

in areas located throughout the United States, including Texas and Louisiana.

### Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

### Drafting Information

The principal authors of these regulations are Daniel Cassano and Christopher Wrobel of the Office of the Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the Treasury Department and the IRS participated in their development.

### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

### Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.165–11 is revised to read as follows:

#### § 1.165–11 Election in respect of losses attributable to a disaster.

(a) through (j) [Reserved]. For further guidance, see § 1.165–11T(a) through (j).

■ **Par. 3.** Section 1.165–11T is added to read as follows:

#### § 1.165–11T Election to take disaster loss deduction for preceding year (temporary).

(a) *In general.* Section 165(i) allows a taxpayer who has sustained a loss attributable to a federally declared disaster in a taxable year to elect to deduct that disaster loss in the preceding year. This section provides rules and procedures for making and

revoking an election to claim a disaster loss in the preceding year.

(b) *Definitions.* The following definitions apply for purposes of this section:

(1) A *federally declared disaster* means any disaster subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act or a successor enactment.

(2) A *federally declared disaster area* is the area determined to be eligible for assistance pursuant to the Presidential declaration in paragraph (b)(1) of this section.

(3) A *disaster loss* is a loss occurring in a federally declared disaster area that is attributable to a federally declared disaster and that is otherwise allowable as a deduction for the disaster year under section 165(a) and §§ 1.165–1 through 1.165–10.

(4) The *disaster year* is the taxable year in which a taxpayer sustains a loss attributable to a federally declared disaster.

(5) The *preceding year* is the taxable year immediately prior to the disaster year.

(c) *Scope and effect of election.* An election made pursuant to section 165(i) for a disaster loss attributable to a particular disaster applies to the entire loss sustained by the taxpayer from that disaster during the disaster year. If the taxpayer makes a section 165(i) election with respect to a particular disaster occurring during the disaster year, the disaster to which the election relates is deemed to have occurred, and the disaster loss to which the election applies is deemed to have been sustained, in the preceding year.

(d) *Requirement to file consistent returns.* A taxpayer may not make a section 165(i) election for a disaster loss if the taxpayer claims a deduction (as a loss, as cost of goods sold, or otherwise) for the same loss for the disaster year. If a taxpayer has claimed a deduction for a disaster loss for the disaster year and the taxpayer wishes to make a section 165(i) election with respect to such loss, the taxpayer must file an amended return to remove the previously deducted loss on or before the date that the taxpayer makes the section 165(i) election for such loss. Similarly, if a taxpayer has claimed a deduction for a disaster loss for the preceding year based on a section 165(i) election and the taxpayer wishes to revoke that election, the taxpayer must file an amended return to remove the loss for the preceding year on or before the date the taxpayer files the return or

amended return for the disaster year that includes the loss.

(e) *Manner of making election.* An election under section 165(i) to deduct a disaster loss for the preceding year is made on an original federal tax return for the preceding year or an amended federal tax return for the preceding year in the manner specified by guidance issued pursuant to these regulations. See paragraph (h) of this section.

(f) *Due date for making election.* The due date for making the section 165(i) election is six months after the due date for filing the taxpayer's federal income tax return for the disaster year (determined without regard to any extension of time to file).

(g) *Revocation.* Subject to the requirements in paragraph (d) of this section, a section 165(i) election may be revoked on or before the date that is ninety (90) days after the due date for making the election.

(h) *Additional guidance.* The time and manner for making and revoking a section 165(i) election under paragraphs (d), (e), (f), and (g) of this section may be modified through guidance published in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d) of this chapter).

(i) *Effective/applicability date.* This section is effective October 13, 2016 and applies to elections, revocations, and any other related actions that can be made or taken on or after October 13, 2016.

(j) *Expiration date.* The section expires October 13, 2019.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: September 19, 2016.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

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## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Part 4022

#### Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Paying Benefits

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to

prescribe interest assumptions under the regulation for valuation dates in November 2016. The interest assumptions are used for paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

**DATES:** Effective November 1, 2016.

**FOR FURTHER INFORMATION CONTACT:**

Deborah C. Murphy (*Murphy.Deborah@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005, 202-326-4400 ext. 3451. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400 ext. 3451.)

**SUPPLEMENTARY INFORMATION:** PBGC's regulation on Benefits Payable in Terminated Single-Employer Plans (29 CFR part 4022) prescribes actuarial assumptions—including interest assumptions—for 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 regulation are also published on PBGC's Web site (*http://www.pbgc.gov*).

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 benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for November 2016.<sup>1</sup>

The November 2016 interest assumptions under the benefit payments regulation will be 0.50 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 October 2016, 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 payment of benefits under plans with valuation

dates during November 2016, 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 in 29 CFR Part 4022**

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

In consideration of the foregoing, 29 CFR part 4022 is 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 277 is added to the table to read as follows:

**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		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*		*	*	*		*	*
277	11-1-16	12-1-16	0.50	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 277 is added to the table to read as follows:

**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		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*		*	*	*		*	*
277	11-1-16	12-1-16	0.50	4.00	4.00	4.00	7	8

<sup>1</sup> Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing

benefits under terminating covered single-employer plans for purposes of allocation of assets under

ERISA section 4044. Those assumptions are updated quarterly.

Judith Starr,  
General Counsel, Pension Benefit Guaranty  
Corporation.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2016-0154]

RIN 1625-AA00

#### Safety Zones; San Francisco, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending several permanent safety zones located in the Captain of the Port San Francisco zone that are established to protect public safety during annual firework displays. These amendments are necessary to update listed events to accurately reflect the firework display locations. This regulation prohibits the movement of vessels within the established firework display areas unless authorized by the Captain of the Port (COTP) San Francisco or a designated representative.

**DATES:** This rule is effective November 14, 2016.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2016-0154 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Lieutenant Junior Grade Christina Ramirez, U.S. Coast Guard Sector San Francisco; telephone 415-399-3585, email [D11-PF-MarineEvents@uscg.mil](mailto:D11-PF-MarineEvents@uscg.mil).

#### SUPPLEMENTARY INFORMATION:

##### I. Table of Abbreviations

CFR Code of Federal Regulations  
COTP Captain of the Port  
DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of proposed rulemaking  
§ Section  
U.S.C. United States Code

##### II. Background Information and Regulatory History

On April 19, 2016 we published a notice of proposed rulemaking (NPRM) entitled Safety Zones; San Francisco, CA, in the *Federal Register* (81 FR

22946), to amend several permanent safety zones located in the Captain of the Port San Francisco zone that are established to protect public safety during annual firework displays. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to the amended fireworks safety zones. We received no comments on the NPRM nor did we receive a request for public meeting. A public meeting was not held.

##### III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the current outdated fireworks locations, if not updated, pose safety concerns for event crew, spectators, participants of the event, participating vessels, and other users and vessels of the waterway.

##### IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published on April 19, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule amends Table 1 in § 165.1191 to update three events to reflect the current event locations. These events are listed numerically in Table 1 of this section: (7), (8), (22).

##### V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

##### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 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. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of each safety zone. Vessel traffic would be able to safely transit around each safety zone which

would impact a small designated area of the COTP San Francisco zone for less than 1 hour during the evening when vessel traffic is normally low. Moreover, the Coast Guard would issue a Local Notice to Mariner and Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zones.

##### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above this rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

##### C. Collection of Information

This rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

##### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132,