IV. Availability of Documents

The documents identified in the following table are available to interested persons as indicated. For more information on accessing ADAMS, see the ADDRESSES section of this document.

<table>
<thead>
<tr>
<th>Date</th>
<th>Document</th>
<th>ADAMS accession number/ Federal Register citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 21, 1986</td>
<td>Safety Goals for the Operations of Nuclear Power Plants; Policy Statement; Repudication.</td>
<td>51 FR 30028.</td>
</tr>
<tr>
<td>December 18, 2012</td>
<td>Long-Term Cooling and Unattended Water Makeup of Spent Fuel Pools ...</td>
<td>77 FR 74788.</td>
</tr>
<tr>
<td>June 19, 2014</td>
<td>Incoming Petition (PRM–50–108) from Mr. Mark Edward Leyse ..........</td>
<td>ML14195A388.</td>
</tr>
</tbody>
</table>

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4010, 4041, 4071, and 4302
RIN 1212–AB33

Adjustment of Civil Penalties

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations to adjust the penalties provided for in sections 4071 and 4302 of the Employee Retirement Income Security Act of 1974. This action is being taken in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget memorandum M–16–06. The regulations being amended are those on Penalties for Failure to Provide Certain Notices or Other Material Information (29 CFR part 4071) and Penalties for Failure to Provide Certain Multiemployer Plan Notices (29 CFR part 4302). Conforming amendments are also being made to the regulations on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) and Termination of Single-Employer Plans (29 CFR part 4041).

DATES: The amendments are effective August 1, 2016. Also see Applicability, below.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Deputy Assistant General Counsel for Regulatory Affairs (murphy.deborah@pbgc.gov), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4400 extension 3451. (TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400 extension 3451.)

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The rule adjusts the maximum civil penalties that PBGC may assess for failure to provide certain notices or other material information.


Major Provisions of the Regulatory Action

This rule adjusts the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are $2,063 for section 4071 penalties and $275 for section 4302 penalties.

Background

The Pension Benefit Guaranty Corporation (PBGC) administers title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Title IV has two provisions that authorize PBGC to assess civil monetary penalties. Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.
Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to $100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to $1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

The Federal Civil Penalties Inflation Adjustment Act of 1990 called for adjustment under the 1990 act. The recently established, other than by an Index, and the initial adjustment is to be made on changes in the Consumer Price Index, and the initial adjustment is to be made from the penalty level most recently established, other than by an adjustment under the 1990 act. The initial adjustment cannot increase a penalty more than 150 percent over its level on November 2, 2015. Adjusted penalties are to be rounded to the nearest dollar.

On February 24, 2016, the Office of Management and Budget issued memorandum M–16–06 on implementation of the 2015 act. The memorandum provides guidance to agencies about how to comply with the act. In particular, the memorandum includes a table of multipliers to use for the initial adjustment. The multiplier for 1980 (when section 4302 was added to ERISA) is 2.80469. The multiplier for 1987 (when section 4071 was added to ERISA) is 2.06278. Applying these multipliers to the enacted maximum amounts of the two penalties yields new maximum penalty levels (rounded to the nearest dollar) of $280 for section 4302 and $2,063 for section 4071. But applying the 150-percent-maximum-increase rule, the maximum penalty under section 4302 may not exceed $275. Accordingly, PBGC is adjusting the maximum penalty under section 4071 to $2,063 and adjusting the maximum penalty under section 4302 to $275.

Given the prospect of annual adjustments of the maximum section 4071 penalty, PBGC is simply removing the references in its other regulations to the maximum amount of section 4071 penalties. Removal of these references has no substantive effect, since the provision for the maximum amount is in part 4071; and removal avoids the need for annual amendments to these other regulations to track adjustments in the maximum penalty level.

Applicability

The increases in the civil monetary penalties under sections 4071 and 4302 provided for in this rule apply on and after August 1, 2016.

Compliance With Regulatory Requirements

PBGC has determined, in consultation with the Office of Management and Budget, that this rule is not a “significant regulatory action” under Executive Order 12866.

PBGC has determined that notice and public comment on this interim final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

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

List of Subjects

29 CFR Part 4010

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4041

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4071

Penalties.

29 CFR Part 4302

Penalties.

In consideration of the foregoing, PBGC amends 29 CFR parts 4010, 4043, 4071, and 4302 as follows:

PART 4010—ANNUAL FINANCIAL AND ACTUARIAL INFORMATION REPORTING

■ 1. The authority citation for part 4010 continues to read as follows:


§ 4010.14 [Amended]

■ 2. In § 4010.14, the words “of up to $1,100 a day for each day that the failure continues” are removed.

PART 4041—TERMINATION OF SINGLE-EMPLOYER PLANS

■ 3. The authority citation for part 4041 continues to read as follows:


§ 4041.6 [Amended]

■ 4. In § 4041.6, the words “of up to $1,100 a day for each day that the failure continues” are removed.

PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

■ 5. The authority citation for part 4071 is revised to read as follows:


§ 4071.3 [Amended]

■ 6. In § 4071.3, the figures “$1,100” are removed and the figures “$2,063” are added in their place.
PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

§ 4302.3 [Amended]

8. In § 4302.3, the figures “$110” are removed and the figures $275” are added in their place.

Issued in Washington, DC, this 5 day of May, 2016.

W. Thomas Reeder,
Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2016–11296 Filed 5–12–16; 8:45 am]
BILLING CODE 7709–02–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation’s regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in June 2016. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective June 1, 2016.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy (Murphy.Deborah@pbgc.gov), Deputy Assistant General Counsel for Regulatory Affairs, 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.)


PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC’s historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for June 2016.1

The June 2016 interest assumptions under the benefit payments regulation will be 0.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit’s placement in pay status. In comparison with the interest assumptions in effect for May 2016, these interest assumptions represent a decrease of 0.25 percent in the immediate annuity rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the payment of benefits under plans with valuation dates during June 2016, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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 amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4022

Employee benefit plans, 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. In appendix B to part 4022, Rate Set 272, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

<table>
<thead>
<tr>
<th>Rate set</th>
<th>For plans with a valuation date</th>
<th>Immediate annuity rate (percent)</th>
<th>Deferred annuities (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>On or after</td>
<td>Before</td>
<td></td>
</tr>
<tr>
<td>272</td>
<td>6–1–16</td>
<td>7–1–16</td>
<td>0.75</td>
</tr>
<tr>
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</tbody>
</table>

3. In appendix C to part 4022, Rate Set 272, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

<table>
<thead>
<tr>
<th>Rate set</th>
<th>Implied annuity rate (percent)</th>
<th>Deferred annuities (percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>272</td>
<td>6–1–16</td>
<td>4.00</td>
</tr>
<tr>
<td></td>
<td>7–1–16</td>
<td>4.00</td>
</tr>
<tr>
<td></td>
<td>8–1–16</td>
<td>4.00</td>
</tr>
</tbody>
</table>

1 Appendix B to PBGC’s regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.