

programs for controlling access to high and very high radiation areas because of the potential for overexposure.

The primary purpose of this proposed revision is to clarify the terminology related to the physical barriers that licensees could use to prevent unauthorized personnel access to high and very high radiation areas. The current version of Regulatory Guide 8.38 uses the term "inadvertent entry" with two different connotations. As used in Section 1.5, "Physical Controls," the term was intended to connote "not a willful violation." In several other sections, however, "inadvertent entry" was used to mean "an accidental, or unintended, entry." This disparity has led to inconsistent readings of the staff's regulatory position by licensees and other stakeholders. Consequently, in preparing this revision, the NRC staff rewrote Section 1.5 to eliminate the use of the term "inadvertent entry," and provide additional guidance on the acceptability of physical barriers used to control access to high radiation areas.

The staff also revised two additional sections of the guide to explicitly state regulatory positions that are implied in the current version. Section 1.6, "Shielding," is revised to clarify that monitors with local alarms are not necessary where the removal of shielding does not result in dose rates greater than 1,000 mrem/hr (10 mSv/hr) at 30 cm from the source. Also, Section 4.2, "Materials," is revised to clarify that appropriate controls are required when diving operations allow access to high and/or very high radiation areas in the spent fuel pool. In addition, the staff updated Appendix B to include recent references that discuss industry experiences with high and very high radiation areas.

The proposed revision to Regulatory Guide 8.38 does not change previous staff positions. Therefore, this revision does not constitute a backfit, as defined in 10 CFR 50.109.

The NRC staff is soliciting comments on Draft Regulatory Guide DG-8028, and comments may be accompanied by relevant information or supporting data. Please mention DG-8028 in the subject line of your comments. Comments on this draft regulatory guide submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS). Personal information will not be removed from your comments. You may submit comments by any of the following methods.

Mail comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory

Commission, Washington, DC 20555-0001.

Email comments to: *NRCREP@nrc.gov*. You may also submit comments via the NRC's rulemaking Web site at <http://ruleforum.llnl.gov>. Address questions about our rulemaking Web site to Carol A. Gallagher (301) 415-5905; e-mail *CAG@nrc.gov*.

Hand-deliver comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Fax comments to: Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415-5144.

Requests for technical information about Draft Regulatory Guide DG-8028 may be directed to Harriet Karagiannis at (301) 415-6377 or by e-mail to *HXK@nrc.gov*.

Comments would be most helpful if received by December 5, 2005.

Comments received after that date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Electronic copies of the draft regulatory guide are available through the NRC's public Web site under Draft Regulatory Guides in the Regulatory Guides document collection of the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/doc-collections/>. Electronic copies are also available in the NRC's Agencywide Documents Access and Management System (ADAMS) at <http://www.nrc.gov/reading-rm/adams.html>, under Accession #ML052590173. Note, however, that the NRC has temporarily limited public access to ADAMS so that the agency can complete security reviews of publicly available documents and remove potentially sensitive information. Please check the NRC's Web site for updates concerning the resumption of public access to ADAMS.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland; the PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4205, by fax at (301) 415-3548, and by e-mail to *PDR@nrc.gov*.

Requests for single copies of draft or final guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov*; or by fax to (301) 415-2289. Telephone requests cannot be accommodated.

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Dated at Rockville, Maryland, this 28th day of September, 2005.

For the Nuclear Regulatory Commission,  
**Farouk Eltawila,**

*Director, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.*

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## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collection for OMB Review; Comment Request; Notice of Failure To Make Required Contributions

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Notice of Failure to Make Required Contributions (OMB control number 1212-0041; expires January 31, 2006). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments must be submitted by December 5, 2005.

**ADDRESSES:** Comments may be mailed to the Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to Suite 340 at that address during normal business hours. Comments also may be submitted by e-mail to *paperwork.comments@pbgc.gov*, or by fax to 202-326-4112. The PBGC

will make all comments available on its Web site at [www.pbgc.gov](http://www.pbgc.gov).

Copies of the collections of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling 202-326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The reportable events regulations, forms, and instructions may be accessed on the PBGC's Web site at [www.pbgc.gov](http://www.pbgc.gov).

**FOR FURTHER INFORMATION CONTACT:**

James L. Beller, Jr., Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

**SUPPLEMENTARY INFORMATION:** Section 302(f) of the Employee Retirement Income Security Act of 1974 ("ERISA") and section 412(n) of the Internal Revenue Code of 1986 ("Code") impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program if (1) any person fails to make a required payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds \$1 million. (For this purpose, a plan is underfunded if its funded current liability percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons who are liable for required contributions (*i.e.*, a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only the PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. Therefore, ERISA and the Code require persons committing payment failures to notify the PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds \$1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related filing instructions, implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR 4043.81.

The collection of information under the regulation has been approved through January 31, 2006, by OMB under control number 1212-0041. The PBGC intends to request that OMB extend approval for another 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.

The PBGC estimates that it will receive 78 Form 200 filings per year under this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 160.5 hours and \$44,132.

The PBGC is soliciting public comments to—

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, DC, this 29th day of September, 2005.

**Rick Hartt,**

*Chief Technology Officer, Pension Benefit Guaranty Corporation.*

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**PENSION BENEFIT GUARANTY CORPORATION**

**Proposed Submission of Information Collection for OMB Review; Comment Request; Reportable Events**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of

collections of information under Part 4043 of its regulations relating to Reportable Events (OMB control number 1212-0013; expires January 31, 2006). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments must be submitted by December 5, 2005.

**ADDRESSES:** Comments may be mailed to the Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to Suite 340 at that address during normal business hours. Comments also may be submitted by e-mail to [paperwork.comments@pbgc.gov](mailto:paperwork.comments@pbgc.gov), or by fax to 202-326-4112. The PBGC will make all comments available on its Web site at [www.pbgc.gov](http://www.pbgc.gov).

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**SUPPLEMENTARY INFORMATION:**

Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and corporate events to the PBGC. The reporting requirements give the PBGC timely notice of events that indicate plan or employer financial problems. The PBGC uses the information provided in determining what, if any, action it needs to take. For example, the PBGC might need to institute proceedings to terminate the plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in its losses.

The collection of information under the regulation has been approved through January 31, 2006, by OMB under control number 1212-0013. The