§ 4281.33  Restoration of benefits.

(a) General. The plan sponsor of a plan that has been amended to reduce benefits under this subpart shall amend the plan to restore those benefits before adopting any amendment increasing benefits under the plan. A plan is not required to make retroactive benefit payments with respect to any benefit that was reduced and subsequently restored in accordance with this section.

(b) Notice to the PBGC. The plan sponsor shall notify the PBGC in writing of any restoration under this section. The notice shall include the information specified in §4281.32 (d)(1) through (d)(4); a statement that a plan amendment restoring benefits has been adopted, the date of adoption, and the effective date of the amendment; and a certification, signed by the plan sponsor or its duly authorized representative, that the amendment has been adopted in accordance with this section.

Subpart D—Benefit Suspensions

§ 4281.41 Benefit suspensions.

If the plan sponsor determines that the plan is or is expected to be insolvent for a plan year, the plan sponsor shall suspend benefits to the extent necessary to reduce the benefits to the greater of the resource benefit level or the level of guaranteed benefits.

§ 4281.42 Retroactive payments.

(a) Erroneous resource benefit level. If, by the end of a year in which benefits were suspended under §4281.41, the plan sponsor determines in writing that the plan’s available resources in that year could have supported benefit payments above the resource benefit level determined for that year, the plan sponsor may distribute the excess resources to each affected participant and beneficiary who received benefit payments that year on a pro rata basis. The amount distributed to each participant under this paragraph may not exceed the amount that, when added to benefit payments already made, brings the total benefit for the plan year up to the total benefit provided under the plan.

(b) Benefits paid below resource benefit level. If, by the end of a plan year in which benefits were suspended under §4281.41, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level that were unpaid shall be distributed to