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(c) *Employer with multiple complete withdrawals that has not reentered the plan as of the effective date of this part.* If an eligible employer has completely withdrawn from a multiemployer plan on two or more occasions between September 26, 1980, and the effective date of this part and is not performing covered work under the plan on the effective date of this regulation, the rules in this part shall apply, subject to the modifications specified in paragraphs (b)(1)–(b)(3) of this section, upon the employer's reentry into the plan.

(d) *Combination of withdrawn employer with contributing employer.* If a withdrawn employer merges or otherwise combines with an employer that has an obligation to contribute to the plan from which the first employer withdrew, the combined entity is the eligible employer, and the rules of §4207.5 shall be applied—

(1) By subtracting from the measurement period contribution base units the contribution base units for which the non-withdrawn portion of the employer was obligated to contribute in the last plan year ending prior to the combination;

(2) By determining the base year contribution base units solely by reference to the contribution base units of the withdrawn portion of the employer; and

(3) By using the date of the combination, rather than the date of resumption of covered operations, to begin the measurement period.

(e) *Combination of two or more withdrawn employers.* If two or more withdrawn employers merge or otherwise combine, the combined entity is the eligible employer, and the rules of §4207.5 shall be applied by combining the number of contribution base units with respect to which each portion of the employer had an obligation to contribute under the plan for its base year. However, the combined number of contribution base units shall not include contribution base units of a withdrawn portion of the employer that had fully paid its withdrawal liability as of the date of the resumption of covered operations.

§4207.10 Plan rules for abatement.

(a) *General rule.* Subject to the approval of the PBGC, a plan may, by amendment, adopt rules for the reduction or waiver of complete withdrawal liability under conditions other than those specified in §§4207.5 and 4207.9 (c) and (d), provided that such conditions relate to events occurring or factors existing subsequent to a complete withdrawal year. The request for PBGC approval shall be filed after the amendment is adopted. A plan amendment under this section may not be put into effect until it is approved by the PBGC. However, an amendment that is approved by the PBGC may apply retroactively to the date of the adoption of the amendment. PBGC approval shall also be required for any subsequent modification of the amendment, other than repeal of the amendment. Sections 4207.6, 4207.7, and 4207.8 shall apply to all subsequent partial withdrawals after a reduction or waiver of complete withdrawal liability under a plan amendment approved by the PBGC pursuant to this section.

(b) *Who may request.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign and submit the request.

(c) *Where to file.* See §4000.4 of this chapter for information on where to file.

(d) *Information.* Each request shall contain the following information:

(1) The name and address of the plan for which the plan amendment is being submitted and the telephone number of the plan sponsor or its duly authorized representative.

(2) The nine-digit Employer Identification Number (EIN) assigned to the plan sponsor by the IRS and the three-digit Plan Identification Number (PN) assigned to the plan by the plan sponsor, and, if different, the EIN and PN last filed with the PBGC. If no EIN or PN has been assigned, that should be indicated.

(3) A copy of the executed amendment, including—

(i) The date on which the amendment was adopted;

(ii) The proposed effective date; and

(iii) The full text of the rules on the reduction or waiver of complete withdrawal liability.

(4) A copy of the most recent actuarial valuation report of the plan.

(5) A statement certifying that notice of the adoption of the amendment and of the request for approval filed under this section has been given to all employers that have an obligation to contribute under the plan and to all employee organizations representing employees covered under the plan.

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

(f) *Criteria for PBGC approval.* The PBGC shall approve a plan amendment authorized by paragraph (a) of this section if it determines that the rules therein are consistent with the purposes of ERISA. An abatement rule is not consistent with the purposes of ERISA if—

(1) Implementation of the rule would be adverse to the interest of plan participants and beneficiaries; or

(2) The rule would increase the PBGC's risk of loss with respect to the plan.

(Approved by the Office of Management and Budget under control number 1212–0044)

[61 FR 34088, July 1, 1996, as amended at 68 FR 61355, Oct. 28, 2003]

§ 4207.11 Method of filing; method and date of issuance.

(a) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(b) *Method of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this part.

(c) *Date of issuance.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

[68 FR 61355, Oct. 28, 2003]

PART 4208—REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Sec.

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AUTHORITY: 29 U.S.C. 1302(b)(3), 1388(c) and (e).

SOURCE: 61 FR 34093, July 1, 1996, unless otherwise noted.

§ 4208.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to establish rules for reducing or waiving the liability of certain employers that have partially withdrawn from a multiemployer pension plan.

(b) *Scope.* This part applies to multiemployer pension plans covered under title IV of ERISA and to employers that have partially withdrawn from such plans after September 25, 1980, and that have not, as of the date on which they satisfy the conditions for reducing or eliminating their partial withdrawal liability, fully satisfied their obligation to pay that partial withdrawal liability. This rule shall not negate reasonable actions taken by plans prior to the effective date of this part under plan rules implementing section 4208 of ERISA that were validly adopted pursuant to section 405 of the Multiemployer Act.

§ 4208.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: employer, ERISA, IRS, Multiemployer Act, multiemployer plan, PBGC, plan, and plan year.

In addition, for purposes of this part:

Complete withdrawal means a complete withdrawal as described in section 4203 of ERISA.