

§ 4203.5

29 CFR Ch. XL (7-1-13 Edition)

this part has been given to all employers who have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan.

(4) A statement indicating how the withdrawal rules in the plan amendment would operate in the event of a sale of assets by a contributing employer or the cessation of the obligation to contribute or the cessation of covered operations by all employers.

(5) A copy of the plan's most recent actuarial valuation.

(6) For each of the previous five plan years, information on the number of plan participants by category (active, retired and separate vested) and a complete financial statement. This requirement may be satisfied by the submission for each of those years of Form 5500, including schedule B, or similar reports required under prior law.

(7) A detailed description of the industry to which the plan amendment will apply, including information sufficient to demonstrate the effect of withdrawals on the plan's contribution base, and information establishing industry characteristics which would indicate that withdrawals in the industry do not typically have an adverse effect on the plan's contribution base. Such industry characteristics include the mobility of employees, the intermittent nature of employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer's covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed.

(e) *Supplemental information.* In addition to the information described in paragraph (d) of this section, a plan may submit any other information it believes is pertinent to its request. The PBGC may require the plan sponsor to submit any other information the PBGC determines it needs to review a request under this part.

[61 FR 34083, July 1, 1996, as amended at 68 FR 61354, Oct. 28, 2003]

§ 4203.5 PBGC action on requests.

(a) *General.* The PBGC shall approve a plan amendment providing for the application of special complete or partial

withdrawal liability rules upon a determination by the PBGC that the plan amendment—

(1) Will apply only to an industry that has characteristics that would make use of the special withdrawal rules appropriate; and

(2) Will not pose a significant risk to the insurance system.

(b) *Notice of pendency of request.* As soon as practicable after receiving a request for approval of a plan amendment containing all the information required under § 4203.4, the PBGC shall publish a notice of the pendency of the request in the FEDERAL REGISTER. The notice shall contain a summary of the request and invite interested persons to submit written comments to the PBGC concerning the request. The notice will normally provide for a comment period of 45 days.

(c) *PBGC decision on request.* After the close of the comment period, PBGC shall issue its decision in writing on the request for approval of a plan amendment. Notice of the decision shall be published in the FEDERAL REGISTER.

§ 4203.6 OMB control number.

The collections of information contained in this part have been approved by the Office of Management and Budget under OMB control number 1212-0050.

PART 4204—VARIANCES FOR SALE OF ASSETS

Subpart A—General

- Sec.
- 4204.1 Purpose and scope.
- 4204.2 Definitions.

Subpart B—Variance of the Statutory Requirements

- 4204.11 Variance of the bond/escrow and sale-contract requirements.
- 4204.12 *De minimis* transactions.
- 4204.13 Net income and net tangible assets tests.

Subpart C—Procedures for Individual and Class Variances or Exemptions

- 4204.21 Requests to PBGC for variances and exemptions.
- 4204.22 PBGC action on requests.

AUTHORITY: 29 U.S.C. 1302(b)(3), 1384(c).