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PENSION BENEFIT GUARANTY CORPORATION

29 CFR PART 4007

RIN: 1212-AA66

Disclosure of Premium-Related Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its premium payment regulation to provide for the submission to the PBGC of information contained in records relating to premium filings. The amendment is intended to assist the PBGC in obtaining timely information for premium audits.

EFFECTIVE DATE: August 8, 1997.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or James L. Beller, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024 (202-326-4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: On December 17, 1996, the PBGC published in the Federal Register (61 FR 66247) a proposed rule to provide for submission to the PBGC of plan records that are necessary to support premium filings within 30 days of the date of the PBGC's request, or by a different time specified in the request. The PBGC received three comments, all of which stated that the 30-day time period was too short

for large, multi-location companies because of the need to gather data from different locations.

Most companies do not have special problems and can comply within a short period of time. The PBGC recognizes that, due to delays in the mail and other circumstances, companies may need more than 30 days to comply, and has therefore replaced the 30-day time period with a 45-day time period. For companies that, for valid reasons (e.g., difficulty in retrieving off-site files) are unable to provide the records within 45 days, the final rule provides an automatic extension of up to an additional 45 days. To qualify for the extension, the plan administrator must certify that, despite reasonable efforts, the additional time is necessary to comply with the PBGC's request. The PBGC may shorten the original or extended deadline if the collection of unpaid premiums (or any associated interest or penalties) would be jeopardized.

Paperwork Reduction Act

This rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995, the PBGC has submitted a copy of this information collection to the Office of Management and Budget for its review. Affected parties do not have to comply with the information collection requirements of this rule until the PBGC publishes in the Federal Register the control number assigned by OMB to this information collection. Publication of the control number notifies the public that OMB has approved these information collection requirements.

E.O. 12866 and the Regulatory Flexibility Act

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

The PBGC certifies that the amendment will not have a significant economic effect on a substantial number of small entities. This rule merely changes the manner in which the plan administrator complies with an existing requirement to provide PBGC with information. Sending that information to the PBGC instead of making it available for on-site review by the PBGC will not impose any significant additional burden on the plan administrator. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the

Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 29 CFR Part 4007

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

For the reasons set forth above, the PBGC is amending 29 CFR part 4007 as follows:

PART 4007--PAYMENT OF PREMIUMS

1. The authority citation for part 4007 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1303(a), 1306, 1307.

2. In Sec. 4007.10, the section heading is revised; paragraph (a) is amended by removing the last sentence; and new paragraphs (c) and (d) are added, to read as follows:

Sec. 4007.10 Recordkeeping; audits; disclosure of information.

* * * * *

(c) Providing record information. (1) In general. The plan administrator shall

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make the records retained pursuant to paragraph (a) of this section available to the PBGC upon request for inspection and photocopying at the location where they are kept (or another, mutually agreeable, location) and shall submit information in such records to the PBGC within 45 days of the date of the PBGC's written request therefor, or by a different time specified therein.

(2) Extension. Except as provided in paragraph (c)(3) of this section, the plan administrator may automatically extend the period described in paragraph (c)(1) by submitting a certification to the PBGC prior to the expiration of that time period. The certification shall--

(i) Specify a date to which the time period described in paragraph (c)(1) is extended that is no more than 90 days from the date of the PBGC's written request for information; and

(ii) Contain a statement, certified to by the plan administrator under penalty of perjury (18 U.S.C. Sec. 1001), that, despite reasonable efforts, the additional time is necessary to comply with the PBGC's request.

(3) Shortening of time period. The PBGC may in its discretion shorten the time period described in paragraph (c)(1) or (c)(2) of this section where it determines that collection of unpaid premiums (or any associated interest or penalties) would otherwise be jeopardized. If the PBGC shortens the time period described in paragraph (c)(1), no extension is available under paragraph (c)(2).

(d) Address and timeliness. Information required to be submitted under paragraph (c) of this section shall be submitted to the address specified in the PBGC's request. The timeliness of a submission shall be determined in accordance with Secs. 4007.5 and 4007.6.

Issued in Washington, D.C. this 2nd day of July, 1997.

Alexis M. Herman,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

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