

required the utility to adopt—while simultaneously refusing to allow the United States utility to use the Canadian entity's transmission facilities.³⁸

We emphasized that Ontario Hydro's interpretation would twist the national treatment concept "into a requirement that Canadian entities be treated better than United States entities, including United States non-public utilities that are subject to the reciprocity condition."³⁹ Under Order Nos. 888 and 888-A, the same reciprocity condition applies to foreign utilities as applies to U.S. non-public utilities.⁴⁰ Ontario Hydro's reading of NAFTA, however, [w]ould place transmission-owning Canadian entities (or their corporate affiliates) in a *better* position than any domestic entity; not only would Canadian entities not be subject to the open access requirement, but, unlike domestic non-public utilities, they would be able to use the open access tariffs we have mandated without providing *any* reciprocal service. Ontario Hydro has cited no precedent demonstrating that NAFTA imposes such an unreasonable requirement.⁴¹

The Commission Orders: Ontario Hydro's motion for stay is hereby denied.

By the Commission.

Lois D. Cashell,

Secretary.

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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 § 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:

§ 4007.10 Recordkeeping; audits; disclosure of information.

* * * * *

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

³⁸ FERC Stats. & Regs. ¶ 31,048 at 30,291.

³⁹ *Id.*

⁴⁰ Ontario Hydro's citation to Conference of State Bank Supervisors v. Conover, 715 F.2d 604 (D.C. Cir. 1983), *cert. denied*, 466 U.S. 927 (1984), as prohibiting a reciprocity condition is entirely inapposite. This case dealt with the International Banking Act, a federally enacted statute, which the court explained "sought to provide foreign banks with 'national treatment' under which 'foreign enterprises * * * are treated as competitive equals with their domestic counterparts.'" 715 F.2d at 606. The court found that an individual state's attempt to impose state reciprocity requirements on a federally-chartered foreign bank would conflict with the national treatment provided under the federal act and thus was precluded. *Id.* at 617. No such state/federal conflict exists with respect to the reciprocity condition set forth in Order Nos. 888 and 888-A.

⁴¹ FERC Stats. & Regs. ¶ 31,048 at 30,291-92.

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. § 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 §§ 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.

[FR Doc. 97-17952 Filed 7-8-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL-5855-4]

Air Pollution; Standards of Performance for New Stationary Sources; Municipal Waste Combustors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Revised notice of determination of part 60 applicability.

SUMMARY: The Environmental Protection Agency (EPA) has revised its determination that the 1995 "Standards of Performance for Municipal Waste Combustors" (Part 60, Subpart Eb) will apply to all three municipal waste combustor units in a "waste-to-energy" conversion project proposed by the Central Wayne Energy Recovery Limited Partnership (Central Wayne), necessary to be consistent with a recent court opinion that vacated in part the 1995 standards.

EFFECTIVE DATE: This determination took effect on June 3, 1997. Petitions for review of this determination must be filed on or before September 8, 1997 in accordance with the provisions of section 307(b)(1) of the Clean Air Act.

ADDRESSES: The related material in support of this decision may be examined during normal business hours at the United States Environmental Protection Agency, Air and Radiation Division, Air Enforcement and Compliance Assurance Branch, 17th Floor, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Gahris of U.S. EPA Region 5, Air Enforcement and Compliance Assurance Branch (AE-17J), 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone (312) 886-6794.

SUPPLEMENTARY INFORMATION: On August 16, 1995, the Director of Wayne County, Michigan's Air Quality Management Division, requested a determination on the applicability of the New Source Performance Standards for New Stationary Sources (NSPS) to a "waste-to-energy" conversion project proposed by the Central Wayne Energy Limited Partnership for the municipal waste combustor facility located in Dearborn Heights, Michigan. After requesting and receiving additional clarifying information, EPA responded to Wayne County's request by means of a letter dated October 11, 1996 (62 FR 4463, January 30, 1997). EPA determined that each of the MWC units at the facility will become subject to the NSPS for

municipal waste combustors (40 CFR Part 60, Subpart Eb, as promulgated on December 19, 1995). This determination was based on the NSPS and emissions guidelines that were published in the **Federal Register** on December 19, 1995, and codified at 40 CFR Part 60, Subparts Eb and Cb, respectively.

Subsequent to this determination, however, the United States Court of Appeals for the District of Columbia Circuit held that the EPA had set standards improperly for facilities with multiple MWC units, and indicated its intention to vacate the 1995 standards in their entirety. *Davis County Solid Waste Management v. EPA*, 101 F.3d 1395 (D.C. Cir. 1996). On March 21, 1997, the Court amended its opinion (see 108 F.3d 1454 (D.C. Cir. 1997)), and on April 8, 1997, the Court vacated the 1995 standards as they apply to MWC units with capacities to combust less than or equal to 250 tons per day of municipal solid waste ("small units") and all cement kilns. The 1995 standards, however, have remained in effect for units with capacity greater than 250 tons per day ("large MWC units") since their promulgation. Because Units 1 and 2 at Central Wayne's proposed facility each have capacities of 250 tons per day, they are small units; therefore, EPA has revised its determination to exclude Units 1 and 2 from its previous determination because Subparts Cb and Eb have been vacated as they apply to small units such as these. Unit 3, because it is a large unit unaffected by the court opinion, is not affected by this decision.

In addition, EPA's revised applicability determination provides clarification to Wayne County Department of Environment's question on how to apply emission limits in situations where several units share the same stack, which is the case for Central Wayne's facility as presently proposed. In EPA's October 11, 1996 applicability determination, EPA indicated it was EPA's policy and practice to apply the strictest standard to all of the units. In its June 3, 1997 revised applicability determination, EPA indicated that, in light of the *Davis* decision, Central Wayne may propose a redesign or reconfiguration of its facility by which it can demonstrate that each unit is in compliance with the applicable emission standards by testing while operating only one unit at time, or by any alternate means it may suggest for EPA's review and approval. If the source cannot meet this showing, then the EPA policy of applying the strictest standard will govern.

In addition to the publication of this action, EPA is placing a copy of this