SUBCHAPTER B—PREMIUMS

PART 4006—PREMIUM RATES

Sec.

AUTHORITY: 29 U.S.C. 1302(b)(3), 1306, 1307.

SOURCE: 61 FR 34016, July 1, 1996, unless otherwise noted.

§ 4006.1 Purpose and scope.

This part, which applies to all plans covered by title IV of ERISA, provides rules for computing the premiums imposed by sections 4006 and 4007 of ERISA. (See part 4007 of this chapter for rules for the payment of premiums, including due dates and late payment charges.)

§ 4006.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: benefit liabilities, Code, contributing sponsor, ERISA, fair market value, insurer, irrevocable commitment, mandatory employee contributions, multiemployer plan, notice of intent to terminate, PBGC, plan administrator, plan, plan year, and single-employer plan.

In addition, for purposes of this part:

New plan means a plan that did not exist before. the premium payment year and includes a plan resulting from a consolidation or spinoff. A plan that meets this definition is considered to be a new plan even if the plan constitutes a successor plan within the meaning of section 4021(a) of ERISA.

Newly-covered plan means a plan that is not a new plan and that was not covered by title IV of ERISA immediately prior to the premium payment year.

Participant has the meaning described in § 4006.6.

Participant count of a plan for a plan year means the number of participants in the plan on the participant count date of the plan for the plan year.

Participant count date of a plan for a plan year means the date provided for in § 4006.5(c), (d), or (e) as applicable.

Premium funding target has the meaning described in § 4006.4(b)(1).

Premium payment year means the plan year for which the premium is being paid.

Short plan year means a plan year of coverage that is shorter than a normal plan year.

UVB valuation date of a plan for a plan year means the plan's funding valuation date for the plan year determined in accordance with ERISA section 303(g)(2).

[61 FR 34016, July 1, 1996, as amended at 65 FR 75163, Dec. 1, 2000; 73 FR 15074, Mar. 21, 2008]

§ 4006.3 Premium rate.

Subject to the provisions of § 4006.5 (dealing with exemptions and special rules) and § 4006.7 (dealing with premiums for certain terminated single-employer plans), the premium paid for basic benefits guaranteed under section 4022(a) or section 4022A(a) of ERISA shall equal the flat-rate premium under paragraph (a) of this section plus, in the case of a single-employer plan, the variable-rate premium under paragraph (b) of this section.

(a) *Flat-rate premium.* The flat-rate premium is equal to the number of participants in the plan on the participant count date, multiplied by the applicable flat premium rate determined under paragraph (c) of this section.

(b) *Variable-rate premium.* (1) *In general.* Subject to the limitation in paragraph (b)(2) of this section, the variable-rate premium is $9 for each $1,000 (or fraction thereof) of a single-employer plan's unfunded vested benefits for the premium payment year, as determined under § 4006.4.

(2) *Cap on variable-rate premium.* If a plan is described in paragraph (b)(3) of this section for the premium payment year, the variable-rate premium does not exceed $5 multiplied by the square of the number of participants in the plan on the last day of the plan year preceding the premium payment year.

For example, if the number of participants in the plan on the last day of the plan year preceding the premium payment year is 20, the variable-rate premium does not exceed \$2,000 ($\$5 \times 20^2 = \$5 \times 400 = \$2,000$).

(3) *Plans eligible for cap.* A plan is described in this paragraph (b)(3) for the premium payment year if the aggregate number of employees of all employers in the plan's controlled group on the first day of the premium payment year is 25 or fewer.

(4) *Meaning of ''employee.''* For purposes of paragraph (b)(3) of this section, the aggregate number of employees is determined in the same manner as under section 410(b)(1) of the Code, taking into account the provisions of section 414(m) and (n) of the Code, but without regard to section 410(b)(3), (4), and (5) of the Code.

(c) *Applicable flat premium rate.* The applicable flat premium rate is:

(1) For a premium payment year beginning before 2006—

(i) For a single-employer plan, \$19, and

(ii) For a multi-employer plan, \$2.60.

(2) For a premium payment year beginning in 2006—

(i) For a single-employer plan, \$30, and

(ii) For a multi-employer plan, \$8.

(3) For a premium payment year beginning after 2006, the greater of—

(i) The applicable flat premium rate for plan years beginning in the calendar year preceding the calendar year in which the premium payment year begins, or

(ii) The adjusted flat rate determined under paragraph (d) of this section for the premium payment year.

(d) *Adjusted flat rate.* The adjusted flat rate for a premium payment year beginning after 2006 is determined by—

(1) Multiplying the applicable flat premium rate for 2006 by the ratio of—

(i) The national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the two calendar years preceding the calendar year in which the premium payment year begins, to

(ii) The national average wage index (as so defined) for 2004; and

(2) Rounding the result to the nearest multiple of \$1 (rounding up any unrounded result that equals some whole number of dollars plus 50 cents).

[61 FR 34016, July 1, 1996, as amended at 72 FR 71228, Dec. 17, 2007; 73 FR 15074, Mar. 21, 2008]

§ 4006.4 Determination of unfunded vested benefits.

(a) *In general.* Except as provided in the exemptions and special rules under § 4006.5, the amount of a plan's unfunded vested benefits for the premium payment year is the excess (if any) of the plan's premium funding target for the premium payment year (determined under paragraph (b) of this section) over the fair market value of the plan's assets for the premium payment year (determined under paragraph (c) of this section). Unfunded vested benefits for the premium payment year must be determined as of the plan's UVB valuation date for the premium payment year, based on the plan provisions and the plan's population as of that date. The determination must be made in a manner consistent with generally accepted actuarial principles and practices.

(b) *Premium funding target*—(1) *In general.* A plan's premium funding target is its standard premium funding target under paragraph (b)(2) of this section or, if an election to use the alternative premium funding target under § 4006.5(g) is in effect, its alternative premium funding target under § 4006.5(g).

(2) *Standard premium funding target.* A plan's standard premium funding target under this section is the plan's funding target as determined under ERISA section 303(d) (or 303(i), if applicable) for the premium payment year using the same assumptions that are used for funding purposes, except that—

(i) Only vested benefits are taken into account, and

(ii) The interest rates to be used are the segment rates for the month preceding the month in which the premium payment year begins that are determined in accordance with ERISA section 4006(a)(3)(E)(iv). These are the rates that would be determined under ERISA section 303(h)(2)(C) if ERISA section 303(h)(2)(D) were applied by using the monthly yields for the month