1108, and 1132 of Title 29, Labor, and section 1320b–14 of Title 42, The Public Health and Welfare, renumbering sections 9804 to 9806 of this title as sections 9831 to 9833, respectively, of this title, and amending provisions set out as a note under section 412 of this title] or subtitle H of title X [§§ 1071–1075, amending this section, sections 72, 132, 417, 457, 691, 2013, 2053, 4975, and 6018 of this title, and sections 1053 to 1055 of Title 29 and repealing section 4980A of this title], and

''(B) before the first day of the first plan year beginning on or after January 1, 1999.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting '2001' for '1999'.

''(2) CONDITIONS.—This section shall not apply to any amendment unless—

''(A) during the period—

''(i) beginning on the date the legislative amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative amendment, the effective date specified by the plan), and

''(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect, and

''(B) such plan or contract amendment applies retroactively for such period.''

TRANSITIONAL RULE: CERTAIN PLAN AMENDMENTS ADOPTED OR EFFECTIVE ON OR BEFORE AUGUST 20, 1996

Pub. L. 104–188, title I, § 1449(d), Aug. 20, 1996, 110 Stat. 1814, provided that: ''In the case of a plan that was adopted and in effect before December 8, 1994, if—

''(1) a plan amendment was adopted or made effective on or before the date of the enactment of this Act [Aug. 20, 1996] applying the amendments made by section 767 of the Uruguay Round Agreements Act [Pub. L. 103–465, see Effective Date of 1994 Amendment note set out above], and

''(2) within 1 year after the date of the enactment of this Act [Aug. 20, 1996], a plan amendment is adopted which repeals the amendment referred to in paragraph (1),

the amendment referred to in paragraph (1) shall not be taken into account in applying section 767(d)(3)(A) of the Uruguay Round Agreements Act, as amended by subsection (a).''

PLAN AMENDMENTS REFLECTING AMENDMENTS BY SECTION 7881(m) OF PUB. L. 101–239 NOT TREATED AS REDUCING ACCRUED BENEFITS

For provisions directing that if during the period beginning Dec. 22, 1987, and ending June 21, 1988, a plan was amended to reflect the amendments by section 9346 of Pub. L. 100–203 and such plan is amended to reflect the amendments by section 7881(m) of Pub. L. 101–239, any plan amendments made to reflect the amendments by section 7881(m) of Pub. L. 101–239 shall not be treated as reducing accrued benefits for purposes of subsection (d)(6) of this section or section 1054(g) of Title 29, Labor, see section 7881(m)(3) of Pub. L. 101–239, set out as a note under section 1054 of Title 29.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§ 521–523] of title V of Pub. L. 102–318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102–318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

For provisions directing that if any amendments made by sections 9202(b) and 9203(b)(2) of Pub. L. 99–509 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 9204 of Pub. L. 99–509, set out as a note under section 623 of Title 29, Labor.

ALTERNATE METHODS OF SATISFYING REQUIREMENTS FOR VESTING AND ACCRUED BENEFITS

Pub. L. 93–406, title II, § 1012(c), Sept. 2, 1974, 88 Stat. 913, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In the case of any plan maintained on January 1, 1974, if, not later than 2 years after the date of the enactment of this Act [Sept. 2, 1974], the plan administrator petitions the Secretary of Labor, the Secretary of Labor may prescribe an alternate method which shall be treated as satisfying the requirements of subsection (a)(2) of section 411 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], or of subsection (b)(1) (other than subparagraph (D) thereof) of such section 411, or of both such provisions for a period of not more than 4 years. The Secretary may prescribe such alternate method only when he finds that—

''(1) the application of such requirements would increase the costs of the plan to such an extent that there would result a substantial risk to the voluntary continuation of the plan or a substantial curtailment of benefit levels or the levels of employees' compensation,

''(2) the application of such requirements or discontinuance of the plan would be adverse to the interests of plan participants in the aggregate, and

''(3) a waiver or extension of time granted under [former] section 412(d) or (e) would be inadequate.

In the case of any plan with respect to which an alternate method has been prescribed under the preceding provisions of this subsection for a period of not more than 4 years, if, not later than 1 year before the expiration of such period, the plan administrator petitions the Secretary of Labor for an extension of such alternate method, and the Secretary makes the findings required by the preceding sentence, such alternate method may be extended for not more than 3 years.''

§ 412. Minimum funding standards

(a) Requirement to meet minimum funding standard

(1) In general

A plan to which this section applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

(2) Minimum funding standard

For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

(A) in the case of a defined benefit plan which is not a multiemployer plan or a CSEC plan, the employer makes contributions to or under the plan for the plan year

which, in the aggregate, are not less than the minimum required contribution determined under section 430 for the plan for the plan year,

(B) in the case of a money purchase plan which is not a multiemployer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan,

(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year, and

(D) in the case of a CSEC plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 433 as of the end of the plan year.

(b) Liability for contributions

(1) In general

Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under paragraphs (3) and (4) of section 430(j) or under section 433(f)) shall be paid by the employer responsible for making contributions to or under the plan.

(2) Joint and several liability where employer member of controlled group

If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

(3) Multiemployer plans in critical status

Paragraph (1) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 432. This paragraph shall only apply if the plan sponsor adopts a rehabilitation plan in accordance with section 432(e) and complies with such rehabilitation plan (and any modifications of the plan).

(c) Variance from minimum funding standards

(1) Waiver in case of business hardship

(A) In general

If—

(i) an employer is (or in the case of a multiemployer plan or a CSEC plan, 10 percent or more of the number of employers contributing to or under the plan are) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

(B) Effects of waiver

If a waiver is granted under subparagraph (A) for any plan year—

(i) in the case of a defined benefit plan which is not a multiemployer plan or a CSEC plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(e),

(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 431(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 431(b)(2)(C), and

(iii) in the case of a CSEC plan, the funding standard account shall be credited under section 433(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 433(b)(2)(C).

(C) Waiver of amortized portion not allowed

The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

(2) Determination of business hardship

For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

(A) the employer is operating at an economic loss,

(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

(C) the sales and profits of the industry concerned are depressed or declining, and

(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

(3) Waived funding deficiency

For purposes of this section and part III of this subchapter, the term ''waived funding deficiency'' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

(4) Security for waivers for single-employer plans, consultations

(A) Security may be required

(i) In general

Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which

is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1) or for granting an extension under section 433(d).

(ii) Special rules

Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of the Employee Retirement Income Security Act of 1974), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

(B) Consultation with the Pension Benefit Guaranty Corporation

Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under this subsection or an extension under section 433(d) with respect to a plan described in subparagraph (A)(i)—

(i) provide the Pension Benefit Guaranty Corporation with—

(I) notice of the completed application for any waiver, modification, or extension, and

(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

(ii) consider—

(I) any comments of the Corporation under clause (i)(II), and

(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

(C) Exception for certain waivers or extensions

(i) In general

The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

(I) the aggregate unpaid minimum required contributions (within the meaning of section 4971(c)(4)) for the plan year and all preceding plan years, or the accumulated funding deficiency under section 433, whichever is applicable,

(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 430(e)(2) or 433(b)(2)(C), whichever is applicable, and

(III) the total amounts not paid by reason of an extension in effect under section 433(d),

is less than $1,000,000.

(ii) Treatment of waivers or extensions for which applications are pending

The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers or extensions with respect to the minimum funding standard under this subsection which are pending with respect to such plan were denied.

(5) Special rules for single-employer plans

(A) Application must be submitted before date 2½ months after close of year

In the case of a defined benefit plan which is not a multiemployer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year.

(B) Special rule if employer is member of controlled group

In the case of a defined benefit plan which is not a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

(6) Advance notice

(A) In general

The Secretary shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of the Employee Retirement Income Security Act of 1974 and for benefit liabilities.

(B) Consideration of relevant information

The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

(7) Restriction on plan amendments

(A) In general

No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate

at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 431(d) or section 433(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) which reduces the accrued benefit of any participant has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

(B) Exception

Subparagraph (A) shall not apply to any plan amendment which—

(i) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

(ii) only repeals an amendment described in subsection (d)(2), or

(iii) is required as a condition of qualification under part I of subchapter D of chapter 1.

(d) Miscellaneous rules

(1) Change in method or year

If the funding method or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary.

(2) Certain retroactive plan amendments

For purposes of this section, any amendment applying to a plan year which—

(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary notifying him of such amendment and the Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (c)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection (c) (or, in the case of a multiemployer plan or a CSEC plan, any extension of the amortization period under section 431(d) or section 433(d)) is unavailable or inadequate.

(3) Controlled group

For purposes of this section, the term ''controlled group'' means any group treated as a single employer under subsection (b), (c), (m), or (*o*) of section 414.

(e) Plans to which section applies

(1) In general

Except as provided in paragraphs (2) and (4), this section applies to a plan if, for any plan year beginning on or after the effective date of this section for such plan under the Employee Retirement Income Security Act of 1974—

(A) such plan included a trust which qualified (or was determined by the Secretary to have qualified) under section 401(a), or

(B) such plan satisfied (or was determined by the Secretary to have satisfied) the requirements of section 403(a).

(2) Exceptions

This section shall not apply to—

(A) any profit-sharing or stock bonus plan,

(B) any insurance contract plan described in paragraph (3),

(C) any governmental plan (within the meaning of section 414(d)),

(D) any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made,

(E) any plan which has not, at any time after September 2, 1974, provided for employer contributions, or

(F) any plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

No plan described in subparagraph (C), (D), or (F) shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) as in effect on September 1, 1974.

(3) Certain insurance contract plans

A plan is described in this paragraph if—

(A) the plan is funded exclusively by the purchase of individual insurance contracts,

(B) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

(C) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

(D) premiums payable for the plan year, and all prior plan years, under such contracts have been paid before lapse or there is reinstatement of the policy,

(E) no rights under such contracts have been subject to a security interest at any time during the plan year, and

(F) no policy loans are outstanding at any time during the plan year.

A plan funded exclusively by the purchase of group insurance contracts which is determined under regulations prescribed by the Secretary to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this paragraph.

(4) Certain terminated multiemployer plans

This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies until the last day of the plan year in which the plan terminates (within the meaning of section 4041A(a)(2) of such Act).

(Added Pub. L. 93–406, title II, § 1013(a), Sept. 2, 1974, 88 Stat. 914; amended Pub. L. 94–455, title XIX, §§ 1901(a)(63), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1775, 1834; Pub. L. 96–364, title II, §§ 203, 208(c), Sept. 26, 1980, 94 Stat. 1285, 1289; Pub. L. 98–369, div. A, title IV, § 491(d)(25), July 18, 1984, 98 Stat. 850; Pub. L. 99–272, title XI, §§ 11015(a)(2), (b)(2), 11016(c)(4), Apr. 7, 1986, 100 Stat. 265, 267, 273; Pub. L. 100–203, title IX, §§ 9301(a), 9303(a), (d)(1), 9304(a)(1), (b)(1), (e)(1), 9305(b)(1), 9306(a)(1), (b)(1), (c)(1), (d)(1), (e)(1), 9307(a)(1), (b)(1), (e)(1), Dec. 22, 1987, 101 Stat. 1330–331, 1330–333, 1330–342 to 1330–344, 1330–348, 1330–351, 1330–352, 1330–354 to 1330–357; Pub. L. 100–647, title II, § 2005(a)(2)(A), (d)(1), Nov. 10, 1988, 102 Stat. 3610, 3612; Pub. L. 101–239, title VII, § 7881(a)(1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), (b)(1)(A), (2)(A), (3)(A), (4)(A), (6)(A), (c)(1), (d)(1)(A), Dec. 19, 1989, 103 Stat. 2435–2439; Pub. L. 103–465, title VII, §§ 751(a)(1)–(9)(A), (10), 752(a), 753(a), 754(a), 768(a), Dec. 8, 1994, 108 Stat. 5012–5019, 5021–5023, 5040; Pub. L. 105–34, title XV, § 1521(a), (c)(1), (3)(A), title XVI, § 1604(b)(2)(A), Aug. 5, 1997, 111 Stat. 1069, 1070, 1097; Pub. L. 107–16, title VI, §§ 651(a), 661(a), June 7, 2001, 115 Stat. 129, 141; Pub. L. 107–147, title IV, §§ 405(a), 411(v)(1), Mar. 9, 2002, 116 Stat. 42, 52; Pub. L. 108–218, title I, §§ 101(b)(1)–(3), 102(b), 104(b), Apr. 10, 2004, 118 Stat. 597, 598, 601, 606; Pub. L. 109–135, title IV, § 412(x)(1), Dec. 21, 2005, 119 Stat. 2638; Pub. L. 109–280, title I, § 111(a), title II, § 212(c), title III, § 301(b), Aug. 17, 2006, 120 Stat. 820, 917, 919; Pub. L. 110–458, title I, §§ 101(a)(2), 102(b)(2)(H), Dec. 23, 2008, 122 Stat. 5093, 5103; Pub. L. 113–97, title II, § 202(c)(1), (2), Apr. 7, 2014, 128 Stat. 1135; Pub. L. 115–141, div. U, title IV, § 401(a)(83)–(85), Mar. 23, 2018, 132 Stat. 1188.)

Editorial Notes

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsecs. (c)(4)(A), (B)(ii)(II), (6)(A), and (e)(1), (4), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (§ 1001 et seq.) of Title 29, Labor. Title IV of the Act is classified generally to subchapter III (§ 1301 et seq.) of chapter 18 of Title 29. Sections 3, 4001, 4021, and 4041A of the Act are classified to sections 1002, 1301, 1321, and 1341a of Title 29, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The effective date of this section, referred to in subsec. (e)(1), probably means the effective date of Pub. L. 109–280, § 111(a), which amended this section. See Effective Date of 2006 Amendment note below.

AMENDMENTS

2018—Subsec. (c)(1)(A). Pub. L. 115–141, § 401(a)(83), inserted period at end of concluding provisions.

Subsec. (c)(4)(B). Pub. L. 115–141, § 401(a)(84), inserted ''section'' before ''433(d)'' in introductory provisions.

Subsec. (c)(7)(B)(iii). Pub. L. 115–141, § 401(a)(85), struck out comma after ''subchapter D''.

2014—Subsec. (a)(2)(A). Pub. L. 113–97, § 202(c)(2)(A), substituted ''multiemployer plan or a CSEC plan'' for ''multiemployer plan''.

Subsec. (a)(2)(D). Pub. L. 113–97, § 202(c)(1), added subpar. (D).

Subsec. (b)(1). Pub. L. 113–97, § 202(c)(2)(B), substituted ''430(j) or under section 433(f)'' for ''430(j)''.

Subsec. (c)(1)(A)(i). Pub. L. 113–97, § 202(c)(2)(A), substituted ''multiemployer plan or a CSEC plan, 10 percent'' for ''multiemployer plan, 10 percent''.

Subsec. (c)(1)(B)(i). Pub. L. 113–97, § 202(c)(2)(A), substituted ''multiemployer plan or a CSEC plan'' for ''multiemployer plan''.

Subsec. (c)(1)(B)(iii). Pub. L. 113–97, § 202(c)(2)(C), added cl. (iii).

Subsec. (c)(4)(A)(i). Pub. L. 113–97, § 202(c)(2)(D), substituted ''under paragraph (1) or for granting an extension under section 433(d)'' for ''under paragraph (1)''.

Subsec. (c)(4)(B). Pub. L. 113–97, § 202(c)(2)(E), substituted ''waiver under this subsection or an extension under 433(d)'' for ''waiver under this subsection'' in introductory provisions.

Subsec. (c)(4)(B)(i)(I). Pub. L. 113–97, § 202(c)(2)(F), substituted ''waiver, modification, or extension'' for ''waiver or modification''.

Subsec. (c)(4)(C). Pub. L. 113–97, § 202(c)(2)(G), substituted ''waivers or extensions'' for ''waivers'' in heading.

Subsec. (c)(4)(C)(i)(I). Pub. L. 113–97, § 202(c)(2)(I), substituted ''or the accumulated funding deficiency under section 433, whichever is applicable,'' for ''and'' at end.

Subsec. (c)(4)(C)(i)(II). Pub. L. 113–97, § 202(c)(2)(J), substituted ''430(e)(2) or 433(b)(2)(C), whichever is applicable, and'' for ''430(e)(2),''.

Subsec. (c)(4)(C)(i)(III). Pub. L. 113–97, § 202(c)(2)(K), added subcl. (III).

Subsec. (c)(4)(C)(ii). Pub. L. 113–97, § 202(c)(2)(L), substituted ''for waivers or extensions with respect to'' for ''for waivers of''.

Pub. L. 113–97, § 202(c)(2)(G), substituted ''waivers or extensions'' for ''waivers'' in heading.

Subsec. (c)(7)(A). Pub. L. 113–97, § 202(c)(2)(H), substituted ''section 431(d) or section 433(d)'' for ''section 431(d)''.

Subsec. (d)(2). Pub. L. 113–97, § 202(c)(2)(H), substituted ''section 431(d) or section 433(d)'' for ''section 431(d)'' in concluding provisions.

Pub. L. 113–97, § 202(c)(2)(A), substituted ''multiemployer plan or a CSEC plan, any extension'' for ''multiemployer plan, any extension'' in concluding provisions.

2008—Subsec. (b)(3). Pub. L. 110–458, § 102(b)(2)(H), substituted ''the plan sponsor adopts'' for ''the plan adopts''.

Subsec. (c)(1)(A)(i). Pub. L. 110–458, § 101(a)(2)(A), substituted ''the plan are'' for ''the plan is''.

Subsec. (c)(7)(A). Pub. L. 110–458, § 101(a)(2)(B), inserted ''which reduces the accrued benefit of any participant'' after ''subsection (d)(2)''.

Subsec. (d)(1). Pub. L. 110–458, § 101(a)(2)(C), struck out '', the valuation date,'' after ''If the funding method''.

2006—Pub. L. 109–280, § 111(a), reenacted heading without change and amended text generally, substituting provisions relating to minimum funding standard requirement, liability for contributions, variance from minimum funding standards, miscellaneous rules, and plans to which section applies, consisting of subsecs. (a) to (e), for provisions relating to general rule for satis-

faction of minimum funding standard, funding standard account, special rules, variance from minimum funding standard, extension of amortization periods, requirements relating to waivers and extensions, alternative minimum funding standard, exceptions, certain insurance contract plans, certain terminated multiemployer plans, financial assistance, additional funding requirements for plans which are not multiemployer plans, quarterly contributions requirement, and imposition of lien where failure to make required contributions, consisting of subsecs. (a) to (n).

Subsec. (b)(3). Pub. L. 109–280, §212(c), added par. (3).

Subsec. (b)(5)(B)(ii)(II). Pub. L. 109–280, §301(b)(1), substituted '', 2005, 2006, and 2007'' for ''and 2005'' in heading and ''2008'' for ''2006'' in text.

Subsec. (*l*)(7)(C)(i)(IV). Pub. L. 109–280, §301(b)(2), substituted '', 2005, 2006, and 2007'' for ''and 2005'' in heading and '', 2005, 2006, or 2007'' for ''or 2005'' in text.

2005—Subsec. (m)(4)(B)(i). Pub. L. 109–135 substituted ''subsection (d)'' for ''subsection (c)''.

2004—Subsec. (b)(5)(B)(ii)(I). Pub. L. 108–218, §101(b)(1)(C), inserted ''or (III)'' after ''subclause (II)''.

Subsec. (b)(5)(B)(ii)(II), (III). Pub. L. 108–218, §101(b)(1)(A), (B), added subcl. (II), redesignated former subcl. (II) as (III), and, in subcl. (III), inserted ''or (II)'' after ''permissible under subclause (I)'' and substituted ''such subclause'' for ''subclause (I)'' before period at end.

Subsec. (b)(7)(F). Pub. L. 108–218, §104(b), added subpar. (F).

Subsec. (*l*)(7)(C)(i)(IV). Pub. L. 108–218, §101(b)(2), added subcl. (IV).

Subsec. (*l*)(12). Pub. L. 108–218, §102(b), added par. (12).

Subsec. (m)(7). Pub. L. 108–218, §101(b)(3), amended heading and text of par. (7) generally, substituting provisions relating to special rule for 2002 for provisions relating to special rules for 2002 and 2004.

2002—Subsec. (c)(9)(B)(ii). Pub. L. 107–147, §411(v)(1)(A), substituted ''100 percent'' for ''125 percent''.

Subsec. (c)(9)(B)(iv). Pub. L. 107–147, §411(v)(1)(B), added cl. (iv).

Subsec. (*l*)(7)(C)(i)(III). Pub. L. 107–147, §405(a)(1), added subcl. (III).

Subsec. (m)(7). Pub. L. 107–147, §405(a)(2), added par. (7).

2001—Subsec. (c)(7)(A)(i)(I). Pub. L. 107–16, §651(a)(1), substituted ''in the case of plan years beginning before January 1, 2004, the applicable percentage'' for ''the applicable percentage''.

Subsec. (c)(7)(F). Pub. L. 107–16, §651(a)(2), reenacted heading and introductory provisions without change and amended table generally, substituting present provisions for provisions which had set out applicable percentage of 155 in the case of any plan year beginning in 1999 or 2000, 160 in the case of any plan year beginning in 2001 or 2002, 165 in the case of any plan year beginning in 2003 or 2004, and 170 in the case of any plan year beginning in 2005 and succeeding years.

Subsec. (c)(9). Pub. L. 107–16, §661(a), reenacted heading without change and amended text of par. (9) generally. Prior to amendment, text read as follows: ''For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.''

1997—Subsec. (b)(2)(E). Pub. L. 105–34, §1521(c)(1), added subpar. (E).

Subsec. (c)(7)(A)(i)(I). Pub. L. 105–34, §1521(a)(A), substituted ''the applicable percentage'' for ''150 percent''.

Subsec. (c)(7)(D). Pub. L. 105–34, §1521(c)(3)(A), inserted ''and'' at end of cl. (i), substituted a period for '', and'' at end of cl. (ii), and struck out cl. (iii) which read as follows: ''for the treatment under this section of contributions which would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I).''

Subsec. (c)(7)(F). Pub. L. 105–34, §1521(a)(B), added subpar. (F).

Subsec. (m)(5)(E)(ii)(II). Pub. L. 105–34, §1604(b)(2)(A), substituted ''subclause (I)'' for ''clause (i)''.

1994—Subsec. (c)(5). Pub. L. 103–465, §752(a), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (c)(7)(A)(i)(I). Pub. L. 103–465, §751(a)(10)(A), inserted ''(including the expected increase in current liability due to benefits accruing during the plan year)'' after ''current liability''.

Subsec. (c)(7)(B). Pub. L. 103–465, §751(a)(10)(C), reenacted subpar. (B) heading without change and amended text generally. Prior to amendment, text read as follows: ''For purposes of subparagraphs (A) and (D), the term 'current liability' has the meaning given such term by subsection (*l*)(7) (without regard to subparagraph (D) thereof).''

Subsec. (c)(7)(E). Pub. L. 103–465, §751(a)(10)(B), added subpar. (E).

Subsec. (c)(12). Pub. L. 103–465, §753(a), added par. (12).

Subsec. (*l*)(1). Pub. L. 103–465, §751(a)(1)(A), (2)(B), in introductory provisions, substituted ''to which this subsection applies under paragraph (9)'' for ''which has an unfunded current liability'', and amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: ''Such increase shall not exceed the amount necessary to increase the funded current liability percentage to 100 percent.''

Subsec. (*l*)(1)(A)(ii). Pub. L. 103–465, §751(a)(2)(A), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the sum of the charges for such plan year under subparagraphs (B) (other than clauses (iv) and (v) thereof), (C), and (D) of subsection (b)(2), reduced by the sum of the credits for such plan year under subparagraph (B)(i) of subsection (b)(3), plus''.

Subsec. (*l*)(2)(C). Pub. L. 103–465, §751(a)(3), added subpar. (C).

Subsec. (*l*)(2)(D). Pub. L. 103–465, §751(a)(7)(B)(i), added subpar. (D).

Subsec. (*l*)(3)(D), (E). Pub. L. 103–465, §751(a)(4)(A), added subpars. (D) and (E).

Subsec. (*l*)(4)(B)(i). Pub. L. 103–465, §751(a)(4)(B), (7)(B)(iii), inserted '', the unamortized portion of the additional unfunded old liability, the unamortized portion of each unfunded mortality increase,'' after ''old liability''.

Subsec. (*l*)(4)(C). Pub. L. 103–465, §751(a)(5), substituted ''.40'' for ''.25'' in cl. (i) and ''60'' for ''35'' in cl. (ii).

Subsec. (*l*)(5)(A). Pub. L. 103–465, §751(a)(6)(A)(i), substituted ''greatest of'' for ''greater of'' in introductory provisions.

Subsec. (*l*)(5)(A)(iii). Pub. L. 103–465, §751(a)(6)(A)(ii)–(iv), added cl. (iii).

Subsec. (*l*)(5)(E). Pub. L. 103–465, §751(a)(6)(B), added subpar. (E).

Subsec. (*l*)(7)(C). Pub. L. 103–465, §751(a)(7)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''(C) INTEREST RATES USED.—The rate of interest used to determine current liability shall be the rate of interest used under subsection (b)(5).''

Subsec. (*l*)(9). Pub. L. 103–465, §751(a)(1)(B), added par. (9).

Subsec. (*l*)(10). Pub. L. 103–465, §751(a)(7)(B)(ii), added par. (10).

Subsec. (*l*)(11). Pub. L. 103–465, §751(a)(8), added par. (11).

Subsec. (m)(1). Pub. L. 103–465, §754(a), in introductory provisions, inserted ''which has a funded current liability percentage (as defined in subsection (*l*)(8)) for the preceding plan year of less than 100 percent'' before ''fails'' and substituted ''the plan year'' for ''any plan year''.

Subsec. (m)(4)(D)(ii). Pub. L. 103–465, §751(a)(6)(C)(i), substituted ''greatest of'' for ''greater of'' in introductory provisions.

Subsec. (m)(4)(D)(ii)(III). Pub. L. 103–465, §751(a)(6)(C)(ii)–(iv), added subcl. (III).

Subsec. (m)(5), (6). Pub. L. 103–465, §751(a)(9)(A), added par. (5) and redesignated former par. (5) as (6).

Subsec. (n)(2). Pub. L. 103–465, § 768(a)(1), inserted at end ''This subsection shall not apply to any plan to which section 4021 of the Employee Retirement Income Security Act of 1974 does not apply (as such section is in effect on the date of the enactment of the Retirement Protection Act of 1994).''

Subsec. (n)(3). Pub. L. 103–465, § 768(a)(2), reenacted par. (3) heading without change and amended text generally. Prior to amendment, text read as follows: ''For purposes of paragraph (1), the amount of the lien shall be equal to the lesser of—

''(A) the amount by which the unpaid balances described in paragraph (1)(B) (including interest) exceed $1,000,000, or

''(B) the aggregate unpaid balance of required installments and other payments required under this section (including interest)—

''(i) for plan years beginning after 1987, and

''(ii) for which payment has not been made before the due date.''

Subsec. (n)(4)(B). Pub. L. 103–465, § 768(a)(3), struck out ''60th day following the'' before ''due date''.

1989—Subsec. (b)(5)(B)(iii). Pub. L. 101–239, § 7881(d)(1)(A), struck out ''for purposes of this section and for purposes of determining current liability,'' before ''the interest rate'' in introductory provisions.

Subsec. (c)(9). Pub. L. 101–239, § 7881(a)(6)(A), substituted ''Annual'' for ''3-year'' in heading and ''every year'' for ''every 3 years'' in text.

Subsec. (c)(10)(A). Pub. L. 101–239, § 7881(b)(1)(A), substituted ''Defined benefit plans'' for ''Plans'' in heading and ''defined benefit plan other'' for ''plan other'' in introductory provisions.

Subsec. (c)(10)(B). Pub. L. 101–239, § 7881(b)(2)(A), substituted ''Other'' for ''Multiemployer'' in heading and ''plan not described in subparagraph (A)'' for ''multiemployer plan'' in text.

Subsec. (d)(1)(A)(ii). Pub. L. 101–239, § 7881(b)(6)(A)(ii), substituted ''costs (including adjustments under subsection (b)(5)(B))'' for ''costs''.

Subsec. (f)(4)(A). Pub. L. 101–239, § 7881(c)(1), substituted ''for benefit liabilities'' for ''the benefit liabilities''.

Subsec. (*l*)(3)(C)(ii)(II). Pub. L. 101–239, § 7881(a)(1)(A), substituted ''reducing (but not below zero)'' for ''reducing''.

Subsec. (*l*)(4)(B)(i). Pub. L. 101–239, § 7881(a)(2)(A), substituted ''liability and the unamortized portion of the unfunded existing benefit increase liability'' for ''liability''.

Subsec. (*l*)(5)(C). Pub. L. 101–239, § 7881(a)(3)(A), substituted ''the first plan year beginning after December 31, 1988'' for ''October 17, 1987''.

Subsec. (*l*)(7)(D)(iii)(III). Pub. L. 101–239, § 7881(a)(4)(A)(i), added subcl. (III).

Subsec. (*l*)(7)(D)(iv). Pub. L. 101–239, § 7881(a)(4)(A)(ii), added cl. (iv).

Subsec. (*l*)(8)(A)(ii). Pub. L. 101–239, § 7881(a)(5)(A)(i), struck out ''reduced by any credit balance in the funding standard account'' after ''under subsection (c)(2)''.

Subsec. (*l*)(8)(E). Pub. L. 101–239, § 7881(a)(5)(A)(ii), added subpar. (E).

Subsec. (m)(1). Pub. L. 101–239, § 7881(b)(3)(A), substituted ''defined benefit plan (other than'' for ''plan (other than'' in introductory provisions.

Subsec. (m)(1)(B). Pub. L. 101–239, § 7881(b)(6)(A)(i), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the rate under subsection (b)(5).''

Subsec. (m)(4)(D). Pub. L. 101–239, § 7881(b)(4)(A), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''In the case of a plan with any unpredictable contingent event benefit liabilities—

''(i) such liabilities shall not be taken into account in computing the required annual payment under subparagraph (B), and

''(ii) each required installment shall be increased by the greater of—

''(I) the amount of benefits described in subsection (*l*)(5)(A)(i) paid during the 3-month period preceding the month in which the due date for such installment occurs, or

''(II) 25 percent of the amount determined under subsection (*l*)(5)(A)(ii) for the plan year.''

1988—Subsec. (*l*)(3)(C)(i), (iii). Pub. L. 100–647, § 2005(a)(2)(A), (d)(1), amended cl. (i) identically, substituting ''October 29'' for ''October 17'' and amended cl. (iii) identically, substituting ''October 28'' for ''October 16''.

1987—Subsec. (b)(2). Pub. L. 100–203, § 9303(a)(2), inserted at end ''For additional requirements in the case of plans other than multiemployer plans, see subsection (*l*).''

Subsec. (b)(2)(B)(iv). Pub. L. 100–203, § 9307(a)(1)(A), substituted ''5 plan years (15 plan years in the case of a multiemployer plan)'' for ''15 plan years''.

Subsec. (b)(2)(B)(v). Pub. L. 100–203, § 9307(a)(1)(B), substituted ''10 plan years (30 plan years in the case of a multiemployer plan)'' for ''30 plan years''.

Subsec. (b)(2)(C), (3)(B)(ii). Pub. L. 100–203, § 9307(a)(1)(A), substituted ''5 plan years (15 plan years in the case of a multiemployer plan)'' for ''15 plan years''.

Subsec. (b)(3)(B)(iii). Pub. L. 100–203, § 9307(a)(1)(B), substituted ''10 plan years (30 plan years in the case of a multiemployer plan)'' for ''30 plan years''.

Subsec. (b)(5). Pub. L. 100–203, § 9307(e)(1), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.''

Subsec. (c)(2)(B). Pub. L. 100–203, § 9303(d)(1), inserted at end ''In the case of a plan other than a multiemployer plan, this subparagraph shall not apply, but the Secretary may by regulations provide that the value of any dedicated bond portfolio of such plan shall be determined by using the interest rate under subsection (b)(5).''

Subsec. (c)(3). Pub. L. 100–203, § 9307(b)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable (taking into account the experience of the plan and reasonable expectations) and which, in combination, offer the actuary's best estimate of anticipated experience under the plan.''

Subsec. (c)(7). Pub. L. 100–203, § 9301(a), substituted ''Full-funding'' for ''Full funding'' in heading and amended text generally. Prior to amendment, text read as follows: ''For purposes of paragraph (6), the term full funding limitation means the excess (if any) of—

''(A) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

''(B) the lesser of the fair market value of the plan's assets or the value of such assets determined under paragraph (2).''

Subsec. (c)(10). Pub. L. 100–203, § 9304(a)(1), amended par. (10) generally. Prior to amendment, par. (10) read as follows: ''For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.''

Subsec. (c)(11). Pub. L. 100–203, § 9305(b)(1), added par. (11).

Subsec. (d)(1). Pub. L. 100–203, § 9306(a)(1)(B), struck out ''substantial'' after ''in case of'' in heading, and substituted ''temporary substantial business hardship (substantial business hardship in the case of a multiem-

ployer plan)'' for ''substantial business hardship'' in text.

Pub. L. 100–203, §9306(b)(1), substituted ''more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan)'' for ''more than 5 of any 15''.

Pub. L. 100–203, §9306(c)(1)(A), substituted ''The interest rate used for purposes of computing the amortization charge described in subsection (b)(2)(C) for any plan year shall be—'' and subpars. (A) and (B) for ''The interest rate used for purposes of computing the amortization charge described in section 412(b)(2)(C) for a variance granted under this subsection shall be the rate determined under section 6621(b).''

Subsec. (d)(2). Pub. L. 100–203, §9306(a)(1)(B), struck out ''substantial'' after ''Determination of'' in heading, and substituted ''temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan)'' for ''substantial business hardship'' in introductory provisions.

Subsec. (d)(4). Pub. L. 100–203, §9306(a)(1)(A), added par. (4).

Subsec. (d)(5). Pub. L. 100–203, §9306(a)(1)(C), added par. (5).

Subsec. (e). Pub. L. 100–203, §9306(c)(1)(B), substituted last two sentences for ''The interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection shall be the rate determined under section 6621(b).''

Subsec. (f)(3)(C)(i). Pub. L. 100–203, §9306(e)(1), substituted ''$1,000,000'' for ''$2,000,000'' at end.

Subsec. (f)(4)(A). Pub. L. 100–203, §9306(d)(1), substituted ''plan, and each participant, beneficiary, and alternate payee (within the meaning of section 414(p)(8)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and the benefit liabilities.'' for ''plan.''

Subsec. (*l*). Pub. L. 100–203, §9303(a)(1), added subsec. (*l*).

Subsec. (m). Pub. L. 100–203, §9304(b)(1), added subsec. (m).

Subsec. (n). Pub. L. 100–203, §9304(e)(1), added subsec. (n).

1986—Subsec. (d)(1). Pub. L. 99–272, §11015(b)(2)(A), inserted provision that the interest rate used for purposes of computing the amortization charge described in section 412(b)(2)(C) for a variance granted under this subsection be the rate determined under section 6621(b).

Subsec. (e). Pub. L. 99–272, §11015(b)(2)(B), inserted provision that the interest rate applicable under any arrangement entered into by the Secretary in connection with an extension granted under this subsection be the rate determined under section 6621(b).

Subsec. (f). Pub. L. 99–272, §11015(a)(2), substituted in heading ''Requirements relating to waivers and extensions'' for ''Benefits may not be increased during waiver or extension period'' and in par. (1) heading ''Benefits may not be increased during waiver or extension period'' for ''In general'', and added par. (3).

Pub. L. 99–272, §11016(c)(4), added par. (4).

1984—Subsec. (a)(2). Pub. L. 98–369 struck out ''or 405(a)'' after ''section 403(a)''.

1980—Subsec. (a). Pub. L. 96–364, §208(c), inserted provisions relating to plan years where multiemployer plan is in reorganization.

Subsec. (b). Pub. L. 96–364, §203(1), (2), struck out in pars. (2)(B)(ii), (iii), and (3)(B)(i) provisions respecting applicability of multiemployer plans with 40 plan years and in pars. (2)(B)(iv) and (3)(B)(ii) provisions respecting applicability of multiemployer plans with 20 year plans and added pars. (6) and (7).

Subsecs. (j), (k). Pub. L. 96–364, §203(3), added subsecs. (j) and (k).

1976—Subsecs. (a) to (d). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (h). Pub. L. 94–455, §1901(a)(63), substituted reference to Sept. 2, 1974, for reference to the date of enactment of the Employee Retirement Income Security Act of 1974 in par. (5) and substituted reference to Sept. 1, 1974, for reference to the day before the date of enactment of the Employee Retirement Income Security Act of 1974 in the provisions following par. (6).

Subsec. (i). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–97 applicable to years beginning after Dec. 31, 2013, see section 3 of Pub. L. 113–97, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–458 effective as if included in the provisions of Pub. L. 109–280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110–458, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title I, §111(b), Aug. 17, 2006, 120 Stat. 826, provided that: ''The amendments made by this section [amending this section] shall apply to plan years beginning after December 31, 2007.''

Pub. L. 109–280, title II, §212(e), Aug. 17, 2006, 120 Stat. 917, as amended by Pub. L. 110–458, title I, §102(b)(3)(B), (C), Dec. 23, 2008, 122 Stat. 5103, provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting section 432 of this title and amending this section and section 4971 of this title] shall apply with respect to plan years beginning after 2007, except that the amendments made by subsection (b) [amending section 4971 of this title] shall apply to taxable years beginning after 2007, but only with respect to plan years beginning after 2007 which end with or within any such taxable year.

''(2) SPECIAL RULE FOR CERTAIN NOTICES.—In any case in which a plan's actuary certifies that it is reasonably expected that a multiemployer plan will be in critical status under section 432(b)(3) of the Internal Revenue Code of 1986, as added by this section, with respect to the first plan year beginning after 2007, the notice required under subparagraph (D) of such section may be provided at any time after the date of enactment [Aug. 17, 2006], so long as it is provided on or before the last date for providing the notice under such subparagraph.

''(3) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

''(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

''(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.''

Pub. L. 109–280, title II, §221(c), Aug. 17, 2006, 120 Stat. 919, as amended by Pub. L. 113–295, div. A, title I, §172(a), (b), Dec. 19, 2014, 128 Stat. 4024, which provided that the provisions of, and the amendments made by, sections 201(b), 202, and 212 (enacting section 432 of this title and section 1085 of Title 29, Labor, amending this section, section 4971 of this title, and sections 1082 and 1132 of Title 29, and enacting provisions set out as notes under this section and sections 1082 and 1084 of Title 29) were not applicable to plan years beginning after Dec. 31, 2014, and if a plan was operating under a funding improvement or rehabilitation plan under section 1085 of Title 29 or section 432 of this title for its last year beginning before Jan. 1, 2015, such plan was to continue to operate under such funding improvement or rehabilitation plan during any period after Dec. 31, 2014, such funding improvement or rehabilitation plan was in ef-

fect and all provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or this title relating to the operation of such funding improvement or rehabilitation plan were to continue in effect during such period, was repealed by Pub. L. 113–235, div. O, title I, §101(a), Dec. 16, 2014, 128 Stat. 2774.

[Pub. L. 113–295, div. A, title I, §172(c), Dec. 19, 2014, 128 Stat. 4024, provided that: ''The amendments made by this section [directing amendment of section 221(c) of Pub. L. 109–280, formerly set out above] shall apply to plan years beginning after December 31, 2014.'' Those amendments could not be executed because of the intervening repeal of section 221(c) by Pub. L. 113–235.]

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 101(b)(1)–(3) of Pub. L. 108–218 applicable, except as otherwise provided, to plan years beginning after Dec. 31, 2003, see section 101(d) of Pub. L. 108–218, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by section 411(v)(1) of Pub. L. 107–147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 411(x) of Pub. L. 107–147, set out as a note under section 25B of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–16, title VI, §651(c), June 7, 2001, 115 Stat. 129, provided that: ''The amendments made by this section [amending this section and section 1082 of Title 29, Labor] shall apply to plan years beginning after December 31, 2001.''

Pub. L. 107–16, title VI, §661(c), June 7, 2001, 115 Stat. 142, provided that: ''The amendments made by this section [amending this section and section 1082 of Title 29, Labor] shall apply to plan years beginning after December 31, 2001.''

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title XV, §1521(d)(1), Aug. 5, 1997, 111 Stat. 1070, provided that: ''The amendments made by this section [amending this section and section 1082 of Title 29, Labor] shall apply to plan years beginning after December 31, 1998.''

Pub. L. 105–34, title XVI, §1604(b)(4), Aug. 5, 1997, 111 Stat. 1097, provided that: ''The amendments made by this subsection [amending this section, section 6621 of this title, section 1082 of Title 29, Labor, and provisions set out as a note under section 411 of this title] shall take effect as if included in the sections of the Uruguay Round Agreements Act [Pub. L. 103–465] to which they relate.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 751(a)(1)–(9)(A), (10) of Pub. L. 103–465 applicable to plan years beginning after Dec. 31, 1994, see section 751(b)(1) of Pub. L. 103–465, set out as a note under section 401 of this title.

Pub. L. 103–465, title VII, §752(b), Dec. 8, 1994, 108 Stat. 5023, provided that:

''(1) IN GENERAL.—The amendment made by this section [amending this section] shall apply to changes in assumptions for plan years beginning after October 28, 1993.

''(2) CERTAIN CHANGES CEASE TO BE EFFECTIVE.—In the case of changes in assumptions for plan years beginning after December 31, 1992, and on or before October 28, 1993, such changes shall cease to be effective for plan years beginning after December 31, 1994, if—

''(A) such change would have required the approval of the Secretary of the Treasury had such amendment applied to such change, and

''(B) such change is not so approved.''

Pub. L. 103–465, title VII, §753(b), Dec. 8, 1994, 108 Stat. 5023, provided that: ''The amendment made by this section [amending this section] shall apply to plan years beginning after December 31, 1994, with respect to collective bargaining agreements in effect on or after January 1, 1995.''

Pub. L. 103–465, title VII, §754(b), Dec. 8, 1994, 108 Stat. 5023, provided that: ''The amendment made by this section [amending this section] shall apply to plan years beginning after the date of enactment of this Act [Dec. 8, 1994].''

Pub. L. 103–465, title VII, §768(c), Dec. 8, 1994, 108 Stat. 5041, provided that: ''The amendments made by this section [amending this section and section 1082 of Title 29, Labor] shall be effective for installments and other payments required under section 412 of the Internal Revenue Code of 1986 or under part 3 of subtitle B [of title I] of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1081 et seq.] that become due on or after the date of enactment [Dec. 8, 1994].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Pension Protection Act, Pub. L. 100–203, §§9302–9346, to which such amendment relates, see section 7882 of Pub. L. 101–239, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective as if included in the amendments made by the provisions of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, to which it relates, see section 2005(e) of Pub. L. 100–647, as amended, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–203, title IX, §9301(c)(1), (2), Dec. 22, 1987, 101 Stat. 1330–333, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and section 1082 of Title 29, Labor] shall apply to years beginning after December 31, 1987.

''(2) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as are necessary to carry out the amendments made by this section no later than August 15, 1988.''

Pub. L. 100–203, title IX, §9303(e), Dec. 22, 1987, 101 Stat. 1330–342, as amended by Pub. L. 101–239, title VII, §7881(a)(7), Dec. 19, 1989, 103 Stat. 2436, provided that:

''(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [amending this section and section 1082 of Title 29, Labor] shall apply with respect to plan years beginning after December 31, 1988.

''(2) SUBSECTIONS (c) AND (d).—The amendments made by subsections (c) [set out below] and (d) [amending this section and section 1082 of Title 29] shall apply with respect to years beginning after December 31, 1987.

''(3) SPECIAL RULE FOR STEEL COMPANIES.—

''(A) IN GENERAL.—For any plan year beginning before January 1, 1994, any increase in the funding standard account under [former] section 412(*l*) of the 1986 Code or section 302(d) of ERISA (as added by this section) [29 U.S.C. 1082(d)] with respect to any steel employee plan shall not exceed the sum of—

''(i) the required percentage of the current liability under such plan, plus

''(ii) the amount determined under subparagraph (C)(i) for such plan year.

''(B) REQUIRED PERCENTAGE.—For purposes of subparagraph (A), the term 'required percentage' means, with respect to any plan year, the excess (if any) of—

''(i) the sum of—

''(I) the funded current liability percentage as of the beginning of the 1st plan year beginning after December 31, 1988 (determined without regard to any plan amendment adopted after June 30, 1987), plus

''(II) 1 percentage point for the plan year for which the determination under this paragraph is

being made and for each prior plan year beginning after December 31, 1988, over

''(ii) the funded current liability percentage as of the beginning of the plan year for which such determination is being made.

''(C) SPECIAL RULES FOR CONTINGENT EVENTS.—In the case of any unpredictable contingent event benefit with respect to which the event on which such benefits are contingent occurs after December 17, 1987—

''(i) AMORTIZATION AMOUNT.—For purposes of subparagraph (A)(ii), the amount determined under this clause for any plan year is the amount which would be determined if the unpredictable contingent event benefit liability were amortized in equal annual installments over 10 plan years (beginning with the plan year in which such event occurs).

''(ii) BENEFIT AND CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (B), in determining the funded current liability percentage for any plan year, there shall not be taken into account—

''(I) the unpredictable contingent event benefit liability, or

''(II) any amount contributed to the plan which is attributable to clause (i) (and any income allocable to such amount).

''(D) STEEL EMPLOYEE PLAN.—For purposes of this paragraph, the term 'steel employee plan' means any plan if—

''(i) such plan is maintained by a steel company, and

''(ii) substantially all of the employees covered by such plan are employees of such company.

''(E) OTHER DEFINITIONS.—For purposes of this paragraph—

''(i) STEEL COMPANY.—The term 'steel company' means any corporation described in section 806(b) of the Steel Import Stabilization Act [section 806(b) of Pub. L. 98–573, 19 U.S.C. 2253 note].

''(ii) OTHER DEFINITIONS.—The terms 'current liability', 'funded current liability percentage', and 'unpredictable contingent event benefit' have the meanings given such terms by [former] section 412(*l*) of the 1986 Code (as added by this section).

''(F) SPECIAL RULE.—The provisions of this paragraph shall apply in the case of a company which was originally incorporated on April 25, 1927, in Michigan and reincorporated on June 3, 1968, in Delaware in the same manner as if such company were a steel company.''

Pub. L. 100–203, title IX, §9304(a)(3), Dec. 22, 1987, 101 Stat. 1330–344, provided that: ''The amendments made by this subsection [amending this section and section 1082 of Title 29, Labor] shall apply to plan years beginning after December 31, 1987.''

Pub. L. 100–203, title IX, §9304(b)(3), Dec. 22, 1987, 101 Stat. 1330–347, provided that: ''The amendments made by this subsection [amending this section and section 1082 of Title 29] shall apply with respect to plan years beginning after 1988.''

Pub. L. 100–203, title IX, §9304(e)(3), Dec. 22, 1987, 101 Stat. 1330–351, provided that: ''The amendments made by this subsection [amending this section and section 1082 of Title 29] shall apply to plan years beginning after December 31, 1987.''

Pub. L. 100–203, title IX, §9305(d), Dec. 22, 1987, 101 Stat. 1330–352, provided that: ''The amendments made by this section [amending this section and sections 414 and 4971 of this title and section 1082 of Title 29] shall apply with respect to plan years beginning after December 31, 1987.''

Pub. L. 100–203, title IX, §9306(f), Dec. 22, 1987, 101 Stat. 1330–355, as amended by Pub. L. 101–239, title VII, §7881(c)(3), Dec. 19, 1989, 103 Stat. 2439, provided that:

''(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [amending this section and sections 1083, 1084, and 1085a of Title 29, Labor] shall apply in the case of—

''(A) any application submitted after December 17, 1987, and

''(B) any waiver granted pursuant to such an application.

''(2) SPECIAL RULE FOR APPLICATION REQUIREMENT.—

''(A) IN GENERAL.—The amendments made by subsections (a)(1)(A) and (a)(2)(A) [amending this section and section 1083 of Title 29] shall apply to plan years beginning after December 31, 1987.

''(B) TRANSITIONAL RULE FOR YEARS BEGINNING IN 1988.—In the case of any plan year beginning during calendar 1988, [former] section 412(d)(4) of the 1986 Code and section 303(d)(1) of ERISA [29 U.S.C. 1083(d)(1)] (as added by subsection (a)(1) [and (2)]) shall be applied by substituting '6th month' for '3rd month'.

''(3) SUBSECTION (b).—The amendments made by subsection (b) [amending this section and section 1083 of Title 29] shall apply to waivers for plan years beginning after December 31, 1987. For purposes of applying such amendments, the number of waivers which may be granted for plan years after December 31, 1987, shall be determined without regard to any waivers granted for plan years beginning before January 1, 1988.

''(4) SUBSECTION (d).—The amendments made by subsection (d) [amending this section and section 1083 of Title 29] shall apply to applications submitted more than 90 days after the date of the enactment of this Act [Dec. 22, 1987].''

Amendment by section 9307(a)(1), (b)(1), (e)(1) of Pub. L. 100–203 applicable to years beginning after Dec. 31, 1987, except that subsec. (b)(2)(B)(iv) and (3)(B)(ii) of this section (as amended by section 9307(a)(1)(A) of Pub. L. 100–203) is applicable to gains and losses established in years beginning after Dec. 31, 1987, see section 9307(f) of Pub. L. 100–203, as amended, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–272, title XI, §11015(a)(3), Apr. 7, 1986, 100 Stat. 267, provided that: ''The amendments made by this subsection [enacting section 1085a of Title 29, Labor, and amending this section and section 1061 of Title 29] shall apply with respect to applications for waivers, extensions, and modifications filed on or after the date of the enactment of this Act [Apr. 7, 1986].''

Amendment by sections 11015(b)(2) and 11016(c)(4) of Pub. L. 99–272 effective Jan. 1, 1986, with certain exceptions, see section 11019 of Pub. L. 99–272, set out as a note under section 1341 of Title 29.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–364 effective Sept. 26, 1980, see section 210(a) of Pub. L. 96–364, set out as an Effective Date note under section 194A of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(63) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE

Section applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, and, in the case of plans in existence on Jan. 1, 1974, for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

REGULATIONS

Pub. L. 103–465, title VII, §769, Dec. 8, 1994, 108 Stat. 5041, as amended by Pub. L. 105–34, title XV, §1508(a),

Aug. 5, 1997, 111 Stat. 1067; Pub. L. 108–218, title II, § 201(a), Apr. 10, 2004, 118 Stat. 608; Pub. L. 109–280, title I, § 115(d)(1), (e)(1), Aug. 17, 2006, 120 Stat. 856, provided that:

''(a) FUNDING RULES NOT TO APPLY TO CERTAIN PLANS.—Any changes made by this Act [Pub. L. 103–465] to section 412 of the Internal Revenue Code of 1986 or to part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1081 et seq.] shall not apply to—

''(1) a plan which is, on the date of enactment of this Act [Dec. 8, 1994], subject to a restoration payment schedule order issued by the Pension Benefit Guaranty Corporation that meets the requirements of section 1.412(c)(1)–3 of the Treasury Regulations, or

''(2) a plan established by an affected air carrier (as defined under section 4001(a)(14)(C)(ii)(I) of such Act [29 U.S.C. 1301(a)(14)(C)(ii)(I)]) and assumed by a new plan sponsor pursuant to the terms of a written agreement with the Pension Benefit Guaranty Corporation dated January 5, 1993, and approved by the United States Bankruptcy Court for the District of Delaware on December 30, 1992.

''(b) CHANGE IN ACTUARIAL METHOD.—Any amortization installments for bases established under [former] section 412(b) of the Internal Revenue Code of 1986 and section 302(b) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1082(b)] for plan years beginning after December 31, 1987, and before January 1, 1993, by reason of nonelective changes under the frozen entry age actuarial cost method shall not be included in the calculation of offsets under [former] section 412(*l*)(1)(A)(ii) of such Code and section 302(d)(1)(A)(ii) of such Act for the 1st 5 plan years beginning after December 31, 1994.''

[Pub. L. 109–280, title I, § 115(d)(2), Aug. 17, 2006, 120 Stat. 856, provided that: ''The amendment made by paragraph (1) [amending section 769 of Pub. L. 103–465, set out above] shall apply to plan years beginning after December 31, 2005.'']

[Pub. L. 109–280, title I, § 115(e)(2), Aug. 17, 2006, 120 Stat. 856, provided that: ''The amendment made by paragraph (1) [amending section 769 of Pub. L. 103–465, set out above] shall take effect on December 31, 2007, and shall apply to plan years beginning after such date.'']

[Pub. L. 108–218, title II, § 201(b), Apr. 10, 2004, 118 Stat. 608, provided that: ''The amendments made by this section [amending section 769 of Pub. L. 103–465, set out above] shall apply to plan years beginning after December 31, 2003.'']

[Pub. L. 105–34, title XV, § 1508(b), Aug. 5, 1997, 111 Stat. 1068, provided that: ''The amendment made by this section [amending section 769 of Pub. L. 103–465, set out above] shall apply to plan years beginning after December 31, 1996.'']

Pub. L. 100–203, title IX, § 9303(c), Dec. 22, 1987, 101 Stat. 1330–342, provided that: ''Effective with respect to plan years beginning after December 31, 1987, the provisions of the regulations prescribed under section 412(c)(2) of the 1986 Code which permit asset valuations to be based on a range between 85 percent and 115 percent of average value shall have no force and effect with respect to plans other than multiemployer plans (as defined in section 414(f) of the 1986 Code). The Secretary of the Treasury or his delegate shall amend such regulations to carry out the purposes of the preceding sentence.''

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109–280

For special rules on applicability of amendments by subtitles A (§§ 101–108) and B (§§ 111–116) of title I of Pub. L. 109–280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109–280, set out as notes under section 401 of this title.

SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION

Pub. L. 109–280, title II, § 206, Aug. 17, 2006, 120 Stat. 889, provided that: ''In the case of a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that—

''(1) increases benefits, and

''(2) provides for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383[(f)]),

the amendments made by sections 201, 202, 211, and 212 of this Act [enacting sections 431 and 432 of this title and sections 1084 and 1085 of Title 29, Labor, and amending this section, section 4971 of this title, and sections 1081, 1082, and 1132 of Title 29] shall not apply to the benefit increases under any plan amendment adopted prior to June 30, 2005, that are funded pursuant to such agreement if the plan is funded in compliance with such agreement (and any amendments thereto).''

APPLICABILITY OF SECTION TO CERTAIN PLANS MAINTAINED BY COMMERCIAL AIRLINES

For special rules on applicability of this section to certain plans maintained by commercial airlines, see section 402 of Pub. L. 109–280, set out as a note under section 430 of this title.

EFFECT OF ELECTION

Pub. L. 108–218, title I, § 102(c), Apr. 10, 2004, 118 Stat. 602, provided that: ''An election under section 302(d)(12) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1082(d)(12)] or [former] section 412(*l*)(12) of the Internal Revenue Code of 1986 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.''

SPECIAL RULE FOR UNAMORTIZED BALANCES UNDER EXISTING LAW

Pub. L. 105–34, title XV, § 1521(d)(2), Aug. 5, 1997, 111 Stat. 1070, provided that: ''The unamortized balance (as of the close of the plan year preceding the plan's first year beginning in 1999) of any amortization base established under [former] section 412(c)(7)(D)(iii) of such Code [26 U.S.C. 412(c)(7)(D)(iii)] and section 302(c)(7)(D)(iii) of such Act [29 U.S.C. 1082(c)(7)(D)(iii)] (as repealed by subsection (c)(3)) for any plan year beginning before 1999 shall be amortized in equal annual installments (until fully amortized) over a period of years equal to the excess of—

''(A) 20 years, over

''(B) the number of years since the amortization base was established.''

ALTERNATIVE AMORTIZATION METHOD FOR CERTAIN MULTIEMPLOYER PLANS

Pub. L. 93–406, title II, § 1013(d), Sept. 2, 1974, 88 Stat. 923, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) GENERAL RULE.—In the case of any multiemployer plan (as defined in section 414(f) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) to which section 412 of such Code applies, if—

''(A) on January 1, 1974, the contributions under the plan were based on a percentage of pay,

''(B) the actuarial assumptions with respect to pay are reasonably related to past and projected experience, and

''(C) the rates of interest under the plan are determined on the basis of reasonable actuarial assumptions,

the plan may elect (in such manner and at such time as may be provided under regulations prescribed by the Secretary of the Treasury or his delegate) to fund the unfunded past service liability under the plan existing as of the date 12 months following the first date on which such section 412 first applies to the plan by charging the funding standard account with an equal annual percentage of the aggregate pay of all participants in the plan in lieu of the level dollar charges to such account required under clauses (i), (ii), and (iii) of [former] section 412(b)(2)(B) of such Code and section 302(b)(2)(B)(i), (ii), and (iii) of this Act [section 1082(b)(2)(B)(i), (ii), and (iii) of Title 29, Labor].

''(2) LIMITATION.—In the case of a plan which makes an election under paragraph (1), the aggregate of the charges required under such paragraph for a plan year shall not be less than the interest on the unfunded past service liabilities described in clauses (i), (ii), and (iii) of [former] section 412(b)(2)(B) of the Internal Revenue Code of 1986.''

§ 413. Collectively bargained plans, etc.

(a) Application of subsection (b)

Subsection (b) applies to—

(1) a plan maintained pursuant to an agreement which the Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers, and

(2) each trust which is a part of such plan.

(b) General rule

If this subsection applies to a plan, notwithstanding any other provision of this title—

(1) Participation

Section 410 shall be applied as if all employees of each of the employers who are parties to the collective-bargaining agreement and who are subject to the same benefit computation formula under the plan were employed by a single employer.

(2) Discrimination, etc.

Sections 401(a)(4) and 411(d)(3) shall be applied as if all participants who are subject to the same benefit computation formula and who are employed by employers who are parties to the collective bargaining agreement were employed by a single employer.

(3) Exclusive benefit

For purposes of section 401(a), in determining whether the plan of an employer is for the exclusive benefit of his employees and their beneficiaries, all plan participants shall be considered to be his employees.

(4) Vesting

Section 411 (other than subsection (d)(3)) shall be applied as if all employers who have been parties to the collective-bargaining agreement constituted a single employer, except that the application of any rules with respect to breaks in service shall be made under regulations prescribed by the Secretary of Labor.

(5) Funding

The minimum funding standard provided by section 412 shall be determined as if all participants in the plan were employed by a single employer.

(6) Liability for funding tax

For a plan year the liability under section 4971 of each employer who is a party to the collective bargaining agreement shall be determined in a reasonable manner not inconsistent with regulations prescribed by the Secretary—

(A) first on the basis of their respective delinquencies in meeting required employer contributions under the plan, and

(B) then on the basis of their respective liabilities for contributions under the plan.

For purposes of this subsection and section 4971(e), an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall not be treated as a liability for contributions under the plan.

(7) Deduction limitations

Each applicable limitation provided by section 404(a) shall be determined as if all participants in the plan were employed by a single employer. The amounts contributed to or under the plan by each employer who is a party to the agreement, for the portion of his taxable year which is included within such a plan year, shall be considered not to exceed such a limitation if the anticipated employer contributions for such plan year (determined in a manner consistent with the manner in which actual employer contributions for such plan year are determined) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary.

(8) Employees of labor unions

For purposes of this subsection, employees of employee representatives shall be treated as employees of an employer described in subsection (a)(1) if such representatives meet the requirements of sections 401(a)(4) and 410 with respect to such employees.

(9) Plans covering a professional employee

Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting ''section 410(a)'' for ''section 410'', and paragraph (2) shall not apply.

(c) Plans maintained by more than one employer

In the case of a plan maintained by more than one employer—

(1) Participation

Section 410(a) shall be applied as if all employees of each of the employers who maintain the plan were employed by a single employer.

(2) Exclusive benefit

For purposes of sections 401(a) and 408(c), in determining whether the plan of an employer is for the exclusive benefit of his employees and their beneficiaries all plan participants shall be considered to be his employees.

(3) Vesting

Section 411 shall be applied as if all employers who maintain the plan constituted a single employer, except that the application of any