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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4902

Disclosure and Amendment of Records Pertaining to Individuals Under the Privacy Act

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is amending its regulations implementing the Privacy Act of 1974, as amended, to exempt certain records maintained in a system of records entitled ``PBGC-12, Personnel Security Investigation Records--PBGC,' from the access, contest, and certain other provisions of the Privacy Act. The amendment protects the identity of a source who furnishes information in confidence to the PBGC for a background investigation on an individual who works, or who is being considered for work, for the PBGC as a contractor or as an employee of a contractor.

EFFECTIVE DATE: July 16, 2001.

FOR FURTHER INFORMATION CONTACT: D. Bruce Campbell, Attorney, Office of the General Counsel, Suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4020 (extension 3672). (For TTY/TDD users, call the federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4020 (extension 3672).)

SUPPLEMENTARY INFORMATION: The PBGC conducts background investigations and reinvestigations to establish that applicants for employment and employees are reliable, trustworthy, of good conduct and character, and loyal to the United States. The PBGC maintains records about these investigations in a system of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a) (``Privacy Act'), entitled ``PBGC-12, Personnel Security Investigation Records--PBGC'. The PBGC's regulations implementing the Privacy Act exempt

under 5 U.S.C. 552a(k) (5) certain records maintained in PBGC-12 from the access, contest, and certain other provisions of the Privacy Act (29 CFR 4902.9).

The PBGC is expanding its use of background investigations and reinvestigations to cover individuals who work, or who are being considered for work, for the PBGC as contractors or as employees of contractors. To reflect the change, on April 2, 2001 (66 FR 17586), the PBGC proposed to alter PBGC-12 by revising it to include records pertaining to individuals who work, or who are being considered for work, for the PBGC as contractors or as employees of contractors. The PBGC received no comments on the proposed changes and they became effective May 17, 2001.

Also on April 2, 2001 (66 FR 17518), the PBGC published a proposed rule to amend Sec. 4902.9 by exempting certain records pertaining to individuals who work, or who are being considered for work, for the PBGC as contractors or as employees of contractors from the access, contest, and certain other provisions of the Privacy Act. The PBGC received no comments on the proposed rule and this final rule amends the regulation as proposed. The amendment protects the identity of a source who furnishes information to PBGC in confidence for a background investigation of such an individual.

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.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act that the final rule will not have a significant economic impact on a substantial number of small entities. The rule only affects the maintenance and disclosure of information about individuals by the PBGC under the Privacy Act and therefore would ordinarily be expected to have no economic impact on entities of any size. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects in 29 CFR Part 4902 Privacy.

For the reasons set forth above, the PBGC is amending 29 CFR part 4902 as follows:

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PART 4902--DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT

1. The authority citation for Part 4902 continues to read as follows:

Authority: 5 U.S.C. 552a.

Sec. 4902.9 [Amended]

2. Paragraph (b) of Sec. 4902.9 is amended by removing the words "for PBGC employment," and adding in their place the words "for PBGC employment or for work for the PBGC as a contractor or as an employee of a contractor,".

Issued in Washington, DC, this 7th day of June, 2001.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

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