

benefit liabilities (determined in accordance with paragraph (d) of this section) equal to or less than the fair market value of the plan's assets, provided that the plan—

(1) has received, on or within ten days after their due dates, all required installments or other payments required to be made during the information year under section 302 of the Act or section 412 of the Code; and

(2) has no minimum funding waivers outstanding (as described in § 2628.4(c) of this part) as of the end of the plan year ending within the information year.

(d) *Determination of benefit liabilities.* The value of a plan's benefit liabilities (within the meaning of section 4001(a)(16) of the Act) at the end of a plan year shall be determined using the plan census data described in paragraph (d)(1) of this section and the actuarial assumptions and methods described in paragraph (d)(2) or, where applicable, (d)(3) of this section.

(1) *Census data.*

(i) *Census data period.* Plan census data shall be determined (for all plans for any information year) either as of the end of the plan year or as of the beginning of the next plan year.

(ii) *Projected census data.* If actual plan census data is not available, a plan may use a projection of plan census data from a date within the plan year. The projection must be consistent with projections used to measure pension obligations of the plan for financial statement purposes and must give a result appropriate for the end of the plan year for these obligations. For example, adjustments to the projection process will be required where there has been a significant event (such as a plan amendment or a plant shutdown) that has not been reflected in the projection data.

(2) *Actuarial assumptions and methods.* The value of benefit liabilities shall be determined using the assumptions and methods applicable to the valuation of benefits to be paid as annuities in trustee plans terminating at the end of the plan year (as prescribed in part 2619, subpart C, of this chapter).

(3) *Special actuarial assumptions for exempt plan determination.* Solely for purposes of determining whether a plan is an exempt plan, the value of benefit liabilities may be determined by substituting for the retirement age assumptions in paragraph (d)(2) the retirement age assumptions used by the plan for that plan year for purposes of section 302(d) of the Act or section 412(l) of the Code.

#### § 2628.9 Financial information.

(a) *General.* Except as provided in this section, each filer is required to provide the following financial information for each controlled group member (other than an exempt entity)—

(1) audited financial statements for the fiscal year ending within the information year (including balance sheets, income statements, cash flow statements, and notes to the financial statements);

(2) if audited financial statements are not available by the date specified in § 2628.10(a), unaudited financial statements for the fiscal year ending within the information year; or

(3) if neither audited nor unaudited financial statements are available by the date specified in § 2628.10(a), copies of federal tax returns for the tax year ending within the information year.

(b) *Consolidated financial statements.* If the financial information of a controlled group member is combined with the information of other group members in consolidated financial statements, a filer may provide the following financial information in lieu of the information required in paragraph (a) of this section—

(1) the audited consolidated financial statements for the filer's information year or, if the audited consolidated financial statements are not available by the date specified in § 2628.10(a), unaudited consolidated financial statements for the fiscal year ending within the information year; and

(2) for each controlled group member included in the consolidated financial statements that is a contributing sponsor of a plan (other than an exempt plan), the contributing sponsor's revenues and operating income for the information year, and net assets at the end of the information year.

(c) *Subsequent submissions.* If unaudited financial statements are submitted as provided in paragraph (a)(2) or (b)(1) of this section, audited financial statements must thereafter be filed within 15 days after they are prepared. If federal tax returns are submitted as provided in paragraph (a)(3) of this section, audited and unaudited financial statements must thereafter be filed within 15 days after they are prepared.

(d) *Submission of public information.* If any of the financial information required by paragraphs (a) through (c) of this section is publicly available, the filer, in lieu of submitting such information to the PBGC, may include a statement with the other information that is submitted to the PBGC indicating when such financial information was made available to the public and where

the PBGC may obtain it. For example, if the controlled group member has filed audited financial statements with the Securities and Exchange Commission, it need not file the financial statements with PBGC but instead can identify the SEC filing as part of its submission under this part.

(e) *Inclusion of information about non-filers and exempt entities.* Consolidated financial statements provided pursuant to paragraph (b)(1) of this section may include financial information of persons who are not controlled group members (e.g., joint ventures) or are exempt entities.

#### § 2628.10 Due date and filing with the PBGC.

(a) *Due date.* Except as permitted under paragraph (b) of this section, a filer shall file the information required under this part with the PBGC on or before the 105th day after the close of the filer's information year.

(b) *Alternative due date.* A filer that includes the statement specified in § 2628.8(b)(1) with its submission to the PBGC by the date specified in paragraph (a) of this section must submit the actuarial information specified in § 2628.8(b)(2) within 15 days after the deadline for filing the plan's annual report (Form 5500 series) for the plan year ending within the filer's information year (see § 2520.104a-5(a)(2) of this title).

(c) *How to file.* Requests and information may be delivered by mail, by delivery service, by hand, or by any other method acceptable to the PBGC, to: Corporate Finance and Negotiations Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026.

(d) *Date when information filed.* Information filed under this part is considered filed—

(1) on the date of the United States postmark stamped on the cover in which the information is mailed, if—

(i) the postmark was made by the United States Postal Service; and

(ii) the document was mailed postage prepaid, properly addressed to the PBGC; or

(2) if the conditions stated in paragraph (d)(1) of this section are not met, on the date it is received by the PBGC. Information received on a weekend or Federal holiday or after 5:00 p.m. on a weekday is considered filed on the next regular business day.

(e) *Computation of time.* In computing any period of time under this part, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be