

Act of 2014 amended the TASC statute by striking “related barriers to trade” and inserting “technical barriers to trade” in 7 U.S.C. 5680(b).

#### Notice and Comment

In general, the Administrative Procedure Act (5 U.S.C. 551 et.al) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except when the rule involves a matter relating to public property, loans, grants, benefits, or contracts. Because this rule involves grants and is a minor administrative change with no discretionary interpretation of law possible, CCC is publishing this rule without opportunity for public comment. The change will allow TASC funding of projects that address technical barriers to trade that are not related to any sanitary or phytosanitary barrier. In the past, the TASC program has been undersubscribed, while significant, but ineligible, trade barriers for specialty crops were unable to be addressed through the program. The specialty crops industry will now be able to use the program to fund a broader range of projects that all have the same underlying goal of increasing U.S. specialty crop exports. This change will increase the number of proposals that qualify for the program.

#### List of Subjects in 7 CFR Part 1487

Agricultural commodities, Exports, Specialty crops.

For the reasons set out in the preamble, 7 CFR part 1487 is amended as follows:

#### PART 1487—TECHNICAL ASSISTANCE FOR SPECIALTY CROPS

■ 1. The authority citation for part 1487 continues to read as follows:

**Authority:** Sec. 3205 of Pub. L. 107–171.

■ 2. Revise § 1487.2 to read as follows:

##### § 1487.2 What is the TASC program?

Under the TASC program, CCC, an agency and instrumentality of the United States within the Department of Agriculture, provides funds to eligible organizations, on a grant basis, to implement activities that are intended to address a sanitary, phytosanitary, or technical barrier that prohibits or threatens the export of U.S. specialty crops that are currently available on a commercial basis. The TASC program is intended to benefit the represented

industry rather than a specific company or brand. This program is administered by FAS.

Signed at Washington, DC, on the 22nd of April, 2014.

**Bryce Quick,**

*Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.*

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**BILLING CODE 3410–10–P**

## FEDERAL TRADE COMMISSION

### 16 CFR Part 803

#### Premerger Notification; Reporting and Waiting Period Requirements

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending the Hart-Scott-Rodino (“HSR”) Premerger Notification Rules (the “Rules”), and the Premerger Notification and Report Form and associated Instructions (“Form and Instructions”) to reflect the new address of the Commission’s Premerger Notification Office (the “PNO”).

**DATES:** Effective May 6, 2014.

**FOR FURTHER INFORMATION CONTACT:**

Robert L. Jones, Assistant Director, Premerger Notification Office, Bureau of Competition, Room 5301, Federal Trade Commission, 400 7th Street SW., Washington, DC 20024. Telephone: (202) 326–3100, Email: [rjones@ftc.gov](mailto:rjones@ftc.gov).

**SUPPLEMENTARY INFORMATION:**

#### Introduction

Section 7A of the Clayton Act (the “Act”) requires the parties to certain mergers or acquisitions to file with the Federal Trade Commission (the “Commission” or “FTC”) and the Antitrust Division of the Department of Justice (the “Assistant Attorney General” or the “Antitrust Division”) (together the “Antitrust Agencies” or “Agencies”) to allow the agencies to conduct their initial review of a proposed transaction’s competitive impact and requires the parties to wait a specified period of time before consummating such transactions. The reporting requirement and the waiting period that it triggers are intended to enable the Antitrust Agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation, pursuant to Section 7 of the Act.

Section 7A(d)(1) of the Act, 15 U.S.C. 18a(d)(1), directs the Commission, with the concurrence of the Assistant Attorney General, in accordance with the Administrative Procedure Act, 5 U.S.C. 553, to require that premerger notification be in such form and contain such information and documentary material as may be necessary and appropriate to determine whether the proposed transaction may, if consummated, violate the antitrust laws. Section 7A(d)(2) of the Act, 15 U.S.C. 18a(d)(2), grants the Commission, with the concurrence of the Assistant Attorney General, in accordance with 5 U.S.C. 553, the authority to define the terms used in the Act and prescribe such other rules as may be necessary and appropriate to carry out the purposes of § 7A.

Pursuant to that authority, the Commission, with the concurrence of the Assistant Attorney General, developed the Rules, codified in 16 CFR Parts 801, 802 and 803, and the Form and its associated Instructions, codified at Part 803—Appendix, to govern the form of premerger notifications to be provided by merging parties. The Form is designed to provide the Commission and the Assistant Attorney General with the information and documentary material necessary for an initial evaluation of the potential anticompetitive impact of significant mergers, acquisitions and certain similar transactions.

#### Changes to the Form, Instructions and Rules

The Commission is amending Section 803.10 of the Rules, as well as the accompanying Form and Instructions, to incorporate the new address of the PNO. Accordingly, the Commission is updating the address of the PNO in the General Instructions (Information and Filing Sections), in the Disclosure Notice section of the Form, and in Section 803.10(c)(1)(i) of the Commission’s Rules, to read as follows: Premerger Notification Office, Federal Trade Commission, Room 5301, 400 7th Street SW., Washington, DC 20024.

#### Administrative Procedure Act

The Commission finds good cause to adopt these changes without prior public comment. Under the APA, notice and comment are not required “when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.” 5 U.S.C. 553(b)(3)(B).

The Commission is updating the address for submission of premerger notification forms in the Rule and the Appendix to Part 803 to reflect the PNO's new address. It does not involve any substantive changes in the Rule's requirements for entities subject to the Rule. Accordingly, the Commission finds that public comment is unnecessary.

In addition, under the APA, a substantive final rule is required to take effect at least 30 days after publication in the **Federal Register** unless an agency finds good cause that the rule should become effective sooner. 5 U.S.C. 553(d). However, this is purely a clerical change and is not a substantive rule change. Moreover, prompt adoption of this amendment is necessary to alert the public of the updated address for filing of premerger notification forms. Therefore, the Commission finds good cause to dispense with a delayed effective date.

For these reasons, the Commission finds that there is good cause for adopting this final rule as effective on April 28, 2014, without prior public comment.

#### Regulatory Flexibility Act

Under the Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–612, an agency must prepare a regulatory flexibility analysis for all proposed and final rules that describes the impact of the rule on small entities, unless the head of the agency certifies that the rule will not have a "significant economic impact on

a substantial number of small entities." 5 U.S.C. 605(b). However, the RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking. 5 U.S.C. 603(a), 604(a). As discussed above, the Commission has determined for good cause that the APA does not require notice and public comment on this rule. Accordingly, the RFA does not apply to this final rule.

#### Paperwork Reduction Act

These changes do not contain any record maintenance, reporting or disclosure requirements that would constitute agency "collections of information" that would have to be submitted for clearance and approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3518.

#### List of Subjects in 16 CFR Part 803

Antitrust.

For the reasons stated in the preamble, the Federal Trade Commission amends 16 CFR part 803 as set forth below:

#### PART 803—TRANSMITTAL RULES

- 1. The authority citation for part 803 continues to read as follows:

**Authority:** 15 U.S.C. 18a(d).

- 2. Amend § 803.10 by revising paragraphs (c)(1) introductory text and (c)(1)(i) to read as follows:

#### § 803.10 Running of time.

\* \* \* \* \*

(c)(1) *Date of receipt and means of delivery.* For purposes of this section, these procedures shall apply.

(i) The date of receipt shall be the date on which delivery is effected to the designated offices (Premerger Notification Office, Federal Trade Commission, Room 5301, 400 7th Street SW., Washington, DC 20024 and Director of Civil Enforcement, Office of Operations, Antitrust Division, Department of Justice, 950 Pennsylvania Avenue NW., Room #3335, Washington, DC 20530) during normal business hours. Delivery should be effected directly to the designated offices, either by hand or by certified or registered mail. In the event one or both of the delivery sites are unavailable, the FTC and DOJ may designate alternate sites for delivery of the filing. Notification of the alternate delivery sites will normally be made through a press release and, if possible, on the <http://www.ftc.gov> and <https://www.hsr.gov> Web sites.

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- 3. In the Appendix to part 803, revise Page 10 of the Notification and Report Form for Certain Mergers and Acquisitions, and pages I and II of the Instructions, to read as follows:

#### Appendix to Part 803—Notification and Report Form for Certain Mergers and Acquisitions

\* \* \* \* \*

BILLING CODE: 6750-01-P

**16 C.F.R. Part 803 – Appendix  
NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS**Approved by OMB  
3084-0005  
Expires xx/xx/20xx**Attach the Affidavit required by § 803.5 to the Form.****THE INFORMATION REQUIRED TO BE SUPPLIED ON THESE ANSWER SHEETS IS SPECIFIED IN THE INSTRUCTIONS**

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person which, by reason of a merger, consolidation or acquisition, is subject to §7A of the Clayton Act, 15 U.S.C. §18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1390, and rules promulgated thereunder (hereinafter referred to as "the rules" or by section number). The statute and rules are set forth in the *Federal Register* at 43 FR 33450; the rules may also be found at 16 CFR Parts 801-03. Failure to file this **Notification and Report Form**, and to observe the required waiting period before consummating the acquisition in accordance with the applicable provisions of 15 U.S.C. §18a and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than \$16,000 for each day during which such person is in violation of 15 U.S.C. §18a.

Pursuant to the Hart-Scott-Rodino Act, information and documentary material filed in or with this Form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

**DISCLOSURE NOTICE** - Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 37 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to:

Premerger Notification Office, Room 5301, Federal Trade Commission, 400 7<sup>th</sup> Street, S.W., Washington, DC 20024  
and  
Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503

Under the **Paperwork Reduction Act**, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. That number is 3084-0005, which also appears above.

**Privacy Act Statement**--Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. Our authority to collect Social Security numbers is 31 U.S.C. 7701. The primary use of information submitted on this Form is to determine whether the reported merger or acquisition may violate the antitrust laws. Taxpayer information is collected, used, and may be shared with other agencies and contractors for payment processing, debt collection and reporting purposes. Furnishing the information on the Form is voluntary. Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to \$16,000 per day. We also may be unable to process the Form unless you provide all of the requested information.

This page may be omitted when submitting the Form.

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**ANTITRUST IMPROVEMENTS ACT  
NOTIFICATION AND REPORT FORM  
for Certain Mergers and Acquisitions**

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**INSTRUCTIONS**

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**GENERAL**

The Notification and Report Form ("the Form") is required to be submitted pursuant to §803.1(a) of the premerger notification rules, 16 CFR Parts 801-803 ("the Rules").

These instructions specify the information which must be provided in response to the items on the Form. The completed Form, together with all documentary attachments, are to be filed with the Federal Trade Commission and the Department of Justice ("the Agencies").

The term "documentary attachments" refers to materials supplied in response to Item 3(b), Item 4 and to submissions pursuant to §803.1(b) of the Rules.

Persons providing responses on attachment pages rather than on the Form must submit a complete set of attachment pages with each copy of the Form.

**Information**

The central office for information and assistance concerning the Rules and the Form is:

Premerger Notification Office  
Federal Trade Commission, Room 5301  
400 7<sup>th</sup> Street, S.W.  
Washington, D.C. 20024  
phone: (202) 326-3100 - e-mail: [HSRHelp@hsr.gov](mailto:HSRHelp@hsr.gov)

Copies of the Form, Instructions and Rules as well as materials to assist in completing the Form are available at [www.ftc.gov/bc/hsr](http://www.ftc.gov/bc/hsr). An electronic version of the Form is available at [www.hsr.gov](http://www.hsr.gov) and may be used for the direct electronic submission of filings or to generate a print version of the Form for paper copy submission.

**Definitions**

The definitions and other provisions governing this Form are set forth in the Rules, 16 CFR Parts 801-803. The governing statute ("the Act"), the Rules, and the Statement of Basis and Purpose for the Rules are set forth at 43 FR 33450 (July 31, 1978), 44 FR 66781 (November 22, 1979) 48 FR 34427 (July 29, 1983), 61 FR 13688 (March 28, 1996), 66 FR 8693 (February 1, 2001), 70 FR 4994 (January 31, 2005), 70 FR 11513 (March 8, 2005), 70 FR 73369 (December 12, 2005), 70 FR 77312 (December 30, 2005), 71 FR 2943 (January 18, 2006), and Pub. L. No. 106-533, 114 Stat. 2762. See [www.ftc.gov/bc/hsr](http://www.ftc.gov/bc/hsr) for copies of these materials.

**Affidavit**

Attach the affidavit required by §803.5 to the Form. If filing electronically, submit an electronic version of the affidavit as attachment 1.

The language found in 28 U.S.C. §1746 relating to unsworn declarations under penalty of perjury may be used instead of notarization of the affidavit.

For acquisitions to which §801.30 does not apply, the affidavit must attest that a contract, agreement in principle or letter of intent to merge or acquire has been executed, and further attest to the good faith intention of the person filing notification to complete the transaction.

For acquisitions to which §801.30 does apply, the affidavit must also attest that the issuer whose voting securities or the unincorporated entity whose non-corporate interests are to be acquired has received notice; the identity of the acquiring person and the fact that the acquiring person intends to acquire voting securities of the issuer or non-corporate interests of the unincorporated entity; the specific notification threshold that the acquiring person intends to meet or exceed if an acquisition of voting securities; the fact that the acquisition may be subject to the Act, and that the acquiring person will file notification under the Act; the anticipated date of receipt of such notification by the Agencies; and the fact that the person within which the issuer or unincorporated entity is included may be required to file notification under the Act.

Acquiring persons in transactions covered by §801.30 are required to also submit a copy of the notice served on the acquired person pursuant to §803.5(a)(3).

In the case of a tender offer, the affidavit must also attest that the intention to make the tender offer has been publicly announced.

An affidavit is **not** required of an acquired person in a transaction covered by §801.30. (See §803.5(a)).

**Responses**

Each answer should identify the item to which it is addressed. Attach separate additional sheets as necessary in answering each item. Each additional sheet should identify, at the top of the page, the item to which it is addressed. Voluntary submissions pursuant to §803.1(b) should also be identified.

For electronic filings, all items are automatically identified within the Form. Electronic attachments and endnotes may be appended to the Form for any item.

Enter the name of the person filing notification as reported in Item 1(a) on page 1 of the Form and the date on which the Form is completed at the top of each page of the Form, at the top of any sheets attached to complete the response to any item, and at the top of the first or cover page of each documentary attachment.

If unable to answer any item fully, give such information as is available and provide a statement of reasons for non-compliance as required by §803.3. If exact answers to any item cannot be given, enter best estimates and indicate the sources or bases of such estimates. All financial information should be expressed in millions of dollars rounded to the nearest one-tenth of a million dollars. Estimated data should be followed by the notation, "est." For electronic filings, add an endnote with the notation, "est." to any item where data is estimated.

**Year**

All references to "year" refer to calendar year. If the data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period which most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

**North American Industry Classification System (NAICS) Data**

The Form requests dollar revenues and lines of commerce for non-manufactured and manufactured products with respect to operations conducted within the United States and for products manufactured outside of the United States and sold into the United States. Filing persons must submit data at the 6-digit NAICS national industry code level to reflect non-manufacturing revenues. To the extent that dollar revenues (see §803.2(d)) are derived from manufacturing operations (NAICS Sectors 31-33), filing persons must submit data at the 10-digit NAICS product code levels.

**References**

In reporting information by 6-digit NAICS industry code, refer to the most recent *North American Industry Classification System - United States* published by the Executive Office of the President, Office of Management and Budget. In reporting information by 10-digit NAICS product code, refer to the most recent *Numerical List of Manufactured and Mineral Products* published by the Bureau of the Census. Information regarding NAICS is available at [www.census.gov](http://www.census.gov).

**Thresholds**

Filing fee and notification thresholds are adjusted annually pursuant to Section 7A(a)(2) of the Clayton Act based on the change in gross national product, in accordance with Section 8(a)(5). The current threshold values can be found at [www.ftc.gov/bc/hsr](http://www.ftc.gov/bc/hsr).

**Limited Response**

Information need not be supplied regarding assets, non-corporate interests, or voting securities currently being acquired, when their acquisition is exempt under the statute or rules. (See §803.2(c)). The acquired person should limit its response in the case of an acquisition of assets, to the assets being sold, in the case of an acquisition of non-corporate interests, to the unincorporated entity(s) whose non-corporate interests are being acquired, and in the case of an acquisition of voting securities, to the issuer(s) whose voting securities are being acquired and all entities controlled by such acquired entities. Separate responses may be required where a person is both acquiring and acquired. (See §§803.2(b) and (c)).

**Filing**

Filers have three options:

- (1) Complete and return **ONE** original and **ONE** copy (with one notarized original affidavit and certification and one set of documentary attachments) of the Notification and Report Form ("Form") to:

Premerger Notification Office  
 Federal Trade Commission, Room 5301  
 400 7<sup>th</sup> Street, S.W.  
 Washington, D.C. 20024

Also, **THREE** copies (with one set of documentary attachments) should be sent to:

Office of Operations, Premerger Unit  
 Antitrust Division, Department of Justice  
 950 Pennsylvania Avenue, N.W., Room #3335  
 Washington, D.C. 20530.

(For FEDEX airbills to the Department of Justice, do not use the 20530 zip code; use zip code 20004);

- (2) Complete the electronic version of the Form and submit the completed Form with all electronic attachments as directed at [www.hsr.gov](http://www.hsr.gov); or

- (3) Complete the electronic version of the Form and submit it electronically as directed at [www.hsr.gov](http://www.hsr.gov), while providing the documentary attachments in paper copy to the FTC and DOJ as in Option 1 above. Note that for Option 3, the attachments must be listed on the attachments page of the Form and classified as "paper to follow".

If one or both delivery sites are unavailable, the Agencies may announce alternate sites for delivery through the media and, if possible, at [www.ftc.gov/bc/hsr](http://www.ftc.gov/bc/hsr) and [www.hsr.gov](http://www.hsr.gov).

**ITEM BY ITEM**

**Fee Information**

The fee for filing the Notification and Report Form is based on the aggregate total amount of assets, voting securities, and controlling non-corporate interests to be held as a result of the acquisition:

Value of assets, voting securities and controlling non-corporate interests to be held	Fee Amount
greater than \$50 million (as adjusted) but less than \$100 million (as adjusted)	\$45,000
\$100 million (as adjusted) or greater but less than \$500 million (as adjusted)	\$125,000
\$500 million or greater (as adjusted)	\$280,000

For current thresholds and fee information, see [www.ftc.gov/bc/hsr](http://www.ftc.gov/bc/hsr)

**Amount Paid**

Indicate the amount of the filing fee paid. This amount should be net of any banking or financial institution charges. Where an explanatory attachment is required, include in your explanation any adjustments to the acquisition price that serve to lower the fee from that which would otherwise be due. If there is no acquisition price or if the acquisition price may fall within a range that straddles two filing fee thresholds, state the transaction value on which the fee is based and explain the valuation method used. Include in your explanation a description of any exempt assets, the value assigned to each, and the valuation method use

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By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

[FR Doc. 2014-09821 Filed 5-5-14; 8:45 am]

BILLING CODE 6750-01-C

**PENSION BENEFIT GUARANTY CORPORATION****29 CFR Part 4022****RIN 1212-AB18****Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits; Shutdown and Similar Benefits****AGENCY:** Pension Benefit Guaranty Corporation.**ACTION:** Final rule.

**SUMMARY:** This final rule amends PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans, which sets forth rules on PBGC's guarantee of pension plan benefits, including rules on the phase-in of the guarantee. The amendments implement the Pension Protection Act of 2006 provision that the phase-in period for the guarantee of benefits that are contingent upon the occurrence of an "unpredictable contingent event," such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event.

**DATES:** Effective June 5, 2014.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202-326-4224 or [klion.catherine@pbgc.gov](mailto:klion.catherine@pbgc.gov). (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4224.)

**SUPPLEMENTARY INFORMATION:****Executive Summary**

This rule is needed to conform PBGC's benefit payment regulation to Pension Protection Act of 2006 changes to the phase-in of PBGC's guarantee of benefits that are contingent upon the occurrence of an "unpredictable contingent event," such as a plant shutdown.

PBGC's legal authority for this action comes from section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of Title IV of ERISA, and section 4022 of ERISA, which sets forth

rules on PBGC's guarantee of benefits in terminated single-employer plans.

This final regulation codifies the Pension Protection Act of 2006 provision that the phase-in period for the guarantee of benefits that are contingent upon the occurrence of an "unpredictable contingent event," such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. The regulation incorporates the definition of an unpredictable contingent event benefit under Title II of ERISA and Treasury regulations; provides that the guarantee of an unpredictable contingent event benefit is phased in from the latest of the date the benefit provision is adopted, the date the benefit is effective, or the date the event that makes the benefit payable occurs; and includes eight examples that show how the phase-in rules apply in various situations.

PBGC received one public comment on its 2011 proposed regulation. PBGC has made a change to the final regulation in response to the comment.

**Background**

The Pension Benefit Guaranty Corporation (PBGC) administers the single-employer pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). The program covers certain private-sector, single-employer defined benefit plans, for which premiums are paid to PBGC each year.

Covered plans that are underfunded may terminate either in a distress termination under section 4041(c) of ERISA or in an involuntary termination (one initiated by PBGC) under section 4042 of ERISA. When such a plan terminates, PBGC typically is appointed statutory trustee of the plan, and becomes responsible for paying benefits in accordance with the provisions of Title IV.

Under sections 4022(b)(1) and 4022(b)(7) of ERISA and §§ 4022.24 through .26 of PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans, 29 CFR part 4022, PBGC's guarantee of new pension benefits and benefit increases is "phased in" over a five-year period, which begins on the date the new benefit or benefit increase is adopted or effective, whichever is later.

The Pension Protection Act of 2006, Public Law 109-280 (PPA 2006), amended section 4022 of ERISA by adding a new section 4022(b)(8), which changes the start of the phase-in period for plant shutdown and other "unpredictable contingent event

benefits." Under section 4022(b)(8), the phase-in rules are applied as if a plan amendment creating an unpredictable contingent event benefit (UCEB) was adopted on the date the unpredictable contingent event (UCE) occurred rather than as of the actual adoption date of the amendment, which is almost always earlier. As a result of the change, the guarantee of benefits arising from plant shutdowns and other UCEs that occur within five years of plan termination (or the date the plan sponsor entered bankruptcy, if applicable under PPA 2006, as explained below) generally will be lower than under prior law. This provision, which does not otherwise change the existing phase-in rules, applies to benefits that become payable as a result of a UCE that occurs after July 26, 2005.

*Phase-In of PBGC Guarantee*

Under section 4022(b)(7) of ERISA, the guarantee of benefits under a new plan or of a new benefit or benefit increase under an amendment to an existing plan (all of which are referred to in PBGC's regulations as "benefit increases") is "phased in" based on the number of full years the benefit increase is in the plan. The time period that a benefit increase has been provided under a plan is measured from the later of the adoption date of the provision creating the benefit increase or the effective date of the benefit increase. Generally, 20 percent of a benefit increase is guaranteed after one year, 40 percent after two years, etc., with full phase-in of the guarantee after five years. If the amount of the monthly benefit increase is below \$100, the annual rate of phase-in is \$20 rather than 20 percent.

The phase-in limitation generally serves to protect the insurance program from losses caused by benefit increases that are adopted or made effective shortly before plan termination. This protection is needed because benefit increases can create large unfunded liabilities. An example is a plan amendment that significantly increases credit under the plan benefit formula for service performed prior to the amendment. Such increases generally are funded over time under the ERISA minimum funding rules. Congress determined that an immediate full guarantee would result in an inappropriate loss for PBGC if a plan terminated before an employer significantly funded a benefit increase. Phase-in of the guarantee allows time for some funding of new liabilities before they are fully guaranteed.

Funding of liabilities created by a benefit increase generally starts at the