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Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

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29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting new Table I-97 in place of existing Table I-96 in appendix D. Table I-97 applies to any plan being terminated either in a distress termination or involuntarily by the PBGC with a valuation date falling in 1997, and is used to determine expected retirement ages for plan participants. This table is needed in order to compute the value of early retirement benefits and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT:

Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024 (202-326-4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV of the Employee Retirement Income Security Act of 1974. Under ERISA section 4041(c), plans wishing to terminate in a distress termination must value guaranteed benefits and benefit liabilities under the plan in accordance with part 4044, subpart B. In addition, when the PBGC terminates an underfunded plan

involuntarily pursuant to ERISA Section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b), early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach "unreduced retirement age" (i.e., the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by the PBGC to reflect changes in the cost of living, etc.

Tables II-A, II-B, and II-C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I-96 with Table I-97 in order to provide an updated correlation, appropriate for calendar year 1997, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I-97 will be used to value benefits

in plans with valuation dates during calendar year 1997.

The PBGC has determined that notice of and public comment on this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 1997, the plan administrator needs the updated table being promulgated in this rule. Accordingly, the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 1997. Moreover, because of the need to provide immediate guidance for the valuation of benefits under such plans, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making this amendment to the regulation effective less than 30 days after publication.

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

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

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—[AMENDED]

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

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

2. Appendix D to part 4044 is amended by removing Table I-96 and adding in its place Table I-97 to read as follows:

Appendix D to Part 4044—Tables Used to Determine Expected Retirement Age

TABLE I-97—SELECTION OF RETIREMENT RATE CATEGORY
[For Plans with valuation dates after December 31, 1996, and before January 1, 1998]

Participant reaches URA in year—	Participant's Retirement Rate Category is—			
	Low ¹ if monthly benefit at URA is less than—	Medium ² if monthly benefit at URA is		High ³ if monthly benefit at URA is greater than—
		From	To	
1998	409	409	1,723	1,723
1999	421	421	1,771	1,771

TABLE I-97—SELECTION OF RETIREMENT RATE CATEGORY—Continued

[For Plans with valuation dates after December 31, 1996, and before January 1, 1998]

Participant reaches URA in year—	Participant's Retirement Rate Category is—			
	Low ¹ if monthly benefit at URA is less than—	Medium ² if monthly benefit at URA is		High ³ if monthly benefit at URA is greater than—
		From	To	
2000	432	432	1,821	1,821
2001	445	445	1,872	1,872
2002	457	457	1,924	1,924
2003	470	470	1,978	1,978
2004	483	483	2,033	2,033
2005	496	496	2,090	2,090
2006	510	510	2,149	2,149
2007 or later	525	525	2,209	2,209

¹ Table II-A.² Table II-B.³ Table II-C.

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Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 57, Subpart B

RIN 0906-AA39

Grants for the Construction of Teaching Facilities for Health Professions Personnel

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule removes obsolete regulations that governed old sections 720-726, Part B, Title VII, of the Public Health Service (PHS) Act, which addressed the award of grants and loan guarantees and interest subsidies for the construction of teaching facilities for medical, dental, and other health personnel. The Health Professions Education Extension Amendments of 1992, Pub. L. 102-408, repealed Part B of Title VII, Public Health Service Act. Accordingly, the provisions of 42 CFR Part 57, Subpart B, are obsolete.

EFFECTIVE DATE: This regulation is effective December 13, 1996.

FOR FURTHER INFORMATION CONTACT: Mrs. Charlotte G. Pascoe, Director, Division of Facilities Compliance and Recovery, Bureau of Health Resources Development, Health Resources and

Services Administration, room 7-31, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443-5656.

SUPPLEMENTARY INFORMATION: The Health Professions Education Extension Amendments of 1992, Pub. L. 102-408, repealed Part B of Title VII, Public Health Service Act. Accordingly, the provisions of 42 CFR Part 57, Subpart B, are obsolete. Sections 57.101 through 57.112 and Appendix A are removed from the Code of Federal Regulations.

The Public Health Service strongly encourages all grant and contract recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. In addition, Pub.L. 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or, in some cases, any portion of a facility) in which regular or routine education, library, day care, health care or early childhood development services are provided to children.

Justification for Omitting Notice of Proposed Rulemaking

Since this amendment is of a technical nature, the Secretary has determined, pursuant to 5 U.S.C. 553 and departmental policy, that it is unnecessary and impractical to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Economic Impact

Executive Order 12866 requires that all regulations reflect consideration of alternatives, of costs, of benefits, of incentives, of equity, and of available information. Regulations must meet certain standards, such as avoiding unnecessary burden. Regulations which are "significant" because of cost,

adverse effects on the economy, inconsistency with other agency actions, effects on the budget, or novel legal or policy issues, require special analysis.

The Department believes that the resources required to implement the requirements in this regulation are minimal. Therefore, in accordance with the Regulatory Flexibility Act of 1980, the Secretary certifies that this regulation will not have a significant impact on a substantial number of small entities. For the same reasons, the Secretary has also determined that this is not a "significant" rule under Executive Order 12866.

Paperwork Reduction Act of 1980

This final rule contains no information collection or reporting requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980.

List of Subjects in 42 CFR Part 57

Aged, Dental Health, Education of the Disadvantaged, Educational facilities, Educational study program, Grant programs—education, Grant programs—health, Health facilities, Health professions, Loan programs, Medical and dental schools, Scholarships and fellowships, Student aid.

Dated: July 15, 1996.

Ciro V. Sumaya,
Administrator.

Approved: November 26, 1996.

Donna Shalala,
Secretary.

Accordingly, under the authority of Public Law 102-408, 42 CFR part 57 is amended as follows: