

should give when communicating with participants and how often to update these estimates.

### Fixing the Variable Index

#### *Section 4044 Valuation*

Tracking the actual performance of a variable index over time is not an option for the PBGC when it performs its plan valuation under ERISA section 4044. This is because the PBGC must perform this valuation as of the plan's termination date and thus cannot take into account the actual performance of the variable index after that date. The PBGC values each participant's plan benefit by first determining the annuity benefit payable at retirement and then determining the present value of that future annuity benefit as of the plan's termination date. Thus, the PBGC must fix the variable index (*i.e.*, make an assumption about the future performance of the variable index) as of the plan's termination date to be able to determine, as of that date, what a participant's annuity benefit will be at a future retirement date.

#### *Future Annuity Payments—Funding of Nonguaranteed Benefits*

The way in which the PBGC fixes the variable index will not affect the amount of a participant's annuity benefit under the plan or the extent to which that benefit is guaranteed. However, it can affect the section 4044 valuation, which is performed as of the plan's termination date. That valuation, in turn, can affect the extent to which any nonguaranteed portion of the participant's benefit is funded by plan assets or by PBGC recoveries on its employer liability claims.

#### *Lump Sums*

The PBGC also must fix the future performance of a variable index to determine the amounts of its (generally *de minimis*) lump-sum payments. This is so because, under the PBGC's traditional methodology for calculating lump sum amounts, it must know the amount of the participant's future retirement benefit in order to determine the lump sum value (based on PBGC assumptions and methods) of that benefit as of the plan's termination date.

The need to fix the variable index would not disappear even if the PBGC were to depart from its traditional methodology for determining lump sum amounts and were instead to base its lump sum payments in "safe-harbor" cash balance plans on the amount of the hypothetical account balance. This is because the PBGC can pay the hypothetical account balance only to the

extent it is payable under Title IV of ERISA, *i.e.*, guaranteed (under ERISA section 4022(a) and (b)) or funded by plan assets (under ERISA section 4044) or by PBGC recoveries on its employer liability claims (under ERISA section 4022(c))—determinations that the PBGC must make as of the plan's termination date. Thus, the PBGC will need to fix the variable index to determine the extent to which the lump sum is payable.

#### *Possible Methods for Fixing the Variable Index*

The PBGC can fix the future performance of a variable index in a number of ways—for example, by using a standardized PBGC value that will apply to all plans that terminate on a given date, by making a "best estimate" determination for each plan termination based on generally accepted actuarial principles and practices, by using the index as it stood on the plan's termination date (*i.e.*, the "spot rate"), or by using some "historical average" of the index.

Each approach would present different issues. Using a standardized PBGC value could lead to results that would diverge significantly from what one would expect based on the variable index a plan chose. The "best estimate" approach might leave too much discretion with the PBGC. Although the "spot rate" approach could be viewed as consistent with the use of the termination date as the date to determine various rights and obligations under the termination insurance program, there would be an issue as to whether this was the best approach where the index was at (or near) a historic high or low or where, as in the case of an equity index, the change in the index could be negative. And the "historical average" approach would raise questions as to the period over which the variable index should be averaged and the method of averaging. It also would raise questions as to the data's applicability to the future, particularly where the variable index had existed for only a short time or was volatile (*e.g.*, a stock index).

One option that the PBGC is actively considering, in the common case where a plan uses a variable Treasury index other than the yield on 30-year Treasuries (*e.g.*, the yield on one-year Treasuries), is to combine elements of the "spot rate" and "historical average" approaches by using a "modified spot rate" approach. Under this approach, the PBGC would start with the less volatile spot rate for 30-year Treasuries and adjust it to reflect the historical

difference between the yield on 30-year Treasuries and the variable index used.

### Request for Comments

The PBGC is soliciting comments on the Title IV aspects of cash balance plans. As detailed in this notice, the PBGC is especially interested in comments on how it should make its valuation and payment determinations under a cash balance plan that uses a variable index to determine benefits, and on what benefit estimates it should give participants in such a plan. While the discussion in this notice focuses on cash balance plans that use variable indices to determine interest credits, the PBGC is also interested in comments on how it should perform these tasks for cash balance plans that use annuity conversion factors that may vary and for other plans that may raise similar issues.

### E.O. 12866 Review

The Office of Management and Budget has reviewed this notice under E.O. 12866, Regulatory Planning and Review. However, the PBGC has not yet determined whether there is a need to proceed by rulemaking to address the issues raised in this notice.

Issued in Washington, D.C., this 30th day of June, 2000.

**David M. Strauss,**  
*Executive Director, Pension Benefit Guaranty Corporation.*

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2000-4A]

### Public Performance of Sound Recordings: Definition of a Service

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Extension of reply comment period.

**SUMMARY:** The Copyright Office of the Library of Congress is extending the period for filing reply comments in the proceeding to consider the merits of a petition filed by the Digital Media Association. The petition seeks a determination that a webcasting service is not deemed to be interactive merely because it offers the consumer some degree of influence over the programming offered by the service.

**DATES:** Written reply comments are due on July 14, 2000.

**ADDRESSES:** If sent by mail, an original and ten copies of the reply comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, the reply comments should be brought to: Office of the General Counsel, James Madison Building, Room LM-403, First and Independence Ave., SE., Washington, DC 20559-6000.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax: (202) 707-8366.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 23, 2000, the Copyright Office published a notice of inquiry seeking comments on whether to grant a petition for rulemaking filed with the Copyright Office on April 17, 2000, by the Digital Media Association (DiMA). 65 FR 33266 (May 23, 2000). The petition requests that the Office adopt a rule stating that a webcasting service does not become an interactive service because a consumer exerts some degree of influence over the streamed programming.

Comments in response to the notice of inquiry were filed on June 22, 2000. Two parties filed comments in this proceeding, the Recording Industry Association of America, Inc. and DiMA. On June 30, 2000, DiMA filed a request for an extension of the filing date for reply comments from the initially announced date of July 7, 2000, to July 14, 2000. DiMA asserts that it is in need of more time to develop a meaningful response because the intervening four-day Fourth of July holiday creates logistical difficulties for it and its members. DiMA also suggests that an extension of the filing deadline by a week will create no prejudice to any party interested in filing a reply in this proceeding.

The Office agrees and, therefore, grants the request for a one-week extension of the reply comment filing period. Reply comments are now due on Friday, July 14, 2000.

Dated: June 30, 2000.

**David O. Carson,**  
General Counsel.

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**BILLING CODE 1410-31-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 434**

[FRL-6730-7]

**Extension of Comment Period for Coal Mining Point Source Category; Amendments to Effluent Limitations Guidelines and New Source Performance Standards; Proposed Rule**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of extension of comment period for proposed rule.

**SUMMARY:** EPA is extending the comment period for the proposed amendments to effluent limitations standards and new source performance standards for the coal mining point source category. The proposed rule was published in the *Federal Register* on April 11, 2000 (65 FR 19439). The comment period for the proposed rule is extended by 60 days, ending on September 8, 2000. This extension is being granted while taking into consideration the court-ordered promulgation deadline for the final rule.

**DATES:** Comments on the proposed rule will be accepted through September 8, 2000.

**ADDRESSES:** Send written comments to John Tinger (4303); U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Ave., N.W.; Washington, DC 20460. Comments delivered by hand should be brought to Room 615, West Tower; 401 M Street, S.W.; Washington, DC. Please submit any references cited in your comments. Submit an original and three copies of your written comments and enclosures. No facsimiles (faxes) will be accepted. For information on how to submit electronic comments, see the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** For additional technical information, contact John Tinger at (202) 260-4992 or at *Tinger.John@epa.gov*. For additional economic information, contact Kristen Strellac at (202) 260-6036 or at *Strellac.Kristen@epa.gov*.

**SUPPLEMENTARY INFORMATION:** On April 11, 2000, EPA published proposed amendments to effluent limitations guidelines and new source performance standards for the coal mining industry in the *Federal Register* for public review and comment (65 FR 19439). The comment period was scheduled to end July 10, 2000.

EPA has received requests to extend the comment period to allow more time for public comment. While EPA believes the initial comment period of 90 days was adequate, to accommodate these requests EPA is extending the comment period 60 days, through September 8, 2000.

In addition to accepting hard-copy written comments, EPA will also accept comments submitted electronically. Electronic comments must be submitted as a Word Perfect 5/6/7/8 or ASCII file and must be submitted to *Tinger.John@epa.gov*.

Under a consent decree entered by the U.S. District Court for the District of Columbia, EPA is scheduled to promulgate the final rule by December 2001. *See* 65 FR 19442. While this deadline is feasible even with this extension of the comment period, EPA would not support any further extension of the comment period.

Dated: June 29, 2000.

**J. Charles Fox,**

Assistant Administrator for Water.

[FR Doc. 00-17069 Filed 7-5-00; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

[IB Docket No. 00-106, FCC 00-210]

**Review of Commission's Consideration of Applications Under the Cable Landing License Act**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document solicits comments on a proposed mechanism for streamlining the licensing of international submarine cable systems. Under the proposal, applicants would have three options to qualify for streamlined review. The Commission initiated this proceeding as a means of tailoring its licensing process to encourage rapid, facilities-based entry by multiple firms that can bring new capacity to keep up with the increased demand.

**DATES:** Comments are due on or before August 21, 2000, and reply comments are due on or before September 21, 2000. Written comments by the public on the proposed information collections are due on or before August 21, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections before September 5, 2000.