

Supporting Statement for Paperwork Reduction Act Submission

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Extension of Special Withdrawal Liability Rules (29 CFR Part 4203)

STATUS: Request for regular review and extension of currently approved collection (OMB control number 1212-0023; expires August 31, 2020)

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1. Need for collection. This collection of information is necessary for proper performance of agency functions under sections 4203(f) and 4208(e)(3) of the Employee Retirement Income Security Act of 1974 (ERISA). Sections 4203(f) and 4208(e)(3) provide for the issuance of regulations by the Pension Benefit Guaranty Corporation (PBGC) under which PBGC may approve a multiemployer pension plan's adoption of special rules for determining whether a complete or partial withdrawal from the plan has occurred. Section 4203(f) further provides that the regulations may permit use of special rules (1) only in industries that PBGC finds have appropriate characteristics and (2) only in instances where PBGC determines that use of such rules will not pose a significant risk to the multiemployer insurance system administered by PBGC.

In order to determine whether the special rules adopted by a plan meet the statutory requirements, PBGC must have certain information about the rules, the plan, and the industry in which the plan operates. PBGC's regulation on Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) requires a plan that adopts special rules to submit such information to PBGC with its request for PBGC approval of the rules.

The request must include: (1) identifying information; (2) the text of the special rules and an illustration of particular applications (for understanding the rules); (3) financial statements, participant counts, and an actuarial valuation (for assessing the special rules' effect on the plan); (4) a description of the industry (for judging whether it is appropriate for special rules); and (5) a certification that required notices of the adoption of special rules have been given.

2. Use of information. Information submitted under the regulation is used by PBGC in determining whether special withdrawal liability rules adopted by a plan meet the requirements of ERISA.

3. Information technology. The reporting volume under the regulation is too low to warrant the use of high technology. However, PBGC expects that most, if not all, plan sponsors and their representatives will use email and electronic versions of documents to provide the information required to PBGC under the regulation.

4. Duplicate or similar information. The regulation imposes a special purpose information submission requirement that is triggered by a unique event (the adoption at a specific time by a specific plan of a specific amendment), and this is the only such requirement imposed by PBGC for that event.

The actuarial reports called for by the regulation are routinely prepared for other purposes (but not otherwise routinely sent to PBGC). To reduce burden, the regulation permits the submission of copies of Form 5500s and schedules instead of financial statements and participant count information. Plans' most recent Form 5500s (which may be substituted) are submitted by plans to a government contractor under a Form 5500 processing arrangement (known as "ERISA Filing Acceptance System 2" "EFAST2"), an all-electronic filing system that is managed by the

Department of Labor. EFAST2 receives and displays Form 5500 filings that PBGC (and the public) can usually access within one day of submission.

5. Reducing the burden on small entities. Inapplicable.

6. Consequence of reduced collection. The submission of information under the regulation occurs only when special withdrawal liability rules are adopted by a plan. If the information were not submitted, PBGC would not have the facts it needs to determine whether the special rules comply with ERISA.

7. Consistency with guidelines. The information collection is not conducted in a manner inconsistent with 5 CFR § 1320.5(d)(2).

8. Outside input. PBGC published a Federal Register notice soliciting public comment on this and other collections of information pursuant to 5 CFR § 1320.8(d) (February 11, 2020, at 85 FR 7803). No public comments were received in response to the notice.

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

10. Confidentiality. The regulation gives no assurance of confidentiality, but information submitted to PBGC under the regulation is accessible only in accordance with applicable law and regulations. PBGC's rules providing and restricting access to its records are set forth in 29 CFR Part 4901.

11. Personal questions. The regulation does not call for submission of information of a sensitive nature.

12. Hour burden on the public. PBGC estimates that it typically receives at most 1 application a year under this regulation. The total hour burden of this information collection for

in-house personnel to compile information is 3 hours. The estimated dollar equivalent of this hour burden, based on an assumed blended hourly rate of \$75 for administrative, clerical, and supervisory time, is \$225.00.

Accordingly, PBGC estimates that the annual hour burden of this collection of information is 3 hours with an estimated cost to respondents of \$225.00.

13. Cost burden on the public. Plans use outside attorneys and actuaries to prepare the request for PBGC approval under the regulation. Based on attorney experience, PBGC estimates that the annual cost burden of the collection of information is \$7,000.

14. Cost to the government. As discussed in item 12, PBGC staff typically processes at most 1 submission annually under the regulation. PBGC estimates that the total annual cost to the government is \$0.

15. Explanation of burden changes. The hour burden increased from 2 hours to 3 hours and the cost burden increased from \$5,000 to \$7,000, due to information on hour and burden estimates obtained by contacting practitioners (fewer than 9) who prepared applications within the last 3 years.

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

17. Display of expiration date. PBGC is not seeking approval to not display the expiration date for OMB approval of this information collection.

18. Exceptions to certification statement. There are no exceptions to the certification statement.