

covered under Title IV of the Employee Retirement Income Security Act of 1974. Under ERISA section 4041(c), guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued 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-03 with Table I-04 in order to provide an updated correlation, appropriate for calendar year 2004, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I-04 will be used to value benefits in plans with valuation dates during calendar year 2004.

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 2004, 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 2004.

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-03 and adding in its place Table I-04 to read as follows:

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

TABLE I-04.—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with valuation dates after December 31, 2003, and before January 1, 2005]

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	
2005	473	473	2,000	2,000
2006	483	483	2,042	2,042
2007	494	494	2,087	2,087
2008	505	505	2,133	2,133
2009	516	516	2,182	2,182
2010	528	528	2,233	2,233
2011	540	540	2,284	2,284
2012	553	553	2,336	2,336
2013	566	566	2,390	2,390
2014 or later	579	579	2,445	2,445

¹ Table II-A.

² Table II-B.

³ Table II-C.