

#### § 4041.4

the participant's estate if the estate is not entitled to a distribution.

(4) *Form of notices to affected parties.* All notices to affected parties must be readable and written in a manner calculated to be understood by the average plan participant. The plan administrator may provide additional information with a notice only if the information is not misleading.

(5) *Foreign languages.* The plan administrator of a plan that (as of the proposed termination date) covers the numbers or percentages in § 2520.104b-10(e) of this title of participants literate only in the same non-English language must, for any notice to affected parties—

(i) Include a prominent legend in that common non-English language advising them how to obtain assistance in understanding the notice; or

(ii) Provide the notice in that common non-English language to those affected parties literate only in that language.

[62 FR 60428, Nov. 7, 1997, as amended at 68 FR 61353, Oct. 28, 2003]

#### § 4041.4 Disaster relief.

When the President of the United States declares that, under the Disaster Relief Act (42 U.S.C. 5121, 5122(2), 5141(b)), a major disaster exists, the Executive Director of the PBGC (or his or her designee) may, by issuing one or more notices of disaster relief, extend by up to 180 days any due date under this part.

#### § 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

#### 29 CFR Ch. XL (7-1-06 Edition)

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.

[68 FR 61353, Oct. 28, 2003]

#### § 4041.6 Effect of failure to provide required information.

If a plan administrator fails to provide any information required under this part within the specified time limit, the PBGC may assess a penalty under section 4071 of ERISA of up to \$1,100 a day for each day that the failure continues. The PBGC may also pursue any other equitable or legal remedies available to it under the law, including, if appropriate, the issuance of a notice of noncompliance under § 4041.31.

#### § 4041.7 Challenges to plan termination under collective bargaining agreement.

(a) *Suspension upon formal challenge to termination—(1) Notice of formal challenge.* (i) If the PBGC is advised, before its review period under § 4041.26(a) ends, or before issuance of a notice of inability to determine sufficiency or a distribution notice under § 4041.47(b) or (c), that a formal challenge to the termination has been initiated as described in paragraph (c) of this section, the PBGC will suspend the termination proceeding and so advise the plan administrator in writing.