Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.* For technical inquiries, contact William Perry or David O'Connor, Directorate of Standards and Guidance, Room N–3718, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1950 or fax (202) 693–1678. For hearing inquiries, contact Frank Meilinger, Director, Office of Communications, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA published a notice of proposed rulemaking on September 12, 2013, for occupational exposure to respirable crystalline silica (78 FR 56274). This notice requested comments and written testimony by December 11, 2013 and established the public hearing to commence on March 4, 2014. OSHA subsequently extended the deadline for submitting comments and written testimony to January 27, 2014; and the commencement of the hearings to now begin March 18, 2014 (78 FR 65242). OSHA is now extending the deadline for submitting comments and written testimony until February 11, 2014. The date for commencement of the hearings remains March 18.

Authority and Signature: This document was prepared under the direction of David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); section 107 of the Contract Work Hours and Safety Standards Act (the Construction Safety Act) (40 U.S.C. 333); section 41 of the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 1–2012 (77 FR 3912, January 25, 2012); and 29 CFR Part 1911.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–01728 Filed 1–24–14; 4:15 pm]

BILLING CODE 4510–26–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4041A, 4231, and 4281

RIN 1212–AB13

Multiemployer Plans; Valuation and Notice Requirements

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: PBGC is proposing to amend its multiemployer regulations to make the provision of information to PBGC and plan participants more efficient and effective and to reduce burden on plans and sponsors. The amendments would reduce the number of actuarial valuations required for certain small terminated but not insolvent plans, shorten the advance notice filing requirements for mergers in situations that do not involve a compliance determination, and remove certain insolvency notice and update requirements. The amendments are a result of PBGC's regulatory review under Executive Order 13563 (Improving Regulation and Regulatory Review).

DATES: Comments must be submitted on or before March 31, 2014.

ADDRESSES: Comments, identified by Regulation Identifier Number (RIN) 1212–AB13, may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the Web site instructions for submitting comments.
- *Email: reg.comments@pbgc.gov.*
- *Fax:* 202–326–4224.
- *Mail or hand delivery:* Regulatory Affairs Group, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

All submissions must include the Regulation Identifier Number for this rulemaking (RIN 1212–AB13). Comments received, including personal information provided, will be posted to *www.pbgc.gov.* Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington DC 20005–4026, or calling 202–326–4500 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4500.)

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion (*klion.catherine@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, or Daniel Liebman (*liebman.daniel@pbgc.gov*), Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 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:

Executive Summary—Purpose of the Regulatory Action

The Pension Benefit Guaranty Corporation (PBGC) is proposing to amend certain regulations governing its multiemployer program to make the provision of information to PBGC and plan participants more efficient and effective. This rule is needed to reduce burden on multiemployer plans and sponsors and to facilitate potentially beneficial plan merger transactions. The rule would reduce burden by allowing certain small terminated but not insolvent plans to provide valuations less frequently, easing reporting requirements for plan sponsors contemplating a merger transaction, and streamlining and removing certain notice requirements for insolvent plans.[1] These requirements impose administrative costs and reduce plan assets that could otherwise be used to fund plan benefits.

PBGC's legal authority for this regulatory action comes from section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA; section 4041A(f)(2), which gives PBGC authority to prescribe reporting requirements for terminated plans; section 4231(a), which gives PBGC authority to prescribe regulations setting the requirements for one or more multiemployer plans to merge; and section 4281(d), which directs PBGC to prescribe by regulation the notice requirements to plan participants and beneficiaries in the event of a benefit suspension.

Executive Summary—Major Provisions of the Regulatory Action

Annual Valuations

When a multiemployer plan terminates, the plan must perform an annual valuation of the plan's assets and benefits. This proposed rule would allow valuations for plans that were terminated by mass withdrawal but are not insolvent and where the value of nonforfeitable benefits is $25 million or

[1] Under 29 CFR 4041A.2, ''insolvent'' means that a plan is unable to pay benefits when due during the plan year.

less to be performed every three years instead of annually as required under the current regulations.

Filing Requirements for Mergers

Under the current regulations, a merger or a transfer of assets and liabilities between multiemployer plans must satisfy certain requirements, including a requirement that plan sponsors of all plans involved in a merger or transfer must jointly file a notice with PBGC 120 days before the transaction. This proposed rule would shorten the notice period to 45 days where no compliance determination is requested.

Insolvency Notices and Updates

Terminated multiemployer plans that determine that they will be insolvent for a plan year must provide a series of notices and updates to notices to PBGC and participants and beneficiaries, including a notice of insolvency. The proposed rule would eliminate the requirement to provide annual updates to the notice of insolvency.

Background

PBGC administers two insurance programs for private-sector defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA): A single-employer plan termination insurance program and a multiemployer plan insolvency insurance program.

A multiemployer plan is a collectively bargained pension arrangement involving several employers that are not within the same controlled group, usually in a common industry, such as construction, trucking, textiles, or coal mining. By contrast, a single-employer plan may be sponsored by either one employer (pursuant or not pursuant to a collective bargaining agreement) or by several unrelated employers (but not pursuant to a collective bargaining agreement).

ERISA section 4041A provides for two types of multiemployer plan terminations: mass withdrawal and plan amendment. A mass withdrawal termination occurs when all employers withdraw or cease to be obligated to contribute to the plan. A plan amendment termination occurs when the plan adopts an amendment that provides that participants will receive no credit for service with any employer after a specified date, or an amendment that makes it no longer a covered plan. Unlike terminated single-employer plans, terminated multiemployer plans continue to pay all vested benefits out of existing plan assets and withdrawal liability payments. PBGC's guarantee of the benefits in a multiemployer plan—payable as financial assistance to the plan—starts only if and when the plan is unable to make payments at the statutorily guaranteed level.

This proposed rule would reduce certain requirements for multiemployer plans that are terminated by mass withdrawal and mergers and transfers among multiemployer plans.

On January 18, 2011, the President issued Executive Order 13563 ''Improving Regulation and Regulatory Review,'' to ensure that Federal regulations seek more affordable, less intrusive means to achieve policy goals, and that agencies give careful consideration to the benefits and costs of those regulations. PBGC's Plan for Regulatory Review,[2] identifies several regulatory areas for review, including the multiemployer regulations referred to above.

This proposed rule would amend those regulations to reduce burden on plans and sponsors. PBGC will continue to review its regulations with a view to developing more ideas for improvement. Public comment on these specific proposals will help PBGC determine whether its regulatory review process is moving in the right direction.

Proposed Regulatory Changes

Annual Valuation Requirement

ERISA section 4281(b) provides that the value of nonforfeitable benefits under a terminated plan to which section 4041A(d) applies, and the value of the plan's assets shall be determined in writing as of the end of the plan year during which section 4041A(d) becomes applicable, and each plan year thereafter. Part 4041A of PBGC's regulations establishes rules for notifying PBGC of the termination of a multiemployer plan and rules for the administration of multiemployer plans that have terminated by mass withdrawal. Subpart C prescribes basic duties of plan sponsors of plans terminated by mass withdrawal, including the annual valuation requirement at § 4041A.24. Section 4281.11(a) states that the valuation dates for the annual valuation required under section 4281(b) of ERISA shall be the last day of the plan year in which the plan terminates and the last day of each plan year thereafter. The details of the annual valuation requirement are set forth in the remainder of Subpart B of Part 4281, Duties of Plan Sponsor Following Mass Withdrawal.

The annual valuation requirement serves the statutory purpose of allowing the terminated plan to determine whether it needs to eliminate benefits that are not eligible for PBGC's guarantee. However, once the plan has reached the point where it has eliminated all nonguaranteed benefits, further valuations serve only to help PBGC estimate the liabilities it will incur when the plan becomes insolvent. While measuring PBGC's liabilities annually provides PBGC with information needed to understand its potential exposure, the requirement to do so results in the plan using scarce resources, at a potentially significant cost, for a limited purpose.[3] This may result in a faster diminution of assets that could lead to a reduced ability to pay plan benefits, a quicker insolvency, and an earlier elimination of any nonforfeitable benefits that exceed PBGC's statutory guarantee.

PBGC is proposing to amend § 4041A.24 to ensure that PBGC has reasonably reliable data to measure its liabilities without significantly depleting plan assets. Terminated plans that are not insolvent and where the value of nonforfeitable benefits is $25 million or less (as of the valuation date of the most recent required valuation), would be required to perform the next valuation in accordance with Subpart B of Part 4281 three years later instead of the following year as under the current regulation. To comply with the statutory requirement that there be a written determination of the value of nonforfeitable benefits each year, such plans may use the most recently performed valuation for the next two plan years.

All other plans would continue to be required to perform valuations in accordance with Subpart B of Part 4281 annually.[4] Plans could move in and out of the three-year or annual valuation cycle, as applicable, as the value of nonforfeitable benefits changes. Thus, a plan that had been performing new valuations every three years would be required to perform valuations annually if the next valuation indicates that the value of nonforfeitable benefits exceeds

[2] See *http://www.pbgc.gov/documents/plan-for-regulatory-review.pdf.*

[3] Once a plan terminates, professional and administrative costs of paying plan benefits and continuing regulatory compliance come out of plan assets without additional contributions being made by the former employers as would be the case prior to termination. Thus, with the exception of the potential inflow of some funds from withdrawal liability recoveries, plan assets continue to decrease in a wasting trust.

[4] There are two other exceptions to the requirement that a valuation be performed each plan year that are preserved from the current regulation. No valuation is required for a plan year (1) for which the plan receives financial assistance from PBGC under section 4261 of ERISA, or (2) in which the plan is closed out in accordance with subpart D of Part 4041A.

$25 million. Similarly, a plan that has been performing the valuation annually would only have to do the next valuation in accordance with Subpart B of Part 4281 in three years if the most recent valuation shows the value of nonforfeitable benefits to be $25 million or less. This amendment would target the plans that expose PBGC to larger liability, while reducing burden on plans that present smaller exposure.

PBGC believes that this change appropriately balances PBGC's need to fairly measure its exposure with minimizing the cost to plans and potentially to participants.

Advance Notice of Multiemployer Mergers

ERISA section 4231 sets forth the statutory requirements for mergers of two or more multiemployer plans and transfers of plan assets or benefit liabilities among two or more multiemployer plans, including a requirement that a plan must give 120 days' advance notice of a merger or transfer to PBGC. Part 4231 of PBGC regulations implements this statutory requirement.

29 CFR 4231.8 provides that plan sponsors of all plans involved in a merger or transfer, or their duly authorized representatives, must jointly file a notice with PBGC 120 days in advance of the transaction. The notice must include information about the plans, the plan sponsors, the transaction, the proposed effective date, a copy of each provision stating that no participant's or beneficiary's accrued benefit will be lower immediately after the effective date of the transaction than the benefit immediately before that date, and various actuarial and plan asset and benefit valuation information.

The purpose of the notice provision is to confirm that plan sponsors have met the four criteria listed in section 4231(b) for a statutory transaction.[5] Plan sponsors may request a determination from PBGC that a merger or transfer that may otherwise be prohibited by sections 406(a) or (b)(2) of ERISA satisfies the requirements of ERISA section 4231.[6] Under § 4231.8(f), PBGC may waive the statutory notice requirement.[7]

However, PBGC now believes that the interests of PBGC and plan participants involved in such transactions are adequately protected by other parts of ERISA, particularly Title I, and there is little benefit to having such a long period to merely confirm that the notice requirements have been met.

Thus, to reduce burden, PBGC is proposing to shorten the advance notice period to 45 days for transactions that do not involve a compliance determination under § 4231.9. PBGC's experience has been that many merger requests are received by PBGC with less than 120 days' notice and ask for a waiver of the notice requirement so that the merger can proceed as of the end of the plan year. The change to 45 days would avoid the need for a waiver and still allow PBGC enough time to review these later filed requests. PBGC believes the change to 45 days would strike the appropriate balance to better accommodate work flows and end of year rushes for both plan sponsors and PBGC staff. The current reporting requirements would remain in effect where a compliance determination is requested, as well as for transactions involving a transfer of plan assets or benefit liabilities, because those transactions may require a substantive investigation by PBGC that may well require more than 45 days to complete.[8]

Annual Notice Updates Following Mass Withdrawal

When a multiemployer plan terminates by mass withdrawal under ERISA section 4041A(a)(2), the plan's assets and benefits are required to be valued annually and plan benefits may have to be reduced or suspended to the extent provided in ERISA section 4281(c) or (d). A terminated multiemployer plan that determines that it will be insolvent for a plan year must provide a series of notices and updates to notices to PBGC and participants and beneficiaries under part 4281 of PBGC's regulations.

Once the plan projects that it can only pay benefits at the PBGC guarantee level, ERISA section 4281.43(b) requires the plan to issue a notice of insolvency and annual updates to PBGC and plan participants and beneficiaries. Subpart D of Part 4281 of PBGC's regulations sets forth the notice requirements for a terminated plan when plan assets are sufficient to pay PBGC guaranteed benefits, but not sufficient to pay at the promised plan level. In such situations, the plan sponsor must determine what benefits the assets will cover, and suspend benefits above that amount. At all times, however, the plan has a ''floor'' benefit set at the PBGC guarantee level (i.e., benefits cannot be suspended to an amount that would pay less than the guarantee).[9]

At the time this regulation was first issued, PBGC anticipated that a plan's insolvency would be short in duration and that it could financially recover. However, PBGC's experience has been that once a multiemployer plan becomes insolvent, it will remain so. Thus, once a plan has made the initial notices, there is little need to require similar subsequent notices. After reviewing the regulation, PBGC now believes that eliminating such annual updates would not pose any increase in the risk of loss to PBGC or to plan participants.

These notice requirements can be detrimental to plan participants because the costs of compliance may deplete assets that otherwise would be available to pay plan benefits. PBGC's experience is that the rules for annual updates to a notice of insolvency can be confusing to practitioners. While the incremental cost to the plan is small, PBGC believes that the professional time spent understanding the rules and other costs in the actual compliance would be better spent on benefits.[10]

Consequently, for these reasons PBGC is proposing to eliminate the annual updates to the notice of insolvency.[11]

Applicability

The amendment to § 4041A.24 that would change the annual valuation requirement for terminated but not insolvent plans where the value of nonforfeitable benefits is $25 million or

[5] The four criteria under section 4231(b) are:

(1) The 120-day notice requirement is met.

(2) No accrued benefits will be lower immediately after the transaction's effective date than immediately before that date.

(3) Benefits are not reasonably expected to be subject to suspension under ERISA section 4245.

(4) The applicable actuarial valuation of assets and liabilities of each affected plan has been performed.

[6] See § 4231.3(b). Plan sponsors requesting a compliance determination must submit the information required by § 4231.9 in addition to the information required by § 4231.8.

[7] In 1998, PBGC amended its regulations to expand the applicability of the waiver of this notice under § 4231.8(f). Prior to that amendment, the requirement for 120 days' notice could be waived only if PBGC was satisfied that failure to complete the transaction in a shorter time would harm participants or beneficiaries. However, at the time PBGC was typically completing its reviews in 60 to 90 days, and there was usually no reason to wait the full 120 days. Thus, the regulation was amended to also permit a merger or transfer to be consummated if PBGC determined that the transaction complied with ERISA section 4231, or PBGC completed its review of the transaction. See 63 FR 24421 (May 4, 1998).

[8] Transfers take more time for PBGC to analyze than mergers, primarily because of the need to perform a rigorous solvency test that is not needed for merger transactions. Because assets are leaving a plan, PBGC analyzes a transfer to make sure there are adequate assets available to fund the remaining benefit obligations and the receiving plan can adequately fund its obligations. In a merger, the assets and liabilities are combined and therefore the same types of concerns are not present.

[9] The floor benefit is set for each participant at the participant's retirement.

[10] See footnote 2.

[11] PBGC is also making a minor change to the insolvency notice's content by deleting an outdated reference to IRS Key District offices.

less would be applicable to the first post-termination valuation after the effective date of the final rule.

The amendment to § 4231.8 that would change the notification requirements for a proposed merger would be applicable to mergers planned to be consummated on or after the 45th day after the effective date of the final rule.

The amendment to § 4281.43 that would eliminate the annual update notices to PBGC and participants and beneficiaries would be applicable as of the effective date of the final rule.

PBGC invites comments on whether a longer applicability period would better effectuate the purposes of these amendments.

Executive Orders 12866 and 13563

PBGC has determined, in consultation with the Office of Management and Budget, that this rule is not a ''significant regulatory action'' under Executive Order 12866.

Executive Orders 12866 and 13563 direct agencies to assess all 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 is associated with retrospective review and analysis in PBGC's Plan for Regulatory Review issued in accordance with Executive Order 13563.

Under Section 3(f)(1) of Executive Order 12866, a regulatory action is economically significant if ''it is likely to result in a rule that may . . . [h]ave an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.'' PBGC has determined that this proposed rule does not cross the $100 million threshold for economic significance and is not otherwise economically significant.

As explained below, PBGC estimates that aggregate annual savings from the combined regulatory changes would be about $460,000.

Annual Valuation Requirement

PBGC has estimated the value of this proposed rule on the annual valuation requirement for plans terminated by mass withdrawal. As of the end of its 2012 fiscal year, PBGC's total estimated liability for nonforfeitable benefits of the 61 mass withdrawal-terminated plans that were not insolvent was $1.7 billion. Of that total, there were 23 plans in the over $25 million category; such plans constituted nearly 80 percent of such liabilities in all 61 terminated plans, thus preserving a high degree of exactitude for PBGC's measurement of its financial contingencies. At the same time, each year that the 38 plans where the value of nonforfeitable benefits was $25 million or less would not have to do an annual valuation, there would be an annual aggregate savings of approximately $399,000 (assuming an annual valuation cost of $10,500 per plan) to these plans. These savings would grow as the terminated plan universe grows.

Advance Notice of Multiemployer Mergers

PBGC believes that reducing the required notice period in advance of a proposed merger transaction from 120 days to 45 days prior to the effectiveness of the merger would result in a small decrease in administrative burden on plan sponsors. By reducing the notice period, PBGC expects that there will be less interaction between plan sponsors, their representatives, and PBGC staff to address timing and approval issues. PBGC estimates that 18 plans submit advance notice of a merger in a given year. PBGC further estimates that an affected plan would save about one-quarter hour of professional time, at $350 per hour, and one-quarter hour managerial time, at $115 per hour, resulting in an aggregate annual savings of $2,093, as a result of the reduced length of the notice period.

Annual Notice Updates Following Mass Withdrawal

PBGC estimates that the annual aggregate cost of conducting the annual insolvency update is $61,425. This estimate is based on an estimated 54 plans required to issue the update annually at 12.5 hours of combined professional, clerical, and managerial time at an average rate of $91 per hour. Eliminating the annual update would save plan sponsors approximately $1,138 each per year and $61,425 in the aggregate.

Regulatory Flexibility Act

The Regulatory Flexibility Act imposes certain requirements with respect to rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency determines that a proposed rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of the Regulatory Flexibility Act requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the proposed rule describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

For purposes of the Regulatory Flexibility Act requirements with respect to this proposed rule, PBGC considers a small entity to be a plan with fewer than 100 participants. This is the same criterion PBGC uses in other aspects of its regulations involving small plans, and is consistent with certain requirements in Title I of ERISA and the Internal Revenue Code, as well as the definition of a small entity that the Department of Labor (DOL) has used for purposes of the Regulatory Flexibility Act. Using this proposed definition, less than one percent of the 26,100 of plans covered by Title IV of ERISA in 2011 were small multiemployer plans.[12]

Further, PBGC is not aware of a multiemployer plan that was established and covered by ERISA that was not initially a large plan. Generally it is only after a plan terminates and employers withdraw from the plan that a plan might reduce in size to fewer than 100 participants. Thus, PBGC believes that assessing the impact of the proposal on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act. PBGC therefore requests comments on the appropriateness of the size standard used in evaluating the impact on small entities of the proposed amendments to the reportable events regulation.

On the basis of its proposed definition of small entity, PBGC certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that the amendments in this rule would not

[12] Although PBGC does not have data on multiemployer plans with fewer than 100 participants, approximately 165 multiemployer plans have 250 participants or fewer. See *http://www.pbgc.gov/Documents/pension-insurance-data-tables-2010.pdf.*

have a significant economic impact on a substantial number of small entities. Based on data for the 2012 fiscal year, PBGC estimates that 61 plans, very few of which would be considered a small plan, would be required to do the valuation requirement (19 would be required to perform the valuation annually while 42 would do so every three years). Seventeen plans, very few of which would be considered a small plan, would be required to submit a notice of proposed merger. Fifty-four plans, very few of which would be considered a small plan, would be relieved of the burden to issue an annual insolvency update. Accordingly, as provided in section 605 of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), sections 603 and 604 would not apply. PBGC invites public comment on this burden estimate.

Paperwork Reduction Act

PBGC is submitting the information requirements under this proposed rule to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The collection of information in Part 4231 is approved under control number 1212–0022 (expires March 31, 2014). PBGC estimates that there will be 21 respondents each year and that the total annual burden of the collection of information will be about 5 hours and $6,900.

The collection of information in Part 4281 is approved under control number 1212–0032 (expires May 31, 2014). PBGC estimates that there will be 378 respondents each year and that the total annual burden of the collection of information will be about 6,160 hours and $43,050.

The collection of information in Part 4041A is not affected by this proposed rule.

Copies of PBGC's requests are posted at *http://www.pbgc.gov/res/laws-and-regulations/information-collections-under-omb-review.html* and may also be obtained free of charge by contacting the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street NW., Washington, DC 20005, 202–326–4040. PBGC is proposing the following changes to these information requirements:

- PBGC proposes to change the requirement to provide advance notice to PBGC of a proposed merger from 120 days prior to the effective date of the merger to 45 days.
- PBGC proposes to eliminate the requirement to provide annual insolvency updates to PBGC and participants.

Comments on the paperwork provisions under this proposed rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to (202) 395–6974. Although comments may be submitted through March 31, 2014, the Office of Management and Budget requests that comments be received on or before February 28, 2014 to ensure their consideration. Comments may address (among other things)—

- Whether each proposed collection of information is needed for the proper performance of PBGC's functions and will have practical utility;
- The accuracy of PBGC's estimate of the burden of each proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancement of the quality, utility, and clarity of the information to be collected; and
- Minimizing the burden of each collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

List of Subjects

29 CFR Part 4041A

Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4231

Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4281

Pensions, Reporting and recordkeeping requirements.

For the reasons given above, PBGC proposes to amend 29 CFR Parts 4041A, 4231, and 4281 as follows:

PART 4041A—TERMINATION OF MULTIEMPLOYER PLANS

■ 1. The authority citation for part 4041A continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1441.

■ 2. Amend § 4041A.24 by:
■ a. Revising the section heading,
■ b. Revising paragraph (a),
■ c. Amending the first sentence of paragraph (b) by removing the word ''annual''.

The revisions read as follows:

§ 4041A.24 Plan valuations and monitoring.

(a) *Annual valuation.* The plan sponsor shall determine or cause to be determined in writing the value of nonforfeitable benefits under the plan and the value of the plan's assets, in accordance with part 4281, subpart B. This valuation shall be done not later than 150 days after the end of the plan year in which the plan terminates and each plan year thereafter except as provided in this paragraph. A plan year for which a valuation is performed is called a valuation year.

(1) If the value of nonforfeitable benefits for the plan is $25 million or less as determined for a valuation year, the plan sponsor may use the valuation for the next two plan years and, subject to paragraphs (a)(2) and (3) of this section, perform a new valuation pursuant to this paragraph for the third plan year after the previous valuation year.

(2) No valuation is required for a plan year for which the plan receives financial assistance from PBGC under section 4261 of ERISA.

(3) No valuation is required for the plan year in which the plan is closed out in accordance with subpart D of this part.

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PART 4231—MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

■ 3. The authority citation for part 4231 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1411.

■ 4. Amend § 4231.8 by:
■ a. Revising the first sentence of paragraph (a)(1).
■ b. Amending paragraph (f)(1) by removing the words ''120 days after filing the notice'' and adding in their place the words ''the applicable notice period set forth in paragraph (a) of this section''.

The revisions read as follows:

§ 4231.8 Notice of merger or transfer.

(a)(1) *When to file.* Except as provided in paragraph (f) of this section, a notice of a proposed merger or transfer must be filed not less than 120 days, or not less than 45 days in the case of a merger for which a compliance determination under § 4231.9 is not requested, before the effective date of the transaction.

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PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

■ 5. The authority citation for part 4281 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341(a), 1399(c)(1)(D), and 1441.

§ 4281.43 [Amended]

■ 6. Amend § 4281.43 by:
■ a. Revising the section to read ''Notices of Insolvency.''.
■ b. Removing paragraphs (b), (d), and (f); redesignating paragraph (c) as paragraph (b); and redesignating paragraph (e) as paragraph (c).

§ 4281.44 [Amended]

■ 7. Amend § 4281.44 by:
■ a. Revising the section heading to read ''Contents of notices of insolvency.''.
■ b. Amending paragraph (a) by removing paragraph (a)(4) and redesignating paragraphs (a)(5) through (a)(13) as paragraphs (a)(4) through (a)(12), respectively.
■ c. Removing paragraphs (c) and (d).

§ 4281.46 [Amended]

■ 8. In § 4281.46, paragraph (a) is amended by removing the words ''§ 4281.44(a)(1) through (a)(5) and (a)(7) through (a)(11)'' and adding in their place the words ''§ 4281.44(a)(1) through (a)(4) and (a)(6) through (a)(10)''.

§ 4281.47 [Amended]

■ 9. In § 4281.47, paragraph (c) is amended by removing the word ''(a)(5)'' and adding in its place the word ''(a)(4)''.

Issued in Washington, DC, this 16th day of January, 2014.

Joshua Gotbaum,

Director, Pension Benefit Guaranty Corporation.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 212, 225, 232, and 252

RIN 0750–AH86

Defense Federal Acquisition Regulation Supplement; Payment in Local Currency (Afghanistan) (DFARS Case 2013–D029)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate into the DFARS policies and procedures concerning payment for contracts for performance in Afghanistan.

DATES: *Comment Date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before March 31, 2014, to be considered in the formation of the final rule.

ADDRESSES: Submit comments, identified by DFARS Case 2013–D029, using any of the following methods:

Regulations.gov: http://www.regulations.gov. Submit comments via the Federal eRulemaking portal by inserting ''DFARS Case 2013–D029'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2013–D029.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2013–D029'' on your attached document. Follow the instructions for submitting comments.

Email: dfars@mail.mil. Include DFARS Case 2013–D029 in the subject line of the message.

Fax: 571–372–6094.

Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD(AT&L)DPAP(DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6099.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is proposing to amend the DFARS to provide policy and procedures at DFARS 212.301 and 232.72 on the use of a new solicitation provision at 252.232–7XXX, Notification of Payment in Local Currency (Afghanistan). This provision provides notification that the payment currency to be used for contracts for performance in Afghanistan shall be dependent on the nationality of the vendor. This rule implements the procedures concerning payment currency contained in the U.S. Central Command's Fragmentary Order (FRAGO) 09–1567 and FRAGO 10–143.

II. Discussion and Analysis

The solicitation provision, 252.232–7XXX, provides that if the contract is awarded to a host nation vendor (Afghan), the contractor will receive payment in Afghani (local currency) via electronic funds transfer to a local (Afghan) banking institution. Contracts shall not be awarded to host nation vendors (Afghans) who do not bank locally. If awarded to other than a host nation vendor, the contract will be awarded in U.S. dollars.

Additionally, DFARS 225.7703–1 is added to provide direction to contracting officers to follow the procedures included at DFARS Procedures, Guidance, and Information (PGI) 225.7703–1(c) when issuing solicitations and contracts for performance in Afghanistan. The PGI reference provides a link to the U.S. Central Command's (CENTCOM) Operational Contract Support Policies and Procedures, Theater Business Clearance process for clearing contracts to be performed in CENTCOM's area of responsibility.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows: