

Pension Benefit Guaranty Corporation

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§ 4262.17 Other provisions.

(a) Special financial assistance is not capped by the guarantee under section 4022A of ERISA.

(b) A plan that receives special financial assistance must continue to pay premiums due under section 4007 of ERISA for participants and beneficiaries in the plan.

(c) A plan that receives special financial assistance is deemed to be in critical status within the meaning of section 305(b)(2) of ERISA until the last day of the last plan year ending in 2051.

(d) A plan that receives special financial assistance and subsequently becomes insolvent under section 4245 of ERISA will be subject to the rules and guarantee for insolvent plans in effect when the plan becomes insolvent.

(e) A plan that receives special financial assistance is not eligible to apply for a suspension of benefits under section 305(e)(9) of ERISA.

(f) A plan that receives special financial assistance and meets the eligibility requirements for partition of the plan under section 4233(b) of ERISA may apply for partition.

(g) If any provision in this part is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision will be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding will be one of utter invalidity or unenforceability, in which event the provision will be severable from this part.

PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

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

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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.

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(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.

(c) *Subpart C.* Subpart C sets forth procedures under which the plan sponsor of a terminated plan shall amend the plan to reduce benefits subject to reduction in accordance with section 4281(c) of ERISA and § 4041A.24(b) of this chapter. Subpart C applies to a plan for which the annual valuation required by § 4041A.24(a) indicates that the value of nonforfeitable benefits under the plan exceeds the value of the plan's assets (including claims for withdrawal liability) if, at the end of the plan year for which that valuation was done, the plan provided any benefits subject to reduction. Benefit reductions required to be made under subpart C shall not apply to accrued benefits under plans or plan amendments adopted on or before March 26, 1980, or under collective bargaining agreements entered into on or before March 26, 1980.

(d) *Subpart D.* Subpart D sets forth the procedures under which the plan sponsor of an insolvent plan must suspend benefit payments and issue insolvency notices in accordance with section 4281(d) of ERISA and § 4041A.25 (c) and (d) of this chapter. Subpart D applies to a plan that has been amended under section 4281(c) of ERISA and subpart C of this part to eliminate all benefits subject to reduction and to a plan that provided no benefits subject to reduction as of the date on which the plan terminated.

§ 4281.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: annuity, employer, ERISA, fair market value, IRS, insurer, irrevocable commitment, mass withdrawal, multiemployer plan, nonforfeitable benefit, normal retirement age, PBGC, person, plan, plan administrator, 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 this part.

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.

Pro rata means that the required benefit reduction or payment must be allocated among affected participants in the same proportion that each such participant's nonforfeitable benefits under the plan bear to all nonforfeitable benefits of those participants under the plan.

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.

Valuation date means the last day of the plan year in which the plan terminates and the last day of each plan year thereafter.

[61 FR 34118, July 1, 1996, as amended at 84 FR 18725, May 2, 2019]

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§ 4281.3 Filing and issuance rules.

(a) *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.

(b) *Method of issuance.* The notices under this part must be issued to participants and beneficiaries by the methods provided in § 4281.32(c) for notices of benefit reductions, § 4281.43(c) for notices of insolvency, and § 4281.45(d) for notices of insolvency benefit level.

(c) *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.

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

(e) *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 18725, May 2, 2019]

§ 4281.4 Collection of information.

The collection of information requirements contained in this part have been approved by the Office of Management and Budget under control number 1212-0032.

Subpart B—Valuation of Plan Benefits and Plan Assets

§ 4281.11 Valuation dates.

(a) *Annual actuarial valuation of mass-withdrawal-terminated plans.* The valuation dates for the annual actuarial valuation required under section 4281(b) of ERISA are the last day of the plan year in which the plan terminates and the last day of each plan year thereafter for which an actuarial valuation is required to be performed under § 4041A.24 of this chapter.

(b) *Valuations related to mass withdrawal reallocation liability.* The valuation date for determining the value of unfunded vested benefits (for purposes of allocation) under section 4219(c)(1)(D) of ERISA is—

(1) If the plan terminates by mass withdrawal, the last day of the plan year in which the plan terminates; or

(2) If substantially all the employers withdraw from the plan pursuant to an agreement or arrangement to withdraw from the plan, the last day of the plan year as of which substantially all employers have withdrawn from the plan pursuant to the agreement or arrangement.

[61 FR 34118, July 1, 1996, as amended at 84 FR 18725, May 2, 2019]

§ 4281.12 Benefits to be valued.

(a) *Form of benefit.* The plan sponsor shall determine the form of each benefit to be valued, without regard to the form of benefit valued in any prior year, in accordance with the following rules:

(1) If a benefit is in pay status as of the valuation date, the plan sponsor shall value the form of benefit being paid.

(2) If a benefit is not in pay status as of the valuation date but a valid election with respect to the form of benefit has been made on or before the valuation date, the plan sponsor shall value the form of benefit so elected.

(3) If a benefit is not in pay status as of the valuation date and no valid election with respect to the form of benefit has been made on or before the valuation date, the plan sponsor shall value the form of benefit that, under the terms of the plan or applicable law, is payable in the absence of a valid election.

(b) *Timing of benefit.* The plan sponsor shall value benefits whose starting date is subject to election—

(1) By assuming that the starting date of each benefit is the earliest date, not preceding the valuation date, that could be elected; or

(2) By using any other assumption that the plan sponsor demonstrates to the satisfaction of the PBGC is more reasonable under the circumstances.

§ 4281.13 Benefit valuation methods—in general.

Except as otherwise provided in § 4281.16 (regarding plans that are closing out), the plan sponsor must value benefits as of the valuation date by—

(a) Using the interest assumptions under § 4044.54 of this chapter;

(b) Using the mortality assumptions under § 4044.53 of this chapter;

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(c) Using interpolation methods, where necessary, at least as accurate as linear interpolation;

(d) Applying valuation formulas that accord with generally accepted actuarial principles and practices; and

(e) Adjusting the values to reflect the loading for expenses in accordance with § 4044.52(d) of this chapter (substituting the term “benefits” for the term “benefit liabilities (as defined in 29 U.S.C. 1301(a)(16))”).

[61 FR 34118, July 1, 1996, as amended at 63 FR 38307, July 16, 1998; 84 FR 18726, May 2, 2019; 89 FR 48309, June 6, 2024]

§§ 4281.14–4281.15 [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-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

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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:

(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 prospectively. 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 participants and beneficiaries.* 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 participants and beneficiaries. In addition to the methods permitted under subpart B of part 4000, the plan sponsor may notify participants and beneficiaries, 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:

(1) The name of the plan.

(2) The name, address, and telephone number of the plan sponsor and of the plan sponsor's duly authorized representative, if any.

(3) The nine-digit Employer Identification Number (EIN) assigned by the

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IRS to the plan sponsor and the three-digit Plan Number (PN) assigned by the plan sponsor to the plan, and, if different, the EIN or PN last filed with the PBGC. If no EIN or PN has been assigned, the notice shall so state.

(4) The case number assigned by the PBGC to the filing of the plan's notice of termination pursuant to part 4041A, subpart B, of this chapter.

(5) A statement that a plan amendment reducing benefits has been adopted, listing the date of adoption and the effective date of the amendment.

(6) A certification, signed by the plan sponsor or its duly authorized representative, that notice of the benefit reductions has been given to all participants and beneficiaries whose benefits are reduced by the plan amendment, in accordance with the requirements of this section.

(e) *Contents of notice to participants and beneficiaries.* A notice of benefit reductions required under paragraph (a) of this section to be given to plan participants and beneficiaries whose benefits are reduced by the amendment shall contain the following information:

(1) The name of the plan.

(2) A statement that a plan amendment reducing benefits has been adopted, listing the date of adoption and the effective date of the amendment.

(3) A summary of the amendment, including a description of the effect of the amendment on the benefits to which it applies.

(4) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

[61 FR 34118, July 1, 1996, as amended at 68 FR 61457, Oct. 28, 2003; 84 FR 18726, May 2, 2019]

§ 4281.33 Restoration of benefits.

(a) *General.* The plan sponsor of a plan that has been amended to reduce benefits under this subpart shall amend the plan to restore those benefits before adopting any amendment increasing benefits under the plan. A plan is not required to make retroactive benefit payments with respect to any benefit that was reduced and subsequently

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restored in accordance with this section.

(b) *Notice to the PBGC.* The plan sponsor shall notify the PBGC in writing of any restoration under this section. The notice shall include the information specified in § 4281.32 (d)(1) through (d)(4); a statement that a plan amendment restoring benefits has been adopted, the date of adoption, and the effective date of the amendment; and a certification, signed by the plan sponsor or its duly authorized representative, that the amendment has been adopted in accordance with this section.

Subpart D—Benefit Suspensions

§ 4281.41 Benefit suspensions.

If the plan sponsor determines that the plan is or is expected to be insolvent for a plan year, the plan sponsor shall suspend benefits to the extent necessary to reduce the benefits to the greater of the resource benefit level or the level of guaranteed benefits.

§ 4281.42 Retroactive payments.

(a) *Erroneous resource benefit level.* If, by the end of a year in which benefits were suspended under § 4281.41, the plan sponsor determines in writing that the plan's available resources in that year could have supported benefit payments above the resource benefit level determined for that year, the plan sponsor may distribute the excess resources to each affected participant and beneficiary who received benefit payments that year on a pro rata basis. The amount distributed to each participant under this paragraph may not exceed the amount that, when added to benefit payments already made, brings the total benefit for the plan year up to the total benefit provided under the plan.

(b) *Benefits paid below resource benefit level.* If, by the end of a plan year in which benefits were suspended under § 4281.41, any benefit has not been paid at the resource benefit level, amounts up to the resource benefit level that were unpaid shall be distributed to each affected participant and beneficiary on a pro rata basis to the extent possible, taking into account the plan's total available resources in that year.

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§ 4281.43 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 § 4281.44(a) and issue to plan participants and beneficiaries a notice of insolvency containing the information described in § 4281.44(b). Once notices of insolvency with respect to a plan have been provided as required, no notice of insolvency need be provided with respect to the plan for any subsequent year. A notice of insolvency may be combined with a notice of insolvency benefit level under § 4281.45 for the same plan year.

(b) *When to provide notice.* (1) Except as provided in paragraph (b)(2) of this section, the plan sponsor must file or issue the notices of insolvency under paragraph (a) of this section by the later of—

(i) Ninety (90) days before the beginning of the insolvency year; or

(ii) Thirty (30) days after the date the insolvency determination is made.

(2) The plan sponsor may deliver the notices of insolvency under paragraph (a) of this section to participants and beneficiaries in pay status concurrently with the first benefit payment made after the date the insolvency determination is made.

(c) *Method of issuance to participants and beneficiaries.* The issuance of the notice of insolvency to participants and beneficiaries must be made by one of the following methods—

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

(2) For participants and beneficiaries, other than those 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.

[84 FR 18726, May 2, 2019]

§ 4281.44 Contents of notice of insolvency.

(a) *Notice to PBGC.* A notice of insolvency required under § 4281.43(a) 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*).

(b) *Notice to participants and beneficiaries.* A notice of insolvency required under § 4281.43(a) to be issued to plan participants and beneficiaries must contain all of the following information—

(1) The name of the plan.

(2) A statement of the plan year for which the plan sponsor has determined that the plan is or is expected to be insolvent.

(3) A statement that benefits above the amount that can be paid from available resources or the level guaranteed by PBGC, whichever is greater, will be suspended during the insolvency year, with a brief explanation of which benefits are guaranteed by PBGC under section 4022A of ERISA.

(4) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

[84 FR 18726, May 2, 2019]

§ 4281.45 Notice of insolvency benefit level.

(a) *Requirement of notice.* The plan sponsor of an insolvent plan must file with PBGC a notice of insolvency benefit level containing the information described in § 4281.46(a) and issue 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) a notice of insolvency benefit level containing the information described in § 4281.46(b) in each of the following circumstances—

(1) Except as provided in paragraph (a)(2) of this section, for the initial insolvency year and for any insolvency year following the initial insolvency year, if there is a change in insolvency

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benefit level that affects plan payees generally, provide the notices of insolvency benefit level to PBGC and to plan payees.

(2) For any insolvency year following the initial insolvency year, 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 under this section and a notice of insolvency under § 4281.43 for the same plan year.

(c) *When to provide notice.* (1) Except as provided in paragraph (c)(2) of this section, the plan sponsor must provide the notices under this section by the later of—

(i) Ninety (90) days before the beginning of the insolvency year; or

(ii) Thirty (30) days after the date the insolvency determination is made.

(2) The plan sponsor may deliver the notices required under this section to participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year for which the notice is given concurrently with the first benefit payment made after the date the insolvency determination is made.

(d) *Method of issuance to participants and beneficiaries.* The issuance of the notice of insolvency benefit level 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 be made by a method permitted under the rules in subpart B of part 4000 of this chapter.

[84 FR 18726, May 2, 2019]

§ 4281.46 Contents of notice of insolvency benefit level.

(a) *Notice to PBGC.* A notice of insolvency benefit level required by § 4281.45(a) 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*).

(b) *Notice to participants and beneficiaries in or entering pay status.* A notice of insolvency benefit level required by § 4281.45(a) to be delivered to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year must contain all of the following information—

(1) The name of the plan.

(2) The insolvency year for which the notice is being sent.

(3) The monthly benefit that the participant or beneficiary may expect to receive during the insolvency year.

(4) A statement that in subsequent plan years, depending on the plan's available resources, this benefit level may be increased or decreased but not below the level guaranteed by PBGC, and that the participant or beneficiary will be notified in advance of the new benefit level if it is less than the participant's full nonforfeitable benefit under the plan.

(5) The amount of the participant's or beneficiary's monthly nonforfeitable benefit under the plan.

(6) The amount of the participant's or beneficiary's monthly benefit that is guaranteed by PBGC.

(7) The name, address, and telephone number of the plan administrator or other person designated by the plan sponsor to answer inquiries concerning benefits.

[84 FR 18726, May 2, 2019]

§ 4281.47 Application for financial assistance.

(a) *General.* 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. The application must be filed within the time specified under paragraph (b) of this section and must contain the information under paragraph (c) of this section.

(b) *When, how, and where to apply—*(1) *Initial application.* Except as provided in the next sentence, a plan sponsor must apply for financial assistance no later than 90 days before the first day

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of the month for which the plan sponsor has determined the resource benefit level will be below the level of guaranteed benefits. If a plan sponsor cannot practicably apply for financial assistance by the date in the preceding sentence, the application must be made as soon as practicable after the plan sponsor has made the determination in the preceding sentence.

(2) *Recurring application.* A plan sponsor must apply for financial assistance as soon as practicable after the plan sponsor determines that the plan will be unable to pay guaranteed benefits when due for a month.

(3) *How and where to apply.* Application to PBGC for financial assistance must be made in accordance with the rules in subpart A of part 4000 of this chapter. See § 4000.4 of this chapter for information on where to apply.

(c) *Contents of application—(1) Initial application.* A plan sponsor applying for financial assistance because the plan's

resource benefit level is below the level of guaranteed benefits must file an application that includes the information specified in the instructions for an application for initial financial assistance on PBGC's website (www.pbgc.gov).

(2) *Recurring application.* A plan sponsor applying for financial assistance because the plan is unable to pay guaranteed benefits for any month must file an application that includes the information specified in the instructions for an application for recurring financial assistance on PBGC's website (www.pbgc.gov).

(3) *Additional information.* PBGC may request any additional information that it needs to calculate or verify the amount of financial assistance necessary as part of the conditions of granting financial assistance pursuant to section 4261 of ERISA.

[61 FR 34118, July 1, 1996, as amended at 84 FR 18727, May 2, 2019]