Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

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

■ **Par. 2.** Section 1.304–4 is added to read as follows:

§ 1.304–4 Special rule for the use of related corporations to avoid the application of section 304.

[Reserved]. For further guidance, see § 1.304–4T(a) through (d).

■ **Par. 3.** Section 1.304–4T is revised to read as follows:

§ 1.304–4T Special rule for the use of related corporations to avoid the application of section 304 (temporary).

(a) *Scope and purpose.* This section applies to determine the amount of a property distribution constituting a dividend (and the source thereof) under section 304(b)(2), for certain transactions involving controlled corporations. The purpose of this section is to prevent the avoidance of the application of section 304 to a controlled corporation.

(b) *Amount and source of dividend.* For purposes of determining the amount constituting a dividend (and source thereof) under section 304(b)(2), the following rules shall apply:

(1) *Deemed acquiring corporation.* A corporation (deemed acquiring corporation) shall be treated as acquiring for property the stock of a corporation (issuing corporation) acquired for property by another corporation (acquiring corporation) that is controlled by the deemed acquiring corporation, if a principal purpose for creating, organizing, or funding the acquiring corporation by any means (including, through capital contributions or debt) is to avoid the application of section 304 to the deemed acquiring corporation. See paragraph (c) *Example 1* of this section for an illustration of this paragraph.

(2) *Deemed issuing corporation.* The acquiring corporation shall be treated as acquiring for property the stock of a corporation (deemed issuing corporation) controlled by the issuing corporation if, in connection with the acquisition for property of stock of the issuing corporation by the acquiring corporation, the issuing corporation acquired stock of the deemed issuing corporation with a principal purpose of avoiding the application of section 304 to the deemed issuing corporation. See paragraph (c) Example 2 of this section for an illustration of this paragraph.

(c) *Examples.* The rules of this section are illustrated by the following examples:

Example 1. (i) *Facts.* P, a domestic corporation, wholly owns CFC1, a controlled foreign corporation with substantial accumulated earnings and profits. CFC1 is organized in Country X, which imposes a high rate of tax on the income of CFC1. P also wholly owns CFC2, a controlled foreign corporation with accumulated earnings and profits of $200×. CFC2 is organized in Country Y, which imposes a low rate of tax on the income of CFC2. P wishes to own all of its foreign corporations in a direct chain and to repatriate the cash of CFC2. In order to avoid having to obtain Country X approval for the acquisition of CFC1 (a Country X corporation) by CFC2 (a Country Y corporation) and to avoid the dividend distribution from CFC2 to P that would result if CFC2 were the acquiring corporation, P causes CFC2 to form CFC3 in Country X and to contribute $100x to CFC3. CFC3 then acquires all of the stock of CFC1 from P for $100×.

(ii) *Result.* Because a principal purpose for creating, organizing or funding CFC3 (acquiring corporation) is to avoid the application of section 304 to CFC2 (deemed acquiring corporation), under paragraph (b)(1) of this section, for purposes of determining the amount of the $100× distribution constituting a dividend (and source thereof) under section 304(b)(2), CFC2 shall be treated as acquiring the stock of CFC1 (issuing corporation) from P for $100×. As a result, P receives a $100× distribution, out of the earnings and profits of CFC2, to which section 301(c)(1) applies.

Example 2. (i) *Facts.* P, a domestic corporation, wholly owns CFC1, a controlled foreign corporation with substantial accumulated earnings and profits. The CFC1 stock has a basis of $100×. CFC1 is organized in Country X. P also wholly owns CFC2, a controlled foreign corporation with zero accumulated earnings and profits. CFC2 is organized in Country Y. P wishes to own all of its foreign corporations in a direct chain and to repatriate the cash of CFC2. In order to avoid having to obtain Country X approval for the acquisition of CFC1 (a Country X corporation) by CFC2 (a Country Y corporation) and to avoid a dividend distribution from CFC1 to P, P forms a new corporation (CFC3) in Country X and transfers the stock of CFC1 to CFC3 in exchange for CFC3 stock. P then transfers the stock of CFC3 to CFC2 in exchange for $100×.

(ii) *Result.* Because a principal purpose for the transfer of the stock of CFC1 (deemed issuing corporation) by P to CFC3 (issuing corporation) is to avoid the application of section 304 to CFC1, under paragraph (b)(2) of this section, for purposes of determining the amount of the $100x distribution constituting a dividend (and source thereof) under section 304(b)(2), CFC2 (acquiring corporation) shall be treated as acquiring the stock of CFC1 from P for $100× . As a result, P receives a $100× distribution, out of the earnings and profits of CFC1, to which section 301(c)(1) applies.

(d) *Effective/applicability date.* This section applies to acquisitions of stock occurring on or after December 29, 2009. See § 1.304–4T, as contained in 26 CFR part 1 revised as of April 1, 2008, for acquisitions of stock occurring on or after June 14, 1988, and before December 29, 2009.

(e) *Expiration date.* This section expires on or before December 31, 2012.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: December 18, 2009.

Michael F. Mundaca,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E9–30861 Filed 12–29–09; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

29 CFR Parts 403 and 408

RIN 1215–AB75

Trust Annual Reports

AGENCY: Office of Labor-Management Standards, Department of Labor.

ACTION: Final rule; extending filing due date.

SUMMARY: This rule extends the filing due date of Form T–1 Trust Annual Reports required to be filed during calendar year 2010. The Form T–1 is an annual financial disclosure report required to be filed, pursuant to the Labor-Management Reporting and Disclosure Act (LMRDA), by labor unions with total annual receipts of $250,000 or more about certain trusts in which they are interested. Labor unions are required to use the Form T–1 to disclose financial information about these trusts, such as assets, liabilities, receipts, and disbursements. The Department established the Form T–1 in a final rule published October 2, 2008, with an effective date of January 1, 2009. Subsequently, the Department announced its intention to propose withdrawal of the Form T–1 (Spring 2009 Regulatory Agenda, Fall 2009 Regulatory Agenda). The Department also held a public meeting on July 21, 2009, and received comments from interested parties concerning provisions of the Form T–1 and its proposed rescission. On December 3, 2009, the Department published a Notice of Proposed Rulemaking proposing to

extend for one year Form T–1 reports due in calendar year 2010, pending the completion of a rulemaking proposing to withdraw the October 2, 2008 Form T–1 rule. In consideration of comments received, the Department now extends for one calendar year the filing due date of the Form T–1 reports otherwise required to be filed during 2010.

DATES: Effective December 30, 2009. This rule extends for one calendar year the filing due dates for Form T–1 reports required to be filed during calendar year 2010. Form T–1 reports that otherwise would be due in 2010 will be filed in 2011. This rule does not extend the filing due date of any Form T–1 report due during calendar year 2011 or beyond.

FOR FURTHER INFORMATION CONTACT: Denise M. Boucher, Director, Office of Policy, Reports and Disclosure, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5609, Washington, DC 20210, (202) 693–0123 (this is not a toll-free number), (800) 877–8339 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On October 2, 2008, the Department of Labor, Office of Labor-Management Standards (OLMS), published a Final Rule establishing the Form T–1, Trust Annual Report. 73 FR 57411. The Form T–1 is an annual financial disclosure report to be filed by labor unions about certain trusts in which they are interested. For an organization or fund to be a labor union's trust subject to Form T–1 reporting, it must be established by the labor union or have a governing body that includes at least one member appointed or selected by the labor union, and a primary purpose of the trust must be to provide benefits to the members of the labor union or their beneficiaries. Examples of such trusts include building and redevelopment corporations, educational institutes, credit unions, labor union and employer joint funds, and job targeting funds. Labor unions currently are required to disclose financial information about the trust, such as assets, liabilities, receipts and disbursements through use of Form T–1.

Labor unions with total annual receipts of $250,000 or more (those required to file Form LM–2, Labor Organization Annual Report) are required to file the Form T–1 report. A labor union must file a Form T–1 report for each trust where the labor union, alone or in combination with other labor unions, appoints or selects a majority of the members of the trust's governing board or the labor union's contribution to the trust, alone or in combination with other labor unions, represents more than 50% of the trust's receipts. Contributions by an employer under a collective bargaining agreement are considered contributions by the labor union.

The Form T–1 rule also provides that unions will not be required to file a Form T–1 under certain circumstances, such as when the trust is a political action committee, if publicly available reports on the committee are filed with appropriate federal or state agencies; when an independent audit has been conducted for the trust, in accordance with standards set forth in the final rule; or when the trust is required to file a Form 5500 with the Employee Benefits Security Administration (EBSA).

The Form T–1 final rule took effect on January 1, 2009. Filing due dates depend on the fiscal year ending dates of both the reporting union and the trust being reported. The fiscal year of both the labor union and its trust must begin on or after January 1, 2009, for a Form T–1 report to be owed that fiscal year. The earliest Form T–1 reports would be required of unions that have, and whose trusts have, a fiscal year start date of January 1, 2009. Reports are due within 90 days of the end of the union's fiscal year. These first Form T–1 reports would therefore be due on or after January 1, 2010, but no later than March 31, 2010.

In the Spring 2009 Regulatory Agenda, the Department notified the public of its intent to initiate rulemaking proposing to rescind the Form T–1 and to require labor unions to report their wholly owned, wholly controlled, and wholly financed (''subsidiary'') organizations on their Form LM–2 or LM–3 reports. *See http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200904&RIN=1215-AB75*. Additionally, the Department held a public meeting on July 21, 2009, which allowed interested parties to comment on any aspect of the Form T–1. Furthermore, the Department's Fall 2009 Regulatory Agenda stated that such proposal to rescind would be published in January 2010 (*See http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=200910&RIN=1215-AB75*). A draft proposed rule to withdraw the October 2, 2008 Form T–1 rule is currently under review by the Administration.

In view of its plan to propose rescission of the Form T–1 Trust Annual Report, the Department proposed to extend the filing due dates of Form T–1 reports that would otherwise be due in 2010, pending review and consideration of comments on the proposal to rescind. Extension of the filing due dates delays or eliminates the first year recurring and nonrecurring burdens on labor organizations associated with the Form T–1 reporting requirements pending the outcome of the proposed withdrawal. Without this extension of the filing dates, many affected labor organizations likely will incur the reporting costs and burdens associated with filing the form, including the nonrecurring first year costs and burdens associated with implementing changes to the reporting systems necessary for completion of the Form T–1. Specifically, the October 2, 2008 rule estimated that unions would incur 41.20 hours in reporting burden per Form T–1 filed during the first year of the rule's implementation, for a total first year reporting burden of 128,978.11 hours. The estimated reporting cost per form filed in the first year is $1,632.41, and the estimated reporting cost in the first year for all projected Form T–1 filings is $5,110,324.80. The Department notes that the first year burden is higher than that in later years, which is estimated to be 28.28 hours per form filed and 88,542.01 hours total. 73 FR 57444–5. If the proposal to rescind the rule ultimately is effectuated, these expenses, including upfront costs, will have been incurred unnecessarily.

In its proposal, the Department noted that the extension of the filing dates for Form T–1 reports due in 2010 would not affect the filing due date of Form T–1 reports owed in any subsequent year. The Department's proposal did not extend the filing due date of any Form T–1 report that normally would be due during calendar year 2011 or beyond. Further, in the event that the Department determines to retain the Form T–1 rule, the initial Form T–1 reports that would have been due during 2010 would be filed in 2011 in addition to any Form T–1 reports due in 2011.

For the foregoing reasons, the Department proposed extending the filing dates of Form T–1 reports due during calendar year 2010 and sought comments on the proposal.

II. Comments on the Proposal and the Department's Responses and Decision

The Department received 128 comments on this proposal. Of these, 15 supported the proposed extension and 111 opposed any changes to the Form T–1 reporting regime. Two additional comments addressed only the adequacy of the ten day comment period. One comment was received after the

comment period closed and was not considered.

Of the 111 comments submitted in opposition to any changes to the Form T–1 requirements, only one specifically addressed the Department's rationale for the proposal to extend the Form T–1 filing due dates. The remainder expressed only general opposition to any changes to the Form T–1 reporting regime, including rescission, and only approximately ten of those comments included any reference to the proposed extension.

The comment specifically opposing the Department's rationale for its proposal to extend the Form T–1 filing due dates was submitted by a public policy group. The comment asserted that the Department's rationale that an extension of the filing due date for 2010 filers is necessary to prevent them from unnecessarily incurring first year reporting burdens is flawed. It argued that an extensive amount of ''lead time'' is necessary to build new reporting systems to ensure that receipts, disbursements, and other information can be tracked from the first day the rule is in effect. The commenter claims that since the Form T–1 went into effect on January 1, 2009, filers have had nearly a year to implement the necessary tracking systems and suggests that they should have already incurred most of the costs imposed by the Form T–1 requirements. Additionally, the public policy group stated that only those in the regulated community that did not intend to comply with the reporting requirements would have failed to take the steps needed to enable them to meet the initial Form T–1 filing dates. The commenter also suggested that the Department is heading towards the elimination of ''any meaningful reporting of union finances.''

The Department disagrees with the public policy group's assertion that an extension in the deadline will not prevent unnecessary burden. As stated in the notice proposing the extension of the Form T–1 filing due dates, no filers have yet incurred any *reporting* burden and will not incur such burden until at least January 1, 2010, although calendar year filers should have incurred much of the *recordkeeping* burden for the initial Form T–1 reports. 74 FR 63335, 63336 (Dec. 3, 2009). Since a reporting labor organization must retrieve the data recorded for the entire fiscal year by the trust, and then must organize and report this data on the Form T–1, the union would initiate these steps upon completion of the fiscal year, which for the earliest filers will not begin until after December 31, 2009.

As explained in the notice proposing the extension of the Form T–1 filing due dates, the October 2, 2008 rule estimated that unions would incur 41.20 hours in reporting burden per Form T–1 filed during the first year of the rule's implementation. The estimated reporting cost per form filed in the first year is $1,632.41, and the estimated reporting cost in the first year for all projected Form T–1 filings is $5,110,324.80. 73 FR 57444–5. If the proposal to rescind the rule ultimately is effectuated, these expenses, including up front costs, will have been incurred unnecessarily. Furthermore, the Department does not accept the argument that extending this reporting eliminates ''any meaningful'' union financial disclosure, as this rule only extends Form T–1 reporting for one year.

Each of the remaining 110 comments in opposition to the Department's proposal was submitted by an individual expressing general opposition to any change in the Form T–1 reporting regime, including rescission. Approximately ten of these general comments referenced the proposed extension. However, these references generally did not provide any substantive argument in response to the Department's proposal. Rather, they asserted broadly that an extension of a rule that may be rescinded would set a ''bad precedent;'' that more transparency was needed, not less; and that the burden on unions is worth the disclosure. Comments in general opposition also referenced or alluded to such issues as President Obama's emphasis on transparency; suggestions of political and special interest favor; opposition to government corruption; general opposition to labor unions; and general opposition to the President and the Administration's economic policies. There were, in addition, other political comments unrelated to the proposed extension. The general opposition also often compared union disclosure to reporting requirements for taxpayers, the insurance industry, companies, and others; expressed support for union financial disclosure and opposed any lessening of such disclosure; supported the need to combat union corruption; and argued for the need for timely disclosure and time to evaluate the union disclosure requirements presently in place.

The Department reiterates that it is not assessing the merits of the Form T–1 in this rule extending the 2010 Form T–1 filing due dates. The Department acknowledges and fully supports the importance of labor-management transparency through the LMRDA reporting regimes. Thus, it stresses that the union financial reporting requirements, such as the Form LM–2, LM–3, and LM–4, remain in place. Further, the Form T–1 reporting requirements remain in place, as well, pending the result of a proposal to rescind them, which the Department anticipates will be published in January 2010 for notice and comment rulemaking.

Of the 15 comments supporting the extension, 12 came from national or international unions, two from federations of unions, and one from a certified public accounting (CPA) firm. These comments all offered support for the Department's justification for its proposal to extend the filing due dates for Form T–1 for one year to avoid upfront reporting costs that would prove unnecessary if the Department implemented a proposal to rescind the form.

With respect to these costs, one national union stated that its accountants and financial specialists had estimated that start up costs needed to comply with the Form T–1 requirements could be in ''the tens of thousands of dollars,'' which would likely be a one-time cost that, in its view, would not benefit the union members, trust beneficiaries, or the public with any greater transparency or accountability, while costing the unions significant dues monies. Another national union stressed that the resources that would be used to implement these reporting requirements are union members' dues. Another national union compared the implementation of the Form T–1 with the Form LM–2 changes, which required significant resources to create new accounting systems, practices and procedures, new reporting systems for officers and staff, additional accounting personnel, new forms for internal use, and the purchase of additional equipment and software, all of which are ongoing costs but higher in the first year. In the union's experience, the Form T–1 would add significant costs and burdens to those imposed by the existing Form LM–2.

Several other comments discussed the burden on trusts and the burden of union coordination with the trusts to complete the Form T–1. One international union stated that the trusts would be required to reprogram their recordkeeping systems to comply, which would be highly disruptive to the trusts and expensive for the unions. Further, according to this commenter, unions would need to retain accountants and coordinate with the trusts for reviewing the records and

preparing the report and these start-up costs would be wasted if the Department did rescind the form. This union also argued that no harm has occurred from the repeated postponement of the Form T–1 caused by court decisions.

Commenters also noted that the Department in the Spring 2009 Regulatory Agenda notified the public of its intent to initiate rulemaking to rescind the 2008 Form T–1 rule and that a notice of proposed rulemaking is now under review by the Administration with an anticipated January 2010 publication date. One national union asserted that the rescission may take place for some unions before their reports are even due, and an international union emphasized the waste of government resources, as well, if the Department were to enforce the filing due dates in 2010 while at the same time moving to rescind the form.

One of the federations of unions offered two additional arguments in support of an extension. First, the federation asserted that much of the reporting and recordkeeping burden associated with the Form T–1 is actually borne by the trusts and not the reporting unions. Although the rule requires that unions must reimburse the trusts for implementing recordkeeping systems and transmitting the information to the unions, the comment expressed doubt that trusts would be willing to alter their systems to implement the Form T–1 reporting requirements, knowing that the Department may effectuate its intention to rescind the rule. Furthermore, the federation anticipates conflict between the unions and trusts and difficulties for the Department in enforcement of the Form T–1 rule. The trusts, according to the federation, will display resistance to changing their systems for a possible one-time reporting requirement. This would put the unions in a difficult position, according to the federation, because the Department indicated in the 2008 Form T–1 rule that it expects union officials to ''take timely, reasonable, and good faith actions to obtain the necessary information from section 3(l) trusts,'' and that it could ''assert a willful and knowing violation of the filing requirements'' against the union and its officials. 73 FR at 57432.

Second, the federation maintained that enforcement of the Form T–1 in 2010 will generate litigation challenging the rule itself. The federation believes that the 2008 Form T–1 rule suffers from the same flaws identified by the courts when striking down the two previous versions of the form. Thus, the federation concluded, if the Department went forth with enforcement of the Form T–1 in 2010, pending rescission, it would unnecessarily waste its own resources and those of the courts.

Various national and international unions that belong to this federation submitted comments adopting or restating its comments, in whole or part. Further, a number of unions advised of their support for the rescission of the Form T–1. Two international unions commented that the Department may have underestimated the cost and burden associated with obtaining the necessary information from the trusts. One of these commenters urged that any effort by union officials to complete the Form T–1 exposes the union and those officials (but not the trust) to the ''risk of civil and criminal liability'' for failing to obtain the necessary data from trusts, over which they may not have practical or legal control. Further, this commenter claims, it is not clear what authority the Department has under the LMRDA to retrieve the information from the trusts on behalf of the unions. The union commented that the Department has not provided a ''safe harbor'' provision in the event that the trust fails to provide complete and accurate data by which a Form T–1 can be filed.

An international union offered similar comments to the above national union, with several additional points regarding its view that the Department underestimated the reporting burden on filers. In its view, these are errors that justify an extension even without pending regulatory action to rescind the rule. First, it argued that the itemization and aggregation requirements of the Form T–1 create tremendous burden not truly appreciated by the 2008 rule. Second, it asserted that there is no dollar threshold on the contribution of one union to a trust, which could result in unions filing Form T–1 reports for trusts that only have a small amount of money derived from the union. Further, it claims that, because there is no threshold on the size of the trust, unions could be reporting on very small trusts. Third, and similarly to other comments, it stated that the union must identify the trusts for which a Form T–1 is required, which can be costly, and it must obtain information from the third-party trust, over which it may not have any legal control. Fourth, it claimed that the 2008 rule overstated the benefits of the Form T–1 and downplayed any redundancy, because multiple unions are required to file a report on the same trust, regardless of which union has a greater financial contribution or level of control over the trust, and because trusts generally file the Internal Revenue Service (IRS) Form 990, which provides financial transparency for these entities.

The other federation of unions similarly cited potential litigation arising from the reporting requirements of the Form T–1. This federation also emphasized that labor organizations do not have the information required to be reported. The federation went on to note that although the trusts do have this information, they do not organize the data in the manner that the Form T–1 requires. The unions must reimburse the trusts to assemble and provide them with the necessary information, which, citing the Department, requires potentially unnecessary start-up costs. The federation argued that, given the current economic situation and the demand on labor organizations to further legitimate interests, it would be wasteful to mandate unions and trusts to comply with potentially unnecessary reporting requirements.

The CPA firm that submitted comments contended that the implementation of the Form T–1 would be a costly burden for unions, as many of the firm's union clients had not established procedures to implement the filing of the form, nor have, to the firm's knowledge, the trusts established any procedures to capture and provide data to the unions. The firm believes that it would be ''impractical'' for the Department to require unions to timely submit Form T–1 reports in 2010, and, instead, that a one year extension would enable such entities to prepare for either a Form T–1 or, in the case rescission is effectuated, to consolidate information about wholly owned, wholly controlled, and wholly financed organizations (*i.e.* ''subsidiary organizations'') on their Form LM–2.[1]

The Department acknowledges comments that suggest that many unions and trusts have not begun the necessary steps needed to implement the Form T–1 reporting *and* recordkeeping requirements. The Department points out that unions should already have incurred much of the *recordkeeping* burden imposed by the 2008 Form T–1 rule, as this rule went into effect on January 1, 2009. Thus, unions and trusts should have put into place the necessary systems to track trust transactions. However, the *reporting* burden has not yet been triggered for unions, and it would not be triggered until, at the earliest date, January 1, 2010. Therefore, while today's rule extends the 2010 filing due

[1] The Department's 2009 Spring and Fall Regulatory Agenda announced that a proposal to rescind the Form T–1 would be accompanied by a proposal to instead return to reporting of subsidiary organizations that are wholly owned, controlled, and financed by a single labor organization to the Form LM–2.

dates, to avoid the potentially unnecessary and burdensome *reporting* costs that would otherwise be triggered for many Form T–1 reporting unions on January 1, 2010, the Department leaves in place, for 2010, the *recordkeeping* responsibilities imposed by the 2008 rule.

Finally, four commenters claimed that the Department did not provide for an adequate comment period. A public policy group and a trade association made requests for an extension of the period and two individual commenters opposing changes to the Form T–1 requirements addressed the issue generally, while also commenting on other matters. The public policy group asked for a minimum extension of 140 days and asserted that the Department took almost a decade to develop the Form T–1, with great effort by personnel, and that a comment period of only ten days on extending ''the effective date'' of the rule is not sufficient for those union members who would gain from the disclosure provided by the Form T–1. The commenter stated that the Department has granted much longer comment periods for notices contemplating ''regulatory changes to the annual financial reports.'' In particular, the comment cited the 90-day extension granted during the recent Form LM–30 rulemaking, after a request from two unions, for a total of 150 days. Further, the comment suggested that the Department has not adequately justified the length of its comment period, particularly in light of Executive Order (E.O.) 12866, sec. 6(a)(1), and the multiple regulatory actions currently being undertaken by the Administration.

The trade association requested an 80-day extension, arguing that the ten-day period does not provide sufficient time for stakeholders to submit a meaningful response. The comment also addressed past extensions that the Department has granted, particularly concerning ''changes to the substance or filing instructions of labor organization financial reporting regulations,'' such as the 90-day extension granted during the Form LM–30 rulemaking mentioned by the public policy group, after two stakeholder requests. The trade association also cited E.O. 12866, sec. 6(a)(1), which states, in part, that ''in most cases'' an agency should include a comment period of not less than 60 days.

The Department finds that the commenters have not established grounds to extend the comment period. The Department reiterates that it sought comments on a proposal to extend the Form T–1 filing due dates for one year, not to rescind the Form T–1 rule or otherwise make regulatory changes to the form, such as was the case with the regulations referenced in the requests for an extended comment period. The Department will provide a lengthier comment period concerning any future proposal to rescind the Form T–1. The Department believes that the ten-day comment period was sufficient for the narrow purpose of reviewing the proposal to extend the filing due dates, as the large number of comments demonstrates. Further, there is urgency in providing for this extension, because the first reports to be filed under the Form T–1 rule would be due on or after January 1, 2010, and the Department anticipates publication as early as January 2010 of a proposal to withdraw the Form T–1 rule. As such, there is sufficient reason that the Department determined that a longer comment period was not feasible in this case.

For the reasons stated above and in light of the Department's intention to propose the withdrawal of the Form T–1 rule as early as January 2010, the Department has decided to extend for one year the filing due dates of Form T–1 reports that otherwise must be filed during calendar year 2010. In particular, the Department acknowledges the evidence and experience described in those comments regarding the costs and burdens associated with implementing new reporting requirements, particularly those created by the unique nature of the Form T–1, which mandates that trusts provide unions with information about the former's transactions. The Department notes comments suggesting that enforcement of the filing due dates in 2010 could lead to conflict between the unions and the trusts. Such conflict, as well as the up front reporting costs and burdens, may be avoided by extending the calendar year 2010 filing due dates for one year, pending the outcome of a proposal to rescind the 2008 Form T–1 rule. The Department believes that a one-year extension of the Form T–1 filing due dates is justified by a significant decrease in potentially unnecessary reporting burden, including up front costs.

Andrew Auerbach,

Deputy Director, Office of Labor-Management Standards.

[FR Doc. E9–30942 Filed 12–29–09; 8:45 am]

BILLING CODE 4510–CP–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2009–1053]

Drawbridge Operation Regulation; Inner Harbor Navigational Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Danziger lift span bridge across the Inner Harbor Navigational Canal, mile 3.1, at New Orleans, LA. The deviation is necessary to remove and install the roller guide assemblies on the bridge. This deviation allows the bridge to remain closed at two different points of time during the bridge repairs project.

DATES: This deviation is effective from 7 a.m. on January 16, 2010 through 7 p.m. on January 30, 2010.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2009–1053 and are available online by going to *http://www.regulations.gov,* inserting USCG–2009–1053 in the ''Keyword'' box and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lindsey Middleton, Bridge Administration Branch; telephone 504–671–2128, e-mail *Lindsey.R.Middleton@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Coastal Bridge Company, contracted by Louisiana Department of Transportation and Development, has requested a bridge closure for the Danziger Lift Span Bridge on Route US 90 crossing the Inner Harbor Navigational Canal, mile 3.1, in New Orleans, LA. The vertical clearance of the bridge in the closed-to-navigation position is 50 feet above mean high water and 55 feet above mean low water. Currently, according to