

1 (1) is not subject to the safest available annuity
2 standard under Interpretive Bulletin 95-1 (29
3 C.F.R. 2509.95-1), and

4 (2) is subject to all otherwise applicable fidu-
5 ciary standards.

6 (b) EFFECTIVE DATE.—This section shall take effect
7 on the date of enactment of this Act.

8 **TITLE VII—BENEFIT ACCRUAL** 9 **STANDARDS**

10 **SEC. 701. BENEFIT ACCRUAL STANDARDS.**

11 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
12 INCOME SECURITY ACT OF 1974.—

13 (1) RULES RELATING TO REDUCTION IN RATE
14 OF BENEFIT ACCRUAL.—Section 204(b) of the Em-
15 ployee Retirement Income Security Act of 1974 (29
16 U.S.C. 1054(b)) is amended by adding at the end
17 the following new paragraph:

18 “(5) SPECIAL RULES RELATING TO AGE.—

19 “(A) COMPARISON TO SIMILARLY SITU-
20 ATED YOUNGER INDIVIDUAL.—

21 “(i) IN GENERAL.—A plan shall not
22 be treated as failing to meet the require-
23 ments of paragraph (1)(H)(i) if a partici-
24 pant’s accrued benefit, as determined as of
25 any date under the terms of the plan,

1 would be equal to or greater than that of
2 any similarly situated, younger individual
3 who is or could be a participant.

4 “(ii) SIMILARLY SITUATED.—For pur-
5 poses of this subparagraph, a participant
6 is similarly situated to any other individual
7 if such participant is identical to such
8 other individual in every respect (including
9 period of service, compensation, position,
10 date of hire, work history, and any other
11 respect) except for age.

12 “(iii) DISREGARD OF SUBSIDIZED
13 EARLY RETIREMENT BENEFITS.—In deter-
14 mining the accrued benefit as of any date
15 for purposes of this clause, the subsidized
16 portion of any early retirement benefit or
17 retirement-type subsidy shall be dis-
18 regarded.

19 “(iv) ACCRUED BENEFIT.—For pur-
20 poses of this subparagraph, the accrued
21 benefit may, under the terms of the plan,
22 be expressed as an annuity payable at nor-
23 mal retirement age, the balance of a hypo-
24 thetical account, or the current value of

1 the accumulated percentage of the employ-
2 ee's final average compensation.

3 “(B) APPLICABLE DEFINED BENEFIT
4 PLANS.—

5 “(i) INTEREST CREDITS.—

6 “(I) IN GENERAL.—An applicable
7 defined benefit plan shall be treated
8 as failing to meet the requirements of
9 paragraph (1)(H) unless the terms of
10 the plan provide that any interest
11 credit (or an equivalent amount) for
12 any plan year shall be at a rate which
13 is not greater than a market rate of
14 return. A plan shall not be treated as
15 failing to meet the requirements of
16 this subclause merely because the plan
17 provides for a reasonable minimum
18 guaranteed rate of return or for a
19 rate of return that is equal to the
20 greater of a fixed or variable rate of
21 return.

22 “(II) PRESERVATION OF CAP-
23 ITAL.—An interest credit (or an
24 equivalent amount) of less than zero
25 shall in no event result in the account

1 balance or similar amount being less
2 than the aggregate amount of con-
3 tributions credited to the account.

4 “(III) MARKET RATE OF RE-
5 TURN.—The Secretary of the Treas-
6 ury may provide by regulation for
7 rules governing the calculation of a
8 market rate of return for purposes of
9 subclause (I) and for permissible
10 methods of crediting interest to the
11 account (including fixed or variable
12 interest rates) resulting in effective
13 rates of return meeting the require-
14 ments of subclause (I).

15 “(ii) SPECIAL RULE FOR PLAN CON-
16 VERSIONS.—If, after June 29, 2005, an
17 applicable plan amendment is adopted, the
18 plan shall be treated as failing to meet the
19 requirements of paragraph (1)(H) unless
20 the requirements of clause (iii) are met
21 with respect to each individual who was a
22 participant in the plan immediately before
23 the adoption of the amendment.

24 “(iii) RATE OF BENEFIT ACCRUAL.—
25 Subject to clause (iv), the requirements of

1 this clause are met with respect to any
2 participant if the accrued benefit of the
3 participant under the terms of the plan as
4 in effect after the amendment is not less
5 than the sum of—

6 “(I) the participant’s accrued
7 benefit for years of service before the
8 effective date of the amendment, de-
9 termined under the terms of the plan
10 as in effect before the amendment,
11 plus

12 “(II) the participant’s accrued
13 benefit for years of service after the
14 effective date of the amendment, de-
15 termined under the terms of the plan
16 as in effect after the amendment.

17 “(iv) SPECIAL RULES FOR EARLY RE-
18 TIREMENT SUBSIDIES.—For purposes of
19 clause (iii)(I), the plan shall credit the ac-
20 cumulation account or similar amount with
21 the amount of any early retirement benefit
22 or retirement-type subsidy for the plan
23 year in which the participant retires if, as
24 of such time, the participant has met the
25 age, years of service, and other require-

1 ments under the plan for entitlement to
2 such benefit or subsidy.

3 “(v) APPLICABLE PLAN AMEND-
4 MENT.—For purposes of this subpara-
5 graph—

6 “(I) IN GENERAL.—The term
7 ‘applicable plan amendment’ means
8 an amendment to a defined benefit
9 plan which has the effect of con-
10 verting the plan to an applicable de-
11 fined benefit plan.

12 “(II) SPECIAL RULE FOR CO-
13 ORDINATED BENEFITS.—If the bene-
14 fits of 2 or more defined benefit plans
15 established or maintained by an em-
16 ployer are coordinated in such a man-
17 ner as to have the effect of the adop-
18 tion of an amendment described in
19 subclause (I), the sponsor of the de-
20 fined benefit plan or plans providing
21 for such coordination shall be treated
22 as having adopted such a plan amend-
23 ment as of the date such coordination
24 begins.

1 “(III) MULTIPLE AMEND-
2 MENTS.—The Secretary of the Treas-
3 ury shall issue regulations to prevent
4 the avoidance of the purposes of this
5 subparagraph through the use of 2 or
6 more plan amendments rather than a
7 single amendment.

8 “(IV) APPLICABLE DEFINED
9 BENEFIT PLAN.—For purposes of this
10 subparagraph, the term ‘applicable de-
11 fined benefit plan’ has the meaning
12 given such term by section 203(f)(3).

13 “(vi) TERMINATION REQUIRE-
14 MENTS.—An applicable defined benefit
15 plan shall not be treated as meeting the re-
16 quirements of clause (i) unless the plan
17 provides that, upon the termination of the
18 plan—

19 “(I) if the interest credit rate (or
20 an equivalent amount) under the plan
21 is a variable rate, the rate of interest
22 used to determine accrued benefits
23 under the plan shall be equal to the
24 average of the rates of interest used
25 under the plan during the 5-year pe-

1 riod ending on the termination date,
2 and

3 “(II) the interest rate and mor-
4 tality table used to determine the
5 amount of any benefit under the plan
6 payable in the form of an annuity
7 payable at normal retirement age
8 shall be the rate and table specified
9 under the plan for such purpose as of
10 the termination date, except that if
11 such interest rate is a variable rate,
12 the interest rate shall be determined
13 under the rules of subclause (I).

14 “(C) CERTAIN OFFSETS PERMITTED.—A
15 plan shall not be treated as failing to meet the
16 requirements of paragraph (1)(H)(i) solely be-
17 cause the plan provides offsets against benefits
18 under the plan to the extent such offsets are al-
19 lowable in applying the requirements of section
20 401(a) of the Internal Revenue Code of 1986.

21 “(D) PERMITTED DISPARITIES IN PLAN
22 CONTRIBUTIONS OR BENEFITS.—A plan shall
23 not be treated as failing to meet the require-
24 ments of paragraph (1)(H) solely because the
25 plan provides a disparity in contributions or

1 benefits with respect to which the requirements
2 of section 401(l) of the Internal Revenue Code
3 of 1986 are met.

4 “(E) INDEXING PERMITTED.—

5 “(i) IN GENERAL.—A plan shall not
6 be treated as failing to meet the require-
7 ments of paragraph (1)(H) solely because
8 the plan provides for indexing of accrued
9 benefits under the plan.

10 “(ii) PROTECTION AGAINST LOSS.—

11 Except in the case of any benefit provided
12 in the form of a variable annuity, clause (i)
13 shall not apply with respect to any index-
14 ing which results in an accrued benefit less
15 than the accrued benefit determined with-
16 out regard to such indexing.

17 “(iii) INDEXING.—For purposes of

18 this subparagraph, the term ‘indexing’
19 means, in connection with an accrued ben-
20 efit, the periodic adjustment of the accrued
21 benefit by means of the application of a
22 recognized investment index or method-
23 ology.

24 “(F) EARLY RETIREMENT BENEFIT OR RE-

25 TIREMENT-TYPE SUBSIDY.—For purposes of

1 this paragraph, the terms ‘early retirement ben-
2 efit’ and ‘retirement-type subsidy’ have the
3 meaning given such terms in subsection
4 (g)(2)(A).

5 “(G) BENEFIT ACCRUED TO DATE.—For
6 purposes of this paragraph, any reference to the
7 accrued benefit shall be a reference to such ben-
8 efit accrued to date.”.

9 (2) DETERMINATIONS OF ACCRUED BENEFIT AS
10 BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT
11 AMOUNTS.—Section 203 of such Act (29 U.S.C.
12 1053) is amended by adding at the end the following
13 new subsection:

14 “(f) SPECIAL RULES FOR PLANS COMPUTING AC-
15 CRUED BENEFITS BY REFERENCE TO HYPOTHETICAL AC-
16 COUNT BALANCE OR EQUIVALENT AMOUNTS.—

17 “(1) IN GENERAL.—An applicable defined ben-
18 efit plan shall not be treated as failing to meet—

19 “(A) subject to paragraph (2), the require-
20 ments of subsection (a)(2), or

21 “(B) the requirements of section 204(c) or
22 section 205(g) with respect to contributions
23 other than employee contributions,

24 solely because the present value of the accrued ben-
25 efit (or any portion thereof) of any participant is,

1 under the terms of the plan, equal to the amount ex-
2 pressed as the balance in the hypothetical account
3 described in paragraph (3) or as an accumulated
4 percentage of the participant's final average com-
5 pensation.

6 “(2) 3-YEAR VESTING.—In the case of an appli-
7 cable defined benefit plan, such plan shall be treated
8 as meeting the requirements of subsection (a)(2)
9 only if an employee who has completed at least 3
10 years of service has a nonforfeitable right to 100
11 percent of the employee's accrued benefit derived
12 from employer contributions.

13 “(3) APPLICABLE DEFINED BENEFIT PLAN AND
14 RELATED RULES.—For purposes of this sub-
15 section—

16 “(A) IN GENERAL.—The term ‘applicable
17 defined benefit plan’ means a defined benefit
18 plan under which the accrued benefit (or any
19 portion thereof) is calculated as the balance of
20 a hypothetical account maintained for the par-
21 ticipant or as an accumulated percentage of the
22 participant's final average compensation.

23 “(B) REGULATIONS TO INCLUDE SIMILAR
24 PLANS.—The Secretary of the Treasury shall
25 issue regulations which include in the definition

1 of an applicable defined benefit plan any de-
2 fined benefit plan (or any portion of such a
3 plan) which has an effect similar to an applica-
4 ble defined benefit plan.”.

5 (b) AMENDMENTS TO THE INTERNAL REVENUE
6 CODE OF 1986.—

7 (1) RULES RELATING TO REDUCTION IN RATE
8 OF BENEFIT ACCRUAL.—Subsection (b) of section
9 411 of the Internal Revenue Code of 1986 is amend-
10 ed by adding at the end the following new para-
11 graph:

12 “(5) SPECIAL RULES RELATING TO AGE.—

13 “(A) COMPARISON TO SIMILARLY SITU-
14 ATED YOUNGER INDIVIDUAL.—

15 “(i) IN GENERAL.—A plan shall not
16 be treated as failing to meet the require-
17 ments of paragraph (1)(H)(i) if a partici-
18 pant’s accrued benefit, as determined as of
19 any date under the terms of the plan,
20 would be equal to or greater than that of
21 any similarly situated, younger individual
22 who is or could be a participant.

23 “(ii) SIMILARLY SITUATED.—For pur-
24 poses of this subparagraph, a participant
25 is similarly situated to any other individual

1 if such participant is identical to such
2 other individual in every respect (including
3 period of service, compensation, position,
4 date of hire, work history, and any other
5 respect) except for age.

6 “(iii) DISREGARD OF SUBSIDIZED
7 EARLY RETIREMENT BENEFITS.—In deter-
8 mining the accrued benefit as of any date
9 for purposes of this clause, the subsidized
10 portion of any early retirement benefit or
11 retirement-type subsidy shall be dis-
12 regarded.

13 “(iv) ACCRUED BENEFIT.—For pur-
14 poses of this subparagraph, the accrued
15 benefit may, under the terms of the plan,
16 be expressed as an annuity payable at nor-
17 mal retirement age, the balance of a hypo-
18 theoretical account, or the current value of
19 the accumulated percentage of the employ-
20 ee’s final average compensation.

21 “(B) APPLICABLE DEFINED BENEFIT
22 PLANS.—

23 “(i) INTEREST CREDITS.—

24 “(I) IN GENERAL.—An applicable
25 defined benefit plan shall be treated

1 as failing to meet the requirements of
2 paragraph (1)(H) unless the terms of
3 the plan provide that any interest
4 credit (or an equivalent amount) for
5 any plan year shall be at a rate which
6 is not greater than a market rate of
7 return. A plan shall not be treated as
8 failing to meet the requirements of
9 this subclause merely because the plan
10 provides for a reasonable minimum
11 guaranteed rate of return or for a
12 rate of return that is equal to the
13 greater of a fixed or variable rate of
14 return.

15 “(II) PRESERVATION OF CAP-
16 ITAL.—An interest credit (or an
17 equivalent amount) of less than zero
18 shall in no event result in the account
19 balance or similar amount being less
20 than the aggregate amount of con-
21 tributions credited to the account.

22 “(III) MARKET RATE OF RE-
23 TURN.—The Secretary may provide by
24 regulation for rules governing the cal-
25 culation of a market rate of return for

1 purposes of subclause (I) and for per-
2 missible methods of crediting interest
3 to the account (including fixed or
4 variable interest rates) resulting in ef-
5 fective rates of return meeting the re-
6 quirements of subclause (I).

7 “(ii) SPECIAL RULE FOR PLAN CON-
8 VERSIONS.—If, after June 29, 2005, an
9 applicable plan amendment is adopted, the
10 plan shall be treated as failing to meet the
11 requirements of paragraph (1)(H) unless
12 the requirements of clause (iii) are met
13 with respect to each individual who was a
14 participant in the plan immediately before
15 the adoption of the amendment.

16 “(iii) RATE OF BENEFIT ACCRUAL.—
17 Subject to clause (iv), the requirements of
18 this clause are met with respect to any
19 participant if the accrued benefit of the
20 participant under the terms of the plan as
21 in effect after the amendment is not less
22 than the sum of—

23 “(I) the participant’s accrued
24 benefit for years of service before the
25 effective date of the amendment, de-

1 terminated under the terms of the plan
2 as in effect before the amendment,
3 plus

4 “(II) the participant’s accrued
5 benefit for years of service after the
6 effective date of the amendment, de-
7 termined under the terms of the plan
8 as in effect after the amendment.

9 “(iv) SPECIAL RULES FOR EARLY RE-
10 TIREMENT SUBSIDIES.—For purposes of
11 clause (iii)(I), the plan shall credit the ac-
12 cumulation account or similar amount with
13 the amount of any early retirement benefit
14 or retirement-type subsidy for the plan
15 year in which the participant retires if, as
16 of such time, the participant has met the
17 age, years of service, and other require-
18 ments under the plan for entitlement to
19 such benefit or subsidy.

20 “(v) APPLICABLE PLAN AMEND-
21 MENT.—For purposes of this subpara-
22 graph—

23 “(I) IN GENERAL.—The term
24 ‘applicable plan amendment’ means
25 an amendment to a defined benefit

1 plan which has the effect of con-
2 verting the plan to an applicable de-
3 fined benefit plan.

4 “(II) SPECIAL RULE FOR CO-
5 ORDINATED BENEFITS.—If the bene-
6 fits of 2 or more defined benefit plans
7 established or maintained by an em-
8 ployer are coordinated in such a man-
9 ner as to have the effect of the adop-
10 tion of an amendment described in
11 subclause (I), the sponsor of the de-
12 fined benefit plan or plans providing
13 for such coordination shall be treated
14 as having adopted such a plan amend-
15 ment as of the date such coordination
16 begins.

17 “(III) MULTIPLE AMEND-
18 MENTS.—The Secretary shall issue
19 regulations to prevent the avoidance
20 of the purposes of this subparagraph
21 through the use of 2 or more plan
22 amendments rather than a single
23 amendment.

24 “(IV) APPLICABLE DEFINED
25 BENEFIT PLAN.—For purposes of this

1 subparagraph, the term ‘applicable de-
2 fined benefit plan’ has the meaning
3 given such term by section
4 411(a)(13).

5 “(vi) TERMINATION REQUIRE-
6 MENTS.—An applicable defined benefit
7 plan shall not be treated as meeting the re-
8 quirements of clause (i) unless the plan
9 provides that, upon the termination of the
10 plan—

11 “(I) if the interest credit rate (or
12 an equivalent amount) under the plan
13 is a variable rate, the rate of interest
14 used to determine accrued benefits
15 under the plan shall be equal to the
16 average of the rates of interest used
17 under the plan during the 5-year pe-
18 riod ending on the termination date,
19 and

20 “(II) the interest rate and mor-
21 tality table used to determine the
22 amount of any benefit under the plan
23 payable in the form of an annuity
24 payable at normal retirement age
25 shall be the rate and table specified

1 under the plan for such purpose as of
2 the termination date, except that if
3 such interest rate is a variable rate,
4 the interest rate shall be determined
5 under the rules of subclause (I).

6 “(C) CERTAIN OFFSETS PERMITTED.—A
7 plan shall not be treated as failing to meet the
8 requirements of paragraph (1)(H)(i) solely be-
9 cause the plan provides offsets against benefits
10 under the plan to the extent such offsets are al-
11 lowable in applying the requirements of section
12 401(a).

13 “(D) PERMITTED DISPARITIES IN PLAN
14 CONTRIBUTIONS OR BENEFITS.—A plan shall
15 not be treated as failing to meet the require-
16 ments of paragraph (1)(H) solely because the
17 plan provides a disparity in contributions or
18 benefits with respect to which the requirements
19 of section 401(l) are met.

20 “(E) INDEXING PERMITTED.—

21 “(i) IN GENERAL.—A plan shall not
22 be treated as failing to meet the require-
23 ments of paragraph (1)(H) solely because
24 the plan provides for indexing of accrued
25 benefits under the plan.

1 “(ii) PROTECTION AGAINST LOSS.—
2 Except in the case of any benefit provided
3 in the form of a variable annuity, clause (i)
4 shall not apply with respect to any index-
5 ing which results in an accrued benefit less
6 than the accrued benefit determined with-
7 out regard to such indexing.

8 “(iii) INDEXING.—For purposes of
9 this subparagraph, the term ‘indexing’
10 means, in connection with an accrued ben-
11 efit, the periodic adjustment of the accrued
12 benefit by means of the application of a
13 recognized investment index or method-
14 ology.

15 “(F) EARLY RETIREMENT BENEFIT OR RE-
16 TIREMENT-TYPE SUBSIDY.—For purposes of
17 this paragraph, the terms ‘early retirement ben-
18 efit’ and ‘retirement-type subsidy’ have the
19 meaning given such terms in subsection
20 (d)(6)(B)(i).

21 “(G) BENEFIT ACCRUED TO DATE.—For
22 purposes of this paragraph, any reference to the
23 accrued benefit shall be a reference to such ben-
24 efit accrued to date.”.

1 (2) DETERMINATIONS OF ACCRUED BENEFIT AS
2 BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT
3 AMOUNTS.—Subsection (a) of section 411 of such
4 Code is amended by adding at the end the following
5 new paragraph:

6 “(13) SPECIAL RULES FOR PLANS COMPUTING
7 ACCRUED BENEFITS BY REFERENCE TO HYPO-
8 THETICAL ACCOUNT BALANCE OR EQUIVALENT
9 AMOUNTS.—

10 “(A) IN GENERAL.—An applicable defined
11 benefit plan shall not be treated as failing to
12 meet—

13 “(i) subject to paragraph (2), the re-
14 quirements of subsection (a)(2), or

15 “(ii) the requirements of subsection
16 (c) or section 417(e) with respect to con-
17 tributions other than employee contribu-
18 tions,

19 solely because the present value of the accrued
20 benefit (or any portion thereof) of any partici-
21 pant is, under the terms of the plan, equal to
22 the amount expressed as the balance in the hy-
23 pothetical account described in paragraph (3)
24 or as an accumulated percentage of the partici-
25 pant’s final average compensation.

1 “(B) 3-YEAR VESTING.—In the case of an
2 applicable defined benefit plan, such plan shall
3 be treated as meeting the requirements of sub-
4 section (a)(2) only if an employee who has com-
5 pleted at least 3 years of service has a non-
6 forfeitable right to 100 percent of the employ-
7 ee’s accrued benefit derived from employer con-
8 tributions.

9 “(C) APPLICABLE DEFINED BENEFIT PLAN
10 AND RELATED RULES.—For purposes of this
11 subsection—

12 “(i) IN GENERAL.—The term ‘applica-
13 ble defined benefit plan’ means a defined
14 benefit plan under which the accrued ben-
15 efit (or any portion thereof) is calculated
16 as the balance of a hypothetical account
17 maintained for the participant or as an ac-
18 cumulated percentage of the participant’s
19 final average compensation.

20 “(ii) REGULATIONS TO INCLUDE SIMI-
21 LAR PLANS.—The Secretary shall issue
22 regulations which include in the definition
23 of an applicable defined benefit plan any
24 defined benefit plan (or any portion of

1 such a plan) which has an effect similar to
2 an applicable defined benefit plan.”.

3 (c) AMENDMENTS TO AGE DISCRIMINATION IN EM-
4 PLOYMENT ACT.—Section 4(i) of the Age Discrimination
5 in Employment Act of 1967 (29 U.S.C. 623(i)) is amend-
6 ed by adding at the end the following new paragraph:

7 “(10) SPECIAL RULES RELATING TO AGE.—

8 “(A) COMPARISON TO SIMILARLY SITU-
9 ATED YOUNGER INDIVIDUAL.—

10 “(i) IN GENERAL.—A plan shall not
11 be treated as failing to meet the require-
12 ments of paragraph (1) if a participant’s
13 accrued benefit, as determined as of any
14 date under the terms of the plan, would be
15 equal to or greater than that of any simi-
16 larly situated, younger individual who is or
17 could be a participant.

18 “(ii) SIMILARLY SITUATED.—For pur-
19 poses of this subparagraph, a participant
20 is similarly situated to any other individual
21 if such participant is identical to such
22 other individual in every respect (including
23 period of service, compensation, position,
24 date of hire, work history, and any other
25 respect) except for age.

1 “(iii) DISREGARD OF SUBSIDIZED
2 EARLY RETIREMENT BENEFITS.—In deter-
3 mining the accrued benefit as of any date
4 for purposes of this clause, the subsidized
5 portion of any early retirement benefit or
6 retirement-type subsidy shall be dis-
7 regarded.

8 “(iv) ACCRUED BENEFIT.—For pur-
9 poses of this subparagraph, the accrued
10 benefit may, under the terms of the plan,
11 be expressed as an annuity payable at nor-
12 mal retirement age, the balance of a hypo-
13 theoretical account, or the current value of
14 the accumulated percentage of the employ-
15 ee’s final average compensation.

16 “(B) APPLICABLE DEFINED BENEFIT
17 PLANS.—

18 “(i) INTEREST CREDITS.—

19 “(I) IN GENERAL.—An applicable
20 defined benefit plan shall be treated
21 as failing to meet the requirements of
22 paragraph (1) unless the terms of the
23 plan provide that any interest credit
24 (or an equivalent amount) for any
25 plan year shall be at a rate which is

1 not greater than a market rate of re-
2 turn. A plan shall not be treated as
3 failing to meet the requirements of
4 this subclause merely because the plan
5 provides for a reasonable minimum
6 guaranteed rate of return or for a
7 rate of return that is equal to the
8 greater of a fixed or variable rate of
9 return.

10 “(II) PRESERVATION OF CAP-
11 ITAL.—An interest credit (or an
12 equivalent amount) of less than zero
13 shall in no event result in the account
14 balance or similar amount being less
15 than the aggregate amount of con-
16 tributions credited to the account.

17 “(III) MARKET RATE OF RE-
18 TURN.—The Secretary of the Treas-
19 ury may provide by regulation for
20 rules governing the calculation of a
21 market rate of return for purposes of
22 subclause (I) and for permissible
23 methods of crediting interest to the
24 account (including fixed or variable
25 interest rates) resulting in effective

1 rates of return meeting the require-
2 ments of subclause (I).

3 “(ii) SPECIAL RULE FOR PLAN CON-
4 VERSIONS.—If, after June 29, 2005, an
5 applicable plan amendment is adopted, the
6 plan shall be treated as failing to meet the
7 requirements of paragraph (1)(H) unless
8 the requirements of clause (iii) are met
9 with respect to each individual who was a
10 participant in the plan immediately before
11 the adoption of the amendment.

12 “(iii) RATE OF BENEFIT ACCRUAL.—
13 Subject to clause (iv), the requirements of
14 this clause are met with respect to any
15 participant if the accrued benefit of the
16 participant under the terms of the plan as
17 in effect after the amendment is not less
18 than the sum of—

19 “(I) the participant’s accrued
20 benefit for years of service before the
21 effective date of the amendment, de-
22 termined under the terms of the plan
23 as in effect before the amendment,
24 plus

1 “(II) the participant’s accrued
2 benefit for years of service after the
3 effective date of the amendment, de-
4 termined under the terms of the plan
5 as in effect after the amendment.

6 “(iv) SPECIAL RULES FOR EARLY RE-
7 TIREMENT SUBSIDIES.—For purposes of
8 clause (iii)(I), the plan shall credit the ac-
9 cumulation account or similar amount with
10 the amount of any early retirement benefit
11 or retirement-type subsidy for the plan
12 year in which the participant retires if, as
13 of such time, the participant has met the
14 age, years of service, and other require-
15 ments under the plan for entitlement to
16 such benefit or subsidy.

17 “(v) APPLICABLE PLAN AMEND-
18 MENT.—For purposes of this subpara-
19 graph—

20 “(I) IN GENERAL.—The term
21 ‘applicable plan amendment’ means
22 an amendment to a defined benefit
23 plan which has the effect of con-
24 verting the plan to an applicable de-
25 fined benefit plan.

1 “(II) SPECIAL RULE FOR CO-
2 ORDINATED BENEFITS.—If the bene-
3 fits of 2 or more defined benefit plans
4 established or maintained by an em-
5 ployer are coordinated in such a man-
6 ner as to have the effect of the adop-
7 tion of an amendment described in
8 subclause (I), the sponsor of the de-
9 fined benefit plan or plans providing
10 for such coordination shall be treated
11 as having adopted such a plan amend-
12 ment as of the date such coordination
13 begins.

14 “(III) MULTIPLE AMEND-
15 MENTS.—The Secretary of the Treas-
16 ury shall issue regulations to prevent
17 the avoidance of the purposes of this
18 subparagraph through the use of 2 or
19 more plan amendments rather than a
20 single amendment.

21 “(IV) APPLICABLE DEFINED
22 BENEFIT PLAN.—For purposes of this
23 subparagraph, the term ‘applicable de-
24 fined benefit plan’ has the meaning
25 given such term by section 203(f)(3)

1 of the Employee Retirement Income
2 Security Act of 1974.

3 “(vi) TERMINATION REQUIRE-
4 MENTS.—An applicable defined benefit
5 plan shall not be treated as meeting the re-
6 quirements of clause (i) unless the plan
7 provides that, upon the termination of the
8 plan—

9 “(I) if the interest credit rate (or
10 an equivalent amount) under the plan
11 is a variable rate, the rate of interest
12 used to determine accrued benefits
13 under the plan shall be equal to the
14 average of the rates of interest used
15 under the plan during the 5-year pe-
16 riod ending on the termination date,
17 and

18 “(II) the interest rate and mor-
19 tality table used to determine the
20 amount of any benefit under the plan
21 payable in the form of an annuity
22 payable at normal retirement age
23 shall be the rate and table specified
24 under the plan for such purpose as of
25 the termination date, except that if

1 such interest rate is a variable rate,
2 the interest rate shall be determined
3 under the rules of subclause (I).

4 “(C) CERTAIN OFFSETS PERMITTED.—A
5 plan shall not be treated as failing to meet the
6 requirements of paragraph (1) solely because
7 the plan provides offsets against benefits under
8 the plan to the extent such offsets are allowable
9 in applying the requirements of section 401(a)
10 of the Internal Revenue Code of 1986.

11 “(D) PERMITTED DISPARITIES IN PLAN
12 CONTRIBUTIONS OR BENEFITS.—A plan shall
13 not be treated as failing to meet the require-
14 ments of paragraph (1) solely because the plan
15 provides a disparity in contributions or benefits
16 with respect to which the requirements of sec-
17 tion 401(l) of the Internal Revenue Code of
18 1986 are met.

19 “(E) INDEXING PERMITTED.—

20 “(i) IN GENERAL.—A plan shall not
21 be treated as failing to meet the require-
22 ments of paragraph (1) solely because the
23 plan provides for indexing of accrued bene-
24 fits under the plan.

1 “(ii) PROTECTION AGAINST LOSS.—

2 Except in the case of any benefit provided
3 in the form of a variable annuity, clause (i)
4 shall not apply with respect to any index-
5 ing which results in an accrued benefit less
6 than the accrued benefit determined with-
7 out regard to such indexing.

8 “(iii) INDEXING.—For purposes of
9 this subparagraph, the term ‘indexing’
10 means, in connection with an accrued ben-
11 efit, the periodic adjustment of the accrued
12 benefit by means of the application of a
13 recognized investment index or method-
14 ology.

15 “(F) EARLY RETIREMENT BENEFIT OR RE-
16 TIREMENT-TYPE SUBSIDY.—For purposes of
17 this paragraph, the terms ‘early retirement ben-
18 efit’ and ‘retirement-type subsidy’ have the
19 meaning given such terms in section
20 203(g)(2)(A) of the Employee Retirement In-
21 come Security Act of 1974.

22 “(G) BENEFIT ACCRUED TO DATE.—For
23 purposes of this paragraph, any reference to the
24 accrued benefit shall be a reference to such ben-
25 efit accrued to date.”.

1 (d) NO INFERENCE.—Nothing in the amendments
2 made by this section shall be construed to create an infer-
3 ence with respect to—

4 (1) the treatment of applicable defined benefit
5 plans or conversions to applicable defined benefit
6 plans under sections 204(b)(1)(H) of the Employee
7 Retirement Income Security Act of 1974, 4(i)(1) of
8 the Age Discrimination in Employment Act of 1967,
9 and 411(b)(1)(H) of the Internal Revenue Code of
10 1986, as in effect before such amendments, or

11 (2) the determination of whether an applicable
12 defined benefit plan fails to meet the requirements
13 of sections 203(a)(2), 204(e), or 204(g) of the Em-
14 ployee Retirement Income Security Act of 1974 or
15 sections 411(a)(2), 411(e), or 417(e) of such Code,
16 as in effect before such amendments, solely because
17 the present value of the accrued benefit (or any por-
18 tion thereof) of any participant is, under the terms
19 of the plan, equal to the amount expressed as the
20 balance in a hypothetical account or as an accumu-
21 lated percentage of the participant’s final average
22 compensation.

23 For purposes of this subsection, the term “applicable de-
24 fined benefit plan” has the meaning given such term by
25 section 203(f)(3) of the Employee Retirement Income Se-

1 curity Act of 1974 and section 411(a)(13)(C) of such
2 Code, as in effect after such amendments.

3 (e) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to periods beginning on or
6 after June 29, 2005.

7 (2) PRESENT VALUE OF ACCRUED BENEFIT.—
8 The amendments made by subsections (a)(2) and
9 (b)(2) shall apply to distributions made after the
10 date of the enactment of this Act.

11 (3) VESTING AND INTEREST CREDIT REQUIRE-
12 MENTS.—In the case of a plan in existence on June
13 29, 2005, the requirements of clause (i) of section
14 411(b)(5)(B) of the Internal Revenue Code of 1986,
15 clause (i) of section 204(b)(5)(B) of the Employee
16 Retirement Income Security Act of 1974, and clause
17 (i) of section 4(i)(10)(B) of the Age Discrimination
18 in Employment Act of 1967 (as added by this Act)
19 and the requirements of 203(f)(2) of the Employee
20 Retirement Income Security Act of 1974 and section
21 411(a)(13)(B) of the Internal Revenue Code of 1986
22 (as so added) shall, for purposes of applying the
23 amendments made by subsections (a) and (b), apply
24 to years beginning after December 31, 2007, unless
25 the plan sponsor elects the application of such re-

1 requirements for any period after June 29, 2005, and
2 before the first year beginning after December 31,
3 2007.

4 (4) SPECIAL RULE FOR COLLECTIVELY BAR-
5 GAINED PLANS.—In the case of a plan maintained
6 pursuant to 1 or more collective bargaining agree-
7 ments between employee representatives and 1 or
8 more employers ratified on or before the date of the
9 enactment of this Act, the requirements described in
10 paragraph (3) shall, for purposes of applying the
11 amendments made by subsections (a) and (b), not
12 apply to plan years beginning before—

13 (A) the earlier of—

14 (i) the date on which the last of such
15 collective bargaining agreements termi-
16 nates (determined without regard to any
17 extension thereof on or after such date of
18 enactment), or

19 (ii) January 1, 2008, or

20 (B) January 1, 2010.

21 (5) CONVERSIONS.—The requirements of clause
22 (ii) of section 411(b)(5)(B) of the Internal Revenue
23 Code of 1986, clause (ii) of section 204(b)(5)(B) of
24 the Employee Retirement Income Security Act of
25 1974, and clause (ii) of section 4(i)(10)(B) of the

1 Age Discrimination in Employment Act of 1967 (as
2 added by this Act), shall apply to plan amendments
3 adopted after, and taking effect after, June 29,
4 2005, except that the plan sponsor may elect to have
5 such amendments apply to plan amendments adopt-
6 ed before, and taking effect after, such date.

7 **SEC. 702. REGULATIONS RELATING TO MERGERS AND AC-**
8 **QUISITIONS.**

9 The Secretary of the Treasury or his delegate shall,
10 not later than 12 months after the date of the enactment
11 of this Act, prescribe regulations for the application of the
12 amendments made by, and the provisions of, this title in
13 cases where the conversion of a plan to an applicable de-
14 fined benefit plan is made with respect to a group of em-
15 ployees who become employees by reason of a merger, ac-
16 quisition, or similar transaction.

17 **TITLE VIII—PENSION RELATED**
18 **REVENUE PROVISIONS**

19 **Subtitle A—Deduction Limitations**

20 **SEC. 801. INCREASE IN DEDUCTION LIMIT FOR SINGLE-EM-**
21 **PLOYER PLANS.**

22 (a) IN GENERAL.—Section 404 of the Internal Rev-
23 enue Code of 1986 (relating to deduction for contributions
24 of an employer to an employees' trust or annuity plan and