

Issued in Washington, DC, on November 19, 2009.

**J. Randolph Babbitt,**  
Administrator.

[FR Doc. E9-28431 Filed 11-30-09; 8:45 am]

BILLING CODE 4910-13-P

## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Part 4022

#### Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits; Maximum Guaranteeable Benefit

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule removes Appendix D from Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans. Appendix D is a historical list of the maximum guaranteeable monthly benefit for each year as determined in accordance with section 4022(b)(3)(B) of the Employee Retirement Income Security Act of 1974. This information is available on PBGC's Web site (<http://www.pbgc.gov>).

**DATES:** Effective December 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** Section 4022(b) of the Employee Retirement Income Security Act of 1974 (ERISA) provides for certain limitations on benefits guaranteed by Pension Benefit Guaranty Corporation (PBGC) in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations, set forth in ERISA section 4022(b)(3)(B), is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant (in the form of a life annuity beginning at age 65) by PBGC. The ceiling is equal to "\$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [\$13,200]." This formula is also set forth in § 4022.22(b)

of PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022). Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of ERISA section 4022(b)(3)(B).<sup>1</sup>

PBGC has no discretion in the determination of the maximum guaranteeable benefit. The maximum guaranteeable benefit is determined by applying the formula in ERISA section 4022(b)(3)(B) to the contribution and benefit base. Each year Social Security Administration determines, and notifies PBGC of, the contribution and benefit base to be used under ERISA section 4022(b)(3)(B), and PBGC applies the statutory formula to arrive at the maximum guaranteeable benefit. PBGC has historically published a table showing the maximum guaranteeable benefit for each year in appendix D to the benefit payment regulation and updated the list each year by amending the table in the appendix. In recent years, PBGC has also published this information on its Web site (<http://www.pbgc.gov>; click on "Workers & Retirees," then on "Maximum monthly guarantee tables" under the heading "Benefits Information" in the center column).

PBGC has concluded that since the maximum guaranteeable benefits are easily accessible to the public on its Web site, it is no longer necessary to publish the information in the **Federal Register** (where annual updates to appendix D to the benefit payment regulation are published) or the Code of Federal Regulations (where the appendix itself is published). Accordingly, PBGC is removing appendix D from the benefit payment regulation. This action has no substantive legal effect.

General notice of proposed rulemaking is unnecessary. The maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply eliminates one of the methods PBGC

<sup>1</sup> For example, under section 230 of the Social Security Act, \$79,200 is the contribution and benefit base that is to be used to calculate the PBGC maximum guaranteeable benefit for 2010. Accordingly, the formula under section 4022(b)(3)(B) of ERISA and 29 CFR § 4022.22(b) is: \$750 multiplied by \$79,200/\$13,200. Thus, the maximum monthly benefit guaranteeable by the PBGC for plans that terminate in 2010 is \$4,500.00 per month in the form of a life annuity beginning at age 65. (If a benefit is payable in a different form or begins at a different age, the maximum guaranteeable amount is the actuarial equivalent of \$4,500.00 per month.)

currently uses to inform the public of the maximum guaranteeable benefit.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act does not apply (5 U.S.C. 601(2)).

#### List of Subjects in 29 CFR Part 4022

Pension insurance, Pensions, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 29 CFR part 4022 is amended as follows:

#### PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. Appendix D to part 4022 is removed.

Issued in Washington, DC, this 15th day of November, 2009.

**Vincent K. Snowbarger,**

Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. E9-28638 Filed 11-30-09; 8:45 am]

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Part 4044

#### Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This rule amends Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2010. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under a plan.

**DATES:** *Effective Date:* January 1, 2010.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-

4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV. Guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to

determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach "unreduced retirement age" (i.e., the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

Tables II-A, II-B, and II-C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I-09 with Table I-10 in order to provide an updated correlation, appropriate for calendar year 2010, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I-10 will be used to value benefits in plans with valuation dates during calendar year 2010.

PBGC has determined that notice of and public comment on this rule are impracticable and contrary to the public

interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2010, the plan administrator needs the updated table being promulgated in this rule. Accordingly, the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2010.

PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

**List of Subjects in 29 CFR Part 4044**

Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

■ 1. The authority citation for part 4044 continues to read as follows:

**Authority:** 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. Appendix D to part 4044 is amended by removing Table I-09 and adding in its place Table I-10 to read as follows:

**Appendix D to Part 4044—Tables Used To Determine Expected Retirement Age**

**TABLE I-10—SELECTION OF RETIREMENT RATE CATEGORY**

[For Plans with valuation dates after December 31, 2009, and before January 1, 2011]

If participant reaches URA in year—	Participant's retirement rate category is—			
	Low <sup>1</sup> if monthly benefit at URA is less than—	Medium <sup>2</sup> if monthly benefit at URA is—		High <sup>3</sup> if monthly benefit at URA is greater than—
		From—	To—	
2011 .....	562	562	2,376	2,376
2012 .....	573	573	2,419	2,419
2013 .....	583	583	2,465	2,465
2014 .....	595	595	2,514	2,514
2015 .....	608	608	2,567	2,567
2016 .....	620	620	2,621	2,621
2017 .....	633	633	2,676	2,676
2018 .....	647	647	2,732	2,732
2019 .....	660	660	2,790	2,790
2020 or later .....	674	674	2,848	2,848

<sup>1</sup> Table II-A.  
<sup>2</sup> Table II-B.  
<sup>3</sup> Table II-C.

\* \* \* \* \*

Issued in Washington, DC, this 13th day of November, 2009.

**Vincent K. Snowbarger,**  
*Acting Director, Pension Benefit Guaranty Corporation.*

[FR Doc. E9-28636 Filed 11-30-09; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 323

[Docket ID: DoD-2009-OS-0006]

#### Privacy Act; Implementation

**AGENCY:** Defense Logistics Agency, DoD.

**ACTION:** Final rule with request for comments; withdrawal.

**SUMMARY:** The Department of Defense is withdrawing the final rule published on October 29, 2009 (74 FR 55781-55782), which updated the Defense Logistics Agency Privacy Act Program Rules, 32 CFR part 323, by replacing the (k)(2) exemption with a (k)(5) exemption for their Defense Logistics Agency Criminal Incident Reporting System Records.

**DATES:** The final rule amending 32 CFR part 323 published on October 29, 2009 (74 FR 55781-55782) is withdrawn as of December 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Patricia Toppings, 703-696-5284.

Dated: November 23, 2009.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E9-28527 Filed 11-30-09; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 323

[Docket ID: DoD-2009-OS-0008]

#### Privacy Act; Implementation

**AGENCY:** Defense Logistics Agency, DoD.

**ACTION:** Final rule with request for comments; withdrawal.

**SUMMARY:** The Department of Defense is withdrawing the final rule published on October 29, 2009 (74 FR 55782-55783), which claimed existing exemptions for the Defense Logistics Agency Freedom of Information Act/Privacy Act Requests and Administrative Appeal Records when an exemption had been

previously claimed for the records in another Privacy Act system of records.

**DATES:** The final rule amending 32 CFR part 323 published on October 29, 2009 (74 FR 55782-55783) is withdrawn as of December 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Patricia Toppings, 703-696-5284.

Dated: November 23, 2009.

**Patricia L. Toppings,**  
*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. E9-28528 Filed 11-30-09; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2009-0759]

#### Southern California Annual Marine Events

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the special local regulation in 33 CFR 100.1101 for the San Diego Christmas Boat Parade of Lights on the San Diego Bay from 5:30 p.m. through 8 p.m. on December 13, 2009, and from 5:30 p.m. through 8 p.m. on December 20, 2009. This action is necessary to provide for the safety of the participants, crew, spectators, and other vessels and users of the waterway. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area, unless cleared for such entry by or through an official patrol vessel.

**DATES:** The regulation in 33 CFR 100.1101 will be enforced from 5:30 p.m. through 8 p.m. on December 13, 2009, and from 5:30 p.m. through 8 p.m. on December 20, 2009.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or e-mail Petty Officer Kristen Beer, USCG, Waterways Management, U.S. Coast Guard Sector San Diego; telephone 619-278-7262, e-mail [Kristen.a.beer@uscg.mil](mailto:Kristen.a.beer@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the special local regulation for the annual San Diego Christmas Boat Parade of Lights in 33 CFR 100.1101 on December 13, 2009, from 5:30 to 8 p.m. and on December 20, 2009, from 5:30 to 8 p.m.

Under the provisions of 33 CFR 100.1101, spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter in, or impede the transit of ship parade participants or official patrol vessels, unless cleared for such entry by or through an official patrol vessel. When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 100.1101 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts. If the COTP or his designated representative determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: September 25, 2009.

**T. H. Farris,**  
*Captain, U.S. Coast Guard, Captain of the Port San Diego.*

[FR Doc. E9-28719 Filed 11-30-09; 8:45 am]

BILLING CODE 9910-04-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2009-0917]

#### Notice of Enforcement for Special Local Regulation; Mission Bay Parade of Lights; Mission Bay, San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce the Mission Bay Parade of Lights Special Local Regulation on Mission Bay, CA from 5 p.m. through 10 p.m. on 12 December 2009. This action is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the race, and general users of the waterway. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared