

Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3468, 200 Constitution Avenue, NW., Washington, DC 20210; telephone: (202) 693-2345.

**Authority:** This document was prepared under the direction of John Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210.

This action is taken pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 4 of the Administrative Procedure Act (5 U.S.C. 553), Section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, Secretary of Labor's Order No. 3-2000 (65 FR 50017), and 29 CFR Part 1911.

Signed at Washington, DC, this 11th day of July, 2002.

**John Henshaw,**

*Assistant Secretary of Labor.*

[FR Doc. 02-17851 Filed 7-12-02; 8:45 am]

**BILLING CODE 4510-26-P**

## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Parts 4022 and 4044**

#### **Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in August 2002. Interest assumptions are also published on the PBGC's Web site (<http://www.pbgc.gov>).

**EFFECTIVE DATE:** August 1, 2002.

#### **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, 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 PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

Accordingly, this amendment (1) adds to appendix B to part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during August 2002, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during August 2002, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during August 2002.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to Part 4044) will be 5.50 percent for the first 25 years following the valuation date and 4.25 percent thereafter. These interest assumptions represent a decrease (from those in effect for July 2002) of 0.20 percent for the first 25 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to Part 4022) will be 4.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent a decrease (from those in effect for July 2002) of 0.25 percent for

the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to Part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during August 2002, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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 amendment, the Regulatory Flexibility Act of 1980 does not apply. *See* 5 U.S.C. 601(2).

#### **List of Subjects**

##### *29 CFR Part 4022*

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

##### *29 CFR Part 4044*

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

#### **PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS**

1. The authority citation for part 4022 continues to read as follows:

**Authority:** 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 106, as set forth below, is added to the table. (The introductory text of the table is omitted.)

#### **Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments**

\* \* \* \* \*

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
* 106	* 8-1-02	* 9-1-02	* 4.25	* 4.00	* 4.00	* 4.00	* 7	* 8	

3. In appendix C to part 4022, Rate Set 106, as set forth below, is added to the table. (The introductory text of the table is omitted.)

#### Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
* 106	* 8-1-02	* 9-1-02	* 4.25	* 4.00	* 4.00	* 4.00	* 7	* 8	

#### PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

5. In appendix B to part 4044, a new entry, as set forth below, is added to the table. (The introductory text of the table is omitted.)

#### Appendix B to Part 4044—Interest Rates Used to Value Benefits

\* \* \* \* \*

For valuation dates occurring in the month—			The values of $i_t$ are:					
			$i_t$	for $t =$	$i_t$	for $t =$	$i_t$	for $t =$
* August 2002 .....	* 	* 	* .0550	* 1-25	* .0425	* >25	* N/A	* N/A

Issued in Washington, DC, on this 9th day of July 2002.

**Steven A. Kandarian,**

*Executive Director, Pension Benefit Guaranty Corporation.*

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#### DEPARTMENT OF THE INTERIOR

##### Office of Surface Mining Reclamation and Enforcement

##### 30 CFR Part 931

[NM-042-FOR]

##### New Mexico Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Final rule; approval of amendment.

**SUMMARY:** We are approving a proposed amendment to the New Mexico regulatory program (the "New Mexico program") under the Surface Mining Control and Reclamation Act of 1977

(SMCRA or the Act). New Mexico proposed revisions to and additions of rules about definitions, general environmental resource information, operations that may have an adverse impact on publicly owned parks or places listed on the National Register of Historic Places, bond release applications, termination of jurisdiction, prime farmland reclamation, inspection frequency of abandoned sites, hearings for charges of violation, the qualifying criteria for assistance under the small operator's program, areas where mining is prohibited or limited, criteria for designating areas unsuitable for surface coal mining, applications for and approval of coal exploration operations of more than 250 tons, criteria for permit approval or denial, application and approval criteria for demonstrating valid existing rights, the one square mile criterion in the definition of intermittent streams, and miscellaneous non-substantive editorial revisions. New Mexico revised its program to be consistent with the corresponding Federal regulations, provide additional safeguards, and clarify ambiguities.

**EFFECTIVE DATE:** July 15, 2002.

**FOR FURTHER INFORMATION CONTACT:** Willis L. Gainer, Telephone: (505) 248-5096, Internet address: [wgainer@osmre.gov](mailto:wgainer@osmre.gov).

#### SUPPLEMENTARY INFORMATION:

- I. Background on the New Mexico Program
- II. Submission of the Proposed Amendment
- III. OSM's Findings
- IV. Summary and Disposition of Comments
- V. OSM's Decision
- VI. Procedural Determinations

#### I. Background on the New Mexico Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, "a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act\* \* \*; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act." See 30 U.S.C.