

investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

If your benefits are transferred to the successor plan, you will be furnished a successor plan SPD within 120 days of the partition; and the plan document, trust agreement, and other documents governing the successor plan will be available for review following the partition.

The plan administrator must respond to your request for these documents within 30 days, and may charge you the cost per page for the least expensive means of reproducing documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 annual reports are also available free of charge at <http://www.dol.gov/ebsa/5500main.html>. Some of the documents also may be available for examination, without charge, at the plan administrator's office, your worksite, or union hall.

#### *Plan Contact Information*

For more information about this Notice, you may contact:

[Insert Name of Plan Administrator, address, email address, and phone number]

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[80 FR 35229, June 19, 2015, as amended at 85 FR 6064, Feb. 4, 2020]

## **PART 4245—DUTIES OF PLAN SPONSOR OF AN INSOLVENT PLAN**

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AUTHORITY: 29 U.S.C. 1302(b)(3), 1341a, 1431, 1426(e).

SOURCE: 61 FR 34115, July 1, 1996, unless otherwise noted.

### **§ 4245.1 Purpose, scope, and filing and issuance rules.**

(a) *Purpose and scope.* This part prescribes insolvency notice requirements and financial assistance requirements pertaining to critical status plans. Plan sponsors of plans that have terminated by mass withdrawal under section 4041A(a)(2) of ERISA are required to file and issue similar insolvency notices under part 4281 of this chapter and withdrawal liability and actuarial valuation information under part 4041A of this chapter.

(b) *Filing and issuance rules*—(1) *Method of filing.* Filing with PBGC under this part must be made by a method permitted under the rules in subpart A of part 4000 of this chapter.

(2) *Method of issuance.* The issuance of the required notices to interested parties under this part must be made by one of the following methods—

(i) A method permitted under the rules in subpart B of part 4000 of this chapter.

(ii) For interested parties other than participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given, and other than alternate payees, the plan sponsor may post the notice at participants' work sites or publish the notice in a union newsletter or in a newspaper of general circulation in the area or areas where participants reside. Except with respect to an alternate payee, notice to a participant is deemed notice to that participant's beneficiary or beneficiaries.

(3) *Filing and issuance dates.* The date that a filing is sent and the date that an issuance is provided are determined under the rules in subpart C of part 4000 of this chapter.

(4) *Where to file.* Filings with PBGC under this part must be made as described in § 4000.4 of this chapter.

(5) *Computation of time.* The time period for filing or issuance under this part must be computed under the rules in subpart D of part 4000 of this chapter.

[84 FR 18724, May 2, 2019]

## Pension Benefit Guaranty Corporation

## § 4245.4

### § 4245.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: Employer, ERISA, IRS, multiemployer plan, non-forfeitable benefit, PBGC, person, plan, and plan year. In addition, for purposes of this part:

*Actuarial valuation* means a report submitted to a plan of a valuation of plan assets and liabilities that is performed in accordance with subpart B of part 4281 of this chapter.

*Available resources* means available resources as described in section 4245(b)(3) of ERISA.

*Benefits subject to reduction* means those benefits accrued under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980, that are not eligible for PBGC's guarantee under section 4022A(b) of ERISA.

*Financial assistance* means financial assistance from PBGC under section 4261 of ERISA.

*Insolvency benefit level* means the greater of the resource benefit level or the benefit level guaranteed by PBGC for each participant and beneficiary in pay status.

*Insolvency year* means insolvency year as described in section 4245(b)(4) of ERISA.

*Insolvent* means unable to pay benefits when due during the plan year.

*Interested parties* means, with respect to a plan—

- (1) Employers required to contribute to the plan;
- (2) Employee organizations that, for collective bargaining purposes, represent plan participants employed by such employers; and
- (3) Plan participants and beneficiaries.

*Reasonably expected to enter pay status* means, with respect to plan participants and beneficiaries, persons (other than those in pay status) who, according to plan records, are disabled, have applied for benefits, or have reached or will reach during the applicable period the normal retirement age under the plan, and any others whom it is reasonable for the plan sponsor to expect to enter pay status during the applicable period.

*Resource benefit level* means resource benefit level as described in section 4245(b)(2) of ERISA.

[61 FR 34115, July 1, 1996, as amended at 84 FR 18724, May 2, 2019]

### § 4245.3 Notice of insolvency.

(a) *Requirement of notice.* The plan sponsor of a plan that determines that the plan is insolvent in the current plan year or is expected to be insolvent in the next plan year must file with PBGC a notice of insolvency containing the information described in § 4245.4(a) and must issue to interested parties a notice of insolvency containing the information described in § 4245.4(b). Once notices of insolvency with respect to a plan have been provided as required, no notices of insolvency need be provided with respect to the plan for any subsequent plan year. A notice of insolvency may be combined with a notice of insolvency benefit level under § 4245.5 for the same plan year.

(b) *When to provide notice.* The plan sponsor must provide the notices of insolvency under paragraph (a) of this section at the time described in § 4281.43(b) of this chapter.

[84 FR 18724, May 2, 2019]

### § 4245.4 Contents of notice of insolvency.

(a) *Notice to PBGC.* A notice of insolvency under § 4245.3 required to be filed with PBGC must contain the information and certification specified in the notice of insolvency instructions on PBGC's website ([www.pbgc.gov](http://www.pbgc.gov)).

(b) *Notices to interested parties.* A notice of insolvency under § 4245.3 required to be given to interested parties must contain all of the following information—

(1) The information set forth in § 4281.44(b)(1) through (4) of this chapter.

(2) The estimated total amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year.

(3) The estimated amount of the plan's available resources for the insolvency year.

[84 FR 18724, May 2, 2019]

## § 4245.5

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### § 4245.5 Notice of insolvency benefit level.

(a) *Requirement of notice.* The plan sponsor of an insolvent plan must file with PBGC and issue to interested parties notices of insolvency benefit level containing the information described in § 4245.6 in each of the following circumstances—

(1) For the initial insolvency year, provide the notices of insolvency benefit level to PBGC and to interested parties.

(2) For any insolvency year following the initial insolvency year—

(i) If there is a change in the insolvency benefit level that affects plan payees generally, provide the notices of insolvency benefit level to PBGC and to plan payees (which, for purposes of this section, means participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year).

(ii) If there is a change in the insolvency benefit level that affects only one plan payee or a class of plan payees but not plan payees generally (treating commencement of a person's benefits for this purpose as a change in the insolvency benefit level for that person), provide the notices of insolvency benefit level to PBGC and to each affected plan payee.

(b) *Combined notices.* The plan sponsor may combine a notice of insolvency benefit level and a notice of insolvency under § 4245.3 for the same plan year.

(c) *When to provide notice.* The plan sponsor must provide the required notices under this section at the time described in § 4281.45(c) of this chapter.

[84 FR 18724, May 2, 2019]

### § 4245.6 Contents of notice of insolvency benefit level.

(a) *Notice to PBGC.* A notice of insolvency benefit level under § 4245.5(a) required to be filed with PBGC must contain the information and certification specified in the notice of insolvency benefit level instructions on PBGC's website ([www.pbgc.gov](http://www.pbgc.gov)).

(b) *Notices to interested parties other than participants and beneficiaries in or entering pay status.* A notice of insolvency benefit level under § 4245.5(a) required to be delivered to interested

parties, other than to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year, must include all of the following information—

(1) The name of the plan.

(2) The plan year for which the notice is issued.

(3) The estimated amount of annual benefit payments under the plan (determined without regard to the insolvency) for the insolvency year.

(4) The estimated amount of the plan's available resources for the insolvency year.

(5) The amount of financial assistance, if any, requested from PBGC.

(c) *Notices to participants and beneficiaries in or entering pay status.* A notice of insolvency benefit level under § 4245.5(a) required to be delivered to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given must include the information set forth in § 4281.46(b)(1) through (7) of this chapter.

[84 FR 18725, May 2, 2019]

### § 4245.7 Successor plan.

The plan sponsor of a successor plan created by a partition order under § 4233.14 of this chapter must issue to participants and beneficiaries any notice required under the partition order and is not required to file or issue notices under § 4245.3 or § 4245.5.

[84 FR 18725, May 2, 2019]

### § 4245.8 Financial assistance.

(a) *Application for financial assistance.* If the plan sponsor of a plan determines that the plan's resource benefit level for an insolvency year is below the level of benefits guaranteed by PBGC or that the plan will be unable to pay guaranteed benefits when due for any month during the year, the plan sponsor must apply to PBGC for financial assistance pursuant to section 4261 of ERISA and in accordance with § 4281.47 of this chapter.

(b) *Actuarial valuations and withdrawal liability.* The plan sponsor of an insolvent plan or a terminated plan that is expected to become insolvent under section 4245 of ERISA must—

## Pension Benefit Guaranty Corporation

## § 4281.1

(1) File withdrawal liability information with PBGC in accordance with § 4041A.23 of this chapter. The filing under § 4041A.23(b) of this chapter must be not later than 180 days after the earlier of the end of the plan year in which the plan becomes insolvent or terminates and each plan year thereafter.

(2) Have performed and file with PBGC actuarial valuations in accordance with § 4041A.24 of this chapter, except that if a plan is not terminated, the termination year valuation under § 4041A.24(a)(1) of this chapter must be performed for the plan for the plan year in which the plan becomes insolvent.

[84 FR 18725, May 2, 2019]

### PART 4261—FINANCIAL ASSISTANCE TO MULTIEMPLOYER PLANS

SOURCE: 61 FR 34118, July 1, 1996, unless otherwise noted.

#### § 4261.1 Cross-reference.

See § 4281.47 for procedures for applying to the PBGC for financial assistance under section 4261 of ERISA.

### PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

#### Subpart A—General Provisions

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- 4281.2 Definitions.
- 4281.3 Filing and issuance rules.
- 4281.4 Collection of information.

#### Subpart B—Valuation of Plan Benefits and Plan Assets

- 4281.11 Valuation dates.
- 4281.12 Benefits to be valued.
- 4281.13 Benefit valuation methods—in general.
- 4281.14–4281.15 [Reserved]
- 4281.16 Benefit valuation methods—plans closing out.
- 4281.17 Asset valuation methods—in general.
- 4281.18 Outstanding claims for withdrawal liability.

#### Subpart C—Benefit Reductions

- 4281.31 Plan amendment.

- 4281.32 Notices of benefit reductions.
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#### Subpart D—Benefit Suspensions

- 4281.41 Benefit suspensions.
- 4281.42 Retroactive payments.
- 4281.43 Notice of insolvency.
- 4281.44 Contents of notice of insolvency.
- 4281.45 Notice of insolvency benefit level.
- 4281.46 Contents of notice of insolvency benefit level.
- 4281.47 Application for financial assistance.

AUTHORITY: 29 U.S.C. 1302(b)(3), 1341(a), 1399(c)(1)(D), 1431, and 1441.

SOURCE: 61 FR 34118, July 1, 1996, unless otherwise noted.

#### Subpart A—General Provisions

##### § 4281.1 Purpose and scope.

(a) *General*—(1) *Purpose*. When a multiemployer plan terminates by mass withdrawal under section 4041A(a)(2) of ERISA, the plan's assets and benefits must be valued annually under section 4281(b) of ERISA, and plan benefits may have to be reduced or suspended to the extent provided in section 4281 (c) or (d). This part implements the provisions of section 4281 and provides rules for applying for financial assistance from the PBGC under section 4261 of ERISA. The plan valuation rules in this part also apply to the determination of reallocation liability under section 4219(c)(1)(D) of ERISA and subpart B of part 4219 of this chapter for multiemployer plans that undergo mass withdrawal (with or without termination).

(2) *Scope*. This part applies to multiemployer plans covered by title IV of ERISA that have terminated by mass withdrawal under section 4041A(a)(2) of ERISA (including plans created by partition pursuant to section 4233 of ERISA). Subpart B of this part also applies to covered multiemployer plans that have undergone mass withdrawal without terminating.

(b) *Subpart B*. Subpart B establishes rules for determining the value of multiemployer plan benefits and assets, including outstanding claims for withdrawal liability, for plans required to perform annual valuations under section 4281(b) of ERISA or allocate unfunded vested benefits under section 4219(c)(1)(D) of ERISA.