

*Executive Order 13563 and 12866*

In promulgating this final rule, EEOC has adhered to the regulatory philosophy and applicable principles set forth in Executive Order 13563. Pursuant to Executive Order 12866, the EEOC has coordinated with the Office of Management and Budget (OMB). Under section 3(f) of Executive Order 12866, the EEOC and OMB have determined that this final 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. The great majority of employers and entities covered by these regulations comply with the posting requirement, and, as a result, the aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who fail to post required notices in violation of the regulation and statute. The rule only increases the penalty by \$9 for each separate offense, nowhere near the \$100 million figure that would amount to a significant regulatory action.<sup>1</sup>

*Paperwork Reduction Act*

The Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. This final rule contains no new information collection requirements, and therefore, will create no new paperwork burdens or modifications to existing burdens that are subject to review by the Office of Management and Budget under the PRA.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601–612) only requires a regulatory flexibility analysis when notice and comment is required by the Administrative Procedure Act or some other statute. As stated above, notice and comment is not required for this rule. For that reason, the requirements of the Regulatory Flexibility Act do not apply.

*Unfunded Mandates Reform Act of 1995*

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more

in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

*Congressional Review Act*

The Congressional Review Act (CRA) requires that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EEOC will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the effective date of the rule. Under the CRA, a major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by the CRA at 5 U.S.C. 804(2).

**List of Subjects in 29 CFR Part 1601**

Administrative practice and procedure.

For the Commission.

Dated: January 13, 2017.

**Jenny R. Yang,**  
*Chair.*

Accordingly, the Equal Employment Opportunity Commission amends 29 CFR part 1601 as follows:

**PART 1601—PROCEDURAL REGULATIONS**

■ 1. The authority citation for part 1601 continues to read as follows:

**Authority:** 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117; 42 U.S.C. 2000ff to 2000ff–11.

■ 2. Section 1601.30 is amended by revising paragraph (b) to read as follows:

**§ 1601.30 Notices to be posted.**

\* \* \* \* \*

(b) Section 711(b) of Title VII and the Federal Civil Penalties Inflation Adjustment Act, as amended, make failure to comply with this section punishable by a fine of not more than \$534 for each separate offense.

[FR Doc. 2017–01277 Filed 1–30–17; 8:45 am]

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**PENSION BENEFIT GUARANTY CORPORATION****29 CFR Parts 4071 and 4302**

**RIN 1212–AB33**

**Adjustment of Civil Penalties**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is required to amend its regulations annually 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–17–11. The regulations being amended are those on Penalties for Failure to Provide Certain Notices or Other Material Information and Penalties for Failure to Provide Certain Multiemployer Plan Notices.

**DATES:** *Effective date:* This rule is effective on January 31, 2017.

*Applicability date:* The increases in the civil monetary penalties under sections 4071 and 4302 provided for in this rule apply to such penalties assessed after January 31, 2017.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs (*cibinic.stephanie@pbgc.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4400 extension 6352. (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 6352.)

**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 finalizes the 2016 interim final regulations required under the 2015 act and further adjusts, as required for 2017, 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

<sup>1</sup> In the last ten years, the highest number of charges alleging notice posting violations occurred in 2010. In that year, only 114 charges of the 90,837 Title VII, ADA, and GINA charges (.13%) contained a notice posting violation.

Employee Retirement Income Security Act of 1974.

#### Major Provisions of the Regulatory Action

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are \$2,097 for section 4071 penalties and \$279 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 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.

#### 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 requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be promulgated in January each year after 2016. In an interim final rule published on May 13, 2016 (at 81 FR 29765), PBGC adjusted the maximum penalty under section 4071 to \$2,063 and adjusted the maximum penalty under section 4302 to \$275.<sup>3</sup>

<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.

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

<sup>3</sup> The Office of Management and Budget issued memorandum M–16–06 on implementation of the 2015 act, including multipliers to use in the initial adjustment.

On December 16, 2016, the Office of Management and Budget issued memorandum M–17–11 on implementation of the 2017 annual adjustment pursuant to the 2015 act.<sup>4</sup> The memorandum provides agencies with the cost-of-living adjustment multiplier for 2017, which is based on the Consumer Price Index (CPI–U) for the month of October 2016, not seasonally adjusted. The multiplier for 2017 is 1.01636. The memorandum also provides guidance to agencies on finalizing their 2016 interim final rules. Accordingly, PBGC is adopting the 2016 interim final rule with a change to the maximum penalty amount for 2017 as required by the 2015 act and Office of Management and Budget memorandum M–17–11. The adjusted maximum amounts are \$2,097 for section 4071 penalties and \$279 for section 4302 penalties.

#### Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a “significant regulatory action” under Executive Order 12866 and therefore not subject to their review.

The Office of Management and Budget also has determined that notice and public comment on this 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 4071

Penalties.

29 CFR Part 4302

Penalties.

In consideration of the foregoing, the interim final rule, which was published at 81 FR 29765 on May 13, 2016, is adopted as a final rule with the following changes:

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

■ 1. The authority citation for part 4071 continues 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.

<sup>4</sup> [https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11\\_0.pdf](https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf).

#### § 4071.3 [Amended]

■ 2. In § 4071.3, the figures “; \$2,063” are removed and the figures “\$2,097” are added in their place.

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

■ 3. The authority citation for part 4302 continues 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]

■ 4. In § 4302.3, the figures “\$275” are removed and the figures “\$279” are added in their place.

Issued in Washington, DC.

**W. Thomas Reeder,**

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–01074 Filed 1–30–17; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[B Docket No. 13–213; FCC 16–181]

#### Terrestrial Use of the 2473–2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules for the Ancillary Terrestrial Component of Mobile Satellite Service Systems

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission or FCC) modifies its rules on the operation of an Ancillary Terrestrial Component (ATC) for Mobile-Satellite Service (MSS) systems operating in the 2483.5–2495 MHz band. This action modifies, *inter alia*, existing rules related to “gating criteria” for ATC in the 2483.5–2495 MHz band to enable licensees to seek authorization to deploy a terrestrial low-power system using licensed MSS spectrum. This document will serve the public interest by expanding terrestrial use of the 2483.5–2495 MHz frequency band and establishing a framework that will enable Globalstar, Inc. (Globalstar), the sole MSS licensee in the band, to utilize its 11.5 megahertz of spectrum to deploy a terrestrial low-power network.

**DATES:** Effective March 2, 2017, except for the amendments to § 25.149, which contain information collection