PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

Benefits Payable in Terminated Single-Employer Plans; Limitations on Guaranteed Benefits; Maximum Guaranteeable Benefit

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule removes Appendix D from Pension Benefit Guaranty Corporation’s regulation on Benefits Payable in Terminated Single-Employer Plans. Appendix D is a historical list of the maximum guaranteeable monthly benefit for each year as determined in accordance with section 4022(b)(3)(B) of the Employee Retirement Income Security Act of 1974. This information is available on PBGC’s Web site (http://www.pbgc.gov).


FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, 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 1–800–430–4302, (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: Section 4022(b) of the Employee Retirement Income Security Act of 1974 (ERISA) provides for certain limitations on benefits guaranteed by Pension Benefit Guaranty Corporation (PBGC) in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations, set forth in ERISA section 4022(b)(3)(B), is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant (in the form of a life annuity beginning at age 65) by PBGC. The ceiling is equal to “$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [$13,200].” This formula is also set forth in §4022.22(b) of PBGC’s regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022). Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of ERISA section 4022(b)(3)(B).1

PBGC has no discretion in the determination of the maximum guaranteeable benefit. The maximum guaranteeable benefit is determined by applying the formula in ERISA section 4022(b)(3)(B) to the contribution and benefit base. Each year Social Security Administration determines, and notifies PBGC of, the contribution and benefit base to be used under ERISA section 4022(b)(3)(B), and PBGC applies the statutory formula to arrive at the maximum guaranteeable benefit. PBGC has historically published a table showing the maximum guaranteeable benefit for each year in appendix D to the benefit payment regulation and updated the list each year by amending the table in the appendix. In recent years, PBGC has also published this information on its Web site (http://www.pbgc.gov; click on “Workers & Retirees,” then on “Maximum monthly guarantee tables” under the heading “Benefits Information” in the center column).

PBGC has concluded that since the maximum guaranteeable benefits are easily accessible to the public on its Web site, it is no longer necessary to publish the information in the Federal Register (where annual updates to appendix D to the benefit payment regulation are published) or the Code of Federal Regulations (where the appendix itself is published). Accordingly, PBGC is removing appendix D from the benefit payment regulation. This action has no substantive legal effect.

General notice of proposed rulemaking is unnecessary. The maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply eliminates one of the methods PBGC currently uses to inform the public of the maximum guaranteeable benefit.

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 regulation, the Regulatory Flexibility Act does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4022

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. Appendix D to part 4022 is removed.

Issued in Washington, DC, this 15th day of November, 2009.

Vincent K. Snowbarger,
Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. E9–28638 Filed 11–30–09; 8:45 am]

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SUPPLEMENTARY INFORMATION: Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC’s regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV. Guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan’s underfunding.

Under §4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach “unreduced retirement age” (i.e., the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant’s monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

This document amends appendix D to Part 4044 as follows:

1. The authority citation for part 4044 follows:
   ■ 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. Appendix D to part 4044 is amended by removing Table I–09 and adding in its place Table I–10 to read as follows:

### Table I–10—Selection of Retirement Rate Category

<table>
<thead>
<tr>
<th>Participant’s retirement rate category is—</th>
<th>Low 1 if monthly benefit at URA is less than—</th>
<th>Medium 2 if monthly benefit at URA is—</th>
<th>High 3 if monthly benefit at URA is greater than—</th>
</tr>
</thead>
<tbody>
<tr>
<td>From—</td>
<td>To—</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>562</td>
<td>562</td>
<td>2,376</td>
</tr>
<tr>
<td>2012</td>
<td>573</td>
<td>573</td>
<td>2,419</td>
</tr>
<tr>
<td>2013</td>
<td>583</td>
<td>583</td>
<td>2,465</td>
</tr>
<tr>
<td>2014</td>
<td>595</td>
<td>595</td>
<td>2,514</td>
</tr>
<tr>
<td>2015</td>
<td>608</td>
<td>608</td>
<td>2,567</td>
</tr>
<tr>
<td>2016</td>
<td>620</td>
<td>620</td>
<td>2,621</td>
</tr>
<tr>
<td>2017</td>
<td>633</td>
<td>633</td>
<td>2,676</td>
</tr>
<tr>
<td>2018</td>
<td>647</td>
<td>647</td>
<td>2,732</td>
</tr>
<tr>
<td>2019</td>
<td>660</td>
<td>660</td>
<td>2,790</td>
</tr>
<tr>
<td>2020 or later</td>
<td>674</td>
<td>674</td>
<td>2,848</td>
</tr>
</tbody>
</table>

1 Table II–A.
2 Table II–B.
3 Table II–C.
DEPARTMENT OF DEFENSE
Office of the Secretary
32 CFR Part 323
[Docket ID: DoD–2009–OS–0006]

Privacy Act; Implementation

AGENCY: Defense Logistics Agency, DoD.

ACTION: Final rule with request for comments; withdrawal.

SUMMARY: The Department of Defense is withdrawing the final rule published on October 29, 2009 (74 FR 55781–55782), which updated the Defense Logistics Agency Privacy Act Program Rules, 32 CFR part 323, by replacing the (k)(2) exemption with a (k)(5) exemption for their Defense Logistics Agency Criminal Incident Reporting System Records.

DATES: The final rule amending 32 CFR part 323 published on October 29, 2009 (74 FR 55781–55782) is withdrawn as of December 1, 2009.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings, 703–696–5284.


Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Part 100
[Docket No. USCG–2009–0759]

Southern California Annual Marine Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulation in 33 CFR 100.1101 for the San Diego Christmas Boat Parade of Lights on the San Diego Bay from 5:30 p.m. through 8 p.m. on December 13, 2009, and from 5:30 p.m. through 8 p.m. on December 20, 2009. This action is necessary to provide for the safety of the participants, crew, spectators, and other vessels and users of the waterway. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of ship parade participants or official patrol vessels in the regulated area, unless cleared for such entry by or through an official patrol vessel. Vessels shall comply with all directions given. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.


T. H. Farris,
Captain, U.S. Coast Guard, Captain of the Port San Diego.

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY
Coast Guard
33 CFR Part 100
[Docket No. USCG–2009–0917]

Notice of Enforcement for Special Local Regulation; Mission Bay Parade of Lights; Mission Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Mission Bay Parade of Lights Special Local Regulation on Mission Bay, CA from 5 p.m. through 10 p.m. on December 12, 2009. This action is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels of the race, and general users of the waterway. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of ship parade participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared...