

Appendix A

MODEL NOTICE OF APPLICATION FOR APPROVAL OF A PROPOSED REDUCTION OF BENEFITS

[This is a model notice that can be used to satisfy the requirements of § 432(e)(9)(F). If the plan sponsor applies for a partition of the Plan under section 4322 of ERISA, then this notice can be combined with the notice required under section 4322 assuming all other requirements, such as the timing of providing each notice, are satisfied.]

[DATE]

NOTICE OF APPLICATION FOR APPROVAL OF A PROPOSED REDUCTION OF BENEFITS UNDER *[Insert name of plan]*

This notice is to inform you that, on *[insert date]*, the joint board of trustees of the *[insert Plan name]* (“Board of Trustees”) *[insert submitted/will submit]* an application to the U.S. Treasury Department for approval to reduce benefits under the *[insert Plan name]* (“Plan”), effective *[insert effective date of proposed suspension of benefits]*. If the application is approved and other requirements are satisfied, then the Board of Trustees will be permitted to reduce, by plan amendment, benefits otherwise payable to participants or beneficiaries. This type of benefit reduction is authorized by the Multiemployer Pension Reform Act of 2014, which refers to it as a “suspension” of benefits. It is a reduction of any current or future payments from a multiemployer defined benefit pension plan to any participant or beneficiary, including retirees and beneficiaries who are receiving benefits at the time of the reduction.

Federal law requires the Board of Trustees to send this notice to contributing employers, unions representing participants, and every plan participant and beneficiary, even if his or her benefit is not being reduced. To see whether and how the proposed reduction applies to you, go to “**How the proposed reduction in benefits would affect you**” on page *[insert page number]* of this notice.

PLAN’S ELIGIBILITY TO REDUCE BENEFITS

Federal law permits the Board of Trustees to apply for a proposed reduction of benefits because the Plan’s actuary certified that the Plan is in “critical and declining” status for the plan year beginning *[insert first day of plan year]*. This means that the Plan is experiencing funding and/or liquidity problems, such that it is in “critical” status, and it is projected to become insolvent (that is, not have enough assets to pay benefits) in the year *[insert year]*.

The Board of Trustees determined that it has taken “all reasonable measures” to avoid insolvency of the Plan, but that those measures have been insufficient to meet that goal, and that the proposed reduction of benefits is necessary to avoid insolvency. If the Plan were to become insolvent, benefits could be reduced below the proposed reduction. If

this were to happen, the Pension Benefit Guaranty Corporation (“PBGC”) would be required to provide a guarantee for a certain level of benefits that is set by federal law (“PBGC-guaranteed level”).¹

DESCRIPTION OF THE PROPOSED BENEFIT REDUCTION AND FACTORS CONSIDERED BY THE BOARD OF TRUSTEES IN DESIGNING THE REDUCTION

Federal law imposes limits on how a reduction of benefits can be designed. For example, a participant’s or beneficiary’s monthly benefit may not be reduced below 110% of the PBGC-guaranteed level. In addition, no reduction can apply to benefits based on disability. Finally, an individual’s age affects the amount of the reduction that may apply to the monthly benefit. No reduction applies to the benefits of an individual who has reached age 80 as of the effective date of the reduction. For an individual who is between ages 75 and 80 as of the effective date of the reduction, the maximum amount of the reduction that can apply to his or her benefit is reduced. The closer the individual is to age 80 as of the effective date of the reduction, the smaller the reduction to the individual’s benefit can be. If the age-based limits on the amount of a reduction apply for a participant, then the same limits will continue for any beneficiary of the participant after the participant’s death, regardless of the beneficiary’s age.

Federal law requires that any reduction of benefits be distributed fairly among the various categories or groups of participants and beneficiaries under the Plan. In deciding whether the proposed reduction would be distributed fairly under the Plan, the Board of Trustees took into account the following factors: *[List the factors the Board of Trustees took into account in designing the proposed suspension of benefits. This list may include (but is not limited to) factors found in § 432(e)(9)(D)(vi).]*

The Board of Trustees proposes the following reduction of benefits: *[Describe the proposed suspension of benefits and its effect. Describe each category or group of individuals who would be affected differently by the suspension (including categories or groups that would be unaffected) and how those categories or groups are defined; describe the formula used to determine how the amount of the proposed suspension is determined for individuals in each category or group; specify whether the proposed suspension will remain in effect indefinitely or will expire by its own terms (and if so, when it will expire); describe any proposed phase-in of the suspension; and describe the effect of the proposed suspension on the plan’s projected insolvency.]*

If you are a participant or beneficiary, the last part of this notice provides a dollar estimate of how the proposed reduction applies to you.

AVAILABILITY OF THE APPLICATION AND HOW YOU CAN COMMENT ON IT

The application for approval of the proposed reduction of benefits will be made publicly available within 30 days after the application has been received by the Treasury

¹ For more information about the amount of benefits guaranteed by PBGC, visit: <http://pbgc.gov/prac/multiemployer/multiemployer-benefit-guarantees.html>.

Department. The application includes more information about the proposed reduction, including details about: 1) the Plan actuary's certification that the Plan is in critical and declining status; 2) how the proposed reduction would satisfy the requirement that it be large enough so that the Plan is projected to avoid insolvency, while not being larger than needed to avoid insolvency; and 3) the sensitivity of the projection to the assumptions used.

The application also includes a description of the measures the Board of Trustees has already taken to try to avoid insolvency of the Plan, as well as why the Board of Trustees believes that the proposed reduction is distributed fairly. Comments will be accepted regarding the application from employees, deferred vested participants (participants who are no longer earning benefits under the Plan but are not yet receiving benefits from the Plan), retirees, beneficiaries, contributing employers, unions representing participants, and other interested parties (such as the retiree representative, if any).

See www.treasury.gov/mpra for a copy of the Plan's application, for instructions on how to send a comment on the application, and for how to contact the Treasury Department for further information and assistance. The Treasury website will also provide updated information on the application, such as whether the application has been modified or withdrawn. If the application is withdrawn (or rejected), and the Board of Trustees submits a new application, you may receive a notice for that new application that supersedes this notice.

You may also contact the Treasury Department for further information and assistance at the following address:

Department of the Treasury
Attn: MPRA, Room 1001
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

RETIREE REPRESENTATIVE

The board of trustees of a multiemployer plan applying for approval to reduce benefits may select a retiree representative to advocate for the interests of retirees, beneficiaries, and deferred vested participants in connection with the approval process. If the plan has 10,000 or more participants, the board of trustees is required by Federal law to select a retiree representative.

[If the Board of Trustees has selected a retiree representative under § 432(e)(9)(B)(v)(I), insert the following]

On *[insert date]*, *[insert name]* was selected to act as the retiree representative. The retiree representative, who is one of the retirees currently receiving benefits under the

Plan, [is/is not] a member of the Board of Trustees of the Plan. Participants and beneficiaries may contact [*insert name of retiree representative*] at [*insert phone number, address, and e-mail address*].

[If the Board of Trustees has not selected a retiree representative under § 432(e)(9)(B)(v)(I), insert the following]

The Board of Trustees has not chosen to select a retiree representative.

RIGHTS AND REMEDIES OF PLAN PARTICIPANTS AND BENEFICIARIES

Vote on Proposed Benefit Reduction

If the application for the proposed reduction of benefits is approved by the Treasury Department, then participants and beneficiaries will be given the opportunity to vote to approve or reject the proposed reduction. Unless a majority of all participants and beneficiaries of the Plan vote to reject the reduction, the reduction will be permitted to go into effect following the vote.

Final Authorization to Reduce Benefits

If a majority of all plan participants and beneficiaries do not vote to reject the proposed reduction of benefits, then the Treasury Department is required to issue a final authorization to permit the reduction of benefits to take effect.

[If the Board of Trustees believes that the PBGC will or may determine that the Plan is a systemically important plan (a plan with a present value of projected PBGC financial assistance payments that exceeds \$1 billion), insert the following]

If the Plan is a systemically important plan (a plan with a present value of projected PBGC financial assistance payments that exceeds \$1 billion) and a majority of participants and beneficiaries vote to reject the proposed reduction of benefits, then Federal law requires the Treasury Department, notwithstanding the participants' and beneficiaries' vote to reject, to issue a final authorization to permit either the proposed reduction of benefits, or a modified version of the proposed reduction of benefits, to take effect. Before this occurs, the PBGC's Participant and Plan Sponsor Advocate may submit recommendations to the Treasury Department regarding possible modifications to the proposed reduction.

Claims Process for Incorrect Calculations

If you think the reduction to your benefits was calculated incorrectly, then you have the right to submit a claim to the Plan to have the calculation corrected. Your Plan's summary plan description is required to include the Plan's claims procedures, including information on your right to have a court review the Plan's final decision on your claim.

Access to Plan Documents

You, your contributing employer, the union representing you, and the retiree representative (if any) also have the right to request the documents listed below from the Plan. You may want to review these documents to help you understand your rights and the proposed reduction to your benefits:

- The Plan document (including any amendments adopted to reflect an authorized reduction of benefits), trust agreement, and other documents governing the Plan (such as collective bargaining agreements),
- The most recent summary plan description (SPD or plan brochure) and any summary of material modifications,
- The Plan's Form 5500 annual reports, including audited financial statements, filed with the U.S. Department of Labor during the last six years,
- The annual funding notices furnished by the Plan during the last six years,
- Actuarial reports, including reports prepared in anticipation of the benefit reduction, furnished to the Plan within the last six years,
- The Plan's current rehabilitation plan, including contribution schedules and annual plan-sponsor determinations that all reasonable measures to avoid insolvency continue to be taken and that the Plan is not projected to avoid insolvency unless benefits are reduced, and
- Any quarterly, semi-annual or annual financial reports prepared for the Plan by an investment manager, fiduciary or other advisor and furnished to the Plan within the last six years.

The plan administrator must respond to your request for these documents within 30 days, and may charge you the cost per page to the Plan for the least expensive means of reproducing documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan is also available free of charge at www.dol.gov/ebsa/5500main.html. Some of the documents also may be available for examination, without charge, at the plan administrator's office, your worksite or union hall.

INDIVIDUAL ESTIMATE OF EFFECT OF PROPOSED REDUCTION IN BENEFITS

[Distribute this estimate to the affected individual]

[Affected Individual's Name]

[Address]

[Town, State, Zip]

How the proposed reduction in benefits would affect you

The Plan's actuary has calculated that if the proposed reductions are not implemented, then the Plan is projected to be insolvent and unable to pay benefits when due in *[insert year of projected insolvency]*. If the Plan becomes insolvent, your benefit would be reduced to the monthly PBGC-guaranteed level. Your estimated monthly PBGC-guaranteed level is *[insert \$xxxx.xx]*.

[Choose (a), (b), (c) or (d), as appropriate for an affected individual. Affected individuals include a participant (including a retiree), a beneficiary of a deceased participant, or an alternate payee. If (a), (b) or (c) is chosen, then insert a narrative description of the effect of the suspension if it is not possible to estimate its effect quantitatively (on an annual or monthly basis), such as in the case of a suspension that affects the payment of any future cost of living adjustment.]

[(a) For an affected individual who is in pay status and who has a proposed suspension]

Effective *[insert effective date of proposed suspension]*, your monthly benefit is proposed to be reduced from *[insert current monthly benefit]* to *[insert monthly benefit reflecting proposed suspension]*.

[(b) For an affected individual who has a proposed suspension, is not yet in pay status, and is below the participant's normal retirement age]

Your future monthly benefit, based on the years of service you have (or, if you are a beneficiary or alternate payee, the participant has) already worked as of *[insert service calculation date, i.e. no earlier than 1 year before date this notice is sent]*, if paid beginning *[insert participant's normal retirement date]* (your normal retirement date) in the form of a *[insert normal form of benefit]* is proposed to be reduced from *[insert monthly benefits earned as of proposed effective date of suspension]* to *[insert monthly benefits earned as of date of suspension reflecting proposed suspension]*.²

² The amount of your benefit before and after the proposed reduction will depend on when you decide to begin receiving benefits and the form of benefit you choose as well as, if applicable, whether you continue to work and earn years of service after the service calculation date. The amounts shown above are based on an assumed commencement at age *[insert the participant's normal retirement age]* (the plan's normal retirement age) without any additional years of service for future work. If you choose to begin receiving benefits before your normal retirement age, or if you choose a form of benefit that includes additional survivor benefits after your death, then any actuarial reduction for early commencement or survivor benefits will be applied to your benefit after reflecting the effect of the separate reduction due to the proposed amendment to the Plan described above. However, the combined reductions are not

[(c) For an affected individual who has a proposed suspension, is not yet in pay status, and is above the participant's normal retirement age]

Your future monthly benefit, based on the years of service you have (or, if you are a beneficiary or alternate payee, the participant has) already worked as of *[insert service calculation date, i.e. date no earlier than 1 year before date this notice is sent]*, payable as of *[insert date]* in the form of a *[insert normal form of benefit]* is proposed to be reduced from *[insert monthly benefit as of proposed effective date of suspension]* to *[insert monthly benefit as of that date reflecting proposed suspension]*.³

[(d) For an affected individual whose benefits are not proposed to be suspended]

Your monthly benefit would not change under the proposed reduction.

INFORMATION USED IN CALCULATING THE ESTIMATED BENEFIT REDUCTION

This is an estimate of your benefit under the proposed reduction. It is not a final benefit calculation. This estimate of the proposed reduction is based on an assumed effective date for the benefit reduction of *[insert proposed effective date]* (this date may be subject to change, but in no event will the proposed reduction be effective earlier). If the proposed reduction is effective at a later date, then the amount of the reduction to your benefit might change.

This estimate is also based on the following information:

Years of Service

[If (a) or (d) above applies to the affected individual]

Plan records show that you have *[insert total years and months of credited service]* under the Plan.

[If (b) or (c) above applies to the affected individual]

Plan records show that you have *[insert total years and months of credited service as of the service calculation date]* under the Plan.

Age as of the Effective Date of the Proposed Reduction

allowed to result in a benefit that is less than 110 percent of the PBGC-guaranteed level.

³ This is the largest amount of proposed reduction that will apply and is based on commencement of benefits in the specified form of benefit. If you choose a form of benefit that includes additional survivor benefits after your death, then any actuarial reduction for those benefits will be applied to your benefit after reflecting the effect of the separate reduction due to the proposed amendment to the Plan described above. However, the combined reductions are not allowed to result in a benefit that is less than 110 percent of the PBGC-guaranteed level.

Plan records show that you will be *[insert age in years and months]* as of the effective date of the proposed reduction.

Disability Benefits

Plan records show that the portion of your benefit that is based on disability is *[insert amount]*.

PLAN OFFICE CONTACT INFORMATION

If you believe the information used to calculate your estimate is incorrect, please contact the Plan office at *[insert phone number, add*