



Billing Code 7709-02-P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Notices Under Section 4062(e) of ERISA

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) approve, under the Paperwork Reduction Act, a collection of information that is necessary to fulfill various reporting obligations following a cessation of operations at a facility. This notice informs the public of PBGC's request and solicits public comment on the collection.

DATES: Comments must be submitted by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at OIRA_submission@omb.eop.gov or by fax to 202-395-6974.

A copy of the request will be posted on PBGC's web site at:

<https://www.pb.gc.gov/prac/laws-and-regulations/information-collections-under-omb-review>. It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel, 1200 K Street, NW, Washington, DC 20005-4026; faxing a request to 202-326-4042; or, calling 202-326-4040 during normal business hours (TTY users may call the Federal Relay Service toll-free at 1-800-877-8339 and ask to be connected to 202-326-

4040). The Disclosure Division will e-mail, fax, or mail the information to you, as you request.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington DC 20005-4026; 202-326-4400, extension 6563; or Erika E. Barnes (*barnes.erika@pbgc.gov*), Assistant General Counsel, Bankruptcy, Transactions, and Terminations Department, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005-4026; 202-326-4400, extension 3460. TTY users may call the Federal Relay Service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4400, extension 6563.

SUPPLEMENTARY INFORMATION: Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) imposes reporting obligations in the event of a “substantial cessation of operations.” A substantial cessation of operations occurs when a permanent cessation at a facility causes a separation from employment of more than 15 percent of all “eligible employees.” “Eligible employees” are employees eligible to participate in any of the facility’s employer’s employee pension benefit plans. Following a substantial cessation of operations, the facility’s employer is treated, with respect to its single employer pension plans covered by title IV of ERISA that are covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple-employer plan. Under section 4063(a) of ERISA, the Pension Benefit Guaranty Corporation (PBGC) must receive notice of the substantial cessation of operations and a request to determine the employer’s resulting liability.

To fulfill such resulting liability, the employer may elect, under section 4062(e)(4)(A), to make additional contributions annually for seven years to plans

covering participants at the facility where the substantial cessation of operations took place. Under sections 4062(e)(4)(E)(i)(I), (II), (III), (IV), and (V) respectively, an employer that is making the election for annual additional contributions must give notice to PBGC of: (1) its decision to make the election, (2) its payment of an annual additional contribution, (3) its failure to pay an annual additional contribution, (4) its receipt of a funding waiver from the Internal Revenue Service (“IRS”), and (5) the ending of its obligation to make annual additional contributions.

PBGC is proposing a new form series that would be used to fulfill these reporting obligations. An employer or a plan administrator would file Form 4062(e)-01 to notify PBGC of the occurrence of a substantial cessation of operations and request a determination of the employer’s liability. An employer would file Form 4062(e)-02 to notify PBGC that it made the election to pay annual additional contributions to a plan. An employer would file Form 4062(e)-03 to notify PBGC that it paid an annual additional contribution, received a funding waiver from the IRS, or is no longer obligated to pay annual additional contributions. Finally, an employer would file Form 4062(e)-04 to notify PBGC that it failed to pay an annual additional contribution to the plan.

PBGC needs the requested information in the forms and notification (1) to determine an employer’s liability to a plan following a substantial cessation of operations and (2) to ensure that an employer that made the election of annual additional contributions is fulfilling its payment obligations.

On May 15, 2019, PBGC published in the Federal Register (at 84 FR 21840) a notice informing the public of its intent to request an approval of the new form series. PBGC did not receive any comments about this collection of information.

PBGC is requesting that OMB approve the collection of information for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that 70 forms (10 Forms 4062(e)–01, 10 Forms 4062(e)–02, 49 Forms 4062(e)–03, and one Form 4062(e)–04) would be submitted each year. PBGC estimates that these forms would be completed by a combination of plan office staff and outside professionals (attorneys and actuaries). PBGC estimates a total annual hour burden of 315 hours (based on plan office time). The estimated dollar equivalent of this hour burden, based on an assumed hourly rate of \$75 for administrative, clerical, and supervisory time is \$23,625. PBGC estimates a total annual cost burden of \$92,750 (based on 265 professional hours assuming an average hourly rate of \$350).

Issued in Washington, DC, by:

Hilary Duke,
Assistant General Counsel for Regulatory Affairs,
Pension Benefit Guaranty Corporation.

[FR Doc. 2019-15763 Filed: 7/24/2019 8:45 am; Publication Date: 7/25/2019]