

**DEPARTMENT OF LABOR****Employee Benefits Security Administration****29 CFR Part 2520****Technical Revisions to Actuarial Information on Form 5500 Annual Return/Report for Pension Plans Electing Funding Alternatives Under Pension Relief Act of 2010**

**AGENCY:** Employee Benefits Security Administration, Labor.

**ACTION:** Annual Reporting and Disclosure for Form 5500.

**SUMMARY:** This document announces that certain technical revisions to the Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) and the Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) of the Form 5500 Annual Return/Report of Employee Benefit Plan have been adopted in IRS Notice 2010–83 (2010–51 I.R.B. 862) and IRS Notice 2011–3 (2011–2 I.R.B. 263) to reflect funding relief alternatives retroactively available to defined benefit pension plans under the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (Pension Relief Act). The information that would be required either by way of amendment of the 2008 or 2009 Annual Return/Report or providing an attachment to the 2009 or 2010 Annual Return/Report in accordance with the IRS Notices, will also be added to the 2011 and later Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) and the Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) of the Form 5500 Annual Return/Report of Employee Benefit Plan. Compliance with the Schedule SB and Schedule MB, as modified, will satisfy the pertinent Form 5500 actuarial information reporting requirements for the Department of Labor.

**DATES:** *Effective Date:* April 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Steven Klubock, Internal Revenue Service (IRS), at the Employee Plans taxpayer assistance answering service at 1–877–829–5500 (a toll-free number), for questions relating to the Schedules MB and SB requirements under IRS Notices 2010–83 and 2011–3; Grace Kraemer, Pension Benefit Guaranty Corporation (PBGC), (202) 326–4024, for questions relating to annual reporting requirements under Title IV of ERISA in the technical revisions of the Schedules MB and SB; and Elizabeth A. Goodman,

Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8523, for questions relating to this document. Except for the IRS, the telephone numbers referenced above are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:****I. Background***A. Annual Reporting*

Sections 101, 104, and 4065 of ERISA, 29 U.S.C. 1021, 1024 and 1365, sections 6058(a) and 6059(a) of the Code, 26 U.S.C. 6058(a) and 6059(a), and the regulations issued under those sections, impose annual reporting and filing obligations on pension and welfare benefit plans, as well as on certain other entities. Plan administrators, employers, and others generally satisfy these annual reporting obligations by the filing of the Form 5500 Annual Return/Report of Employee Benefit Plan, including its schedules and attachments (Form 5500 Annual Return/Report), in accordance with the instructions and related regulations.

The Form 5500 Annual Return/Report is the principal source of information and data available to the Department of Labor (Department or Labor), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) (collectively, Agencies) concerning the operations, funding, and investments of pension and welfare benefit plans. Actuarial information on defined benefit pension plans is required to be reported as part of the Form 5500 Annual Return/Report on the Schedule MB or the Schedule SB. The Form 5500 Annual Return/Report constitutes an integral part of each Agency's enforcement, research, and policy formulation programs, and is a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as a primary means by which plan operations can be monitored by participants and beneficiaries and by the general public.

*B. Pension Relief Act and Changes to Actuarial Schedules*

The Pension Relief Act, Public Law 111–192, 124 Stat 1280 (2010), enacted on June 25, 2010, provided retroactive pension funding relief for single-employer and multiemployer defined benefit pension plans that are subject to the reporting requirements of Title I of ERISA. The IRS issued guidance in the form of questions and answers on the application of the special funding rules under the Pension Relief Act and the

required notice of a decision by the plan sponsor to apply the special funding rules. IRS Notice 2010–83 provides guidance for sponsors of multiemployer defined benefit plans with respect to the special funding rules under Code § 431(b)(8), as added by section 211(a)(2) of the Pension Relief Act. IRS Notice 2011–3 provides guidance on the special rules relating to funding relief for single-employer defined benefit pension plans (including multiple employer defined benefit pension plans) under Code § 430(c)(2)(D) and § 430(c)(7), as added by section 201 of the Pension Relief Act, and Code § 430(f)(3)(D), as added by section 204 of the Act.

Certain technical revisions to the Form 5500 Schedule MB and SB were necessary to conform the actuarial reporting requirements for defined benefit pension plans to the application of funding relief under the Pension Relief Act. The Internal Revenue Service announced and described those technical revisions in IRS Notice 2010–83 and Notice 2011–3. Specifically, the notices provide that a Schedule MB or Schedule SB that was filed without reflecting application of the special funding rules or was filed reflecting application of the special funding rules, but using calculations that were different from those required by IRS Notice 2010–83 or Notice 2011–3, need not be amended. Instead, the Schedule MB or Schedule SB filed for a subsequent plan year that is no later than the plan year beginning in 2010 that must include an attachment showing how the information regarding the special funding rules on any earlier year Schedule MB or SB that did not comply with the notices, would have differed if it had complied. In addition, the IRS Notices describe the application of funding relief under the Pension Relief Act to the 2011 plan year and future plan years. These rules require changes to Schedule MB and Schedule SB for the 2011 plan year.

**II. Good Cause for Exemption From Public Notice and Comment and Immediate Effective Date**

To issue a final rule without public notice and comment, an agency must find good cause that notice and comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b). To issue a rule that is immediately effective, an agency similarly must find good cause for dispensing with the 30-day delay required by the Administrative Procedure Act (APA).

The retroactive availability of the funding relief under the Pension Relief

Act for sponsors of defined benefit pension plans created an immediate need for changes to the Schedule MB and Schedule SB reporting requirements. Without these changes, accurate and complete Schedules MB and SB cannot be filed with respect to plans to which the funding relief applies. The information that would not otherwise be provided under the current schedules is essential for the Agencies to monitor and enforce compliance with the special funding rules under the Pension Relief Act. The IRS Notices 2010–83 and 2011–3, including the guidance superseding portions of the instructions to Schedule MB and Schedule SB for the 2008, 2009, and 2010 plan years, have already been approved under the Paperwork Reduction Act and released to the public. In addition, a relatively small number of Form 5500 filers, comprised of only those filers for defined benefit pension plans to which the optional relief offered under the Pension Relief Act applies, are affected by these Schedule MB and Schedule SB changes. Accordingly, the Department finds for good cause that it would be impracticable and contrary to the public interest to delay putting the technical revisions to Schedule MB and SB into place until completion of a full notice and public comment process. For the same reasons, the Department also finds good cause to adopt an effective date that would be less than 30 days after the publication in the **Federal Register** pursuant to the APA. 5 U.S.C. 553(d). Accordingly, the adoption of the technical changes affecting the actuarial schedules for the 2008, 2009, and 2010 Form 5500 Annual Return/Report will be effective as of the date of publication in the **Federal Register**. Related information also will be required to be provided on the 2011 and later Form 5500 Annual Return/Report with respect to those plans to which the alternative funding methods under the Pension Relief Act apply, as described in the Act, but for 2011 and later the information will be included in the schedules and instructions, rather than filers having to create attachments as described in IRS Notice 2010–83 and Notice 2011–3. The 2011 and later Form 5500 Annual Return/Report, Schedule SB, will also require a plan to disclose its status as an eligible charity plan in connection with a special effective date provided under the Pension Relief Act.

### III. Executive Order 12866

The Office of Management and Budget (OMB) has determined that this document does not constitute a “significant regulatory action” for

purposes of Executive Order 12866. Therefore, this action has not been reviewed by OMB pursuant to the Executive Order.

### IV. Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), the Form 5500 information collection request (ICR) has been approved by OMB under control number 1210–0110, which currently is scheduled to expire on March 31, 2014. This notice does not implement a substantive or material change to the ICR; therefore, the Department has not requested OMB review at this time.

Signed at Washington, DC, this 24th day of March 2011.

**Phyllis C. Borzi,**

*Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.*

[FR Doc. 2011–7557 Filed 4–4–11; 8:45 am]

### BILLING CODE 4

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2010–0798–201048; FRL–9288–8]

### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Rome; Determination of Attaining Data for the 1997 Annual Fine Particulate Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA has determined that the Rome, Georgia, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Rome Area” or “Area”) has attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). The Rome Area is comprised of Floyd County in its entirety. This determination of attainment is based upon complete, quality-assured and certified ambient air monitoring data for the 2007–2009 period showing that the Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS. The requirements for the Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the standard shall be suspended so long as the Area

continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS.

**DATES:** *Effective Date:* This final rule is effective on May 5, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R04–OAR–2010–0798. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

**FOR FURTHER INFORMATION CONTACT:** Joel Huey or Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Mr. Huey may be reached by phone at (404) 562–9104 or via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov). Ms. Waterson may be reached by phone at (404) 562–9061 or via electronic mail at [waterson.sara@epa.gov](mailto:waterson.sara@epa.gov).

### SUPPLEMENTARY INFORMATION:

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. What is EPA’s final action?
- IV. Statutory and Executive Order Reviews

#### I. What action is EPA taking?

EPA is determining that the Rome Area (comprised of Floyd County in its entirety) has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. This determination is based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS based on the 2007–2009 data.

Other specific requirements of the determination and the rationale for EPA’s action are explained in the notice of proposed rulemaking (NPR) published on December 13, 2010 (75 FR 77595). The first and second quarters of 2008 were incomplete with around 73 percent completeness each. Data