**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 (PBGC paper Comprehensive Premium Filing form (Form 1-C) and PBGC Estimated Flat-Rate Premium form (Form 1-ES), and related instructions; and electronic premium filing forms and instructions)

**STATUS:** Request for approval of revision of currently approved collection (OMB control number 1212-0009; expires December 31, 2013)

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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 information must be filed electronically using "My Plan Administration Account" ("My PAA") through PBGC's Web site except to the extent PBGC grants an exemption for good cause in appropriate circumstances, in which case the information must be filed using an approved PBGC form. The plan administrator of each pension plan covered by Title IV of ERISA is required to submit one or more premium filings for each premium payment year. Under § 4007.10 of the premium payment regulation, plan administrators are required to retain records about premiums and information submitted in premium filings.

All plans covered by Title IV of ERISA pay a flat-rate per-participant premium. Flat-rate premiums are adjusted for inflation pursuant to the Deficit Reduction Act of 2005 (DRA 2005).

An underfunded single-employer plan also pays a variable-rate premium based on the value of the plan's unfunded vested benefits.

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 (the last day of February for calendar-year plans). To accommodate plans that find it impractical to do an accurate participant count until later in the premium payment year, PBGC permits filers to make an estimated flat-rate premium filing.

All plans are required to make a comprehensive premium filing. Comprehensive filings are used to report flat- and (for single-employer plans) variable-rate premiums, premium-related data, and information about plan identity, status, and events. (For large plans, the comprehensive filing reconciles an estimated flat-rate premium paid earlier in the year.)

PBGC intends to revise the 2013 filing instructions to:

- Provide for revoking a prior election to use the Alternative Premium Funding Target (APFT) to determine unfunded vested benefits (UVBs). (Under PBGC regulations, an election to use the APFT is irrevocable for 5 years; 2008 was the first year that plans were permitted to elect the APFT, so 2013 is the first year for which it is necessary to collect this information.)
- Clarify that at-risk assumptions and load (described in ERISA section 303(i)) are reflected in the Premium Funding Target for plans that are in at-risk status for funding purposes.
- Require plan administrators to provide a breakdown of the total premium funding target into the same categories of participants used for reporting on Schedule SB to Form 5500, i.e., active participants, terminated vested participants, and retirees and beneficiaries receiving payment. PBGC uses the premium funding target to estimate

termination liability, e.g., for the annual contingency list, and a breakdown will enable PBGC to make a much better estimate than simply using only the total premium funding target.

- Require plan administrators using the APFT to report the "effective interest rate" (defined in section 430(h) of the Internal Revenue Code). PBGC will use this information to update its annual contingency list and financial statements more accurately.
- Require plan administrators to report a contact name to make it easier for PBGC to contact a plan. Filers also will have the option of providing an additional plan contact.
- Require plan administrators to report the plan effective date for all plans rather than just new and newly covered plans. This date helps PBGC trace plans that change Employer Identification Number or Plan Number.
- Require plan administrators to break down the premium credit information in the comprehensive premium filing into two items rather than aggregating the premium credit. This information will help PBGC to manage the application of overpayments.
- Eliminate the following data items —
  - The plan sponsor's address.
  - The boxes to check if there has been a change in name for a plan sponsor or a change in name or address for a plan administrator.
  - The payment method for paper filers.
- Reorder and renumber some items on the illustrative forms that accompany and are part of the instructions, and make other minor changes.

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 regulations for all plans for plan years beginning on or after January 1, 2007. 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 pay premiums and receive premium refunds by electronic funds transfer.

4. Duplicate or similar information.

*General*

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.

*Variable-rate premium (VRP) Data*

Plans may or may not base VRP calculations on asset and/or liability figures that are also reported on Schedule SB to Form 5500, the annual report form filed with the Internal Revenue Service, Department of Labor, and PBGC. 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*

In recent years, many defined benefit plan sponsors have implemented some sort of plan freeze, which results in cessation or partial cessation of future benefit accruals. There are many ways in which a plan can be frozen. For example, in some cases existing participants continue to accrue benefits, but new employees are excluded from the plan (a "participation freeze"). In other cases, all benefit accruals cease, or accruals based on salary increases continue but future service is disregarded when determining benefits. In addition, there are many situations where a plan freeze applies to some, but not all, participants. To be able 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, but 4010 filers are a small percentage of covered plans. PBGC needs the information sooner for the small group of 4010 filers. PBGC has considered exempting 4010 filers from reporting this information again in the premium filing, but concluded that it would be a control problem if the agency's premium database was not internally consistent.

Form 5500 collects general information on whether a plan has been frozen, but it does not collect specific information as to the nature of the freeze (Form 5500, Item 8.a. – Plan Characteristic code – 1I: Frozen plan). Furthermore, the Form 5500 "plan freeze" question pertains only to the most severe type of freeze (when all accruals cease for all participants). The Form 5500 data are not sufficient for PBGC to adequately monitor the agency's potential exposure and to project future premium income.

*Plan transfer data*

PBGC's plan transfer questions ask about transfers *to* and *from* other plans, as well as transfer types, e.g., merger, consolidation, or spin-off. The Form 5500 (item 5b of Schedule H) only asks for information concerning assets and/or liabilities transferred *from* a plan to another plan (or plans) during the plan year, and does not get data on transfer types. Plans are required to submit information to the Internal Revenue Service about transfers *to* and *from* other plans on Form 5310-A *Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities*, but the Form 5310-A exempts filers from filing this notice if the transaction is *de minimis*, and PBGC needs this information regardless of transaction size. In addition, PBGC would not be able to receive Form 5310-A information in a timely manner.

*Final filing data*

Form 5500 collects general information on whether a plan was terminated in a standard or distress termination, or whether PBGC became trustee of a plan (Form 5500, Item 8.a. – Plan Characteristic code - 1H: plan covered by PBGC that was closed out and terminated for PBGC purposes). Form 5500 also collects data on whether a plan is covered by PBGC (Plan Characteristic code - 1G: plan covered by PBGC). However, the data collected on Form 5500 often are not sufficient for PBGC to adequately know why filings have ceased in cases where plans merge out of existence. For example, a plan may file its final premium filing under an Employer Identification Number (EIN) and Plan Number (PN) different from that on the Form 5500. In addition, terminated or merged plans often do not submit a final Form 5500, especially when the final plan year is short.

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 VRP is capped for certain plans of small employers (those with 25 or fewer employees). Plans that qualify for the 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, and for most plans, filings are made just once per year. To ensure that PBGC receives a substantial portion of its premium revenue early in the year for which insurance coverage is provided, large plans (those with 500 or more participants, about 20 percent of all filers) are required to pay their flat-rate premiums much earlier in the year than small plans (those with fewer than 100 participants) and mid-size plans (those with 100 or more but fewer than 500 participants) (see the 1983 recommendations of the Grace Commission (the *President's Private Sector Survey on Cost Control*)). While large plans are not required to file twice a year, as a practical matter most of them make a flat-rate "reconciliation" filing, after more accurate data become available, later in the year (by the same filing deadline that applies to mid-size plans).

PBGC allows mid-size and large 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, large plans may end up making three filings a year, rather than two (e.g., a large plan could make an estimated flat-rate filing, a final flat-rate and estimated VRP filing, and a VRP reconciliation filing); and mid-size plans may make two filings, rather than one.

7. Special circumstances. PBGC requires plan administrators to retain information necessary to support premium filings for six years. This is necessary to ensure that records are available during the period within which PBGC may bring an action to collect premiums (ERISA

section 4003(e)(6)). The six-year period also corresponds to the record retention requirement of Title I of ERISA (ERISA section 107).

In unusual circumstances, PBGC may require submission of information in less than 30 days (see 29 CFR § 4007.10). This would accommodate a situation where PBGC determines that its interests may be prejudiced by a delay in the receipt of the information, e.g., 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. On January 31, 2012, PBGC published a notice (77 FR 4839) of intent to request an extension of this collection of information with revisions, inviting public comment by April 2, 2012. PBGC received two questions from one commenter concerning (1) whom a plan administrator could list as an optional contact for PBGC to contact, and (2) how the "effective interest rate" is calculated. Concerning question (1), PBGC intends to clarify in the "What's New" section of its premium instructions that we want to be able to contact an appropriate party regarding issues related to a premium filing. Concerning question (2), PBGC believes that the instructions regarding the calculation of the effective interest rate will be sufficient because they will explicitly refer to the effective interest rate definition in ERISA section 303(h)(2)(A). In addition, the instructions will explain that the reported rate is the same rate that is required to be reported on the Schedule SB to Form 5500.

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 expects to receive an average of about 29,900 premium filings each year from about 24,600 respondents. Most respondents need only file annually. However, plan administrators of plans with 500 or more participants (of which there are about 5,300) also typically make an estimated flat-rate filing. (Note that PBGC projects that a few plan administrators of mid-size and large plans will make both a comprehensive filing and an amended comprehensive filing to reconcile an estimated variable-rate premium filing, which is included in the 29,900 premium filings, above.)

Of these 29,900 premium filings, about 5 percent will be prepared in-house. (Preparation of the other 95 percent will be contracted out.) PBGC estimates that the hour burden of this collection of information associated with the 5 percent of premium filings that are prepared in-house is about 8,200 hours. The annualized cost to respondents for these burden hours is about $2,863,000 (based on an average hourly rate of $350). These estimates were determined as follows ("VRP" means "variable-rate premium"):

| | Number of Responses | Average Time | Total Hours | Total Cost |
|---|---|---|---|---|
| Estimated flat-rate filing | 267 | 1.75 | 467 | $163,538 |
| Comprehensive filing (single-employer plans) | | | | |
| Plans exempt from VRP | 122 | 3.6 | 439 | 153,720 |
| Plans paying maximum (capped) VRP | 110 | 5.5 | 605 | 211,750 |
| Plans reporting unfunded vested benefits | | | | |
| Estimated VRP filing and VRP reconciliation filing (Mid-size and Large Plans only) | | | | |
| Standard premium funding target | 0 | 10.5 | 0 | 0 |
| Alternative premium funding target | 0 | 7.5 | 0 | 0 |
| Final VRP filing (no VRP reconciliation needed) | | | | |
| Standard premium funding target | 445 | 8.5 | 3,783 | 1,323,875 |
| Alternative premium funding target | 483 | 5.5 | 2,657 | 929,775 |
| Multiemployer Plans | 71 | 3.25 | 231 | 80,763 |
| **Totals** | **1,498** | | **8,181** | **$2,863,420** |

The recordkeeping requirement in 29 CFR § 4007.10 is not expected to impose any significant burden on plan administrators, 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. PBGC estimates the cost burden on the public for operation, maintenance, and purchase of services associated with the 95 percent of premium filings that are contracted out to be $54,387,000. The costs are based on an hourly rate of $350 and are determined as follows:

| | Number of Responses | Average Time | Total Hours | Total Cost |
|---|---|---|---|---|
| Estimated flat-rate filing | 5,064 | 1.75 | 8,862 | $ 3,101,700 |
| | | | | |
| Comprehensive filing (single-employer plans) | | | | |
| Plans exempt from VRP | 2,324 | 3.6 | 8,366 | 2,928,240 |
| Plans paying maximum (capped) VRP | 2,081 | 5.5 | 11,446 | 4,005,925 |
| Plans reporting unfunded vested benefits | | | | |
| Estimated VRP filing and VRP reconciliation filing (Mid-size and Large Plans only) | | | | |
| Standard premium funding target | 0 | 10.5 | 0 | 0 |
| Alternative premium funding target | 0 | 7.5 | 0 | 0 |
| Final VRP filing (no VRP reconciliation needed) | | | | |
| Standard premium funding target | 8,455 | 8.5 | 71,868 | 25,135,625 |
| Alternative premium funding target | 9,179 | 5.5 | 50,485 | 17,669,575 |
| | | | | |
| Multiemployer Plans | 1,343 | 3.25 | 4,365 | 1,527,663 |
| | | | | |
| **Totals** | **28,446** | | **155,391** | **$54,386,728** |

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 cost burden of this collection of information from about $59,960,000 (in the current OMB inventory) to about $54,387,000 (requested) is attributable to a decrease in the number of filings and PBGC's better data resulting from experience with post-2007 filings, where filers can calculate unfunded vested benefits one of two ways.

The change in the estimated annual hour burden from about 9,000 hours (in the current OMB inventory) — associated with the 5 percent of premium filings that are prepared in-house

— to about 8,200 hours (requested) is attributable to a decrease in the number of filings and PBGC's better data resulting from experience with post-2007 filings.

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.