

pursuant to Section 15.17 of the compact or the requirement of abatement or remedial action. If it is found that such a violation has occurred, the commission shall determine the amount of the penalty to be paid and the nature of the abatement or remedial action to be undertaken.

**§ 805.25 Factors to be applied in fixing penalty amount.**

(a) Consideration shall be given to the following factors in deciding the amount of any penalty or any settlement:

(1) Previous violation, if any, of the compact, commission regulations or orders;

(2) The intent of the alleged violator;

(3) The extent to which the violation caused adverse environmental consequences;

(4) The costs incurred by the commission or any signatory party relating to the failure to comply with the compact, commission regulations or orders;

(5) The extent to which the violator has cooperated with the commission in correcting the violation and remediating any adverse consequences or harm that has resulted therefrom;

(6) The extent to which the failure to comply with the commission's compact and regulations was economically beneficial to the violator; and

(7) The length of time over which the violation occurred and the amount of water used during that time period.

(b) The commission retains the right to waive any penalty or reduce the amount of the penalty should it determine that, after consideration of the factors in paragraph (a) of this section, extenuating circumstances justify such action.

**§ 805.26 Enforcement of penalties/abatement or remedial orders.**

Any penalty imposed or abatement or remedial action ordered by the commission shall be paid or completed within such time period as shall be fixed by the commission. The executive director and commission counsel are authorized to take such action as may be necessary to assure enforcement of this subpart. If a proceeding before a court becomes necessary, the action of the commission in determining a penalty amount shall constitute the penalty amount recommended by the commission to be fixed by the court pursuant to Section 15.17 of the compact.

**§ 805.27 Settlement by agreement.**

An alleged violator may request settlement of an enforcement

proceeding by agreement. If the executive director determines that settlement by agreement is in the best interest of the commission, he/she may submit to the commission a proposed settlement agreement. No settlement will be considered by the commission unless the alleged violator has indicated in writing to the commission acceptance of the terms of the agreement and the intention to comply with all requirements of the settlement agreement including payment of any settlement amount or completion of any abatement or remedial action within the time period provided. If the commission determines not to approve a settlement agreement, the commission may proceed with an enforcement action in accordance with this subpart.

**§ 805.28 Effective date.**

This subpart shall be effective on May 11, 1995.

**§ 805.29 Definitions.**

Terms used in this subpart shall be defined as set forth in § 803.3 of this chapter.

[FR Doc. 95-14675 Filed 6-14-95; 8:45 am]  
BILLING CODE 7040-01-P

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 2619 and 2676**

**Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in July 1995, and to multiemployer plans with valuation dates in July 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

**EFFECTIVE DATE:** July 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, 202-326-4024 (202-326-4179 for TTY and TDD).

**SUPPLEMENTARY INFORMATION:** This rule adopts the July 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the "single-employer regulation") and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the "multiemployer regulation").

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities," *i.e.*, all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C Formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-

employer plans that have termination dates during July 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during July 1995.

For annuity benefits, the interest rates will be 6.30% for the first 20 years following the valuation date and 5.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.75% for the period during which benefits are in pay status and 4.00% during the period preceding the benefit's placement in pay status. The above annuity interest assumptions represent a decrease (from those in effect for June 1995) of .50 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent a decrease (from those in effect for June 1995) of .75 percent for the period during which benefits are in pay status and the seven years directly preceding that period; they are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However, the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the Federal Register by the 15th of the preceding month or as close to that date as circumstances permit.

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

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during July 1995,

and in multiemployer plans that have undergone mass withdrawal and have valuation dates during July 1995, the PBGC finds that good cause exists for making the rates and factors 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 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**

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

**PART 2619—[AMENDED]**

1. The authority citation for part 2619 continues to read as follows:

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

2. In appendix B, Rate Set 21 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

**Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities**

*Lump Sum Valuations*

In determining the value of interest factors of the form  $v^{0:n}$  (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the values of  $i_t$  set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to 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		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*	*	*	*	*	*	*	*
21	7-1-95	8-1-95	4.75	4.00	4.00	4.00	7	8

*Annuity Valuations*

In determining the value of interest factors of the form  $v^{0:n}$  (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (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 Table II hereof.

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 $t =$
July 1995 .....	.0630	1–20	.0575	>20	N/A	N/A

**PART 2676—[AMENDED]**

3. The authority citation for part 2676 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 21 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

**Appendix B to Part 2676—Interest Rates Used to Value Lump Sums and Annuities**

*Lump Sum Valuations*

In determining the value of interest factors of the form  $v^{0:n}$  (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 benefits under this subpart to be paid as lump sums, the PBGC shall use the values of  $i_t$  prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to 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 for 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 VALUATION

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
21	7–1–95	8–1–95	4.75	4.00	4.00	4.00	7	8

*Annuity Valuations*

In determining the value of interest factors of the form  $v^{0:n}$  (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 $t = \gamma$
July 1995 .....	.0630	1–20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 12th day of June 1995.

**Martin Slate,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 95-14699 Filed 6-14-95; 8:45 am]

BILLING CODE 7708-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-95-012]

RIN 2115-AA97

#### **Safety Zone: Annual Burlington Independence Day Celebration Fireworks Display, Burlington Bay, Vermont**

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a permanent safety zone for the annual Burlington Independence Day Celebration fireworks display located in Burlington Bay, Burlington, Vermont. The safety zone is in effect annually on the third of July from 7:45 p.m. until 10:15 p.m. The safety zone temporarily closes all waters of Burlington Bay within a 250 yard radius of the fireworks platform anchored approximately 250 yards west of Burlington, Vermont, at or near 44°28'33"N latitude and 073°13'33"W longitude (NAD 1983).

**EFFECTIVE DATE:** This rule is effective on July 3, 1995.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) K. Messenger, Maritime Planning Staff Chief, Coast Guard Group New York (212) 668-7934.

#### **SUPPLEMENTARY INFORMATION:**

##### **Drafting Information**

The drafters of this notice are LTJG K. Messenger, Project Manager Coast Guard Group New York and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

##### **Regulatory History**

On March 22, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) in the **Federal Register** (60 FR 15102). Interested persons were requested to submit comments on or before May 22, 1995. No comments were received. A public hearing was not requested and one was not held. The Coast Guard is promulgating this final rule as proposed with a minor correction. The NPRM contained incorrect coordinates due to a

publishing error. The coordinates were published as 44°29'33"N latitude, 073°13'33"W longitude. The coordinates should have been published as 44°28'33"N, 073°13'33"W longitude. This final rule states the coordinates correctly.

Due to the NPRM comment period deemed necessary to give adequate public notice, there was insufficient time to publish this final rule 30 days prior to the event. Good cause exists for making this rule effective less than 30 days after publication. Adequate measures are being taken to ensure mariners are made aware of this regulation. This rule will be locally published in the First Coast Guard District's Local Notice to Mariners, and announced via Safety Marine Information Broadcasts.

##### **Background and Purpose**

For the last several years, the Burlington Department of Parks and Recreation has submitted an application to hold a fireworks program on Burlington Bay. This regulation establishes a permanent safety zone on all waters of Burlington Bay within a 250 yard radius of the fireworks platform anchored approximately 250 yards west of Burlington, Vermont, at or near 44°28'33"N latitude and 073°13'33"W longitude (NAD 1983). The safety zone is in effect annually on the third of July from 7:45 p.m. until 10:15 p.m., unless extended or terminated sooner by the Captain of the Port New York. The safety zone precludes all vessels from transiting this portion of Burlington Bay and is needed to protect mariners from the hazards associated with fireworks exploding in the area. The effective period of the safety zone will be announced annually via Safety Marine Information Broadcasts and by locally issued notices.

##### **Regulatory Evaluation**

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The safety zone closes a portion of

Burlington Bay to all vessel traffic annually on the third of July from 7:45 p.m. until 10:15 p.m., unless extended or terminated sooner by the Captain of the Port New York. Although this regulation prevents traffic from transiting this area, the effect of this regulation is not significant for several reasons: the limited duration of the event; the late hour of the event; that traffic can safely transit to the west of the safety zone; the event has been held annually for the past several years without incident or complaint; and the extensive, advance advisories that will be made. Accordingly, the Coast Guard expects the economic impact of this regulation to be so minimal that a Regulatory Evaluation is unnecessary.

##### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this regulation will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under Section 3 of the Small Business Act (15 U.S.C. 632).

For reasons set forth in the Regulatory Evaluation, the Coast Guard expects the impact of this regulation to be minimal. The Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities.

##### **Collection of Information**

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501).

##### **Federalism**

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this regulation does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

##### **Environment**

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B, revised 59 FR 38654, it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are included in the docket. An appropriate environmental analysis of the fireworks program under the