

evaluations of the products and FDA's conclusions based on those evaluations. Enactment of the Generic Animal Drug and Patent Term Restoration Act of 1988 has superseded the approval of NADA's based on NAS/NRC evaluations. At this time, the NAS/NRC status paragraph is removed.

Also, the heading of § 520.2260a is revised to include tablets in addition to oblets and boluses.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to congressional review requirements in 5 U.S.C. 801-808.

#### List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

#### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

**Authority:** 21 U.S.C. 360b.

2. Section 520.2260a is amended by revising the section heading and paragraph (a)(1), and by removing paragraph (a)(4) to read as follows:

#### § 520.2260a Sulfamethazine oblet, tablet, and bolus.

(a)(1) *Sponsor.* See No. 010042 in § 510.600(c) of this chapter for use of 2.5-, 5-, and 15-gram sulfamethazine oblet in beef cattle, nonlactating dairy cattle, and horses. See No. 061690 in § 510.600(c) of this chapter for use of 5-, 15-, and 25-gram tablet in beef and nonlactating dairy cattle.

\* \* \* \* \*

Dated: November 10, 1999.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 99-30703 Filed 11-24-99; 8:45 am]

**BILLING CODE 4160-01-F**

#### PENSION BENEFIT GUARANTY CORPORATION

#### 29 CFR Part 4007

**RIN 1212-AA82**

#### Payment of Premiums

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The PBGC is amending its regulation on Payment of Premiums to encourage self-correction of premium underpayments. The amendments make it easier to qualify for "safe-harbor" relief from late payment penalty charges and codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month to 1% per month if a premium payor corrects an underpayment before PBGC notification).

**DATES:** *Effective Date:* December 27, 1999.

*Applicability Dates:* The amendment to the safe-harbor rules will apply to PBGC initial determinations and final decisions on requests for reconsideration ("PBGC determinations") with respect to premiums for 1999 and later plan years, and to PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999. The amendment to the late payment penalty rate will apply to PBGC determinations issued on or after December 27, 1999 with respect to premiums for 1996 and later plan years.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** On April 27, 1999 (at 64 FR 22589), the PBGC published a proposed rule to amend its regulation on Payment of Premiums (29 CFR part 4007). The proposed amendments would make it easier to qualify for "safe-harbor" relief from late payment penalty charges and would codify the PBGC's current premium penalty policy (under which the penalty charge is lowered from 5% per month

to 1% per month if a premium payor corrects an underpayment before PBGC notification).

The PBGC received two comments on the proposed rule. Both commenters praised the PBGC's efforts to expand safe-harbor relief but suggested that the amendment to the safe-harbor rules, which in the proposed rule would have applied with respect to premiums for 1999 and later plan years, should apply with respect to premiums for prior plan years as well. In response to the comments, the PBGC will provide the expanded safe-harbor relief to all PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999, as well as to all PBGC determinations with respect to premiums for 1999 and later plan years. Applying the expanded safe-harbor relief with respect to premiums for prior plan years will further encourage self-correction of premium underpayments. In all other respects, the PBGC is issuing the final regulation without change from the proposed regulation.

#### Amendment to Safe-Harbor Rules

The proposed rule expanded the PBGC's safe-harbor rules under the current regulation to encourage self-correction in three situations. As explained in detail in the preamble to the proposed rule, a plan's premium due dates depend upon whether the plan is "small" or "large." The determination of whether a plan is "small" or "large" is based on the actual number of participants for whom premiums were payable for the prior year (not necessarily the number of participants reported on the PBGC Form 1 for the prior year).

The premium filing due date for small plans (those with fewer than 500 participants for the prior year) for both the flat-rate premium (for single-employer and multiemployer plans) and the variable-rate premium (for single-employer plans) is the fifteenth day of the tenth full calendar month in the premium payment year. For calendar year plans, this date is October 15 of the premium payment year. (For convenience, the discussion in this preamble assumes that all plans are calendar year plans.)

For large single-employer and multiemployer plans (those with 500 or more participants for the prior year), the due date for the flat-rate premium is the last day of the second full calendar month in the premium payment year (February 28 of the premium payment year). If the number of participants for whom premiums are payable for the premium payment year is not known by

February 28 of the premium payment year, the plan administrator must make an "estimated" payment by February 28 of the premium payment year and a "reconciliation" payment by October 15 of the premium payment year. The due date for the variable-rate premium for large single-employer plans is also October 15 of the premium payment year.

Because plan administrators often do not know the exact participant count for the premium payment year by February 28 of the premium payment year, the current regulation provides a safe harbor from late payment penalty charges, provided certain requirements are met. (There is no safe harbor from late payment interest charges.) A plan administrator must do two things to qualify for the safe harbor and therefore avoid late payment penalty charges:

- By February 28 of the premium payment year, the plan administrator must pay the lesser of: (1) 90% of the flat-rate premium due for the premium payment year; or (2) 100% of the flat-rate premium that would be due for the premium payment year, if that amount were determined by multiplying the actual participant count for the prior year by the flat premium rate for the premium payment year.
- By October 15 of the premium payment year, the plan administrator must pay any remaining portion of the flat-rate premium for the premium payment year.

Under the current regulation, a plan can fail to qualify for safe-harbor relief if the plan administrator corrects a premium underpayment or fails to make a timely reconciliation payment. The amendment addresses three situations where this can happen. The preamble to the proposed rule contains detailed examples of how the amendment would apply in these situations.

The amendment will affect only penalty charges. It will not affect interest charges on any premium underpayment.

#### *500-Participant Threshold*

Under the current regulation, a plan can fail to qualify for safe-harbor relief if the plan administrator, relying on a reported participant count of less than 500 for the prior year, fails to make an estimated payment by February 28 of the premium payment year and later corrects the prior year's participant count to 500 or more. Under the amendment, whether the PBGC will assess a late payment penalty charge for failure to make an estimated payment for the premium payment year by February 28 of the premium payment year is determined based on the lesser of (1) the number of participants *reported* for the prior year, or (2) the

*actual* number of participants for the prior year. Thus, the PBGC will not assess a penalty charge for failing to make an estimated payment for the premium payment year by February 28 of the premium payment year if the number of participants *reported* for the prior year is fewer than 500. For this purpose, the number of participants reported for the prior year is the number of participants last reported for the prior year (on the PBGC Form 1 or an amended PBGC Form 1) by February 28 of the premium payment year.

#### *Estimate Based on Prior Year's Form 1 Participant Count*

Under the current regulation, a plan can lose safe-harbor relief if the plan administrator, in computing the estimated flat-rate premium payment due on February 28 of the premium payment year, relies on a participant count reported on the prior year's PBGC Form 1 that is later corrected because it is determined to be too low. Under the amendment, the PBGC will determine whether the estimated payment reflected at least 100% of the prior year's participant count by using the lesser of: (1) the number of participants reported on the prior year's PBGC Form 1 or amended PBGC Form 1 (filed by February 28 of the premium payment year); or (2) the actual number of participants for the prior year.

#### *PBGC Form 1 Reconciliation Payment Underpaid or Late*

Under the current regulation, a plan loses safe-harbor relief when the plan administrator timely makes the appropriate estimated payment by February 28 of the premium payment year but fails to make the full PBGC Form 1 reconciliation payment on time. This can occur, for example, if the plan administrator bases the reconciliation payment on a participant count that is too low. (It can also occur if the plan administrator makes the reconciliation payment late.) Under the amendment, payment of any balance of the flat-rate premium due for the premium payment year by October 15 of the premium payment year will no longer be a prerequisite for qualifying for safe-harbor relief.

#### **Amendment to Late Payment Penalty Rate**

The regulation also codifies the PBGC's December 2, 1996, policy statement, in which it announced its current two-tiered penalty rate policy for 1996 and later plan years (61 FR 63874). The PBGC will assess a penalty of 1% per month if the premium is paid on or before the date the PBGC issues

a written notice that there is or may be a premium delinquency. If the premium is paid after the PBGC notification date, the penalty rate will be 5% per month for all months. The minimum total penalty will continue to be \$25, and the penalty will continue to be limited to 100% of the unpaid premium. PBGC notification may take various forms, including a premium bill, a letter initiating a premium compliance review (*i.e.*, an audit), or a letter questioning a failure to make a premium filing. The 5% rate will apply (for all months) to all persons liable for premiums for the plan (*i.e.*, the plan administrator and, for a single-employer plan, each contributing sponsor and each member of any contributing sponsor's controlled group) once this notice is issued to any of those persons.

#### **Miscellaneous**

The regulation clarifies that the penalty waiver for premium underpayments paid within 30 days after the date of a PBGC bill applies only to penalty charges accruing after the date of the bill.

The current regulation provides that the PBGC may waive all or part of a late payment penalty charge upon a demonstration of "good cause." The PBGC is changing the standard to "reasonable cause" to be consistent with the standard in the PBGC's policy statements on penalties under section 4071 of ERISA (relating to penalties for failure to provide required information on time). This is only a change in terminology that is not intended to alter the substantive requirements for this waiver.

#### **Applicability**

The amendment to the safe-harbor rules will apply to PBGC determinations with respect to premiums for 1999 and later plan years, and to PBGC determinations issued on or after December 27, 1999 with respect to premiums for plan years beginning before 1999.

The amendment to the late payment penalty rate will apply to PBGC determinations issued on or after December 27, 1999 with respect to premiums for 1996 and later plan years.

#### **Compliance With Rulemaking Guidelines**

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

This rule provides relief from premium penalties. The relief is limited to a percentage—generally small—of a plan's premium. While this rule will

result in a positive economic impact for some small entities, the number of small entities for which the impact will be significant is not substantial. The PBGC therefore certifies under section 605(b) of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

#### 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 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1301(a), 1306, 1307.

2. Section 4007.8 is revised to read as follows:

##### § 4007.8 Late payment penalty charges.

(a) *Penalty charge.* If any premium payment due under this part is not paid by the due date under § 4007.11, the PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The charge will be no more than 100% of the unpaid premium. The charge will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of \$25 (or, if less, the amount of the unpaid premium).

(1) *Penalty rate for post-1995 premium payment years.* This paragraph (a)(1) applies to the premium for any premium payment year beginning after 1995. The penalty rate is—

(i) 1% per month (for all months) on any amount of unpaid premium that is paid on or before the date the PBGC issues a written notice to any person liable for the plan's premium that there is or may be a premium delinquency (e.g., a premium bill, a letter initiating a premium compliance review, or a letter questioning a failure to make a premium filing); or

(ii) 5% per month (for all months) on any amount of unpaid premium that is paid after that date.

(2) *Penalty rate for pre-1996 premium payment years.* This paragraph (a)(2) applies to the premium for any premium payment year beginning before 1996. The penalty rate is 5% per month

(for all months) on any amount of unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waiver.* The PBGC may, upon any demonstration of reasonable cause, waive all or part of a late payment penalty charge.

(d) *Waiver on PBGC's own initiative.* The PBGC may, on its own initiative, waive all or part of a late payment penalty charge.

(e) *Grace period.* With respect to any PBGC bill for a premium underpayment, the PBGC will waive any late payment penalty charge accruing after the date of the bill, provided the premium underpayment is paid within 30 days after the date of the bill.

(f) *Safe-harbor relief for certain large plans.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if fewer than 500 participants are reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(g) *Safe-harbor relief for plans that make minimum estimated payment.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if, by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i), the plan administrator pays at least the lesser of—

(1) 90% of the flat-rate premium due for the premium payment year; or

(2) 100% of the flat-rate premium that would be due for the premium payment year if the number of participants for that year were the lesser of—

(i) The number of participants for whom premiums were required to be paid for the plan year preceding the premium payment year; or

(ii) The number of participants reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(h) *Reported participant count.* For purposes of paragraphs (f) and (g)(2)(ii) of this section, the number of participants reported for the plan year preceding the premium payment year is the number of participants last reported under this part to the PBGC (for the plan

year preceding the premium payment year) by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i).

Issued in Washington, DC, this 19th day of November, 1999.

**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. 99-30775 Filed 11-24-99; 8:45 am]

BILLING CODE 7708-01-P

#### DEPARTMENT OF THE INTERIOR

##### Office of Surface Mining Reclamation and Enforcement

##### 30 CFR Part 915

[SPATS No. IA-005-FOR]

##### Iowa Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with certain exceptions and additional requirements, an amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Iowa added revegetation success guidelines to its program. These guidelines include revegetation success standards, statistically valid sampling procedures and techniques for determining revegetation success on areas being restored to various land uses, and normal husbandry practices. Iowa intends to revise its program to be consistent with the corresponding Federal regulations and to improve operational efficiency.

**EFFECTIVE DATE:** November 26, 1999.

**FOR FURTHER INFORMATION CONTACT:** John W. Coleman, Office of Surface Mining, Mid-Continent Regional Coordinating Center, Alton Federal Building, 501 Belle Street, Alton, Illinois 62002. Telephone: (618) 463-6460. Internet: jcoleman@mcrwgw.osmre.gov.

##### SUPPLEMENTARY INFORMATION:

- I. Background on the Iowa Program
- II. Submission of the Proposed Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments