

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4000, 4003, 4007, 4010, 4011, 4022, 4041, 4041A, 4043, 4050, 4062, 4203, 4204, 4207, 4208, 4211, 4219, 4220, 4221, 4231, 4245, 4281, 4901, 4902, 4903 and 4907

RIN 1212-AA89

Rules on Filings, Issuances, Computation of Time, and Electronic Means of Record Retention

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: Consistent with the Government Paperwork Elimination Act, we are removing requirements from our regulations that might limit electronic filing with us or electronic issuances to others. These rules give us flexibility to keep pace with ever-changing technology. In addition, they simplify and consolidate our rules on what methods you may use to send us a filing or provide an issuance to someone other than us, on how to determine the date we treat you as having made your filing or provided your issuance, and on how to compute various periods of time (including those for filings with us and for issuances to third parties). Finally, they provide rules for maintaining records by electronic means.

DATES: This final rule is effective November 28, 2003.

Applicability date: See “Applicability of New Rules in Determining Your Filing or Issuance Date” under

SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Thomas H. Gabriel, Attorney, Office of the General Counsel, PBGC, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024. (For TTY/TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: On February 14, 2003, we published a proposed rule on filings, issuances, computation of time, and electronic means of record retention (65 FR 7454). We received no comments on the proposal and are now issuing it in final form with only minor editorial modifications.

These final rules are part of our ongoing implementation of the Government Paperwork Elimination Act (GPEA) and are consistent with the Office of Management and Budget directive to remove regulatory

impediments to electronic transactions. They address electronic means for filings with us, issuances to third parties, and recordkeeping. They build in the flexibility needed to allow us to continue to expand the availability of electronic options as technology advances. Under these rules, much of the detailed information on permitted electronic means will be on our Web site, <http://www.pb.gc.gov>, which will be updated from time to time.

The final rules make it easier for you to make a filing or provide an issuance on time by treating most types of submissions as filed or issued on the date sent (provided you meet certain requirements) rather than on the date received. In addition, the rules are easier to use—they are simpler, more uniform, and appear together in a single part of the regulations. The final rules make similar simplifying changes to the rules for computing periods of time.

Under this final rule, our filing, issuance, computation-of-time, and electronic record-retention rules are consolidated in new subparts A through E of part 4000.

- New subpart A tells you what methods you may use for sending a filing to us. These new rules apply to any filing with us under our regulations where the particular regulation calls for their application. For these purposes, we treat any payment to us under our regulations as a filing.

- New subpart B tells you what methods you may use to issue a notice or otherwise provide information to any person other than us. These new rules apply to any issuance (except a payment) under our regulations where the particular regulation calls for their application.

- New subpart C tells you how we determine the date you send us a filing and the date you provide an issuance to someone other than us (such as a participant). These new rules apply to any filing or issuance under our regulations where the particular regulation calls for their application.

- New subpart D tells you how to compute time periods. These new rules apply to any time period under our regulations (e.g., for filings with us and issuances to third parties) where the particular regulation calls for their application.

- New subpart E tells you how to comply with any recordkeeping requirement under our regulations using electronic means.

Existing Part 4000's distribution and derivation tables, which show the changes that occurred as a result of the PBGC's July 1, 1996, reorganization and renumbering of its regulations (61 FR

32574), are removed from the PBGC's regulations but are available on the PBGC's Web site at <http://www.pbgc.gov>, along with similar tables showing the changes that occurred as a result of the PBGC's June 29, 1981, reorganization and renumbering of its regulations (46 FR 32574). A note at the beginning of the PBGC's regulations refers users to the PBGC's Web site for the tables.

Applicability of New Rules in Determining Your Filing or Issuance Date

This final rule becomes effective on November 28, 2003. When we determine your filing or issuance date:

- If you have a filing or issuance date under the old rules that is before November 28, 2003, you will keep that date, *i.e.*, the new rules will not apply in determining your filing or issuance date.
- If your filing or issuance date under the old rules would be on or after November 28, 2003, we will (except as provided in the special transition rule for certain premium filings) use the new rules in determining your filing or issuance date. Note that your filing or issuance date under the new rules may turn out to be earlier than November 28, 2003.
- Under the special transition rule for certain premium filings, we will use the old rules (which are set forth in our regulations in effect before November 28, 2003, and also in the 2003 Premium Payment Package) to determine the date you filed your Form 1-ES, Form 1, Form 1-EZ, and any related premium payments for the 2003 premium payment year, provided that your filing was timely under the old rules.

Method of Filing

We are trying to provide as much flexibility as possible in filing methods. These rules allow you to file any submission with us by hand, mail, or commercial delivery service, and refer you to our Web site, <http://www.pbgc.gov>, for current information on electronic filing, including permitted methods, fax numbers, and e-mail addresses. The instruction booklets and forms used for certain filings with us also describe electronic and other filing methods, as appropriate, and are available on our Web site.

Where To File

Under these rules, we are removing the filing addresses from our regulations and putting them on our Web site, <http://www.pbgc.gov>, and in the instructions to our forms; addresses are also available through our Customer Service

Center, 1-800-400-7242 (for participants), or 1-800-736-2444 (for practitioners). (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to the appropriate number.) Because we have different addresses for different types of filings, you should make sure to use the appropriate address for your type of filing. For example, some filings (such as premium payments) must be sent to a bank, while other filings (such as the Standard Termination Notice (Form 500)) must be sent to the appropriate department at our offices in Washington, DC.

Method of Issuance

These rules on methods of issuance permit you to use any method of issuance, provided you use measures reasonably calculated to ensure actual receipt of the material by the intended recipient. Posting is not a permissible method of issuance under the rules of this part. (However, for certain issuances, posting is specifically permitted by the regulation governing the particular issuance.)

These rules include a safe-harbor method for providing an issuance by electronic media. The safe-harbor method generally tracks the Department of Labor's final rules (67 FR 17264 (April 9, 2002)) concerning disclosure of certain employee benefit plan information through electronic media, as set out at 29 CFR 2520.104b-1. Our safe-harbor method is available to any person using electronic media to satisfy issuance obligations under our regulations.

These rules on methods of issuance do not address compliance with the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000) (codified at 15 U.S.C. 7001-7006) ("E-SIGN").

Date of Filing or Issuance

These rules tell you how we determine the date you file your submission with us and the date you provide your issuance to someone other than us (such as a participant). In some cases, other PBGC rules relating to issuances to third parties refer to when an issuance is *received*. (For instance, when there is a request for abatement (29 CFR 4207.3), interest is credited to the employer if the plan sponsor does not issue a revised payment schedule reflecting the credit or make the required refund within 60 days after receipt by the plan sponsor of a complete abatement application action.) These rules do not affect those other receipt rules for issuances to third parties. Similarly, these rules do not

affect any receipt rule for filings with the PBGC, except to the extent these rules describe how to determine when a document is received (for instance, filings received by the PBGC after 5 p.m. on a business day are treated as received on the next business day).

Under these rules, we treat most types of submissions as filed on the date you send the submission to us if you comply with certain requirements. The requirements vary depending on the method of filing you use. We may ask you for evidence of when you sent a submission to us.

There are a few types of submissions to us that we always treat as filed when received (not when sent), no matter what method you use: (1) An application for benefits and related submissions (unless the instructions for the applicable forms provide for an earlier date), (2) an advance notice of reportable event (under subpart C of part 4043), (3) a notice of missed contributions exceeding \$1 million (under subpart D of part 4043), and (4) a request for approval of a multiemployer plan amendment. The "filed-when-received" rule is necessary for these submissions because we may need to act quickly to provide benefit payments, to protect participants or premium payers, or to act within a statutory time frame.

In these cases, as well as cases where you do not meet the requirements for your filing date to be the date you send your submission, your filing date is the date we receive your submission. However, if we receive your submission after 5 p.m. (our time) on a business day, or anytime on a weekend or Federal holiday, we treat it as received on the next business day.

Under these rules, we treat most types of issuances to third parties as provided on the date you send the issuance if you comply with certain requirements. The requirements vary depending on the method of issuance you use. The rules for determining the date of an issuance generally track the rules for determining the date of a filing; however, there are some differences for issuances using electronic means. An electronic issuance meeting the safe harbor has the benefit of the "send-date" rule. An electronic issuance that meets the general standard for issuances (*i.e.*, using measures reasonably calculated to ensure actual receipt), but not the safe harbor, is deemed issued on the date received by the intended recipient. (For a detailed discussion of how the method of delivery affects the date of a filing or issuance, see the preamble to our proposed rule (68 FR 7454).)

Computation of Time

These computation-of-time rules tell you how to compute time periods under our regulations (*e.g.*, for filings with us and issuances to third parties) where the particular regulation calls for their application. Some of our regulations contain specific exceptions or modifications to these rules. (For a detailed discussion of how the computation-of-time rules work, see the preamble to our proposed rule (68 FR 7454).)

Electronic Means of Record Retention

These rules provide guidance on record maintenance and retention using electronic means. These rules generally track the Department of Labor's final rules (67 FR 17264 (April 9, 2002)) for retaining records by electronic means, set out at 29 CFR 2520.107-1.

You remain responsible for following our electronic recordkeeping rules, even if you rely on others for help. For example, if a service provider to a plan administrator creates, maintains, retains, prepares, or keeps physical custody of the plan's records, the plan administrator must ensure that the service provider complies with these rules.

The recordkeeping requirements are consistent with the goals of E-SIGN and are designed to facilitate voluntary use of electronic records while ensuring continued accuracy, integrity and accessibility of records required to be kept under our regulations. The requirements are justified by the importance of the records involved, are substantially equivalent to the requirements imposed on records that are not electronic records, will not impose unreasonable costs on the acceptance and use of electronic records, and do not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification for performing the functions of creating, storing, generating, receiving, communicating, or authenticating electronic records.

Paperwork Reduction Act

Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number. This final rule contains information collection requirements. The Office of Management and Budget has approved this information collection under the Paperwork Reduction Act of 1995 OMB Control Number 1212-0059; Expire 10-31-06.

Compliance With Rulemaking Guidelines

The PBGC has determined, in consultation with the Office of Management and Budget, that this final rule is not a "significant regulatory action" under Executive Order 12866.

We certify under section 605(b) of the Regulatory Flexibility Act that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule does not affect the underlying requirements (*e.g.*, to file a submission with us, provide an issuance to a third party, or retain records) to which the rule applies. Nor does this final rule require any plan or other entity to make use of electronic media for either disclosure or recordkeeping purposes or to change the method it currently uses. Entities may avoid both any marginal cost and any beneficial impacts by simply retaining their existing paper-based or electronic methods of compliance with disclosure requirements or existing paper-based methods of compliance with recordkeeping requirements. (For those entities that already use electronic media for recordkeeping purposes, any expense associated with conforming their procedures to the minimum standards in this final rule will be marginal.) We do not expect the economic impact (if any) associated with the changes to be significant for entities of any size, and therefore certify that this final rule does not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

List of Subjects

29 CFR Part 4000

Pension insurance, Pensions, Reporting and Recordkeeping requirements.

29 CFR Part 4003

Administrative practice and procedure; Pension insurance

29 CFR Part 4007

Employee benefit plans; Penalties; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4010

Employee benefit plans; Penalties; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4011

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4022

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4041

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4041A

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4043

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4050

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4062

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4203

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4204

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4207

Employee benefit plans; Pension insurance

29 CFR Part 4208

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4211

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4219

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4220

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4221

Employee benefit plans; Pension insurance

29 CFR Part 4231

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4245

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4281

Employee benefit plans; Pension insurance; Reporting and recordkeeping requirements

29 CFR Part 4901

Freedom of information

29 CFR Part 4902

Privacy

29 CFR Part 4903

Claims; Government employees; Income taxes

29 CFR Part 4907

Administrative practice and procedure; Civil rights; Equal employment opportunity; Federal buildings and facilities; Individuals with disabilities.

■ For the reasons set forth above, the PBGC amends Title 29, CFR parts 4000, 4003, 4007, 4010, 4011, 4022, 4041, 4041A, 4043, 4050, 4062, 4203, 4204, 4207, 4208, 4211, 4219, 4220, 4221, 4231, 4245, 4281, 4901, 4902, 4903 and 4907 of 29 CFR chapter XL as follows:

■ 1. Add the following note above the heading for Subchapter A of Chapter XL:

Note: PBGC's regulations were substantially reorganized and renumbered effective June 29, 1981 (at 46 FR 32574) and July 1, 1996 (at 61 FR 34002). Distribution and derivation tables showing the changes that occurred as a result of these amendments are available on the PBGC's Web site at <http://www.pbgc.gov>.

■ 2. Revise part 4000 to read as follows:

PART 4000—FILING, ISSUANCE, COMPUTATION OF TIME, AND RECORD RETENTION

Subpart A—Filing Rules

Sec.

- 4000.1 What are these filing rules about?
- 4000.2 What definitions do I need to know for these rules?
- 4000.3 What methods of filing may I use?
- 4000.4 Where do I file my submission?
- 4000.5 Does the PBGC have discretion to waive these filing requirements?

Subpart B—Issuance Rules

- 4000.11 What are these issuance rules about?
- 4000.12 What definitions do I need to know for these rules?
- 4000.13 What methods of issuance may I use?
- 4000.14 What is the safe-harbor method for providing an issuance by electronic media?
- 4000.15 Does the PBGC have discretion to waive these issuance requirements?

Subpart C—Determining Filing and Issuance Dates

- 4000.21 What are these rules for determining the filing or issuance date about?
- 4000.22 What definitions do I need to know for these rules?
- 4000.23 When is my submission or issuance treated as filed or issued?
- 4000.24 What if I mail my submission or issuance using the U.S. Postal Service?
- 4000.25 What if I use the postal service of a foreign country?
- 4000.26 What if I use a commercial delivery service?
- 4000.27 What if I hand deliver my submission or issuance?
- 4000.28 What if I send a computer disk?
- 4000.29 What if I use electronic delivery?
- 4000.30 What if I need to resend my filing or issuance for technical reasons?
- 4000.31 Is my issuance untimely if I miss a few participants or beneficiaries?
- 4000.32 Does the PBGC have discretion to waive any requirements under this part?

Subpart D—Computation of Time

- 4000.41 What are these computation-of-time rules about?
- 4000.42 What definitions do I need to know for these rules?
- 4000.43 How do I compute a time period?

Subpart E—Electronic Means of Record Retention

- 4000.51 What are these record retention rules about?
- 4000.52 What definitions do I need to know for these rules?
- 4000.53 May I use electronic media to satisfy PBGC's record retention requirements?
- 4000.54 May I dispose of original paper records if I keep electronic copies?

Authority: 29 U.S.C. 1082(f), 1302(b)(3).

Subpart A—Filing Rules

§ 4000.1 What are these filing rules about?

Where a particular regulation calls for their application, the rules in this subpart A of part 4000 tell you what filing methods you may use for any submission (including a payment) to us. They do not cover an issuance from you to anyone other than the PBGC, such as a notice to participants. Also, they do not cover filings with us that are not made under our regulations, such as procurement filings, litigation filings, and applications for employment with

us. (Subpart B tells you what methods you may use to issue a notice or otherwise provide information to any person other than us. Subpart C tells you how we determine your filing or issuance date. Subpart D tells you how to compute various periods of time. Subpart E tells you how to maintain required records in electronic form.)

§ 4000.2 What definitions do I need to know for these rules?

You need to know two definitions from § 4001.2 of this chapter: PBGC and person. You also need to know the following definitions:

Filing means any notice, information, or payment that you submit to us under our regulations.

Issuance means any notice or other information you provide to any person other than us under our regulations.

We means the PBGC.

You means the person filing with us.

§ 4000.3 What methods of filing may I use?

(a) *Paper filings.* You may file any submission with us by hand, mail, or commercial delivery service.

(b) *Electronic filings.* Current information on electronic filings, including permitted methods, fax numbers, and e-mail addresses, is—

(1) On our Web site, <http://www.pbgc.gov>;

(2) In our various printed forms and instructions packages; and

(3) Available by contacting our Customer Service Center at 1200 K Street, NW., Washington, DC 20005–4026; telephone 1–800–400–7242 (for participants), or 1–800–736–2444 (for practitioners). (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to the appropriate number.)

§ 4000.4 Where do I file my submission?

To find out where to send your submission, visit our Web site at <http://www.pbgc.gov>, see the instructions to our forms, or call our Customer Service Center (1–800–400–7242 for participants, or 1–800–736–2444 for practitioners; TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to the appropriate number.) Because we have different addresses for different types of filings, you should make sure to use the appropriate address for your type of filing. For example, some filings (such as premium payments) must be sent to a specified bank, while other filings (such as the Standard Termination Notice (Form 500)) must be sent to the appropriate department at our offices in Washington, DC.

§ 4000.5 Does the PBGC have discretion to waive these filing requirements?

We retain the discretion to waive any requirement under this part, at any time, if warranted by the facts and circumstances.

Subpart B—Issuance Rules**§ 4000.11 What are these issuance rules about?**

Where a particular regulation calls for their application, the rules in this subpart B of part 4000 tell you what methods you may use to issue a notice or otherwise provide information to any person other than us (*e.g.*, a participant or beneficiary). They do *not* cover payments to third parties. In some cases, the PBGC regulations tell you to comply with requirements that are found somewhere other than in the PBGC's own regulations (*e.g.*, requirements under the Internal Revenue Code). If so, you must comply with any applicable issuance rules under those other requirements. (Subpart A tells you what filing methods you may use for filings with us. Subpart C tells you how we determine your filing or issuance date. Subpart D tells you how to compute various periods of time. Subpart E tells you how to maintain required records in electronic form.)

§ 4000.12 What definitions do I need to know for these rules?

You need to know two definitions from § 4001.2 of this chapter: PBGC and person. You also need to know the following definitions:

Filing means any notice, information, or payment that you submit to us under our regulations.

Issuance means any notice or other information you provide to any person other than us under our regulations.

We means the PBGC.

You means the person providing the issuance to a third party.

§ 4000.13 What methods of issuance may I use?

(a) *In general.* You may use any method of issuance, provided you use measures reasonably calculated to ensure actual receipt of the material by the intended recipient. Posting is not a permissible method of issuance under the rules of this part.

(b) *Electronic safe-harbor method.* Section 4000.14 provides a safe-harbor method for meeting the requirements of paragraph (a) of this section when providing an issuance using electronic media.

§ 4000.14 What is the safe-harbor method for providing an issuance by electronic media?

(a) *In general.* Except as otherwise provided by applicable law, rule or regulation, you satisfy the requirements of § 4000.13 if you follow the methods described at paragraph (b) of this section when providing an issuance by electronic media to any person described in paragraph (c) or (d) of this section.

(b) *Issuance requirements.* (1) You must take appropriate and necessary measures reasonably calculated to ensure that the system for furnishing documents—

(i) Results in actual receipt of transmitted information (*e.g.*, using return-receipt or notice of undelivered electronic mail features, conducting periodic reviews or surveys to confirm receipt of the transmitted information); and

(ii) Protects confidential information relating to the intended recipient (*e.g.*, incorporating into the system measures designed to preclude unauthorized receipt of or access to such information by anyone other than the intended recipient);

(2) You prepare and furnish electronically delivered documents in a manner that is consistent with the style, format and content requirements applicable to the particular document;

(3) You provide each intended recipient with a notice, in electronic or non-electronic form, at the time a document is furnished electronically, that apprises the intended recipient of—

(i) The significance of the document when it is not otherwise reasonably evident as transmitted (*e.g.*, “The attached participant notice contains information on the funding level of your defined benefit pension plan and the benefits guaranteed by the Pension Benefit Guaranty Corporation.”); and

(ii) The intended recipient's right to request and obtain a paper version of such document; and

(4) You give the intended recipient, upon request, a paper version of the electronically furnished documents.

(c) *Employees with electronic access.* This section applies to a participant who—

(1) Has the ability to effectively access the document furnished in electronic form at any location where the participant is reasonably expected to perform duties as an employee; and

(2) With respect to whom access to the employer's electronic information system is an integral part of those duties.

(d) *Any person.* This section applies to any person who—

(1) Except as provided in paragraph (d)(2) of this section, has affirmatively consented, in electronic or non-electronic form, to receiving documents through electronic media and has not withdrawn such consent;

(2) In the case of documents to be furnished through the Internet or other electronic communication network, has affirmatively consented or confirmed consent electronically, in a manner that reasonably demonstrates the person's ability to access information in the electronic form that will be used to provide the information that is the subject of the consent, and has provided an address for the receipt of electronically furnished documents;

(3) Prior to consenting, is provided, in electronic or non-electronic form, a clear and conspicuous statement indicating:

(i) The types of documents to which the consent would apply;

(ii) That consent can be withdrawn at any time without charge;

(iii) The procedures for withdrawing consent and for updating the participant's, beneficiary's or other person's address for receipt of electronically furnished documents or other information;

(iv) The right to request and obtain a paper version of an electronically furnished document, including whether the paper version will be provided free of charge;

(v) Any hardware and software requirements for accessing and retaining the documents; and

(4) Following consent, if a change in hardware or software requirements needed to access or retain electronic documents creates a material risk that the person will be unable to access or retain electronically furnished documents,

(i) Is provided with a statement of the revised hardware or software requirements for access to and retention of electronically furnished documents;

(ii) Is given the right to withdraw consent without charge and without the imposition of any condition or consequence that was not disclosed at the time of the initial consent; and

(iii) Again consents, in accordance with the requirements of paragraph (d)(1) or paragraph (d)(2) of this section, as applicable, to the receipt of documents through electronic media.

§ 4000.15 Does the PBGC have discretion to waive these issuance requirements?

We retain the discretion to waive any requirement under this part, at any time, if warranted by the facts and circumstances.

Subpart C—Determining Filing and Issuance Dates

§ 4000.21 What are these rules for determining the filing or issuance date about?

Where the particular regulation calls for their application, the rules in this subpart C of part 4000 tell you how we will determine the date you send us a filing and the date you provide an issuance to someone other than us (such as a participant). These rules do *not* cover payments to third parties. In addition, they do not cover filings with us that are not made under our regulations, such as procurement filings, litigation filings, and applications for employment with us. In some cases, the PBGC regulations tell you to comply with requirements that are found somewhere other than in the PBGC's own regulations (e.g., requirements under the Internal Revenue Code (Title 26, USC)). In meeting those requirements, you should follow any applicable rules under those requirements for determining the filing and issuance date. (Subpart A tells you what filing methods you may use for filings with us. Subpart B tells you what methods you may use to issue a notice or otherwise provide information to any person other than us. Subpart D tells you how to compute various periods of time. Subpart E tells you how to maintain required records in electronic form.)

§ 4000.22 What definitions do I need to know for these rules?

You need to know two definitions from § 4001.2 of this chapter: PBGC and person. You also need to know the following definitions:

Business day means a day other than a Saturday, Sunday, or Federal holiday. *We* means the PBGC.

You means the person filing with us or the person providing the issuance to a third party.

§ 4000.23 When is my submission or issuance treated as filed or issued?

(a) *Filed or issued when sent.* Generally, we treat your submission as filed, or your issuance as provided, on the date you send it, if you meet certain requirements. The requirements depend upon the method you use to send your submission or issuance (see §§ 4000.24 through 4000.29). (Certain filings are always treated as filed when received, as explained in paragraph (b)(2) of this section.)

(b) *Filed or issued when received.*—(1) *In general.* If you do not meet the requirements for your submission or issuance to be treated as filed or issued when sent (see §§ 4000.24 through

4000.32), we treat it as filed or issued on the date received in a permitted format at the proper address.

(2) *Certain filings always treated as filed when received.* We treat the following submissions as filed on the date we receive your submission, no matter what method you use:

(i) *Applications for benefits.* An application for benefits or related submission (unless the instructions for the applicable forms provide for an earlier date);

(ii) *Advance notice of reportable events.* Information required under subpart C of part 4043 of this chapter, dealing with advance notice of reportable events;

(iii) *Form 200 filings.* Information required under subpart D of part 4043 of this chapter, dealing with notice of certain missed minimum funding contributions; and

(iv) *Requests for approval of multiemployer plan amendments.* A request for approval of an amendment filed with the PBGC pursuant to part 4220 of this chapter.

(3) *Determining our receipt date for your filing.* If we receive your submission at the correct address by 5 p.m. (our time) on a business day, we treat it as received on that date. If we receive your submission at the correct address after 5 p.m. on a business day, or anytime on a weekend or Federal holiday, we treat it as received on the next business day. For example, if you send your fax or e-mail of a Form 200 filing to us in Washington, DC, on Friday, March 15, from California at 3 p.m. (Pacific standard time), and we receive it immediately at 6 p.m. (our time), we treat it as received on Monday, March 18.

§ 4000.24 What if I mail my submission or issuance using the U.S. Postal Service?

(a) *In general.* Your filing or issuance date is the date you mail your submission or issuance using the U.S. Postal Service if you meet the requirements of paragraph (b) of this section, and you mail it by the last scheduled collection of the day. If you mail it later than that, or if there is no scheduled collection that day, your filing or issuance date is the date of the next scheduled collection. If you do not meet the requirements of paragraph (b), your filing or issuance date is the date of receipt at the proper address.

(b) *Requirements for "send date."* Your submission or issuance must meet the applicable postal requirements, be properly addressed, and you must use First-Class Mail (or a U.S. Postal Service mail class that is at least the equivalent of First-Class Mail, such as Priority Mail

or Express Mail). However, if you are filing an advance notice of reportable event or a Form 200 (notice of certain missed contributions), see § 4000.23(b); these filings are always treated as filed when received.

(c) *Presumptions.* We make the following presumptions—

(1) *U.S. Postal Service postmark.* If you meet the requirements of paragraph (b) of this section and your submission or issuance has a legible U.S. Postal Service postmark, we presume that the postmark date is the filing or issuance date. However, you may prove an earlier date under paragraph (a) of this section.

(2) *Private meter postmark.* If you meet the requirements of paragraph (b) of this section and your submission or issuance has a legible postmark made by a private postage meter (but no legible U.S. Postal Service postmark) and arrives at the proper address by the time reasonably expected, we presume that the metered postmark date is your filing or issuance date. However, you may prove an earlier date under paragraph (a) of this section.

(d) *Examples.* (1) You mail your issuance using the U.S. Postal Service and meet the requirements of paragraph (b) of this section. You deposit your issuance in a mailbox at 4 p.m. on Friday, March 15 and the next scheduled collection at that mailbox is 5 p.m. that day. Your issuance date is March 15. If on the other hand you deposit it at 6 p.m. and the next collection at that mailbox is not until Monday, March 18, your issuance date is March 18.

(2) You mail your submission using the U.S. Postal Service and meet the requirements of paragraph (b) of this section. You deposit your submission in the mailbox at 4 p.m. on Friday, March 15, and the next scheduled collection at that mailbox is 5 p.m. that day. If your submission does not show a March 15 postmark, then you may prove to us that you mailed your submission by the last scheduled collection on March 15.

§ 4000.25 What if I use the postal service of a foreign country?

If you send your submission or issuance using the postal service of a foreign country, your filing or issuance date is the date of receipt at the proper address.

§ 4000.26 What if I use a commercial delivery service?

(a) *In general.* Your filing or issuance date is the date you deposit your submission or issuance with the commercial delivery service if you meet the requirements of paragraph (b) of this section, and you deposit it by the last

scheduled collection of the day for the type of delivery you use (such as two-day delivery or overnight delivery). If you deposit it later than that, or if there is no scheduled collection that day, your filing or issuance date is the date of the next scheduled collection. If you do not meet the requirements of paragraph (b), your filing or issuance date is the date of receipt at the proper address. However, if you are filing an advance notice of reportable event or a Form 200 (notice of certain missed contributions), see § 4000.23(b); these filings are always treated as filed when received.

(b) *Requirements for "send date."* Your submission or issuance must meet the applicable requirements of the commercial delivery service, be properly addressed, and—

(1) *Delivery within two days.* It must be reasonable to expect your submission or issuance will arrive at the proper address by 5 p.m. on the second business day after the next scheduled collection; or

(2) *Designated delivery service.* You must use a "designated delivery service" under section 7502(f) of the Internal Revenue Code (Title 26, USC). Our Web site, <http://www.pbtc.gov>, lists those designated delivery services. You should make sure that both the provider and the particular type of delivery (such as two-day delivery) are designated.

(c) *Example.* You send your submission by commercial delivery service using two-day delivery. In addition, you meet the requirements of paragraph (b) of this section. Suppose that the deadline for two-day delivery at the place you make your deposit is 8 p.m. on Friday, March 15. If you deposit your submission by that the deadline, your filing date is March 15. If, instead, you deposit it after the 8 p.m. deadline and the next collection at that site for two-day delivery is on Monday, March 18, your filing date is March 18.

§ 4000.27 What if I hand deliver my submission or issuance?

Your filing or issuance date is the date of receipt of your hand-delivered submission or issuance at the proper address. A hand-delivered issuance need not be delivered while the intended recipient is physically present. For example, unless you have reason to believe that the intended recipient will not receive the notice within a reasonable amount of time, a notice is deemed to be received when you place it in the intended recipient's office mailbox. Our Web site, <http://www.pbtc.gov>, and the instructions to our forms, identify the proper addresses for filings with us.

§ 4000.28 What if I send a computer disk?

(a) *In general.* We determine your filing or issuance date for a computer disk as if you had sent a paper version of your submission or issuances if you meet the requirements of paragraph (b) of this section.

(1) *Filings.* For computer-disk filings, we may treat your submission as invalid if you fail to meet the requirements of paragraph (b)(1) or (b)(3) of this section.

(2) *Issuances.* For computer-disk issuances, we may treat your issuance as invalid if—

(i) You fail to meet the requirements ("using measures reasonably calculated to ensure actual receipt") of § 4000.13(a), or

(ii) You fail to meet the contact information requirements of paragraph (b)(3) of this section.

(b) *Requirements.* To get the filing date under paragraph (a) of this section, you must meet the requirements of paragraphs (b)(1) and (b)(3). To get the issuance date under paragraph (a), you must meet the requirements of paragraphs (b)(2) and (b)(3).

(1) *Technical requirements for filings.* For filings, your electronic disk must comply with any technical requirements for that type of submission (our Web site, <http://www.pbtc.gov>, identifies the technical requirements for each type of filing).

(2) *Technical requirements for issuances.* For issuances, you must comply with the safe-harbor method under § 4000.14.

(3) *Identify contact person.* For filings and issuances, you must include, in a paper cover letter or on the disk's label, the name and telephone number of the person to contact if we or the intended recipient is unable to read the disk.

§ 4000.29 What if I use electronic delivery?

(a) *In general.* Your filing or issuance date is the date you electronically transmit your submission or issuance to the proper address if you meet the requirements of paragraph (b) of this section. Note that we always treat an advance notice of reportable event and a Form 200 (notice of certain missed contributions) as filed when received.

(1) *Filings.* For electronic filings, if you fail to meet the requirements of paragraph (b)(1) or (b)(3) of this section, we may treat your submission as invalid.

(2) *Issuances.* For electronic issuances, we may treat your issuance as invalid if—

(i) You fail to meet the requirements ("using measures reasonably calculated to ensure actual receipt") of § 4000.13(a), or

(ii) You fail to meet the contact information requirements of paragraph (b)(3) of this section.

(b) *Requirements.* To get the filing date under paragraph (a) of this section, you must meet the requirements of paragraphs (b)(1) and (b)(3). To get the issuance date under paragraph (a), you must meet the requirement of paragraphs (b)(2) and (b)(3).

(1) *Technical requirements for filings.* For filings, your electronic submission must comply with any technical requirements for that type of submission (our Web site, <http://www.pbtc.gov>, identifies the technical requirements for each type of filing).

(2) *Technical requirements for issuances.* For issuances, you must comply with the safe-harbor method under § 4000.14.

(3) *Identify contact person.* For an e-mail submission or issuance with an attachment, you must include, in the body of your e-mail, the name and telephone number of the person to contact if we or the intended recipient needs you to resubmit your filing or issuance.

(c) *Failure to meet address requirement.* If you send your electronic submission or issuance to the wrong address (but you meet the requirements of paragraph (b) of this section), your filing or issuance date is the date of receipt at the proper address.

§ 4000.30 What if I need to resend my filing or issuance for technical reasons?

(a) *Request to resubmit—(1) Filing.* We may ask you to resubmit all or a portion of your filing for technical reasons (for example, because we are unable to open an attachment to your e-mail). In that case, your submission (or portion) is invalid. However, if you comply with the request or otherwise resolve the problem (e.g., by providing advice that allows us to open the attachment to your e-mail) by the date we specify, your filing date for the submission (or portion) that we asked you to resubmit is the date you filed your original submission. If you comply with our request late, your submission (or portion) will be treated as filed on the date of your resubmission.

(2) *Issuance.* The intended recipient may, for good reason (of a technical nature), ask you to resend all or a portion of your issuance (for example, because of a technical problem in opening an attachment to your e-mail). In that case, your issuance (or portion) is invalid. However, if you comply with the request or otherwise resolve the problem (e.g., by providing advice that the recipient uses to open the attachment to your e-mail), within a

reasonable time, your issuance date for the issuance (or portion) that the intended recipient asked you to resend is the date you provided your original issuance. If you comply with the request late, your issuance (or portion) will be treated as provided on the date of your reissuance.

(b) *Reason to believe submission or issuance not received or defective.* If you have reason to believe that we have not received your submission (or have received it in a form that is not useable), or that the intended recipient has not received your issuance (or has received it in a form that is not useable), you must promptly resend your submission or issuance to get your original filing or issuance date. However, we may require evidence to support your original filing or issuance date. If you are not prompt, or you do not provide us with any evidence we may require to support your original filing or issuance date, your filing or issuance date is the filing or issuance date of your resubmission or reissuance.

§ 4000.31 Is my issuance untimely if I miss a few participants or beneficiaries?

The PBGC will not treat your issuance as untimely based on your failure to provide the issuance to a participant or beneficiary in a timely manner if—

- (a) The failure resulted from administrative error;
- (b) The failure involved only a de minimis percentage of intended recipients; and
- (c) You resend the issuance to the intended recipient promptly after discovering the error.

§ 4000.32 Does the PBGC have discretion to waive any requirements under this part?

We retain the discretion to waive any requirement under this part, at any time, if warranted by the facts and circumstances.

Subpart D—Computation of Time

§ 4000.41 What are these computation-of-time rules about?

The rules in this subpart D of part 4000 tell you how to compute time periods under our regulations (e.g., for filings with us and issuances to third parties) where the particular regulation calls for their application. (There are specific exceptions or modifications to these rules in § 4007.6 of this chapter (premium payments), § 4050.6(d)(3) of this chapter (payment of designated benefits for missing participants), and § 4062.10 of this chapter (employer liability payments). In some cases, the PBGC regulations tell you to comply with requirements that are found somewhere other than in the PBGC's

own regulations (e.g., requirements under the Internal Revenue Code (Title 26, USC)). In meeting those requirements, you should follow any applicable computation-of-time rules under those other requirements. (Subpart A tells you what filing methods you may use for filings with us. Subpart B tells you what methods you may use to issue a notice or otherwise provide information to any person other than us. Subpart C tells you how we determine your filing or issuance date. Subpart E tells you how to maintain required records in electronic form.)

§ 4000.42 What definitions do I need to know for these rules?

You need to know two definitions from § 4001.2 of this chapter: PBGC and person. You also need to know the following definitions:

Business day means a day other than a Saturday, Sunday, or Federal holiday. We means the PBGC.

You means the person responsible, under our regulations, for the filing or issuance to which these rules apply.

§ 4000.43 How do I compute a time period?

(a) *In general.* If you are computing a time period to which this part applies, whether you are counting forwards or backwards, the day after (or before) the act, event, or default that begins the period is day one, the next day is day two, and so on. Count all days, including weekends and Federal holidays. However, if the last day you count is a weekend or Federal holiday, extend or shorten the period (whichever benefits you in complying with the time requirement) to the next regular business day. The examples in paragraph (d) of this section illustrate these rules.

(b) *When date is designated.* In some cases, our regulations designate a specific day as the end of a time period, such as “the last day” of a plan year or “the fifteenth day” of a calendar month. In these cases, you simply use the designated day, together with the weekend and holiday rule of paragraph (a) of this section.

(c) *When counting months.* If a time period is measured in months, first identify the date (day, month, and year) of the act, event, or default that begins the period. The corresponding day of the following (or preceding) month is one month later (or earlier), and so on. For example, two months after July 15 is September 15. If the period ends on a weekend or Federal holiday, follow the weekend and holiday rule of paragraph (a) of this section. There are

two special rules for determining what the corresponding day is when you start counting on a day that is at or near the end of a calendar month:

(1) *Special “last-day” rule.* If you start counting on the last day of a calendar month, the corresponding day of any calendar month is the last day of that calendar month. For example, a three-month period measured from November 30 ends (if counting forward) on the last day of February (the 28th or 29th) or (if counting backward) on the last day of August (the 31st).

(2) *Special February rule.* If you start counting on the 29th or 30th of a calendar month, the corresponding day of February is the last day of February. For example, a one-month period measured from January 29 ends on the last day of February (the 28th or 29th).

(d) *Examples—(1) Counting backwards.* Suppose you are required to file an advance notice of reportable event for a transaction that is effective December 31. Under our regulations, the notice is due at least 30 days before the effective date of the event. To determine your deadline, count December 30 as day 1, December 29 as day 2, December 28 as day 3, and so on. Therefore, December 1 is day 30. Assuming that day is not a weekend or holiday, your notice is timely if you file it on or before December 1.

(2) *Weekend or holiday rule.* Suppose you are filing a notice of intent to terminate. The notice must be issued at least 60 days and no more than 90 days before the proposed termination date. Suppose the 60th day before the proposed termination date is a Saturday. Your notice is timely if you issue it on the following Monday even though that is only 58 days before the proposed termination date. Similarly, if the 90th day before the proposed termination date is Wednesday, July 4 (a Federal holiday), your notice is timely if you issue it on Tuesday, July 3, even though that is 91 days before the proposed termination date.

(3) *Counting months.* Suppose you are required to issue a Participant Notice two months after December 31. The deadline for the Participant Notice is the last day of February (the 28th or 29th). If the last day of February is a weekend or Federal holiday, your deadline is extended until the next day that is not a weekend or Federal holiday.

Subpart E—Electronic Means of Record Retention

§ 4000.51 What are these record retention rules about?

The rules in this subpart E of part 4000 tell you what methods you may

use to meet any record retention requirement under our regulations if you choose to use electronic means. The rules for who must retain the records, how long the records must be maintained, and how records must be made available to us are contained in the specific part where the record retention requirement is found. (Subpart A tells you what filing methods you may use for filings with us and how we determine your filing date. Subpart B tells you what methods you may use to issue a notice or otherwise provide information to any person other than us. Subpart C tells you how we determine your filing or issuance date. Subpart D tells you how to compute various periods of time.)

§ 4000.52 What definitions do I need to know for these rules?

You need to know two definitions from § 4001.2 of this chapter: PBGC and person. You also need to know the following definitions:

We means the PBGC.

You means the person subject to the record retention requirement.

§ 4000.53 May I use electronic media to satisfy PBGC's record retention requirements?

General requirements. You may use electronic media to satisfy the record maintenance and retention requirements of this chapter if:

(a) The electronic recordkeeping system has reasonable controls to ensure the integrity, accuracy, authenticity and reliability of the records kept in electronic form;

(b) The electronic records are maintained in reasonable order and in a safe and accessible place, and in such manner as they may be readily inspected or examined (for example, the recordkeeping system should be capable of indexing, retaining, preserving, retrieving and reproducing the electronic records);

(c) The electronic records are readily convertible into legible and readable paper copy as may be needed to satisfy reporting and disclosure requirements or any other obligation under section 302(f)(4), section 307(e), or Title IV of ERISA;

(d) The electronic recordkeeping system is not subject, in whole or in part, to any agreement or restriction that would, directly or indirectly, compromise or limit a person's ability to comply with any reporting and disclosure requirement or any other obligation under section 302(f)(4), section 307(e), or Title IV of ERISA;

(e) Adequate records management practices are established and

implemented (for example, following procedures for labeling of electronically maintained or retained records, providing a secure storage environment, creating back-up electronic copies and selecting an off-site storage location, observing a quality assurance program evidenced by regular evaluations of the electronic recordkeeping system including periodic checks of electronically maintained or retained records; and retaining paper copies of records that cannot be clearly, accurately or completely transferred to an electronic recordkeeping system); and

(f) All electronic records exhibit a high degree of legibility and readability when displayed on a video display terminal or other method of electronic transmission and when reproduced in paper form. The term "legibility" means the observer must be able to identify all letters and numerals positively and quickly to the exclusion of all other letters or numerals. The term "readability" means that the observer must be able to recognize a group of letters or numerals as words or complete numbers.

§ 4000.54 May I dispose of original paper records if I keep electronic copies?

You may dispose of original paper records any time after they are transferred to an electronic recordkeeping system that complies with the requirements of this subpart, except such original records may not be discarded if the electronic record would not constitute a duplicate or substitute record under the terms of the plan and applicable federal or state law.

(Approved by the Office of Management and Budget under control number 1212-0059)

PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

■ 3. The authority citation for part 4003 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

■ 4. Revise § 4003.9 to read as follows:

§ 4003.9 Method and date of filing.

(a) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(b) *Date of filing.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

■ 5. Revise § 4003.10 to read as follows:

§ 4003.10 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

§ 4003.33 [Amended]

■ 6. Amend § 4003.33 to add the sentence "See § 4000.4 of this chapter for information on where to file." to the end of the paragraph.

§ 4003.53 [Amended]

■ 7. Amend § 4003.53 to add the sentence "See § 4000.4 of this chapter for additional information on where to file." to the end of the paragraph.

PART 4007—PAYMENT OF PREMIUMS

■ 8. The authority citation for part 4007 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1303(a), 1306, 1307.

■ 9. Revise § 4007.3 to read as follows:

§ 4007.3 Filing requirements; method of filing.

(a) *Filing requirements.* The estimation, declaration, reconciliation and payment of premiums shall be made using the forms prescribed by and in accordance with the instructions in the PBGC annual Premium Payment Package. The plan administrator of each covered plan shall file the prescribed form or forms, and any premium payments due, no later than the applicable due date specified in § 4007.11.

(b) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

■ 10. Revise § 4007.5 to read as follows:

§ 4007.5 Date of filing.

The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

■ 11. Revise § 4007.6 to read as follows:

§ 4007.6 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part. However, for purposes of determining the amount of a late payment interest charge under § 4007.7 or of a late payment penalty charge under § 4007.8, the rule in § 4000.43(a) of this chapter governing periods ending on weekends or Federal holidays does not apply.

■ 12. Revise paragraphs (a) and (c)(1) of § 4007.10 to read as follows:

§ 4007.10 Recordkeeping; audits; disclosure of information.

(a) *Retention of records to support premium payments*—(1) *In general.* All plan records, including calculations and other data prepared by an enrolled actuary or, for a plan described in section 412(i) of the Code, by the insurer from which the insurance contracts are purchased, that are necessary to support or to validate premium payments under this part shall be retained by the plan administrator for a period of six years after the premium due date. Records that must be retained pursuant to this paragraph include, but are not limited to, records that establish the number of plan participants and that reconcile the calculation of the plan's unfunded vested benefits with the actuarial valuation upon which the calculation was based.

(2) *Electronic recordkeeping.* The plan administrator may use electronic media for maintenance and retention of records required by this part in accordance with the requirements of subpart E of part 4000 of this chapter.

* * * * *

(c) *Providing record information*—(1) *In general.* The plan administrator shall make the records retained pursuant to paragraph (a) of this section available to the PBGC upon request for inspection and photocopying (or, for electronic records, inspection, electronic copying, and printout) at the location where they are kept (or another, mutually agreeable, location) and shall submit information in such records to the PBGC within 45 days of the date of the PBGC's written request therefor, or by a different time specified therein.

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PART 4010—ANNUAL FINANCIAL AND ACTUARIAL INFORMATION REPORTING

- 13. Revise the authority citation for part 4010 to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1310.

- 14. Revise paragraphs (c), (d) and (e) of § 4010.10 to read as follows:

§ 4010.10 Due date and filing with the PBGC.

* * * * *

(c) *How and where to file.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. See § 4000.4 of this chapter for information on where to file.

(d) *Date of filing.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that

a submission under this part was filed with the PBGC.

(e) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

PART 4011—DISCLOSURE TO PARTICIPANTS

- 15. The authority citation for part 4011 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1311.

- 16. Revise § 4011.9 to read as follows:

§ 4011.9 Method and date of issuance of notice; computation of time.

(a) *Method of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the Participant Notice. The Participant Notice may be issued together with another document, such as the summary annual report required under section 104(b)(3) of ERISA for the prior plan year, but must be in a separate document.

(b) *Issuance date.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date the Participant Notice was issued.

(c) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for issuances under this part.

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

- 17. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

- 18. Amend § 4022.9 by adding paragraph (d) to read as follows:

§ 4022.9 Time of payment; benefit applications.

* * * * *

(d) *Filing with the PBGC*—(1) *Method and date of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. Benefit applications and related submissions are treated as filed on the date received by the PBGC unless the instructions for the applicable form provide for an earlier date. Subpart C of part 4000 of this chapter provides rules for determining when the PBGC receives a submission.

(2) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(3) *Computation of time.* The PBGC applies the rules in subpart D of part

4000 of this chapter to compute any time period for filing under this part.

PART 4041—TERMINATION OF SINGLE-EMPLOYER PLANS

- 19. The authority citation for part 4041 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341, 1344, 1350.

- 20. Amend § 4041.3 as follows:

■ a. Revise paragraphs (a), (b), (c) introductory text, and (c)(1) to read as set forth below;

■ b. Remove paragraph (c)(2);

■ c. Add the word “or” to the end of paragraph (c)(3)(i);

■ d. Remove paragraph (c)(3)(ii); and redesignate paragraph (c)(3)(iii) as paragraph (c)(3)(ii);

■ e. Redesignate paragraphs (c)(3) through (c)(6) as paragraphs (c)(2) through (c)(5).

§ 4041.3 Computation of time; filing and issuance rules.

(a) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part. A proposed termination date may be any day, including a weekend or Federal holiday.

(b) *Filing with the PBGC*—(1) *Method and date of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(2) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(c) *Issuance to third parties.* The following rules apply to affected parties (other than the PBGC). For purposes of this paragraph (c), a person entitled to notice under the spin-off/termination transaction rules of § 4041.23(c) or § 4041.24(f) is treated as an affected party.

(1) *Method and date of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

* * * * *

- 21. Revise § 4041.5 to read as follows:

§ 4041.5 Record retention and availability.

(a) *Retention requirement*—(1) *Persons subject to requirement; records to be retained.* Each contributing sponsor and the plan administrator of a plan terminating in a standard

termination, or in a distress termination that closes out in accordance with § 4041.50, must maintain all records necessary to demonstrate compliance with section 4041 of ERISA and this part. If a contributing sponsor or the plan administrator maintains information in accordance with this section, the other(s) need not maintain that information.

(2) *Retention period.* The records described in paragraph (a)(1) of this section must be preserved for six years after the date when the post-distribution certification under this part is filed with the PBGC.

(3) *Electronic recordkeeping.* The contributing sponsor or plan administrator may use electronic media for maintenance and retention of records required by this part in accordance with the requirements of subpart E of part 4000 of this chapter.

(b) *Availability of records.* The contributing sponsor or plan administrator must make all records needed to determine compliance with section 4041 of ERISA and this part available to the PBGC upon request for inspection and photocopying (or, for electronic records, inspection, electronic copying, and printout) at the location where they are kept (or another, mutually agreeable, location) and must submit such records to the PBGC within 30 days after the date of a written request by the PBGC or by a later date specified therein.

PART 4041A—TERMINATION OF MULTIPLE EMPLOYER PLANS

■ 22. The authority citation for part 4041A continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341a, 1441.

■ 23. Revise § 4041A.3 to read as follows:

§ 4041A.3 Method and date of filing; where to file; computation of time; issuances to third parties.

(a) *Method and date of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(b) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(c) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing or issuance under this part.

(d) *Method and date of issuance.* The PBGC applies the rules in subpart B of

part 4000 of this chapter to determine permissible methods of issuance under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

PART 4043—REPORTABLE EVENTS AND CERTAIN OTHER NOTIFICATION REQUIREMENTS

■ 24. The authority citation for part 4043 continues to read as follows:

Authority: 29 U.S.C. 1082(f), 1302(b)(3), 1443.

■ 25. Revise § 4043.5 to read as follows:

§ 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.

■ 26. Amend § 4043.6 by removing paragraph (d) and revising paragraphs (a) and (b) and the paragraph heading of paragraph (c) to read as follows:

§ 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.* * * *

* * * * *

■ 27. Revise § 4043.7 to read as follows:

§ 4043.7 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

PART 4050—MISSING PARTICIPANTS

■ 28. The authority citation for part 4050 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1350.

■ 29. Amend § 4050.6 by revising paragraph (d) to read as follows:

§ 4050.6 Payment and required documentation.

* * * * *

(d) *Filing with the PBGC—(1) Method and date of filing.* The PBGC applies the

rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(2) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(3) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing under this part. However, for purposes of determining the amount of an interest charge under § 4050.6(b) or § 4050.12(c)(2)(iii), the rule in § 4000.43(a) of this chapter governing periods ending on weekends or Federal holidays does not apply.

PART 4062—LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS

■ 30. The authority citation for part 4062 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1362–1364, 1367, 1368.

■ 31. Revise § 4062.9 to read as follows:

§ 4062.9 Method and date of filing; where to file.

(a) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. Payment of liability must be clearly designated as such and include the name of the plan.

(b) *Filing date.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

■ 32. Revise § 4062.10 to read as follows:

§ 4062.10 Computation of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part. However, for purposes of determining the amount of an interest charge under § 4062.7, the rule in § 4000.43(a) of this chapter governing periods ending on weekends or Federal holidays does not apply.

PART 4203—EXTENSION OF SPECIAL WITHDRAWAL LIABILITY RULES

■ 33. The authority citation for part 4203 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

■ 34. Amend § 4203.4 by revising paragraphs (a) and (c) to read as follows:

§ 4203.4 Requests for PBGC approval of plan amendments.

(a) *Filing of request*—(1) *In general.* A plan shall apply to the PBGC for approval of a plan amendment which establishes special complete or partial withdrawal liability rules. The request for approval shall be filed after the amendment is adopted. PBGC approval shall also be required for any subsequent modification of the plan amendment, other than a repeal of the amendment which results in employers being subject to the general statutory rules on withdrawal.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

* * * * *

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

* * * * *

PART 4204—VARIANCES FOR SALE OF ASSETS

■ 35. The authority citation for part 4204 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1384(c).

■ 36. Amend § 4204.11 as follows:

■ a. In the first sentence of paragraph (b), remove the word “filed” and add in its place the word “submitted”.

■ b. Add new paragraph (e) to read as follows:

§ 4204.11 Variance of the bond/escrow and sale-contract requirements.

* * * * *

(e) *Method and date of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this subpart. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this subpart was provided.

■ 37. Amend § 4204.21 by revising paragraphs (a) and (c) to read as follows:

§ 4204.21 Requests to PBGC for variances and exemptions.

(a) *Filing of request*—(1) *In general.* If a transaction covered by this part does not satisfy the conditions set forth in subpart B of this part, or if the parties decline to provide to the plan privileged or confidential financial information within the meaning of section 552(b)(4) of the Freedom of Information Act (5 U.S.C. 552), the purchaser or seller may request from the PBGC an exemption or variance from the requirements of section 4204(a)(1)(B) and (C) of ERISA.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part

4000 of this chapter to determine permissible methods of filing with the PBGC under this subpart.

* * * * *

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

* * * * *

PART 4207—REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

■ 38. The authority citation for part 4207 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1387.

■ 39. Amend § 4207.10 by revising paragraph (c) of this chapter to read as follows:

§ 4207.10 Plan rules for abatement.

* * * * *

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

* * * * *

■ 40. Add § 4207.11 to read as follows:

§ 4207.11 Method of filing; method and date of issuance.

(a) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(b) *Method of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this part.

(c) *Date of issuance.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

PART 4208—REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

■ 41. Revise the authority citation for part 4208 to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1388(c) and (e).

■ 42. Amend § 4208.9 by revising paragraph (c) to read as follows:

§ 4208.9 Plan adoption of additional abatement conditions.

* * * * *

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

* * * * *

■ 43. Add § 4208.10 to read as follows:

§ 4208.10 Method of filing; method and date of issuance.

(a) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(b) *Method of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this part.

(c) *Date of issuance.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

PART 4211—ALLOCATING UNFUNDED VESTED BENEFITS TO WITHDRAWING EMPLOYERS

■ 44. The authority citation for part 4211 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3); 1391(c)(1), (c)(2)(D), (c)(5)(A), (c)(5)(B), (c)(5)(D), and (f).

■ 45. Amend § 4211.22 by revising paragraphs (a) and (c) to read as follows:

§ 4211.22 Requests for PBGC approval.

(a) *Filing of request*—(1) *In general.* A plan shall submit a request for approval of an alternative allocation method or modification to an allocation method to the PBGC in accordance with the requirements of this section as soon as practicable after the adoption of the amendment.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this subpart.

* * * * *

(c) *Where to submit.* See § 4000.4 of this chapter for information on where to file.

* * * * *

PART 4219—NOTICE, COLLECTION AND REDETERMINATION OF WITHDRAWAL LIABILITY

■ 46. The authority citation for part 4219 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1388(c) and (e).

■ 47. Amend § 4219.17 by revising paragraphs (a), (d) and (e) to read as follows:

§ 4219.17 Filings with PBGC.

(a) *Filing requirements*—(1) *In general.* The plan sponsor shall file with PBGC a notice that a mass withdrawal has occurred and separate certifications that determinations of redetermination liability and reallocation liability have been made and notices provided to employers in accordance with this subpart.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine

permissible methods of filing with the PBGC under this subpart.

(3) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this subpart for filing with the PBGC.

* * * * *

(d) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(e) *Date of filing.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this subpart was filed with the PBGC.

* * * * *

§ 4219.19 [Redesignated as § 4219.20]

■ 48. Redesignate § 4219.19 as § 4219.20.

■ 49. Add § 4219.19 to read as follows:

§ 4219.19 Method and date of issuance; computation of time.

The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this subpart. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this subpart was provided. The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for issuances to third parties under this subpart.

PART 4220—PROCEDURES FOR PBGC APPROVAL OF PLAN AMENDMENTS

■ 50. The authority citation for part 4220 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1400.

■ 51. Amend § 4220.3 by revising paragraphs (a) and (c) and adding paragraph (f) to read as follows:

§ 4220.3 Requests for PBGC approval.

(a) *Filing of request.*—(1) *In general.* A request for approval of an amendment filed with the PBGC in accordance with this section shall constitute notice to the PBGC for purposes of the 90-day period specified in section 4220 of ERISA. A request is treated as filed on the date on which a request containing all information required by paragraph (d) of this section is received by the PBGC. Subpart C of part 4000 of this chapter provides rules for determining when the PBGC receives a submission.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

* * * * *

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

* * * * *

(f) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

PART 4221—ARBITRATION OF DISPUTES IN MULTIEMPLOYER PLANS

■ 52. The authority citation for part 4221 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1401.

■ 53. Amend paragraph (c) of § 4221.4 by revising the second sentence to read as follows:

§ 4221.4 Appointment of the arbitrator.

* * * * *

(c) *Challenge and withdrawal.* * * * The request for withdrawal shall be served on all other parties and the arbitrator by hand or by certified or registered mail (or by any other method that includes verification or acknowledgment of receipt and meets (if applicable) the requirements of § 4000.14 of this chapter) and shall include a statement of the circumstances that, in the requesting party's view, affect the arbitrator's impartiality and a statement that the requesting party has brought these circumstances to the attention of the arbitrator and the other parties at the earliest practicable point in the proceedings. * * *

* * * * *

■ 54. Amend § 4221.6 by revising paragraph (b) to read as follows:

§ 4221.6 Hearing.

* * * * *

(b) *Notice.* After the time and place for the hearing have been established, the arbitrator shall serve a written notice of the hearing on the parties by hand, by certified or registered mail, or by any other method that includes verification or acknowledgment of receipt and meets (if applicable) the requirements of § 4000.14 of this chapter.

* * * * *

■ 55. Revise § 4221.12 to read as follows:

§ 4221.12 Calculation of periods of time.

The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

■ 56. Revise § 4221.13 to read as follows:

§ 4221.13 Filing and issuance rules.

(a) *Method and date of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine

permissible methods of filing with the PBGC under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(b) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(c) *Method and date of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

§ 4221.14 [Amended]

■ 57. Revise the third sentence of paragraph (c) of § 4221.14 to read as follows: "The application shall include:"

PART 4231—MERGERS AND TRANSFERS BETWEEN MULTIEMPLOYER PLANS

■ 58. The authority citation for part 4231 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1411.

■ 59. Amend § 4231.8 by revising paragraphs (a), (c), and (d) to read as follows:

§ 4231.8 Notice of merger or transfer.

(a) *Filing of request.*—(1) *When to file.* Except as provided in paragraph (f) of this section, a notice of a proposed merger or transfer must be filed not less than 120 days before the effective date of the transaction. For purposes of this part, the effective date of a merger or transfer is the earlier of—

(i) The date on which one plan assumes liability for benefits accrued under another plan involved in the transaction; or

(ii) The date on which one plan transfers assets to another plan involved in the transaction.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(3) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing under this part.

* * * * *

(c) *Where to file.* See § 4000.4 of this chapter for information on where to file.

(d) *Date of filing.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC. For purposes of paragraph (a) of this section, the notice is not considered filed until all of the

information required by paragraph (e) of this section has been submitted.

* * * * *

PART 4245—NOTICE OF INSOLVENCY

■ 60. The authority citation for part 4245 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1426(e).

■ 61. Amend § 4245.3 as follows:

■ a. In the first sentence of paragraph (a), remove the words “interested parties, as defined in paragraph (d) of this section” and add in their place the words “interested parties, as defined in paragraph (e) of this section”.

■ b. Redesignate paragraph (d) as paragraph (e).

■ c. Revise paragraph (c) and add paragraph (d) to read as follows:

§ 4245.3 Notice of insolvency.

* * * * *

(c) *Delivery to PBGC*—(1) *Method of filing*. The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing the notice of insolvency with the PBGC under this part.

(2) *Filing date*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a notice of insolvency under this part was filed with the PBGC.

(d) *Delivery to interested parties*—(1) *Method of issuance*. The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the notice of insolvency 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, 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.

(2) *Issuance date*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that the notice of insolvency was issued.

* * * * *

§ 4245.4 [Amended]

■ 62. Amend the introductory language of paragraph (b) by removing the words “an interested party, as defined in § 4245.3(d)” and adding in their place the words “interested parties, as defined in § 4245.3(e)”.

§ 4245.5 [Amended]

■ 63. Amend § 4245.5 as follows:

■ a. In the first sentence of paragraph (a), remove the words “interested parties, as defined in § 4245.3(d)” and add in their place the words “interested parties, as defined in § 4245.3(e)”.

■ b. Revise paragraph (d) and add paragraph (e) to read as follows:

§ 4245.5 Notice of insolvency benefit level.

* * * * *

(d) *Delivery to PBGC*—(1) *Method of filing*. The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing a notice of insolvency benefit level with the PBGC under this part.

(2) *Filing date*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a notice of insolvency benefit level under this part was filed with the PBGC.

(e) *Delivery to interested parties*—(1) *Method of issuance*. The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the notice of insolvency benefit levels 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 or reasonably expected to enter pay status during the insolvency year for which the notice is given, 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.

(2) *Issuance date*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that the notice of insolvency benefit levels was issued.

§ 4245.6 [Amended]

■ 64. In § 4245.6, amend the introductory language of paragraph (b) by removing the words “interested parties, as defined in § 4245.3(d)” and adding in their place the words “interested parties, as defined in § 4245.3(e)”.

■ 65. Revise § 4245.7 to read as follows:

§ 4245.7 PBGC address.

See § 4000.4 of this chapter for information on where to file.

■ 66. Add § 4245.8 to read as follows:

§ 4245.8 Computation of time.

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

compute any time period for filing or issuance under this part.

PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

■ 67. The authority citation for part 4281 continues to read as follows:

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

■ 68. Revise § 4281.3 to read as follows:

§ 4281.3 Filing and issuance rules.

(a) *Method of filing*. The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(b) *Method of issuance*. See § 4281.32(c) for notices of benefit reductions, § 4281.43(e) for notices of insolvency, and § 4281.45(c) for notices of insolvency benefit level.

(c) *Date of filing*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(d) *Date of issuance*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this part was provided.

(e) *Where to file*. See § 4000.4 of this chapter for information on where to file.

(f) *Computation of time*. The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing or issuance under this part.

■ 69. Revise paragraph (c) of § 4281.32 to read as follows:

§ 4281.32 Notices of benefit reductions.

* * * * *

(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.

* * * * *

- 70. Revise paragraphs (e) and (f) of § 4281.43 to read as follows:

§ 4281.43 Notices of insolvency and annual updates.

* * * * *

(e) *Notices of insolvency—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 insolvency. 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, 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.

(f) *Annual updates—method of issuance.* The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the annual update to participants and beneficiaries. In addition to the methods permitted under subpart B of part 4000, the plan sponsor may notify interested parties 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.

- 71. Revise paragraph (c) of § 4281.45 to read as follows:

§ 4281.45 Notices of insolvency benefit level.

* * * * *

(c) *Method of issuance.* The notices of insolvency benefit level shall be delivered to the PBGC and to plan participants and beneficiaries in pay status or reasonably expected to enter pay status during the insolvency year. The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance of the notice of insolvency benefit levels to interested parties.

PART 4901—EXAMINATION AND COPYING OF PENSION BENEFIT GUARANTY CORPORATION RECORDS

- 72. Revise the authority citation for part 4901 to read as follows:

Authority: 5 U.S.C. 552, 29 U.S.C. 1302(b)(3), EO 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235.

- 73. Add § 4901.6 to Subpart A to read as follows:

§ 4901.6 Filing rules; computation of time.

(a) *Filing rules—(1) Where to file.* See § 4000.4 of this chapter for information on where to file a submission under this part with the PBGC.

(2) *Method of filing.* The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(3) *Date of filing.* The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(b) *Computation of time.* The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

- 74. Revise § 4901.11 to read as follows:

§ 4901.11 Submittal of requests for access to records.

A request to inspect or copy any record subject to this subpart shall be submitted to the Disclosure Officer, Pension Benefit Guaranty Corporation. Such a request may be sent to the Disclosure Officer or made in person between the hours of 9 a.m. and 4 p.m. on any working day in the Communications and Public Affairs Department, PBGC, 1200 K Street, NW., Suite 240, Washington, DC 20005-4026. To expedite processing, the request should be prominently identified as a "FOIA request."

- 75. Revise paragraph (a) of § 4901.15 to read as follows:

§ 4901.15 Appeals from denial of requests.

(a) *Submittal of appeals.* If a disclosure request is denied in whole or in part by the disclosure officer, the requester may file a written appeal within 30 days from the date of the denial or, if later (in the case of a partial denial), 30 days from the date the requester receives the disclosed material. The appeal shall state the grounds for appeal and any supporting statements or arguments, and shall be addressed to the General Counsel, Pension Benefit Guaranty Corporation. See § 4000.4 of this chapter for information on where to file. To

expedite processing, the words "FOIA appeal" should appear prominently on the request.

* * * * *

- 76. Revise paragraph (c) of § 4901.33 to read as follows:

§ 4901.33 Payment of fees.

* * * * *

(c) *Late payment interest charges.* The PBGC may assess late payment interest charges on any amounts unpaid by the 31st day after the date a bill is sent to a requester. Interest will be assessed at the rate prescribed in 31 U.S.C. 3717 and will accrue from the date the bill is sent.

PART 4902—DISCLOSURE AND AMENDMENT OF RECORDS PERTAINING TO INDIVIDUALS UNDER THE PRIVACY ACT

- 77. The authority citation for part 4902 continues to read as follows:

Authority: 5 U.S.C. 552a.

- 78. Revise paragraphs (a) and (b) of § 4902.3 to read as follows:

§ 4902.3 Procedures for determining existence of and requesting access to records.

(a) Any individual may submit a request to the Disclosure Officer, Pension Benefit Guaranty Corporation, for the purpose of learning whether a system of records maintained by the PBGC contains any record pertaining to the requestor or obtaining access to such a record. Such a request may be sent to the Disclosure Officer or made in person between the hours of 9 a.m. and 4 p.m. on any working day in the Communications and Public Affairs Department, PBGC, 1200 K Street, NW., Suite 240, Washington, DC 20005-4026.

(b) Each request submitted pursuant to paragraph (a) of this section shall include the name of the system of records to which the request pertains and the requester's full name, home address and date of birth, and shall prominently state the words, "Privacy Act Request." If this information is insufficient to enable the PBGC to identify the record in question, or to determine the identity of the requester (to ensure the privacy of the subject of the record), the disclosure officer shall request such further identifying data as the disclosure officer deems necessary to locate the record or to determine the identity of the requester.

* * * * *

- 79. Revise paragraph (c) of § 4902.5 to read as follows:

§ 4902.5 Procedures for requesting amendment of a record.

* * * *

(c) An individual who desires assistance in the preparation of a request for amendment of a record shall submit such request for assistance in writing to the Deputy General Counsel, Pension Benefit Guaranty Corporation. The Deputy General Counsel shall respond to such request as promptly as possible.

■ 80. Revise paragraph (c) of § 4902.6 to read as follows:

§ 4902.6 Action on request for amendment of a record.

* * * *

(c) An individual who desires assistance in preparing an appeal of a denial under this section shall submit a request to the Deputy General Counsel, Pension Benefit Guaranty Corporation. The Deputy General Counsel shall respond to the request as promptly as possible, but in no event more than 30 days after receipt.

■ 81. Revise paragraph (a) of § 4902.7 to read as follows:

§ 4902.7 Appeal of a denial of a request for amendment of a record.

(a) An appeal from a denial of a request for amendment of a record under § 4902.6 shall be submitted, within 45 days of receipt of the denial, to the General Counsel, Pension Benefit Guaranty Corporation, unless the record subject to such request is one maintained by the Office of the General Counsel, in which event the appeal shall be submitted to the Deputy Executive Director, Pension Benefit Guaranty Corporation. The appeal shall state in detail the basis on which it is made and shall clearly state "Privacy Act Request" on the first page. In addition, the submission shall clearly state "Privacy Act Request" on the envelope (for mail, hand delivery, or commercial delivery), in the subject line (for e-mail), or on the cover sheet (for fax).

* * * *

■ 82. Add § 4902.10 to read as follows:

§ 4902.10 Filing rules; computation of time.

(a) *Filing rules*—(1) *Where to file*. See § 4000.4 of this chapter for information on where to file a submission under this part with the PBGC.

(2) *Method of filing*. The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(3) *Date of filing*. The PBGC applies the rules in subpart C of part 4000 of

this chapter to determine the date that a submission under this part was filed with the PBGC.

(b) *Computation of time*. The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing under this part.

PART 4903—DEBT COLLECTION

■ 83. The authority citation for part 4903 continues to read as follows:

Authority: 29 U.S.C. 1302(b); 31 U.S.C. 3701, 3711(f), 3720A; 4 CFR part 102; 26 CFR 301.6402–6.

■ 84. Amend § 4903.2 by adding paragraphs (c) and (d) to read as follows:

§ 4903.2 General.

* * * *

(c) The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC. See § 4000.4 of this chapter for information on where to file.

(d) The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for filing under this part.

■ 85. Revise paragraph (b)(2) of § 4903.24 to read as follows:

§ 4903.24 Request for offset from other agencies.

* * * *

(b) * * *

(2) All such requests should be directed to the Director, Financial Operations Department. See § 4000.4 of this chapter for additional information on where to file.

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PART 4907—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE PENSION BENEFIT GUARANTY CORPORATION

■ 86. The authority citation for part 4907 continues to read as follows:

Authority: 29 U.S.C. 794, 1302(b)(3).

■ 87. Revise paragraph (c) of § 4907.170 to read as follows:

§ 4907.170 Compliance procedures.

* * * *

(c) The Equal Opportunity Manager shall be responsible for coordinating implementation of this section.

(1) *Where to file*. See § 4000.4 of this chapter for information on where to file complaints under this part.

(2) *Method of filing*. The PBGC applies the rules in subpart A of part 4000 of this chapter to determine permissible methods of filing with the PBGC under this part.

(3) *Date of filing*. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that a submission under this part was filed with the PBGC.

(4) *Computation of time*. The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period under this part.

* * * *

Issued in Washington, DC, this 23rd day of October, 2003.

Elaine L. Chao,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

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