



# Federal Register

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**Friday,  
May 7, 2004**

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## **Part V**

# **Pension Benefit Guaranty Corporation**

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**Participant Notice Voluntary Correction  
Program**

**29 CFR Parts 4011 and 4071**

**Assessment of and Relief From  
Penalties—Participant Notices; Notice and  
Proposed Rule**

## PENSION BENEFIT GUARANTY CORPORATION

RIN 1212-AB00

### Participant Notice Voluntary Correction Program

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice.

**SUMMARY:** The Pension Benefit Guaranty Corporation ("PBGC") is announcing a Participant Notice Voluntary Correction Program ("VCP"). This program, which generally covers Participant Notices for the 2002 or 2003 plan year that were not issued as required, is designed to encourage plan administrators to correct recent compliance failures without penalty and to facilitate plan administrators' future compliance. The PBGC will not pursue any failure to provide a pre-2002 Participant Notice unless there is a 2002 or 2003 Participant Notice failure that is covered by the VCP but that does not meet the requirements for penalty relief under the VCP. Elsewhere in today's **Federal Register**, the PBGC is proposing a new Participant Notice penalty policy.

**DATES:** To meet the requirements for penalty relief under the Participant Notice Voluntary Correction Program with respect to a Participant Notice failure for the 2002 or 2003 plan year, the plan administrator must: (1) Issue a VCP corrective notice by the 2004 Participant Notice due date (for calendar year plans, generally October 4, 2004, November 15, 2004, or December 15, 2004); and (2) notify the PBGC within 30 days after the 2004 Participant Notice due date.

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

#### SUPPLEMENTARY INFORMATION:

#### Overview of Participant Notice Requirements

Section 4011 of the Employee Retirement Income Security Act of 1974 ("ERISA") requires certain underfunded plans to issue a notice to participants of the plan's funding status and the limits on the PBGC's guarantee ("Participant Notice"). The Participant Notice helps to ensure that participants better understand the financial status of their plans and the consequences that plan

underfunding may have on their promised benefits. The PBGC's implementing regulations are at 29 CFR part 4011.

In general, a plan administrator must issue a Participant Notice for a plan year if a variable rate premium (which is tied to plan underfunding) is payable for that plan year, unless the plan meets the "DRC Exception Test" for that plan year or for the prior plan year. However, the Job Creation and Worker Assistance Act of 2002 (JCWAA) made a temporary change to the premium interest rate that did not apply for purposes of determining whether a Participant Notice was required. Therefore, a plan administrator may be required to provide a Participant Notice for the 2002 or 2003 plan year even if a variable rate premium is not payable for that plan year.

The Pension Funding Equity Act of 2004 (PFEA), which was signed into law by the President on April 10, 2004, changes the rules for determining the required interest rate for premium payment years beginning in 2004 or 2005. Under PFEA, plan administrators may use the premium interest rate for purposes of determining whether a Participant Notice is required. Thus, a plan administrator may be required to issue a Participant Notice for the 2004 or 2005 plan year only if a variable rate premium is payable for that plan year.

A Participant Notice for a plan year is due in that plan year—"two months after the due date (with extensions) for the plan's Form 5500 for the prior plan year. (The due date for a plan's Participant Notice for a plan year is keyed to the due date for the plan's Summary Annual Report for the prior plan year so that the two documents may be issued together.) For calendar year plans, common due dates for the 2004 Participant Notice are therefore October 4, 2004, November 15, 2004, and December 15, 2004. There are a variety of rules governing who is entitled to receive the Participant Notice and the form, content, and manner of issuance of the Participant Notice.

Plan administrators are required to certify on the annual PBGC premium filing (Form 1 or Form 1-EZ) that, for the prior plan year: (1) A Participant Notice was not required to be issued; (2) a Participant Notice was issued as required; or (3) an explanation is attached (e.g., because a required Participant Notice was issued late).

See appendix A for a detailed explanation of the requirements governing Participant Notices.

#### Compliance and Enforcement Background

The Participant Notice requirement went into effect in the 1995 plan year for large plans (generally plans with more than 100 participants) and in the 1996 plan year for small plans (generally plans with 100 or fewer participants). In the first few years after the requirement went into effect, plan administrators of only a relatively small number of defined benefit plans had to provide a Participant Notice, reflecting the fact that plans were better funded at that time. The PBGC conducted compliance surveys and found that both large plan and small plan compliance was high for those plan years. In the last several years, however, because of low interest rates and poor investment returns, more plans have become underfunded and, therefore, many plan administrators have been required to issue a Participant Notice for the first time.

Recent PBGC audits have found higher rates of noncompliance with the Participant Notice requirement than in prior years. Much of the noncompliance appears to have resulted from a lack of awareness or understanding of the applicable requirements rather than from an attempt to avoid disclosure. Nonetheless, plan participants deserve to know if their plans are underfunded. As a result, the PBGC is expanding its Participant Notice enforcement program with a view toward more actively auditing compliance and assessing penalties for noncompliance.

#### Overview of Voluntary Correction Program

As a transition to this expanded enforcement program, the PBGC is launching a Participant Notice Voluntary Correction Program ("VCP") designed to encourage plan administrators to correct past compliance failures and to facilitate their future compliance with Participant Notice requirements. The VCP generally covers Participant Notice failures for the 2002 and 2003 plan years. Under this program, the PBGC will not assess penalties for failure to provide a 2002 or 2003 Participant Notice as required if the failure is corrected in accordance with the guidelines in this notice. (The VCP focuses on the 2002 and 2003 plan years in part because the PBGC is concerned that some plan administrators may have misunderstood the effect of JCWAA on their Participant Notice obligations for those plan years.)

The PBGC will not pursue failures to provide a pre-2002 Participant Notice unless there is a 2002 or 2003

Participant Notice failure that is covered by the VCP but that does not meet the requirements for penalty relief under the VCP. Focusing the PBGC's enforcement resources primarily on 2002 and later Participant Notice failures will concentrate those resources effectively and limit disclosures to plan years that are most relevant to participants.

The PBGC anticipates that many plan administrators will want to participate in the VCP as a precaution, even in the absence of a known Participant Notice failure. Participation in the VCP will not affect the likelihood that a plan will be selected for audit of compliance with the requirement to issue a post-VCP Participant Notice (see "Participant Notices Covered by VCP"), with the PBGC premium requirement, or with any other PBGC requirement.

#### **Participant Notices Covered by VCP**

The VCP covers any Participant Notice for a plan's 2002 or 2003 plan year: (1) That is due before May 7, 2004; and (2) that is not, as of May 7, 2004, the subject of a PBGC audit proceeding.

For purposes of determining whether the VCP covers a plan's Participant Notice, the date the Participant Notice is due is determined without regard to any deadline extension resulting from a disaster relief notice. For example, if a calendar year plan's 2003 Participant Notice was originally due on December 15, 2003, but as a result of a disaster relief notice the due date was extended to May 14, 2004, the VCP would cover the plan's 2003 Participant Notice because the extension to May 14, 2004, would be disregarded.

#### **Requirements for VCP Penalty Relief**

For any Participant Notice that is covered by the VCP, the PBGC will not assess a penalty if the plan administrator, in accordance with the guidelines in this notice: (1) Issues a VCP corrective notice; and (2) notifies the PBGC that it is participating in the VCP. (If the only failure was a late issuance corrected before May 7, 2004, see "Special rule for late 2002/2003 notices already corrected.")

#### *VCP Corrective Notice*

The PBGC believes that many of the plans that will participate in the VCP to correct a Participant Notice failure for 2002 or 2003 will also be required to issue a Participant Notice for 2004. Accordingly, the PBGC has structured the VCP corrective notice requirements to enable such plans to issue a single notice that meets the requirements for a VCP corrective notice *and* for the 2004 Participant Notice. This approach will

minimize the confusion for participants that could result from the issuance of multiple notices at or about the same time.

The VCP corrective notice must meet all of the requirements that apply to the 2004 Participant Notice (or, if the plan is not required to issue a 2004 Participant Notice, all of the requirements that would apply if it were required), except as otherwise provided in the guidelines in this notice.

Normally the 2004 Participant Notice would have to include the "funded current liability percentage" for the 2003 plan year or for the 2004 plan year. Under the VCP, whether the plan administrator is correcting only a 2002 failure, only a 2003 failure, or both a 2002 and a 2003 failure, the VCP corrective notice: (1) Must include the funded current liability percentage for the 2002 plan year and for the 2003 plan year, and (2) may include as well the funded current liability percentage for the 2004 plan year. In all other respects, the VCP corrective notice must contain the information required in a 2004 Participant Notice (e.g., current information on funding waivers, missed contributions, and limitations on the PBGC's guarantee).

Although the plan administrator is not required to inform participants that it had a Participant Notice failure for the 2002 or 2003 plan year (or for both), or that it is participating in a "voluntary correction program," a plan administrator may choose to include that information in the VCP corrective notice.

Appendix B contains a model VCP corrective notice that plan administrators may use to meet VCP requirements. The PBGC will treat a VCP corrective notice that is issued in accordance with the guidelines in this notice as meeting the requirements for the 2004 Participant Notice.

Plan administrators should take special note that because the VCP corrective notice is tied to the requirements for the 2004 Participant Notice rather than to the requirements for the 2002 or 2003 Participant Notice that was not issued as required, the VCP corrective notice is required to be issued only to those persons entitled to receive the plan's 2004 Participant Notice (or that would be entitled to receive the plan's 2004 Participant Notice if it were required). Thus, there is no need to issue the VCP corrective notice to those persons who were entitled to receive the 2002 or 2003 Participant Notice that was not issued as required but who are not entitled to receive the 2004 Participant Notice (e.g., a participant whose entire

benefit has been annuitized or paid out in a lump sum).

#### *Notice to PBGC*

The plan administrator must notify the PBGC that it is participating in the VCP no later than the 30th day after the due date for issuing the VCP corrective notice. The notification must include a copy of the VCP corrective notice and the name and telephone number of a person for the PBGC to contact with any questions. Plan administrators may notify the PBGC electronically through the PBGC's Web site at <http://www.pbgc.gov/participantnotice>, by fax at 202-336-4197, or by mail, commercial delivery service, or hand at Contracts and Control Review Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Suite 580, Washington, DC 20005-4026. The PBGC will promptly issue a written acknowledgment of the notification. Plan administrators should keep the acknowledgment as proof of meeting the VCP requirement of notifying the PBGC.

#### **Special Rule for Late 2002/2003 Notices Already Corrected**

If a plan administrator's only failure with respect to a 2002 or 2003 Participant Notice was late issuance and the failure has been corrected before May 7, 2004, the PBGC will treat the plan administrator as having participated in the VCP and will assess no penalty for that 2002 or 2003 failure (and will not pursue any pre-2002 Participant Notice failure) without requiring that the plan administrator issue a VCP corrective notice or notify the PBGC of the plan's participation in the VCP.

#### **Effect of VCP on Certification Requirements**

Ordinarily, a plan administrator that filed an erroneous certification on the annual PBGC premium filing as to whether a Participant Notice was required for the prior plan year and, if so, whether it was issued as required would have to file an amended certification. However, if the plan administrator notifies the PBGC of the plan's participation in the VCP, the PBGC will treat the notification as effectively amending any erroneous certification filed on or before May 7, 2004, with respect to a 2002 or 2003 Participant Notice. The PBGC will take no enforcement action based on the erroneous prior certification if the plan administrator of a plan that meets the requirements for penalty relief under the VCP amends (or effectively amends) the erroneous prior certification.

Plan administrators of all plans that meet the requirements for VCP penalty relief will be required to check a box on the 2005 PBGC premium filing notifying the PBGC of the plan's participation in the VCP. This requirement is in addition to the Notice to PBGC requirement described above that must be met to qualify for VCP penalty relief, except under "Special rule for late 2002/2003 notices already corrected."

### Compliance Assistance

The PBGC has developed written guidance on the requirements of the VCP, including a Fact Sheet and Frequently Asked Questions. All information related to the VCP and to Participant Notice requirements generally is available on the PBGC's Web site at <http://www.pbgc.gov/participantnotice>. In addition, plan administrators seeking guidance on Participant Notice compliance questions, including questions about the VCP, may submit questions electronically through that Web site or call the toll-free telephone number at the PBGC's Practitioner Customer Service Center (1-800-736-2444).

Plan administrators may also contact the PBGC to request appropriate modifications to the VCP requirements on a case-by-case basis. For example, in the case of a 2002 or 2003 "partial" failure such as a failure to provide the notice to some of the participants or a failure to include in the notice some required information, the PBGC will work with the plan administrator to determine what type of correction, if any, would be needed to address the partial failure in order to qualify for penalty relief under the VCP.

### Future Participant Notice Penalties

Elsewhere in today's **Federal Register**, the PBGC is proposing a new Participant Notice penalty policy. The PBGC intends to publish its final Participant Notice penalty policy as soon as practicable after considering public comments.

### Compliance With Rulemaking Guidelines

The PBGC has determined, in consultation with the Office of Management and Budget, that this Notice is a "significant regulatory action" under Executive Order. The Office of Management and Budget has therefore reviewed this notice under Executive Order 12866.

The collection of information requirements under the VCP have been approved by the Office of Management and Budget under control numbers 1212-0009 (expires December 31, 2006)

and 1212-0050 (expires November 30, 2004). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Because this action deals only with a general statement of PBGC enforcement policy, it is not subject to the notice and comment rulemaking requirements or delayed effective date requirements under section 553 of the Administrative Procedure Act. Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply. See 5 U.S.C. 601(2), 603, 604.

Issued in Washington, DC, this 3rd day of May, 2004.

**Bradley D. Belt,**

*Executive Director, Pension Benefit Guaranty Corporation.*

### Appendix A

#### Summary of Participant Notice Requirements

##### Statutory and Regulatory Framework

Section 4011 of ERISA and 29 CFR part 4011 require certain underfunded plans to issue an annual notice to participants (a "Participant Notice") that discloses the plan's funding status and the limits of the PBGC's guarantee.

##### When Requirement Applies

In general, a plan administrator is required to provide a Participant Notice for a plan year if a variable rate premium (which is tied to plan underfunding) is payable for that plan year, unless the plan meets a funding-related test tied to the "deficit reduction contribution" rules—the "Deficit Reduction Contribution ("DRC") Exception Test"—for that plan year or for the prior plan year. See § 4011.3. However, as discussed below under Effect of JCWAA on Requirements, a plan administrator may be required to provide a Participant Notice for the 2002 or 2003 plan year even if a variable rate premium is not payable for that plan year.

In general, the DRC Exception Test requires a plan to be at least 90 percent funded, although a plan that is at least 80 percent funded meets the test if it was at least 90 percent funded for two consecutive plan years out of the last three. There are special rules under the DRC Exception Test that allow small plans to avoid doing additional calculations by using numbers they already reported on the Schedule B to their Form 5500. See § 4011.4. Most new and newly-covered plans are exempt from the Participant Notice requirement. See § 4011.5.

##### Due Dates

A participant notice for a plan year is due in that plan year. The due date for issuing a Participant Notice for a plan year is two months after the plan's due date, with extensions, if any, for filing the Form 5500 for the prior plan year. (The due date for a plan's Participant Notice for a plan year is keyed to the due date for the plan's Summary

Annual Report for the prior plan year so that the two documents may be issued together.) The plan administrator may change the date of issuance from one plan year to the next, provided that the effect of any change is not to avoid disclosing a minimum funding waiver or a missed contribution. See § 4011.8. The following table shows the common due dates for calendar year plans for the 2004 Participant Notice:

2003 Form 5500 due date	2004 Participant notice due date
Monday, August 2, 2004.	Monday, October 4, 2004.
Wednesday, September 15, 2004.	Monday, November 15, 2004.
Friday, October 15, 2004.	Wednesday, December 15, 2004.

##### Persons Entitled To Receive Notice

A plan administrator must provide a Participant Notice to participants, beneficiaries of deceased participants, alternate payees, and unions. To determine who is a person entitled to receive a Participant Notice, the plan administrator may select any date during the period beginning with the last day of the prior plan year and ending with the date on which the Participant Notice is due, provided that a change in the date from one plan year to another does not exclude a substantial number of participants and beneficiaries. See § 4011.7.

##### Manner of Issuance

The plan administrator must issue a Participant Notice using measures reasonably calculated to ensure actual receipt by the persons entitled to receive it. A Participant Notice may be issued together with another document, such as the Summary Annual Report (which is due at the same time as the Participant Notice), as long as it is in a separate document. See § 4011.9, as amended by the PBGC's final rule published October 28, 2003 (68 FR 61344, 61353).

##### Form of Notice

A Participant Notice must contain the plan's "Notice Funding Percentage"—the plan's "funded current liability percentage" as defined in section 302(d)(9)(C) of ERISA—for the current plan year or the prior plan year, along with the date as of which that percentage is determined. The Participant Notice also must contain information on minimum funding waivers and missed contributions, a summary of plan benefits guaranteed by the PBGC with an explanation of the limitations on the guarantee, and other information specified in the regulation. See § 4011.10(b) and (c). Additional information must be in a separate document. See § 4011.10(d).

A Participant Notice must be readable and written in a manner calculated to be understood by the average plan participant and not to mislead recipients. See § 4011.10(a). Plan administrators of plans with specified numbers or percentages of participants literate only in the same non-English language must provide either an English-language Participant Notice with a

prominent legend in the common non-English language offering assistance in that language or a Participant Notice in the common non-English language. See § 4011.10(e).

The Participant Notice regulation contains a Model Participant Notice as an example of a Participant Notice that meets the requirements of § 4011.10. Each year the PBGC issues a Technical Update that provides specific information relating to that year's Participant Notice and updates the Model Notice.

#### *Effect of JCWAA on Requirements*

Section 405 of the Job Creation and Worker Assistance Act of 2002 ("JCWAA") increased the required interest rate for calculating vested benefits for the PBGC variable rate premium under section 4006(a)(3)(E)(iii) of ERISA from 85 percent to 100 percent of the yield on 30-year Treasury securities. The statutory change applies only to plan years beginning in 2002 or 2003. However, JCWAA does *not* allow use of 100 percent of the Treasury yield to determine whether a PBGC variable rate premium is payable for purposes of determining whether a Participant Notice is required. Thus, plan administrators must continue to use 85 percent of the Treasury yield for this purpose.

Section 405 of JCWAA also increased, for plan years beginning in 2002 or 2003, the maximum interest rate (from 105 percent to 120 percent of the four-year weighted average of the yield on 30-year Treasury securities) that may be used to calculate current liability for purposes of the DRC funding requirement. The change in the maximum interest rate used to calculate current liability for DRC funding purposes can affect, for the 2002, 2003, and certain future plan years: (1) Whether a plan administrator is required to issue a Participant Notice; and (2) the plan funding information required to be disclosed in a Participant Notice.

The effect of JWCAA on Participant Notice requirements is fully discussed in PBGC Technical Updates 02-2 and 03-17, both available on the PBGC's Web site, <http://www.pbgc.gov/participantnotice>.

#### *Certification*

The plan administrator is required to certify on the annual PBGC premium filing (Form 1 or Form 1-EZ) that, for the prior plan year: (1) A Participant Notice was not required to be issued; (2) a Participant Notice was issued as required; or (3) an explanation is attached (e.g., because a required Participant Notice was issued late).

#### *Penalties*

If a Participant Notice is not issued as required, the PBGC may assess penalties under section 4071 of ERISA and 29 CFR part 4071. For more information on Participant Notice penalties, see the PBGC's proposal on such penalties published elsewhere in today's **Federal Register**.

## **Appendix B**

#### *Model VCP Corrective Notice*

The following is an example of a corrective notice that satisfies the requirements of the

Participant Notice Voluntary Correction Program when the required information is filled in (subject to § 4011.10(d)-(e), as applicable). It also satisfies the requirements of § 4011.10 for the 2004 Participant Notice. Notice to Participants of [Plan Name]

The law requires that you receive information on the funding level of your defined benefit pension plan and the benefits guaranteed by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. [YOU MAY INCLUDE A STATEMENT TO THE EFFECT THAT THE PLAN HAD A PARTICIPANT NOTICE FAILURE FOR THE 2002 PLAN YEAR OR FOR THE 2003 PLAN YEAR (OR FOR BOTH). YOU MAY ALSO INCLUDE A STATEMENT TO THE EFFECT THAT THE PLAN IS PARTICIPATING THE PBGC'S PARTICIPANT NOTICE VOLUNTARY CORRECTION PROGRAM.]

#### Your Plan's Funding

As of [APPLICABLE DATE], your plan had [INSERT PLAN'S FUNDED CURRENT LIABILITY PERCENTAGE (AS DEFINED IN SECTION 302(d)(9)(C) OF ERISA) FOR THE 2002 PLAN YEAR] percent of the money needed to pay benefits promised to employees and retirees.

As of [APPLICABLE DATE], your plan had [INSERT PLAN'S FUNDED CURRENT LIABILITY PERCENTAGE (AS DEFINED IN SECTION 302(d)(9)(C) OF ERISA) FOR THE 2003 PLAN YEAR] percent of the money needed to pay benefits promised to employees and retirees.

[YOU MAY ALSO INCLUDE THE FOLLOWING STATEMENT:

As of [APPLICABLE DATE], your plan had [INSERT PLAN'S FUNDED CURRENT LIABILITY PERCENTAGE (AS DEFINED IN SECTION 302(d)(9)(C) OF ERISA) FOR THE 2004 PLAN YEAR] percent of the money needed to pay benefits promised to employees and retirees.]

[SEE § 4011.10(c)(2) FOR SPECIAL RULES SMALL PLANS MAY USE TO DETERMINE THE PLAN'S FUNDED CURRENT LIABILITY PERCENTAGE.]

To pay pension benefits, your employer is required to contribute money to the pension plan over a period of years. A plan's funding percentage does not take into consideration the financial strength of the employer. Your employer, by law, must pay for all pension benefits, but your benefits may be at risk if your employer faces a severe financial crisis or is in bankruptcy.

[INCLUDE THE FOLLOWING PARAGRAPH ONLY IF, FOR ANY OF THE PREVIOUS FIVE PLAN YEARS, THE PLAN HAS BEEN GRANTED AND HAS NOT FULLY REPAID A FUNDING WAIVER.]

Your plan received a funding waiver for [LIST ANY OF THE FIVE PREVIOUS PLAN YEARS FOR WHICH A FUNDING WAIVER WAS GRANTED AND HAS NOT BEEN FULLY REPAID]. If a company is experiencing temporary financial hardship, the Internal Revenue Service may grant a funding waiver that permits the company to delay contributions that fund the pension plan.

[INCLUDE THE FOLLOWING WITH RESPECT TO ANY UNPAID OR LATE

PAYMENT THAT MUST BE DISCLOSED UNDER SECTION 4011.10(b)(6):]

Your plan was required to receive a payment from the employer on [LIST APPLICABLE DUE DATE(S)]. That payment [has not been made] [was made on [LIST APPLICABLE PAYMENT DATE(S)]].

#### PBGC Guarantees

When a pension plan terminates without enough money to pay all benefits, the PBGC steps in to pay pension benefits. The PBGC pays most people all pension benefits, but some people may lose certain benefits that are not guaranteed.

The PBGC pays pension benefits up to certain maximum limits.

- The maximum guaranteed benefit is \$3,698.86 per month or \$44,386.32 per year for a 65-year-old person in a plan that terminates in 2004. [IF YOU ISSUE THIS NOTICE AFTER THE MAXIMUM GUARANTEED BENEFIT INFORMATION FOR PLANS THAT TERMINATE IN 2005 IS ANNOUNCED, YOU MAY ADD OR SUBSTITUTE THAT INFORMATION IN ORDER TO PROVIDE PARTICIPANTS WITH MORE CURRENT INFORMATION. THE PBGC EXPECTS TO MAKE THAT INFORMATION AVAILABLE ON ITS WEB SITE AT [WWW.PBGC.GOV](http://WWW.PBGC.GOV) IN EARLY NOVEMBER 2004.]

- The maximum benefit may be reduced for an individual who is younger than age 65. For example, it is \$1,664.49 per month or \$19,973.88 per year for an individual who starts receiving benefits at age 55. [IN LIEU OF AGE 55, YOU MAY ADD OR SUBSTITUTE ANY AGE(S) RELEVANT UNDER THE PLAN. FOR EXAMPLE, YOU MAY ADD OR SUBSTITUTE THE MAXIMUM BENEFIT FOR AGES 62 OR 60. THE MAXIMUM BENEFIT IS \$2,922.10 PER MONTH OR \$35,065.20 PER YEAR AT AGE 62; IT IS \$2,404.26 PER MONTH OR \$28,851.12 PER YEAR AT AGE 60. IF THE PLAN PROVIDES FOR NORMAL RETIREMENT BEFORE AGE 65, YOU MUST INCLUDE THE NORMAL RETIREMENT AGE.] [IF YOU ISSUE THIS NOTICE AFTER THE MAXIMUM GUARANTEED BENEFIT INFORMATION FOR PLANS THAT TERMINATE IN 2005 IS ANNOUNCED, YOU MAY ADD OR SUBSTITUTE THAT INFORMATION IN ORDER TO PROVIDE PARTICIPANTS WITH MORE CURRENT INFORMATION. THE PBGC EXPECTS TO MAKE THAT INFORMATION AVAILABLE ON ITS WEB SITE AT [WWW.PBGC.GOV](http://WWW.PBGC.GOV) IN EARLY NOVEMBER 2004.] [IF THE PLAN DOES NOT PROVIDE FOR COMMENCEMENT OF BENEFITS BEFORE AGE 65, YOU MAY OMIT THIS PARAGRAPH.]

- The maximum benefit will also be reduced when a benefit is provided for a survivor.

The PBGC does not guarantee certain types of benefits. [INCLUDE THE FOLLOWING GUARANTEE LIMITS THAT APPLY TO THE BENEFITS AVAILABLE UNDER YOUR PLAN.]

- The PBGC does not guarantee benefits for which you do not have a vested right when a plan terminates, usually because you have not worked enough years for the company.

- The PBGC does not guarantee benefits for which you have not met all age, service, or other requirements at the time the plan terminates.

- Benefit increases and new benefits that have been in place for less than a year are not guaranteed. Those that have been in place for less than 5 years are only partly guaranteed.

- Early retirement payments that are greater than payments at normal retirement age may not be guaranteed. For example, a supplemental benefit that stops when you become eligible for Social Security may not be guaranteed.

- Benefits other than pension benefits, such as health insurance, life insurance, death benefits, vacation pay, or severance pay, are not guaranteed.

- The PBGC generally does not pay lump sums exceeding \$5,000.

#### Where To Get More Information

Your plan, [EIN-PN], is sponsored by [CONTRIBUTING SPONSOR(S)]. If you would like more information about the funding of your plan, contact [INSERT NAME, TITLE, BUSINESS ADDRESS AND PHONE NUMBER OF INDIVIDUAL OR ENTITY].

For more information about the PBGC and the benefits it guarantees, you may request a free copy of Your Guaranteed Pension by writing to Consumer Information Center, Dept. YGP, Pueblo, Colorado 81009. [THE FOLLOWING SENTENCE MAY BE INCLUDED:] "Your Guaranteed Pension" is also available on the PBGC's Web site at [www.pbgc.gov](http://www.pbgc.gov).

Issued: [INSERT AT LEAST MONTH AND YEAR]

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