

be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is  $y$  years ( $y$  is an integer and  $0 < y \leq n_1$ ), interest rate  $i_1$  shall apply from the valuation date for a period of  $y$  years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is  $y$  years ( $y$  is an integer and  $n_1 < y \leq n_1 + n_2$ ), interest rate  $i_2$  shall apply from the valuation date for a period of  $y - n_1$  years, interest rate  $i_1$  shall apply for the following  $n_1$  years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is  $y$  years ( $y$  is an integer and  $y$

$> n_1 + n_2$ ), interest rate  $i_3$  shall apply from the valuation date for a period of  $y - n_1 - n_2$  years, interest rate  $i_2$  shall apply for the following  $n_2$  years, interest rate  $i_1$  shall apply for the following  $n_1$  years; thereafter the immediate annuity rate shall apply.

TABLE I  
[Lump Sum Valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)					
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$	
* .....	* .....	* .....	* .....	* .....	* .....	* .....	* .....	* .....	* .....
16 .....	2-1-95	3-1-95	6.00	5.25	4.00	4.00	7	8	

**Annuity Valuations**

In determining the value of interest factors of the form  $v^{o:n}$  (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing

annuity benefits under this subpart, the plan administrator shall use the values of  $i_t$  prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by  $i_1, i_2, \dots$ , and referred to generally as  $i_t$ ) assumed to be

in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE II  
[Annuity Valuations]

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for $t =$	$i_t$	for $t =$	$i_t$	for $t =$
* .....	* .....	* .....	* .....	* .....	* .....	* .....
February 1995 .....	.0730	1-20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 10th day of January 1995.

**Martin Slate,**  
Executive Director, Pension Benefit Guaranty Corporation.

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**29 CFR Part 2644**

**Notice and Collection of Withdrawal Liability; Adoption of New Interest Rate**

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

**SUMMARY:** This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. This amendment adds to the appendix of that regulation a new interest rate to be effective from January 1, 1995, to March 31, 1995. The effect of the

amendment is to advise the public of the new rate.

**EFFECTIVE DATE:** January 1, 1995.

**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; telephone 202-326-4024 (202-326-4179 for TTY and TDD). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("the PBGC") promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to be credited by plans on overpayments of withdrawal liability.

The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects the applicable rates and republishes them in an appendix to part 2644. This amendment adds to this appendix the interest rate of 8.50 percent, which will

be effective from January 1, 1995, through March 31, 1995. This rate represents an increase of .75 percent from the rate in effect for the fourth quarter of 1994. This rate is based on the prime rate in effect on December 15, 1994.

The appendix to 29 CFR part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles 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 in 29 CFR Part 2644

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2644 of subchapter F of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

#### PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY

1. The authority citation for part 2644 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1399(c)(6).

2. Appendix A to part 2644 is amended by adding to the end of the table a new entry to read as follows:

#### Appendix A to Part 2644—Table of Interest Rates

From	To	Date of quotation	Rate (percent)
1/01/95	3/31/95	12/15/94	8.50

Issued in Washington, DC, on this 10th day of January 1995.

**Martin Slate,**

*Executive Director, Pension Benefit Guaranty Corporation.*

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 218

#### RIN 1010-AB40

#### Regulations Governing Recoupment of Overpayments on Indian Mineral Leases

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Final rule.

**SUMMARY:** The Minerals Management Service (MMS) is amending its Royalty Management Program regulations to codify longstanding policy with respect to recoupment of overpayments made by lessees and other payors on Indian mineral leases. The established policy is that recoupments cannot exceed 50 percent of the reported revenues in the current month on an allotted lease or 100 percent of the reported revenues in the current month on a tribal lease.

**EFFECTIVE DATE:** February 13, 1995.

**FOR FURTHER INFORMATION CONTACT:** David S. Guzy, Chief, Rules and Procedures Staff at (303) 231-3432, FAX (303) 231-3194.

**SUPPLEMENTARY INFORMATION:** The principal author of this final rule is Marvin D. Shaver of the Royalty Management Program, Rules and Procedures Staff, Lakewood, Colorado.

#### I. Background

In the Notice of Proposed Rulemaking (55 FR 3232, January 31, 1990), MMS described the current policy regarding recoupment of overpayments made by lessees and other payors on Indian mineral leases. As stated in the proposed rule, royalty payments on production from mineral leases are a major source of income to many Indian

allottees and tribes and, for some allottees, the only source.

The current policy permits lessees and payors to recoup overpayments as a credit against future rental or royalty accruals due to Indian tribes or allottees. Lessees and operators were instructed to follow the recoupment policy in "Notice to Lessees and Operators of Indian Oil and Gas Leases No. 1A" (NTL-1A), issued by the Conservation Division of the U.S. Geological Survey in 1977. Section IX of NTL-1A provided that in the case of tribal leases the credit must be against the same lease or, with approval of the tribe, against amounts due under other tribal leases. In the case of allotted leases, such credits were limited to the lease on which the overpayments were made with recovery of the overpayment prorated over a period of time necessary to prevent an allottee's current monthly revenue being reduced by more than 50 percent. This recoupment policy was adopted by MMS and instructions were included in Volume II of the MMS "Oil and Gas Payor Handbook" by Addendum No. 12, effective December 1, 1983. Also, instructions were included in the revised MMS "Oil and Gas Payor Handbook" issued in December 1986 (Section 3.7, "Reporting Indian Overpayment Recoupments"). The instructions are also included in the MMS "AFS Payor Handbook—Solid Minerals" issued in September 1984 (Chapter 5, "Recoupments on Indian Leases"). These payor handbooks have been provided to all royalty payors on Federal and Indian leases for specific guidance with respect to reporting requirements on oil and gas and solid mineral leases.

MMS published in the **Federal Register** revised final oil and gas product valuation regulations at 30 CFR Part 206 on January 15, 1988, effective March 1, 1988 (53 FR 1184 and 53 FR 1230). Paragraph 206.150(e)(2) of the revised regulations terminated NTL-1A. However, MMS' policy and procedure remained in the payor handbooks.

Although the Indian lease overpayment recoupment policy has been the same for many years, MMS has determined that its regulations should state the policy. Consequently, MMS published the January 31, 1990, proposed rulemaking to codify the policy and procedure. In response to the proposed rule, MMS received comments from four lessees/payors and other interested parties. All of these comments were considered in the final rule and are discussed in Section II below. The final rule is summarized in Section III below.