

**PENSION BENEFIT GUARANTY CORPORATION****29 CFR Part 2627**

RIN 1212-AA77

**Disclosure to Participants**

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is amending its regulations to implement a new notice requirement under section 4011 of the Employee Retirement Income Security Act of 1974, as amended by the Retirement Protection Act of 1994. Section 4011 requires plan administrators of certain underfunded plans to provide notice to plan participants and beneficiaries of the plan's funding status and the limits on the PBGC's guarantee.

EFFECTIVE DATE: July 31, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street NW., Washington, DC 20005-4026, 202-326-4024 (202-326-4179 for TTY and TDD).

**SUPPLEMENTARY INFORMATION:** On March 28, 1995, the PBGC published in the *Federal Register* (60 FR 16026) a proposed rule implementing a new notice requirement under section 4011 of ERISA, which was added by section 775 of the Retirement Protection Act of 1994 (subtitle F of title VII of the Uruguay Round Agreements Act, Pub. L. No. 103-465, 108 Stat. 4809 (1994)). Under section 4011, plan administrators of certain underfunded plans must provide notice to plan participants and beneficiaries of the plan's funding status and the limits on the PBGC's guarantee.

The proposed rule prescribes which plans are subject to the notice requirement, who is entitled to receive the notice, and the time, form, and manner of issuance of the notice. The proposed rule includes a model notice plan administrators could use.

The PBGC received 14 comments from plan sponsors, organizations representing participants and plan sponsors, and pension practitioners. PBGC has made changes in the final regulation pursuant to these comments.

**Form of Notice**

Some commenters questioned the rule limiting the items that could be in the Participant Notice. Some objected to the rule that additional information be in a document separate from the Participant Notice, and others suggested specific

information they thought should be permitted to be part of the Participant Notice. The regulation (§ 2627.10(d)) allows a plan administrator to provide additional information with the Participant Notice. To allow the additional information to be in the same document as the Participant Notice would run counter to the Congressional purpose of making the Participant Notice clear, concise, and focused. The final rule does include in the Participant Notice some of the specific information suggested by commenters.

Commenters thought that certain information required in the Participant Notice might generate undue concerns about benefit availability and suggested ways to revise the notice. Congress mandated plan administrators to provide participants with information on underfunding and PBGC guarantees. To see that this information is provided without raising undue concerns, the PBGC has revised the model notice and certain requirements of the rule.

Three commenters objected to the requirement that the Participant Notice include information on funding waivers and missed contributions, noting that the information is not specified in section 4011 and is subject to other disclosure requirements. Information on funding waivers and missed contributions is relevant to participants' understanding of a plan's funding status.

One of these commenters suggested that these Participant Notice disclosure requirements be coordinated with the other disclosure requirements. The final rule clarifies and limits the Participant Notice disclosure requirements relating to funding waivers and missed contributions.

The final rule makes clear that minimum funding waivers that have been fully repaid as of the end of the prior plan year are not required to be included. A waiver will be treated as fully repaid before the end of the statutory amortization period only where the employer has made contributions in excess of the minimum funding requirements and the resulting credit balance is precluded from being used to satisfy future minimum funding requirements by a waiver condition or contractual obligation.

The final rule limits the circumstances in which participants must be informed of missed contributions to the type of circumstances in which notice to participants is required under section 101(d) of ERISA. For the Participant Notice, plan administrators must disclose missed contributions if (1) the plan had a funding deficiency at the end

of any prior plan year (taking into account contributions made before the Participant Notice is issued and within the eight-and-one-half month grace period after the plan year), or (2) a quarterly contribution or other payment was overdue for more than 60 days. The plan administrator must inform participants if the missed payment has or has not been made and (if made) the date of the payment. Missed contributions for prior plan years that have previously been disclosed to participants must be included only if the contributions still have not been paid.

For example, assume that the last three quarterly payments for the 1995 calendar plan year (due July 15, 1995, October 15, 1995, and January 15, 1996) were missed, but paid on September 15, 1996, along with any remaining 1995 contributions needed to satisfy the minimum funding standard. The Participant Notice for the 1995 plan year, issued on November 15, 1995, would disclose the July 15 delinquency, but not the October 15 or January 15 delinquencies (because neither would then be overdue by more than 60 days). The Participant Notice for the 1996 plan year, issued on November 15, 1996, would not need to redisclose the July 15 delinquency (since it has been paid), but would need to disclose the October 15 and January 15 delinquencies unless they had previously been disclosed to participants under Title I of ERISA.

The Department of Labor has advised PBGC that, in the absence of final regulations implementing section 101(d) of ERISA (requiring notice of failure to meet minimum funding standards), it will treat a plan administrator that provides a Participant Notice as having satisfied section 101(d) with respect to any missed contributions identified in the Participant Notice.

The final regulation requires the Participant Notice to specify the date as of which the Notice Funding Percentage is determined (§ 2627.10(b)(2)). The PBGC expects many plans to determine the Notice Funding Percentage using data from the prior plan year because that will be the most current data available at the time the Participant Notice is issued.

One commenter objected to the requirement that the Participant Notice include, in addition to the name, address, and telephone number of the plan administrator, the name, address and telephone number of an individual who can answer questions about the plan's funding, pointing out that communicating information on plan funding orally would be burdensome and could lead to misunderstanding.

The final regulation eliminates the requirement that the plan administrator be identified in all cases, and allows the Participant Notice to identify any person(s) (including the plan administrator) who will provide further information about the plan's funding. The information need not be provided orally, and need not go beyond that required to be given under Title I of ERISA.

One commenter suggested a minimum type size. Rather than specifying a type size, the final regulation (§ 2627.10(a)) makes clear that the Participant Notice not only has to be understandable, but also readable (e.g., in a sufficiently large type size). The final regulation (§ 2627.10(e)) also revises the foreign language requirements to make clear that in lieu of providing a notice of assistance in the applicable foreign language, plan administrators may provide the Participant Notice itself in that language.

#### **Model Notice**

One commenter suggested that the PBGC subject the model notice to a readability test. The model notice was subjected to readability tests and focus group review by workers and retirees. Based on the results of these reviews, the PBGC made changes to further simplify the model notice.

Some commenters read the model notice as requiring information that may not apply to particular plans and as limiting information on the maximum guaranteed benefit to ages 55 and 65. The final regulation revises the model notice so that plan administrators who wish to use it may tailor it to fit particular plans. With respect to the maximum guaranteed benefit, the final rule requires all plans to provide information for age 65 (the age on which PBGC guarantees are based). A plan that allows early retirement benefits must specify the maximum guaranteed benefit for at least one early retirement age. A plan that provides for normal retirement before age 65 must include the normal retirement age.

#### **Manner of Issuance**

Commenters both supported and opposed the requirement that the Participant Notice be in a separate document from the summary annual report. Supporters expressed concern that the information in the Participant Notice would be lost if combined with the summary annual report, while those opposing the requirement suggested that combining the two documents would be convenient or would reduce administrative costs. The regulation (§ 2627.9) allows plans to issue the

Participant Notice with the summary annual report to minimize cost. However, combining the two documents could obscure the information in the Participant Notice. In making the disclosure provisions part of Title IV of ERISA, Congress clearly signalled that information on underfunding and PBGC guarantees not be entangled with other information.

One commenter addressed the requirement that the Participant Notice be issued by using measures reasonably calculated to ensure actual receipt. The commenter suggested incorporating the Department of Labor regulation on furnishing the summary annual report (29 CFR 2520.104b-1(b)(1)) verbatim in the final Participant Notice regulation. The examples specified in the DOL regulation, as well as any other methods that DOL determines are acceptable under its regulation, are acceptable for issuance of the Participant Notice. (Posting a notice of availability of the Participant Notice at worksite locations is not an acceptable method of issuance.) However, other methods of issuance may be acceptable for the Participant Notice.

One commenter urged that the final regulation specify that posting the Participant Notice on an electronic computer network does not satisfy the notice requirement because few retirees, and even fewer lower-income participants, have access to electronic mail. In certain limited circumstances, issuance by electronic mail to employees may be reasonably calculated to ensure actual receipt. However, issuance by electronic mail to recipients who may not have access to or familiarity with electronic mail or the ability to print out the notice easily would not be acceptable.

#### **Mergers, Consolidations, and Spin-offs**

In the proposed rule, the PBGC invited comments on how the Participant Notice requirement should apply where a plan has been involved in a merger, consolidation, or spinoff transaction since the prior plan year. No comments on this issue were received.

The final rule (§ 2627.6) requires plan administrators of plans involved in those transactions to apply the requirements of section 4011 and of this regulation in a reasonable manner to accomplish the statutory purpose of the Participant Notice. The PBGC may address what is a reasonable means to accomplish the statutory purpose in future guidance.

#### **Miscellaneous Issues**

Two commenters proposed that plans otherwise subject to the Participant

Notice requirement should be exempt if they represent a minimal portion of the current liability of all of the contributing sponsor's defined benefit plans. Another commenter suggested that all small plans be exempt from the Participant Notice requirement. Participants in these underfunded plans have the same need for the information contained in the Participant Notice as do participants in other underfunded plans.

The PBGC received several comments supporting or opposing the requirement that the Participant Notice be issued to alternate payees not in pay status and employee organizations representing participants for purposes of collective bargaining. To ensure that the Participant Notice serves its intended purpose of providing timely and useful information to interested parties, the final rule retains the requirement that the Participant Notice be issued to alternate payees and unions. The regulation has been modified to make clear that an alternate payee is entitled to receive the Participant Notice only if an applicable qualified domestic relations order (as defined in section 206(d)(3) of ERISA) is on file with the plan.

One commenter wrote that the deadline for issuing the Participant Notice should be no later than seven months after the end of the preceding plan year so that participants will not have to wait as long for the information. The rules seek to strike a balance between meeting participants' need for timely information and minimizing burden on plan administrators. To that end, the PBGC is retaining its proposed time limit of two months after the deadline for filing the annual report for the prior plan year to enable plans to distribute the Participant Notice with the summary annual report. (The final rule specifies that the plan administrator may change the date of issuance from one plan year to the next, provided that the effect of any change is not to avoid disclosing a minimum funding waiver under § 2627.10(b)(5) or a missed contribution under § 2627.10(b)(6).)

That same commenter requested that the Department of Labor not treat a plan administrator as having complied with the requirement to disclose a plan's funding percentage in the summary annual report if the plan administrator provides the Participant Notice under section 4011 (see 60 FR 16027). The Department of Labor advises PBGC that it continues to believe that the duplicative reporting would impose an unnecessary burden on plan administrators.

The PBGC expects most plan administrators to provide the Participant Notice in compliance with this regulation. Any plan administrator who does not comply with this regulation may be assessed penalties under section 4071 of ERISA. If a plan administrator issues a Participant Notice for the 1995 plan year that meets the requirements of the proposed rule, the PBGC will not assess section 4071 penalties based on a failure to comply with any different requirements in the final rule.

#### **E.O. 12866, the Regulatory Flexibility Act, and the Paperwork Reduction Act**

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866 because the rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), sections 603 and 604 do not apply.

Small plans are exempt from the Participant Notice requirement for the 1995 plan year. For subsequent plan years, neither the cost of determining whether a plan is subject to the Participant Notice requirement nor the cost of preparing and issuing the Participant Notice is expected to be significant for a substantial number of small entities. The regulation contains special rules designed to simplify the Participant Notice requirement for small plans.

The Paperwork Reduction Act of 1995, which generally becomes effective on October 1, 1995, will apply to the disclosure requirements in this final rule. The PBGC intends in the near future to submit to the Office of Management and Budget a request for approval of these disclosure

requirements and to publish in the **Federal Register** a notice advising the public of its request.

#### **List of Subjects in 29 CFR Part 2627**

Employee benefit plans, Pension Insurance, Pensions.

For the reasons set forth above, the PBGC is amending subchapter C, chapter XXVI of 29 CFR by adding a new part 2627 to read as follows:

#### **Part 2627—DISCLOSURE TO PARTICIPANTS**

Sec.

- 2627.1 Purpose and scope.
- 2627.2 Definitions.
- 2627.3 Notice requirement.
- 2627.4 Small plan rules.
- 2627.5 Exemption for new and newly-covered plans.
- 2627.6 Mergers, consolidations, and spinoffs.
- 2627.7 Persons entitled to notice.
- 2627.8 Time of notice.
- 2627.9 Manner of issuance of notice.
- 2627.10 Form of notice.

Appendix A to part 2627—Model participant notice.

Appendix B to part 2627—Table of maximum guaranteed benefits.

**Authority:** 29 U.S.C. 1302(b)(3), 1311.

##### **§ 2627.1 Purpose and scope.**

(a) *Purpose.* This part prescribes rules and procedures for complying with the requirements of section 4011 of the Act.

(b) *Scope.* This part applies for any plan year beginning on or after January 1, 1995, with respect to any single-employer plan that is covered by section 4021 of the Act.

##### **§ 2627.2 Definitions.**

For purposes of this part:  
*Act* means the Employee Retirement Income Security Act of 1974, as amended.

*Participant* has the meaning in § 2617.2 of this chapter.

*Participant Notice* means the notice required pursuant to section 4011 of the Act and this part.

*Plan administrator* means the administrator, as defined in section 4001(a)(1) of the Act.

##### **§ 2627.3 Notice requirement.**

(a) *General.* Except as otherwise provided in this part, the plan administrator of a plan must provide a Participant Notice for a plan year if—

(1) A variable rate premium is payable for the plan under section 4006(a)(3)(E) of the Act and part 2610 of this chapter for that plan year; and

(2) The plan does not meet the Deficit Reduction Contribution ("DRC") Exception Test in paragraph (b) of this section (which may be applied using the

Small Plan DRC Exception Test rules in § 2627.4(b), where applicable) for that plan year or for the prior plan year.

(b) *DRC Exception Test—(1) Basic rule.* A plan meets the DRC Exception Test for a plan year if it is exempt from the requirements of section 302(d) of the Act for that plan year by reason of section 302(d)(9), without regard to the small plan exemption in section 302(d)(6)(A).

(2) *1994 plan year.* A plan satisfies the DRC Exception Test for the 1994 plan year if, for any two of the plan years beginning in 1992, 1993, and 1994 (whether or not consecutive), the plan satisfies any requirement of section 302(d)(9)(D)(i) of the Act.

(c) *Penalties for non-compliance.* If a plan administrator fails to provide a Participant Notice within the specified time limit or omits material information from a Participant Notice, the PBGC may assess a penalty under section 4071 of the Act of up to \$1,000 a day for each day that the failure continues.

#### **§ 2627.4 Small plan rules.**

(a) *1995 plan year exemption.* A plan that is exempt from the requirements of section 302(d) of the Act for the 1994 or 1995 plan year by reason of section 302(d)(6)(A) is exempt from the Participant Notice requirement for the 1995 plan year.

(b) *Small Plan DRC Exception Test.* In determining whether the Participant Notice requirement applies for a plan year beginning after 1995, the plan administrator of a plan that is exempt from the requirements of section 302(d) of the Act by reason of section 302(d)(6)(A) for the plan year being tested may use any one or more of the following rules in determining whether the plan meets the DRC Exception Test for that plan year:

(1) *Use of Schedule B data.* For any plan year for which the plan is exempt from the requirements of section 302(d) of the Act by reason of section 302(d)(6)(A), provided both of the following adjustments are made—

(i) The market value of the plan's assets as of the beginning of the plan year (as required to be reported on Form 5500, Schedule B) may be substituted for the actuarial value of the plan's assets as of the valuation date; and

(ii) The plan's current liability for all participants' total benefits as of the beginning of the plan year (as required to be reported on Form 5500, Schedule B) may be substituted for the plan's current liability as of the valuation date.

(2) *Pre-1995 plan year 90 percent test.* A plan that is exempt from the requirements of section 302(d) of the Act for a pre-1995 plan year by reason

of section 302(d)(6)(A) satisfies the requirements of section 302(d)(9)(D)(i) for that pre-1995 plan year if the ratio of its assets to its current liability for that plan year is at least 90 percent. For this purpose, the plan's assets are valued without subtracting any credit balance under section 302(b) of the Act, and its current liability is determined using the highest interest rate allowable for the plan year under section 302(d)(7)(C).

(3) *Interest rate adjustment.* If the interest rate used to calculate current liability for a plan year is less than the highest rate allowable for the plan year under section 302(d)(7)(C) of the Act, the current liability may be reduced by one percent for each tenth of a percentage point by which the highest rate exceeds the rate so used.

**§ 2627.5 Exemption for new and newly-covered plans.**

A plan (other than a plan resulting from a consolidation or spinoff) is exempt from the Participant Notice requirement for the first plan year for which the plan must pay premiums under part 2610 of this chapter.

**§ 2627.6 Mergers, consolidations, and spinoffs.**

In the case of a plan involved in a merger, consolidation, or spinoff transaction that becomes effective during a plan year, the plan administrator shall apply the requirements of section 4011 of the Act and of this part for that plan year in a reasonable manner to ensure that the Participant Notice serves its statutory purpose.

**§ 2627.7 Persons entitled to receive notice.**

The plan administrator must provide the Participant Notice to each person who is a participant, a beneficiary of a deceased participant, an alternate payee under an applicable qualified domestic relations order (as defined in section 206(d)(3) of the Act), or an employee organization that represents any group of participants for purposes of collective bargaining. To determine who is a person that must receive the Participant Notice for a plan year, the plan administrator may select any date during the period beginning with the last day of the previous plan year and ending with the day on which the Participant Notice for the plan year is due, provided that a change in the date from one plan year to the next does not exclude a substantial number of participants and beneficiaries.

**§ 2627.8 Time of notice.**

The plan administrator must issue the Participant Notice for a plan year no

later than two months after the deadline for filing the annual report for the previous plan year (see § 2520.104a-5(a)(2) of this title). The plan administrator may change the date of issuance from one plan year to the next, provided that the effect of any change is not to avoid disclosing a minimum funding waiver under § 2627.10(b)(5) or a missed contribution under § 2627.10(b)(6). When the President of the United States declares that, under the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the PBGC may extend the due date for providing the Participant Notice by up to 180 days.

**§ 2627.9 Manner of issuance of notice.**

The Participant Notice shall be issued by using measures reasonably calculated to ensure actual receipt by the persons entitled to receive it. It may be issued together with another document, such as the summary annual report required under section 104(b)(3) of the Act for the prior plan year, but must be in a separate document.

**§ 2627.10 Form of notice.**

(a) *General.* The Participant Notice (and any additional information under paragraph (d) of this section) shall be readable and written in a manner calculated to be understood by the average plan participant and not to mislead recipients. The Model Participant Notice in the Appendix to this part (when properly completed) is an example of a Participant Notice meeting the requirements of this section.

(b) *Content.* The Participant Notice for a plan year shall include—

(1) Identifying information (the name of the plan and the contributing sponsor, the employer identification number of the contributing sponsor, the plan number, the date (at least the month and year) on which the Participant Notice is issued, and the name, title, address and telephone number of the person(s) who can provide information about the plan's funding);

(2) A statement to the effect that the Participant Notice is required by law;

(3) The Notice Funding Percentage for the plan year, determined in accordance with paragraph (c) of this section, and the date as of which the Notice Funding Percentage is determined;

(4) A statement to the effect that—

(i) To pay pension benefits, the employer is required to contribute money to the plan over a period of years;

(ii) A plan's funding percentage does not take into consideration the financial strength of the employer; and

(iii) The employer, by law, must pay for all pension benefits, but benefits may be at risk if the employer faces a severe financial crisis or is in bankruptcy;

(5) If, for any of the five plan years immediately preceding the plan year, the plan has been granted a minimum funding waiver under section 303 of the Act that has not (as of the end of the prior plan year) been fully repaid, a statement identifying each such plan year and an explanation of a minimum funding waiver;

(6) For any payment subject to the requirements of this paragraph, a statement identifying the due date for the payment and noting that the payment has or has not been made and (if made) the date of the payment. Once participants have been notified (under this part or Title I of the Act) of a missed contribution that is subject to the requirements of this paragraph, the delinquency need not be reported in a Participant Notice for a subsequent plan year if the missed contribution has been paid in full by the time the subsequent Participant Notice is issued. The payments subject to the requirements of this paragraph are—

(i) Any minimum funding payment necessary to satisfy the minimum funding standard under section 302(a) of the Act for any plan year beginning on or after January 1, 1994, if not paid by the earlier of the due date for that payment (the latest date allowed under section 302(c)(10)) or the date of issuance of the Participant Notice; and

(ii) An installment or other payment required by section 302 of the Act for a plan year beginning on or after January 1, 1995, that was not paid by the 60th day after the due date for that payment;

(7) A statement to the effect that if a plan terminates before all pension benefits are fully funded, the PBGC pays most persons all pension benefits, but some persons may lose certain benefits that are not guaranteed;

(8) A summary of plan benefits guaranteed by the PBGC, with an explanation of the limitations on such guarantee; and

(9) A statement that further information about the PBGC's guarantee may be obtained by requesting the booklet "Your Guaranteed Pension" from Box YGP, Pueblo, Colorado 81009, along with the current price of the booklet. The Participant Notice may include a statement that the booklet may be obtained through electronic access to the Consumer Information Center via

the World Wide Web at <http://www.gsa.gov/staff/pa/cic/money.htm>.

(c) *Notice Funding Percentage*—(1) *General Rule.* The Notice Funding Percentage that must be included in the Participant Notice for a plan year is the “funded current liability percentage” (as that term is defined in section 302(d)(9)(C) of the Act) for that plan year or the prior plan year.

(2) *Small plans.* A plan that is exempt from the requirements of section 302(d) of the Act for a plan year by reason of section 302(d)(6)(A) may determine its funded current liability percentage for that plan year using the Small Plan DRC Exception Test rules in § 2627.4(b).

(d) *Additional information.* The plan administrator may include with the Participant Notice any information not described in paragraph (b) of this section only if it is in a separate document.

(e) *Foreign languages.* In the case of a plan that (as of the date selected under § 2627.7) covers the numbers or percentages specified in § 2520.104b-10(e) of this title of participants literate only in the same non-English language, the plan administrator shall provide those participants either—

(1) An English-language Participant Notice that prominently displays a legend, in their common non-English language, offering them assistance in that language, and clearly setting forth any procedures participants must follow to obtain such assistance, or

(2) A Participant Notice in that language.

**Appendix A to Part 2627—Model Participant Notice**

The following is an example of a Participant Notice that satisfies the requirements of § 2627.10 when the required information is filled in (subject to §§ 2627.10(d)–(e), where applicable).

**Notice to Participants of [Plan Name]**

The law requires that you receive information on the funding level of your defined benefit pension plan and the benefits guaranteed by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency.

**YOUR PLAN’S FUNDING**

As of [DATE], your plan had [INSERT NOTICE FUNDING PERCENTAGE] percent of the money needed to pay benefits promised to employees and retirees.

To pay pension benefits, your employer is required to contribute money to the pension plan over a period of years. A plan’s funding percentage does not take into consideration the financial strength of the employer. Your employer, by law, must pay for all pension benefits, but your benefits may be at risk if your employer faces a severe financial crisis or is in bankruptcy.

[INCLUDE THE FOLLOWING PARAGRAPH ONLY IF, FOR ANY OF THE PREVIOUS FIVE PLAN YEARS, THE PLAN HAS BEEN GRANTED AND HAS NOT FULLY REPAID A FUNDING WAIVER.]

Your plan received a funding waiver for [LIST ANY OF THE FIVE PREVIOUS PLAN YEARS FOR WHICH A FUNDING WAIVER WAS GRANTED AND HAS NOT BEEN FULLY REPAID]. If a company is experiencing temporary financial hardship, the Internal Revenue Service may grant a funding waiver that permits the company to delay contributions that fund the pension plan.

[INCLUDE THE FOLLOWING WITH RESPECT TO ANY UNPAID OR LATE PAYMENT THAT MUST BE DISCLOSED UNDER 29 CFR 2627.10(b)(6):]

Your plan was required to receive a payment from the employer on [LIST APPLICABLE DUE DATE(S)]. That payment [has not been made] [was made on [LIST APPLICABLE PAYMENT DATE(S)]].

**PBGC GUARANTEES**

When a pension plan ends without enough money to pay all benefits, the PBGC steps in to pay pension benefits. The PBGC pays most people all pension benefits, but some people may lose certain benefits that are not guaranteed.

*The PBGC pays pension benefits, up to certain maximum limits.*

- The maximum guaranteed benefit is [INSERT FROM TABLE IN APPENDIX B] per month or [INSERT FROM TABLE IN APPENDIX B] per year for a 65-year-old person in a plan that terminates in [INSERT APPLICABLE YEAR].

- The maximum benefit may be reduced for an individual who is younger than age 65. For example, it is [INSERT FROM TABLE IN APPENDIX B] per month or [INSERT FROM TABLE IN APPENDIX B] per year for an individual who starts receiving benefits at age 55. [IN LIEU OF AGE 55, YOU MAY SUBSTITUTE ANY AGE(S) RELEVANT UNDER THE PLAN. IF THE PLAN

PROVIDES FOR NORMAL RETIREMENT BEFORE AGE 65, YOU MUST INCLUDE THE NORMAL RETIREMENT AGE. IF THE PLAN DOES NOT PROVIDE FOR COMMENCEMENT OF BENEFITS BEFORE AGE 65, YOU MAY OMIT THIS PARAGRAPH.]

- The maximum benefit will also be reduced when a benefit is provided for a survivor.

*The PBGC does not guarantee certain types of benefits.* [INCLUDE THE FOLLOWING GUARANTEE LIMITS THAT APPLY TO THE BENEFITS AVAILABLE UNDER YOUR PLAN.]

- The PBGC does not guarantee benefits for which you do not have a vested right when a plan ends, usually because you have not worked enough years for the company.

- The PBGC does not guarantee benefits for which you have not met all age, service, or other requirements at the time the plan ends.

- Benefit increases and new benefits that have been in place for less than a year are not guaranteed. Those that have been in place for less than 5 years are only partly guaranteed.

- Early retirement payments that are greater than payments at normal retirement age may not be guaranteed. For example, a supplemental benefit that stops when you become eligible for Social Security may not be guaranteed.

- Benefits other than pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay are not guaranteed.

- The PBGC does not pay lump sums exceeding \$3,500.

**WHERE TO GET MORE INFORMATION**

Your plan, [EIN-PN], is sponsored by [CONTRIBUTING SPONSOR(S)]. If you would like more information about the funding of your plan, contact [INSERT NAME, TITLE, BUSINESS ADDRESS AND PHONE NUMBER OF INDIVIDUAL OR ENTITY].

For more information about the PBGC and the benefits it guarantees, you may request a copy of “Your Guaranteed Pension” for \$1.25 by writing to Box YGP, Pueblo, Colorado 81009.

[THE FOLLOWING SENTENCE MAY BE INCLUDED:]

“Your Guaranteed Pension” is also available through electronic access to the Consumer Information Center via the World Wide Web at <http://www.gsa.gov/staff/pa/cic/money.htm>.

Issued: [INSERT AT LEAST MONTH AND YEAR]

**APPENDIX B TO PART 2627—TABLE OF MAXIMUM GUARANTEED BENEFITS**

If a plan terminates in—	The maximum guaranteed benefit for an individual starting to receive benefits at the age listed below is the amount (monthly or annual) listed below:							
	Age 65		Age 62		Age 60		Age 55	
	Monthly	Annual	Monthly	Annual	Monthly	Annual	Monthly	Annual
1995 .....	\$2,573.86	\$30,886.32	\$2,033.35	\$24,400.20	\$1,673.01	\$20,076.12	\$1,158.24	\$13,898.88

The maximum guaranteed benefit for an individual starting to receive benefits at ages other than those listed above can be determined by applying the PBGC's regulation on computation of maximum guaranteeable benefits (29 CFR 2621.4).

Issued in Washington, DC, this 27th day of June, 1995.

**Robert B. Reich,**

*Chairman, Board of Directors, Pension Benefit Guaranty Corporation.*

Issued on the date set forth above pursuant to a resolution of the Board of Directors

authorizing its Chairman to issue this final rule.

**James J. Keightley,**

*Secretary, Board of Directors, Pension Benefit Guaranty Corporation.*

[FR Doc. 95-16196 Filed 6-28-95; 8:45 am]

BILLING CODE 7708-01-P