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[Proposed Rules]

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4007

RIN 1212-AA66

Disclosure of Premium-Related Information

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation proposes to amend its premium payment regulation to provide for the submission to the PBGC of information contained in records relating to premium filings.

DATES: Comments must be received on or before February 18, 1997.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to Suite 340 at the above address. Comments also may be sent by Internet e-mail to reg.comments@pbgc.gov. Comments will be available for inspection at the PBGC's Communications and Public Affairs Department in Suite 240 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Deborah C. Murphy, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024 (202-326-4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: The PBGC's premium payment regulation (29 CFR Part 4007) requires plan administrators to make available to the PBGC for audit those plan records that are necessary to support premium filings, but does not explicitly require that the records be submitted to the PBGC on request. The PBGC proposes to amend the regulation to

provide for such submission within a specified time period.

This change will allow PBGC auditors to review plan documents at their desks in their own offices. In some cases, this will eliminate the need for ``on-site'' audits at plans' offices. These ``desk'' audits will be an efficient way to assure premium payment requirements are met. Desk audits will help to ensure the integrity of the premium collection program and be less disruptive of pension plan operations than on-site audits.

The rule requires respondents to provide the information within 30 days of receipt of the PBGC's request, or by a different time specified therein. The PBGC will require compliance within less than 30 days only if it determines that the payment of premiums (or any associated interest or penalties) would otherwise be jeopardized, e.g., because a statutory limitations period is about to expire.

The PBGC welcomes public comment on the impact and burden on plans of desk audits versus on-site audits, and on the time allowed for responding to the PBGC's requests for information.

Paperwork Reduction Act

This proposed rule modifies the PBGC's collection of information requirements relating to premiums (29 CFR Part 4007). The premium requirements, which have been approved by the Office of Management and Budget under control number 1212-0009, relate primarily to the obligation to file annual premium forms with the PBGC. The same approval also covers certifications of compliance (and related correspondence) with participant notice requirements (29 CFR Part 4011). 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.

The PBGC has submitted the premium and participant notice collection of information, as amended by this proposed rule, to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995, and has requested extension of OMB's existing approval for a 3-year period. The PBGC needs the information plan administrators submit under the premium and participant notice collection of information in order to enforce compliance with the premium payment and participant notice requirements.

The PBGC expects to receive approximately 60,500 PBGC Form 1 or Form 1-ES filings each year. In addition, the PBGC expects to receive, during the requested 3-year approval period, an average of 400 responses per year to surveys relating to the participant notice requirements of Part 4011. The estimated annual reporting and recordkeeping burden is 3,804 hours and \$10,553,550.

Comments on the paperwork provisions of the premium and participant notice collection of information should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, Washington, DC 20503. Comments may address (among other things)--

-- whether the collection of information is needed for the proper performance of the PBGC's functions and will have practical utility;

-- the accuracy of the PBGC's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

-- enhancement of the quality, utility, and clarity of the information to be collected; and

-- minimizing the burden of the collection of information on respondents through the use of automated collection techniques (or other forms of information technology) or in other ways.

E.O. 12866 and the Regulatory Flexibility Act

The PBGC has determined that this proposed rule is not a ``significant

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regulatory action'' under the criteria set forth in Executive Order 12866.

Because this proposed rule would merely amend the procedures for ensuring compliance with premium requirements, the PBGC certifies that, if adopted, the amendment will not have a significant economic effect on a substantial number of small entities. Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, sections 603 and 604 do not apply.

List of Subjects in 29 CFR Part 4007

Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC proposes to amend 29 CFR Part 4007 as follows:

PART 4007--PAYMENT OF PREMIUMS

1. The authority citation for part 4007 is revised to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1303(a), 1306, 1307.

2. In Sec. 4007.10, the section heading is revised; paragraph (a) is amended by removing the last sentence; and new paragraphs (c) and (d) are added, to read as follows:

Sec. 4007.10 Recordkeeping; audits; disclosure of information.

* * * * *

(c) Providing record information. The plan administrator shall make the records retained pursuant to paragraph (a) of this section available to the PBGC upon request for inspection and photocopying at the location where they are kept (or another, mutually agreeable, location) and shall submit information in such records to the PBGC within 30 days of the date of the PBGC's written request therefor, or by a different time specified therein. The PBGC may in its discretion

shorten the time period where it determines that collection of unpaid premiums (or any associated interest or penalties) would otherwise be jeopardized.

(d) Address and timeliness. Information required to be submitted under paragraph (c) of this section shall be submitted to the address specified in the PBGC's request. The timeliness of a submission shall be determined in accordance with Secs. 4007.5 and 4007.6.

Issued in Washington, D.C. this 11th day of December 1996.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

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