

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 4044**

**Allocation of Assets in Single-Employer Plans; Interest Rate for Valuing Benefits**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in November 1996.

**EFFECTIVE DATE:** November 1, 1996.

**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:** The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest rates and factors. These interest rates and factors are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest rates and factors are prescribed, one set for the valuation

of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest rates and factors for valuing benefits in plans with valuation dates during November 1996.

For annuity benefits, the interest rates will be 6.20 percent for the first 20 years following the valuation date and 4.75 percent thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.00 percent for the period during which benefits are in pay status, 4.25 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. The annuity interest assumptions represent a decrease (from those in effect for October 1996) of .10 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 October 1996) of .25 percent for the period during which benefits are in pay status and for the seven years directly preceding that period; they are otherwise unchanged.

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 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 plans with valuation dates during November 1996, 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 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 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is hereby amended as follows:

**PART 4044—[AMENDED]**

1. The authority citation for part 4044 continues to read as follows:

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

2. In appendix B, a new entry is added to Table I, and Rate Set 37 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

**Appendix B to Part 4044—Interest Rates Used To Value Annuities and Lump Sums**

**Table I.—Annuity Valuations**

[This table sets forth, for each indicated calendar month, 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.]

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=	$i_t$	for t=
November 1996	.0620	1-20	.0475	>20	N/A			N/A

**Table II.—Lump Sum Valuations**

[In using this table: (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 (where  $y$  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, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is  $y$  years (where  $y$  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, and thereafter the immediate annuity rate shall

apply; (4) For benefits for which the deferral period is  $y$  years (where  $y$  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, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i <sub>1</sub>	i <sub>2</sub>	i <sub>3</sub>	n <sub>1</sub>	n <sub>2</sub>
37	11-1-96	12-1-96	5.00	4.25	4.00	4.00	7	8

Issued in Washington, DC, on this 9th day of October 1996.  
 Martin Slate,  
*Executive Director, Pension Benefit Guaranty Corporation.*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Region II Docket No. 144; NJ22-1-7069a, FRL-5554-9]

**Approval and Promulgation of Implementation Plans; New Jersey Transportation Control Measures**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request by the State of New Jersey to revise its State Implementation Plan (SIP) to incorporate transportation control measures (TCMs) as part of the State's effort to attain the national ambient air quality standard for ozone. EPA finds that New Jersey adequately demonstrated in its November 15, 1993 SIP that growth in emissions from growth in vehicle miles traveled will not increase and, therefore, offsetting emission reduction measures are not required. In its November 15, 1993 SIP revision, the State submitted a list containing 136 TCMs as part of the plan to reduce emissions of volatile organic compounds by 15 percent between 1990 and 1996.

**DATES:** This rule is effective on December 16, 1996, unless adverse or critical comments are received by November 14, 1996. If adverse comments are received, this notice will be withdrawn in the Federal Register prior to the effective date of this rule.

**ADDRESSES:** All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, 20th Floor, New York, New York 10007-1866.

Copies of New Jersey's submittals are available at the following addresses for

inspection during normal business hours:  
 Environmental Protection Agency,  
 Region II Office, Air Programs Branch,  
 290 Broadway, 20th Floor, New York,  
 New York 10007-1866.  
 New Jersey Department of  
 Environmental Protection, Office of  
 Air Quality Management, Bureau of  
 Air Pollution Control, 401 East State  
 Street, CN027, Trenton, New Jersey  
 08625.  
 Environmental Protection Agency, Air  
 and Radiation Docket and Information  
 Center (MC 6102), 401 M Street, S.W.,  
 Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:**  
 Rudolph K. Kapichak, Air Programs  
 Branch, Environmental Protection  
 Agency, 290 Broadway, 20th Floor, New  
 York, New York 10007-1866, (212) 637-  
 4249.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 182(d)(1)(A) of the Clean Air Act Amendments of 1990 requires states containing ozone nonattainment areas classified as "severe" pursuant to Section 181(a) of the Act to adopt transportation control measures (TCMs) and transportation strategies to offset growth in emissions from growth in vehicle miles traveled (VMT) or number of vehicle trips, and to attain reductions in motor vehicle emissions (in combination with other emission requirements) as necessary to comply with the Act's Reasonable Further Progress (RFP) milestone and attainment requirements. The requirements for establishing a VMT offset program are discussed in the April 16, 1992 General Preamble to Title I of the Act (57 FR 13498), in addition to Section 182(d)(1)(A) of the Act. The VMT offset provision requires that states submit by November 15, 1992 specific enforceable TCMs and strategies to offset any growth in emissions from growth in VMT or number of vehicle trips sufficient to allow total area emissions to comply with the RFP and attainment requirements of the Act.

EPA has observed that these three elements (i.e., offsetting growth in mobile source emissions, attainment of the RFP reduction, and attainment of ozone national ambient air quality

standards (NAAQS) create a timing problem of which Congress was perhaps not fully aware. As discussed in EPA's April 16, 1992 General Preamble to Title I, ozone nonattainment areas affected by this provision were not otherwise required to submit SIPs that show attainment of the 1996 15 percent RFP milestone until November 15, 1993, and likewise are not required to demonstrate post-1996 RFP and attainment of the NAAQS until November 15, 1994. The SIP demonstrations due on November 15, 1993, and on November 15, 1994 are broader in scope than growth in VMT or trips in that they necessarily address emission trends and control measures for non-motor vehicle emission sources and, in the case of attainment demonstrations, complex photochemical modeling studies.

EPA does not believe that Congress intended the VMT offset provision to advance dates for these broader submissions. Further, EPA believes that the November 15, 1992 date would not allow sufficient time for states to have fully developed specific sets of measures that would comply with all of the elements of the VMT offset requirements of Section 182(d)(1)(A) over the long term. Consequently, EPA believes it would be appropriate to interpret the Act to provide the following alternative set of staged deadlines for submittal of elements of the VMT offset SIP.

Under this interpretation, the three required elements of Section 182(d)(1)(A) are separable, and can be divided into three separate submissions on different dates. Section 179(a) of the Act, in establishing how EPA would be required to apply mandatory sanctions if a state fails to submit a full SIP also provides that the sanctions clock starts if a state fails to submit one or more SIP elements, as determined by the Administrator. EPA believes that this language provides EPA the authority to determine that the different elements of a SIP submission are separable. Moreover, given the continued timing problems addressed earlier, EPA believes it is appropriate to allow states to separate the VMT offset SIP into three elements, each to be submitted at different times: (1) The initial requirement to submit TCMs that offset