IV. Findings and Certifications

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This proposed rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Order. This rule does not have federalism implications and would not impose substantial direct compliance costs on state and local governments nor preemt state law within the meaning of the Order.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule, consistent with recent statutory amendments, provides PHAs with the flexibility to enter into energy performance contracts with terms of not more than 20 years. These revisions impose no significant economic impact on a substantial number of small entities. Therefore, the undersigned certifies that this rule will not have a significant impact on a substantial number of small entities. Notwithstanding HUD’s view that this rule will not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD’s objectives as described in this preamble.

Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction; or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.850.

List of Subjects in 24 CFR Part 990

Accounting, Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 990 as follows:

PART 990—THE PUBLIC HOUSING OPERATING FUND PROGRAM

1. The authority citation for part 990 continues to read as follows:

Authority: 42 U.S.C. 1437g; 42 U.S.C. 3535(d).

2. In §990.185, revise paragraph (a) introductory text and paragraph (a)(3)(iv), to read as follows:

§990.185 Utilities expense level: Incentives for energy conservation/rate reduction.

(a) General/consumption reduction. If a PHA undertakes energy conservation measures that are financed by an entity other than HUD, the PHA may qualify for the incentives available under this section. For a PHA to qualify for these incentives, the PHA must enter into a contract to finance the energy conservation measures, and must obtain HUD approval. Such approval shall be based on a determination that payments under a contract can be funded from reasonably anticipated energy cost savings. The contract period shall not exceed 20 years. The energy conservation measures may include, but are not limited to: Physical improvements financed by a loan from a bank, utility, or governmental entity; management of costs under the performance contract; or a shared savings agreement with a private energy service company. All such contracts shall be known as energy performance contracts. PHAs may extend an executed energy performance contract with a term of less than 20 years to a term of not more than 20 years, to permit additional energy conservation improvements without the reprocurement of energy performance contractors. The PHA must obtain HUD approval to extend the term of an executed energy performance contract.

(iv) If energy cost savings are less than the amount necessary to meet amortization payments specified in a contract, the contract term may be extended (up to the 20-year limit) if HUD determines that the shortfall is the result of changed circumstances, rather than a miscalculation or misrepresentation of projected energy savings by the contractor or PHA. The contract term may be extended only to accommodate payment to the contractor and associated direct costs.


Paula O. Blunt,
General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. E8–24573 Filed 10–15–08; 8:45 am]

BILLING CODE 4210–67–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044


AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.


DATES: Effective November 1, 2008.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klon, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005, 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: The PBGC’s regulations prescribe actuarial assumptions—including interest
assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology (found in Appendix C to Part 4022).

This amendment (1) adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes under section 4044 during November 2008, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during November 2008, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC’s historical methodology for valuation dates during November 2008.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 7.09 percent for the first 20 years following the valuation date and 6.16 percent thereafter. These interest assumptions represent an increase (from those in effect for October 2008) of 0.91 percent for the first 20 years following the valuation date and 0.91 percent for all years thereafter.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 3.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit’s placement in pay status. These interest assumptions represent an increase (from those in effect for October 2008) of 0.50 percent in the immediate annuity rate and are otherwise unchanged. For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during November 2008, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a “significant regulatory action” under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects
29 CFR Part 4022
Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044
Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

1. The authority citation for part 4022 continues to read as follows:
   Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

2. In appendix B to part 4022, Rate Set 181, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

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<th>Rate set</th>
<th>For plans with a valuation date</th>
<th>Immediate annuity rate (percent)</th>
<th>Deferred annuities (percent)</th>
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<td>On or after</td>
<td>Before</td>
<td>$i_1$</td>
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<tr>
<td>181</td>
<td>11–1–08</td>
<td>12–1–08</td>
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</table>

3. In appendix C to part 4022, Rate Set 181, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

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</thead>
<tbody>
<tr>
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<td>On or after</td>
<td>Before</td>
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<tr>
<td>181</td>
<td>11–1–08</td>
<td>12–1–08</td>
<td>3.75</td>
</tr>
</tbody>
</table>
PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

4. The authority citation for part 4044 continues to read as follows:

For valuation dates occurring in the month—

<table>
<thead>
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<th>i</th>
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<td>.0709</td>
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Issued in Washington, DC, on this 9th day of October 2008.

Vincent K. Snowbarger,
Deputy Director for Operations, Pension Benefit Guaranty Corporation

[FR Doc. E8–24651 Filed 10–15–08; 8:45 am]
BILLING CODE 7709–01–P

DEPARTMENT OF EDUCATION

34 CFR Part 5b
RIN 1980–AA85
[Docket ID ED, ED–2008–OM–0004]

Privacy Act Regulations

AGENCY: Office of Management, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations implementing the Privacy Act of 1974, as amended (Privacy Act). These changes are intended to exempt from certain Privacy Act requirements investigative material in a new system of records maintained by the Department that will be known as the Office of Inspector General Data Analytics System (ODAS) and the exemption would apply to materials compiled by the Department’s Office of Inspector General (OIG) for law enforcement purposes.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

We summarized the potential costs and benefits of these final regulations in the NPRM at 73 FR 26058.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

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(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: October 10, 2008.

Christopher P. Marston,
Assistant Secretary for Management.

For the reasons discussed in the preamble, the Secretary amends Part 5b of title 34 of the Code of Federal Regulations as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. The authority citation for part 5b continues to read as follows:


2. Section 5b.11 is amended by revising paragraph (c)(1) introductory text to read as follows: