

determinations issued on or after the effective date of the final rule with respect to premiums for 1999 and later plan years. The amendment to the late payment penalty rate would apply to PBGC determinations issued on or after the effective date of the final rule with respect to premiums for 1996 and later plan years.

Compliance With Rulemaking Guidelines

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

This rule would provide relief from premium penalties. The relief would be limited to a percentage—generally small—of a plan's premium. While this rule would result in a positive economic impact for some small entities, the number of small entities for which the impact would be significant would not be substantial. The PBGC therefore certifies under section 605(b) of the Regulatory Flexibility Act that this rule would not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects in 29 CFR Part 4007

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC proposes to amend 29 CFR part 4007 as follows.

PART 4007—PAYMENT OF PREMIUMS

1. The authority citation for part 4007 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1301(a), 1306, 1307.

2. Section 4007.8 is revised to read as follows:

§ 4007.8 Late payment penalty charges.

(a) *Penalty charge.* If any premium payment due under this part is not paid by the due date under § 4007.11, the PBGC will assess a late payment penalty charge as determined under this paragraph (a), except to the extent the charge is waived under paragraphs (b) through (g) of this section. The charge will be no more than 100% of the unpaid premium. The charge will be based on the number of months (counting any portion of a month as a whole month) from the due date to the date of payment and is subject to a floor of \$25 (or, if less, the amount of the unpaid premium).

(1) *Penalty rate for post-1995 premium payment years.* This paragraph

(a)(1) applies to the premium for any premium payment year beginning after 1995. The penalty rate is—

(i) 1% per month (for all months) on any amount of unpaid premium that is paid on or before the date the PBGC issues a written notice to any person liable for the plan's premium that there is or may be a premium delinquency (e.g., a premium bill, a letter initiating a premium compliance review, or a letter questioning a failure to make a premium filing); or

(ii) 5% per month (for all months) on any amount of unpaid premium that is paid after that date.

(2) *Penalty rate for pre-1996 premium payment years.* This paragraph (a)(2) applies to the premium for any premium payment year beginning before 1996. The penalty rate is 5% per month (for all months) on any amount of unpaid premium.

(b) *Hardship waiver.* The PBGC may grant a waiver based upon a showing of substantial hardship as provided in section 4007(b) of ERISA.

(c) *Reasonable cause waiver.* The PBGC may, upon any demonstration of reasonable cause, waive all or part of a late payment penalty charge.

(d) *Waiver on PBGC's own initiative.* The PBGC may, on its own initiative, waive all or part of a late payment penalty charge.

(e) *Grace period.* With respect to any PBGC bill for a premium underpayment, the PBGC will waive any late payment penalty charge accruing after the date of the bill, provided the premium underpayment is paid within 30 days after the date of the bill.

(f) *Safe-harbor relief for certain large plans.* This waiver applies to the premium for any premium payment year beginning after 1998 in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if fewer than 500 participants are reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(g) *Safe-harbor relief for plans that make minimum estimated payment.* This waiver applies in the case of a plan for which a reconciliation filing is required under § 4007.11(a)(2)(iii). The PBGC will waive the penalty on any underpayment of the flat-rate premium for the period that ends on the date the reconciliation filing is due if, by the date the flat-rate premium for the premium payment year is due under

§ 4007.11(a)(2)(i), the plan administrator pays at least the lesser of—

(1) 90% of the flat-rate premium due for the premium payment year; or

(2) 100% of the flat-rate premium that would be due for the premium payment year if the number of participants for that year were the lesser of—

(i) The number of participants for whom premiums were required to be paid for the plan year preceding the premium payment year; or

(ii) In the case of a premium payment year beginning after 1998, the number of participants reported for the plan year preceding the premium payment year (determined in accordance with paragraph (h) of this section).

(h) *Reported participant count.* For purposes of paragraphs (f) and (g)(2)(ii) of this section, the number of participants reported for the plan year preceding the premium payment year is the number of participants last reported under this part to the PBGC (for the plan year preceding the premium payment year) by the date the flat-rate premium for the premium payment year is due under § 4007.11(a)(2)(i).

Issued in Washington, DC, this 21st day of April, 1999.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 72 and 75

RIN 1219-AA74

Diesel Particulate Matter Exposure of Underground Coal Miners

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; extension of comment period and close of record.

SUMMARY: We are extending the period for public comment on the Agency's proposed rule addressing diesel particulate matter exposure of underground coal miners. This proposed rule was published in the **Federal Register** on April 9, 1998.

DATES: We must receive your comments by July 26, 1999.

ADDRESSES: You may use mail, facsimile (fax), or electronic mail to send your comments to MSHA. Clearly identify comments as such and send them—

(1) By mail to Carol J. Jones, Acting Director, Office of Standards,

Regulations, and Variances, MSHA, 4015 Wilson Boulevard, Room 631, Arlington, VA 22203;

(2) By fax to MSHA, Office of Standards, Regulations, and Variances, 703-235-5551; or

(3) By electronic mail to comments@msha.gov.

FOR FURTHER INFORMATION CONTACT:

Carol J. Jones, 703-235-1910.

SUPPLEMENTARY INFORMATION: On April 9, 1998 (63 FR 17492) MSHA published a proposed rule to reduce the risks to underground coal miners of serious health hazards that are associated with exposure to high concentrations of diesel particulate matter (dpm). DPM is a very small particle in diesel exhaust. Underground miners are exposed to far higher concentrations of this fine particulate than any other group of workers.

The post-hearing comment period for the proposed rule addressing diesel particulate matter exposure of underground coal miners was scheduled to close April 30, 1999 (64 FR 7144).

However, in response to requests from the public for additional time to prepare their comments, the record for the proposed rule will remain open until July 26, 1999. This provides a total of 15 months from the date of publication for the public to comment on the proposed rule.

Dated: April 21, 1999.

Marvin W. Nichols, Jr.,

Deputy Assistant Secretary for Mine Safety and Health.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13-99-005]

RIN 2115 AE47

Drawbridge Operations Regulations; Duwamish Waterway and Lake Washington Ship Canal, WA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the operating regulations for the city drawbridges across the Lake Washington Ship Canal and the state drawbridge across the Duwamish Waterway in Seattle, Washington, by deleting Columbus Day from federal holidays on which the operating schedule does not accommodate the

peak hours of roadway traffic with scheduled closed periods of the drawspans. This amendment would apply the same operating regulations that are specified for Monday through Friday to Columbus Day. Roadway traffic does not decrease significantly on Columbus Day as it does on other federal holidays. This amendment would apply to Columbus Day the same draw closed periods that are provided for non-holidays Monday through Friday.

DATES: Comments must reach the Coast Guard on or before June 28, 1999.

ADDRESSES: You may mail comments to Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174-1067 or deliver them to room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220-7272.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should identify this rulemaking (CGD 13-99-005) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes. The Coast Guard will consider all comments received during the comment period. It may change the proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Coast Guard including the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The purpose of the proposed changes to 33 CFR 117.1041 and 117.1051 is to alleviate commuter traffic congestion by removing Columbus Day from the existing federal holiday exemption for the dual First Avenue South

Drawbridges across the Duwamish Waterway, mile 2.5, and the drawbridges across the Lake Washington Ship Canal east of the Chittenden Locks. These bridges are the Ballard Bridge at mile 1.1, the Fremont Bridge at mile 2.6, the University Bridge at mile 4.3, and the Montlake Bridge at mile 5.2. The regulations which are currently in effect authorize various weekday closed periods during the hours of heavy commuting so that openings for vessels will not worsen traffic congestion. These closed periods do not apply on weekends or federal holidays because the affected streets are not as heavily traveled on those holidays. Columbus Day does not warrant this exemption. Many employers in the Seattle area do not honor this holiday and, as a result, the volume of commuter traffic does not appreciably diminish on that day. Openings for the passage of vessels on this day at times of peak traffic can cause significant delay to street traffic. The proposed amendment will enable Columbus Day to be treated as any other weekday with regard to opening the subject drawspans. The proposed amendment also would delete reference to notification of the Seattle City Engineer for emergency openings of the Lake Washington Ship Canal bridges. Emergency openings shall be provided in accordance with 33 CFR 117.31. This part of the proposed amendment reflects the Coast Guard's policy that notification made to the bridge tender is sufficient for declaration of emergency requiring immediate opening of the draw.

Discussion of Proposed Rule

By specifically removing Columbus Day from the exempt category for federal holiday in § 117.1041 (a)(1) and § 117.1051 (d)(2), traffic congestion will be alleviated by preventing openings for vessels of less than 5000 gross tons during the normal Monday through Friday periods when the First Avenue South drawbridges need not be opened for the passage of vessels and similarly for vessels of less than 1000 gross tons in the case of the city drawbridges across the Lake Washington Ship Canal. In contrast to other federal holidays, Columbus Day does not present a significant reduction in commuter traffic. Traffic remains high as on any other weekday peak period. Under the proposed amendment, the subject drawbridges would not have to open on signal at any time during the day as is currently required on Columbus Day. Also requests for emergency openings of the Lake Washington Ship Canal drawspans would be obtained by simply