

## 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 June 30, 2014)

**CONTACT:** Donald F. McCabe (326-4400 x3872) or Daniel S. Liebman (326-4400 x6510)

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.

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 commenced January 1, 2010, and 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 two Federal Register notices soliciting public comment on this and other collections of information, one pursuant to 5 CFR § 1320.8(d) (December 2, 2013, at 78 FR 72128), and the other pursuant to 5 CFR § 1320.5(a)(1)(iv) (March 19, 2014, at 79 FR 15361). No public comments were received in response to either 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, requiring 1 hour of in-house managerial time and 16 hours of professional time to prepare. However, PBGC also believes, based on its experience, that virtually all of the professional services involved in preparing these applications are performed by plans' outside consultants. PBGC assumes an average rate of \$76.96 per hour for in-house costs at the compensation and benefits manager level. This estimate is based on the following assumptions:

- Wage rates account for 70% of total labor costs, with the remaining 30% attributable to benefits costs.<sup>1</sup>
- The in-house hours performed by a compensation and benefits manager (occupational code 11-3111) are at a mean hourly wage rate \$53.87 per hour, \$76.96 per hour including benefits.<sup>2</sup>

Accordingly, PBGC estimates that the annual hour burden of this collection of information is 1 hour, with an estimated cost to respondents of \$76.96.

13. Cost burden on the public. Based on the estimates in item 12, the estimated annual cost burden of the collection of information is \$1,317.28 (16 x \$82.33).

This estimate is based on the following assumptions:

- Wage rates account for 70% of total labor costs, with the remaining 30% attributable to benefits costs.<sup>3</sup>
- The outside consultant hours will be performed by a combination of professional lawyers (occupational code 23-1011 at a mean hourly wage rate of \$63.46, \$90.66 per hour including benefits) and actuaries (occupational code 15-2011 at a mean hourly wage rate

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1 <http://www.bls.gov/news.release/ecec.nr0.htm> (see first paragraph).

2 <http://www.bls.gov/oes/current/oes113111.htm>.

3 <http://www.bls.gov/news.release/ecec.nr0.htm> (see first paragraph).

of \$51.80, \$74.00 per hour including benefits).<sup>4</sup> This comes to a blended hourly wage of \$57.63, \$82.33 per hour including benefits.

14. Cost to the government. As discussed in item 12, PBGC typically processes at most 1 submission annually under the regulation. PBGC estimates that it takes 8 hours of staff time to process a submission and performed by a combination of attorneys and actuaries (range of salary GS 11-14, average GS 13 step 5). Assuming a blended rate of \$69.76 per hour (\$48.83 attributable to wages<sup>5</sup> and \$20.93 attributable to benefits), PBGC estimates that the total annual cost to the government is \$558.08 (1 request x 8 hours x \$80 per hour)..

15. Explanation of burden changes. The hour burden has not changed from the current inventory. The cost burden has decreased from \$5,600 to \$1,317.28 due to PBGC's use of different assumptions for estimating costs.

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.

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<sup>4</sup> <http://www.bls.gov/oes/current/oes231011.htm> and <http://www.bls.gov/oes/current/oes152011.htm>.

<sup>5</sup> [http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/14Tables/pdf/DCB\\_h.pdf](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/14Tables/pdf/DCB_h.pdf) .