

**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.

Date	Document	ADAMS accession number/ Federal Register citation
August 21, 1986 .....	Safety Goals for the Operations of Nuclear Power Plants; Policy Statement; Republication.	51 FR 30028.
April 1989 .....	NUREG-1353, "Regulatory Analysis for the Resolution of Generic Issue 82, Beyond Design Basis Accidents in Spent Fuel Pools".	ML082330232.
February 2001 .....	NUREG-1738, "Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants".	ML010430066.
March 12, 2012 .....	EA-12-049, "Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events".	ML12054A735.
August 2012 .....	NEI 12-06, "Diverse and Flexible Coping Strategies (FLEX) Implementation Guide".	ML12242A378.
August 2012 .....	JLD-ISG-2012-01, "Compliance with Order EA-12-049, Order Modifying Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events".	ML12229A174.
December 18, 2012 .....	Long-Term Cooling and Unattended Water Makeup of Spent Fuel Pools ...	77 FR 74788.
November 12, 2013 .....	COMSECY-13-0030, "Staff Evaluation and Recommendation for Japan Lessons Learned Tier 3 Issue on Expedited Transfer of Spent Fuel".	ML13329A918.
May 23, 2014 .....	SRM-COMSECY-13-0030, "Staff Requirements—COMSECY-13-0030—Staff Evaluation and Recommendation for Japan Lessons-Learned Tier 3 Issue on Expedited Transfer of Spent Fuel".	ML14143A360.
June 19, 2014 .....	Incoming Petition (PRM-50-108) from Mr. Mark Edward Leye .....	ML14195A388.
September 2014 .....	NUREG-2157, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," Volume 2.	ML14196A107.
September 2014 .....	NUREG-2161, "Consequence Study of a Beyond-Design-Basis Earthquake Affecting the Spent Fuel Pool for a U.S. Mark I Boiling-Water Reactor".	ML14255A365.
October 7, 2014 .....	Notice of Docketing for PRM-50-108 .....	79 FR 60383.

Dated at Rockville, Maryland, this 5th day of May, 2016.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2016-11212 Filed 5-12-16; 8:45 am]

**BILLING CODE 7590-01-P**

## **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](mailto: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.

PBGC's legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the Employee Retirement Income Security Act of 1974.

##### *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.<sup>1</sup> Section 4302, added to ERISA by the Multiemployer Pension Plan

<sup>1</sup> 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 reports by the President to Congress about the effect of inflation on civil penalties and the adjustment of civil penalties for inflation. The Debt Collection Improvement Act of 1996 amended the 1990 act to require agencies to make inflation adjustments of civil monetary penalties by regulation in accordance with principles in the 1990 act. On July 10, 1997 (at 62 FR 36993), PBGC published a final rule to implement the 1996 act. That final rule added to PBGC's regulations parts 4071 and 4302, which provided that the maximum penalty amounts under sections 4071 and 4302 were \$1,100 a day for section 4071 and \$110 a day for section 4302.

Several of PBGC's regulations note that section 4071 penalties may be assessed for failure to provide notices or other material information required under those regulations, but only two mention the adjusted maximum amount. The two regulations that do so are those on Annual Financial and Actuarial Information Reporting (29 CFR part 4010) and Termination of Single-Employer Plans (29 CFR part 4041).

#### Adjustment of Civil Penalties

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,<sup>2</sup> which further amended the 1990 act. The 2015 act requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment must be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be promulgated by January 15 of each year after 2016. Adjustments must be based 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.<sup>3</sup> 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 operative 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:

**Authority:** 29 U.S.C. 1302(b)(3), 1310.

##### § 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:

**Authority:** 29 U.S.C. 1302(b)(3), 1341, 1344, 1350.

##### § 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:

**Authority:** 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114-74, 129 Stat. 599-601; 29 U.S.C. 1302(b)(3), 1371.

##### § 4071.3 [Amended]

- 6. In § 4071.3, the figures "\$1,100" are removed and the figures "\$2,063" are added in their place.

<sup>2</sup> Sec. 701, Public Law 114-74, 129 Stat. 599-601 (Bipartisan Budget Act of 2015).

<sup>3</sup> <https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf>.

**PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES**

■ 7. The authority citation for part 4302 is revised to read as follows:

**Authority:** 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

**§ 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.)

**SUPPLEMENTARY INFORMATION:** PBGC’s regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulation are also published on PBGC’s Web site (*http://www.pbgc.gov*).

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.<sup>1</sup>

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**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		<i>i</i> <sub>1</sub>	<i>i</i> <sub>2</sub>	<i>i</i> <sub>3</sub>	<i>n</i> <sub>1</sub>	<i>n</i> <sub>2</sub>
272	6–1–16	7–1–16	0.75	4.00	4.00	4.00	7	8

■ 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**

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<sup>1</sup> 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 covered single-employer plans for purposes of allocation of assets under

ERISA section 4044. Those assumptions are updated quarterly.