

§ 4010.12

which the person participates (including participants covered by the multiple employer plan who are not or were not employed by the person).

(c) *Missed contributions resulting in a lien or outstanding minimum funding waivers.* Reporting is waived for a person (that would be a filer if not for the waiver) for an information year if, for the plan year ending within the information year, reporting would have been required solely under § 4010.4(a)(2) or (3), provided that the missed contributions or applications for minimum funding waivers (as applicable) were reported to PBGC under part 4043 of this chapter by the due date for the 4010 filing.

(d) *Other waiver authority.* PBGC may waive the requirement to submit information with respect to one or more filers or plans or may extend the applicable due date or dates specified in § 4010.10. PBGC will exercise this discretion in appropriate cases where it finds convincing evidence supporting a waiver or extension; any waiver or extension may be subject to conditions. A request for a waiver or extension must be filed in writing with PBGC at the address provided in § 4010.10(c) no later than 15 days before the applicable due date specified in § 4010.10, and must state the facts and circumstances on which the request is based.

[81 FR 15440, Mar. 23, 2016]

§ 4010.12 Alternative method of compliance for certain sponsors of multiple employer plans.

(a) *In general.* Subject to paragraph (b) of this section, an eligible contributing sponsor (as defined in paragraph (c) of this section) of a multiple employer plan satisfies the requirements of this part for an information year if any contributing sponsor of the multiple employer plan provides a timely filing under this part for an information year that coincides with or overlaps with the eligible contributing sponsor's information year.

(b) *PBGC request for additional information.* PBGC may request some or all of the information that would otherwise be required under this part from an eligible contributing sponsor that uses the alternative method of compliance in this section. PBGC will make

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such a request no earlier than the date the information would otherwise have been due. The eligible contributing sponsor must provide the requested information no later than 30 days after PBGC makes the request. The requested information need not be submitted electronically.

(c) *Eligible contributing sponsor.* For purposes of this section, an eligible contributing sponsor of a multiple employer plan is a contributing sponsor that would not be subject to reporting if the plan were disregarded in applying the gateway tests in § 4010.4(a).

[74 FR 11035, Mar. 16, 2009]

§ 4010.13 Confidentiality of information submitted.

In accordance with § 4901.21(a)(3) of this chapter and ERISA section 4010(c), any information or documentary material that is not publicly available and is submitted to PBGC pursuant to this part will not be made public, except as may be relevant to any administrative or judicial action or proceeding or for disclosures to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

[61 FR 34022, July 1, 1996. Redesignated and amended at 74 FR 11035, Mar. 16, 2009]

§ 4010.14 Penalties.

If all of the information required under this part is not provided within the specified time limit, PBGC may assess a separate penalty under ERISA section 4071 against the filer and each member of the filer's controlled group (other than an exempt entity). PBGC may also pursue other equitable or legal remedies available to it under the law.

[61 FR 34022, July 1, 1996, as amended at 62 FR 36994, July 10, 1997. Redesignated and amended at 74 FR 11035, Mar. 16, 2009; 81 FR 29766, May 13, 2016]

§ 4010.15 OMB control number.

The collection of information requirements contained in this part have been approved by the Office of Management and Budget under OMB control number 1212-0049.

[61 FR 34022, July 1, 1996. Redesignated at 74 FR 11035, Mar. 16, 2009]