

(c) *Amortizing initial liabilities.* A plan may by amendment modify the amortization of initial liabilities in either of the following ways:

(1) If two or more plans that use the presumptive allocation method of section 4211(b) of ERISA merge, the merged plan may adjust the amortization of initial liabilities under § 4211.32(b) to amortize those unfunded vested benefits over the remaining length of the prior plans' amortization schedules.

(2) A plan that has adopted the allocation method under § 4211.33 or § 4211.34 may adjust the amortization of initial liabilities under § 4211.33(b) or § 4211.34(b) to amortize those unfunded vested benefits in level annual installments over any period of at least five and not more than fifteen years.

(d) *Changing the allocation fraction.* A plan may by amendment replace the allocation fraction under § 4211.32(b), § 4211.33(b), or § 4211.34(b) with any of the following contribution-based fractions—

(1) A fraction, the numerator of which is the total amount required to be contributed under the merged and prior plans by the withdrawing employer in the 60-month period ending on the last day of the initial plan year, and the denominator of which is the sum for that period of the contributions made by all employers that had not withdrawn as of the end of the initial plan year;

(2) A fraction, the numerator of which is the total amount required to be contributed by the withdrawing employer for the initial plan year and the four preceding full plan years of its prior plan, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year; or

(3) A fraction, the numerator of which is the total amount required to be contributed to the plan by the withdrawing employer since the effective date of the merger, and the denominator of which is the sum of all contributions made over that period by employers that had not withdrawn as of the end of the initial plan year.

§ 4211.37 Allocating unfunded vested benefits for withdrawals before the end of the initial plan year.

If an employer withdraws after the effective date of a merger and before the end of the initial plan year, the amount of unfunded vested benefits allocable to the employer shall be determined as if each plan had remained a separate plan. In making this determination, the plan sponsor shall use the allocation method of the withdrawing employer's prior plan and shall compute the employer's allocable share of the plan's unfunded vested benefits as if the day before the effective date of the merger were the end of the last plan year prior to the withdrawal.

PART 4219—NOTICE, COLLECTION, AND REDETERMINATION OF WITHDRAWAL LIABILITY

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AUTHORITY: 29 U.S.C. 1302(b)(3) and 1399(c)(6).

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Subpart A—General

§ 4219.1 Purpose and scope.

(a) *Subpart A.* Subpart A of this part describes the purpose and scope of the provisions in this part and defined terms used in this part.

(b) *Subpart B—(1) Purpose.* When a multiemployer plan terminates by the withdrawal of every employer from the plan, or when substantially all employers withdraw from a multiemployer plan pursuant to an agreement or arrangement to withdraw from the plan, section 4219(c)(1)(D)(i) of ERISA requires that the liability of such withdrawing employers be determined (or redetermined) without regard to the 20-year limitation on annual payments established in section 4219(c)(1)(B) of ERISA. In addition, section 4219(c)(1)(D)(ii) requires that, upon the occurrence of a withdrawal described above, the total unfunded vested benefits of the plan be fully allocated among such withdrawing employers in a manner that is not inconsistent with PBGC regulations. Section 4209(c) of ERISA provides that the *de minimis* reduction established in sections 4209 (a) and (b) of ERISA shall not apply to an employer that withdraws in a plan year in which substantially all employers withdraw from the plan, or to an employer that withdraws pursuant to an agreement to withdraw during a period of one or more plan years during which substantially all employers withdraw pursuant to an agreement or arrangement to withdraw. The purpose of subpart B of this part is to prescribe rules, pursuant to sections 4219(c)(1)(D) and 4209(c) of ERISA, for redetermining an employer's withdrawal liability and fully allocating the unfunded vested benefits of a multiemployer plan in either of two mass-withdrawal situations: the termination of a plan by the withdrawal of every employer and the withdrawal of substantially all employers pursuant to an agreement or arrangement to withdraw. Subpart B also prescribes rules for redetermining the liability of an employer without regard to section 4209 (a) or (b) when the employer withdraws in a plan year in

which substantially all employers withdraw, regardless of the occurrence of a mass withdrawal. (See part 4281 regarding the valuation of unfunded vested benefits to be fully allocated under subpart B, and parts 4041A and 4281 regarding the powers and duties of the plan sponsor of a plan terminated by mass withdrawal.)

(2) *Scope.* Subpart B applies to multiemployer plans covered by title IV of ERISA, with respect to which there is a termination by the withdrawal of every employer (including a plan created by a partition pursuant to section 4233 of ERISA) or a withdrawal of substantially all employers in the plan pursuant to an agreement or arrangement to withdraw from the plan, and to employers that withdraw from such multiemployer plans. The obligations of a plan sponsor of a mass-withdrawal-terminated plan under subpart B shall cease to apply when the plan assets are distributed in full satisfaction of all nonforfeitable benefits under the plan. Subpart B also applies, to the extent appropriate, to multiemployer plans with respect to which there is a withdrawal of substantially all employers in a single plan year and to employers that withdraw from such plans in that plan year.

(c) *Subpart C.* Subpart C establishes the interest rate to be charged on overdue, defaulted and overpaid withdrawal liability under section 4219(c)(6) of ERISA, and authorizes multiemployer plans to adopt alternative rules concerning assessment of interest and related matters. Subpart C applies to multiemployer plans covered under title IV of ERISA, and to employers that have withdrawn from such plans after April 28, 1980 (May 2, 1979, for certain employers in the seagoing industry).

§ 4219.2 Definitions.

(a) The following terms are defined in § 4001.2 of this chapter: employer, ERISA, IRS, mass withdrawal, multiemployer plan, nonforfeitable benefit, PBGC, plan, and plan year.

(b) For purposes of this part:

Initial withdrawal liability means the amount of withdrawal liability determined in accordance with sections 4201 through 4225 of title IV without regard