

final Request for Proposals or other applicable solicitation documents.

(d) STAs shall ensure the VE analysis meets the following requirements:

(1) Uses a multidisciplinary team not directly involved in the planning or design of the project, with at least one individual who has the training and experience with leading a VE analysis;

(2) Develops and implements the VE Job Plan;

(3) Produces a formal written report outlining, at a minimum:

(i) Project information;

(ii) Identification of the VE analysis team;

(iii) Background and supporting documentation, such as information obtained from other analyses conducted on the project (e.g., environmental, safety, traffic operations, constructability);

(iv) Documentation of the stages of the VE Job Plan which would include documentation of the life-cycle costs that were analyzed;

(v) Summarization of the analysis conducted;

(vi) Documentation of the proposed recommendations and approvals received at the time the report is finalized; and

(vii) The formal written report shall be retained for at least 3 years after the completion of the project (as specified in 49 CFR 18.42).

(e) For bridge projects, in addition to the requirements in paragraph (d) of this section, the VE analyses shall:

(1) Include bridge substructure and superstructure requirements that consider alternative construction materials; and

(2) Be conducted based on:

(i) An engineering and economic assessment, taking into consideration acceptable designs for bridges; and

(ii) An analysis of life-cycle costs and duration of project construction.

(f) STAs and local public agencies may employ qualified consultants (as defined in 23 CFR 172) to conduct a VE analysis. The consultant shall possess the training and experience required to lead the VE analysis. A consulting firm or individual shall not be used to conduct or support a VE analysis if they have a conflict of interest (as specified in 23 CFR 1.33).

(g) VECs, STAs, and local public agencies are encouraged to use a VEC clause (or other such clauses under a different name) in an applicable project's contract, allowing the construction contractor to propose changes in the project's plans, specifications, or other contract documents. Whenever such clauses are used, the STA and local authority will

consider changes that could improve the project's performance, value and quality, shorten the delivery time, or lower construction costs, while considering impacts on the project's overall life-cycle cost and other applicable factors. The basis for a STA or local authority to consider a VEC is the analysis and documentation supporting the proposed benefits that would result from implementing the proposed change in the project's contract or project plans.

(h) Proposals to accelerate construction after the award of the contract will not be considered a VEC and will not be eligible for Federal-aid highway program funding participation. Where it is necessary to accelerate construction, STAs and local public agencies are encouraged to use the appropriate incentive or disincentive clauses so that all proposers will take this into account when preparing their bids or price proposals.

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4022 and 4044

#### Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in April 2012 and interest assumptions under the asset allocation regulation for valuation dates in the second quarter of 2012. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

**DATES:** Effective April 1, 2012.

#### FOR FURTHER INFORMATION CONTACT:

Catherine B. Klion  
([Klion.Catherine@PBGC.gov](mailto:Klion.Catherine@PBGC.gov)), Manager, Regulatory and Policy Division, Legislative and Regulatory Department, 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:** PBGC's regulations on Allocation of Assets in Single-Employer Plans (29 CFR Part 4044) and Benefits Payable in Terminated Single-Employer Plans (29 CFR Part 4022) prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits under terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions in the regulations are also published on PBGC's Web site (<http://www.pbgc.gov>).

The interest assumptions in Appendix B to Part 4044 are used to value benefits for allocation purposes under ERISA section 4044. PBGC uses the interest assumptions in Appendix B to Part 4022 to determine whether a benefit is payable as a lump sum and to determine the amount to pay. Appendix C to Part 4022 contains interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using PBGC's historical methodology. Currently, the rates in Appendices B and C of the benefit payment regulation are the same.

The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Assumptions under the asset allocation regulation are updated quarterly; assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for April 2012 and updates the asset allocation interest assumptions for the second quarter (April through June) of 2012.

The second quarter 2012 interest assumptions under the allocation regulation will be 3.11 percent for the first 20 years following the valuation date and 3.36 percent thereafter. In comparison with the interest assumptions in effect for the first quarter of 2012, these interest assumptions represent no change in the select period (the period during which the select rate (the initial rate) applies), a decrease of 0.63 percent in the select rate, and a decrease of 0.34 percent in the ultimate rate (the final rate).

The April 2012 interest assumptions under the benefit payments regulation will be 1.25 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. In comparison with the interest assumptions in effect for March 2011, these interest assumptions are unchanged.

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 current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits under plans with valuation dates during April 2012, PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

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 222, as set forth below, is added to the table.

##### 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      |                                  | $i_1$                        | $i_2$     | $i_3$     | $n_1$  | $n_2$  |  |
| *<br>222 | *<br>4-1-12                     | *<br>5-1-12 | *<br>1.25                        | *<br>4.00                    | *<br>4.00 | *<br>4.00 | *<br>7 | *<br>8 |  |

■ 3. In appendix C to part 4022, Rate Set 222, as set forth below, is added to the table.

##### Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

\* \* \* \* \*

| Rate set | For plans with a valuation date |             | Immediate annuity rate (percent) | Deferred annuities (percent) |           |           |        |        |  |
|----------|---------------------------------|-------------|----------------------------------|------------------------------|-----------|-----------|--------|--------|--|
|          | On or after                     | Before      |                                  | $i_1$                        | $i_2$     | $i_3$     | $n_1$  | $n_2$  |  |
| *<br>222 | *<br>4-1-12                     | *<br>5-1-12 | *<br>1.25                        | *<br>4.00                    | *<br>4.00 | *<br>4.00 | *<br>7 | *<br>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 for April–June 2012, as set forth below, is added to the table.

##### 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 $t =$ |
| *<br>April–June 2012                        | *<br>..... | *<br>..... | *<br>..... | *<br>0.0311              | *<br>1–20 | *<br>0.0336 | *<br>>20  | *<br>N/A | *<br>N/A  |

Issued in Washington, DC, on this 9th day of March 2012.

**Laricke Blanchard,**

*Deputy Director for Policy, Pension Benefit Guaranty Corporation.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2011-1095]

RIN 1625-AA08

#### Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing special local regulations on the Ashley River in Charleston, South Carolina during the Patriot Challenge Kayak Race on Saturday, April 28, 2012. Approximately 150 paddle boats are anticipated to participate in the Patriot Challenge Kayak Race. Participant paddle boats will include kayaks, canoes, and paddleboards. These special local regulations are necessary to provide for the safety of life on navigable waters of the United States during the race. The special local regulations consist of a series of moving buffer zones around participant vessels as they transit the Ashley River from Brittlebank Park to Tidewater Reach and back to Brittlebank Park. Persons and vessels that are not participating in the race are prohibited from entering, transiting through, anchoring in, or remaining within any of the buffer zones unless authorized by the Captain of the Port Charleston or a designated representative.

**DATES:** This rule is effective from 12:30 p.m. until 3:30 p.m. on April 28, 2012.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-1095 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1095 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE.,

Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Ensign John R. Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740-3184, email [John.R.Santorum@uscg.mil](mailto:John.R.Santorum@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On December 22, 2011, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC in the *Federal Register* (76 FR 79571). We received no comments on the proposed rule. No public meeting was requested, and none was held.

##### Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during the Patriot Challenge Kayak Race.

##### Discussion of Rule

On Saturday, April 28, 2012, the Patriot Challenge Kayak Race is scheduled to take place on the waters of the Ashley River in Charleston, South Carolina. The race will begin at Brittlebank Park, transit southeast on the Ashley River, head north between Shutes Folly Island and the Charleston peninsula, and then turn around in Tidewater Reach. The race will return to Brittlebank Park by the same route. Approximately 150 paddle boats are anticipated to participate in the Patriot Challenge Kayak Race. Participant paddle boats will include kayaks, canoes, and paddleboards.

This rule establishes special local regulations on the Ashley River in Charleston, South Carolina consisting of a series of buffer zones around vessels participating in the Patriot Challenge Kayak Race. These buffer zones are as follows: (1) All waters within 75 yards of the lead safety vessel; (2) all waters within 75 yards of the last safety vessel; and (3) all waters within 100 yards of all other participating vessels, including kayaks, canoes, and paddleboards. Notice of the special local regulations, including the identities of the lead safety vessel and the last safety vessel, will be provided prior to the marine

parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulations will be enforced from 12:30 p.m. until 3:30 p.m. on April 28, 2012. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zones unless authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the buffer zones by contacting the Captain of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within any of the buffer zones is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization are required to comply with the instructions of the Captain of the Port Charleston or a designated representative.

##### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only three hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the buffer zones without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the