of all finfish except Acipenseriformes, 1,000 to 2,000 μL/L (ppm) for 15 minutes; eggs of Acipenseriformes, up to 1,500 μL/L (ppm) for 15 minutes.

Dated: July 9, 1996.

Stephen F. Sundlof,
Director, Center for Veterinary Medicine.

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BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4011, 4022, 4041A, 4044, 4050 and 4281
RIN 1212–AA88

Valuation and Payment of Lump Sum Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations to increase the maximum value of benefits that the PBGC may pay in lump sum form, and certain other lump sum thresholds, from $3,500 to $5,000. The amendments do not affect lump sum benefits paid by ongoing plans.

DATES: The amendments to 29 CFR 4022.7, 4044.52(b), and 4044.54 are effective July 16, 1998. (However, except to the extent they affect determinations under § 4022.7, the amendments to 29 CFR 4044.52(b) and 4044.54 apply only to a plan with a termination date on or after August 17, 1998.) The final rule is otherwise effective August 17, 1998.


SUPPLEMENTARY INFORMATION: Section 203(e) of ERISA specifies the maximum value that a plan may provide it will pay in a lump sum (i.e., single installment) to a participant or surviving spouse without consent. The Taxpayer Relief Act of 1997 increased the section 203(e) maximum from $3,500 to $5,000 effective for plan years beginning after August 5, 1997.

On April 30, 1998, the PBGC proposed to amend its regulations to increase various $3,500 thresholds to $5,000 and to make other changes relating to lump sum payments. The PBGC received no comments in response to the proposed rule and is issuing the final rule without change, as follows:

• Under the final rule, the PBGC may make a lump sum payment of a benefit that has a value of $5,000 or less as of the plan’s termination date. (See § 4022.7 and, to the extent they affect determinations under § 4022.7, §§ 4044.52(b), and 4044.54.) There are special rules for applying the lump sum threshold where the PBGC issues a determination on title IV benefits before it issues a determination on benefits payable under ERISA section 4022(c). Consistent with its current practice, the PBGC will give the participant the option to receive the benefit in the form of an annuity if the monthly benefit (at normal retirement age in the normal form for an unmarried participant) is equal to or greater than $25.

Applicability: This amendment applies to any participant Notice issued on or after July 16, 1998. For any initial determination issued before July 16, 1998, the PBGC may make a lump sum payment of a benefit with a value of $5,000 or less, provided (1) the benefit is not yet in pay status, and (2) the participant (with spousal consent) or beneficiary elects the lump sum payment.

• Under the final rule, the lump sum threshold under §§ 4044.52(b) and 4044.54, which is used for determining whether lump sum or annuity assumptions are used to value benefits for purposes of allocating assets to beneficiaries under ERISA section 4044, is $5,000.

Applicability: This amendment applies to any plan with a termination date on or after August 17, 1998.

• The reference to the lump sum threshold in the PBGC’s Model Participant Notice (Part 4011, Appendix A) is changed from $3,500 to $5,000.

Applicability: This amendment applies to any Participant Notice issued on or after August 17, 1998. However, for a reasonable time period, the PBGC will not treat a Participant Notice as failing to satisfy the Participant Notice requirements merely because it refers to the $3,500 threshold.

• The dollar thresholds in the Missing Participants regulation are increased from $3,500 to $5,000. See §§ 4050.2 (definition of missing participant annuity assumptions) and 4050.5(a)(2) (de minimis lump sum).

Applicability: This amendment applies to any participant Notice issued on or after August 17, 1998 for whom the deemed distribution date is on or after August 17, 1998.

• The dollar threshold up to which the plan sponsor of a terminated multiemployer plan that is closing out may make a lump sum payment of nonforfeitable benefits is increased from $3,500 to $5,000 (see § 4041A.43(b)(1)).

Applicability: This amendment applies to any distribution made on or after August 17, 1998.

In the case of participant deaths after the termination date, the final rule allows the PBGC to make a lump sum payment of a qualified preretirement survivor annuity with a value of $5,000 or less if the surviving spouse elects a lump sum (§ 4022.7(b)(1)(ii)).

Applicability: This amendment applies to any lump sum payment made on or after July 16, 1998.

Finally, the final rule (1) eliminates, as unnecessary, two provisions in its multiemployer valuation regulation that refer to the $3,500 limit, and (2) makes clear that the lump sum value of a benefit is calculated by valuing the monthly annuity benefit (which excludes the value of certain preretirement death benefits, such as a qualified preretirement survivor annuity).

Rulemaking Requirements

The PBGC has determined that good cause exists to make certain amendments (the amendments to 29 CFR 4022.7 and, to the extent they affect determinations under 29 CFR 4022.7, the amendments to §§ 4044.52(b) and 4044.54) effective and applicable immediately. These amendments impose requirements only on the PBGC. A delayed effective date is unnecessary because no other person other than the PBGC needs time to prepare. See 5 U.S.C. 553(d)(3).

E.O. 12866 and the Regulatory Flexibility Act

The PBGC has determined that this final rule is not a “significant regulatory action” under the criteria set forth in Executive Order 12866. The PBGC certifies that the amendments will not have a significant economic impact on a substantial number of small entities. The amendments will affect only de minimis benefits and will have an immaterial effect on liabilities.
Appendix A to Part 4011 [Amended]

§ 4022.7 Benefits payable in a single
revised, and new paragraph (d) is
continues to read as follows:

PART 4011—DISCLOSURE TO
PARTICIPANTS

1. The authority citation for part 4011
continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3) and 1311.

Appendix A to Part 4011 [Amended]

2. Appendix A to Part 4011 is
amended by removing the sentence
“The PBGC does not pay lump sums
exceeding $3,500,” which immediately
precedes the heading “WHERE TO GET
MORE INFORMATION,” and adding in
its place the sentence “The PBGC
generally does not pay lump sums
exceeding $5,000.”

PART 4022—BENEFITS PAYABLE IN
TERMINATED SINGLE-EMPLOYER
PLANS

3. The authority citation for part 4022
continues to read as follows:

Authority: 29 U.S.C. 1302(b) and 1322.

4. In § 4022.7, paragraph (b)(1) is
revised, and new paragraph (d) is
added, to read as follows:

§ 4022.7 Benefits payable in a single
installment.

(b)(1) Payment in lump sum.
Notwithstanding paragraph (a) of this
section:

(i) In general. If the lump sum value
of a benefit payable by the PBGC is
$5,000 or less and the benefit is not
yet in pay status, the benefit may be paid
in a lump sum. In determining whether
the lump sum value of a benefit
exceeds $5,000, the plan administrator
shall determine the lump sum value of
a benefit by valuing, in accordance with
paragraph (a) of this section, the
monthly annuity benefits payable in the
form determined under § 4044.51(a) and
commencing at the time determined
under § 4044.51(b), except that—

* * * * *

§ 4044.54 [Amended]

9. Section 4044.54 is amended by
removing “$3,500” and adding, in its
place, “$5,000”.

PART 4050—MISSING PARTICIPANTS

10. The authority citation for part
4050 continues to read as follows:


§ 4050.2 [Amended]

11. In § 4050.2, paragraph (5) of the
definition of Missing Participant
Annuity Assumptions is amended by
removing “$3,500” and adding in its
place, “$5,000”.

§ 4050.5 [Amended]

12. In § 4050.5, paragraph (a)(2) is
amended by removing “$3,500” and
adding in its place, “$5,000”.

Appendix A to Part 4050 [Amended]

13. In Appendix A, the heading is
amended by adding at the end, the
words “in plans with deemed
distribution dates on and after August
17, 1998”; the introductory text to
Example 1 is amended by removing
“$1,750” and adding, in its place,
“$3,500”; paragraph (1) to Example 1 is
amended by removing “$1,700” each
time it appears and adding, in each
place, “$3,000”; paragraph (2) to
Example 1 is amended by removing
“$3,700” and adding, in its place,
“$5,200” and removing “$3,400” each
time it appears and adding, in each
place, “$4,900” and removing “$3,450” each
time it appears and adding, in each
place, “$4,950”; and paragraph (1) of
Example 2 is amended by removing
"$3,500" and adding, in its place, "$5,000".

PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

14. The authority citation for part 4281 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1399(c)(1)(D), and 1441.

§ 4281.13 [Amended]

15. In section 4281.13, paragraph (b) is removed, the introductory text to paragraph (a) is amended by removing the paragraph designation, the heading, and the words "paragraph (b) of this section (regarding the valuation of benefits payable as lump sums under trusted plans) and ", and paragraphs (a)(1) through (a)(5) are redesignated as paragraphs (a) through (e).

§ 4281.14 [Amended]

16. In section 4281.14, the section heading is amended by removing the phrase "--in general", and paragraph (a) is amended by removing the words "Except as otherwise provided in § 4281.15 (regarding the valuation of benefits payable as lump sums under trusted plans), and subject" and adding, in their place, the word "Subject".

§ 4281.15 [Removed and Reserved]

17. Section 4281.15 is removed and reserved.

Issued in Washington, DC, this 10th day of July, 1998.

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.

Terrence Deneen,
Acting Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

For further information contact:
Petty Officer Greg Nelson, U.S. Coast Guard Marine Safety Office; telephone number (619) 683-6492.

SUPPLEMENTARY INFORMATION:

Regulatory History

On April 2, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) for this regulation in the Federal Register (63 FR 16181-16182). The comment period ended June 1, 1998. The Coast Guard received no comments on the proposal. A public hearing was not requested and no hearing was held.

Discussion of Rule

In the past, emergency medical and law enforcement personnel have had difficulty getting through the severe congestion of recreational boats in Copper Canyon. This hazardous condition has become a major public safety concern, particularly during holidays and other times of heavy congestion. This RNA will effectively provide an emergency access lane for law enforcement and other emergency services officials. This land will significantly enhance public safety by allowing quicker emergency response time.

Vessels using Copper Canyon, other than designated patrol vessels, are prohibited from anchoring, mooring, loitering in, or otherwise impeding the transit of any other vessel within the emergency access lane. These non-patrol vessels shall expeditiously and continuously transit the land via the most direct route consistent with navigational safety. At times of heavy congestion, however, designated by periodic Coast Guard Broadcast Notices to Mariners on VHF–FM Channel 16, the emergency access land will be closed to all traffic other than designated patrol vessels, and no entry will be permitted by any recreational or commercial vessel except with the express permission of the Captain of the Port or his designated representative.

The geographic description of the emergency access land constituting this RNA is as follows: beginning at the approximate center of the mouth of Copper Canyon and drawing a line down the approximate center of the canyon, extending shoreward to the end of the navigable waters of the canyon, and comprising a semi-rectangular area extending 30 feet on each side of the line, for a total semi-rectangular width of 60 feet.

This line is more precisely described as: beginning at latitude 34°25'42" N, longitude 114°18'26" W, thence southwesterly to latitude 34°25'38" N, longitude 114°18'26" W, thence southwesterly to latitude 34°25'37" N, longitude 114°18'26" W, thence southwesterly to latitude 34°25'34" N, longitude 114°18'26" W, thence southwesterly to latitude 34°25'33" N, longitude 114°18'28" W, thence southwesterly to latitude 34°25'29" N, longitude 114°18'29" W, thence to the end of the navigable waters of the canyon.

Discussion of Comments

No comments were received.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary, because use of the Copper Canyon by both recreational and commercial vessels will not be precluded by this regulation; nor will such use be more nominally affected.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. "Small entities" may include small businesses and not-for-profit