

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

**AGENCY:** Pension Benefit Guaranty Corporation (PBGC)  
**TITLE:** Annual Return/Report of Employee Benefit Plan (Form 5500)  
**STATUS:** OMB control number 1212-0057; expires January 31, 2022  
**CONTACT:** Hilary Duke (202-229-3839)

The Pension Benefit Guaranty Corporation (PBGC) is modifying the filing instructions for the entry of business codes on line 2d on both the 2019 Form 5500 Annual Return/Report of Employee Benefit Plan (2019 Form 5500) and the 2019 Short Form Annual Return/Report of Small Employee Benefit Plan (2019 Form 5500-SF), both part of the Form 5500 Series. PBGC is also modifying the “Changes to Note” for the 2019 Form 5500. This request parallels a non-material/nonsubstantive change request submitted by the Department of Labor (OMB Control Number 1210-0110).

In the currently-approved collection, PBGC proposed minor modifications to the Form 5500 Series to clarify the requested business code description and better explain which code should be entered. PBGC’s modification was in response to its finding that some multiemployer plans were entering the business code for “Insurance & Employee Benefit Funds” or “Labor Unions and Similar Labor Organizations” instead of entering the business code that reflected the industry in which its active participants were employed. The proposed changes were approved by OMB on January 31, 2019, after notice and comment to the public (60-day notice, 83 FR 42172, August 20, 2018; 30-day notice, 83 FR 56886, November 14, 2018).

The approved modifications categorized plans by “single-employer plans” and “multiemployer plans” because those two categories encompass all PBGC-covered plans. In retrospect, we realized that the revised instructions might create some confusion for other types of plans. Because the reason for the modification stemmed from multiemployer plans entering the incorrect code, we now believe, the best solution is to limit the changes to the line 2d 2019 Form 5500 instructions to a note for multiemployer plans. The note is not needed for the Form 5500-SF because multiemployers plans do not file the Form 5500-SF. The modified 2019 Form 5500-SF instructions for line 2d will incorporate the language that was provided in the 2018 Form 5500-SF.

Below, PBGC is providing the modified note for the 2019 Form 5500, and the modified 2019 Form 5500 and 2019 Form 5500-SF instructions for line 2d to improve the accuracy of the requested information. The language to be deleted from the currently-approved information collection is shown in strike-out text and the language to be added is shown as underlined text.

PBGC estimates that the additional changes will not result in any changes to the number of filings or burden estimates for the information collection.

## 2019 Form 5500, Changes to Note

### Clean Version:

**Form 5500, Line 2d.** The instructions to line 2d of the Form 5500 have been clarified on how to report the plan sponsor's business code for multiemployer plans

### Track Changes Version (compared to currently approved information collection):

**Form 5500, Line 2d.** The instructions to line 2d of the Form 5500 have been clarified on how to report the plan sponsor's business code for multiemployer plans.

## 2019 Form 5500, Instructions for line 2d

### Clean Version:

**Line 2d.** Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages 78, 79, and 80. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

**Note.** In the case of a multiemployer plan, enter the code that best describes the predominant industry in which the active participants are employed (e.g., 484120 - General Freight Trucking, Long-distance, 236110 - Residential Building Construction). Do not enter code 525100 (Insurance & Employee Benefit Funds) or 813930 (Labor Unions and Similar Labor Organizations) unless the active participants in the plan are primarily employees of an insurance and employee benefit fund or a labor union or similar labor organization.

### Track Changes Version (compared to currently approved information collection):

**Line 2d.** Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages 78, 79, and 80 ~~that~~. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

~~In the case of a single-employer plan, best describes the primary nature of the plan sponsor's business, and~~

- ~~• In the case of a multiemployer plan, best describes the predominant industry in which the active participants are employed (e.g., 484120 - General Freight Trucking, Long-distance, 236110 - Residential Building Construction).~~

**Note.** In the case of a multiemployer plan, enter the code that best describes the predominant industry in which the active participants are employed (e.g., 484120 - General Freight Trucking, Long-distance, 236110 - Residential Building Construction). Do not enter code 525100 (Insurance & Employee Benefit Funds) or 813930 (Labor Unions and Similar Labor

Organizations) unless the active participants in the plan are primarily employees of an insurance and employee benefit fund or a labor union or similar labor organization.

## 2019 Form 5500-SF, Instructions for line 2d

### Clean Version:

**Line 2d.** Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages 23-25. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

### Track Changes Version (compared to currently approved information collection):

**Line 2d.** Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages 23-25that. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

- ~~• In the case of a single-employer plan, best describes the primary nature of the plan sponsor's business, and~~
- ~~• In the case of a multiemployer plan, best describes the predominant industry in which the active participants are employed (e.g., 484120 – General Freight Trucking, Long-distance, 236110 – Residential Building Construction).~~

~~Do not enter code 525100 (Insurance & Employee Benefit Funds) or 813930 (Labor Unions and Similar Labor Organizations) unless the predominant industry in which the active participants are employed is the industry of insurance and employee benefit funds, or labor unions and similar labor organizations.~~