Automatic Cost-of-Living Increase

§ 404.274 What are the measuring periods specified measuring period (CPI or AWI)?

(a) Measuring period based on the CPI—(1) When the period begins. The measuring period we use for finding the amount of the CPI increase begins with the later of—
   (i) Any calendar quarter in which an ad hoc benefit increase is effective; or
   (ii) The third calendar quarter of any year in which the last automatic increase became effective.

(2) When the period ends. The measuring period ends with the third calendar quarter of the following year. If this measuring period ends in a year in which an ad hoc increase was enacted or took effect, there can be no cost-of-living increase at that time. We will extend the measuring period to the third calendar quarter of the next year.

(b) Measuring period based on the AWI—(1) When the period begins. The measuring period we use for finding the amount of the AWI increase begins with the later of—
   (i) The calendar year before the year in which an ad hoc benefit increase is effective; or
   (ii) The calendar year before the year in which the last automatic increase became effective.

(2) When the period ends. The measuring period ends with the following year. If this measuring period ends in a year in which an ad hoc increase was enacted or took effect, there can be no cost-of-living increase at that time. We will extend the measuring period to the next calendar year.

§ 404.275 How is an automatic cost-of-living increase calculated?

(a) Increase based on the CPI. We compute the average of the CPI for the quarters that begin and end the measuring period by adding the three monthly CPI figures (which are published to one decimal place), dividing the total by 3, and rounding the result to the nearest 0.1. If the average for the ending quarter is higher than the average for the beginning quarter, we divide the average for the ending quarter by the average for the beginning quarter to determine the percentage increase in the CPI over the measuring period.

(b) Increase based on the AWI. If the AWI for the year that ends the measuring period is higher than the AWI for the year which begins the measuring period and all the other conditions for an AWI-based increase are met, we divide the higher AWI by the lower AWI to determine the percentage increase in the AWI.

(c) Rounding rules. We round the increase described in the applicable paragraph (a) or (b) of this section to the nearest 0.1 percent by rounding 0.05 percent and above to the next higher 0.1 percent and otherwise rounding to the next lower 0.1 percent. For example, if the applicable index is the CPI and the increase in the CPI is 3.15 percent, we round the increase to 3.2 percent. We then apply this percentage increase to the amounts described in §404.271 and round the resulting dollar amounts to the next lower multiple of $0.10 if not already a multiple of $0.10.

(d) Additional increase. See §404.278 for the additional increase that is possible.

§ 404.278 [Amended]

3. In §404.278, remove the parenthetical phrase at the end of paragraph (a)(2).

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044


AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.


EFFECTIVE DATE: May 1, 2004.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, 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.)

Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology (found in Appendix C to part 4022).

Accordingly, this amendment (1) adds to Appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during May 2004, (2) adds to Appendix B to part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during May 2004, and (3) adds to Appendix C to part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology for valuation dates during May 2004.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 3.90 percent for the first 20 years following the valuation date and 5.00 percent thereafter. These interest assumptions represent a decrease (from those in effect for April 2004) of 0.10 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.00 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. These interest assumptions are unchanged from those in effect for April 2004.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The 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, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during May 2004, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The 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
29 CFR Part 4022
Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044
Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are 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 127, as set forth below, is added to the table. (The introductory text of the table is omitted.)

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>
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<tr>
<td></td>
<td>On or after</td>
<td>Before</td>
<td>i&lt;sub&gt;1&lt;/sub&gt;</td>
</tr>
<tr>
<td></td>
<td>127</td>
<td>5–1–04</td>
<td>6–1–04</td>
</tr>
</tbody>
</table>

■ 3. In appendix C to part 4022, Rate Set 127, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector 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>
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<tr>
<td></td>
<td>127</td>
<td>5–1–04</td>
<td>6–1–04</td>
</tr>
</tbody>
</table>

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *
REJECTION PROGRAM
and Land Protection Division, Land
Department of Natural Resources, Air
adversely affecting the Missouri
notified the Governor of Missouri that
we, the Office of Surface Mining
Control and Reclamation Act of 1977
permanent regulatory program (Missouri
conditionally approved the Missouri
Secretary of the Interior (the Secretary)
required remedial actions.
Missouri
of the Missouri program that we directly
full authority for its program.
I. Background on the Missouri Program
Section 503(a) of the Act permits a
State to assume primacy for the
regulation of surface coal mining and
reclamation operations on non-Federal
and non-Indian lands within its borders
by demonstrating that its State program
includes, among other things, “a State
law which provides for the regulation of
surface coal mining and reclamation
operations in accordance with the
requirements of this Act * * *; and
rules and regulations consistent with
regulations issued by the Secretary
pursuant to this Act.” See 30 U.S.C.
1253(a)(1) and (7). On the basis of these
criteria, the Secretary conditionally
approved the Missouri program on
November 21, 1980. You can find
background information on the Missouri
plan, including the Secretary’s findings, the disposition of
comments, and the approval of the
plan in the January 29, 1982, Federal
Register (47 FR 4253). You can find
later actions concerning the Missouri
plan and amendments to the plan at 30
CFR 925.25.
Section 410 of SMCRA authorizes the
Secretary to use funds under the AMLR
program to abate or control emergency
situations in which adverse effects of
past coal mining pose an immediate
danger to the public health, safety,
or general welfare. In a Federal Register
notice dated September 29, 1982 (47 FR
42729), we invited States to amend their
AMLR plans for the purpose of
undertaking emergency reclamation
programs on our behalf. We approved
Missouri’s assumption of the AMLR
emergency program on June 24, 1998.
You can find background information,
including our findings, the disposition
of comments, and the approval of the
Missouri AMLR emergency program in the
June 24, 1998, Federal Register (63 FR
34277).
On June 19, 2003, the MLRP notified
us that the Missouri Legislature passed
House Bill (HB) 6 that appropriated
funds for the Missouri program. In HB
6, the Missouri Legislature did not fully
fund the Missouri program for the
period beginning July 1, 2003, and
ending June 30, 2004. The Governor of
Missouri signed the appropriation bill
on May 30, 2003 (Administrative Record
No. MO–664).
On July 2, 2003, we met with the
MLRP at the Missouri Department of
Natural Resources’ office in Jefferson
City, Missouri (Administrative Record
DEPARTMENT OF THE INTERIOR
Office of Surface Mining Reclamation
and Enforcement
30 CFR Part 925
Clarification of Substituted Federal
Enforcement for Parts of Missouri’s
Permanent Regulatory Program and
Findings on the Status of Missouri’s
Permanent Regulatory Program
AGENCY: Office of Surface Mining
Reclamation and Enforcement, Interior.
ACTION: Final rule; clarification.
SUMMARY: On November 21, 1980, the
Secretary of the Interior (the Secretary)
conditionally approved the Missouri
permanent regulatory program (Missouri
program) under the Surface Mining
Control and Reclamation Act of 1977
(SMCREA or the Act). On August 4, 2003,
we, the Office of Surface Mining
Reclamation and Enforcement (OSM),
notified the Governor of Missouri that
serious problems existed that were
adversely affecting the Missouri
Department of Natural Resources, Air
and Land Protection Division, Land
Reclamation Program’s (MLRP)
implementation and enforcement of the
Missouri program. In accordance with
the provisions of 30 CFR 733.12(f), we
announced our decision, effective
August 22, 2003, to institute direct
Federal enforcement for those portions
of the Missouri program that the MLRP
could not adequately implement and
enforce. With the substitution of Federal
enforcement authority, we outlined a
process by which Missouri could regain
full authority for its program.
This document clarifies the portions
of the Missouri program that we directly
enforce and sets forth our findings
regarding the status of those portions of
Missouri’s program for which we
required remedial actions.
This rule is being made effective
immediately in order to expedite the
actions required of the State to resume
full authority for its approved program.
FOR FURTHER INFORMATION CONTACT: John
W. Coleman, Mid-Continent Regional
Coordinating Center, Office of Surface
Mining, 501 Belle Street, Alton, Illinois
62002. Telephone: (618) 463-6460.
SUPPLEMENTARY INFORMATION:
I. Background on the Missouri Program
II. Clarification of OSM’s August 22, 2003,
Decision to Substitute Federal
Enforcement for Parts of the Missouri
Program
III. OSM’s Decision
IV. Disposition of Comments
V. Procedural Determinations
I. Background on the Missouri Program
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<table>
<thead>
<tr>
<th>For valuation dates occurring in the month—</th>
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</tr>
</thead>
<tbody>
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<td>( t = 1 )–20</td>
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<td>.0390</td>
</tr>
</tbody>
</table>

Issued in Washington, DC, on this 8th day of April 2004.
Joseph H. Grant,
Deputy Executive Director and Chief
Operating Officer, Pension Benefit Guaranty
Corporation.
[FR Doc. 04–8588 Filed 4–14–04; 8:45 am]
BILLING CODE 7708–01–P