

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 2012 Comprehensive Premium Filing form (Form 1-C), and 2012 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 December 31, 2013

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PBGC is submitting information collection documents that show the changes PBGC is making to its paper forms, instructions, and electronic filing application, "My Pension Administration Account" ("My PAA"), for premium payments for 2012. Under 29 CFR § 4007.3, premium information must be filed electronically except to the extent PBGC grants an exemption for good cause in appropriate circumstances.

PBGC requests that OMB approve these changes so that it can make available the 2012 plan-year forms and instructions in December 2011. 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 (on which the flat-rate premium is based) often is not available until later in the premium payment year, PBGC permits filers to make estimated flat-rate premium filings. Large-plan, calendar-year 2012 filers will owe flat-rate premiums by February 29, 2012, and most of these filers will make estimated flat-rate premium filings. Filers use My PAA to submit data for "Estimated Flat-rate Premium Filings for Large Plans," but can use the paper form (Form 1-ES) if PBGC grants an exemption.

All plans are required to make a Comprehensive premium filing. Filers use My PAA to submit the information, but can use the paper form (Form 1-C) if PBGC grants an exemption. The Comprehensive filing 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 other plan-related or filing-related data (all plans).

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

The Comprehensive and Estimated filing instructions are in one instruction booklet. The 2012 filing instructions, Form 1-ES and Form 1-C, and My PAA screens are almost the same as the 2011 instructions, forms, and screens. (Note that the Form 1-ES and Form 1-C are shown as illustrative forms in the Premium Payment instructions booklet.)

PBGC proposed in 2010 to revise the 2012 Comprehensive filing instructions to require plans using the alternative premium funding target method to report the "effective interest rate" as defined in section 430(h) of the Internal Revenue Code (see 75 FR 28304, 75 FR 44028, and

PBGC's supporting statement submitted in connection with the 2011 premium forms). This change will entail programming costs for both PBGC and private-sector vendors of premium-filing software packages. (PBGC allows a premium filer to prepare a filing directly using My PAA's data entry screens or to prepare the filing using private-sector software and then "import" the data into My PAA's editing screens or "upload" the filing via My PAA.) However, PBGC expects more significant changes for plan-year 2013 filings. To minimize programming costs for both PBGC and private-sector vendors, PBGC has decided to postpone the collection of the effective-interest-rate data until plan year 2013 so that all programming can be done at once.

Below is a list of the nonmaterial changes from 2011 that PBGC is making to this information collection:

- PBGC has statutory authority to grant a hardship waiver to a filer that requests a delay in premium payments for 60 days after the filing due date. PBGC is clarifying in the instructions when a hardship request to PBGC is due—at least 30 days before the premium filing deadline—and that specific information and documents are needed to demonstrate a hardship and a filer's ability to make the payment within 60 days after the filing due date.
- Practitioners often ask questions about how to deal with standard terminations, mergers, or consolidations that were not reported on a filing because the information was not available when the filing was made. Had the event occurred before the filing, an amended filing would be required. To deal with this situation and help practitioners, PBGC is clarifying when an amended filing needs to be made or whether it is optional because the information is reported either in another plan's PBGC premium filing or in a form reporting a standard termination.
- The flat premium rates may increase from the 2011 rates of \$35 for single-employer plans, and \$9 for multiemployer plans. The Deficit Reduction Act of 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 2012 flat premium rates until mid-October 2011. If either rate needs to be changed in the forms and instructions, PBGC will resubmit this information collection as a no-material or nonsubstantive change.
- An employer is required to provide one code that best describes the nature of the employer's business; the codes are based on the North American Industry Classification System (NAICS) codes, which change from time to time. If one or more business codes need to be changed in the "Business Codes" section of the instructions, PBGC will resubmit this information collection as a no-material or nonsubstantive change.
- In January 2011, PBGC revised its Web site, www.pbgc.gov. PBGC is making changes in the instructions to update the Web addresses.
- Examples with dates are being updated for 2012, and minor editorial and formatting changes are being made.