

(2) *Extension.* Except as provided in paragraph (c)(3) of this section, a designated recordkeeper may automatically extend the period described in paragraph (c)(1) by submitting a certification to the PBGC prior to the expiration of that time period. The certification shall—

(i) Specify a date to which the time period described in paragraph (c)(1) is extended that is no more than 90 days from the date of the PBGC's written request for information; and

(ii) Contain a statement, certified to by the designated recordkeeper under penalty of perjury (18 U.S.C. §1001), that, despite reasonable efforts, the additional time is necessary to comply with the PBGC's request.

(3) *Shortening of time period.* The PBGC may in its discretion shorten the time period described in paragraph (c)(1) or (c)(2) of this section where it determines that the interests of PBGC may be prejudiced by a delay in the receipt of the information (e.g., where collection of unpaid premiums (or any associated interest or penalties) would otherwise be jeopardized). If the PBGC shortens the time period described in paragraph (c)(1), no extension is available under paragraph (c)(2).

(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 §§ 4007.5 and 4007.6.

[61 FR 34020, July 1, 1996, as amended at 62 FR 36663, July 9, 1997; 68 FR 61352, Oct. 28, 2003; 72 FR 71229, Dec. 17, 2007; 73 FR 15077, Mar. 21, 2008]

§ 4007.11 Due dates.

(a) *In general.* For flat-rate and variable-rate premiums, the premium filing due date for small plans is prescribed in paragraph (a)(1) of this section, the premium filing due date for mid-size plans is prescribed in paragraph (a)(2) of this section, and the premium filing due dates for large plans are prescribed in paragraph (a)(3) of this section.

(1) *Small plans.* If the plan had fewer than 100 participants for whom flat-rate premiums were payable for the plan year preceding the premium pay-

ment year, the due date is the last day of the sixteenth full calendar month following the end of the plan year preceding the premium payment year.

(2) *Mid-size plans.* If the plan had 100 or more but fewer than 500 participants for whom flat-rate premiums were payable for the plan year preceding the premium payment year:

(i) The due date is the fifteenth day of the tenth full calendar month following the end of the plan year preceding the premium payment year.

(ii) If the premium funding target is not known by the date specified in paragraph (a)(2)(i) of this section, a reconciliation filing and any required variable-rate premium payment must be made by the last day of the sixteenth full calendar month following the end of the plan year preceding the premium payment year.

(3) *Large plans.* If the plan had 500 or more participants for whom flat-rate premiums were payable for the plan year preceding the premium payment year:

(i) The due date for the flat-rate premium required by §4006.3(a) of this chapter is the last day of the second full calendar month following the close of the plan year preceding the premium payment year.

(ii) The due date for the variable-rate premium required by §4006.3(b) of this chapter for single-employer plans is the fifteenth day of the tenth full calendar month following the end of the plan year preceding the premium payment year.

(iii) If the participant count is not known by the date specified in paragraph (a)(3)(i) of this section, a reconciliation filing and any required flat-rate premium payment must be made by the date specified in paragraph (a)(3)(ii) of this section.

(iv) If the premium funding target is not known by the date specified in paragraph (a)(3)(ii) of this section, a reconciliation filing and any required variable-rate premium payment must be made by the last day of the sixteenth full calendar month following the end of the plan year preceding the premium payment year.

(b) *Due dates for plans that change plan years.* For any plan that changes its plan year, the due date or due dates

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for the flat-rate premium and any variable-rate premium for the short plan year are as specified in paragraph (a)(1), (a)(2), (a)(3), or (c) of this section (whichever applies). For the plan year that follows a short plan year, each due date is the later of—

(i) The applicable due date specified in paragraph (a)(1), (a)(2), or (a)(3) of this section, or

(ii) 30 days after the date on which the amendment changing the plan year was adopted.

(c) *Due dates for new and newly covered plans.* Notwithstanding paragraph (a) of this section, the due date for the flat-rate premium and any variable-rate premium for the first plan year of coverage of any new plan or newly covered plan is the latest of—

(1) The last day of the sixteenth full calendar month that began on or after the first day of the premium payment year (the effective date, in the case of a new plan), or

(2) 90 days after the date of the plan's adoption.

(d) *Continuing obligation to file.* The obligation to make flat-rate and (as applicable) variable-rate premium filings and payments under this part continues through the plan year in which all plan assets are distributed pursuant to a plan's termination or in which a trustee is appointed under section 4042 of ERISA, whichever occurs earlier.

[61 FR 34020, July 1, 1996, as amended at 63 FR 68685, Dec. 14, 1998; 71 FR 31081, June 1, 2006; 72 FR 71229, Dec. 17, 2007; 73 FR 15077, Mar. 21, 2008]

§ 4007.12 Liability for single-employer premiums.

(a) The designation under this part of the plan administrator as the person required to make flat-rate and variable-rate premium filings and payments under this part for a single-employer plan is a procedural requirement only and does not alter the liability for premium payments imposed by section 4007 of ERISA. Pursuant to section 4007(e) of ERISA, both the plan administrator and the contributing sponsor of a single-employer plan are liable for flat-rate and variable-rate premium payments, and, if the contributing sponsor is a member of a controlled group, each member of the controlled

group is jointly and severally liable for the required premiums. Any entity that is liable for required premiums is also liable for any interest and penalties assessed with respect to such premiums.

(b) For any plan year in which a plan administrator issues (pursuant to section 4041(a)(2) of ERISA) notices of intent to terminate in a distress termination under section 4041(c) of ERISA or the PBGC initiates a termination proceeding under section 4042 of ERISA, and for each plan year thereafter, the obligation to pay the premiums (and any interest or penalties thereon) imposed by ERISA and this part for a single-employer plan shall be an obligation solely of the contributing sponsor and the members of its controlled group, if any.

(Approved by the Office of Management and Budget under control number 1212-0009)

[61 FR 34020, July 1, 1996, as amended at 72 FR 71229, Dec. 17, 2007]

§ 4007.13 Premiums for certain terminated single-employer plans.

(a) *Applicability—(1) In general.* This section applies where there is a “DRA 2005 termination” of a plan. Subject to paragraph (a)(2) of this section, there is a DRA 2005 termination where a single-employer plan's termination date under section 4048 of ERISA is after 2005 and either—

(i) The plan terminates under section 4042 of ERISA, or

(ii) The plan terminates under section 4041(c) of ERISA and at least one contributing sponsor or member of a contributing sponsor's controlled group meets the requirements of section 4041(c)(2)(B)(ii) or (iii) of ERISA.

(2) *Plans terminated during reorganization proceedings.* Except as provided in paragraph (a)(3) of this section, a DRA 2005 termination of a plan does not occur where as of the plan's termination date under section 4048 of ERISA—

(i) A bankruptcy proceeding has been filed by or against any person that was a contributing sponsor of the plan on the day before the plan's termination date or that was on that day a member of any controlled group of which any such contributing sponsor was a member,