

responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

#### VII. Paperwork Reduction Act of 1995

The final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (the PRA) is not required.

The information collections addressed in the special control guidance document identified by this rule have been approved by OMB in accordance with the PRA under the regulations governing premarket notification submissions (part 807, subpart E, OMB control number 0910–0120). The labeling provisions addressed in the guidance have been approved by OMB in accordance with the PRA under OMB control number 0910–0485.

#### List of Subjects in 21 CFR Part 868

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 868 is amended as follows:

#### PART 868—ANESTHESIOLOGY DEVICES

1. The authority citation for 21 CFR part 868 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 868.1 is amended by adding paragraph (e) to read as follows:

##### § 868.1 Scope.

\* \* \* \* \*

(e) Guidance documents referenced in this part are available on the Internet at <http://www.fda.gov/cdrh/guidance.html>.

3. Section 868.2480 is amended by revising paragraph (b) to read as follows:

##### § 868.2480 Cutaneous carbon dioxide (PcCO<sub>2</sub>) monitor.

\* \* \* \* \*

(b) *Classification.* Class II (special controls). The special control for this device is FDA's "Class II Special Controls Guidance Document: Cutaneous Carbon Dioxide (PcCO<sub>2</sub>) and Oxygen (PcO<sub>2</sub>) Monitors; Guidance for Industry and FDA." See § 868.1(e) for the availability of this guidance document.

4. Section 868.2500 and the section heading is revised to read as follows:

##### § 868.2500 Cutaneous oxygen (PcO<sub>2</sub>) monitor.

(a) *Identification.* A cutaneous oxygen (PcO<sub>2</sub>) monitor is a noninvasive, heated sensor (e.g., a Clark-type polarographic electrode) placed on the patient's skin that is intended to monitor relative changes in the cutaneous oxygen tension.

(b) *Classification.* Class II (special controls). The special control for this device is FDA's "Class II Special Controls Guidance Document: Cutaneous Carbon Dioxide (PcCO<sub>2</sub>) and Oxygen (PcO<sub>2</sub>) Monitors; Guidance for Industry and FDA." See § 868.1(e) for the availability of this guidance document.

Dated: December 2, 2002.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. 02–31442 Filed 12–12–02; 8:45 am]

**BILLING CODE 4160–01–S**

#### DEPARTMENT OF STATE

##### 22 CFR Part 45

##### [Public Notice 4216]

#### Visas: Documentation of Immigrants Under Section 124 of Public Law 101–649

**AGENCY:** Department of State.

**ACTION:** Final rule.

**SUMMARY:** This rule removes the Department's regulations concerning the documentation of immigrants under section 124 of Immigration Act of 1990 (IMMACT 90). This section provided immigrant status for certain aliens who were resident and employed in Hong Kong. Qualifying aliens could be granted immigrant status during fiscal years 1991 and 1993 and could be granted extended immigrant visa validity up to January 1, 2002. Since this category of visas no longer exists, the Department is removing the regulations.

**EFFECTIVE DATE:** December 13, 2002.

**FOR FURTHER INFORMATION CONTACT:** Pam Chavez, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113.

##### SUPPLEMENTARY INFORMATION:

Section 124 of the Immigration Act of 1990 (IMMACT 90) created a special immigrant visa classification for residents of Hong Kong employed by either U.S. owned or operated businesses or by the American Consulate General in Hong Kong. Visas for business employees were to have

been issued during fiscal years 1991 and 1993. Section 154 of IMMACT 90 also provided for an extension of validity of these visas through January 1, 2002. Visas for Consulate General employees were to have been issued by January 1, 2001. Since these visas are no longer being issued and since the extended validity period has now expired, the Department is removing the regulations pertaining to this class of immigrants.

#### Regulatory Findings

##### *Administrative Procedure Act*

The Department is publishing this rule as a final rule, since it is merely removing regulations that governed a class of immigrants which no longer exists.

##### *Regulatory Flexibility Act*

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

##### *Unfunded Mandates Act of 1995*

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

##### *Executive Order 12866*

The Department of State does not consider this rule to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The

Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

#### *Executive Order 13132*

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

#### *Paperwork Reduction Act*

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

#### **List of Subjects in 22 CFR Part 45**

Aliens, Immigrants, Passports and Visas.

Accordingly, under the authority 8 U.S.C. 1153, the Department is removing part 45.

Dated: November 22, 2002.

**Maura Harty,**

*Assistant Secretary for Consular Affairs,  
Department of State.*

[FR Doc. 02-31483 Filed 12-12-02; 8:45 am]

**BILLING CODE 4710-06-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 January 2003. Interest assumptions are also published on the PBGC's Web site (<http://www.pbgc.gov>).

**EFFECTIVE DATE:** January 1, 2003.

#### **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 January 2003, (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 January 2003, 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 January 2003.

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 5.30 percent for the first 20 years following the valuation date and 5.25 percent thereafter. These interest assumptions (in comparison with those in effect for December 2002) reflect a 5-year decrease in the period during which the initial rate applies (from a period of 25 years following the valuation date to a period of 20 years following the valuation date). The initial rate, in effect during the 20-year period, is unchanged from the initial rate in effect for December

2002. The ultimate rate, in effect thereafter, represents an increase (from the ultimate rate in effect for December 2002) of 1.00 percent.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 4.00 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 are unchanged from those in effect for December 2002.

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 January 2003, 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.