

proposed to amend the U.S. Customs and Border Protection (CBP) Regulations to exclude from the dutiable value of repairs, alterations, or processing performed abroad on articles exported from the United States and returned under subheading 9802.00.40, 9802.00.50, or 9802.00.60, Harmonized Tariff Schedule of the United States (HTSUS), the value of U.S.-origin parts used in the foreign repairs, alterations, or processing. The notice is being withdrawn to permit further consideration of the relevant issues involved in the proposed rulemaking.

**DATES:** The notice of proposed rulemaking is withdrawn on March 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Monika Brenner, Regulations and Rulings, Office of International Trade, 202-325-0038.

**SUPPLEMENTARY INFORMATION:**

**Background**

On March 13, 2009, CBP published in the **Federal Register** (74 FR 10849) a document that proposed to amend §§ 10.8(d) and 10.9(d) of the CBP regulations (19 CFR 10.8(d) and 10.9(d)) to exclude from the dutiable value of repairs, alterations, or processing performed abroad on articles exported and returned to the United States under subheading 9802.00.40, 9802.00.50, or 9802.00.60, HTSUS, the value of U.S.-origin parts used in the foreign repairs, alterations, or processing.

**Withdrawal of Notice of Proposed Rulemaking**

CBP is withdrawing the notice of proposed rulemaking published in the **Federal Register** on March 13, 2009, so that relevant issues involved in the proposed rulemaking may be further considered.

**Jayson P. Ahern,**

*Acting Commissioner, Customs and Border Protection.*

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*  
[FR Doc. E9-7154 Filed 3-27-09; 8:45 am]

**BILLING CODE 9111-14-P**

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4001, 4901 and 4902**

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

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) is proposing to amend its regulations implementing the Privacy Act of 1974, *as amended*, to exempt certain records that will be maintained in a system of records entitled "PBGC-17, Office of Inspector General Investigative File System"—PBGC" from the access, contest, and certain other provisions of the Privacy Act. The amendment would protect the information gathered to carry out the Office of Inspector General's law enforcement mission to investigate criminal, civil, and administrative matters.

**DATES:** Comments must be received by April 29, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the Web site instructions for submitting comments.
- *E-mail:* [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov).
- *Fax:* 202-326-4224.
- *Mail or Hand Delivery:* Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.

Comments received, including personal information provided, will be posted to <http://www.pbgc.gov>. Copies of comments may also be obtained by writing to Disclosure Division, Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or calling 202-326-4040 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 202-326-4040.)

**FOR FURTHER INFORMATION CONTACT:**

Margaret E. Drake, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4400 (extension 3228); or James Bloch, Program Analyst, Legislative & Regulatory Department; 202-326-4223 (extension 3530). (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400 (extension 3228) or 202-326-4223 (extension 3530).)

**SUPPLEMENTARY INFORMATION:** The PBGC Office of Inspector General (OIG) conducts criminal, civil and administrative investigations and compiles and maintains case files containing identifying information about potential subjects and sources. PBGC is proposing a new system of

records subject to the Privacy Act of 1974, *as amended*, 5 U.S.C. 552a ("Privacy Act"), entitled "PBGC-17, Office of Inspector General Investigative File System—PBGC." (PBGC's notice of a new system of records appears elsewhere in today's **Federal Register**.) The proposed new system of records will cover only the files of investigation that identify by name, or other personal identifier, individuals who are subjects or sources of information. The system of records is necessary to the investigative functions performed by the OIG under the authority of the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3. The files may contain information about criminal, civil or administrative wrongdoing, or about fraud, waste or mismanagement, or other violations of law or regulation. This information could be the basis for referrals to appropriate prosecutorial authorities for consideration of criminal or civil prosecution or to PBGC management for administrative corrective action. The collection and maintenance of these types of records that are subject to this system are not new; however, in the past they have not been retrieved by a name or other personal identifier. OIG is implementing an electronic records management system from which records will be retrieved by name or other personal identifier.

**Proposed Regulatory Changes**

*Exemptions*

PBGC is proposing to amend its regulations implementing the Privacy Act (29 CFR part 4902) to exempt, under 5 U.S.C. 552a(j) and (k), certain records that will be maintained in PBGC-17 from the access, contest, and certain other provisions of the Privacy Act. The amendment would protect the information gathered to carry out OIG's law enforcement mission to investigate criminal, civil, and administrative matters. The exemptions relate to records maintained by OIG pertaining to the enforcement of criminal laws (see 5 U.S.C. 552a(j)(2)) and investigatory material compiled for law enforcement generally (see 5 U.S.C. 552a(k)(2)), and for determining individuals' eligibility or qualifications for Federal employment or Federal contracts (see 5 U.S.C. 552a(k)(5)).

*Other Changes*

Section 411 of the Pension Protection Act of 2006, Public Law 109-280, amended section 4002(a) of ERISA to state that PBGC is to be administered by a Director appointed by the President, subject to Senate confirmation. Thus, PBGC proposes to replace all references

to the term “Executive Director” in part 4902 with the term “Director.” PBGC also proposes to replace all references to the term “Deputy Executive Director” in part 4902 with the term “Deputy Director for Operations.”

This proposed rule would update the definition of PBGC’s Disclosure Officer, remove the definition of Disclosure Officer from regulation § 4901.2 and § 4902.2, and centralize the definition in § 4001.2. The proposed rule also would direct individuals to PBGC’s Web site (<http://www.pbgc.gov>) for information on where an individual can address a request to learn whether PBGC maintains any system of records that contains a record pertaining to the individual and, if so, how to obtain access to such a record.

#### Compliance With Rulemaking Guidelines

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

PBGC certifies under section 605(b) of the Regulatory Flexibility Act that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The rule would only affect the maintenance and disclosure of information about individuals by PBGC under the Privacy Act and therefore would 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

##### 29 CFR Part 4001

Pension insurance.

##### 29 CFR Part 4901

Freedom of information.

##### 29 CFR Part 4902

Privacy.

For the reasons set forth above, PBGC is proposing to amend 29 CFR parts 4001, 4901, and 4902 as follows:

#### PART 4001—TERMINOLOGY

1. The authority citation for Part 4001 continues to read as follows:

**Authority:** 29 U.S.C. 1301, 1302(b)(3).

2. Section 4001.2 is amended by adding a new definition in alphabetical order to read as follows:

##### § 4001.2 Definitions.

\* \* \* \* \*

*Disclosure officer* means the official designated as disclosure officer in the Office of the General Counsel, PBGC.

\* \* \* \* \*

#### PART 4901—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

3. The authority citation for Part 4901 continues to read as follows:

**Authority:** 5 U.S.C. 552, 29 U.S.C. 1302(b)(3).

##### § 4901.2 [Amended]

4. Section 4901.2 is amended by removing the definition of *Disclosure officer*.

##### § 4901.11 [Amended]

5. Section 4901.11 is amended by removing the words “Communications and Public Affairs Department” and adding in their place “Office of the General Counsel”; and removing the number “240” and adding in its place the number “11101”.

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

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

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

7. Section 4902.1 is revised to read as follows:

##### § 4902.1 Purpose and Scope.

(a) *Procedures.* Sections 4902.3 through 4902.7 establish procedures under which:

(1) An individual may—  
(i) Determine whether PBGC maintains any system of records that contains a record pertaining to the individual;

(ii) Obtain access to the individual’s record upon request;

(iii) Make a request to amend the individual’s record; and

(iv) Appeal a denial of a request to amend the individual’s record; and

(2) PBGC will make an initial determination of a request to amend an individual’s record.

(b) *Fees.* Section 4902.8 prescribes the fees for making copies of an individual’s record.

(c) *Privacy Act provisions.* Section 4902.9 summarizes the Privacy Act (5 U.S.C. 552a) provisions for which PBGC claims an exemption for certain systems of records.

(d) *Exemptions.* Sections 4902.10 through 4902.11 set forth those systems of records that are exempted from certain disclosure and other provisions of the Privacy Act, and the reasons for the exemptions.

##### § 4902.2 [Amended]

8. Section 4902.2 is amended by removing the definition of *Disclosure officer*.

##### § 4902.3 [Amended]

9. Section 4902.3(a) is amended by removing the words “on any working day in the Communications and Public Affairs Department, PBGC, 1200 K Street, NW., Suite 240, Washington, DC 20005–4026.” and adding in their place “on any working day. Current information on how to make a request, including the Disclosure Officer’s mailing address and location, can be obtained on PBGC’s Web site, <http://www.pbgc.gov>.”

##### § 4902.4 [Amended]

10. Section 4902.4(a) is amended by removing the words “Communications and Public Affairs Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026” and adding in their place “PBGC”; and by adding at the end of the paragraph the words “Current information on where the records may be inspected and copied can be obtained on PBGC’s Web site, <http://www.pbgc.gov>.”

##### § 4902.6 [Amended]

11. Section 4902.6(a) is amended by removing the word “Executive”.

##### § 4902.7 [Amended]

12. In § 4902.7, paragraph (a) is amended by removing the words “Deputy Executive Director” and adding in their place “Deputy Director for Operations”, and paragraph (b) is amended by removing the words “the Executive Director” and adding in their place “the Director”; and by removing the words “Deputy Executive Director” wherever they appear, and adding in their place “Deputy Director for Operations”.

13. Sections 4902.9 and 4902.10 are redesignated as §§ 4902.10 and 4902.12, respectively, and the newly redesignated § 4902.10 is revised to read as follows:

##### § 4902.10 Specific exemption: Personnel Security Investigation Records

(a) *Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(5), the PBGC hereby exempts the system of records entitled “PBGC–12, Personnel Security Investigation Records—PBGC” from the provisions of 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), to the extent that the disclosure of such material would reveal the identity of a source who furnished information to PBGC under an express promise of confidentiality or, before September 27,

1975, under an implied promise of confidentiality.

(b) *Reasons for Exemption.* The reasons for asserting this exemption are to insure the gaining of information essential to determining suitability and fitness for PBGC employment or for work for the PBGC as a contractor or as an employee of a contractor, access to information, and security clearances, to insure that full and candid disclosures are obtained in making such determinations, to prevent subjects of such determinations from thwarting the completion of such determinations, and to avoid revealing the identities of persons who furnish information to the PBGC in confidence.”

14. New §§ 4902.9 and 4902.11 are added to read as follows:

**§ 4902.9 Privacy Act provisions for which PBGC claims an exemption.**

Subsections 552a(j) and (k) of title 5, U.S.C., authorize the PBGC to exempt systems of records meeting certain criteria from various other subsections of section 552a. This section contains a summary of the Privacy Act provisions for which PBGC claims an exemption for the systems of records discussed in this part pursuant to, and to the extent permitted by, subsections 552a(j) and (k):

(a) Subsection (c)(3) of 5 U.S.C. 552a requires an agency to make available to the individual named in the records an accounting of each disclosure of records.

(b) Subsection (c)(4) of 5 U.S.C. 552a requires an agency to inform any person or other agency to which a record has been disclosed of any correction or notation of dispute the agency has made to the record in accordance with subsection (d) of the Privacy Act.

(c) Subsections (d)(1) through (4) of 5 U.S.C. 552a require an agency to permit an individual to gain access to records about the individual, to request amendment of such records, to request a review of an agency decision not to amend such records, and to provide a statement of disagreement about a disputed record to be filed and disclosed with the disputed record.

(d) Subsection (e)(1) of 5 U.S.C. 552a requires an agency to maintain in its records only such information about an individual that is relevant and necessary to accomplish a purpose required by statute or executive order of the President.

(e) Subsection (e)(2) of 5 U.S.C. 552a requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about

an individual's rights, benefits, and privileges under federal programs.

(f) Subsection (e)(3) of 5 U.S.C. 552a requires an agency to inform each person whom it asks to supply information of the authority under which the information is sought, whether disclosure is mandatory or voluntary, the principal purpose(s) for which the information will be used, the routine uses that may be made of the information, and the effects of not providing the information.

(g) Subsection (e)(4)(G) and (H) of 5 U.S.C. 552a requires an agency to publish a Federal Register notice of its procedures whereby an individual can be notified upon request whether the system of records contains information about the individual, how to gain access to any record about the individual contained in the system, and how to contest its content.

(h) Subsection (e)(5) of 5 U.S.C. 552a requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual in making any determination about the individual.

(i) Subsection (e)(8) of 5 U.S.C. 552a requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record.

(j) Subsection (f) of 5 U.S.C. 552a requires an agency to establish procedures whereby an individual can be notified upon request if any system of records named by the individual contains a record pertaining to the individual, obtain access to the record, and request amendment.

(k) Subsection (g) of 5 U.S.C. 552a provides for civil remedies if an agency fails to comply with the access and amendment provisions of subsections (d)(1) and (d)(3), and with other provisions of the Privacy Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual.

**§ 4902.11 Specific exemptions: Office of Inspector General Investigative File System.**

(a) *Criminal Law Enforcement—(1) Exemption.* Under the authority granted by 5 U.S.C. 552a(j)(2), the PBGC hereby exempts the system of records entitled “PBGC-17, Office of Inspector General Investigative File System—PBGC” from the provisions of 5 U.S.C. 552a(c)(3), (c)(4), (d)(1) through (4), (e)(1) through (3), (e)(4)(G) and (H), (e)(5), (e)(8), (f), and (g) because the system contains

information pertaining to the enforcement of criminal laws.

(2) *Reasons for exemption.* The reasons for asserting this exemption are:

(i) Disclosure to the individual named in the record pursuant to subsections (c)(3), (c)(4), or (d)(1) through (4) could seriously impede or compromise the investigation by alerting the target(s), subjecting a potential witness or witnesses to intimidation or improper influence, and leading to destruction of evidence.

(ii) Application of subsection (e)(1) is impractical because the relevance of specific information might be established only after considerable analysis and as the investigation progresses. Effective law enforcement requires the Office of Inspector General to keep information that may not be relevant to a specific Office of Inspector General investigation, but which may provide leads for appropriate law enforcement and to establish patterns of activity that might relate to the jurisdiction of the Office of Inspector General and/or other agencies.

(iii) Application of subsection (e)(2) would be counterproductive to performance of a criminal investigation because it would alert the individual to the existence of an investigation.

(iv) Application of subsection (e)(3) could discourage the free flow of information in a criminal law enforcement inquiry.

(v) The requirements of subsections (e)(4)(G) and (H), and (f) do not apply because this system is exempt from the provisions of subsection (d). Nevertheless, PBGC has published notice of its notification, access, and contest procedures because access is appropriate in some cases.

(vi) Although the Office of Inspector General endeavors to maintain accurate records, application of subsection (e)(5) is impractical because maintaining only those records that are accurate, relevant, timely, and complete and that assure fairness in determination is contrary to established investigative techniques. Information that may initially appear inaccurate, irrelevant, untimely, or incomplete may, when collated and analyzed with other available information, become more pertinent as an investigation progresses.

(vii) Application of subsection (e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(viii) The provisions of subsection (g) do not apply to this system if an exemption otherwise applies.

(b) *Other Law Enforcement—(1) Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(2), the PBGC hereby

exempts the system of records entitled "PBGC-17, Office of Inspector General Investigative File System—PBGC" from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) for the same reasons as stated in paragraph (a)(2) of this section, that is, because the system contains investigatory material compiled for law enforcement purposes other than material within the scope of subsection 552a(j)(2).

(2) *Reasons for exemption.* The reasons for asserting this exemption are because the disclosure and other requirements of the Privacy Act could substantially compromise the efficacy and integrity of the Office of Inspector General operations. Disclosure could invade the privacy of other individuals and disclose their identity when they were expressly promised confidentiality. Disclosure could interfere with the integrity of information which would otherwise be subject to privileges, *see, e.g.*, 5 U.S.C. 552(b)(5), and which could interfere with other important law enforcement concerns, *see, e.g.*, 5 U.S.C. 552(b)(7).

(c) *Federal Civilian or Contract Employment—(1) Exemption.* Under the authority granted by 5 U.S.C. 552a(k)(5), the PBGC hereby exempts the system of records entitled "PBGC-17, Office of Inspector General Investigative File System—PBGC" from the provisions of 5 U.S.C. 552a(c)(3), (d)(1) through (4), (e)(1), (e)(4)(G) and (H), and (f) because the system contains investigatory material compiled for the purpose of determining eligibility or qualifications for federal civilian or contract employment.

(2) *Reason for exemption.* The reason for asserting this exemption is to protect from disclosure the identity of a confidential source when an express promise of confidentiality has been given to obtain information from sources who would otherwise be unwilling to provide necessary information.

Issued in Washington, DC, this 23rd day of March, 2009.

**Vincent K. Snowbarger,**

*Acting Director, Pension Benefit Guaranty Corporation.*

[FR Doc. E9-6973 Filed 3-27-09; 8:45 am]

BILLING CODE 7709-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-650; MB Docket No. 08-101; RM-11438]

#### Television Broadcasting Services; Ann Arbor, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Dismissal.

**SUMMARY:** The Commission dismisses the pending rulemaking petition filed by Paxson Communications License Company, LLC ("Paxson"), permittee of WPXD-DT, post-transition digital television channel 31, which proposes to substitute digital television channel 19 for post-transition digital television channel 31 at Ann Arbor, Michigan. Paxson's proposed channel substitution requires coordination and concurrence with the Canadian government because the proposed facility is located within the Canadian coordination zone. The Canadian government has indicated that Paxson's proposed channel substitution is not acceptable. Therefore, the Commission cannot approve Paxson's rulemaking petition.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Y. Denysyk, Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Order*, MB Docket No. 08-101, adopted March 18, 2009, and released March 20, 2009. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC 20554. This document will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-478-3160 or via e-mail <http://www.BCPIWEB.com>. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any

information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this *Order* to the Government Accountability Office, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) since this proposed rule is dismissed, herein.)

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E9-7032 Filed 3-27-09; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-638; MB Docket No. 09-33; RM-11521]

#### Television Broadcasting Services; Derby, KS

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a channel substitution proposed by Entravision Holdings, LLC ("Entravision"), the permittee of KDCU-DT, DTV channel 46, Derby, Kansas. Entravision requests the substitution of DTV channel 31 for post-transition DTV channel 46 at Derby.

**DATES:** Comments must be filed on or before April 14, 2009, and reply comments on or before April 24, 2009.

**ADDRESSES:** Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: Barry A. Friedman, Esq., Thompson Hine LLP, 1920 N Street, NW., Suite 800, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** Adrienne Y. Denysyk, [adrienne.denysyk@fcc.gov](mailto:adrienne.denysyk@fcc.gov), Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MB Docket No. 09-33, adopted March 17, 2009, and released March 19, 2009. The full text of this document is available for public