

from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations.

(e) Minister of religion. A minister is an individual who is duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. A minister does not include a lay preacher who is not authorized to perform such duties. In all cases, there must be a reasonable connection between the activities performed and the religious calling of a minister.

(f) Professional capacity. Working in a professional capacity means engaging in an activity in a religious vocation or occupation which is defined by INA 101(a)(32) or for which the minimum of a United States baccalaureate degree or a foreign equivalent degree is required for entry into that field of endeavor.

(g) Religious occupation. A religious occupation is the habitual employment or engagement in an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

(h) Religious vocation. A religious vocation is a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to nuns, monks, and religious brothers and sisters.

(i) Alien not entitled to classification under INA 101(a)(15)(R). An alien who has spent 5 years in the United States under INA 101(a)(15)(R) is not entitled to classification and visa issuance under that section unless the alien has resided and been physically present outside the United States, except for brief visits to the United States for business or pleasure, for the immediate prior year.

Dated: August 9, 1995.

**Diane Dillard,**

*Acting Assistant Secretary for Consular Affairs.*

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**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 in Single-Employer Plans and 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 September 1995, and to multiemployer plans with valuation dates in September 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

**EFFECTIVE DATE:** September 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 September 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 September 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during September 1995.

For annuity benefits, the interest rates will be 6.40% 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 5.00% for the period during which benefits are in pay status, 4.25% during the seven-year period directly preceding the benefit's placement in pay status, and 4.0% during any other years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for August 1995) of .20 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent an increase (from those in effect for August 1995) of .25 percent of 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 September 1995, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during September 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 23 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 value of  $i$ , 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  $n_1 < y < n_1 + n_2$ ), 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  $y \leq n_1 + n_2$ ), 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		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
23	*	*	*	*	*	*	*	*
	9-1-95	10-1-95	5.00	4.25	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  $i$ , 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 I  
[Lump sum valuations]

	For valuation dates occurring in the month—	The values of $i_t$ are:				
		$i_t$	for $t =$	$i_t$	for $t =$	$i_t$
September 1995 .....	.0640	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 23 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both table 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 formula 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 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 On or after	Before	Immediate annuity rate (percent)	Deferred annuities (percent)				
				$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
23 .....	9-1-95	10-1-95	5.00	4.25	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 $t =$
September 1995 .....	.0640	1-20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 8th day of August 1995.

**Martin Slate,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 95-20141 Filed 8-14-95; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 901

#### Alabama Abandoned Mine Land Reclamation Plan

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

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

**SUMMARY:** OSM is approving a proposed amendment to the Alabama abandoned mine land reclamation plan (hereinafter referred to as the "Alabama plan") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Alabama proposed revisions and additions to its plan pertaining to contractor bidder eligibility screening, exclusion of certain noncoal sites from reclamation, requirement of form submission upon project completion, and removal of fourth priority for noncoal reclamation sites. The amendment is intended to revise the Alabama plan to be consistent with the corresponding Federal regulations and SMCRA.

**EFFECTIVE DATE:** August 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Jesse Jackson, Jr., Director, Birmingham Field Office, OSM, 135 Gemini Circle, Suite 215, Birmingham, Alabama 35209, Telephone: (205) 290-7287.

**SUPPLEMENTARY INFORMATION:**

- I. Background on the Alabama Plan.
- II. Submission of the Proposed Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

#### I. Background on the Alabama Plan

On May 20, 1982, the Secretary of the Interior approved the Alabama plan. Background information on the Alabama plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the May 20, 1982, **Federal Register** (47 FR 22062). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 901.25.

#### II. Submission of the Proposed Amendment

By letter dated December 5, 1994 (Administrative Record No. AL-512), Alabama submitted a proposed amendment to its plan pursuant to SMCRA in response to a September 2, 1994, letter that OSM sent to Alabama in accordance with 30 CFR 884.15(d). Alabama proposed to amend two sections of its plan. At "Administrative and Management Structure of the Alabama Abandoned Mine Land Reclamation Program Pursuant to 30 CFR Part 884.13(d)," Alabama proposed to incorporate a contractor responsibility requirement under OSM's Applicant Violator System (AVS) for the reclamation of coal and noncoal sites. At "Ranking and Selection Procedures Pursuant to 30 CFR Part 884.13(c)(2)," Alabama proposed to exclude certain noncoal sites from reclamation and require submission of form OSM-76 upon project completion.

OSM announced receipt of the proposed amendment in the December 19, 1994, **Federal Register** (59 FR 65287), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 18, 1995.

During its review of the amendment, OSM identified concerns relating to Alabama's organizational chart, personnel positions, identification of agencies, purchasing and procurement functions, resolution of audits, research and development, ranking and selection parameters, site evaluation, and final project selection.

OSM notified Alabama of these concerns by letter dated March 1, 1995 (Administrative Record No. AL-0534). By letters dated March 27, 1995 (Administrative Record No. AL-0535) and April 18, 1995 (Administrative Record No. AL-0539), Alabama responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed plan amendment.

Alabama proposed additional revisions to its administrative and management structure and ranking and selection procedures which are intended to clarify its personnel positions and organizational structure and its procedure for the prioritization and selection of projects.

Because the additional explanatory information and revisions submitted by Alabama merely clarified the provisions of the proposed plan amendment, OSM did not reopen the public comment period.

#### III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

##### 1. Procedures for Ranking and Selecting Abandoned Mine Land Reclamation Projects

*A. Preliminary Site Evaluation.* Alabama is proposing to revise its ranking and selection procedures for abandoned mine land (AML) reclamation projects. Specifically, at section II(B)2d, Alabama is proposing to delete the requirement that a project be evaluated according to whether or not it will be designated a "Research and Demonstration Project" to develop new technology. At section II(B)3d, Alabama is proposing to delete priority 4—Research and Development, and at section II(B)3j, it is proposing to delete priority 10—Public Facilities (Non-Coal).

Section 403(a) of SMCRA defines the priorities for the expenditures of moneys on eligible lands and waters which were mined for coal or affected by such mining. As amended by the Energy Policy Act of 1992, this section no longer authorizes funding of a research and development priority. Sections 411(c) and (e) of SMCRA define the priorities for non-coal sites. The Director finds that the proposed deletions at sections II(B)2d, II(B)3d, and II(B)3j do not render the Alabama program less effective than sections 403(a) and 411(c) and (e) of SMCRA.

*B. Intensive Site Evaluation.* At section II(D), Alabama is proposing to modify its site parameters to correspond with the current list of resource values reviewed under the National Environmental Policy Act, adding the noise and topography parameters.

The Federal regulations at 30 CFR 884.13(c) require that the State provide a description of the policies and procedures it will follow in conducting the reclamation program. The Director finds the proposed revisions at section II(D) to be consistent with the Federal regulations at 30 CFR 884.13(c) and not inconsistent with section 403(a) of SMCRA.

*C. Exclusion of Certain Noncoal Reclamation Sites.* At section II(F), Alabama is proposing to add a new section—Exclusion of Certain Noncoal