

received a petition to amend regulations governing the approval of agency requests to incorporate material by reference into the Code of Federal Regulations. The OFR proposes that agencies seeking the Director's approval of their IBR requests add more information regarding IBR's materials to the preambles of their rulemaking documents.

And the fourth priority is a new regulation on Controlled Unclassified Information (CUI). The Information Security Oversight Office (ISOO), a component of NARA, is proposing this rule pursuant to Executive Order 13556. The Order establishes an open and uniform program for managing information requiring safeguarding or dissemination controls. This rule sets forth guidance to agencies on safeguarding, disseminating, marking, and decontrolling CUI, self-inspection and oversight requirements, and other facets of the program.

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Fall 2013 OPM Statement of Regulatory Priorities

Administrative Law Judges

OPM issued an interim rule in 2008 suspending the requirement set forth in 5 CFR 930.204(b) that requires incumbent administrative law judges (ALJs) to "possess a professional license to practice law and be authorized to practice law." In 2010, OPM issued a proposed rule on the topic of the ALJ licensure requirements for incumbents and will consider comments on the proposed rule and comments on the interim rule when issuing a final rule on the topic.

Administrative Wage Garnishment

OPM is issuing this proposed regulation to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The regulation will allow OPM to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order. The proposed regulation sets forth procedures for use by OPM in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the DCIA, requires agencies to issue regulations on their debt collection procedures. The proposed regulation includes

procedures for collection of debts through AWG.

Benefits for Family Members of Military Members

The U.S. Office of Personnel Management (OPM) proposes to implement amendments to the Family and Medical Leave Act (FMLA). These regulations implement section 585(b) of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) (Pub. L. 110-181, January 28, 2008) and section 565(b)(1) of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84, October 28, 2009). The statutory changes amended the FMLA provisions in 5 U.S.C. 6381 to 6383 (applicable to Federal employees) to provide that a Federal employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember (either a current or former servicemember) with a serious injury or illness incurred or aggravated in the line of duty on active duty is entitled to a total of 26 administrative workweeks of leave during a single 12-month period to care for the covered servicemember.

Under 5 U.S.C. 6387, OPM is required, to the extent appropriate, to be consistent with Department of Labor (DOL) regulations. DOL issued its final regulations on February 6, 2013 (78 FR 8833), which means that OPM can now issue its proposed FMLA regulations implementing the FY 2008 and FY 2010 NDAA amendments to the FMLA leave to care for a covered servicemember entitlement.

General Schedule Locality Pay Areas—2013 Metropolitan Statistical Areas as the Basis for Locality Pay Areas

The Office of Management and Budget delineated new Core-Based Statistical Areas in February 2013. The Federal Salary Council and the Pay Agent will review the new area definitions to determine if they are suitable for use as locality pay areas for the General Schedule locality pay system. If approved by the Pay Agent, the U.S. Office of Personnel Management (OPM) will issue a proposed rule to use the new Core-Based Statistical Areas as the basis for locality pay areas.

Managing Senior Executive Performance

OPM proposes to revise the regulations addressing the performance management of Senior Executives to provide for a Governmentwide appraisal system built around the Executive Core Qualifications and agency mission results.

Selective Service

OPM will issue the final regulation with a change in its procedures for determining whether an individual's failure to register with the Selective Service System was knowing and willful. Individuals will be given an opportunity to fully explain their failure to register, and the determination will be made on a more complete record. OPM is also delegating authority to Federal agencies to make initial determinations as to whether an individual failure to register with Selective Service was knowing and willful. The delegation will facilitate better quality in decision-making and efficient decisions. The Office of General Counsel has committed to issuing clear guidance on "knowing and willful" prior to implementation of the final regulation.

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations

OPM plans to issue final Combined Federal Campaign (CFC) regulations in order to strengthen the integrity, streamline the operation, and increase the effectiveness of the program to ensure its continued success.

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of more than 40 million people in more than 25,000 private-sector defined benefit plans. PBGC receives no tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusted by PBGC, and recoveries from the companies formerly responsible for the trustee plans.

To carry out these functions, PBGC issues regulations on such matters as termination, payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties.

PBGC has changed its regulatory approach so that its regulations do not inadvertently discourage the maintenance of existing defined benefit plans or the establishment of new plans. In the past, businesses and plans have commented that PBGC's regulations

impose burdens where the actual risk to plans and PBGC is minimal. Thus, in developing new regulations and reviewing existing regulations, the focus, to the extent possible, is to avoid placing burdens on plans, employers, and participants, and to ease and simplify employer compliance. PBGC particularly strives to meet the needs of small businesses that sponsor defined benefit plans.

PBGC develops its regulations in accordance with the principles set forth in Executive Order 13563 “Improving Regulation and Regulatory Review” (Jan. 18, 2011), and PBGC’s Plan for Regulatory Review (Regulatory Review Plan), which can be found at www.pbgc.gov/documents/plan-for-regulatory-review.pdf. This Statement of Regulatory and Deregulatory Priorities reflects PBGC’s ongoing implementation of its Regulatory Review Plan. Progress reports on the plan can be found at <http://www.pbgc.gov/res/laws-and-regulations/reducing-regulatory-burden.html>.

PBGC Insurance Programs

PBGC administers two insurance programs for privately 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.

- *Single-Employer Program.* Under the single-employer program, when a

plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers.

- *Multiemployer Program.* The smaller multiemployer program covers more than 1,450 collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a loan) to the plan if the plan is unable to pay benefits at the guaranteed level. Guaranteed benefits are less than single-employer guaranteed benefits.

At the end of fiscal year 2012, PBGC had a \$34 billion deficit in its insurance programs. Current PBGC premiums are insufficient.

Regulatory Objectives and Priorities

PBGC’s regulatory objectives and priorities are developed in the context of the Corporation’s statutory purposes:

- To encourage voluntary private pension plans.
- To provide for the timely and uninterrupted payment of pension benefits.
- To keep premiums at the lowest possible levels.

Pensions and the statutory framework in which they are maintained and terminate are complex. Despite this complexity, PBGC is committed to issuing simple, understandable, flexible,

and timely regulations and other guidance that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans.

Through its regulations and other guidance, PBGC strives to minimize burdens on plans, plan sponsors, and plan participants; simplify filing; provide relief for small businesses and plans; and assist plans in complying with applicable requirements. To enhance policy-making through collaboration, PBGC also plans to expand opportunities for public participation in rulemaking (see *Open Government and Public Participation* below).

PBGC’s current regulatory objectives and priorities are to simplify its regulations and reduce burden, particularly in the areas of premiums and reporting, enhance retirement security, and complete implementation of the Pension Protection Act of 2006 (PPA 2006).

Rethinking Existing Regulations

Pursuant to section 6 of Executive Order 13563 “Improving Regulation and Regulatory Review” (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department’s final retrospective review of regulations plan. The proposals are described below.

Title	RIN	Effect on small business
Reportable Events; Pension Protection Act of 2006	1212-AB06	Expected to reduce burden on small business.
Liability for Termination of Single-Employer Plans; Treatment of Substantial Cessation of Operations; ERISA section 4062(e).	1212-AB20	Expected to reduce burden on small business.
Premium Rates; Payment of Premiums; Reducing Regulatory Burden	1212-AB26	Expected to reduce burden on small business.
Termination of Multiemployer Plans; Duties of Plan Sponsor Following Mass Withdrawal; Mergers and Transfers Between Multiemployer Plans.	1212-AB25	Expected to reduce burden on small business.
Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets ...	1212-AA55	Undetermined.

Reportable events. PPA 2006 affected certain provisions in PBGC’s reportable events regulation (part 4043), which requires employers to notify PBGC of certain plan or corporate events. In November 2009, PBGC published a proposed rule to conform the regulation to the PPA 2006 changes and make other changes.¹ In response to Executive Order 13563 and comments on the non-PPA 2006 provisions of the proposed rule, in April 2013 PBGC published a new proposal that would exempt more than 90 percent of plans and sponsors

from many reporting requirements. The new proposal takes advantage of other existing reporting requirements and methods to avoid burdening companies and plans and expands waivers and redefines events to reduce reporting. The new proposal implements stakeholder suggestions that different reporting requirements should apply in circumstances where the risk to PBGC is low or compliance is especially burdensome. PBGC is considering public comments on the new proposal.

ERISA section 4062(e). The statutory provision requires reporting of, and liability for, certain substantial

cessations of operations by employers that maintain single-employer plans. In August 2010, PBGC issued a proposed rule to provide guidance on the applicability and enforcement of section 4062(e).² In light of comments, PBGC is reconsidering its 2010 proposed rule. At the same time, PBGC implemented working criteria for cases involving financially strong companies. Historically, this requirement has been enforced regardless of the financial health of the plan sponsor. The business community argued that this imposed an

¹ 74 FR 61248 (Nov. 23, 2009), www.pbgc.gov/Documents/E9-28056.pdf.

² 75 FR 48283 (Aug. 10, 2010), www.pbgc.gov/Documents/2010-19627.pdf.

onerous burden on many companies where there was little or no threat to the retirement security of their employees or the agency. After careful review, PBGC agreed and in November 2012 announced a 4062(e) enforcement pilot program under which it does not enforce in the case of small plans or financially strong sponsors (90 percent of plans are small or have financially strong sponsors).

Premiums. Based on PBGC's regulatory review and in response to public comments, in July 2013 PBGC published a proposed rule to make its premium rules more effective and less burdensome. The proposal would simplify due dates, coordinate the due date for terminating plans with the termination process, make conforming and clarifying changes to the variable-rate premium rules, provide for relief from penalties, and make other changes. Large plans would no longer have to pay flat-rate premiums early; small plans would get more time to value benefits. The proposal would also amend PBGC's regulations in accordance with the Moving Ahead for Progress in the 21st Century Act. The proposal has been favorably received by the pension community.

Changes to selected multiemployer plan regulations. PBGC has reviewed selected aspects of its regulations on multiemployer plans:

- Termination of Multiemployer Plans (29 CFR part 4041A). When a multiemployer plan terminates, the plan must perform an annual valuation of the plan's assets and benefits. PBGC has reviewed the regulation to determine whether annual valuation requirements may be reduced for certain plans.

- Duties of plan sponsor following mass withdrawal (29 CFR part 4281). Terminated multiemployer plans that determine that they will be insolvent for a plan year must file a series of notices and updates to notices. These notice requirements can be detrimental to plan participants because they may use up assets that would be available to pay plan benefits.

- Mergers and transfers between multiemployer plans (29 CFR part 4231). Multiemployer plans must file certain information with PBGC. Multiemployer plan mergers do not pose any increase in the risk of loss to PBGC or to plan participants. These filing requirements increase administrative costs to PBGC and plans and create an unnecessary burden in completing the merger.

PBGC is developing a proposed rule that would make changes to address these concerns.

PPA 2006 Implementation

Cash balance plans. PPA 2006 changed the rules for determining benefits in cash balance plans and other statutory hybrid plans. In October 2011, PBGC published a proposed rule implementing the changes in both PBGC-trusted plans and in plans that close out in the private sector. This rule is on hold until Treasury issues final regulations.

Missing participants. Currently, PBGC's Missing Participants Program applies only to terminating single-employer defined benefit plans insured by PBGC. PPA 2006 expanded the program to cover single-employer plans sponsored by professional service employers with fewer than 25 employees, multiemployer defined benefit plans, and 401(k) and other defined contribution plans. In June 2013, PBGC issued a Request for Information soliciting information from the public to assist it in making decisions about implementing a new program to deal with benefits of missing participants in terminating individual account plans. PBGC is interested in stakeholders' views on topics such as the extent of the demand for such a program, the demand for a database of missing participants, the availability of private-sector missing participant services, potential program costs and fees, electronic filing, and the contours of diligent search requirements. PBGC received useful comments from various sectors of the pension community.

Shutdown benefits. Under PPA 2006, the phase-in period for the guarantee of a benefit payable solely by reason of an "unpredictable contingent event," such as a plant shutdown, starts no earlier than the date of the shutdown or other unpredictable contingent event. PBGC published a proposed rule implementing this statutory change in March 2011³ and received one comment.

Other Regulations

DC to DB plan rollovers. PBGC is developing a proposed rule to address title IV treatment of rollovers from defined contribution plans to defined benefit plans, including asset allocation and guarantee limits. This rule is part of PBGC's efforts to enhance retirement security by promoting lifetime income options and follows related Department of Treasury guidance.⁴

³ 76 FR 13304 (Mar. 11, 2011), www.pbgc.gov/Documents/2011-5696.pdf.

⁴ On February 21, 2012, the Internal Revenue Service of the Department of Treasury issued Rev. Rul. 2012-4, which clarified the qualification requirements under section 401(a) of the Internal

ERISA section 4010. In response to comments, PBGC is reviewing its regulation on Annual Financial and Actuarial Information Reporting (part 4010) and the related e-filing application to consider ways of reducing reporting burden, without forgoing receipt of critical information. As stated in our 4010 report to Congress,⁵ legislative changes to section 4010 may be appropriate.

Small Businesses

PBGC takes into account the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. PBGC has issued or is considering several proposed rules that will focus on small businesses:

Small plan premium due date. Under the current regulation, the premium due date for plans with fewer than 100 participants is four months after year-end (April 30 for calendar year plans). PBGC has heard that some small plans with year-end valuation dates have difficulty meeting the filing deadline because such plans traditionally do not complete their actuarial valuation for funding purposes until after the premium due date. The premium proposed rule discussed above under *Retrospective Review of Existing Regulations* addresses this issue.

Reportable events. The reportable events proposed rule discussed above under *Retrospective Review of Existing Regulations* waives many reporting requirements for plans with fewer than 100 participants.

Missing participants. See *Missing participants* under *PPA 2006 Implementation* above. Expansion of the program will benefit small businesses closing out terminating plans.

Open Government and Increased Public Participation

PBGC is doing more to encourage public participation in the regulatory process. For example, PBGC's current efforts to reduce regulatory burden are in substantial part a response to public comments. Regulatory projects discussed above, such as reportable events, ERISA section 4062(e), and ERISA section 4010, highlight PBGC's customer-focused efforts to reduce regulatory burden.

PBGC's Regulatory Review Plan sets forth ways to expand opportunities for public participation in the regulatory

Revenue Code for use of rollover amounts to purchase an additional annuity under a defined benefit plan.

⁵ <http://www.pbgc.gov/documents/PBGC-4010-report-harkin.pdf>.

process. For example, in June 2013, PBGC held its first ever regulatory hearing on the reportable events proposed rule, so that the agency would have a better understanding of the needs and concerns of plan administrators and plan sponsors. PBGC's Request for Information on missing participants in individual account plans is another example of PBGC's efforts to solicit public participation in the regulatory process.

PBGC plans to provide additional means for public involvement, including on-line town hall meetings, social media, and continuing opportunity for public comment on PBGC's Web site.

PBGC also invites comments on the Regulatory Review Plan on an on-going basis as we engage in the review process. Comments should be sent to regs.comments@pbgc.gov.

PBGC will continue to look for ways to further improve its regulations.

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U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Statement of Regulatory Priorities

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic environment for small businesses, including those in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. The Agency serves as a guarantor of small business loans, and also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. This access to capital and other assistance provide a crucial foundation for those starting a new business, or growing an existing business and ultimately creating new jobs. SBA also provides direct financial assistance to homeowners, renters, and small business owners to help communities to rebuild in the aftermath of a disaster.

Reducing Burden on Small Businesses

SBA's regulatory policy reflects a commitment to developing regulations that reduce or eliminate the burden on the public, especially the Agency's core

constituents—small businesses. SBA's regulatory process generally includes an assessment of the costs and benefits of the regulations as required by Executive Order 12866, "Regulatory Planning and Review"; Executive Order 13563, "Improving Regulation and Regulatory Review"; and the Regulatory Flexibility Act. SBA's program offices are particularly invested in finding ways to reduce the burden imposed by the Agency's core activities in its loan, innovation, and procurement programs.

Openness and Transparency

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedure Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process.

Regulatory Framework

SBA FY 2011 to FY 2016 strategic plan serves as the foundation for the regulations that the Agency will develop during the next 12 months. This strategic plan proposes three primary strategic goals: (1) Growing businesses and creating jobs; (2) building an SBA that meets the needs of today's and tomorrow's small businesses; and (3) serving as the voice for small business. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding access to capital through SBA's extensive lending network;
- Ensuring Federal contracting goals are met or exceeded by collaborating across the Federal Government to expand opportunities for small businesses and strengthen the integrity of the Federal contracting data and certification process;
- Promoting awareness among Federal agencies, of the impact of regulatory enforcement and compliance efforts on small businesses and the importance of reducing burdens on such businesses;
- Strengthening SBA's relevance to high growth entrepreneurs and small businesses to more effectively drive innovation and job creation; and
- Mitigating risk and improving program oversight.

The regulations reported in SBA's semi-annual regulatory agenda and plan are intended to facilitate achievement of these goals and objectives. Over the next twelve months, SBA's highest regulatory priorities will include: (1) Implementing policy and procedural changes to the SBIR and STTR programs through the

Policy Directives that provide guidance to the other SBIR/STTR Federal agencies; (2) implementing the Mentor-Protégé Programs, which were authorized by the Small Business Jobs Act, for participants in the HUBZone, Women Owned Small Business (WOSB) Contracting, and Service-Disabled Veteran-Owned Small Business (SDVOSB) Programs and expanded to all small business concerns by the National Defense Authorization Act for FY 2013; and (3) finalizing amendments to regulations for the 504 and 7(a) loan programs.

(1) Small Business Innovation and Research (SBIR) Program (RIN: 3245-AG84)

As a result of amendments to the program by the National Defense Reauthorization Act of 2012, one of SBA's priorities is issuance of a revised policy directive that simplifies and standardizes the proposal, selection, contracting, compliance, and audit procedures for the SBIR program to the extent practicable while allowing the SBIR agencies flexibility in the operation of their individual SBIR Programs. Wherever possible, SBA is reducing the paperwork and regulatory compliance burden on the small businesses that apply to and participate in the SBIR program while still meeting the statutory reporting and data collection requirements. For example, SBA created a program data management system for collecting and storing information that will be utilized by all SBIR agencies, thus eliminating the need for SBIR applicants to submit the same data to multiple agencies.

(2) Small Business Technology Transfer (STTR) Program (RIN: 3245-AF45)

Many elements of the STTR program are designed and intended to be identical to those of the SBIR program. SBA is therefore issuing an updated STTR Policy Directive to maintain the appropriate consistency with the SBIR program, as described in the preceding paragraphs.

The revised SBIR and STTR Policy Directives are designed to reduce confusion for both small businesses and the Federal agencies that make awards under the program, reducing the regulatory cost burden, potentially increasing the number of SBIR and STTR solicitations, and leading to savings of administrative costs as a result of fewer informational inquiries and disputes.