

Supporting Statement for Paperwork Reduction Act Submission

AGENCY: Pension Benefit Guaranty Corporation

TITLE: Duties of Plan Sponsor of an Insolvent Plan (29 CFR part 4245)

STATUS: Request for modification of currently-approved collection of information (OMB control number 1212-0033; expires June 30, 2025)

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1. Need for collection. ERISA section 4245(e) requires two types of notice: a “notice of insolvency,” stating a plan sponsor’s determination that the plan is or may become insolvent, and a “notice of insolvency benefit level,” stating the level of benefits that will be paid during an insolvency year. Section 4245(e)(4) provides that these notices are to be given in accordance with rules promulgated by PBGC. PBGC’s regulation on Duties of Plan Sponsor of an Insolvent Plan (29 CFR part 4245) establishes the procedure for complying with these notice requirements and allows a plan sponsor to combine the notice of insolvency and notice of insolvency benefit level. The recipients of these notices are PBGC, contributing employers, employee organizations representing participants, and participants and beneficiaries. The plan sponsor provides an updated notice to participants and beneficiaries only if there is a change in the amount of benefits paid to participants and beneficiaries.

PBGC is eliminating the requirement to file withdrawal liability information under § 4245.8(b)(1) because it no longer uses the information for purposes of estimating PBGC’s multiemployer liabilities.

2. Use of information.

a. Information required. PBGC requires that a notice of insolvency given to interested parties contains the information outlined in 29 CFR § 4281.44(b)(1) through (4), an estimated total amount of annual benefit payments under the plan (determined without regard to the

solvency) for the insolvency year, and the estimated amount of the plan's available resources for the insolvency year. Specific requirements for the notice of insolvency can be found in the notice of insolvency instructions on PBGC's website, www.pbgc.gov.

A notice of insolvency benefit level required to be delivered to interested parties, other than to participants and beneficiaries in pay status or reasonable expected to enter pay status during the insolvency year, must provide the following information: the plan name; the plan year for which the notice is issued; the estimated amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year; the estimated amount of the plan's available resources for the insolvency year; and the amount of financial assistance, if any, requested from PBGC. The notices required to be delivered to participants and beneficiaries in pay status or reasonable expected to enter pay status during the insolvency year for which the notice is given must include the information provided in 29 CFR § 4281.46(b)(1) through (7). Specific requirements for the notice of insolvency benefit level can be found in the notice of insolvency benefit level instructions on PBGC's website, www.pbgc.gov.

b. Need for information. PBGC uses the information submitted under the regulation to estimate cash needs for financial assistance to troubled plans. The collective bargaining parties use the information to decide whether additional contributions will be made to the plan to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information to make personal financial decisions.

3. Information technology. PBGC requires notices under this regulation to be filed electronically with PBGC.

4. Duplicate or similar information. To avoid duplication, plan sponsors may note the date of a prior submission to PBGC of identical information, rather than requiring resubmission.

Duplication is avoided by allowing the notice of insolvency to be combined with the notice of insolvency benefit level and by eliminating most annual updates to the notice of insolvency benefit level.

5. Reducing the burden on small entities. Inapplicable.

6. Consequence of less frequent reporting. PBGC needs early warning of threatened insolvencies and their impact on benefit payments to be able to estimate its cash needs for providing financial assistance to troubled plans. Once a plan sponsor determines that a plan is or may become insolvent, a lack of expeditious notification may delay PBGC assistance. Less than prompt notice to the collective bargaining parties can also hinder chances for bargaining to increase contributions to the plan. Also, delays in notification may interfere with the financial decisions of participants and beneficiaries and delay their search for alternative income sources.

7. Consistency with guidelines. The information collection is conducted in a manner consistent with 5 CFR § 1320.5(d)(2).

8. Outside input. On March 10, 2025, PBGC published a 60-day notice (at 90 FR 11630) of its intent to request an extension of this collection of information, as modified, and invited public comment by May 9, 2025. No comments were received.

9. Payments and gifts. No payments or gifts were made 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 parts 4901 and 4902, respectively.

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

12. Hour burden on the public. PBGC's experience has been that virtually all multiemployer plans that become insolvent are plans terminated by mass withdrawal. Therefore, PBGC expects that almost all of the plans that become insolvent over the next 3 years will be mass-withdrawal-terminated plans. Plans terminated by mass withdrawal that become insolvent are subject to the notice requirements in section 4281 of ERISA rather than section 4245. Accordingly, PBGC expects that at most 1 plan will issue new notices of insolvency each year under section 4245.

For purposes of estimating the time required to comply with the regulation, based on experience, PBGC assumes that plans subject to the regulation generally submit a single notice of insolvency and provide notices of insolvency benefit level for the first insolvency year only to retirees, as permitted by the regulation. PBGC also estimates that the average plan subject to the regulation covers employees represented by 2 unions and has about 35 contributing employers and 1,000 participants, about 700 of whom are in pay status.

Based on plan experience, the notices are prepared by outside attorneys and actuaries using information compiled by the plan office and are distributed by the plan office. The time to prepare and distribute the notices can vary significantly by plan size. Plans can combine the notice of insolvency and the notice of insolvency benefit level. PBGC estimates that the plan will spend approximately 16 hours compiling information for the notices and distribution of the notices. The estimated dollar equivalent of this hour burden, based on an assumed blended hourly rate of \$75 for administrative, clerical, and supervisory time, is \$1,200.

13. Cost burden on the public. Based on plan experience, the cost of attorney and actuary time to prepare the notices varies significantly by plan size from \$2,500 to \$26,000. The

notices of insolvency benefit level require participant benefit calculations. PBGC estimates that the cost of preparing the combined notices is \$10,000.

14. Cost to the government. PBGC estimates that the total annual cost to the government is \$0.

15. Explanation of burden changes. There is no change in the estimated annual burden of this collection of information.

16. Publication. There are no plans for tabulation or publication.

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

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