

#### § 4043.24

(ii) The event would not be reportable counting only those participant reductions resulting from cessation of operations at a single facility; and

(iii) The participant reduction represents no more than 20 percent of the total active participants (at the beginning of the plan year(s) in which the reduction occurs) in all plans maintained by any member of the plan's controlled group.

(e) *Determination of the number of active participants*—(1) *Determination date.* The number of active participants at the beginning of a plan year may be determined by using the number of active participants at the end of the previous plan year.

(2) *Active participant.* “Active participant” means a participant who—

(i) Is receiving compensation for work performed;

(ii) Is on paid or unpaid leave granted for a reason other than a layoff;

(iii) Is laid off from work for a period of time that has lasted less than 30 days; or

(iv) Is absent from work due to a recurring reduction in employment that occurs at least annually.

#### § 4043.24 Termination or partial termination.

(a) *Reportable event.* A reportable event occurs when the Secretary of the Treasury determines that there has been a termination or partial termination of a plan within the meaning of section 411(d)(3) of the Code.

(b) *Waivers.* Notice is waived for this event.

#### § 4043.25 Failure to make required minimum funding payment.

(a) *Reportable event.* A reportable event occurs when a required installment or a payment required under section 302 of ERISA or section 412 of the Code (including a payment required as a condition of a funding waiver) is not made by the due date for the payment. In the case of a payment needed to avoid a deficiency in the plan's funding standard account, the due date is the latest date such payment may be made under section 302(c)(10)(A) of ERISA or section 412(c)(10)(A) of the Code.

#### 29 CFR Ch. XL (7–1–12 Edition)

(b) *Initial information required.* In addition to the information in § 4043.3(b), the notice shall include—

(1) The due date and amount of the required minimum funding payment that was not made and of the next payment due;

(2) The name of each member of the plan's controlled group and its ownership relationship to other members of that controlled group; and

(3) For each other plan maintained by any member of the plan's controlled group, identification of the plan and its contributing sponsor(s) by name and EIN/PN or EIN, as appropriate.

(c) *Waiver.* Notice is waived if the required minimum funding payment is made by the 30th day after its due date.

(d) *Form 200 filed.* If, with respect to the same failure, a Form 200 has been completed and submitted in accordance with § 4043.81, the Form 200 filing shall satisfy the requirements of this section.

#### § 4043.26 Inability to pay benefits when due.

(a) *Reportable event.* A reportable event occurs when a plan is currently unable or projected to be unable to pay benefits.

(1) *Current inability.* A plan is currently unable to pay benefits if it fails to provide any participant or beneficiary the full benefits to which the person is entitled under the terms of the plan, at the time the benefit is due and in the form in which it is due. A plan shall not be treated as being currently unable to pay benefits if its failure to pay is caused solely by the need to verify the person's eligibility for benefits; the inability to locate the person; or any other administrative delay if the delay is for less than the shorter of two months or two full benefit payment periods.

(2) *Projected inability.* A plan is projected to be unable to pay benefits when, as of the last day of any quarter of a plan year, the plan's “liquid assets” are less than two times the amount of the “disbursements from the plan” for such quarter. Liquid assets and disbursements from the plan have the same meaning as under section 302(e)(5)(E) of ERISA and section 412(m)(5)(E) of the Code.