

Federal Reserve

Monday
May 13, 1996

Part XXXIX

**Pension Benefit
Guaranty
Corporation**

Semiannual Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation (PBGC).

ACTION: Semiannual regulatory agenda.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12866 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or review or that PBGC expects to have under development or review during the next 12 months. The effect of this agenda is to advise the

public of PBGC's current and future regulatory activities.

ADDRESSES: Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, (202) 326-4024. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's order on Regulatory Planning and Review, Executive Order 12866 (58 FR 51735, October 4, 1993), each agency is required to prepare an

agenda of all regulations under development or review. The Regulatory Flexibility Act, Public Law 98-354, 5 U.S.C. 601, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next 12 months and provide certain specified information on each regulation. All of the items on this agenda are current or projected rulemakings.

Martin Slate,
Executive Director, Pension Benefit Guaranty Corporation.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3849	Mergers and Transfers Between Multiemployer Plans	1212-AA69
3850	Submission of Premium-Related Information	1212-AA66
3851	Reinvention	1212-AA83
3852	Calculation and Payment of Unfunded Nonguaranteed Benefits	1212-AA54
3853	Amendments to Valuation of Plan Benefits	1212-AA55
3854	Miscellaneous Statutory Amendments	1212-AA79
3855	Reportable Event Requirements	1212-AA80
3856	Standard Terminations	1212-AA82

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3857	Payment of Premiums	1212-AA58
3858	Reorganizing and Renumbering of Regulations	1212-AA75

Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
3859	Payment of Benefits in PBGC-Trusteed Plans	1212-AA35

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3860	Financial Assistance to Multiemployer Plans	1212-AA74
3861	Disclosure and Amendment of Records Under the Privacy Act	1212-AA63
3862	Funds for Administrative Expenses of Section 4049 Trusts	1212-AA65
3863	Guaranteed Benefits	1212-AA76

PBGC

Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3864	Financial and Actuarial Information Reporting	1212-AA78
3865	Missing Participants	1212-AA81

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Proposed Rule Stage

3849. MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

Priority: Substantive, Nonsignificant
Legal Authority: 29 USC 1302(b)(3); 29 USC 1411
CFR Citation: 29 CFR 2672
Legal Deadline: None

Abstract: ERISA section 4231 sets basic guidelines for mergers and transfers between multiemployer plans, including a provision for a 120-day notice to the PBGC. The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans contains implementing rules. Neither the statute nor the regulation makes clear whether or how the merger and transfer rules apply where one or more of the plans involved is terminated. This regulation would amend 29 CFR part 2672 to clarify its application to mergers and transfers involving one or more terminated multiemployer plans and to specify the criteria that a merger or transfer involving terminated plans must satisfy in order to protect participants and beneficiaries in the affected plans, as well as the PBGC, from risk of loss as a result of the merger or transfer. The regulation would also liberalize the 120-day notice requirement for all multiemployer mergers and transfers so that such transactions can proceed more expeditiously.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026

Phone: 202 326-4024
 TDD: 202 326-4179
RIN: 1212-AA69

3850. SUBMISSION OF PREMIUM-RELATED INFORMATION

Priority: Substantive, Nonsignificant
Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307
CFR Citation: 29 CFR 2610
Legal Deadline: None

Abstract: The PBGC's regulation on Payment of Premiums (29 CFR part 2610) currently requires plan administrators to retain, for six years, all records necessary to support or validate premium payments and to make those records available to the PBGC, upon request, for inspection and photocopying. The PBGC intends to propose amendments to provide for the submission to the PBGC of information in those records and for the supplementation of information submitted in premium filings. By improving the PBGC's ability to tailor its decisionmaking to the variety of situations presented by the administration of premium requirements, the PBGC expects these changes to increase the agency's efficiency and effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	07/00/96	
NPRM Comment Period End	09/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
 Phone: 202 326-4024
RIN: 1212-AA66

3851. REINVENTION

Priority: Other
Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.
Legal Authority: 29 USC 1302(b)(3)
CFR Citation: 29 CFR 2601 to 2677
Legal Deadline: None

Abstract: Consistent with the President's Regulatory Reinvention Initiative, the PBGC has reviewed all of its regulations to determine whether they can be simplified or updated. The PBGC intends to make appropriate changes to its regulations to reflect the results of this review.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
 Phone: 202 326-4024
 TDD: 202 326-4179
 Fax: 202 326-4112
RIN: 1212-AA83

3852. CALCULATION AND PAYMENT OF UNFUNDED NONGUARANTEED BENEFITS

Priority: Other Significant
Legal Authority: 29 USC 1302(b)(3); 29 USC 1322(c)
CFR Citation: 29 CFR 2623; 29 CFR 2627

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Proposed Rule Stage

Legal Deadline: None

Abstract: In the Pension Protection Act, Congress created a scheme by which to channel employer liability recoveries to plan participants and beneficiaries (amended ERISA section 4022(c)). Under section 4022(c), participants no longer have a direct claim for employer liability. Instead, the PBGC's claim covers both its shortfall (unfunded guaranteed benefits) and participants' losses (unfunded nonguaranteed benefits (UNBs)). In turn, the PBGC is to use a portion of its employer liability recovery to pay UNBs to participants and beneficiaries.

Section 4022(c) contains several ambiguities and also leaves to the PBGC the development of specific rules and procedures to make this system work. Thus, a regulation is needed to implement these statutory provisions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/96	
NPRM Comment Period End	01/00/97	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212-AA54

3853. AMENDMENTS TO VALUATION OF PLAN BENEFITS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The Retirement Equity Act of 1984 ("REA") requires plans to provide certain benefits, prohibits the elimination of benefit options and certain early retirement benefits and retirement type subsidies, and mandates the range of interest rates that

may be used in calculating the amount of a non-consensual lump sum benefit. The Tax Reform Act of 1986 ("TRA '86") slightly modified the interest rate restrictions and extended them to the calculation of all lump sum benefits.

These rules necessitate several amendments to the PBGC's valuation of benefits regulation (29 CFR part 2619). The PBGC also plans to update its mortality tables and to amend the regulation to reflect changes made by the Single-Employer Pension Plan Amendments Act of 1986 (SEPPAA), the Pension Protection Act of 1987 (PPA), and the Retirement Protection Act of 1994 (RPA).

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212-AA55

3854. MISCELLANEOUS STATUTORY AMENDMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Statutory amendments to various provisions of ERISA have modified rules that underlie certain PBGC regulations. The PBGC has undertaken several projects that address the effects of a number of these amendments. This rulemaking will address others. In particular, it will amend the regulations to reflect changes made by the Retirement Protection Act of 1994 that are not the subject of other PBGC rulemakings. These include amendments to the rules for determining the variable rate

portion of the premium payable by certain single-employer plans (see ERISA section 4006(a)(3)) and to the rules under which the PBGC issues notices of noncompliance with standard termination requirements (see ERISA section 4041(b)(2)).

Timetable:

Action	Date	FR Cite
NPRM	10/00/96	
NPRM Comment Period End	12/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Marc L. Jordan, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212-AA79

3855. REPORTABLE EVENT REQUIREMENTS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1343

CFR Citation: 29 CFR 2615 subpart A

Legal Deadline: None

Abstract: The Retirement Protection Act of 1994 amended the reportable event requirements in ERISA section 4043 by: (1) applying to contributing sponsors (as well as plan administrators) the requirement to notify the PBGC of a reportable event within 30 days after a person knows or has reason to know of its occurrence; (2) specifying four additional types of events for which notice is required (except as waived by the PBGC); and (3) requiring that, under limited circumstances, a contributing sponsor must notify the PBGC in advance of the occurrence of an event specified in the RPA or prescribed by PBGC regulations. This rule will amend the PBGC's reportable event regulations to implement these statutory changes. The rulemaking will also consider when notice should be required in various

PBGC

Proposed Rule Stage

situations that may indicate the need to terminate a plan.

Timetable:

Action	Date	FR Cite
Notice of Intent (Negotiated Rulemaking)	08/11/95	60 FR 41033
Notice of Intent Comment/ Application Period End	09/15/95	
Notice of First Meeting (Negotiated Rulemaking)	09/26/95	60 FR 49531
Notice of Establishment of Negotiated Rulemaking Advisory Committee	10/05/95	60 FR 52135
Notice of Meetings (Negotiated Rulemaking)	10/25/95	60 FR 54619
Notice of Meeting (Negotiated Rulemaking)	03/26/96	61 FR 13117
NPRM	05/00/96	
NPRM Comment Period End	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026

Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212-AA80

3856. STANDARD TERMINATIONS

Priority: Substantive, Nonsignificant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1341

CFR Citation: 29 CFR 2617

Legal Deadline: None

Abstract: The PBGC's standard termination regulations (29 CFR part 2617) provide rules and procedures plan administrators must follow to

terminate a defined benefit pension plan that has sufficient assets to pay all benefit obligations to participants at the time of termination. The PBGC is reviewing experience under this regulation to determine whether the procedures and time periods for processing a standard termination are appropriate.

Timetable:

Action	Date	FR Cite
NPRM	06/00/96	
NPRM Comment Period End	08/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026

Phone: 202 326-4024

TDD: 202 326-4179

Fax: 202 326-4112

RIN: 1212-AA82

PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Final Rule Stage

3857. PAYMENT OF PREMIUMS

Priority: Other Significant

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1302(b)(3); 29 USC 1306; 29 USC 1307

CFR Citation: 29 CFR 2610

Legal Deadline: None

Abstract: Under sections 4006 and 4007 of ERISA, the PBGC has issued its regulation governing the payment of premiums for pension plans subject to Title IV of ERISA (29 CFR part 2610). PBGC studies of ways to simplify premium calculation and filing and to improve premium processing and accounting by PBGC have yielded suggestions for changes in that regulation. As a result, the PBGC has issued a proposed regulation to implement certain changes, relating mainly to filing due dates, treatment of short plan years, simplification of the

alternative calculation method, and premium payment requirements for large plans (including what plans are considered large plans for this purpose). The purpose of the changes would be primarily to simplify the premium payment system for plans and the PBGC.

Timetable:

Action	Date	FR Cite
NPRM	04/10/92	57 FR 12666
NPRM Comment Period End	05/26/92	
NPRM Comment Period Extended to	09/17/92	57 FR 42910
Final Action	11/16/92	
	07/00/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026

Phone: 202 326-4024

TDD: 202 326-4179

RIN: 1212-AA58

3858. REORGANIZING AND RENUMBERING OF REGULATIONS

Priority: Other

Reinventing Government: This rulemaking is part of the Reinventing Government effort. It will revise text in the CFR to reduce burden or duplication, or streamline requirements.

Legal Authority: 29 USC 1301 et seq

CFR Citation: 29 CFR 2601 - 2677

Legal Deadline: None

Abstract: This rule will reorganize and renumber the PBGC's regulations to track the statutory provisions to which they relate so as to make it easier for the public to locate regulations implementing particular statutory provisions. The other agencies with significant regulatory responsibilities in the pension area (the Internal Revenue Service and the Department of Labor) already track statutory provisions in numbering their regulations, and practitioners are therefore accustomed to searching for pension regulations under statute-based numbering systems.

PBGC**Final Rule Stage****Timetable:**

Action	Date	FR Cite
Notice of Intent to Renumber Regulations	07/08/94	59 FR 35067
Notice of Intent Comment Period End	09/06/94	

Action Date FR Cite

Final Action	06/00/96	
Final Action Effective	07/00/96	
Small Entities Affected: None		
Government Levels Affected: None		
Agency Contact: Marc L. Jordan, Attorney, Pension Benefit Guaranty		

Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
 Phone: 202 326-4024
 TDD: 202 326-4179
RIN: 1212-AA75

PENSION BENEFIT GUARANTY CORPORATION (PBGC)**Long-Term Actions****3859. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS**

Priority: Substantive, Nonsignificant
CFR Citation: 29 CFR 2624

Timetable: Next Action Undetermined
Small Entities Affected: None
Government Levels Affected: None

Agency Contact: Peter H. Gould
 Phone: 202 326-4116
RIN: 1212-AA35

PENSION BENEFIT GUARANTY CORPORATION (PBGC)**Completed Actions****3860. FINANCIAL ASSISTANCE TO MULTIEMPLOYER PLANS**

Priority: Substantive, Nonsignificant
Legal Authority: 29 USC 1302(b)(3); 29 USC 1431
CFR Citation: Not yet determined
Legal Deadline: None

Abstract: ERISA section 4261(a) provides that the PBGC shall pay financial assistance to insolvent multiemployer plans described in sections 4245(f) and 4281(d) who submit an application for the payment of assistance. The PBGC's regulation on Powers and Duties of Plan Sponsor of Plan Terminated by Mass Withdrawal (29 CFR part 2675) specifies the information that plans described in section 4281(d) (i.e., a plan terminated by the withdrawal of all employers) are required to submit in their application for financial assistance; however, the PBGC has not prescribed regulations specifying the information that a plan subject to section 4245(f) (i.e., a plan that has not terminated by the withdrawal of all employers) is required to file. This regulation would, among other things, (1) specify the information for applications for financial assistance from plans described in section 4245(f); (2) incorporate and revise, as appropriate, the requirements in 29 CFR part 2675 that relate to applications for financial assistance for plans described in section 4281(d); and (3) specify the obligation of the sponsor of a plan that

has applied for financial assistance to maintain and make available to the PBGC plan records and other information necessary for the PBGC to determine the plan's eligibility for financial assistance and where assistance has been provided, that such funds have been used solely for the purposes of paying guaranteed benefits and reasonable administrative expenses.

Timetable:

Action	Date	FR Cite
Withdrawn	03/26/96	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
 Phone: 202 326-4024
 TDD: 202 326-4179
RIN: 1212-AA74

3861. DISCLOSURE AND AMENDMENT OF RECORDS UNDER THE PRIVACY ACT

Priority: Other
Legal Authority: 5 USC 552a
CFR Citation: 29 CFR 2607
Legal Deadline: None

Abstract: The PBGC is dividing one of its systems of records that are subject to the Privacy Act into two systems,

and is therefore amending its regulations to describe accurately the pertinent exemption from statutory provisions under the systems of records as so modified. The PBGC is also amending its regulations to reflect its current organization and to increase its standard copying fee (which has not been modified since 1975). The rule also includes several editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	11/15/95	60 FR 57372
NPRM Comment Period End	12/15/95	
Final Action	12/29/95	60 FR 67327
Final Action Effective	01/29/96	

Small Entities Affected: None
Government Levels Affected: None
Agency Contact: Bruce Campbell, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
 Phone: 202 326-4024
 TDD: 202 326-4179
RIN: 1212-AA63

3862. FUNDS FOR ADMINISTRATIVE EXPENSES OF SECTION 4049 TRUSTS

Priority: Substantive, Nonsignificant
Legal Authority: 29 USC 1302(b)(3); 29 USC 1341(c)(3)(B) (Supp. IV 1986); 29 USC 1342(i) (Supp. IV 1986); 29 USC 1349(a) (Supp. IV 1986) as amd. by sec.

PBGC

Completed Actions

9312, PL 100-203; 29 USC 1349(d) (Supp. IV 1986)

CFR Citation: 29 CFR 2626

Legal Deadline: None

Abstract: The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") added to ERISA (in section 4049) a requirement that a "4049 trust" be set up to provide unfunded benefits not guaranteed by the PBGC to participants and beneficiaries of terminated insufficient single-employer plans; SEPPAA also added section 4062(c) to provide for employer liability to a 4049 trust. These provisions were repealed by the Pension Protection Act ("PPA"), but still apply to plans that terminated while they were in effect (roughly 1986-87). PPA also added to section 4049 a requirement that employers liable to a 4049 trust provide funding for administrative expenses of the trust before the section 4062(c) liability is collected, in accordance with regulations to be issued by the PBGC. This regulation would provide a summary procedure for collection of such administrative funding by a 4049 trustee.

Timetable:

Action	Date	FR Cite
Withdrawn	03/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Thomas H. Gabriel, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K St. NW., Washington, DC 20005-4026
Phone: 202 326-4023
TDD: 202 326-4179

RIN: 1212-AA65

3863. GUARANTEED BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322

CFR Citation: 29 CFR 2613

Legal Deadline: None

Abstract: Under ERISA section 4022, the PBGC guarantees the payment of certain nonforfeitable benefits under single-employer plans that terminate without sufficient assets to fund such benefits. Part 2613 of the PBGC's regulations describes the benefits that are guaranteed, the limitations on the

guarantee, and the manner in which guaranteed benefits are paid.

This regulation would amend part 2613 to make it clear the PBGC determines whether a participant is entitled to a guarantee of his or her benefit under a terminated plan based on the participant's age, length of service, disability, or death as of the plan's termination date, rather than as of the day before that date.

Timetable:

Action	Date	FR Cite
Merged With RIN 1212-AA35	03/26/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Peter H. Gould, Senior Counsel, Pension Benefit Guaranty Corporation, Office of the General Counsel, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4116
TDD: 202 326-4179

RIN: 1212-AA76

3864. FINANCIAL AND ACTUARIAL INFORMATION REPORTING

Priority: Other Significant

Legal Authority: 29 USC 1302(b)(3); 29 USC 1310

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4010, added by the Retirement Protection Act of 1994, requires that contributing sponsors of certain underfunded single-employer plans and members of their controlled groups provide the PBGC, annually by a date specified in PBGC regulations, with: (1) records, documents, or other information that PBGC regulations specify as necessary to determine the liabilities and assets of plans covered by the termination insurance program, and (2) copies of their financial statements and other financial information as PBGC regulations may prescribe. This rule implements section 4010.

Timetable:

Action	Date	FR Cite
NPRM	07/06/95	60 FR 35308
NPRM Comment Period End	09/05/95	
Final Action	12/20/95	60 FR 66054
Final Action Effective	01/19/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Frank H. McCulloch, Senior Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4026
TDD: 202 326-4179

RIN: 1212-AA78

3865. MISSING PARTICIPANTS

Priority: Other Significant

Legal Authority: 29 USC 1302(b); 29 USC 1350

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: ERISA section 4050, added by the Retirement Protection Act of 1994, provides for a procedure whereby the plan administrator of a terminating single-employer plan could give the PBGC information about any missing participant and either transfer the participant's benefits to the PBGC or annuitize the benefits, and the PBGC would pay the benefits, or give the participant the information needed to obtain payment of the annuity, if and when the participant was located or reappeared. The PBGC is required to issue implementing regulations covering the amount to be paid by the plan to the PBGC and by the PBGC to the participant as well as what steps plan administrators are to take in searching for participants. The purpose of the regulations is to provide standards and procedures for carrying out the new missing participants provision.

Timetable:

Action	Date	FR Cite
NPRM	08/24/95	60 FR 44158
NPRM Comment Period End	10/10/95	
Final Action	12/01/95	60 FR 61740
Final Action Effective	01/01/96	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Deborah C. Murphy, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026
Phone: 202 326-4024
TDD: 202 326-4179

RIN: 1212-AA81

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