Pension Benefit Guaranty Corporation

75-100

1975

STATUTE/REGULATION SECTION:
4006 Premium Rates
4007 Payment of Premiums

OPINION:

This is in response to your letter of October 15, 1975 in which you asked various questions relating to the declaration and payment of premiums and to "reportable events." I will respond to your questions in the order in which they were asked.

(1) Although, as you indicated, the original Form PBGC-1 permitted half-dollar rounding while the new Form PBGC-1 does not, I do not expect that this change alone will result in the imposition by the Pension Benefit Guaranty Corporation ("the PBGC") of interest and late payment charges. Premium reconciliations involving underpayments which exceed 20 percent of the actual premium due are presumptively treated as late payments back to the due date of the estimated premium for the year being reconciled. (See the "General Instructions" to Form PBGC-1 on page four). Thus, assuming the timely payment of both the estimated and actual premiums, and assuming an estimated premium paid which is not less than 80 percent of the actual premium due, the deletion of half-dollar rounding itself would not result in the imposition of any late payment charges. However, inasmuch as interest is imposed directly by Section 4007(b) of the Employee Retirement Income Security Act of 1974, it may be possible for interest (albeit exceedingly small) to be imposed as a result of the deletion of half-dollar rounding.

(2) Refunds of overpayments will be made to the entity which paid the premiums initially.

(3) As you indicated, Forms PBGC-1 and PBGC-1R do not specifically provide for plans to report changes in their plan years. Plan year changes such as those in your example should be reported as follows: a Form PBGC-1 with appropriate premium payment should be filed within 30 days after November 1; a second Form PBGC-1, with a copy of the previously filed Form PBGC-1, should be filed within 30 days after January 1, with the premium due calculated on the basis of a full plan year. A cover letter to the latter filing should indicate the plan year change; the actual amount of premium due the PBGC will be the amount of premium calculated on the second Form PBGC-1, credited with an amount equal to 10/12 of the premium actually paid with the first Form PBGC-1.

(4) Completion of the checklist contained in Schedule B, Supplement to Annual Report, does not replace the notice to the PBGC required by §§ 4043(b) (reportable events), 4062(e) (the closing of a facility) or 4063(a) (the withdrawal of a substantial employer) of the Employee Retirement Income Security Act of 1974. (See the "Instructions for Schedule A (Form PBGC-1)" on page eight). Although a better disability program may be provided for all
employees after the amendment you described is adopted, the effect of the amendment would be to delete from the

plan a benefit previously provided under the plan. Thus, the event you described must be reported to the PBGC as a reportable event.

I hope the above satisfactorily answers your questions.

Henry Rose
General Counsel