If the plan uses an interest rate or mortality table in addition to the section 417 rate, does it provide that the present value of vested accrued benefits and the amount of distributions will be determined using the rate which results in the greater benefit? [2046]				
o. Are immediate distributions, where the present value of the vested accrued benefit has ever exceeded $5,000, precluded unless the participant consents? [2047]				
p. If the plan's NRA is less than age 62, did the sponsor demonstrate that NRA satisfies section 1.401(a)-1(b)(2), or is this a defined benefit plan the terms of which, on or before December 8, 2014, provided for a normal retirement age (applicable only with respect to an individual who is a participant in the plan on or before January 1, 2017, or is an employee at any time on or before January 1, 2017, of any employer maintaining the plan) which is the earlier of — (a) an age otherwise permitted under section 3(24) of ERISA, or (b) the age at which a participant completes the number of years (not less than 30 years) of benefit accrual service specified by the plan.? [2047A]				
q. If the plan permits "in-service" distributions, is it limited to participants who have attained age 62 or normal retirement age, if earlier? [2048]				

VI. Vesting Schedule	Plan Reference	Yes	No	N/A
a. If any portion of the participant's accrued benefit under the plan is determined under a statutory hybrid benefit formula, does the plan provide 100 percent of vesting if the participant has three or more years of vesting service? (If any portion of the plan's accrued benefit is determined under a statutory hybrid benefit formula, do not complete the rest of this section.) [2042]				
b. At all times does the plan's vesting schedule satisfy the requirements of a particular one of the two minimum vesting schedules described in Code section 411(a)(2)(A) for all years of service? [2042]				
c. If a plan's vesting schedule is changed by a plan amendment, does the new vesting schedule satisfy any particular one of the vesting schedules described in Code section 411(a)(2)(A) for all years of service? [2042]				

VII. Accrued Benefit	Plan Reference	Yes	No	N/A
a. Insured Plans:				
(i) Is the plan funded exclusively with insurance contracts, satisfying the requirements of Code section 412(e)(3)? (If the answer is "Yes," complete only questions b.(i) and f. of this worksheet.)				
b. General:				
(i) Does the plan decrease neither benefit payments to a participant (or beneficiary), nor a separated participant's rights to benefits, because of an increase in social security benefits? [2049]				
(ii) Does the plan provide for an accrual computation period for purposes of determining an accrued benefit? [2050]				
(iii) For purposes of benefit accrual, does the plan take into account every year required by DOL Regulations? [2051]				
(iv) If an employee may commence participation on a date other than the first day of an accrual computation period, does the plan provide for a partial year of participation as required by the DOL Regulations? [2052]				
(v) Does the plan not defer the accrual of benefits on behalf of an employee beyond the completion of 2 continuous years of service? [2053]				
(vi) If the plan defers accruals for a period consisting of up to the participant's first 2 years of service, does the participant retroactively accrue a benefit for that period after it ends? [2053]				
c. Normal Retirement Benefit:				
(i) If the plan is a statutory hybrid plan, does the plan define the accrued benefit as an annuity commencing at normal retirement age, including projecting interest at the plan's interest crediting rate in effect as of as of the determination date, if applicable? [2054]				
(ii) Is the plan's accrued benefit always ascertainable? [2057]				
(iii) Is the plan's normal retirement benefit, as specified in the plan, equal to the larger of the plan's accrued benefit payable at normal retirement age or the greatest benefit payable to the participant commencing before normal retirement age? [2058]				
d. Methods: (Once a plan satisfies the requirements of either (i), (ii), or (iii) DO NOT complete the remaining items of section d)				
(i) 133-1/3 Percent Test				
A. Is the accrued benefit that becomes payable at normal retirement age equal to the plan's normal retirement benefit? [2062]				
B. Is the accrual rate in any given year under the plan no greater than 133-1/3 percent of the accrual rate in any prior year (make appropriate adjustments for ancillary benefits)? [2062]				
C. If the plan is a statutory hybrid plan that relies on a minimum rate of interest to satisfy the 133 1/3 percent accrual rule, do the plan provisions preclude the rate from being lower than that minimum rate? [2063]				
If the answer is "Yes," DO NOT complete the remainder of section d				
(ii) 3 Percent Test: (Use this test last for Unit Benefit Plans)				
A. In a fully integrated excess or offset plan, does the plan prohibit an early retirement benefit? (If the answer is "No," use another test.) [2062]				
B. If the plan bases its benefit on average compensation, does it specify that the benefit is determined on the basis of compensation averaged over consecutive years of service, not more than 10, which yield the highest average? (If the answer is "No," the 3 percent test cannot be met.) [2062]				

VII. Accrued Benefit - Continued	Plan Reference	Yes	No	N/A
C. Is the accrual of plan benefits based on a "normal retirement benefit" which is determined by using the earliest possible entry age under the plan? (If no entry age is specified by the plan, use a 0.) [2062]				
D. If a participant does not accrue the "normal retirement benefit" by normal retirement age, are years of participation after normal retirement age counted for purposes of meeting the requirement that the benefit accrued at the rate of at least 3 percent a year? [2062]				
E. Does the plan specify that the accrual of the "normal retirement benefit" will be at a rate of at least 3 percent of the benefit for each year of participation? [2062]				
Check "Yes" if the 3 percent test is satisfied. (If all answers above are "Yes," this test is satisfied.) If this test is satisfied, do not complete remainder of this section.				
If the answer to B., C., and D. is "Yes," but the answer to E. is "No," then complete F.				
F. Can it be demonstrated mathematically that the plan's "normal retirement benefit" accrues at a rate of at least 3 percent for each year of participation? In making this calculation, assume the earliest possible entry age under the plan. (If no entry age is specified, assume 0.) See the explanation for guidance in making your mathematical computations. [2062]				
(iii) Fractional Rule:				
A. If the plan benefit is based on average compensation, is the average based on compensation for a period no greater than the 10 years of service immediately before the date the benefit is determined? [2062]				
B. Does the plan's benefit accrue at the same rate for all years? [2062]				
If the answers to A. and B. are "Yes," this rule is satisfied.				
C. Is it clear from the language of the plan that if a participant terminates service in year Y that the accrued benefit at Y is at least equal to the product of the plan's normal retirement benefit times a fraction of the actual years of participation accrued from entry to Y over the total years of participation from entry to normal retirement age? [2062]				
e. Coordinating Accrual Rules with Top-Heavy Rules:				
(i) Do the accrual benefit rules properly coordinate with the top-heavy rules? [2078]				
f. Allocation of Accrued Benefits Between Employer and Employee Contributions:				
If the plan does not provide for employee contributions, DO NOT complete this section.				
(i) Does the plan maintain separate accounts for voluntary employee contributions? (If no voluntary contributions are permitted, check "N/A") [2081]				
(ii) Does the plan define the accrued benefit that is the result of employer contributions as the total accrued benefit less the accrued benefit that is the result of mandatory employee contributions? [2082]				
(iii) If the plan provides for mandatory employee contributions, does it correctly determine the accrued benefit that resulted from these contributions? [2083]				
(iv) Is the interest credited to mandatory contributions calculated in accordance with section 411(c)(2)(C)? [2084, 2085]				

VIII. Age discrimination - only complete for Statutory Hybrid Plans	Plan Reference	Yes	No	N/A
a. Accumulated Benefit:				
(i) If the plan's accumulated benefit is expressed in terms of one safe-harbor formula measure, is the accumulated benefit of an individual who is or could be a participant less than the accumulated benefit of any similarly situated, younger individual who is or could be a participant? (If the answer is "No", mark "N/A" and skip to (b))				

VIII. Age discrimination - only complete for Statutory Hybrid Plans - Continued	Plan Reference	Yes	No	N/A
(ii) If the plan's accumulated benefit is expressed in terms of multiple benefit formulas, each of which is expressed in terms of a different safe-harbor formula measure, does the plan satisfy the requirements under section 1.411(b)(5)-1(b)(1)(ii)? (If the answer is "No", mark "N/A")				
b. Market rate of return:				
(i) If the plan's interest crediting rate is determined as a single rate, is that rate no greater than a market rate of return? [2100]				
(ii) Does the plan specify the method for determining the interest credits? [2086]				
(iii) Does the plan provide interest credits at least annually and are interest credits applied at the end of the interest crediting period? [2087]				
(iv) If the plan credits interest more frequently than once a year, does the plan provide that the interest crediting rate is no greater than a pro rata portion of the permissible annual interest crediting rate? (Note to Reviewer: Mark N/A for Cycle A. Explanation contains Cycle E information. The plan is not required to reflect				
(v) If the plan's interest crediting rate is determined as the greater of two or more rates, does each of the different rates individually and in combination meet the requirement not to exceed a market rate of return? [2101]				
(vi) If the plan's interest crediting rate is determined as the lesser of or the blend of two rates, does the plan provide that the combination of rates meets the requirement not to exceed a market rate of return? [2102]				
(vii) Does the plan provide that the participant's benefit under the statutory hybrid benefit formula determined as of the participant's annuity starting date is no less than the benefit determined as if the accumulated benefit were equal to the sum of all principal credits credited under the plan to the participant as of that date (preservation of capital requirement)? [2059]				
c. Conversion amendments - only complete for plans that had conversion amendments:				
(i) Do the plan terms satisfy the requirement of section 1.411(b)(5)-1(c)? [2060]				
d. Plan termination:				
(i) Does the plan provide that the interest crediting rate for periods after the plan termination date is equal to the average of the interest rates used under the plan during the 5-year period ending on the plan termination date? [2061]				
(ii) Do the interest rate and mortality table used to convert a participant's accumulated benefit to an annuity payable at normal retirement age meet the requirement of section 411(b)(5)(B)(vi)? [2103]				

IX. Amendment Affecting Accrued Benefits and Vesting	Plan Reference	Yes	No	N/A
a. If the vesting schedule is being amended, is the nonforfeitable percentage of every participant not less than the percentage figured under the plan before amendment? [2091]				
b. If the vesting schedule is being amended, does the plan provide that certain participants may choose the former schedule? [2092]				
c. If the plan is being amended, is each participant's accrued benefit after the amendment not less than the accrued benefit before the amendment? [2093]				
d. If the early retirement benefits or other optional retirement benefits are changed by an amendment, are the benefits with respect to the benefits accrued to the date of the amendment not reduced for any employee who at any time on or after the amendment satisfies the pre-amendment conditions for the benefit? [2093]				
e. If "section 411(d)(6) protected benefits" are eliminated by a plan amendment, are such protected benefits preserved with respect to benefits accrued as of the later of the adoption or effective date of the amendment? [2093]				

IX. Amendment Affecting Accrued Benefits and Vesting - Continued	Plan Reference	Yes	No	N/A
f. Does a plan amendment decrease a participant's accrued benefit, or place greater restrictions or conditions on a participant's right to "section 411(d)(6) protected benefits"? [2093]				
g. If "section 411(d)(6) protected benefits" are eliminated does the plan amendment meet the conditions under which a plan amendment is permitted to eliminate or reduce an early retirement benefit, a retirement-type subsidy, or an optional form of benefit that creates significant burdens or complexities for the plan and plan participants? [2094]				
h. If a plan is a statutory hybrid plan and adopted an amendment to change the interest crediting rate that applies prospectively to benefits that have already accrued under the terms of plan, does the plan protect the accrued benefit (including future interest credits on existing hypothetical account balances as of the date of the amendment) as required under section 411(d)(6)? [2104]				
i. If a plan amendment eliminates a pre-retirement age 70½ distribution option, does the plan retain the option for employees who reach age 70½ in a calendar year beginning before 1999? [2095]				

X. Miscellaneous	Plan Reference	Yes	No	N/A
a. If the answers to VIII. Line a. (i) and (ii) are "N/A", does the plan satisfy the requirement that benefit accruals may not cease or be reduced because of the attainment of any age? [2097]				
b. If the plan reduces accruals otherwise required by section 411 (b)(1)(H)(i) on account of distributions or actuarial adjustment for delayed payment, does the manner of reduction satisfy the requirements of the proposed regulations? [2098]				
c. Are "section 411 (d)(6) protected benefits" available to employees without regard to employer consent or discretion? [2099]				
d. Does the plan provide, in the case of an employee (other than a 5 percent owner) who retires in a calendar year after the calendar year in which the employee attains age 70½, that the employee's accrued benefit is actuarially increased from April 1 after the calendar year in which the employee attains age 70½ to the date on which benefits commence after retirement in an amount sufficient to satisfy section 401(a)(9)? [2088]				
e. Does the plan provide that the actuarial increase under d. must be provided even during the period that an employee is in suspendible service under section 203(a)(3)(B) of ERISA? [2089]				

Employee Plan Deficiency Checksheet
Attachment Number 2A
Minimum Vesting Standards for Defined Benefit Plans

For IRS Use	Please furnish the amendment(s) requested in the section(s) checked below.
2002 I.a.	Section ________ of the plan should be amended to specify the 12-consecutive month period used to determine whether an employee has completed a year of service for vesting purposes. DOL Regs. section 2530.200b-1(a).
2003 I.b.	Section ________ of the plan should be amended to specify the completion of no more than 1,000 (870 or 750) hours of service in a vesting computation period to entitle an employee to credit for a year of service. IRC section 411(a)(5)(A) and DOL Regs. sections 2530.200b-1(a), 2530.200b-3(e), 2530.200b-3(d)(1), 2530.200b-3 (f)(1), 2530.200b-3(d)(2) and 2530.200b-3(f)(2).
2004 I.c.	Section ________ of the plan should be amended to credit hours of service in accordance with the applicable DOL regulations. DOL Regs. sections 2530.200b-2(a), 2530.200b-3(e), 2530.200b-3(d)(1), 2530.200-3(d)(3)(ii), 2530.200b-3(f)(1)(i) and 2530.200b-3(f)(2).
2005 I.d.	Section ________ of the plan should be amended to provide, either in its own words or by reference to appropriate DOL regulations, the method of determining the number of hours of service to be credited and to which computation period hours will be credited for periods during which no duties are performed. DOL Regs. sections 2530.200b-2(b), (c) and (f).
2006 I.e.	For purposes of vesting, section ________ of the plan should be amended to define a break in service as a vesting computation period during which the employee does not complete more than 500 (435 or 375) hours of service. DOL Regs. sections 2530.200b-3 and 4.
2007 I.f.	Section ________ of the plan should be amended to provide that certain hours of service shall be credited to appropriate computation periods in order to avoid a break in service for employees on maternity or paternity leave. IRC section 411(a)(6)(E).
2008 I.g.	Section ________ of the plan should be amended to credit an employee with a period of service, commencing no later than the employee's employment commencement date and ending no earlier than the severance from service date. Regs. sections 1.410(a)-7(b), 1.410(a)-7(d) and 1.411(a)-5.
2009 I.h.	Section ________ of the plan should be amended to provide that an employee's total period of service shall be determined by aggregating all individual periods of service, unless such service may be disregarded under the rule of parity. Regs. sections 1.410(a)-7(b)(6)(ii), 1.410(a)-7(d) and 1.411(a)-5.
2010 I.i.	Section ________ of the plan should be amended to provide that in determining an employee's period of service, the service spanning rules should be taken into account. Regs. section 1.410(a)-7(c)(2)(iii).
2011 I.j.	Section ________ of the plan should be amended to define a one year period of severance as a 12-consecutive month period, beginning on the severance from service date during which the employee does not perform an hour of service for the employer. Regs. section 1.410(a)-7(d)(4).
2012 I.k.	Section ________ of the plan should be amended to provide that the first period of severance shall be ignored to the extent that such period of severance is attributable to maternity or paternity leave. IRC section 411
2013 I.l.	For purposes of vesting, section ________ of the plan should be amended to exclude only service with the employer which is permitted to be excluded by IRC section 411(a)(4) and Regs. sections 1.411(a)-5(a) and (b).
2014 I.m.	Section ________ of the plan should be amended to provide that years of service with the employer before a participant entered the plan, including years of service in noncovered employment, will be counted for vesting purposes, unless one of the exceptions noted in IRC section 411(a)(4) applies. IRC section 411(a)(4), Regs. section 1.411(a)-5.
2015 I.n.	For vesting purposes, service with an employer must include service for certain related employers for the period in which the employers are related. These related employers include members of a controlled group of corporations (within the meaning of section 1563(a), determined without regard to subsections (a)(4) and (e)(3)(c) thereof) and trades or businesses (whether or not incorporated) which are under common control. Service must also be counted for organizations that are part of an affiliated service group under section 414(m). Section ________ of the plan should be amended accordingly. IRC section 414(b), (c) and (m), and Regs. section 1.411(a)-5(b)(3)(iv)(B).
2016 I.o.	Section ________ of the plan should be amended to give credit for service with the predecessor employer. IRC section 414(a)(1) and Regs. section 1.411(a)-5.

2017 I.p.	Service of any employee who is a leased employee to any employer aggregated under section 414(b), (c) or (m) must be credited for vesting purposes whether or not such individual is eligible to participate in the plan. Section ________ of the plan should be amended accordingly. IRC section 414(m), Regs. section 1.411(a)-5(b)(3)(iv) and Rev. Rul. 81-105, 1981-2 C.B. 256.
2019 II.a.	Section ________ of the plan should be amended to provide that an employee who separates from service and is reemployed prior to incurring a break-in-service will continue to vest, starting at the point in the vesting schedule where he or she left employment, in both his or her pre-separation and post-separation accruals. Regs. section 1.411(a)-6.
2022 III.a.	Section ________ of the plan should be amended to provide that if a participant separates from service with a nonforfeitable interest, upon re-employment, the pre-break service will be considered for purposes of determining vested interest in benefit accruals resulting from employer contributions after a year of service is completed. IRC sections 411(a)(6)(B) and (C) and Regs. section 1.411(a)-6(c)(1).
2023 III.b.	Section ________ of the plan should be amended to provide that if an employee who has no vested interest separates from service and is reemployed before the number of consecutive one-year breaks in service equals or is more than the greater of 5 or the number of years of service, whether or not consecutive ("Rule of Parity") upon reemployment the pre-break service will be considered for purposes of determining the vested interest in benefit accruals that resulted from employer contributions after a year of service is completed. IRC section 411(a)(6)(D) and Regs. sections 1.411(a)-6(c)(1)(iii) and 1.410(a)-7(d)(7).
2027 IV.a.	Section ________ of the plan should be amended to preclude forfeitures on account of withdrawal of employee contributions when the employee is 50 percent or more vested in the accrued benefits that resulted from employer contributions. IRC section 401(a)(19) and Regs. section 1.401(a)-19.
2028 IV.b.	Section ________ of the plan should be amended to provide for the restoration of amounts forfeited on account of withdrawal of mandatory employee contributions if the participant is less than 50 percent vested in accrued benefits that resulted from employer contributions, and he or she repays the mandatory employee contributions withdrawn. IRC section 411(a)(4)(B) and Regs. section 1.411(a)-7(d)(2).
2033 V.b.	An involuntary cash-out may not be an amount less than the present value of an employee's entire nonforfeitable benefit that resulted from employer contributions, at the time of the distribution. Section ________ of the plan should be amended accordingly. IRC section 411(a)(7)(B)(i) and Regs. section 1.411(a)-7(d)(4)(i).
2034 V.c.	In order to disregard years of service for which an employee received a cash-out, the cash-out (voluntary or involuntary) must be made due to an employee's termination of participation in the plan. Section ________ of the plan should be amended accordingly. IRC sections 411(a)(7)(B) and 417(e) and Regs. sections 1.411(a)-7(d)(4)(i) and (ii).
2035 V.d.	A plan that provides for voluntary or involuntary cash-outs must contain a repayment provision if the employee may receive a distribution that is less than the present value of the employee's accrued benefit, and the employee resumes employment. When the employee repays the full amount of the distribution as provided by regulations, the value of the employee's accrued benefit should be restored. Section ________ of the plan should be amended accordingly. IRC section 411 (a)(7)(C) and Regs. section 1.411 (a)-7(d)(4)(iv).
2036 V.e.	Years of service may be disregarded only for purposes of benefit accruals, and only to the extent a participant has received a distribution of his or her entire nonforfeitable interest in the plan. Section ________ of the plan should be amended accordingly. IRC section 411(a)(7)(B) and Regs. section 1.411(a)-7(d)(4)(iii).
2037 V.g.	The plan must provide an actuarial increase or provide for suspension of benefits and the applicable notice for participants who have an annuity starting date that is after the normal retirement age. Section ________ of the plan should be amended accordingly. Regs. section 1.411(a)(13)-1(b)(2)(i).
2040 V.j.	The present value of the portion of the participant's benefit that is determined under a formula that is not a lump sum-based benefit formula must satisfy sections 411(a), 411(c) and 417(e). Section ________ of the plan should be amended accordingly. Regs. Section 1.411(a)(13) 1(b)(1). (See also Regs. section 1.411(a)(13)-1(b)(4) for plans being reviewed under the 2014 regulations.)
2043, 2044 V.k., l.	The plan must specify the applicable interest rate and applicable mortality table to be used in determining the present value of accrued benefits and the amount of any distribution, including lump sum distributions that cash-out the participant's benefit. PPA '06 section 302, as modified by WRERA, amended section 417(e)(3) of the Code to redefine "applicable interest rate" and "applicable mortality table" for plan years beginning on or after January 1, 2008.
2045 V.m.	Section ________ of the plan should be amended to indicate the date on which the interest rate limitations under sections 411(a)(11), and 417(e)(3) of the Code will be determined. The plan must specify the stability period and look back month. IRC sections 411(a)(11) and 417(e)(3), Regs. section 1.417(e)-1 and Rev. Rul. 2007-67.

2046 V.n.	Section ________ of the plan should be amended to provide that where the plan uses an interest rate or mortality table in addition to the section 417 "applicable interest rate" and "applicable mortality table" for valuing benefits and determining amounts of distributions, it will use the rate which produces the greater benefit, subject to the limitations of section 415 of the Code. Regs. section 1.417(e)-1(d)(5).
2047 V.o.	Section ________ of the plan should be amended to preclude the immediate distribution of any benefit where the present value of the nonforfeitable accrued benefit (taking into account benefits derived from both employer and employee contributions) is in excess of $5,000, without the consent of the participant and, when applicable, the participant's spouse (the $5,000 threshold is determined without regard to any employee rollover that the employee contributed to the employer's plan). IRC sections 411(a)(11) and 417(e), and Regs. sections 1.411(a)(11) and 1.417(e)-1.
2047A V.p.	Please submit a demonstration to show that the plan's definition of normal retirement age satisfies Reg. section 1.401(a)-1(b)(2), or amend section ________ of the plan to provide a definition of normal retirement age that satisfies the regulation.
2048 V.q.	"In-service" distributions permitted to be made by a pension plan are limited to participants who have attained age 62 or normal retirement age if earlier. Section ________ of the plan should be amended accordingly. IRC section 401(a)(36).
2042 VI.a., b. and c.	The vesting schedule should be amended to satisfy the requirements, at every point in time, of a particular one of the minimum vesting schedules described by IRC section 411(a)(2)(A) (IRC section 411(a)(13)(B) for statutory hybrid plans) for all employees' years of service. Regs. section 1.411(a)-3T (Regs. section 411(a)(13)-1(c) for statutory hybrid plans).
2049 VII.b.(i)	Section ________ of the plan should be amended to provide that benefits may not be decreased due to subsequent increases in social security benefits. IRC section 401(a)(15).
2050 VII.b.(ii)	Section ________ of the plan should be amended to specify the accrual computation period for purposes of providing an accrued benefit. DOL Regs. sections 2530.204-2(c) and (d).
2051 VII.b.(iii)	Section ________ of the plan should be amended so that, for purposes of benefit accrual, the plan takes into account every year required to be taken into account by the DOL regulations. DOL Regs. sections 2530.204-1(b), -2 and -3.
2052 VII.b.(iv)	Since an employee may begin participation on a date other than the first day of an accrual computation period, Section ________ of the plan should be amended to provide for a partial year of participation as required by DOL Regs. section 2530.204-2(c)(3).
2053 VII.b.(v), (vi)	Section ________ of the plan should be amended to limit the deferral of accrual of benefits on behalf of a member to no more than two years, with retroactive accrual after the completion of two continuous years of service. IRC section 411(b)(1)(E), Regs. section 1.411(b)-1(d)(1) and DOL Regs. section 2530.204-4.
2054 VII.c.(i)	A statutory hybrid plan must define the accrued benefit as an annuity commencing at normal retirement age, including projecting interest at the plan's interest crediting rate in effect as of the determination date. Section ________ of the plan should be amended accordingly. Notice 96-8; 1996-1 C.B. 359.
2057 VII.c.(ii)	Section ________ of the plan should be amended to provide for a formula under which each participant's actual accrued benefit under the plan can be determined in each plan year. IRC sections 411(a)(7)(A)(i) and 411(b)(1).
2058 VII.c.(iii)	Section ________ of the plan should be amended to provide that the normal retirement benefit is equal to the larger of the plan's accrued benefit payable at normal retirement age or the greatest benefit payable to the participant commencing before normal retirement age. Regs. section 1.411(a)-7(c).
2062 VII.d.	Section ________ of the plan should be amended to satisfy one of the three accrued benefit methods for determining each member's accrued benefit in each plan year. IRC section 411(b)(1) and Regs. sections 1.411(b)-1(a) and (b).
2063 VII.d.(i)C.	If a plan formula relies on a minimum interest crediting rate to comply with the 133 1/3 percent accrual rule, the plan provisions must preclude the interest crediting rate from falling below that minimum. Section ________ of the plan should be amended accordingly, taking into account the requirement that an interest crediting rate cannot exceed a market rate of return. IRC sections 411(b)(1)(B) and 411(b)(5)(B)(i)(I) and Regs. section 1.411(b)(5)-1(d).
2078 VII.e.	The top-heavy rules require that the accrued benefits of a top-heavy plan may not be less at any point in time than the minimum top-heavy benefit. Section ________ of the plan should be amended accordingly. IRC section 416(c), Regs. section 1.416 M-2.
2081 VII.f.(i)	Section ________ of the plan should be amended to provide for a separate account for the portion of each employee's accrued benefit from voluntary employee contributions permitted under the plan. IRC sections 411(b)(2), (c)(2) and (d)(5) and Regs. section 1.411(c)-1 (a).

2082 VII.f.(ii)	Section ________ of the plan should be amended to define the accrued benefit derived from employer contributions as total accrued benefit, less the accrued benefit derived from mandatory employee contributions. IRC section 411 (c)(1) and Regs. sections 1.411(b)-1 and 1.411(c)-1.
2084, 2085 VII.f.(iv)	Section ________ of the plan should be amended to provide that for purposes of determining an employee's accrued benefit derived from employee contributions, for plan years beginning after 1987 and up to the determination date, accumulated contributions will be credited with interest compounded annually at the rate of 120 percent of the Federal mid-term rate as in effect under section 1274 of the Code for the first month of a plan year. For the period between the determination date and the date on which the employee attains normal retirement age, the plan must credit accumulated contributions with interest compounded annually at the rate that would be used under the plan under section 417(e)(3) (as of the determination date). IRC section 411(c)(2)(C)(iii).
2100 VIII.b.(i)	A statutory hybrid plan must not credit interest at a rate that exceeds a market rate of return. Section ________ of the plan should be amended accordingly when the 2014 proposed regulations are finalized. IRC section 411 (b)(5)(B)(i)(I) and Regs. section 1.411(b)(5)-1(d).
2086 VIII.b.(ii)	A plan that provides interest credits must specify the method for determining interest credits. Section ________ of the plan should be amended accordingly. Regs. section 1.411(b)(5)-1(d)(1)(iv)(A) and (B).
2087 VIII.b.(iii)	A plan that provides interest credits must specify how and when interest credits are credited. Interest credits under a plan must be provided on an annual or more frequent basis and interest credits for each interest crediting period must be credited as of the end of the period. Section ________ of the plan should be amended accordingly. Regs. section 1.411(b)(5)-1(d)(1)(iv)(A) and (C).
2101 VIII.b.(v)	If a plan's interest crediting rate is determined as the greater of two or more interest rates, each rate must individually and in combination meet the requirement that the interest crediting rate must not exceed a market rate of return. Section ________ of the plan should be amended accordingly when the 2014 proposed regulations are finalized. Regs. section 1.411(b)(5)-1(d)(1)(vi).
2102 VIII.b.(vi)	If a plan's interest crediting rate is determined as the lesser of or a blend of two or more interest rates, the plan must meet the requirement that the combination of rates does not exceed a market rate of return. Section ________ of the plan should be amended accordingly when the 2014 proposed regulations are finalized. Regs. section 1.411(b)(5)-1(d)(1)(v) and (vii).
2059 VIII.b.(vii)	A plan must provide that the participant's benefit under the statutory hybrid benefit formula determined as of the participant's annuity starting date is no less than the benefit determined as if the accumulated benefit were equal to the sum of all principal credits credited under the plan to the participant as of that date. Section ________ of the plan should be amended accordingly. IRC section 411(b)(5)(B)(i)(II) and Regs. 1.411(b)(5)-1(d)(2).
2060 VIII.c.(i)	For a plan that had a conversion amendment, the plan terms must satisfy the requirement of IRC section 411(b)(5)(B)(ii) through (v) and Regs. section 1.411(b)(5)-1(c).
2061 VIII.d.(i)	The interest crediting rate used under the plan to determine a participant's accumulated benefit for interest crediting periods that end after the plan termination date must be equal to the average of the interest rates used under the plan during the 5-year period ending on the plan termination date. Section ________ of the plan should be amended accordingly. IRC section 411(b)(5)(B)(vi)(I). (See also Regs. section 1.411(b)(5)-1(e)(2) if the plan sponsor requested a review under the 2014 regulations.)
2103 VIII.d.(ii)	The interest rate and mortality table used to convert a participant's accumulated benefit to an annuity payable at normal retirement age must meet the requirements of IRC section 411(b)(5)(B)(vi)(II). Section ________ of the plan should be amended accordingly. IRC section 411(b)(5)(B)(vi)(II). (See also Regs. section 1.411(b)(5)-1(e)(2) if the plan sponsor requested a review under the 2014 regulations.)
2091 IX.a.	Section ________ of the plan should be amended to provide, either directly or indirectly, that the nonforfeitable percentage of each member's right to his or her employer derived accrued benefit, because of a change to the vesting schedule, is not less than the member's percentage computed under the plan without regard to such change. Regs. sections 1.411(a)-8(a) and (c).
2092 IX.b.	Section ________ of the plan should be amended to provide that each member whose nonforfeitable percentage of his or her benefits derived from employer contributions is determined under the amended schedule, and who has completed at least 3 years of service with the employer, may elect, during the election period, to have the nonforfeitable percentage of his or her accrued benefit derived from employer contributions determined without regard to such amendment if his/her nonforfeitable percentage under the plan as amended is, at any time, less than such percentage determined without regard to such amendment. Regs. section 1.411 (a)-8T(b).

2093 IX.c., d., e. and f.	Section ________ of the plan should be amended so that it does not eliminate, reduce or place greater restrictions or conditions on section 411(d)(6) protected benefits that have already accrued. IRC section 411(d)(6) and Regs. section 1.411(d)-4.
2094 IX.g.	A plan is permitted to be amended to eliminate or reduce an early retirement benefit, a retirement-type subsidy, or an optional form of benefit that creates significant burdens or complexities for the plan and plan participants, if certain conditions are satisfied. Section ________ of the plan should be amended accordingly. See 1.411(d)-3 the conditions which must be met in order to eliminate or reduce an early retirement benefit, a retirement-type subsidy, or an optional form of benefit that creates significant burdens or complexities for the plan and plan participant.
2104 IX.h.	If a statutory hybrid plan was amended to change the interest crediting rate that applies prospectively to benefits that have already accrued under the terms of plan, the plan must protect the accrued benefit (including future interest credits on existing hypothetical account balances as of the date of the amendment) as required under IRC section 411(d)(6) and Regs. section 1.411(b)(5)-1(e)(3). Section ________ of the plan should be amended accordingly. Regs. section 1.411(b)(5)-1(e)(3).
2095 IX.i.	Section ________ of the plan should be amended so that it retains a preretirement age 70½ distribution option for employees who reach age 70½ in a calendar year that begins prior to 1999 (or prior to any year after 1999 set forth in the amendment). IRC section 411(d)(6).
2097 X.a.	Section ________ of the plan should be amended so that an employee's benefit accrual is not ceased, nor the rate of accrual decreased, because of the attainment of any age. IRC section 411(b)(1)(H) and Proposed Regs. section 1.411(b)-2(b).
2098 X.b.	Section ________ of the plan should be amended to conform the manner of calculating the reduction provided therein to accruals otherwise required under section 411(b)(1)(H)(i) of the Code to the requirements of section 1.411(b)-2(b)(4)(ii) and/or (iii) of the proposed regulations.
2099 X.c.	A plan may not permit an employer, through the exercise of discretion, to deny a participant a section 411(d)(6) protected benefit for which the participant is otherwise eligible. Section ________ of the plan should therefore be amended. See Q&As 8 and 9 of Regs. section 1.411(d)-4 regarding acceptable alternatives for amending the plan without violating section 411(d)(6).
2088 X.d.	Section ________ of the plan should be amended to provide that the accrued benefit of an employee (other than a 5-percent owner) who retires in a calendar year after the calendar year in which the employee attains age 70½ is actuarially increased from April 1 after the calendar year in which the employee attains age 70½ to the date on which benefits commence after retirement in an amount sufficient to satisfy section 401(a)(9), in order to take into account the period during which the employee is not receiving benefits under the plan. IRC section 401(a)(9)(C)(iii) and Notice 97-75, 1997-2 C.B. 337, Q&A 4.
2089 X.e.	Section ________ of the plan should be amended to provide that the actuarial increase required by section 401(a)(9)(C)(iii) of the Code applies even during the period that an employee is in suspendible service under section 203(a)(3)(B) of ERISA and section 411(a)(3)(B) of the Code. IRC section 401(a)(9)(C)(iii) and Notice 97-75, 1997-2C.B. 337, Q&A 4