

period. Accordingly, a regulatory flexibility analysis is not required.

B. Executive Order 12866

This rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory assessment is not required.

C. Paperwork Reduction Act

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1513-0087.

The collection of information in this regulation is in 27 CFR 4.32, 5.32, and 7.22, and involves mandatory disclosures of information on labels. This information is required to prevent deception of the consumer and to provide the consumer with adequate information as to the identity and quality of the alcohol beverage product. The likely respondents are businesses or other for-profit entities, including partnerships, associations, and corporations.

This information constitutes only a portion of the labeling information on alcohol beverages required under authority of the FAA Act and approved under control number 1513-0087.

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

VI. Drafting Information

The principal authors of this document are Lisa M. Gesser and Joanne C. Brady, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau.

List of Subjects

27 CFR Part 4

Administrative practice and procedure, Advertising, Customs duties and inspection, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

27 CFR Part 5

Administrative practice and procedure, Advertising, Customs duties and inspection, Distilled spirits, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 7

Administrative practice and procedure, Advertising, Customs duties and inspection, Imports, Labeling, Malt Beverages, Reporting and recordkeeping requirements, Trade practices.

Amendments to the Regulations

For the reasons discussed in the preamble, TTB amends 27 CFR, chapter I, parts 4, 5, and 7, as set forth below:

PART 4—LABELING AND ADVERTISING OF WINE

■ 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

■ 2. In § 4.32, add a new paragraph (d) to read as follows:

§ 4.32 Mandatory label information.

\* \* \* \* \*

(d) Declaration of cochineal extract or carmine. There shall be stated on a front label, back label, strip label, or neck label a statement that the product contains the color additive cochineal extract or the color additive carmine, prominently and conspicuously, using the respective common or usual name ("cochineal extract" or "carmine"), where either of the coloring materials is used in a product that is removed on or after April 16, 2013. (For example: "Contains Cochineal Extract" or "Contains Carmine" or, if applicable, "Contains Cochineal Extract and Carmine").

\* \* \* \* \*

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

■ 3. The authority citation for 27 CFR part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

■ 4. In § 5.32, add a new paragraph (b)(6) to read as follows:

§ 5.32 Mandatory label information.

\* \* \* \* \*

(b) \* \* \*

(6) A statement that the product contains the color additive cochineal extract or the color additive carmine, prominently and conspicuously, using the respective common or usual name ("cochineal extract" or "carmine"), where either of the coloring materials is used in a product that is removed on or after April 16, 2013. (For example: "Contains Cochineal Extract" or "Contains Carmine" or, if applicable, "Contains Cochineal Extract and Carmine"). The statement that the

product contains the color additive cochineal extract or the color additive carmine may appear on a strip label or a neck label in lieu of appearing on the brand label or back label.

\* \* \* \* \*

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

■ 5. The authority citation for 27 CFR part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

■ 6. In § 7.22, a new paragraph (b)(5) is added to read as follows:

§ 7.22 Mandatory label information.

\* \* \* \* \*

(b) \* \* \*

(5) A statement that the product contains the color additive cochineal extract or the color additive carmine, prominently and conspicuously, using the respective common or usual name ("cochineal extract" or "carmine"), where either of the coloring materials is used in a product that is removed on or after April 16, 2013. (For example: "Contains Cochineal Extract" or "Contains Carmine" or, if applicable, "Contains Cochineal Extract and Carmine"). The statement that the product contains the color additive cochineal extract or the color additive carmine may appear on a strip label or a neck label in lieu of appearing on the brand label or back label.

\* \* \* \* \*

Signed: March 12, 2012.

John J. Manfreda, Administrator.

Approved: March 12, 2012.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2012-9101 Filed 4-13-12; 8:45 am]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4003

RIN 1212-AB04

Rules for Administrative Review of Agency Decisions; Section 4071 Penalty Assessments

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's administrative review regulation to make it applicable to assessments of

penalties for failure to timely provide certain notices or other material information. Under the rule, such assessments will be subject to reconsideration in accordance with the provisions of the regulation.

**DATES:** Effective May 16, 2012 and applicable to determinations made on or after that date.

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion (*klion.catherine@pbgc.gov*), Manager, or Deborah C. Murphy (*murphy.deborah@pbgc.gov*), Attorney, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026; 202-326-4024. (TTY/TDD users may call the Federal relay service toll free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR Part 4003) provides rules governing the issuance of initial determinations by PBGC involving the matters set forth in the regulation and procedures for requesting and obtaining PBGC review of those determinations, either by appeal (a more formal proceeding) or by request for reconsideration (a less formal process), depending on the type of matter. A person that fails to exhaust administrative remedies under the regulation with respect to a determination may not be able to raise in court some legal defenses against enforcement of the determination that might otherwise have been available.

Section 4071 of ERISA authorizes PBGC to assess a penalty for failure to timely provide any notice or other material information required under ERISA sections 4001-4071 or 303(k)(4) or regulations thereunder. PBGC published policy guidance on its assessment and review of section 4071 penalties on March 3, 1992 (at 57 FR 7605), and July 18, 1995 (at 60 FR 36837).<sup>1</sup> On January 12, 2001 (at 66 FR 2857), PBGC published a proposed rule on Assessment of and Relief from Penalties under both ERISA section 4007 (dealing with payment of premiums) and ERISA section 4071.<sup>2</sup>

<sup>1</sup> The 1995 policy statement generally replaced the 1992 statement.

<sup>2</sup> Although it was published as a proposal with an invitation for public comment, the 2001 penalty policy proposed rule was (as its preamble stated)

Among the proposed actions was amendment of the administrative review regulation to make determinations with respect to penalties under section 4071 subject to that regulation, in the class of matters reviewable by reconsideration.<sup>3</sup> No comments were received on the proposal.<sup>4</sup>

This final rule amends the administrative review regulation consistent with the 2001 proposal. This change will promote uniformity in PBGC's procedures for making and reviewing determinations. The provisions of the administrative review regulation will supersede any inconsistent provisions of the 1992 and 1995 penalty policy statements; in other respects, those policy statements will be unaffected.

#### Applicability

The amendment made by this rule applies to determinations under section 4071 made on or after May 16, 2012.

#### Compliance With Rulemaking Guidelines

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

This rule is not subject to notice and comment rulemaking requirements under section 553 of the Administrative Procedure Act because it deals only with PBGC procedural rules. Because no general notice of proposed rulemaking is required, the Regulatory Flexibility Act does not apply. See 5 U.S.C. 601(2), 603, 604.

This action is associated with retrospective review and analysis in PBGC's Plan for Regulatory Review<sup>5</sup> issued in accordance with Executive Order 13563 on "Improving Regulation and Regulatory Review."

not subject to notice and comment rulemaking requirements under section 553 of the Administrative Procedure Act because it dealt only with general statements of PBGC policy and with PBGC procedural rules. On November 17, 2006 (at 71 FR 66867), PBGC published a final rule adding a penalty policy appendix, drawn from the 2001 proposed rule, to its regulation on Payment of Premiums.

<sup>3</sup> Premium penalties under ERISA section 4007 are already covered by the administrative review regulation. Premium penalty determinations are in the class of matters for which reconsideration is provided.

<sup>4</sup> On May 7, 2004 (at 69 FR 25797), PBGC proposed a new penalty policy for failures to issue Participant Notices as required under ERISA section 4011 and PBGC's regulation on Disclosure to Participants (29 CFR part 4011), the provisions of which are inapplicable to plan years starting after 2006. Comments received on that proposal were relevant to some aspects of the 2001 proposal, but not to the administrative review provisions.

<sup>5</sup> See [www.pbgc.gov/documents/plan-for-regulatory-review.pdf](http://www.pbgc.gov/documents/plan-for-regulatory-review.pdf).

#### List of Subjects in 29 CFR Part 4003

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

For the reasons given above, PBGC is amending 29 CFR part 4003 as follows.

#### PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

■ 1. The authority citation for part 4003 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3).

■ 2. In § 4003.1, paragraph (a) is amended by removing the words "(b)(1) through (b)(4)" and adding in their place the words "(b)(1) through (b)(5)" and by removing the words "(b)(5) through (b)(10)" and adding in their place the words "(b)(6) through (b)(11)"; paragraphs (b)(5) through (b)(10) are redesignated as paragraphs (b)(6) through (b)(11); and a new paragraph (b)(5) is added to read as follows:

#### § 4003.1 Purpose and scope.

\* \* \* \* \*

(b) *Scope.* \* \* \*

(5) Determinations with respect to penalties under section 4071 of ERISA;

\* \* \* \* \*

Issued in Washington, DC, this 6th day of April 2012.

**Joshua Gotbaum,**  
Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2012-9095 Filed 4-13-12; 8:45 am]

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 110

[Docket No. USCG-2010-0929]

RIN 1625-AA01

#### Special Anchorage Regulations, Newport Bay Harbor, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is expanding the boundaries of the special anchorage areas in Newport Bay Harbor, California, to encompass and replace temporary anchorage grounds C-1 and C-2, and anchorage ground C-3. This rule realigns anchorage boundaries to reflect the way the harbor currently is used.

**DATES:** This rule is effective May 16, 2012.