

\$986.86 ( $\$2,650 \times 0.3724$ ) and must further reduce the reduced temporary benefit of \$350 per month to \$130.34 ( $\$350 \times 0.3724$ ). Under paragraph (c) of this section, therefore, the participant's maximum guaranteeable benefit is \$1,117.20 ( $\$986.86 + \$130.34$ ) per month to age 62 and \$986.86 per month thereafter, subject to any adjustment under paragraph (d) of this section.

Assume that the estimated benefit under paragraph (d) is \$1,005.48 per month to age 62 and \$888.17 per month thereafter. The plan administrator would reduce the participant's benefit from \$3,450 per month to \$1,005.48 per month and pay this amount until age 62, at which time the benefit payment would be reduced to \$888.17 per month, subject to the final benefit determination made under title IV.

[61 FR 34028, July 1, 1996, as amended at 62 FR 60428, Nov. 7, 1997]

**§ 4022.62 Estimated guaranteed benefit.**

(a) *General.* The estimated guaranteed benefit payable with respect to each participant who is not a substantial owner is computed under paragraph (c) of this section. The estimated guaranteed benefit payable with respect to each participant who is a substantial owner is computed under paragraph (d) of this section.

(b) *Rules for determining benefits.* For the purposes of determining entitlement to a benefit and the amount of the estimated benefit under this section, the following rules apply:

(1) *Participants in pay status on the proposed termination date.* For benefits payable with respect to a participant who is in pay status on or before the proposed termination date, the plan administrator shall use the participant's age and benefit payable under the plan as of the proposed termination date.

(2) *Participants who enter pay status after the proposed termination date.* For benefits payable with respect to a participant who enters pay status after the proposed termination date, the plan administrator shall use the participant's age as of the benefit commencement date and his or her service and compensation as of the proposed termination date.

(3) *Participants with new benefits or benefit improvements.* For the purpose of determining the estimated guaranteed benefit under paragraph (c) of this section, only new benefits and benefit im-

provements that affect the benefit of the participant or beneficiary for whom the determination is made are taken into account.

(4) *Limitations on estimated guaranteed benefits.* For the purpose of determining the estimated guaranteed benefit under paragraph (c) or (d) of this section, the benefit determined under paragraph (b)(1) or (b)(2) of this section is subject to the limitations set forth in § 4022.61 (b) and (c).

(c) *Estimated guaranteed benefit payable with respect to a participant who is not a substantial owner.* For benefits payable with respect to a participant who is not a substantial owner, the estimated guaranteed benefit is determined under paragraph (c)(1) of this section, if no portion of the benefit is subject to the phase-in of plan termination insurance guarantees set forth in section 4022(b)(1) of ERISA. In any other case, the estimated guaranteed benefit is determined under paragraph (c)(2). "Benefit subject to phase-in" means a benefit that is subject to the phase-in of plan termination insurance guarantees set forth in section 4022(b)(1) of ERISA, determined without regard to section 4022(b)(7) of ERISA.

(1) *Participants with no benefits subject to phase-in.* In the case of a participant or beneficiary with no benefit improvement (as defined in paragraph (c)(2)(ii)) or new benefit (as defined in paragraph (c)(2)(i)) in the five years preceding the proposed termination date, the estimated guaranteed benefit is the benefit to which he or she is entitled under the rules in paragraph (b) of this section.

(2) *Participants with benefits subject to phase-in.* In the case of a participant or beneficiary with a benefit improvement or new benefit in the five years preceding the proposed termination date, the estimated guaranteed benefit is the benefit to which he or she is entitled under the rules in paragraph (b) of this section, multiplied by the multiplier determined according to paragraphs (i), (ii), and (iii), but not less than the benefit to which he or she would have been entitled if the benefit improvement or new benefit had not been adopted.

(i) From column (a) of Table I, select the line that applies according to the

**Pension Benefit Guaranty Corporation**

**§ 4022.62**

number of full years before the proposed termination date since the plan was last amended to provide for a new benefit (or the number of full years since the plan was established, if it has never been amended to provide for a new benefit). "New benefit" means a change in the terms of the plan that results in (a) a participant's or a beneficiary's eligibility for a benefit that was not previously available or to which he or she was not entitled (excluding a benefit that is actuarially equivalent to the normal retirement benefit to which the participant was previously entitled) or (b) an increase of more than twenty percent in the benefit to which a participant is entitled upon entering pay status before his or her normal retirement age under the plan. "New benefits" result from liberalized participation or vesting requirements, reductions in the age or service requirements for receiving unreduced benefits, additions of actuarially subsidized benefits, and increases in actuarial subsidies. The establishment of a plan creates a new benefit as of the effective date of the plan. A change in the amount of a benefit is not deemed to be a "new benefit" if it results solely from a benefit improvement. "New benefit" and "benefit improvement" are mutually exclusive terms.

(ii) If there was no benefit improvement under the plan during the one-year period ending on the proposed termination date, use the multiplier set forth in column (b) of Table I on the line selected from column (a). "Benefit improvement" means a change in the terms of the plan that results in (a) an increase in the benefit to which a participant is entitled at his or her normal retirement age under the plan or (b) an increase in the benefit to which a participant or beneficiary in pay status is entitled.

(iii) If there was any benefit improvement during the one-year period ending on the proposed termination date, use the multiplier set forth in column (c) of Table I on the line selected from column (a).

TABLE I—APPLICABLE MULTIPLIER IF—

Full years since last new benefit	No benefit improvement during last year	Benefit improvement during last year
(a)	(b)	(c)
Five or more .....	.90	.80
Four .....	.80	.70
Three .....	.65	.55
Two .....	.50	.45
Fewer than two .....	.35	.30

NOTE: The foregoing method of estimating guaranteed benefits is based upon the PBGC's experience with a wide range of plans and may not provide accurate estimates in certain circumstances. In accordance with § 4022.61(e), a plan administrator may use a different method of estimation if he or she demonstrates to the PBGC that his proposed method will be more equitable to participants and beneficiaries. The PBGC may require the use of a different method in certain cases.

(d) *Estimated guaranteed benefit payable with respect to a substantial owner.* For benefits payable with respect to each participant who is a substantial owner and who commenced participation under the plan fewer than five full years before the proposed termination date, the estimated guaranteed benefit is determined under paragraph (d)(1). With respect to any other substantial owner, the estimated guaranteed benefit is determined under paragraph (d)(2).

(1) *Fewer than five years of participation.* The estimated guaranteed benefit under this paragraph is the benefit to which the substantial owner is entitled, as determined under paragraph (b) of this section, multiplied by a fraction, not to exceed one, the numerator of which is the number of full years prior to the proposed termination date that the substantial owner was an active participant under the plan and the denominator of which is thirty.

(2) *Five or more years of participation.* The estimated guaranteed benefit under this paragraph is the lesser of—

(i) The estimated guaranteed benefit calculated under paragraph (d)(1) of this section; or

(ii) The benefit to which the substantial owner would have been entitled as of the proposed termination date (or benefit commencement date in the case of a substantial owner whose benefit commences after the proposed termination date) under the terms of the plan in effect when he or she first began participation, as limited by § 4022.61 (b) and (c), multiplied by a

fraction, not to exceed one, the numerator of which is two times the number of full years of his or her active participation under the plan prior to the proposed termination date and the denominator of which is thirty.

(e) *Examples.* This section is illustrated by the following examples:

*Example 1—Facts.* A participant who is not a substantial owner retired on December 31, 1991, at age 60 and began receiving a benefit of \$600 per month. On January 1, 1989, the plan had been amended to allow participants to retire with unreduced benefits at age 60. Previously, a participant who retired before age 65 was subject to a reduction of  $\frac{1}{15}$  for each year by which his or her actual retirement age preceded age 65. On January 1, 1992, the plan's benefit formula was amended to increase benefits for participants who retired before January 1, 1992. As a result, the participant's benefit was increased to \$750 per month. There have been no other pertinent amendments. The proposed termination date is December 15, 1992.

*Estimated guaranteed benefit.* No reduction is required under § 4022.61 (b) or (c) because the participant's benefit does not exceed either the participant's accrued benefit at normal retirement age or the maximum guaranteeable benefit. (Post-retirement benefit increases are not considered as increasing accrued benefits payable at normal retirement age.)

The amendment as of January 1, 1989, resulted in a "new benefit" because the reduction in the age at which the participant could receive unreduced benefits increased the participant's benefit entitlement at actual retirement age by  $\frac{1}{15}$ , which is more than a 20 percent increase. The amendment of January 1, 1992, which increased the participant's benefit to \$750 per month, is a "benefit improvement" because it is an increase in the amount of benefit for persons in pay status. (No percentage test applies in determining whether such an increase is a benefit improvement.)

The multiplier for computing the amount of the estimated guaranteed benefit is taken from the third row of Table I (because the last new benefit had been in effect for 3 full years as of the proposed termination date) and column (c) (because there was a benefit improvement within the 1-year period preceding the proposed termination date). This multiplier is 0.55. Therefore, the amount of the participant's estimated guaranteed benefit is \$412.50 ( $0.55 \times \$750$ ) per month.

*Example 2—Facts.* A participant who is not a substantial owner terminated employment on December 31, 1990. On January 1, 1992, she reached age 65 and began receiving a benefit of \$250 per month. She had completed 3 years of service at her termination of employment

and was fully vested in her accrued benefit. The plan's vesting schedule had been amended on July 1, 1988. Under the schedule in effect before the amendment, a participant with 5 years of service was 100 percent vested. There have been no other pertinent amendments. The proposed termination date is December 31, 1992.

*Estimated guaranteed benefit.* No reduction is required under § 4022.61 (b) or (c) because the participant's benefit does not exceed either her accrued benefit at normal retirement age or the maximum guaranteeable benefit. The plan's change of vesting schedule created a new benefit for the participant. Because the amendment was in effect for 4 full years before the proposed termination date, the second row of Table I is used to determine the applicable multiplier for estimating the amount of the participant's guaranteed benefit. Because the participant did not receive any benefit improvement during the 12-month period ending on the proposed termination date, column (b) of the table is used. Therefore, the multiplier is 0.80, and the amount of the participant's estimated guaranteed benefit is \$200 ( $0.80 \times \$250$ ) per month.

*Example 3—Facts.* A participant who is a substantial owner retired prior to the proposed termination date after  $5\frac{1}{2}$  years of active participation in the plan. The benefit under the terms of the plan when he first began active participation was \$800 per month. On the proposed termination date of April 30, 1992, he was entitled to receive a benefit of \$2,000 per month. No reduction of this benefit is required under § 4022.61 (b) or (c).

*Estimated guaranteed benefit.* Paragraph (d)(2) of this section is used to compute the amount of the estimated guaranteed benefit of substantial owners with 5 or more years of active participation prior to the proposed termination date. Consequently, the amount of this participant's estimated guaranteed benefit is the lesser of—

(i) The amount calculated as if he had been an active participant in the plan for fewer than 5 full years on the proposed termination date, or \$333.33 ( $\$2,000 \times \frac{1}{6}$ ) per month, or

(ii) The amount to which he would have been entitled as of the proposed termination date under the terms of the plan when he first began participation, as limited by § 4022.61 (b) and (c), multiplied by 2 times the number of years of active participation and divided by 30, or \$266.67 ( $\$800 \times 2 \times \frac{1}{6}$ ) per month. Therefore, the amount of the participant's estimated guaranteed benefit is \$266.67 per month.

[61 FR 34028, July 1, 1996; 61 FR 36626, July 12, 1996]