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(8) A statement of any material change in the assets or liabilities of the plan occurring after the date of the most recent actuarial statement and opinion.

(c) *Optional reportable event forms.* The PBGC shall issue optional reportable events forms, which may provide for reduced initial information submissions.

(d) *Requests for additional information.* The PBGC may, in any case, require the submission of additional information. Any such information shall be submitted for subpart B of this part within 30 days, and for subpart C or D of this part within 7 days, after the date of a written request by the PBGC, or within a different time period specified therein. The PBGC may in its discretion shorten the time period where it determines that the interests of the PBGC or participants may be prejudiced by a delay in receipt of the information.

(e) *Effect of failure to file.* If a notice (or any other information required under this part) is not provided within the specified time limit, the PBGC may assess against each person required to provide the notice a separate penalty under section 4071 of ERISA of up to \$1,100 a day for each day that the failure continues. The PBGC may pursue any other equitable or legal remedies available to it under the law.

[61 FR 63989, Dec. 2, 1996, as amended at 62 FR 36994, July 10, 1997]

§ 4043.4 Waivers and extensions.

(a) *Specific events.* For specific reportable events, waivers from reporting and information requirements and extensions of time are provided in subparts B and C of this part. If an occurrence constitutes two or more reportable events, reporting requirements for each event are determined independently. For example, any event reportable under more than one section will be exempt from reporting only if it satisfies the requirements for a waiver under each section.

(b) *Multiemployer plans.* The requirements of section 4043 of ERISA are waived with respect to multiemployer plans.

(c) *Terminating plans.* No notice is required from the plan administrator or

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contributing sponsor of a plan if the notice date is on or after the date on which—

(1) All of the plan's assets (other than any excess assets) are distributed pursuant to a termination; or

(2) A trustee is appointed for the plan under section 4042(c) of ERISA.

(d) *Other waivers and extensions.* The PBGC may extend any deadline or waive any other requirement under this part where it finds convincing evidence that the waiver or extension is appropriate under the circumstances. Any waiver or extension may be subject to conditions. A request for a waiver or extension must be filed in writing with the PBGC and must state the facts and circumstances on which the request is based.

§ 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.

[68 FR 61354, Oct. 28, 2003]

§ 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.* A reportable event notice or Form 200 will be deemed timely filed if—

(1) An electronic transmission containing at least the minimum initial information (as specified in the instruction to the applicable form) is filed on or before the notice date; and

(2) The remaining initial information is received by the PBGC on or before—

(i) The first regular business day following the notice date, in the case of advance notice or a Form 200; or

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(ii) The second regular business day following the notice date, in the case of post-event notice.

[61 FR 63989, Dec. 2, 1996, as amended at 68 FR 61354, Oct. 28, 2003]

§ 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.

[68 FR 61354, Oct. 28, 2003]

§ 4043.8 Confidentiality.

In accordance with section 4043(f) of ERISA and § 4901.21(a)(3) of this chapter, any information or documentary material that is not publicly available and is submitted to the PBGC pursuant to this part shall not be made public, except as may be relevant to any administrative or judicial action or proceeding or for disclosures to either body of Congress or to any duly authorized committee or subcommittee of the Congress.

Subpart B—Post-Event Notice of Reportable Events

§ 4043.20 Post-Event filing obligation.

The plan administrator and each contributing sponsor of a plan for which a reportable event under this subpart has occurred are required to notify the PBGC within 30 days after that person knows or has reason to know that the reportable event has occurred, unless a waiver or extension applies. If there is a change in plan administrator or contributing sponsor, the reporting obligation applies to the person who is the plan administrator or contributing sponsor of the plan on the 30th day after the reportable event occurs.

§ 4043.21 Tax disqualification and title I noncompliance.

(a) *Reportable event.* A reportable event occurs when the Secretary of the Treasury issues notice that a plan has ceased to be a plan described in section 4021(a)(2) of ERISA, or when the Secretary of Labor determines that a plan is not in compliance with title I of ERISA.

(b) *Waivers.* Notice is waived for this event.

§ 4043.22 Amendment decreasing benefits payable.

(a) *Reportable event.* A reportable event occurs when an amendment to a plan is adopted under which the retirement benefit payable from employer contributions with respect to any participant may be decreased.

(b) *Waivers.* Notice is waived for this event.

§ 4043.23 Active participant reduction.

(a) *Reportable event.* A reportable event occurs when the number of active participants under a plan is reduced to less than 80 percent of the number of active participants at the beginning of the plan year, or to less than 75 percent of the number of active participants at the beginning of the previous plan year.

(b) *Initial information required.* In addition to the information in § 4043.3(b), the notice shall include—

(1) A statement explaining the cause of the reduction (*e.g.*, facility shutdown or sale); and

(2) The number of active participants at the date the reportable event occurs, at the beginning of the plan year, and at the beginning of the prior plan year.

(c) *Waivers*—(1) *Small plan.* Notice is waived if the plan has fewer than 100 participants at the beginning of either the current or the previous plan year.

(2) *Plan funding.* Notice is waived if—

(i) *No variable rate premium.* No variable rate premium is required to be paid for the plan for the event year;

(ii) *\$1 million unfunded vested benefits.* As of the testing date for the event year, the plan has less than \$1 million in unfunded vested benefits; or

(iii) *No unfunded vested benefits.* As of the testing date for the event year, the plan would have no unfunded vested benefits if unfunded vested benefits were determined in accordance with the assumptions and methodology in § 4010.4(b)(2) of this chapter.

(3) *No facility closing event/80-percent funded.* Notice is waived if—

(i) The active participant reduction would not be reportable if only those active participant reductions resulting from cessation of operations at one or more facilities were taken into account; and