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29 CFR Ch. XL (7-1-14 Edition)

Foreign parent means a foreign entity that is a direct or indirect parent of a person that is a contributing sponsor.

Form 5500 due date means the deadline (including extensions) for filing the annual report under section 103 of ERISA.

Notice date means the deadline (including extensions) for filing notice of the reportable event with the PBGC.

Participant means a participant as defined in § 4006.2.

Public company means a person subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934 or a subsidiary (as defined for purposes of the Securities Exchange Act of 1934) of a person subject to such reporting requirements.

Testing date means, with respect to a plan year—

(1) The last day of the prior plan year, except as provided in paragraphs (2) or (3) of this definition;

(2) In the case of a new or newly-covered plan (as defined in § 4006.2 of this chapter), the first day of the plan year or, if later, the date on which the plan becomes effective for benefit accruals for future service; or

(3) In the case of a plan described in § 4006.5(e)(2) of this chapter (relating to certain mergers or spinoffs), the first day of the plan year.

Ultimate parent means the parent at the highest level in the chain of corporations and/or other organizations constituting the parent-subsidiary controlled group.

Unfunded vested benefits means unfunded vested benefits determined in accordance with § 4006.4 of this chapter, without regard to the exemptions and special rules in § 4006.5(a)–(c) of this chapter. For purposes of subpart B only, unfunded vested benefits may be determined by subtracting the fair market value of the plan's assets from the plan's vested benefits amount.

Variable rate premium means the portion of the premium determined under section 4006(a)(3)(E) of ERISA and § 4006.3(b) of this chapter.

Vested benefits amount means the vested benefits amount determined under § 4006.4(b)(1) of this chapter.

§ 4043.3 Requirement of notice.

(a) *Obligation to file*—(1) *In general.* Each person that is required to file a

notice under this part, or a duly authorized representative, shall submit the information required by this part by the time specified in § 4043.20 (for post-event notice), § 4043.61 (for advance notice), or § 4043.81 (for Form 200 filings). Any information previously filed with the PBGC may be incorporated by reference.

(2) *Multiple plans.* If a reportable event occurs for more than one plan, the filing obligation with respect to each plan is independent of the filing obligation with respect to any other plan.

(3) *Optional consolidated filing.* A filing by any person will be deemed to be a filing by all persons required to notify the PBGC under this part. If notices are required for two or more events, the notices may be combined in one filing.

(b) *Contents of reportable event notice.* A person required to file a reportable event notice shall provide, by the notice date, the following general information, along with any other information required for each reportable event under subpart B or C of this part:

(1) The name of the plan;

(2) The name, address, and telephone number of the contributing sponsor(s) and of an individual that should be contacted;

(3) The name, address, and telephone number of the plan administrator and of an individual that should be contacted;

(4) The EIN of the contributing sponsor and the EIN/PN of the plan;

(5) A brief statement of the pertinent facts relating to the reportable event;

(6) A copy of the plan document in effect, *i.e.*, the last restatement of the plan and all amendments thereto;

(7) A copy of the most recent actuarial statement and opinion (if any) relating to the plan; and

(8) A statement of any material change in the assets or liabilities of the plan occurring after the date of the most recent actuarial statement and opinion.

(c) *Optional reportable event forms.* The PBGC shall issue optional reportable events forms, which may provide for reduced initial information submissions.

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(d) *Requests for additional information.* The PBGC may, in any case, require the submission of additional information. Any such information shall be submitted for subpart B of this part within 30 days, and for subpart C or D of this part within 7 days, after the date of a written request by the PBGC, or within a different time period specified therein. The PBGC may in its discretion shorten the time period where it determines that the interests of the PBGC or participants may be prejudiced by a delay in receipt of the information.

(e) *Effect of failure to file.* If a notice (or any other information required under this part) is not provided within the specified time limit, the PBGC may assess against each person required to provide the notice a separate penalty under section 4071 of ERISA of up to \$1,100 a day for each day that the failure continues. The PBGC may pursue any other equitable or legal remedies available to it under the law.

[61 FR 63989, Dec. 2, 1996, as amended at 62 FR 36994, July 10, 1997]

§ 4043.4 Waivers and extensions.

(a) *Specific events.* For specific reportable events, waivers from reporting and information requirements and extensions of time are provided in subparts B and C of this part. If an occurrence constitutes two or more reportable events, reporting requirements for each event are determined independently. For example, any event reportable under more than one section will be exempt from reporting only if it satisfies the requirements for a waiver under each section.

(b) *Multiemployer plans.* The requirements of section 4043 of ERISA are waived with respect to multiemployer plans.

(c) *Terminating plans.* No notice is required from the plan administrator or contributing sponsor of a plan if the notice date is on or after the date on which—

(1) All of the plan's assets (other than any excess assets) are distributed pursuant to a termination; or

(2) A trustee is appointed for the plan under section 4042(c) of ERISA.

(d) *Other waivers and extensions.* The PBGC may extend any deadline or

waive any other requirement under this part where it finds convincing evidence that the waiver or extension is appropriate under the circumstances. Any waiver or extension may be subject to conditions. A request for a waiver or extension must be filed in writing with the PBGC and must state the facts and circumstances on which the request is based.

§ 4043.5 How and where to file.

The PBGC applies the rules in subpart A of part 4000 of this chapter and the instructions to the applicable PBGC reporting form to determine permissible methods of filing with the PBGC under this part. See § 4000.4 of this chapter for information on where to file.

[68 FR 61354, Oct. 28, 2003]

§ 4043.6 Date of filing.

(a) *Post-Event notice filings.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under subpart B of this part was filed with the PBGC.

(b) *Advance notice and Form 200 Filings.* Information filed under subpart C or D of this part is treated as filed on the date it is received by the PBGC. Subpart C of part 4000 of this chapter provides rules for determining when the PBGC receives a submission.

(c) *Partial electronic filing; deemed filing date.* A reportable event notice or Form 200 will be deemed timely filed if—

(1) An electronic transmission containing at least the minimum initial information (as specified in the instruction to the applicable form) is filed on or before the notice date; and

(2) The remaining initial information is received by the PBGC on or before—

(i) The first regular business day following the notice date, in the case of advance notice or a Form 200; or

(ii) The second regular business day following the notice date, in the case of post-event notice.

[61 FR 63989, Dec. 2, 1996, as amended at 68 FR 61354, Oct. 28, 2003]

§ 4043.7 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to