

§ 4281.15

(ii) The rate in Table 6 of Appendix A to part 4044 of this chapter.

(e) *Mortality rates for disabled lives (Social Security disability)*. The mortality rates applicable to annuities in pay status on the valuation date that are being received as disability benefits and for which either eligibility for, or receipt of, Social Security disability benefits is a prerequisite, are—

(1) For male participants, the rates in Table 5 of Appendix A to part 4044 of this chapter; and

(2) For female participants, the rates in Table 6 of Appendix A to part 4044 of this chapter.

(f) *Contingent annuitant mortality during deferral period*. If a participant's joint and survivor benefit is valued as a deferred annuity, the mortality of the contingent annuitant during the deferral period will be disregarded.

[71 FR 75117, Dec. 14, 2006]

§ 4281.15 [Reserved]

§ 4281.16 Benefit valuation methods—plans closing out.

(a) *Applicability*. For purposes of the annual valuation required by section 4281(b) of ERISA, the plan sponsor shall value the plan's benefits in accordance with paragraph (b) of this section if,—

(1) *Plans closed out before valuation*. Before the time when the valuation is performed, the plan has satisfied in full all liabilities for payment of nonforfeitable benefits, in a manner consistent with the terms of the plan and applicable law, by the purchase of one or more nonparticipating irrevocable commitments from one or more insurers, with respect to all benefits payable as annuities, and by the payment of single-sum cash distributions, with respect to benefits not payable as annuities; or

(2) *Plans to be closed out after valuation*. As of the time when the valuation is performed, the plan sponsor reasonably expects that the plan will close out before the next annual valuation date and the plan sponsor has a currently exercisable bid or bids to provide the irrevocable commitment(s) described in paragraph (a)(1) of this section and the total cost of the irrevocable commitment(s) under the bid, plus the total amount of the single-

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sum cash distributions described in paragraph (a)(1), does not exceed the value of the plan's assets, exclusive of outstanding claims for withdrawal liability, as determined under this subpart.

(b) *Valuation rule*. The present value of nonforfeitable benefits under this section is the total amount of single-sum cash distributions made or to be made plus the cost of the irrevocable commitment(s) purchased or to be purchased in order to satisfy in full all liabilities of the plan for nonforfeitable benefits.

§ 4281.17 Asset valuation methods—in general.

(a) *General rule*. The plan sponsor shall value plan assets as of the valuation date, using the valuation methods prescribed by this section and § 4281.18 (regarding outstanding claims for withdrawal liability), and deducting administrative liabilities in accordance with paragraph (c) of this section.

(b) *Assets other than withdrawal liability claims*. The plan sponsor shall value any plan asset (other than an outstanding claim for withdrawal liability) by such method or methods as the plan sponsor reasonably believes most accurately determine fair market value.

(c) *Adjustment for administrative liabilities*. In determining the total value of plan assets, the plan sponsor shall subtract all plan liabilities, other than liabilities to pay benefits. For this purpose, any obligation to repay financial assistance received from the PBGC under section 4261 of ERISA is a plan liability other than a liability to pay benefits. The obligation to repay financial assistance shall be valued by determining the value of the scheduled payments in the same manner as prescribed in § 4281.18(a) for valuing claims for withdrawal liability.

§ 4281.18 Outstanding claims for withdrawal liability.

(a) *Value of claim*. The plan sponsor shall value an outstanding claim for withdrawal liability owed by an employer described in paragraph (b) of this section in accordance with paragraphs (a)(1) and (a)(2) of this section:

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(1) If the schedule of withdrawal liability payments provides for one or more series of equal payments, the plan sponsor shall value each series of payments as an annuity certain in accordance with the provisions of § 4281.13.

(2) If the schedule of withdrawal liability payments provides for one or more payments that are not part of a series of equal payments as described in paragraph (a)(1) of this section, the plan sponsor shall value each such unequal payment as a lump-sum payment in accordance with the provisions of § 4281.13.

(b) *Employers neither liquidated nor in insolvency proceedings.* The plan sponsor shall value an outstanding claim for withdrawal liability under paragraph (a) of this section if, as of the valuation date—

(1) The employer has not been completely liquidated or dissolved; and

(2) The employer is not the subject of any case or proceeding under title 11, United States Code, or any case or proceeding under similar provisions of state insolvency laws; except that the claim for withdrawal liability of an employer that is the subject of a proceeding described in this paragraph (b)(2) shall be valued under paragraph (a) of this section if the plan sponsor determines that the employer is reasonably expected to be able to pay its withdrawal liability in full and on time.

(c) *Claims against other employers.* The plan sponsor shall value at zero any outstanding claim for withdrawal liability owed by an employer that does not meet the conditions set forth in paragraph (b) of this section.

Subpart C—Benefit Reductions

§ 4281.31 Plan amendment.

The plan sponsor of a plan described in § 4281.31 shall amend the plan to eliminate those benefits subject to reduction in excess of the value of benefits that can be provided by plan assets. Such reductions shall be effected by a pro rata reduction of all benefits subject to reduction or by elimination or pro rata reduction of any category of benefit. Benefit reductions required by this section shall apply only pro-

spectively. An amendment required under this section shall take effect no later than six months after the end of the plan year for which it is determined that the value of nonforfeitable benefits exceeds the value of the plan's assets.

§ 4281.32 Notices of benefit reductions.

(a) *Requirement of notices.* A plan sponsor of a multiemployer plan under which a plan amendment reducing benefits is adopted pursuant to section 4281(c) of ERISA shall so notify the PBGC and plan participants and beneficiaries whose benefits are reduced by the amendment. The notices shall be delivered in the manner and within the time prescribed, and shall contain the information described, in this section. The notice required in this section shall be filed in lieu of the notice described in section 4244A(b)(2) of ERISA.

(b) *When delivered.* The plan sponsor shall mail or otherwise deliver the notices of benefit reduction no later than the earlier of—

(1) 45 days after the amendment reducing benefits is adopted; or

(2) The date of the first reduced benefit payment.

(c) *Method of issuance to interested parties.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the notice of benefit reduction to interested parties. In addition to the methods permitted under subpart B of part 4000, the plan sponsor may notify interested parties, other than participants and beneficiaries who are in pay status when the notice is required to be delivered or who are reasonably expected to enter pay status before the end of the plan year after the plan year in which the amendment is adopted, by posting the notice at participants' work sites or publishing the notice in a union newsletter or in a newspaper of general circulation in the area or areas where participants reside. Notice to a participant shall be deemed notice to that participant's beneficiary or beneficiaries.

(d) *Contents of notice to the PBGC.* A notice of benefit reduction required to be filed with the PBGC pursuant to paragraph (a) of this section shall contain the following information: