

which the employer completely withdrew from the plan.

(4) *Contribution base units for high base year.* If the five plan years immediately preceding the beginning of the 3-year testing period include a plan year during the period of withdrawal, then for purposes of section 4208 (a) and (b)(1) of ERISA, the number of contribution base units for the high base year shall be the number of contribution base units determined under paragraph (b)(3) of this section.

(c) *Liability for partial cessation of contribution obligation.* The amount of an employer's liability under section 4206(a) (relating to the calculation of liability for a partial withdrawal) and section 4219(c)(1) (relating to the amount of the annual partial withdrawal liability payments) of ERISA, for a subsequent partial withdrawal described in section 4205(a)(2) of ERISA (relating to a partial cessation of the contribution obligation) shall be modified in accordance with the rules in this paragraph. For purposes of sections 4206(a)(2)(B)(i) and 4219(c)(1)(E)(ii) of ERISA, if the five plan years immediately preceding the plan year in which the partial withdrawal occurs include a plan year during the period of withdrawal, the denominator of the fraction described in section 4206(a)(2) shall be determined in accordance with the rule set forth in paragraph (b)(3) of this section.

§ 4207.9 Special rules.

(a) *Employer that has withdrawn and reentered the plan before the effective date of this part.* This part shall apply, in accordance with the rules in this paragraph, with respect to an eligible employer that completely withdraws from a multiemployer plan after September 25, 1980, and is performing covered work under the plan on the effective date of this part. Upon the application of an employer described in the preceding sentence, the plan sponsor of a multiemployer plan shall determine whether the employer satisfies the requirements for abatement of its complete withdrawal liability under this part. Pending the plan sponsor's determination, the employer may provide the plan with a bond or escrow that satisfies the requirements of § 4207.4, in

lieu of making its withdrawal liability payments due after its application for an abatement determination. The plan sponsor shall notify the employer in writing of its determination and the consequences of its determination as described in § 4207.3 (c) or (d) and (e), as applicable. If the plan sponsor determines that the employer qualifies for abatement, only withdrawal liability payments made prior to the employer's reentry shall be retained by the plan; payments made by the employer after its reentry shall be refunded to the employer, with interest on those made prior to the application for abatement, in accordance with § 4207.3(e)(2). If a bond or escrow has been provided to the plan in accordance with § 4207.4, the plan sponsor shall send a copy of the notice to the bonding or escrow agent. Sections 4207.6 through 4207.8 shall apply with respect to the employer's subsequent complete withdrawal occurring on or after the effective date of this part, or partial withdrawal occurring either before or after that date. This paragraph shall not negate reasonable actions taken by plans prior to the effective date of this part under plan rules implementing section 4207(a) of ERISA that were validly adopted pursuant to section 405 of the Multiemployer Act.

(b) *Employer with multiple complete withdrawals that has reentered the plan before effective date of this part.* If an employer described in paragraph (a) of this section has completely withdrawn from a multiemployer plan on two or more occasions before the effective date of this part, the rules in paragraph (a) of this section shall be applied as modified by this paragraph.

(1) The plan sponsor shall determine whether the employer satisfies the requirements for abatement under § 4207.5 based on the most recent complete withdrawal.

(2) If the employer satisfies the requirements for abatement, the employer's liability with respect to all previous complete withdrawals shall be abated.

(3) If the liability is abated, §§ 4207.6 and 4207.7 shall be applied as if the employer's earliest complete withdrawal were its initial complete withdrawal.

(c) *Employer with multiple complete withdrawals that has not reentered the plan as of the effective date of this part.* If an eligible employer has completely withdrawn from a multiemployer plan on two or more occasions between September 26, 1980, and the effective date of this part and is not performing covered work under the plan on the effective date of this regulation, the rules in this part shall apply, subject to the modifications specified in paragraphs (b)(1)—(b)(3) of this section, upon the employer's reentry into the plan.

(d) *Combination of withdrawn employer with contributing employer.* If a withdrawn employer merges or otherwise combines with an employer that has an obligation to contribute to the plan from which the first employer withdrew, the combined entity is the eligible employer, and the rules of § 4207.5 shall be applied—

(1) By subtracting from the measurement period contribution base units the contribution base units for which the non-withdrawn portion of the employer was obligated to contribute in the last plan year ending prior to the combination;

(2) By determining the base year contribution base units solely by reference to the contribution base units of the withdrawn portion of the employer; and

(3) By using the date of the combination, rather than the date of resumption of covered operations, to begin the measurement period.

(e) *Combination of two or more withdrawn employers.* If two or more withdrawn employers merge or otherwise combine, the combined entity is the eligible employer, and the rules of § 4207.5 shall be applied by combining the number of contribution base units with respect to which each portion of the employer had an obligation to contribute under the plan for its base year. However, the combined number of contribution base units shall not include contribution base units of a withdrawn portion of the employer that had fully paid its withdrawal liability as of the date of the resumption of covered operations.

§ 4207.10 Plan rules for abatement.

(a) *General rule.* Subject to the approval of the PBGC, a plan may, by amendment, adopt rules for the reduction or waiver of complete withdrawal liability under conditions other than those specified in §§ 4207.5 and 4207.9 (c) and (d), provided that such conditions relate to events occurring or factors existing subsequent to a complete withdrawal year. The request for PBGC approval shall be filed after the amendment is adopted. A plan amendment under this section may not be put into effect until it is approved by the PBGC. However, an amendment that is approved by the PBGC may apply retroactively to the date of the adoption of the amendment. PBGC approval shall also be required for any subsequent modification of the amendment, other than repeal of the amendment. Sections 4207.6, 4207.7, and 4207.8 shall apply to all subsequent partial withdrawals after a reduction or waiver of complete withdrawal liability under a plan amendment approved by the PBGC pursuant to this section.

(b) *Who may request.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign and submit the request.

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

(d) *Information.* Each request shall contain the following information:

(1) The name and address of the plan for which the plan amendment is being submitted and the telephone number of the plan sponsor or its duly authorized representative.

(2) The nine-digit Employer Identification Number (EIN) assigned to the plan sponsor by the IRS and the three-digit Plan Identification Number (PN) assigned to the plan by the plan sponsor, and, if different, the EIN and PN last filed with the PBGC. If no EIN or PN has been assigned, that should be indicated.

(3) A copy of the executed amendment, including—

(i) The date on which the amendment was adopted;

(ii) The proposed effective date; and

(iii) The full text of the rules on the reduction or waiver of complete withdrawal liability.