

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, 1998.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 98-18955 Filed 7-15-98; 8:45 am]

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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.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY/TTD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

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 initial determination 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 benefits 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 missing participants 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)(iii)).

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

- The final rule allows the PBGC to make a lump sum payment, without regard to amount, of any benefits due to an estate (*e.g.*, under a certain and continuous benefit where the designated beneficiary predeceases the participant) if the estate elects a lump sum (*see* § 4022.7(b)(1)(iv)).

Applicability: This amendment applies to any 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 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

associated with plan termination. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects

29 CFR Parts 4022 and 4041A

Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Pension insurance, Pensions.

29 CFR Parts 4011, 4050 and 4281

Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC is amending parts 4011, 4022, 4041A, 4044, 4050, and 4281 of 29 CFR chapter XL 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 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 is \$5,000 or less, the value of any amounts returned under paragraph (b)(2) of this section is disregarded. If the PBGC determines a title IV benefit before it determines the benefit payable under section 4022(c) of ERISA, the \$5,000

threshold shall apply separately to the title IV benefit. The section 4022(c) benefit shall be paid in annuity form if the title IV benefit is paid in annuity form, and otherwise shall be separately subject to the \$5,000 threshold.

(ii) Annuity option. If the PBGC would otherwise make a lump sum payment in accordance with paragraph (b)(1)(i) of this section and the monthly benefit is equal to or greater than \$25 (at normal retirement age and in the normal form for an unmarried participant), the PBGC shall provide the participant (or the beneficiary of a participant who is deceased as of the termination date) the option to receive the benefit in the form of an annuity.

(iii) Election of QPSA lump sum. If the lump sum value of a qualified preretirement survivor annuity is \$5,000 or less, the benefit is not yet in pay status, and the participant dies after the termination date, the benefit may be paid in a lump sum if so elected by the surviving spouse.

(iv) Certain and continuous payments to estates. The PBGC may pay any benefits payable to an estate (e.g., in the case of benefits under a certain and continuous annuity where the designated beneficiary predeceases the participant) in a lump sum without regard to the threshold in paragraph (b)(1)(i) of this section if so elected by the estate. The payments shall be discounted using the immediate interest rate that would be applicable to the plan under § 4044.52(b) if the termination date had been the date of death (or, if later, July 16, 1998).

* * * * *

(d) Determination of lump sum amount. The lump sum value of a benefit shall be determined in accordance with § 4044.52(b).

PART 4041A—TERMINATION OF MULTIEMPLOYER PLANS

5. The authority citation for part 4041A continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1441.

§ 4041A.43 [Amended]

6. In § 4041A.43, paragraph (b)(1) is amended by removing "\$3,500" and adding, in its place, "\$5,000".

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

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

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

8. In section 4044.52, the introductory text to paragraph (b) is revised to read as follows:

§ 4044.52 Valuation of benefits.

* * * * *

(b) Benefits payable as lump sums. For valuing benefits payable as lump sums (including the return of accumulated employee contributions upon death), and for 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:

Authority: 29 U.S.C. 1302(b)(3), 1350.

§ 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 "\$3,200" each time it appears and adding, in each place, "\$4,700"; paragraph (3) to Example 1 is amended by removing "\$3,400" and adding, in its 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 trustee 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 trustee 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.

[FR Doc. 98-18995 Filed 7-15-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD11-97-010]

RIN 2115-AE84

Regulated Navigation Area: Copper Canyon, Lake Havasu, Colorado River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a Regulated Navigation Area (RNA) within the Copper Canyon, Lake Havasu region on the waters of the Colorado River. This action is necessary because the Coast Guard has determined that the extremely heavy traffic of recreational vessels in this area, particularly during peak holiday periods, creates conditions hazardous to navigation and causes vessels carrying law enforcement and emergency medical personnel to be unable to access the area. This RNA will establish an access lane to enhance navigation safety and to permit law enforcement and emergency response officials to reach all areas of Copper Canyon and provide services.

DATES: Effective August 17, 1998.

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