



PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Notices Following a Substantial Cessation of Operations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information that is necessary to fulfill various reporting obligations following a cessation of operations at a facility. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Email:* paperwork.comments@pbgc.gov. Refer to OMB control number 1212-0073 in the subject line.
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101.

Commenters are strongly encouraged to submit public comments electronically.

Commenters who submit comments on paper by mail should allow sufficient time for mailed comments to be received before the close of the comment period.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to OMB control number 1212-0073. All comments received will be posted without change to PBGC's website, *www.pbgc.gov*, including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of the collection of information may be obtained without charge by writing to Disclosure Division (*disclosure@pbgc.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024-2101, or calling 202-229-4040 during normal business hours. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Monica O'Donnell

(*odonnell.monica@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington DC 20024-2101; 202-229-8706. If you are deaf or hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) imposes reporting obligations in the event of a "substantial cessation of operations." A substantial cessation of operations occurs when a permanent cessation at a facility causes a separation from employment of more than 15 percent of all "eligible employees." "Eligible employees" are employees eligible to participate in any of the facility's employer's employee pension benefit plans. Following a substantial cessation of operations, the facility's employer is treated, with respect to its single-employer pension plans covered by title IV of ERISA that are covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple employer plan. Under section 4063(a) of ERISA, the Pension Benefit Guaranty Corporation (PBGC) must receive notice of the substantial cessation of operations and a request to determine the employer's resulting liability.

To fulfill such resulting liability, the employer may elect, under section 4062(e)(4)(A), to make additional contributions annually for seven years to plans covering participants at the facility where the substantial cessation of operations took place. Under sections 4062(e)(4)(E)(i)(I), (II), (III), (IV), and (V) respectively, an employer that is making the election for annual additional contributions must give notice to PBGC of: (1) its decision to make the election, (2) its payment of an annual contribution, (3) its failure to pay an annual contribution, (4) its receipt of a funding waiver from the Internal Revenue Service, and (5) the ending of its obligation to make additional annual contributions.

PBGC is requesting that OMB extend approval of a form series, consisting of Form 4062(e)-01, Form 4062(e)-02, Form 4062(e)-03, and Form 4062(e)-04, that is used to fulfill these reporting obligations. An employer or a plan administrator files Form 4062(e)-01 to notify PBGC of the occurrence of a substantial cessation of operations and request a determination of the employer's liability. An employer files Form 4062(e)-02 to notify PBGC that it made the elections to pay annual additional contributions to a plan. An employer files Form 4062(e)-03 to notify PBGC that it paid an annual additional contribution, received a funding waiver from the Internal Revenue Service, or is no longer obligated to pay additional annual contributions. Finally, an employer files Form 4062(e)-04 to notify PBGC that it failed to pay an additional annual contribution to the plan.

PBGC needs the information requested in the forms and notification (1) to determine an employer's liability to a plan following a substantial cessation of operations and (2) to ensure that an employer that made the election of additional annual contributions is fulfilling its payment obligations.

The collection of information has been approved by OMB under control number 1212-0073 (expires August 31, 2025). PBGC intends to request that OMB extend its approval for another 3 years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that, over the next 3 years, it will receive 3 forms in this series each year. PBGC estimates that these forms will be completed by a combination of plan office staff and outside professionals: attorneys and actuaries. PBGC further estimates that the average burden of this information collection will be 8 hours per filer, with a total burden of 24 hours (8 hours x 3 filers). PBGC also estimates that each filer will spend an average of \$8,000 in contractor costs, for an estimated total annual cost burden of \$24,000 (\$8,000 x 3 filers).

PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

Issued in Washington, DC, by:

Hilary Duke,
Assistant General Counsel for Regulatory Affairs,
Pension Benefit Guaranty Corporation.