specified in the alert service bulletin, prior to further flight, accomplish the actions specified by either paragraph (e)(2)(i) or (e)(2)(ii) of this AD.

(i) Adjust the lockout cam until the correct clearance is obtained, in accordance with the alert service bulletin. Or

(ii) If the correct clearance cannot be obtained by adjusting the lockout cam, replace the lockout cam in accordance with the alert service bulletin.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(g) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(h) The actions shall be done in accordance with Boeing Service Bulletin 757–52–0042, Revision 1, dated April 26, 1990; and Boeing Alert Service Bulletin 757–52A0023, Revision 3, dated November 18, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on January 16, 1996.

Issued in Renton, Washington, on November 27, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–29302 Filed 12–14–95; 8:45 am]

BILLING CODE 4910–13–U]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8631]

RIN 1545–AT79

Notice of Significant Reduction in the Rate of Future Benefit Accrual

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance concerning the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), relating to defined benefit plans and to individual account plans that are subject to the funding standards of section 302 of ERISA. It requires the plan administrator to give notice of certain plan amendments to participants in the plan and certain other parties. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject published in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: December 15, 1995.

FOR FURTHER INFORMATION CONTACT: Betty J. Clary, (202) 622–6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1477. Responses to this collection of information are required under section 204(h) of ERISA upon the adoption of certain amendments to pension plans.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the Federal Register.

The regulations do not involve any issue of confidentiality.

Background

This document contains temporary regulations that provide guidance on section 204(h) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), 29 U.S.C. 1054(h). Section 204(h) of ERISA was added by section 11006(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Title XI of Public Law 99–272), and was amended by section 1879(u)(1) of the Tax Reform Act of 1986, Public Law 99–514. Pursuant to section 101(a) of the Reorganization Plan No. 4 of 1978, 29 U.S.C. 1001nt, the Secretary of the Treasury has authority to issue regulations under parts 2 and 3 of subtitle B of title I of ERISA (including section 204 of ERISA). Under section 104 of Reorganization Plan No. 4, the Secretary of Labor retains enforcement authority with respect to parts 2 and 3 of subtitle B of title I of ERISA, but, in exercising such authority, is bound by the regulations issued by the Secretary of the Treasury.

Prior guidance relating to the requirements of section 204(h) has been provided in Rev. Proc. 89–65 (1989–2 C.B. 786) and Rev. Proc. 94–13 (1994–1 C.B. 566), and under Notice 87–21 (1987–1 C.B. 458), Notice 88–131 (1988–2 C.B. 546), Notice 89–92 (1989–2 C.B. 410), and Notice 90–73 (1990–2 C.B. 353). These temporary regulations provide further guidance, in the form of Questions and Answers.

The provisions in this Treasury Decision are needed immediately to provide guidance to the public with respect to the notice requirements of section 204(h) of ERISA. Issues related to section 204(h) arise in connection with a broad range of plan amendments, including amendments prompted by recent changes in the law. Therefore, it is found impracticable and contrary to the public interest to issue this Treasury decision with prior notice under 5 U.S.C. 553(b).

Explanation of Provisions

Section 204(h) of ERISA applies if a defined benefit plan or an individual account plan that is subject to the funding standards of section 302 of ERISA is amended to provide for a significant reduction in the rate of future benefit accrual. It requires the plan administrator to give written notice of the amendment to participants in the plan, alternate payees, and employee organizations representing participants in the plan (or to a person designated, in writing, to receive the notice on behalf of a participant, alternate payee, or employee organization). The notice must set forth the plan amendment and its effective date and must be provided after adoption of the amendment and not less than 15 days before the effective date of the amendment.

A plan amendment that is subject to the notice requirements of section 204(h) of ERISA may also be subject to additional reporting and disclosure requirements under title I of ERISA,

such as the requirement to provide a summary of material modifications. See sections 102(a) and 104(a) of ERISA, 29 U.S.C. 1022 and 1024, and the regulations thereunder for guidance on when a summary of material modifications must be provided. Section 204(h) notice must be provided at least 15 days in advance of the effective date of an amendment significantly reducing the future rate of benefit accrual, even though a summary of material modifications describing the amendment is provided at a later date.

Section 204(h) of ERISA does not apply to an amendment that does not affect the rate of future benefit accrual. These regulations clarify that an amendment to a defined benefit plan that does not affect the annual benefit commencing at normal retirement age does not affect the rate of future benefit accrual for purposes of section 204(h). Accordingly, the regulations provide that the plan administrator of a defined benefit plan is not required to provide section 204(h) notice with respect to an amendment that does not affect the future annual benefit payable at normal retirement age, even if the amendment affects other forms of payment (such as a single sum distribution) or benefits commencing at a date other than normal retirement age (such as an early retirement benefit).

The regulations also clarify that an amendment to an individual account plan that does not change the amount of future allocations to participants' accounts does not affect the rate of future benefit accrual for purposes of section 204(h) of ERISA. Accordingly, section 204(h) notice is not required with respect to any such amendment.

Even if an amendment affects the rate of future benefit accrual, section 204(h) notice is required only if the amendment significantly reduces the rate of future benefit accrual. Under the regulations, whether an amendment significantly reduces the rate of future benefit accrual is to be determined based on reasonable expectations taking into account all relevant facts and circumstances.

The regulations delegate to the Commissioner of Internal Revenue the authority to provide that section 204(h) notice need not be provided with respect to plan amendments that the Commissioner determines are necessary or appropriate, as a result of a change in federal law, to maintain compliance with the law. The Commissioner may exercise this authority only through the publication of revenue rulings, notices, and other guidance in the Internal Revenue Bulletin.

In situations in which section 204(h) notice is required with respect to an amendment, the regulations provide guidance on the participants, alternate payees, and employee organizations to whom the notice must be provided. Specifically, the regulations provide that the plan administrator is not required to provide notice to a participant or alternate payee whose rate of future benefit accrual is reasonably expected not to be reduced by the amendment. For example, notice need not be provided to participants (such as former employees with a vested benefit under the plan) who, prior to the amendment, were not entitled to accrue future benefits under the plan. Moreover, under the regulations, section 204(h) notice is not required to be provided to an employee organization unless it represents one or more participants to whom section 204(h) notice is required to be provided. Finally, the regulations clarify that employees who have not yet become participants in the plan are not taken into account for any purpose under section 204(h) of ERISA.[1] Thus, the plan administrator is not required to provide section 204(h) notice to such employees.

The regulations provide that a plan that is terminated in accordance with title IV of ERISA is deemed to satisfy section 204(h) not later than the date of termination established under section 4048 of ERISA. Accordingly, section 204(h) does not require that any further benefits accrue under the plan after that date. However, if that date of termination is deferred, benefits continue to accrue until the deferred date of termination absent an effective cessation of accruals as of an earlier specified date.

If the plan is not amended to significantly reduce the rate of future benefit accrual prior to the termination, section 204(h) notice is not required. However, the regulations also affirm that section 204(h) applies to an amendment that is effective prior to the termination date and clarify that, if section 204(h) notice is required, it can be provided either with or as part of the notice of intent to terminate or separately.

The regulations also provide two rules applicable in situations in which a plan administrator was required to provide section 204(h) notice with respect to an amendment but failed to provide timely notice to some of the parties to whom notice was required to be provided. The first rule applies when the plan administrator fails to provide timely notice with respect to more than a de minimis percentage of the parties to whom section 204(h) notice was required. In such a situation, the amendment becomes effective in accordance with its terms with respect to a participant to whom notice was required if the participant was provided with timely notice and any employee organization representing the participant was also provided with timely notice. The amendment also becomes effective in accordance with its terms with respect to an alternate payee to whom notice was required if the alternate payee was provided with timely notice.

The second rule applies in a situation in which the plan administrator made a good faith effort to comply with section 204(h) of ERISA with respect to an amendment, failed to provide timely section 204(h) notice to no more than a de minimis percentage of the parties to whom notice was required, and provided timely notice to all employee organizations with respect to whom section 204(h) notice was required. In such a situation, if the plan administrator, promptly upon discovery of the omission, provides section 204(h) notice to all parties who were required to be provided such notice but were omitted, the plan amendment becomes effective in accordance with its terms with respect to all parties to whom section 204(h) notice was required, including those who did not receive notice prior to discovery of the omission.

Effective Dates

These temporary regulations are effective for amendments adopted on or after December 15, 1995, and amendments effective by their terms on or after January 2, 1996.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

[1] This is not intended to affect the rights of employees under other provisions of ERISA.

Drafting Information: The principal author of these regulations is Betty J. Clary, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry for Section 1.411(d)–6T to read as follows:

Authority: 26 U.S.C. 7805. * * *

Section 1.411(d)–6T also issued under Reorganization Plan No. 4 of 1978, 29 U.S.C. 1001nt. * * *

Par. 2. § 1.411(d)–6T is added to read as follows:

§ 1.411(d)–6T Section 204(h) notice.

Q–1: What are the requirements of section 204(h) of the Employee Retirement Income Security Act of 1974, as amended (ERISA)?

A–1: (a) *Requirements of section 204(h).* Section 204(h) of ERISA generally requires written notice of an amendment to certain plans that provides for a significant reduction in the rate of future benefit accrual. Section 204(h) generally requires the notice to be provided to plan participants, alternate payees, and employee organizations. The plan administrator must provide the notice after adoption of the plan amendment and not less than 15 days before the effective date of the plan amendment.

(b) *Other notice requirements.* Other provisions of law may require that certain parties be notified of a plan amendment. See, for example, sections 102 and 104 of ERISA, and the regulations thereunder, for the requirements relating to summary plan descriptions and summaries of material modifications.

Q–2: To which plans does section 204(h) of ERISA apply?

A–2: Section 204(h) of ERISA applies to defined benefit plans subject to part 2 of subtitle B of title I of ERISA and to individual account plans subject to such part 2 and to the funding standards of section 302 of ERISA. Accordingly, individual account plans that are not subject to the funding standards of section 302, such as profit-sharing and stock bonus plans, are not subject to section 204(h).

Q–3: *What is section 204(h) notice?*

A–3: *Action 204(h) notice* is notice that complies with section 204(h) of ERISA and the rules in this section.

Q–4: For which amendments is section 204(h) notice required?

A–4: (a) *In general.* Section 204(h) notice is required for an amendment to a plan described in Q&A–2 of this section that provides for a significant reduction in the rate of future benefit accrual.

(b) *Delegation of authority to Commissioner.* The Commissioner of Internal Revenue may provide through publication in the Internal Revenue Bulletin of revenue rulings, notices, or other documents (see § 601.601(d)(2) of this chapter) that section 204(h) notice need not be provided for plan amendments otherwise described in paragraph (a) of this Q&A–4 that the Commissioner determines to be necessary or appropriate, as a result of changes in the law, to maintain compliance with the requirements of the Internal Revenue Code of 1986, as amended (Code) (including requirements for tax qualification), ERISA, or other applicable federal law.

Q–5: What is an amendment that affects the rate of future benefit accrual for purposes of section 204(h) of ERISA?

A–5: (a) *In general*—(1) *Defined benefit plans.* For purposes of section 204(h) of ERISA, an amendment to a defined benefit plan affects the rate of future benefit accrual only if it is reasonably expected to change the amount of the future annual benefit commencing at normal retirement age.

(2) *Individual account plans.* For purposes of section 204(h), an amendment to an individual account plan affects the rate of future benefit accrual only if it is reasonably expected to change the amounts allocated in the future to participants' accounts. Changes in the investments or investment options under an individual account plan are not taken into account for this purpose.

(b) *Determination of rate of future benefit accrual.* In accordance with paragraph (a) of this Q&A–5, the rate of future benefit accrual is determined without regard to optional forms of benefit (other than the annual benefit described in paragraph (a) of this Q&A–5), early retirement benefits, or retirement-type subsidies, within the meaning of such terms as used in section 411(d)(6) of the Code (section 204(g) of ERISA). The rate of future benefit accrual is also determined without regard to ancillary benefits and other rights or features as defined in § 1.401(a)(4)–4(e).

(c) *Examples.* These examples illustrate the rules in this Q&A–5:

Example 1. A plan is amended with respect to future benefit accruals to eliminate a right to commencement of a benefit prior to normal retirement age. Because the amendment does not affect the annual benefit commencing at normal retirement age, it does not reduce the rate of future benefit accrual for purposes of section 204(h).

Example 2. A plan is amended to modify the assumptions used in converting an annuity form of distribution to a single sum form of distribution. The use of these modified assumptions results in a lower single sum. Because the amendment does not affect the annual benefit commencing at normal retirement age, it does not reduce the rate of future benefit accrual for purposes of section 204(h).

Q–6: What plan provisions are taken into account in determining whether there has been a reduction in the rate of future benefit accrual?

A–6: (a) *Plan provisions taken into account.* All plan provisions that may affect the rate of future benefit accrual of participants or alternate payees must be taken into account in determining whether an amendment provides for a significant reduction in the rate of future benefit accrual. Such provisions include, for example, the dollar amount or percentage of compensation on which benefit accruals are based; in the case of a plan using the permitted disparity under section 401(l) of the Code, the amount of disparity between the excess benefit percentage or excess contribution percentage and the base benefit percentage or base contribution percentage (all as defined in section 401(l)); the definition of service or compensation taken into account in determining an employee's benefit accrual; the method of determining average compensation for calculating benefit accruals; the definition of normal retirement age in a defined benefit plan; the exclusion of current participants from future participation; benefit offset provisions; minimum benefit provisions; the formula for determining the amount of contributions and forfeitures allocated to participants' accounts in an individual account plan; and the actuarial assumptions used to determine contributions under a target benefit plan (as defined in § 1.401(a)(4)–8(b)(3)(i)).

(b) *Plan provisions not taken into account.* Plan provisions that do not

affect the rate of future benefit accrual of participants or alternate payees are not taken into account in determining whether there has been a reduction in the rate of future benefit accrual. For example, provisions such as vesting schedules or optional forms of benefit (other than the annual benefit described in Q&A–5(a) of this section) are not taken into account.

(c) *Examples.* The following example illustrates the rules in this Q&A–6:

Example. A defined benefit plan provides a normal retirement benefit equal to 50% of final average compensation times a fraction (not in excess of one), the numerator of which equals the number of years of participation in the plan and the denominator of which equals 20. A plan amendment that changes the numerator or denominator of that fraction must be taken into account in determining whether there has been a reduction in the rate of future benefit accrual.

Q–7: What is the basic principle used in determining whether an amendment provides for a significant reduction in the rate of future benefit accrual for purposes of section 204(h) of ERISA?

A–7: Whether an amendment provides for a significant reduction in the rate of future benefit accrual for purposes of section 204(h) of ERISA is determined based on reasonable expectations taking into account the relevant facts and circumstances at the time the amendment is adopted.

Q–8: Are employees who have not yet become participants in a plan at the time an amendment to the plan is adopted taken into account for any purpose in applying section 204(h) of ERISA with respect to the amendment?

A–8: No. Employees who have not yet become participants in a plan at the time an amendment to the plan is adopted are not taken into account for any purpose in applying section 204(h) of ERISA with respect to the amendment. Thus, if section 204(h) notice is required with respect to an amendment, the plan administrator need not provide section 204(h) notice to such employees.

Q–9: If section 204(h) notice is required with respect to an amendment, must such notice be provided to participants or alternate payees whose rate of future benefit accrual is not reduced by the amendment?

A–9: (a) *In general.* A plan administrator need not provide section 204(h) notice to any participant whose rate of future benefit accrual is reasonably expected not to be reduced by the amendment, nor to any alternate payee under an applicable qualified domestic relations order whose rate of future benefit accrual is reasonably expected not to be reduced by the amendment. A plan administrator need not provide section 204(h) notice to an employee organization unless the employee organization represents a participant to whom section 204(h) notice is required to be provided.

(b) *Facts and circumstances test.* Whether a participant or alternate payee is described in paragraph (a) of this Q&A–9 is determined based on all relevant facts and circumstances at the time the amendment is adopted.

(c) *Examples.* The following examples illustrate the rules in this Q&A–9:

Example 1. Plan A is amended to reduce significantly the rate of future benefit accrual of all current employees who are participants in the plan. It is reasonable to expect based on the facts and circumstances that the amendment will not reduce the rate of future benefit accrual of former employees who are currently receiving benefits or that of former employees who are entitled to vested benefits. Accordingly, the plan administrator is not required to provide section 204(h) notice to such former employees.

Example 2. Assume in *Example 1* that Plan A also covers two groups of alternate payees. The alternate payees in the first group are entitled to a certain percentage or portion of the former spouse's accrued benefit, and for this purpose the accrued benefit is determined at the time the former spouse begins receiving retirement benefits under the plan. The alternate payees in the second group are entitled to a certain percentage or portion of the former spouse's accrued benefit, and for this purpose the accrued benefit was determined at the time the qualified domestic relations order was issued by the court. It is reasonable to expect that the benefits to be received by the second group of alternate payees will not be affected by any reduction in a former spouse's rate of future benefit accrual. Accordingly, the plan administrator is not required to provide section 204(h) notice to the alternate payees in the second group.

Example 3. Plan B covers hourly employees and salaried employees. Plan B provides the same rate of benefit accrual for both groups. The employer amends Plan B to reduce significantly the rate of future benefit accrual of the salaried employees only. At that time, it is reasonable to expect that only a small percentage of hourly employees will become salaried in the future. Accordingly, the plan administrator is not required to provide section 204(h) notice to the participants who are currently hourly employees.

Example 4. Plan C covers employees in Division M and employees in Division N. Plan C provides the same rate of benefit accrual for both groups. The employer amends Plan C to reduce significantly the rate of future benefit accrual of employees in Division M. At that time, it is reasonable to expect that in the future only a small percentage of employees in Division N will be transferred to Division M. Accordingly, the plan administrator is not required to provide section 204(h) notice to the participants who are employees in Division N.

Example 5. Assume the same facts as in *Example 4*, except that at the time the amendment is adopted, it is expected that soon thereafter Division N will be merged into Division M in connection with a corporate reorganization (and the employees in Division N will become subject to the plan's amended benefit formula applicable to the employees in Division M). In this instance, the plan administrator must provide section 204(h) notice to the participants who are employees in Division M and to the participants who are employees in Division N.

Q–10: Does a notice fail to comply with section 204(h) of ERISA if it contains a summary of the amendment and the effective date, without the text of the amendment itself?

A–10: No, the notice does not fail to comply with section 204(h) of ERISA merely because the notice contains a summary of the amendment, rather than the text of the amendment, if the summary is written in a manner calculated to be understood by the average plan participant and contains the effective date. The summary need not explain how the individual benefit of each participant or alternate payee will be affected by the amendment.

Q–11: How may section 204(h) notice be provided?

A–11: A plan administrator may use any method reasonably calculated to ensure actual receipt of the section 204(h) notice. First class mail to the last known address of the party is an acceptable delivery method. Likewise, hand delivery is acceptable. Section 204(h) notice may be enclosed along with other notice provided by the employer or plan administrator.

Q–12: If a plan administrator fails to provide section 204(h) notice to more than a de minimis percentage of participants and alternate payees to whom section 204(h) notice is required to be provided, will the plan administrator be considered to have complied with section 204(h) of ERISA with respect to participants and alternate payees who were provided with timely section 204(h) notice?

A–12: The plan administrator will be considered to have complied with section 204(h) of ERISA with respect to a participant to whom section 204(h) notice is required to be provided if the participant and any employee organization representing the participant were provided with timely section 204(h) notice. The plan administrator will be considered to have complied with section 204(h) with respect to an alternate payee to whom section 204(h) notice is required to be provided if the alternate payee was

provided with timely section 204(h) notice. Accordingly, the amendment will become effective in accordance with its terms with respect to those participants and alternate payees.

Q–13: Will a plan be considered to have complied with section 204(h) of ERISA if the plan administrator provides section 204(h) notice to all but a de minimis percentage of participants and alternate payees to whom section 204(h) notice must be provided?

A–13: The plan will be considered to have complied with section 204(h) of ERISA and the amendment will become effective in accordance with its terms with respect to all parties to whom section 204(h) notice was required to be provided (including those who did not receive notice prior to discovery of the omission), if the plan administrator—

(a) Has made a good faith effort to comply with the requirements of section 204(h);

(b) Has provided section 204(h) notice to each employee organization that represents any participant to whom section 204(h) notice is required to be provided;

(c) Has failed to provide section 204(h) notice to no more than a de minimis percentage of participants and alternate payees to whom section 204(h) notice is required to be provided; and

(d) Provides section 204(h) notice to those participants and alternate payees promptly upon discovering the oversight.

Q–14: How does section 204(h) of ERISA apply to a plan that is terminated in accordance with title IV of ERISA?

A–14: (a) *On and after termination date.* Notwithstanding paragraph (b) of this Q&A–14 or any other provisions of this section, a plan that is terminated in accordance with title IV of ERISA is deemed to have satisfied section 204(h) of ERISA not later than the termination date (or date of termination, as applicable) established under section 4048 of ERISA. Accordingly, section 204(h) would not require that any additional benefits accrue after such date.

(b) *Amendment effective before termination date.* An amendment that is effective before the termination date (or date of termination, as applicable) established under section 4048 of ERISA is subject to section 204(h). Accordingly, if such amendment provides for a significant reduction in the rate of future benefit accrual, the plan administrator must provide section 204(h) notice (either separately or with or as part of the notice of intent to terminate) with respect to the amendment. However, if a plan is not amended to reduce significantly the rate of future benefit accrual before the termination date (for example, the plan continues existing benefit accruals until the termination date), section 204(h) notice is not required.

Q–15: When does section 204(h) of ERISA become effective?

A–15: (a) *Statutory effective date.* With respect to defined benefit plans, section 204(h) of ERISA generally applies to plan amendments adopted on or after January 1, 1986. With respect to individual account plans, section 204(h) applies to plan amendments adopted on or after October 22, 1986.

(b) *Regulatory effective date.* This section applies to amendments adopted on or after December 15, 1995, and amendments effective by their terms on or after January 2, 1996.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. In § 602.101, paragraph (c) is amended by adding to the table in numerical order the entry ''1.411(d)–6T * * * .1545–1477''.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 5, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–30416 Filed 12–12–95; 1:23 pm]

BILLING CODE 4830–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2621 and 2627

Limitation on Guaranteed Benefits in Single-Employer Plans; Disclosure to Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends Appendix A to the Limitation on Guaranteed Benefits regulation of the Pension Benefit Guaranty Corporation (''PBGC'') by adding the maximum guaranteeable pension benefit that may be paid by the PBGC with respect to a plan participant in a single-employer pension plan that terminates in 1996. The maximum guaranteeable benefit is computed in accordance with the formula in section 4022(b)(3) of the Employee Retirement Income Security Act of 1974, which provides that the maximum guaranteeable benefit is based on the contribution and benefit base determined under section 230 of the Social Security Act. The latter number is adjusted annually, and that adjustment automatically changes the dollar amount of the maximum guaranteeable benefit paid by PBGC. The effect of this amendment is to advise plan participants and beneficiaries of the increased maximum guaranteeable benefit for 1996. This rule also amends Appendix B to the PBGC's Disclosure to Participants regulation by adding information on 1996 maximum guaranteed benefit amounts. Plan administrators may, subject to the requirements of that regulation, include this information in participant notices.

EFFECTIVE DATE: January 1, 1996.

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). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 4022(b) of the Employee Retirement Income Security Act of 1974, as amended, (''ERISA'') provides for certain limitations on benefits guaranteed by the Pension Benefit Guaranty Corporation (''PBGC'') in terminating single-employer pension plans covered under Title IV of ERISA. One of the limitations set forth in section 4022(b)(3) is a dollar ceiling on the amount of the monthly benefit that may be paid to a plan participant by the PBGC. Subparagraph (B) of section 4022(b)(3) provides that the amount of monthly benefit payable in the form of a life annuity beginning at age 65 shall not exceed ''$750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974 [$13,200]''. This formula is also set forth in § 2621.3(a)(2) of the PBGC's regulation entitled Limitation on Guaranteed Benefits in Single-Employer Plans (29 CFR Part 2621).

Section 230(d) of the Social Security Act (42 U.S.C. 430(d)) provides special rules for determining the contribution and benefit base for purposes of section 4022(b)(3)(B). Each year the Social Security Administration determines, and notifies the PBGC of, the contribution and benefit base to be used by the PBGC under these provisions.