

## **Justification for No Material or Nonsubstantive Change to Currently-Approved Collection**

**AGENCY:** Pension Benefit Guaranty Corporation (PBGC)

**TITLE:** Payment of Premiums (29 CFR Part 4007) and PBGC forms and instructions thereunder (PBGC paper 2009 Comprehensive Premium Filing form (Form 1-C), and 2009 PBGC Estimated Flat-Rate Premium form (Form 1-ES), and related instructions; and electronic premium filing forms and instructions)

**STATUS:** OMB control number 1212-0009; expires April 30, 2011

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PBGC is submitting information collection documents that show the changes PBGC is making to its paper forms and instructions for premium payments for 2009. Changes to PBGC's electronic filing application, "My Pension Administration Account" ("My PAA") will track the paper changes.

PBGC requests that OMB approve these changes so that it can make available the 2009 plan-year forms and instructions in January 2009. Large-plan filers (i.e., plans that were required to pay premiums for 500 or more participants for the prior plan year) are required to pay PBGC's flat-rate premium early in the premium payment year. Because the participant count often is not available until late in the premium payment year, PBGC permits filers to make estimated flat-rate premium filings. Large-plan, calendar-year 2009 filers will owe flat-rate premiums by February 28, 2009, and most of these filers will make estimated flat-rate premium filings. Form 1-ES is used for this purpose.

All plans are required to make a Comprehensive premium filing (Form 1-C). Form 1-C is used to report:

- The flat-rate premium and related data (all plans),
- The variable-rate premium and related data (single-employer plans), and
- Additional data such as identifying information and miscellaneous plan-related or filing-related data (all plans).

For large plans, the Comprehensive premium filing also serves to reconcile an estimated flat-rate premium paid earlier in the year.

The 2009 Form 1-ES and estimated flat-rate filing instructions for large plans and 2009 Form 1-C and Comprehensive filing instructions for all plans are almost the same as the 2008 Form 1-ES and Form 1-C and related instructions. (Note that the Form 1-C, an illustrative form, is contained in the Comprehensive instructions booklet.)

The following is a list of the nonmaterial changes from 2008 that PBGC is making to this information collection:

#### Estimated Flat-rate Filings

- The following data elements that were required to be reported in the estimated flat-rate premium filing for 2008 have been eliminated for 2009:
  - Whether another plan ceased to exist in connection with a transfer of assets or liabilities to the filing plan, and
  - Whether PBGC granted an exemption from electronic filing.

In PBGC's supporting statement submitted in connection with the 2008 premium forms, PBGC stated that changes made to the Comprehensive filing instructions described in the submission – including elimination of these two data elements – “will be phased in for estimated flat-rate premium filings for the 2009 plan year.” Unanticipated delays in premium-processing systems development have made it impracticable to conform the 2009 Estimated flat-rate filing instructions to the other changes made to the Comprehensive filing instructions for 2009.

- The Paperwork Reduction Act Notice, the Contacts section, and the “Help Us Post Your Premium Filings Promptly And Accurately” box have been moved.
- Language has been added to describe a penalty safe-harbor rule that becomes applicable for 2009 estimated filings and provides relief for plans that file under new- or small-plan rules for one year and large-plan rules for the following year. (This safe-harbor rule was added to the 2008 Comprehensive filing instructions.)

#### Comprehensive Filings

- The Comprehensive filing instructions now include information about two types of PBGC notices that a filer may receive if it does not pay in full and on time (statements of account and past due filing notices).
- The Comprehensive filing instructions now include general information about the timing of refunds and how they are issued.

#### Comprehensive Filings and Estimated Flat-rate Filings

- The flat premium rates may increase from \$33 for single-employer plans, and from \$9 for multiemployer plans, as required by the Deficit Reduction Act of 2005. DRA 2005 ties the flat premium rates to the national average wage index under the Social Security Act with a formula set forth in the statute. The index needed to apply the statutory formula becomes available in October before the year to which it applies. Thus PBGC will not know the 2009 flat premium rates until mid-October 2008. Given that PBGC has no discretion over the amount of the flat premium rates, PBGC requests that OMB not require that this information collection be resubmitted for approval if, when the flat premium rates become known, either rate needs to be changed in the forms and instructions.

- Language has been added to clarify that a filer that receives an exemption from filing electronically must file using an approved PBGC form, which PBGC will send to the filer.
- Because mandatory electronic filing is now well-established, paper premium instructions will not be mailed out starting in 2009. The instructions will be available on PBGC's Web site and within PBGC's e-filing application, My PAA. Since the instructions will no longer be a good vehicle for promulgating general information, they will no longer include —
  - A Director's letter,
  - The PBGC "Customer Service Plan for Plan Administrators," or
  - A reminder about filing reportable events notices.
- Links will be added within the PDF version of the instructions to permit electronic navigation within the instructions document.
- The instructions now direct filers to PBGC's Web site for certain filing, contact, and electronic funds transfer addresses instead of having the addresses printed in the instruction booklet. PBGC is taking this approach because addresses may change if PBGC changes contractors or for other reasons, and PBGC wants to minimize the risk that filers will use outdated addresses.
- Editorial and formatting changes have been made.