

**§ 635.124 Participation in contract claim awards and settlements.**

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(b) The FHWA shall be made aware by the STD of the details of the claim at an early stage so that coordination of efforts can be satisfactorily accomplished. It is expected that STDs will diligently pursue the satisfactory resolution of claims within a reasonable period of time. Claims arising on exempt non-NHS projects should be processed in accordance with the State's approved Stewardship Plan.

\* \* \* \* \*

- 13. Revise § 635.202 to read as follows:

**§ 635.202 Applicability.**

This subpart applies to all Federal-aid and other highway construction projects financed in whole or in part with Federal funds and to be constructed by a State transportation department or a subdivision thereof in pursuant of agreements between any other State transportation department and the Federal Highway Administration (FHWA).

- 14. Revise § 635.303 to read as follows:

**§ 635.303 Applicability.**

The provisions of this subpart are applicable to all Federal-aid highway construction projects.

- 15. Revise § 635.405 to read as follows:

**§ 635.405 Applicability.**

The requirements and procedures prescribed in this subpart apply to all contracts relating to Federal-aid highway projects.

**Subpart E to Part 635—[Removed]**

- 16. Remove subpart E to part 635.

**PART 640—[REMOVED]**

- 17. Remove part 640.

[FR Doc. 04-3273 Filed 2-12-04; 8:45 am]

BILLING CODE 4910-22-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 March 2004. Interest assumptions are also published on the PBGC's Web site (<http://www.pbgc.gov>).

**EFFECTIVE DATE:** March 1, 2004.

**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 March 2004, (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 March 2004, 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 March 2004.

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 4.10 percent for the first 20 years following

the valuation date and 5.00 percent thereafter. These interest assumptions are unchanged from those in effect for February 2004.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.00 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 represent a decrease (from those in effect for February 2004) 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 March 2004, 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 125, 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		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*	*	*	*	*	*	*	*
125	3-1-04	4-1-04	3.00	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 125, 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**

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Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*	*	*	*	*	*	*	*
125	3-1-04	4-1-04	3.00	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 $t =$
*	*	*	*	*	*	*
March 2004 .....	.0410	1-20	.0500	>20	N/A	N/A

Issued in Washington, DC, on this 10th day of February 2004.

**Joseph H. Grant,**  
*Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation.*  
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**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 4904**

**RIN 1212-AA99**

**Ethical Conduct of Employees**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation is removing its regulations on the ethical conduct of employees (Part 4904). The standards of ethical conduct issued by the Office of Government Ethics provide guidance for PBGC employees on this subject.

**EFFECTIVE DATE:** February 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, or Thomas H. Gabriel, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** On August 7, 1992 (57 FR 35006), the Office of Government Ethics published a final rule on Standards of Ethical Conduct for

Employees of the Executive Branch. The OGE standards (5 CFR part 2635), which took effect on February 3, 1993, establish uniform ethical conduct standards applicable to all executive branch personnel.

When OGE published the standards, it stated that although most existing individual agency standards of conduct would be superseded when the standards took effect, an agency's standards dealing with outside employment would be preserved for one year or until the agency issued a supplemental regulation, whichever occurred first. (The time period was subsequently extended, but has now expired for the PBGC.)

On January 14, 1993 (58 FR 4318), the PBGC issued a final rule that amended its regulations on the Ethical Conduct of