

**SUPPORTING STATEMENT FOR REQUEST FOR OMB APPROVAL
UNDER THE PAPERWORK REDUCTION ACT AND 5 CFR PART 1320**

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Substantial Cessation of Operations (29 CFR part 4062 subpart B) (Form 4062-E and instructions)

STATUS: Request for approval of new collection of information

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1. Need for collection. Sections 4062(e) and 4063 of the Employee Retirement Income Security Act of 1974 (ERISA) provide for reporting of and liability for certain substantial cessations of operations by employers that maintain single-employer plans. A “section 4062(e) event” occurs if an employer ceases operations at a facility in any location and, as a result of the cessation, more than 20 percent of the active participants under a plan of the employer are separated from employment. When a section 4062(e) event occurs, liability arises to provide a bond or escrow in a specified amount for five years, to be applied — if the plan terminates within that period — against the plan’s underfunding. The amount of liability is determined by Pension Benefit Guaranty Corporation (PBGC), which also has authority under ERISA section 4067 to make alternative arrangements for satisfaction of this liability. Notice of a section 4062(e) event must be given to PBGC so that PBGC can determine the liability arising from the event.

PBGC is proposing to amend its regulation on Liability for Termination of Single-Employer Plans (29 CFR part 4062) to add a new subpart B providing guidance on the applicability and enforcement of ERISA section 4062(e). Proposed subpart B provides rules for filing section 4062(e) event notices. The rules refer to filing instructions to be promulgated by PBGC. PBGC is requesting approval by the Office of Management and Budget (OMB) of its proposed section 4062(e) filing form (Form 4062-E) and instructions.

2. Use of information. PBGC will use the requested information to calculate the liability arising from a section 4062(e) event and decide how that liability should be satisfied.

3. Information technology. The proposed filing instructions permit filing by e-mail and fax and describe requirements for e-filing large files. PBGC proposes to make the reporting form available in “fillable” PDF format to permit filers to fill the form out on the computer screen. A filer with Adobe Acrobat Pro would also be able to save the completed form as a computer file for direct electronic submission to PBGC. To facilitate this process, no signature would be required.

4. Duplicate or similar information. Some of the required information may already be in the possession of other Federal agencies. However, there is no timely and reliable way to locate the required documents, particularly since the person reporting may have submitted to Federal agencies some, but fewer than all, of the required documents. In most cases, it would take a respondent more time to help PBGC track down and verify documents in other agencies' files than simply to submit the information to PBGC. In general, information that has been formatted for other purposes (such as for submission to another agency) need not be reformatted for submission to PBGC; copies of documents prepared for other purposes may be used. The instructions for Form 4062-E permit a filer that has previously submitted required information to PBGC to identify the information and the date previously submitted rather than resubmitting it.

PBGC believes that there is no information similar to that required under the regulation that could be used instead of the required information for the purposes served by the regulation.

5. Reducing the burden on small entities. This information collection does not have a significant economic impact on a substantial number of small entities.

6. Consequences of no or less frequent collection. ERISA requires that PBGC be notified of each section 4062(e) event. If PBGC were notified less frequently, or not at all, its ability to fulfill its statutory responsibilities would be impaired.

7. Special circumstances. Reporting is required whenever a section 4062(e) event occurs. More than one such event might occur within a quarter, thereby requiring reporting more frequently than quarterly.

In some cases, PBGC may require submission of additional information. In general, the proposed rule would require a response within 45 days after PBGC makes a written request. However, PBGC may shorten the 45-day time period where it finds that the interests of PBGC, participants, or the pension insurance system may be prejudiced by a delay in the receipt of the

information (for example, where timely enforcement of section 4062(e) of ERISA may be jeopardized).

Employers and plan sponsors would be required under the proposed rule to retain relevant records for five years. This record retention period corresponds with the five-year period during which, under ERISA section 4063, liability for a section 4062(e) event is to be held. Five years is thus PBGC's enforcement window for section 4062(e).

In other respects, this collection of information conforms to the requirements of 5 CFR § 1320.5(d)(2).

8. Outside input. On August 10, 2010 (at 75 FR 48283), PBGC published its proposed rule on the applicability and enforcement of ERISA section 4062(e), which solicited public comment on this collection of information pursuant to 5 CFR § 1320.11(a).

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

10. Confidentiality. PBGC's section 4062(e) event notice instructions state that confidentiality is that provided by the Privacy Act and the Freedom of Information Act and by 18 U.S.C. 1905.

11. Personal questions. This collection of information does not call for submission of information of a sensitive or private nature.

12. Hour burden on the public. PBGC estimates that it will receive approximately 200 notices of section 4062(e) events per year. PBGC estimates that each notice will require about 14 hours to prepare and that half the work will be done in-house by filers and half will be contracted out. Thus the average hour burden per response will be approximately 7 hours and the annual hour burden will be approximately 1,400 hours.

13. Cost burden on the public. PBGC assumes an average cost of \$350 per hour (including professional time, support assistance, overhead, postage and other costs) for work on section 4062(e) event filings that is contracted out. Thus, PBGC estimates that the average cost burden per response will be approximately \$2,450. PBGC therefore estimates that the annual cost burden will be approximately \$490,000. PBGC believes that any recordkeeping burden for section 4062(e) purposes, beyond that required under ERISA section 107 (which requires that records be maintained for six years), is minimal and is subsumed in the estimated hour and cost burden.

14. Cost to the Federal government. PBGC estimates that Federal employees will spend 37 hours reviewing each section 4062(e) event notice, at a cost to the government of about \$70 per hour. Thus, PBGC estimates that the government's cost to process 200 notices per year will be approximately \$518,000.

15. Change in burden. This is new collection.

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

17. Approval for omitting expiration date. PBGC is not seeking OMB approval to omit the expiration date.

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