

Supporting Statement for Paperwork Reduction Act Submission

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Payment of Premiums (29 CFR Part 4007) and PBGC forms and instructions thereunder

STATUS: Request for approval of revision of currently approved collection (OMB control number 1212-0009; expires October 31, 2015)

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1. Need for collection. Section 4007 of Title IV of the Employee Retirement Income Security Act of 1974 (“ERISA”) requires the Pension Benefit Guaranty Corporation (“PBGC”) to collect premiums from pension plans covered under Title IV pension insurance programs. Pursuant to section 4007, PBGC has issued its regulation on Payment of Premiums (29 CFR Part 4007). Under § 4007.3 of the premium payment regulation, plan administrators are required to file premium payments and information prescribed by PBGC (premium-related data and information about plan identity, status, and events).

Premium information is filed electronically using “My Plan Administration Account” (“My PAA”) through PBGC’s web site. Premium filings must be made annually. Under § 4007.10 of the premium payment regulation, plan administrators are required to retain records about premiums and information submitted in premium filings.

Section 4006 of ERISA, implemented by PBGC’s regulation on Premium Rates (29 CFR Part 4006), sets premium rates. All plans covered by Title IV of ERISA pay a flat-rate per-participant premium. An underfunded single-employer plan also pays a variable-rate premium (VRP) based on the plan’s unfunded vested benefits (UVBs). The VRP is subject to a cap added

by the Moving Ahead for Progress in the 21st Century Act (MAP-21). Premium rates and the level of the cap are adjusted for inflation pursuant to MAP-21.

On July 23, 2013, PBGC published (at 78 FR 44056) a proposal to amend its premium regulations in ways that would affect premium filings. PBGC's proposed rule describes the changes and the reasons and effects associated with them.

Premium due dates heretofore have depended on plan size. Large plans have been required to pay the flat-rate premium early in the premium payment year and the VRP later in the year. Mid-size plans have been required to pay both the flat- and variable-rate premiums by that same later due date. Small plans have been required to pay the flat- and variable-rate premiums in the following year. PBGC proposed to simplify the due-date rules by providing that all annual premiums for plans of all sizes would be due on the same day in the premium payment year — the VRP due date (October 15 for calendar-year plans) that applied to all premium filers before PBGC amended its regulations, effective 2008, to accommodate statutory changes under the Pension Protection Act of 2006. The proposal also included elimination of the elaborate system of penalty safe harbors associated with the early flat-rate premium due date for large plans, as well as other changes.

PBGC is now finalizing just the part of the proposal that eliminates the early flat-rate premium due date for large plans (and the related penalty safe harbor rules) so that large plans can rely on it in delaying their flat-rate premium payments. PBGC expects to finalize the rest of the proposal in time to provide guidance for all plans to file by October 15, 2014.

In connection with the latter rulemaking action, PBGC will seek Office of Management and Budget approval of 2014 premium filing forms and instructions that reflect all of the

changes. Until then, PBGC is simply modifying its existing premium forms and instructions to provide for a notification to premium filers that early flat-rate premium filings have been discontinued for the 2014 plan year, and requesting OMB approval of the existing premium forms and instructions as so modified.

2. Use of information. PBGC uses information from premium filings to identify the plans for which premiums are paid, to verify whether the amounts paid are correct, to help PBGC determine the magnitude of its exposure in the event of plan termination, to help track the creation of new plans and transfer of participants and plan assets and liabilities among plans, and to keep PBGC's insured-plan inventory up to date. That information and the retained records are used for audit purposes.

3. Information technology. Electronic filing is required under PBGC's premium regulations. PBGC provides for premium filing through the "My PAA" electronic facility on PBGC's Web site. In addition, PBGC offers two electronic filing options that allow filers to use private-sector premium-filing-preparation software compatible with My PAA: (1) a filer can draft a premium filing and then import it into My PAA's data entry and editing screens for review, certification, and submission to PBGC; and (2) a filer can create a premium filing and then upload it directly to PBGC via the My PAA application. Filers can opt to pay premiums and receive premium refunds by paper check or electronic funds transfer.

4. Duplicate or similar information. In general, the information required in premium filings is not routinely filed with, and available from, any other Federal Government agency, and there is no similar information that can be used "as is" instead of the information reported in premium filings.

VRP Data

In some cases, asset and/or liability figures on which the VRP is based may also be reported on Schedule SB to Form 5500, the annual report form filed with the Internal Revenue Service, Department of Labor, and PBGC. But since the premium numbers may not be the same as the Schedule SB numbers, PBGC needs to know what the premium numbers are, even if they happen to coincide with the Schedule SB numbers.

Frozen plan data

Plans can be “frozen” in several different ways (for example, by ceasing accrual of benefits or admission of new participants). To predict and address the impact of plan freezes on PBGC’s future premium revenues and net financial position, PBGC needs to know which of the plans that PBGC covers have been frozen and the exact nature of the freeze.

PBGC currently collects plan freeze information on ERISA section 4010 filings because it needs the information as early as possible for the small group of 4010 filers, and the information is reported in section 4010 filings before it is reported in premium filings. PBGC has considered exempting 4010 filers from reporting this information again in the premium filing, but concluded that there would be a control problem if the agency’s premium database were not internally consistent.

Form 5500 collects general information on whether a plan has been frozen, but only for the most severe type of freeze (when all accruals cease for all participants) and only for the year before the current year. The Form 5500 data are thus too little and too late for PBGC’s purposes.

Plan transfer data

PBGC's plan transfer questions ask about transfers *to* and *from* other plans, as well as transfer types (merger, consolidation, or spin-off), to save PBGC (and filers) the administrative burden of determining why plans have failed to file when expected or have filed information inexplicably different from the previous year. Form 5500 collects information about assets and/or liabilities transferred *from* a plan to another plan (or plans) during the plan year, but not data on transfer types. Plans must submit information to the Internal Revenue Service about transfers *to* and *from* other plans on Form 5310-A, but only for non-*de minimis* transactions; PBGC needs this information regardless of transaction size. Furthermore, Form 5310-A information is not available to PBGC as promptly as PBGC needs it.

Final filing data

Form 5500 collects general information on whether a plan was terminated in a standard or distress termination; whether PBGC became trustee of a plan; and whether a plan is covered by PBGC. However, the Form 5500 data often do not adequately explain why filings have ceased in cases where plans merge out of existence. In addition, terminated or merged plans often do not submit a final Form 5500, especially when the final plan year is short. Thus, these sources of information on plan disappearances do not adequately satisfy PBGC's need to know why plans have stopped filing.

5. Reducing the burden on small entities. The VRP due date for small plans is 6½ months later than for large and mid-size plans to accommodate the later UVB valuation dates used by some small plans. (The treatment of small plans will change when PBGC finalizes other provisions of its proposed rule.)

The VRP is capped for certain plans of small employers (those with 25 or fewer employees). (This cap is generally lower than the MAP-21 VRP cap that applies to all VRP filers.) Plans that qualify for the small-employer VRP cap and pay the full amount of the cap do not need to determine or report UVBs.

6. Consequence of reduced collection. Since the information collected is essential to proper administration of PBGC's insurance programs, including auditing of premium filings, failure to collect it would seriously impair PBGC's program operations. Further, the premium payable to PBGC is an annual premium. Therefore, premium filings cannot be made less often than annually.

PBGC allows plans to make estimated VRP filings and then reconcile the estimated premium at a later date without a late premium payment penalty. PBGC makes this accommodation because unusual circumstances could make an accurate VRP filing by the due date inconvenient. In some cases, therefore, plans may make two filings a year, rather than one.

7. Special circumstances. PBGC requires plan administrators to retain information necessary to support premium filings for six years. The six-year period corresponds to the record retention requirement of Title I of ERISA and is needed to ensure that records are available during the statutory limitations period within which PBGC may bring an action to collect premiums.

In unusual circumstances, PBGC may require submission of information in less than 30 days in connection with an audit. This would accommodate a situation where PBGC determines that its interests may be prejudiced by a delay in the receipt of the information, such

as where collection of unpaid premiums (or any associated interest or penalties) would otherwise be jeopardized.

In other respects, this collection of information is not conducted in a manner inconsistent with 5 CFR § 1320.5(d)(2).

8. Outside input. PBGC's proposed rule to amend the premium regulations as described above informed the public of PBGC's plan to eliminate the early large-plan flat-rate premium due date. PBGC's final rule eliminating the early large-plan flat-rate premium due date informs the public that PBGC will give notice that the early filings are discontinued for 2014. (PBGC's proposal also informed the public of a request for OMB review and approval of complete new 2014 forms and instructions reflecting all the provisions of the proposed rule.)

9. Payment to respondents. PBGC provides no payments or gifts to respondents in connection with this collection of information.

10. Confidentiality. Confidentiality of information is that afforded by the Freedom of Information Act and the Privacy Act. PBGC's rules that provide and restrict access to its records are set forth in 29 CFR Part 4901.

11. Sensitive questions. This collection of information does not call for submission of information of a personal nature.

12. Hour burden on the public. PBGC first re-estimated the burden of the unamended regulation, then estimated the effect of the amendment.

Re-estimated Burden of the Unamended Regulation

PBGC has re-estimated the burden of the unamended premium payment regulation (that is, including the early-filing requirement for large plans) as follows:

Hours to Complete Premium Filing — Unamended Regulation								
Type of Plan		Single-employer Plans				Multiemployer Plans		All Plans
Number of participants		< 25	25-99	100-499	≥ 500	< 500	≥ 500	--
Early Flat-rate Filing	# of plans	--	--	--	4,530	--	1,127	5,657
	Hours per plan	--	--	--	2.5	--	2.5	--
	Total hours	--	--	--	11,325	--	2,818	14,143
Comprehensive Premium Filing								
• Plans that are exempt from VRP	# of plans	1,559	173	56	25	296	1,127	3,236
	Hours per plan	3.5	3.5	3.5	4.0	3.5	4.0	--
	Total hours	5,457	606	196	100	1,036	4,508	11,903
• Plans paying capped VRP & not reporting UVBs	# of plans	2,447	20	--	--	--	--	2,467
	Hours per plan	3.5	3.5	--	--	--	--	--
	Total hours	8,565	70	--	--	--	--	8,635
• Plans reporting UVBs	# of plans	6,903	4,223	4,398	4,505	--	--	20,029
	Hours per plan	9.0	8.0	7.0	7.5	--	--	--
	Total hours	62,127	33,784	30,786	33,788	--	--	160,485
Total Hours		76,149	34,460	30,982	45,213	1,036	7,326	195,166

Based on inquiries made to pension practitioners and filing data available as of October 2012, PBGC now estimates that, in the absence of the amendment eliminating the early flat-rate due date for large plans, about 25,700 respondents would make about 31,400 filings requiring about 195,200 hours to prepare. The proportion of that time contracted out varies widely, with smaller plans generally contracting out virtually all of it and some large plans performing all the work in-house. Since most filers are smaller plans, PBGC makes a simplifying assumption that 95 percent of the time is contracted out. Thus PBGC now estimates that the hour burden of the unamended regulation would be about 9,800 hours. The dollar equivalent of this hour burden, based on an assumed average hourly rate of \$350 for actuarial services, would be \$3,400,000.

Estimated Burden of the Amended Regulation

Under the premium regulations as amended to eliminate the early large-plan flat-rate premium due date, however, the burden for large plans will be less, not only because they will no

longer have to do the early flat-rate filing, but also because they will no longer have to reconcile that earlier filing when they do their comprehensive premium filing. PBGC estimates that the burden for large plans (those with 500 or more participants) will decrease by about three hours per plan or about 17,000 hours in total (including both multiemployer and single-employer plans). Thus the estimated total burden for all plans is reduced from about 195,200 hours to about 178,200 hours, as follows:

Hours to Complete Premium Filing — Amended Regulation								
Type of Plan		Single-employer Plans				Multiemployer Plans		All Plans
Number of participants		< 25	25-99	100-499	≥ 500	< 500	≥ 500	--
Comprehensive Premium Filing								
• Plans that are exempt from VRP	# of plans	1,559	173	56	25	296	1,127	3,236
	Hours per plan	3.5	3.5	3.5	3.5	3.5	3.5	--
	Total hours	5,457	606	196	88	1,036	3,945	11,328
• Plans paying capped VRP & not reporting UVBs	# of plans	2,447	20	--	--	--	--	2,467
	Hours per plan	3.5	3.5	--	--	--	--	--
	Total hours	8,565	70	--	--	--	--	8,635
• Plans reporting UVBs	# of plans	6,903	4,223	4,398	4,505	--	--	20,029
	Hours per plan	9.0	8.0	7.0	7.0	--	--	--
	Total hours	62,127	33,784	30,786	31,535	--	--	158,232
Total Hours		76,149	34,460	30,982	31,623	1,036	3,945	178,195

PBGC therefore estimates that the hour burden of the amended regulation will be about 8,900 hours (5 percent of 178,200). The dollar equivalent of this hour burden is \$3,100,000.

The recordkeeping requirement for premium information is not expected to impose any significant burden, since most of the records covered by this requirement must already be retained under ERISA section 107. Since this recordkeeping burden is nominal, it is included in the estimated reporting burden, and no separate estimate of burden is made for recordkeeping under the regulation.

13. Cost burden on the public. If 169,300 hours of filing preparation work (about 95 percent of an estimated 178,200 hours) is contracted out, then at an assumed hourly rate of \$350 for actuarial services, the estimated hour burden on the public is approximately \$59,300,000 (169,300 hours at \$350 per hour). (Without the elimination of the early large-plan flat-rate premium filing, the estimated hours contracted out would be about 185,400 (95 percent of 195,200) and the estimated dollar burden would be about \$64,900,000.)

14. Costs to the Federal government. Based on its operational costs, personnel salaries, and overhead, PBGC estimates that the annual cost to the Federal Government of processing this collection of information is about \$12.5 million.

15. Change in burden. The change in the estimated annual burden of this collection of information from about 8,200 hours and about \$54,387,000 (the currently approved burden) to about 8,900 hours and about \$59,300,000 (the burden for which approval is requested) is attributable to an upward adjustment of about 1,550 hours and about \$10,600,000 due to re-estimation and a downward change of about 850 hours and about \$5,700,000 resulting from the elimination of the early large-plan flat-rate filing.

The upward adjustment and downward change both reflect remarks made by practicing actuaries when the topic of premium due dates and their impact on the burden of filing was raised during a session on PBGC premiums at an actuaries' meeting. Heretofore, PBGC has relied on burden estimates by PBGC staff actuaries familiar with the work required to prepare premium filings. PBGC believes that the views of actuaries currently in private practice are an appropriate "real-world" source to draw from in estimating the burden of this information collection.

16. Publication plans. PBGC does not plan to publish the results of this collection of information.

17. Display of expiration date. OMB has previously granted approval to omit the expiration date from the premium forms and instructions.

18. Exceptions to certification statement. There are no exceptions to the certification statement for this submission.