PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:


§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

ASO GA E3 Augusta, GA [REVISED]

Augusta, Bush Field, GA

(Lat. 33°22′12″N, long. 81°57′52″W)

Bushe NDB

(Lat. 33°17′13″N, long. 81°56′49″W)

Daniel Field

(Lat. 33°27′59″N, long. 82°02′21″W)

Burke County Airport

(Lat. 33°06′28″N, long. 82°00′14″W)

Burke County NDB

(Lat. 33°02′33″N, long. 82°00′17″W)

Millen Airport

(Lat. 32°53′37″N, long. 81°57′55″W)

Millen NDB

(Lat. 32°53′41″N, long. 81°58′01″W)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of Bushe Field and within 8 miles west and 4 miles east of the Augusta ILS localizer south course extending from the 8.2-mile radius to 16 miles south of the Bushe NDB, and within a 6.3-mile radius of Daniel Field, and within a 6.2-mile radius of Burke County Airport and within 3.5 miles each side of the 240° bearing from the Burke County NDB extending from the 6.2-mile radius to 7 miles southwest of the NDB, and within a 6.4-mile radius of Millen Airport and within 4 miles east and 8 miles west of the 357° bearing from the Millen NDB extending from the 6.4-mile radius to 16 miles north of the airport.

Issued in College Park, Georgia, on September 27, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–25312 Filed 10–4–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 170

[Docket No. FHWA–2002–12229]

RIN 1076–AE17

Indian Reservation Roads Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Bureau of Indian Affairs (BIA) has been conducting information and education meetings with the public as noticed in the Federal Register on August 7, 2002 (67 FR 51328). The document of August 7, 2002, noted that all comments were due on or before October 7, 2002. This document extends that comment period to November 7, 2002.

DATES: All comments must be received by November 7, 2002.

ADDRESSES: Mail or hand deliver written comments to the docket number appearing at the top of this document to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001 or submit electronically at http://dms.dot.gov/subm. All comments should include the docket number appearing in the heading of this document. All comments received will be available for examination and copying at the Dockets Management Facility between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard, or you may print the acknowledgment page that appears after comments electronically.

FOR FURTHER INFORMATION CONTACT: LeRoy Gishi, Chief, Division of Transportation, Bureau of Indian Affairs, 1849 C Street, NW., MS 4058 MIB, Washington, DC 20240, (202) 208–4359 between 8 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The purpose of the information and educational meetings was to involve affected and interested parties in the administration of the Indian Reservation Roads Program. There has been a series of 12 information and education meetings throughout the country where public participation, in the form of questions and requests for clarification of the proposed rulemaking, was encouraged. Because of the overwhelming public response to the proposed rulemaking, the BIA believes it prudent to extend the comment period to November 7, 2002. This extension will facilitate the maximum direct participation of all interested parties in this important bureau process.

Dated: October 1, 2002.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 02–25433 Filed 10–4–02; 8:45 am]

BILLING CODE 4310–LY–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–124667–02]

RIN 1545–BA78

Disclosure of Relative Values of Optional Forms of Benefit

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document contains proposed regulations that would consolidate the content requirements applicable to explanations of qualified joint and survivor annuities and qualified preretirement survivor annuities payable under certain retirement plans, and would specify requirements for disclosing the relative value of optional forms of benefit that are payable under certain retirement plans in lieu of a qualified joint and survivor annuity. These regulations would affect retirement plan sponsors and administrators, and participants in and beneficiaries of retirement plans. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments, requests to speak and outlines of oral comments to be discussed at the public hearing scheduled for January 14, 2003, at 10 a.m., must be received by January 2, 2003.

ADDRESSES: Send submissions to:

CC:ITA:RU (REG–124667–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered to:

CC:ITA:RU (REG–124667–02), room 5226, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet
by submitting comments directly to the IRS Internet site at: www.irs.gov/regs.
The public hearing will be held in room 4718 of the Internal Revenue Building,
1111 Constitution Avenue NW.,
Washington, DC.

FOR FURTHER INFORMATION CONTACT:
Concerning the regulations, Linda S. F.
Marshall, 202–622–6090; concerning
submissions and the hearing, and/or
be placed on the building access list to
attend the hearing, Guy Traynor, 202–
622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act
The collections of information
contained in this notice of proposed
rulemaking have been submitted to the
Office of Management and Budget for
review in accordance with the
Paperwork Reduction Act of 1995 (44
U.S.C. 3507(d)). Comments on the
collections of information should be
sent to the Office of Management and
Budget, Attn: Desk Officer for the
Department of the Treasury, Office of
Information and Regulatory Affairs,
Washington, DC 20503, with copies to the
Internal Revenue Service, Attn: IRS
Reports Clearance Officer,
Comments on the collections of
information should be received by
December 6, 2002. Comments are
specifically requested concerning:
Whether the proposed collections of
information are necessary for the proper
performance of the functions of the IRS,
including whether the information will
have practical utility;
The accuracy of the estimated burden
associated with the proposed collection of
information (see below);
How the quality, utility, and clarity of the
information to be collected may be
enhanced;
How the burden of complying with the
proposed collection of information may be
minimized, including through the
application of automated collection
techniques or other forms of information
technology; and
Estimates of capital or start-up costs
and costs of operation, maintenance,
and purchase of services to provide
information.
The collections of information in this
proposed regulation are in § 1.417(a)(3)–
1. This information is required by the
IRS to comply with the requirements of
section 417(a)(3) regarding explanations
that must be provided to participants in
a qualified plan prior to a waiver of a
qualified joint and survivor annuity
(QJSA) or a qualified preretirement
survivor annuity (QPSA). This
information will be used by participants
and spouses of participants to determine
whether to waive a QJSA or QPSA, and
by the IRS to confirm that the plan
complies with applicable qualification
requirements to avoid adverse tax
consequences. The collections of
information are mandatory. The
respondents are nonprofit institutions.

Estimated total annual reporting
burden: 375,000 hours.
The estimated annual burden per
participant varies from .01 to .99 hours,
depending on individual circumstances,
with an estimated average of .5 hours.

Estimated number of respondents:
750,000.
The estimated annual frequency of
responses: On occasion.
An agency may not conduct or
sponsor, and a person is not required to
respond to, a collection of information
unless it displays a valid control
number assigned by the Office of
Management and Budget.

Books or records relating to a
collection of information must be
retained as long as their contents may
become material in the administration
of any internal revenue law. Generally,
tax returns and tax return information
are confidential, as required by 26

Background
This document contains proposed
amendments to 26 CFR part 1 under
section 417(a)(3) of the Internal Revenue

A qualified retirement plan to which
section 401(a)(11) applies must pay a
vested participant’s retirement benefit
under the plan in the form of a qualified
joint and survivor annuity (QJSA),
except as provided in section 417.

Section 401(a)(11) applies to defined
benefit plans, money purchase pension
plans, and certain other defined
contribution plans. A QJSA is defined in
section 417(b) as an annuity for the life
of the participant with a survivor
annuity for the life of the spouse (if the
participant is married) that is not less
than 50 percent of (and is not greater
than 100 percent of) the amount of the
annuity that is payable during the joint
lives of the participant and the spouse.

Under section 417(b)(2), a QJSA for a
married participant generally must be
the actuarial equivalent of the single life
annuity benefit payable for the life of the
participant. However, a plan is
permitted to subsidize the QJSA for a
married participant. If the plan fully
subsidizes the QJSA for a married
participant so that failure to waive the
QJSA would not result in reduced
payments over the life of the participant
compared to the single life annuity
benefit, then the plan need not provide
an election to waive the QJSA. See
section 417(a)(5).

For a married participant, the QJSA
must be at least as valuable as any other
optional form of benefit payable under
the plan at the same time. See
§ 1.401(a)-20, Q&A–16. Further, the
anti-forfeiture rules of section 411(a)
prohibit a participant’s benefit under a defined
benefit plan from being satisfied
through payment that is actuarially less
valuable than the value of the
participant’s accrued benefit expressed
in the form of an annual benefit
commencing at normal retirement age.
These determinations must be made
using reasonable actuarial assumptions.
However, see § 1.417(e)–1(d) for
actuarial assumptions required for use
in certain present value calculations.

If a plan provides a subsidy for one
optional form of benefit (i.e., the
payments under an optional form of
benefit have an actuarial present value
that is greater than the actuarial present
value of the accrued benefit), there is no
requirement to extend a similar subsidy
(or any subsidy) to every other optional
form of benefit. Thus, for example, a
participant might be entitled to receive
a single-sum distribution upon early
retirement that does not reflect any early
retirement subsidy in lieu of a QJSA
that reflects a substantial early retirement
subsidy. As a further example, a
participant might be entitled to receive
a single-sum distribution at normal
retirement age in lieu of a QJSA that is
subsidized as described in section
417(a)(5).

Section 417(a) provides rules under
which a participant (with spousal
consent) may waive payment of the
participant’s benefit in the form of a
QJSA. Section 417(a)(3) provides that a
plan must provide to each participant,
within a reasonable period before the
annuity starting date (and consistent
with such regulations as the Secretary
may prescribe) a written explanation of
the terms and conditions of the QJSA,
the participant’s right to make, and the
effect of, an election to waive the QJSA
form of benefit, the rights of the
participant’s spouse, and the right to
revoke (and the effect of the revocation
of) an election to waive the QJSA form of
benefit.

Section 205 of the Employee
Retirement Income Security Act of 1974
(ERISA), Public Law 93–406 (88 Stat.
829) as subsequently amended, provides
parallel rules to the rules of sections
401(a)(11) and 417 of the Internal
Revenue Code. In particular, section
205(a)(3) of ERISA provides a parallel
rule to section 417(a)(3) of the Code.
Treasury regulations issued under
section 417(a)(3) of the Code apply as
well for purposes of section 205(a)(3) of ERISA.

Regulations governing the requirements for waiver of a QJSA were published in the Federal Register on August 19, 1988 (TD 8219; 53 FR 31837). Section 1.401(a)–20, Q&A–36, provides rules for the explanation that must be provided under section 417(a)(3) as a prerequisite to waiver of a QJSA. Section 1.401(a)–20, Q&A–36, requires that such a written explanation must contain a general description of the eligibility conditions and other material features of the optional forms of benefit and sufficient additional information to explain the relative values of the optional forms of benefit available under the plan (e.g., the extent to which optional forms are subsidized relative to the normal form of benefit or the interest rates used to calculate the optional forms). In addition, § 1.401(a)–20, Q&A–36, provides that the written explanation must comply with the requirements set forth in § 1.401(a)–11(c)(3). Section 1.401(a)–11(c)(3) was issued prior to the enactment of section 417, and provides rules relating to written explanations that were required prior to a participant’s election of a preretirement survivor annuity or election to waive a joint and survivor annuity. Section 1.401(a)–11(c)(3)(i)(C) provides that such a written explanation must contain a general explanation of the relative financial effect of these elections on a participant’s annuity.

In addition, under section 411 and § 1.411(a)–11(c), so long as a benefit is immediately payable (within the meaning of § 1.411(a)–11(c)(4)), a participant must be informed of his or her right to defer that distribution. This requirement is independent of the section 417 requirements addressed in these proposed regulations.

Concerns have been expressed that, in certain cases, the information provided to participants under section 417(a)(3) regarding the available distribution forms does not adequately enable them to compare those distribution forms without professional advice. In particular, participants who are eligible for both subsidized annuity distributions and unsubsidized single-sum distributions may be receiving notices that do not adequately explain the value of the subsidy that is foregone if the single-sum distribution is elected. In such a case, merely disclosing the amount of the single-sum distribution and the amount of annuity payments may not adequately enable those participants to make an informed comparison of the relative values of those distribution forms, even if the interest rate used to derive the single-sum is disclosed. Furthermore, questions have been raised as to how the relative values of optional forms of benefit are required to be expressed under current regulations. Accordingly, these proposed regulations are being issued to propose disclosure requirements that would enable participants to compare the relative values of the available distribution forms using more readily understandable information.

**Explanation of Provisions**

The proposed regulations would consolidate the content requirements applicable to explanations of QJSAs and QPSAs under section 417(a)(3), and would specify rules for disclosing the relative value of optional forms of benefit as part of the QJSA explanation. Similar to the requirements in the current regulations, the required explanation must contain, with respect to each of the optional forms of benefit presently available to the participant, a description of the optional form of benefit, a description of the eligibility conditions for the optional form of benefit, a description of the financial effect of electing the optional form of benefit, a description of the relative value of the optional form of benefit, and a description of any other material features of the optional form of benefit. Further, as under the current regulations, the QJSA explanation would be permitted to be made either by providing the participant with information specific to the participant, or by providing the participant with generally applicable information and offering the participant the opportunity to request additional information specifically applicable to the participant with respect to any optional forms of benefit available to the participant. The proposed regulations would clarify that a defined contribution plan is not required to provide a description of the relative values of optional forms of benefit compared to the value of the QJSA.

The proposed regulations would provide additional guidance regarding the required description of the relative values of optional forms of benefit compared to the value of the QJSA and the content of the required disclosure of relative values. Under the proposed regulations, the description of the relative value of an optional form of benefit compared to the value of the QJSA must be expressed in a manner that provides a meaningful comparison of the relative economic values of the two forms, the participant having to make calculations using interest or mortality assumptions. In order to make this comparison, the benefit under one or both optional forms of benefit must be converted, taking into account the time value of money and life expectancies, so that both are expressed in the same form. The proposed regulations give several examples of techniques that may be used for this comparison: expressing the actuarial present value of the optional form of benefit as a percentage or factor of the actuarial present value of the QJSA; stating the amount of an annuity payable at the same time and under the same conditions as the QJSA that is the actuarial equivalent of the optional form of benefit; or stating the actuarial present value of both the QJSA and the optional form of benefit. For purposes of providing a description of the relative value of an optional form of benefit compared to the value of the QJSA (and also for purposes of comparing the financial effect of the distribution forms available to a participant), a plan would be permitted to provide reasonable estimates (e.g., estimates based on data as of an earlier date than the annuity starting date or an estimate of the spouse’s age). If estimates are used, the participant has a right to a more precise calculation upon request.

Since disclosing the relative value of every optional form of benefit regardless of the degree of subsidy may be too burdensome, and may provide participants with information that appears more precise than is warranted based on the inexact nature of the actuarial assumptions used, the proposed regulations would provide some ways to simplify this disclosure of relative values of optional forms of benefit. One way in which this disclosure would be simplified is through a banding rule under which two or more optional forms of benefit that have approximately the same value could be grouped for purposes of disclosing relative value. Under these proposed regulations, two or more optional forms of benefit would be treated as having approximately the same value if those optional forms of benefit vary in relative value in comparison to the value of the QJSA by 5 percentage points or less when the relative value comparison is made by expressing the actuarial present value of each of those optional forms of benefit as a percentage of the actuarial present value of the QJSA. For such a group of optional forms of benefit, the requirement relating to disclosing the relative value of each optional form of benefit compared to the value of the QJSA could be satisfied by disclosing the relative value of any one of the...
optional forms in the group compared to
the value of the QJSA, and disclosing
that the other optional forms of benefit
in the group are of approximately the
same value. If a single-sum distribution
is included in such a group of optional
forms of benefit, the single-sum
distribution must be the distribution
form that is used for purposes of this
comparison. The relative value of all
optional forms of benefit that have an
actuarial present value that is at least
95% of the actuarial present value of the
QJSA may be described by stating that
those optional forms of benefits are of
approximately equal value to the value
of the QJSA. Thus, these rules would
permit a plan that provides no
subsidized forms of benefit to state the
comparison of relative values simply by
stating that all distribution forms are
approximately equal in value to the
QJSA.

Another way in which this disclosure
can be simplified is through the use of
representative values: if, under the
banding rule, two or more optional
forms of benefit are grouped, a
representative relative value for all of
the grouped options could be used as the
approximate relative value for all of the
grouped options, in lieu of using the
relative value of one of the optional
forms of benefit in the group. For this
purpose, a representative relative value
is any relative value that is not less than
the relative value of the member of the
group of optional forms of benefit with
the lowest relative value and is not
greater than the relative value of the
member of that group with the highest
relative value when measured on a
consistent basis. For example, if three
optional forms have relative values of
87.5%, 89%, and 91% of the value of the
QJSA, all three optional forms can be
treated as having a relative value of
approximately 90% of the value of the
QJSA.

The proposed regulations would also
permit the disclosure of the financial
effect and relative value of optional
forms of benefit to be made in the form
of generally applicable information
rather than information specific to the
participant, provided that information
specific to the participant regarding the
optional form of benefit must be
furnished at the participant’s request.
Thus, under the proposed regulations,
in lieu of providing a QJSA explanation
that describes each optional form that is
presently available to the participant,
the generalized QJSA explanation need
only reflect the generally available
optional forms of benefits, along with a
reference to where a participant can
obtain the information for any other
optional forms of benefits (such as
optional forms from prior benefit
structures for limited groups of
employees) that are presently available
to the participant.

With respect to the generally available
optional forms of benefits, in lieu of
providing a statement of financial effect
and relative value comparison that is
specific to the participant, the
generalized QJSA explanation is
permitted to include a chart or other
comparable device showing a series of
examples of financial effects and
relative value comparisons for
hypothetical participants. The examples
in the chart should reflect a
representative range of ages for the
hypothetical participants and use
reasonable assumptions for the age of
the hypothetical participant’s spouse
and any other variable that affects the
financial effect, or relative value, of the
optional form of benefit. The chart must
be accompanied by a general statement
describing the effect of significant
variations between the assumed ages or
other variables on the financial effect
of electing the optional form of benefit and
the comparison of the relative value of
the optional form of benefit to the value
of the QJSA. A generalized QJSA
explanation that includes this chart
must also include the amount payable to
the participant under the normal form of
benefit, either at normal retirement age,
or payable immediately. In addition,
this chart must be accompanied by a
statement that includes an offer to
provide, upon the participant’s request,
a statement of financial effect along with
a comparison of relative values that is
specific to the participant for one or
more presently available optional forms
of benefit, and a description of how a
participant may obtain this additional
information. Thus, with respect to those
optional forms of benefit for which
additional information is requested, the
participant must receive a QJSA
explanation specific to the participant
that is based on the participant’s actual
age and benefit.

The proposed regulations would also
permit the disclosure of the financial
effect and relative value of optional
forms of benefit to be made in a manner
that is generally applicable to the
participant, provided that information
specific to the participant regarding the
optional form of benefit must be
furnished at the participant’s request.
Thus, under the proposed regulations,
in lieu of providing a QJSA explanation
that describes each optional form that is
presently available to the participant,
the QJSA explanation need only reflect
the generally available optional forms of
benefits, along with a reference to where
a participant can obtain the information
for any other optional forms of benefits
(such as

payable under the optional form of
benefit). All other optional forms of
benefit payable to the participant must
be compared with the QJSA using a
single set of interest rates and mortality
tables that are reasonable and that are
applied uniformly for this purpose with
respect to all such other optional forms
payable to the participant. The uniform
interest and mortality assumptions
should be used regardless of whether
those assumptions are actually used to
determine the amount of benefit
payments under any particular optional
form.

The proposed regulations would also
require disclosure of information to help
a participant understand the
significance of a disclosure of the
relative value of an optional form of
benefit. Under the proposed regulations,
the notice would be required to provide
an explanation of the concept of relative
value. Specifically, the notice would be
required to explain that the relative
value comparison is intended to allow
the participant to compare the total
value of distributions paid in different
forms, that the relative value
comparison is made by converting the
value of the optional forms of benefit
currently available to a common form
(such as the QJSA or single-sum
distribution), and that this conversion
uses interest and life expectancy
assumptions.

Under the proposed regulations, a
required numerical comparison of the
value of the optional form of benefit to
the value of the QJSA under the plan
generally would be required to disclose
the interest rate that is used to develop
a required numerical comparison.
However, if all optional forms of benefit
are permitted to be treated as having
approximately the same value after
application of the banding rule
described above, then the plan would
not be required to disclose the interest
rate used to develop a required
numerical comparison to the QJSA for
optional form of benefit that is not
subject to the requirements of section
417(e)(3). In addition, the proposed
regulations would require the plan to
provide a general statement that all
numerical comparisons of relative value
provided are based on average life
expectancies, and that the relative value
of payments ultimately made under an
annuity optional form of benefit will
depend on actual longevity.

Under the proposed regulations, both
the QPSA explanation and the QJSA
explanation must be written in a
manner calculated to be understood by
the average participant. A plan may
wish to provide additional information
beyond the minimum information that
would be required under these proposed regulations, in order to help an
employee to evaluate the form of benefit
that would be most desirable under the
employee’s individual circumstances.
For example, the plan may wish to add
further explanation of the effects of ill
health or other factors influencing
expected longevity on the desirability of
electing annuity forms of distribution.

The proposed regulations contain
rules regarding the method for
providing the QJSA explanation and the
QPSA explanation. Under the proposed
regulations, these explanations must be
written explanations. First class mail to
the last known address of the party is an
acceptable delivery method for a section
417(a)(3) explanation. Likewise, hand
delivery is acceptable. However, the
posting of the explanation is not
considered provision of the section
417(a)(3) explanation.

These proposed regulations do not
address the extent to which the QJSA
explanation or the QPSA explanation
can be provided through electronic
media. The IRS and the Treasury
Department are considering the extent
to which the QJSA explanation and the
QPSA explanation, as well as other
notices under the various Internal
Revenue Code requirements relating to
qualified retirement plans, can be
provided electronically, taking into
account the effect of the Electronic
Signatures in Global and National
Commerce Act (ESIGN), Public Law
and the Treasury Department anticipate
issuing proposed regulations regarding
these issues, and invite comments on
these issues.

Proposed Effective Date
The regulations are proposed to be
applicable to QJSA explanations with
respect to distributions with annuity
starting dates on or after January 1,
2004, and to QPSA explanations
provided on or after January 1, 2004.

Special Analyses
It has been determined that this notice
of proposed rulemaking is not a
significant regulatory action as defined
in Executive Order 12866. Therefore, a
regulatory assessment is not required. It
is hereby certified that the collection of
information in these regulations will not
have a significant economic impact on
a substantial number of small entities.
This certification is based upon the fact
that qualified retirement plans of small
businesses typically commence
distribution of benefits to few, if any,
plan participants in any given year and
similarly, only offer elections to waive
a QPSA to few, if any, participants in
any given year. Thus, the collection of
information in these regulations will
only have a minimal economic impact
on most small entities. Therefore, an
analysis under the Regulatory
Flexibility Act (5 U.S.C. chapter 6) is
not required. Pursuant to section 7805(f)
of the Code, this notice of proposed
rulemaking will be submitted to the
Chief Counsel for Advocacy of the Small
Business Administration for comment on
its impact on small business.

Comments and Public Hearing
Before these proposed regulations are
adopted as final regulations,
consideration will be given to written
comments (preferably a signed original
and eight [8] copies) that are submitted
timely to the IRS. Alternatively,
taxpayers may submit comments
electronically to the IRS Internet site at
http://www.irs.gov/regs. All comments
will be available for public inspection
and copying. The IRS and Treasury
request comments on the clarity of the
proposed rules and how they may be
made easier to understand or to
implement.

A public hearing has been scheduled
for January 14, 2002, at 10 a.m. in room
4716 of the Internal Revenue Building,
1111 Constitution Avenue NW.,
Washington, DC. All visitors must
present photo identification to enter the
building. Because of access restrictions,
visitors will not be admitted beyond the
immediate entrance area more than 30
minutes before the hearing starts at the
Constitution Avenue entrance. For
information about having your name
placed on the building access list to
attend the hearing, see the FOR FURTHER
INFORMATION CONTACT section of this
preamble.

The rules of 26 CFR 1.417(a)–13
apply to the hearing. Persons who wish
to present oral comments at the hearing
must submit written comments and an
outline of the topics to be discussed and
the time to be devoted to each topic
(signed original and eight [8] copies) by
January 2, 2002. A period of 10 minutes
will be allotted to each person for
making comments. An agenda showing
the scheduling of the speakers will be
prepared after the deadline for receiving
outlines has passed. Copies of the
agenda will be available free of charge
at the hearing.

Drafting Information
The principal author of these
proposed regulations is Linda S. F.
Marshall of the Office of the Division
Counsel/Associate Chief Counsel (Tax
Exempt and Government Entities).
However, other personnel from the IRS
and Treasury participated in their
development.

List of Subjects in 26 CFR Part 1
Income taxes, Reporting and
recordkeeping requirements.

Proposed Amendments to the
Regulations
Accordingly, 26 CFR part 1 is
proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE
YEARS BEGINNING AFTER
DECEMBER 31, 1986

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

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

Par. 2. Paragraph (c)(3) of § 1.401(a)–
11 is revised to read as follows:

§ 1.401(a)–11 Qualified joint and survivor
annuities.

* * * * *

(c) * * *

(3) Information to be provided by
plan. For rules regarding the
information required to be provided
with respect to the election to waive a
QPSA or a QPSA, see § 1.417(a)(3)–1.

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Par. 3. A–36 of § 1.401(a)–20 is
revised to read as follows:

§ 1.401(a)–20 Requirements of qualified
joint and survivor annuity and qualified
prereirement survivor annuity.

* * * * *

A–36. For rules regarding the
explanation of QPSAs and QJSAs
required under section 417(a)(3), see
§ 1.417(a)(3)–1.

* * * * *

Par. 4. Section 1.417(a)(3)–1 is added
to read as follows:

§ 1.417(a)(3)–1 Required explanation of
qualified joint and survivor annuity and
qualified prereirement survivor annuity.

(a) Written explanation requirement—
(1) General rule. A plan meets the
survivor annuity requirements of
section 401(a)(11) only if the plan meets
the requirements of section 417(a)(3)
and this section regarding the written
explanation required to be provided a
participant with respect to a QPSA or a
QPSA. A written explanation required
to be provided to a participant with
respect to either a QJSA or a QPSA
under section 417(a)(3) and this
section is referred to in this section as a
section 417(a)(3) explanation. See § 1.401(a)–20,
Q&A–37, for exceptions to the written
explanation requirement in the case of
a fully subsidized QPSA or QJSA, and
§ 1.401(a)–20, Q&A–38, for the
The reduction to the participant's benefits under the plan, a description of the relative value of the optional form of benefit compared to the value of the QISA, in the manner described in paragraph (c)(2) of this section; and

(v) A description of any other material features of the optional form of benefit.

(2) Requirement for numerical comparison of relative values—(i) In general. The description of the relative value of an optional form of benefit compared to the value of the QISA under paragraph (c)(1)(iv) of this section must be expressed to the participant in a manner that provides a meaningful comparison of the relative economic values of the two forms of benefit without the participant having to make calculations using interest or mortality assumptions. Thus, in performing the calculation to make this comparison, the benefits under one or both optional forms of benefit must be converted, taking into account the time value of money and life expectancies, so that the values of both optional forms of benefit are expressed in the same form. For example, such a comparison may be expressed to the participant using any of the following techniques—

(A) Expressing the actuarial present value of the optional form of benefit as a percentage or factor of the actuarial present value of the QISA;

(B) Stating the amount of the annuity that is the actuarial equivalent of the optional form of benefit and that is payable at the same time and under the same conditions as the QISA; or

(C) Stating the actuarial present value of both the optional form of benefit and the QISA.

(ii) Simplified presentations permitted—(A) Grouping of certain optional forms. Two or more optional forms of benefit that have approximately the same value may be grouped for purposes of a required numerical comparison described in this paragraph (c)(2). For this purpose, two or more optional forms of benefit have approximately the same value if those optional forms of benefit vary in relative value in comparison to the value of the QISA by 5 percentage points or less when the relative value comparison is made by expressing the actuarial present value of each of those optional forms of benefit as a percentage of the actuarial present value of the QISA. For such a group of optional forms of benefit, the plan is not required to disclose the relative value of each optional form of benefit compared to the value of the QISA. The relative value of any one of the optional forms in the group compared to the value of the QISA, and disclosing that the other optional forms of benefit in the group are of approximately the same value. If a single-sum distribution is included in such a group of optional forms of benefit, the single-sum distribution must be the distribution form that is used for purposes of this comparison. In addition, the relative value of all optional forms of benefit that have an actuarial present value that is at least 95% of the actuarial present value of the QISA is permitted to be described by stating that those optional forms of benefit are approximately equal in value to the QISA, or that all of those forms of benefit and the QISA are approximately equal in value.

(B) Representative relative value for grouped optional forms. If, in accordance with paragraph (c)(2)(ii)(A) of this section, two or more optional forms of benefits are grouped, the relative values for all of the optional forms of benefit in the group can be stated using a representative relative value as the approximate relative value for the entire group. For this purpose, a representative relative value is any relative value that is not less than the relative value of the member of the group of optional forms of benefit with the lowest relative value and is not greater than the relative value of the member of that group with the highest relative value when measured on a consistent basis. For example, if three optional forms have relative values of 87.5%, 89%, and 91% of the value of the QISA, all three optional forms can be treated as having a relative value of approximately 90% of the value of the QISA. As required under paragraph (c)(2)(ii)(A) of this section, if a single-sum distribution is included in the group of optional forms of benefit, the 90% relative factor of the value of the QISA must be disclosed as the approximate relative value of the single sum, and the other forms can be described as having the same approximate value as the single sum.

(iii) Actuarial assumptions used to determine relative values. For the purpose of providing a numerical comparison of the value of an optional form of benefit to the value of the immediately commencing QISA, the following rules apply—

(A) If an optional form of benefit is subject to the requirements of section 417(e)(3) and § 1.417(e)–1(d), any comparison of the actuarial present value of the optional form of benefit to the value of the QISA must be made using the applicable
mortality table and the applicable interest rate as defined in § 1.417(e)–1(d)(2) and (3) (or, at the option of the plan, another reasonable interest rate and reasonable mortality table used under the plan to calculate the amount payable under the optional form of benefit); and

(B) All other optional forms of benefit payable to the participant must be compared with the QJSA using a single set of interest and mortality assumptions that are reasonable and that are applied uniformly with respect to all such optional forms payable to the participant (regardless of whether those assumptions are actually used under the plan for purposes of determining benefit payments).

(iv) Required disclosure of assumptions—(A) Explanation of concept of relative value. The notice must provide an explanation of the concept of relative value, communicating that the relative value comparison is intended to allow the participant to compare the total value of distributions paid in different forms, that the relative value comparison is made by converting the value of the optional forms of benefit presently available to a common form (such as the QJSA or a single-sum distribution), and that this conversion uses interest and life expectancy assumptions. The explanation of relative value must include a general statement that all comparisons provided are based on average life expectancies, and that the relative values of payments ultimately made under an annuity optional form of benefit will depend on actual longevity.

(B) Disclosure of interest assumptions.

A required numerical comparison of the value of the optional form of benefit to the value of the QJSA under the plan is required to disclose the interest rate that is used to develop the comparison. If all optional forms of benefit are permitted to be grouped under paragraph (c)(2)(ii)(A) of this section, then the requirement of this paragraph (c)(2)(iv)(B) does not apply for any optional form of benefit not subject to the requirements of section 417(e)(3) and § 1.417(e)–1(d)(3).

(3) Permitted estimates of financial effect and relative value—(i) General rule. For purposes of providing a description of the financial effect of the distribution forms available to a participant as required under paragraph (c)(1)(iii) of this section, and for purposes of providing a description of the relative value of an optional form of benefit compared to the value of the QJSA, as required under paragraph (c)(1)(iv) of this section, the plan is permitted to provide reasonable estimates (e.g., estimates based on data as of an earlier date than the annuity starting date, a reasonable assumption for the age of the participant’s spouse, or, in the case of a defined contribution plan, reasonable estimates of amounts that would be payable under a purchased annuity contract), including reasonable estimates of the applicable interest rate under section 417(e)(3).

(ii) Right to more precise calculation. If a QJSA notice uses a reasonable estimate under paragraph (c)(3)(i) of this section, the QJSA explanation must identify the estimate and explain that the plan will, upon the request of the participant, provide a more precise calculation and the plan must provide the participant with a more precise calculation if so requested. Thus, for example, if a plan provides an estimate of the amount of the QJSA that is based on a reasonable assumption concerning the age of the participant’s spouse, the participant can request a calculation that takes into account the actual age of the spouse, as provided by the participant.

(iii) Revision of prior information. If a more precise calculation described in paragraph (c)(3)(i) of this section materially changes the relative value of an optional form compared to the value of the QJSA, the revised relative value of that optional form must be disclosed, regardless of whether the financial effect of selecting the optional form is affected by the more precise calculation. The QJSA or the revised relative value of the optional form or benefit, and any other variables that affect the financial effect, or relative value, of the optional form of benefit. The plan must also disclose this fact.

(d) Substitution of generally applicable information for participant information in the section 417(a)(3) explanation—(1) Forms of benefit available. In lieu of providing the information required under paragraphs (c)(1)(i) through (v) of this section for each optional form of benefit presently available to the participant as described in paragraph (c)(3)(i) of this section, the QJSA explanation may contain the information required under paragraphs (c)(1)(i) through (v) of this section for the QJSA and each other optional form of benefit generally available under the plan, along with a reference to where a participant may readily obtain the information required under paragraphs (c)(1)(i) through (v) of this section for any other optional forms of benefit that are presently available to the participant.

(2) Financial effect and comparison of relative values—(i) General rule. In lieu of providing a statement of the financial effect of electing an optional form of benefit as required under paragraph (c)(1)(iii) of this section, or a comparison of relative values as required under paragraph (c)(1)(iv) of this section, based on the actual age and benefit of the participant, the QJSA explanation is permitted to include a chart (or other comparable device) showing the financial effect and relative value of optional forms of benefit in a series of examples specifying the amount of the optional form of benefit payable to a hypothetical participant at a representative range of ages and the comparison of relative values at those same representative ages. Each example in this chart must show the financial effect of electing the optional form of benefit pursuant to the rules of paragraph (c)(1)(iii) of this section, and a comparison of the relative value of the optional form of benefit to the value of the QJSA pursuant to the rules of paragraph (c)(2) of this section, using reasonable assumptions for the age of the hypothetical participant’s spouse and any other variables that affect the financial effect, or relative value, of the optional form of benefit. The requirement to show the financial effect of electing an optional form can be satisfied through the use of other methods (e.g., expressing the amount of the optional form as a percentage or a factor of the amount payable under the normal form of benefit), provided that the method provides sufficient information so that a participant can determine the amount of benefits payable in the optional form. The chart or other comparable device must be accompanied by the disclosures described in paragraph (c)(2)(iv) of this section explaining the concept of relative value and disclosing certain interest assumptions. In addition, the chart or other comparable device must be accompanied by a general statement describing the effect of significant variations between the assumed ages or other variables on the financial effect of electing the optional form of benefit and the comparison of the relative value of
the optional form of benefit to the value of the QJSA.

(ii) Actual benefit must be disclosed.

The generalized notice described in this paragraph (d)(2) will satisfy the requirements of paragraph (b)(2) of this section only if the notice includes either the amount payable to the participant under the normal form of benefit or the amount payable to the participant under the normal form of benefit adjusted for immediate commencement. For this purpose, the normal form of benefit is the form under which payments due to the participant under the plan are expressed under the plan, prior to adjustments for form of benefit. For example, assuming that a plan’s benefit accrual formula is expressed as a straight life annuity, the generalized notice must provide the amount of either the straight life annuity commencing at normal retirement age or the straight life annuity commencing immediately.

(iii) Ability to request additional information. The generalized notice described in this paragraph (d)(2) must be accompanied by a statement that includes an offer to provide, upon the participant’s request, a statement of financial effect and a comparison of relative values that is specific to the participant for any presently available optional form of benefit, and a description of how a participant may obtain this additional information.

(3) Financial effect of QPSA election.

In lieu of providing a specific description of the financial effect of the QPSA election, the QPSA explanation may provide a general description of the financial effect of the election. Thus, for example, the description can be in the form of a chart showing the reduction to a hypothetical participant’s normal retirement benefit at a representative range of participant ages as a result of the QPSA election (using a reasonable assumption for the age of the hypothetical participant’s spouse relative to the age of the hypothetical participant). In addition, this chart must be accompanied by a statement that includes an offer to provide, upon the participant’s request, an estimate of the reduction to the participant’s estimated normal retirement benefit, and a description of how a participant may obtain this additional information.

(4) Additional information required to be furnished at the participant’s request—(i) Explanation of QPSA.

If, as permitted under paragraphs (d)(1) and (2) of this section, the content of a QPSA explanation does not include all the items described in paragraph (c) of this section, then, upon a timely request from the participant for any of the information required under paragraphs (c)(1)(i) through (v) of this section for one or more presently available optional forms (including a request for all optional forms presently available to the participant), the plan must furnish the information required under paragraphs (c)(1)(i) through (v) of this section with respect to those optional forms. Thus, with respect to those optional forms of benefit, the participant must receive a QPSA explanation specific to the participant that is based on the participant’s actual age and benefit. In addition, the plan must comply with paragraph (c)(3)(ii) of this section.

(ii) Explanation of QPSA. If, as permitted under paragraph (d)(3) of this section, the content of a QPSA explanation does not include all the items described in paragraph (b)(1) of this section, then, upon a timely request from the participant for an estimate of the reduction to the participant’s estimated normal retirement benefit that would result from a QPSA election, the plan must furnish such an estimate.

(e) Examples. The following examples illustrate the application of this section. Solely for purposes of these examples, the applicable interest rate that applies to any distribution that is subject to the rules of section 417(e)(3) is assumed to be 5%⁄⁄, and the applicable mortality table under section 417(e)(3) and §1.417(e)(1)-(d)(2) is assumed to be the table that applies as of January 1, 2003. In addition, solely for purposes of these examples, assume that a plan which determines actuarial equivalence using 6% interest and the applicable mortality table under section 417(e)(3) and §1.417(e)(1)-(d)(2) that applies as of January 1, 2003, is using reasonable actuarial assumptions. The examples are as follows:

Example 1. (i) Participant M participates in Plan A, a qualified defined benefit plan. Under Plan A, the QJSA is a joint and 100% survivor annuity, which is actuarially equivalent to the single life annuity determined using 6% interest and the section 417(e)(3) applicable mortality table that applies as of January 1, 1995. On January 1, 2004, M will terminate employment at age 55. When M terminates employment, M will be eligible to elect an unreduced early retirement benefit, payable as either a life annuity or the QJSA. M will also be eligible to elect a single-sum distribution equal to the actuarial present value of the single life annuity payable at normal retirement age (age 65), determined using the applicable mortality table and the applicable interest rate under section 417(e)(3).

(ii) Participant M is provided with a QPSA explanation that describes the single life annuity, the QJSA, and single-sum distribution option under the plan, and any eligibility conditions associated with these options. The explanation indicates that, if Participant M commenced benefits at age 55 and had a spouse age 55, the monthly benefit under an immediately commencing single life annuity is $3,000, the monthly benefit under the QJSA is estimated to be 89.96% of the monthly benefit under the immediately commencing single life annuity or $2,699, and the single sum is estimated to be 74.7645 times the monthly benefit under the immediately commencing single life annuity or $224,293.

(iii) The QPSA explanation indicates that the single life annuity and the QJSA are of approximately the same value, but that the single-sum option is equivalent in value to a QJSA of $1,215. (This amount is 45% of the value of the QJSA at age 55 ($1,215 divided by 89.96% of $3,000 equals 45%).) The explanation states that the relative value comparison converts the value of the single life annuity and the single-sum options to the value of each if paid in the form of the QJSA and that this conversion uses interest and life expectancy assumptions. The explanation specifies that the calculations relating to the single-sum distribution were prepared using 5.5% interest and average life expectancy, that the other calculations were prepared using a 6% interest rate and that the relative value of actual annuity payments for an individual can vary depending on how long the individual and spouse live. The explanation notes that the calculation of the QJSA assumed that the spouse was age 55, that the amount of the QJSA will depend on the actual age of the spouse (for example, annuity payments will be significantly lower if the spouse is significantly younger than the participant), and that the amount of the single-sum payment will depend on the interest rates that apply when the participant actually takes a distribution. The explanation also includes an offer to provide a more precise calculation to the participant taking into account the spouse’s actual age.

(iv) Participant M requests a more precise calculation of the financial effect of choosing a QJSA, taking into the actual age of Participant M’s spouse. Based on the fact that M’s spouse is age 50, Plan A determines that the monthly payments under the QJSA are 87.62% of the monthly payments under the single life annuity, or $2,628.60 per month, and provides this information to M. Plan A is not required to provide an updated calculation of the relative value of the single sum because the value of the single sum continues to be 45% of the value of the QJSA.

Example 2. (i) The facts are the same as in Example 1, except that under Plan A, the single-sum distribution is determined as the actuarial present value of the immediately commencing single life annuity. In addition, Plan A provides a joint and 75% survivor annuity that is reduced from the single life annuity and that is the QJSA under Plan A. For purposes of determining the amount of the QJSA, the reduction is only half of the reduction that would result under the actuarial assumptions specified in Plan A for determining actuarial equivalence of optional forms.

In lieu of providing information specific to Participant M in the QJSA notice as set forth in paragraph (c) of this section, Plan A satisfies the QPSA explanation.
(iii) The chart disclosing the financial effect and relative value of the optional forms specifies that the calculations were prepared assuming that the spouse is three years younger than the participant, that the calculations relating to the single-sum distribution were prepared using 5.5% interest and average life expectancy, that the other calculations were prepared using a 6% interest rate, and that the relative value of actual payments for an individual can vary depending on how long the individual and spouse live. The explanation states that the relative value comparison converts the QJSA, the single life annuity, the joint and 100% survivor annuity, and the single-sum options to an equivalent present value and that this conversion uses interest and life expectancy assumptions. The explanation notes that the calculation of the QJSA depends on the actual age of the spouse (for example, if the spouse is significantly younger than the participant), and that the amount of the single-sum payment will depend on the interest rates that apply when the participant actually takes a distribution. The explanation also includes an offer to provide a calculation specific to the participant upon request.

(iv) Participant M requests information regarding the amounts payable under the QJSA, the joint and 100% survivor annuity, and the single sum.

(v) Based on the information about the age of Participant M’s spouse, Plan A determines that M’s QJSA is $2,856.30 per month, the joint and 100% survivor annuity is $2,628.60 per month, and the single sum is $497,876. The actuarial present value of the QJSA (determined using the 5.5% interest and the section 417(e)(3) applicable mortality table, the actuarial assumptions required under section 417) is $525,091. Accordingly, the value of the single-sum distribution available to M at January 1, 2004, is 94.8% of the actuarial present value of the QJSA. In addition, the actuarial present value of the life annuity and the 100% joint and survivor annuity are 95.0% of the actuarial present value of the QJSA.

(vi) Plan A provides M with a QJSA explanation that incorporates these more precise calculations of the financial effect and relative value of the optional forms for which M requested information.

(f) Effective date. This section applies to QJSA explanations provided with respect to distributions with annuity starting dates on or after January 1, 2004, and to QPSA explanations provided on or after January 1, 2004.

§ 1.417(e)–1 [Amended]
Par. 5. In § 1.417(e)–1, paragraph (b)(2) is amended by removing the language “§ 1.401(a)–20 Q&A–36” and adding “§ 1.417(a)(3)–11” in its place.

Robert E. Wenzel,
Deputy Commissioner of Internal Revenue.

[FR Doc. 02–25338 Filed 10–4–02; 8:45 am]

BILLING CODE 4360–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52
[CA 187–0365b; FRL–7385–4]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This revision regulates the emission of volatile organic compounds (VOC) from wastewater systems. We are proposing to approve a local rule that regulates this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 6, 2002.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105. You can inspect a copy of the submitted rule and EPA’s technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule and TSD at the following locations:

Air and Radiation Docket and Information Center (6102T), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.
South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local SCAQMD Rule 1176. In the Rules and Regulations section of this Federal Register, we are approving this local rule in a direct final action without prior proposal because we believe this