

mathematical function that is a cubic spline in the interval from 10 years maturity through 30 years maturity made up of two polynomials with a smooth junction (as described in paragraph (d)(2)(ii)(A) of this section) at 20 years maturity. The spline rises from 0 at 10 years maturity to 1.0 at 20 years maturity, then falls back down to 0 at 30 years maturity. The hump adjustment variable is 0 for maturities less than 10 years and maturities greater than 30 years.

(iv) *Weighting of bond data.* The bond data are weighted in three steps. In the first step, equal weights are assigned to the commercial paper rates at the short end of the curve, and the par amounts outstanding of all the bonds are rescaled so that their sum equals the sum of the weights for commercial paper. In the second step, the squared price difference for each commercial paper rate is multiplied by the commercial paper weight, and the squared price difference for each bond is multiplied by the bond's rescaled par amount outstanding. In the third step, applicable for bonds with duration greater than 1, the weighted squared price difference for each bond from the second step is divided by the bond's duration.

(3) *Data used*—(i) *In general.* Except as otherwise provided in this paragraph (d)(3), the bonds that are used to construct the daily corporate bond yield curve for a business day are bonds with maturities longer than ½ year, with at least two payment dates, and that:

- (A) Are designated as corporate;
- (B) Have high quality ratings (AAA, AA, or A) as of that business day from the nationally recognized statistical rating organizations;
- (C) Have at least \$250 million in par amount outstanding on at least one day during the month;
- (D) Pay fixed nominal semiannual coupons and the principal amount at maturity; and
- (E) Mature not later than 30 years after that business day.

(ii) *Excluded bonds.* The following types of bonds are not used to construct the daily corporate bond yield curve for a date:

- (A) Bonds not denominated in U.S. dollars;
- (B) Bonds not issued by U.S. corporations;
- (C) Bonds that are capital securities (sometimes referred to as hybrid preferred stock);
- (D) Bonds with variable coupon rates;
- (E) Convertible bonds;
- (F) Bonds issued by a government-sponsored enterprise (such as the Federal National Mortgage Association);

(G) Asset-backed bonds;

(H) Callable bonds, unless the call feature is make-whole or the call feature is exercisable only during the last year before maturity;

(I) Puttable bonds;

(J) Bonds with sinking funds; and

(K) Bonds with an outstanding par amount below \$250 million for the day for which the daily yield curve is constructed.

(iii) *Durations equal to or below ½ year.* The data for durations equal to or below ½ year that is used to construct the daily corporate bond yield curve consists of AA financial and AA nonfinancial commercial paper rates, as reported by the Federal Reserve Board.

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(h) *Applicability date.* This section applies for months that begin on or after February 1, 2024. For rules that apply for earlier periods, see 26 CFR 1.430(h)(2)–1 revised as of April 1, 2023.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: December 27, 2023.

Lily Batchelder,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2024–00552 Filed 1–11–24; 8:45 am]

BILLING CODE 4830–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4071 and 4302

RIN 1212–AB45

Adjustment of Civil Penalties for Inflation

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust for inflation the maximum civil penalty for failure to provide certain notices or other material information and for failure to provide certain multiemployer plan notices.

DATES:

Effective date: This rule is effective on January 12, 2024.

Applicability date: The increases in the civil monetary penalties under sections 4071 and 4302 of the Employee Retirement Income Security Act provided for in this rule apply to such penalties assessed after January 12, 2024.

FOR FURTHER INFORMATION CONTACT:

Karen Levin (*levin.karen@pbgc.gov*), Attorney, Regulatory Affairs Division, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101; 202–229–3559. If you are deaf or hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance M–24–07. The rule adjusts, as required for 2024, the maximum civil penalties under 29 CFR parts 4071 and 4302 that the Pension Benefit Guaranty Corporation (PBGC) may assess for failure to provide certain notices or other material information and certain multiemployer plan notices.

PBGC's legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the Employee Retirement Income Security Act of 1974 (ERISA).

Major Provisions of the Regulatory Action

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are \$2,670 for section 4071 penalties and \$356 for section 4302 penalties.

Background

PBGC administers title IV of ERISA. Title IV has two provisions that authorize PBGC to assess civil monetary penalties.¹ Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to \$100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes

¹ Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.

PBGC to assess a civil penalty of up to \$1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

Adjustment of Civil Penalties

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015² requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be published by January 15 each year after 2016.

On December 19, 2023, the Office of Management and Budget issued memorandum M–24–07 on implementation of the 2024 annual inflation adjustment.³ The memorandum provides agencies with the cost-of-living adjustment multiplier for 2024, which is based on the Consumer Price Index (CPI–U) for the month of October 2023, not seasonally adjusted. The multiplier for 2024 is 1.03241. The adjusted maximum amounts are \$2,670 for section 4071 penalties and \$356 for section 4302 penalties.

Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a “significant regulatory action” under Executive Order 12866 and therefore not subject to its review.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

Because no general notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Parts 4071 and 4302

Penalties.

In consideration of the foregoing, PBGC amends 29 CFR parts 4071 and 4302 as follows:

² Sec. 701, Public Law 114–74, 129 Stat. 599–601 (Bipartisan Budget Act of 2015).

³ See M–24–07, Implementation of Penalty Inflation Adjustments for 2024, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, <https://www.whitehouse.gov/wp-content/uploads/2023/12/M-24-07-Implementation-of-Penalty-Inflation-Adjustments-for-2024.pdf>.

PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

■ 1. The authority citation for part 4071 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1371.

§ 4071.3 [Amended]

■ 2. In § 4071.3, remove the number “\$2,586” and add in its place the number “\$2,670”.

PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

■ 3. The authority citation for part 4302 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

§ 4302.3 [Amended]

■ 4. In § 4302.3, remove the number “\$345” and add in its place the number “\$356”.

Issued in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2024–00488 Filed 1–11–24; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[SATS No. WV–125–FOR; Docket ID: OSMRE–2017–0003 S1D1S SS08011000 SX064A000 2340S180110; S2D2S SS08011000 SX064A000 23XS501520]

West Virginia Regulatory Program

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

ACTION: Final rule; approval of amendment with deferral.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving, with one deferral, an amendment to the West Virginia statutory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The amendment revises the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA) as contained in Senate Bill 687 of 2017. These revisions modify the WVSCMRA requirements related to the release of

bonds and provisions related to the use of money from the Special Reclamation Water Trust Fund. We are deferring our decision on the removal of provisions pertaining to the long-range planning process for the selection and prioritization of sites to be reclaimed.

DATE: This rule is effective February 12, 2024.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Castle, Acting Field Office Director, Charleston Field Office, Telephone: (859) 260–3900. Email: osm-chfo@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the West Virginia Program
- II. Submission of the Amendment
- III. OSMRE’s Findings
- IV. Summary and Disposition of Comments
- V. OSMRE’s Decision
- VI. Statutory and Executive Order Reviews

I. Background on the West Virginia Program

Subject to OSMRE’s oversight, SMCRA section 503(a) permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary’s findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning the West Virginia program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Submission of the Amendment

By letter dated May 3, 2017 (Administrative Record No. 1608), and received by us on May 15, 2017, the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program under SMCRA, docketed as WV–125–FOR. The proposed amendment consists of statutory revisions to WVSCMRA contained in Senate Bill 687 of 2017 (S.B. 687) (approved April 26, 2017). See 2017 W.Va. Acts ch. 86.

Through S.B. 687, West Virginia seeks to revise statutory provisions related to the release of bonds and the use of