

**AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010**

**SEC. 315. TRANSITION RULE FOR CERTIFICATIONS OF PLAN STATUS.**

**(a) IN GENERAL.**

A plan actuary shall not be treated as failing to meet the requirements of section 305(b)(3)(A) of the Employee Retirement Income Security Act of 1974 and section 432(b)(3)(A) of the Internal Revenue Code of 1986 in connection with a certification required under such sections the deadline for which is after the date of the enactment of this Act if the plan actuary makes such certification at any time earlier than 75 days after the date of the enactment of this Act.

**(b) REVISION OF PRIOR CERTIFICATION.**

**(1) IN GENERAL.**

If—

(A) a plan sponsor makes an election under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 and section 431(b)(8) of the Internal Revenue Code of 1986, or under section 304(c)(2)(B) of such Act and section 432(c)(2)(B) such Code, with respect to a plan for a plan year beginning on or after October 1, 2009, and

(B) the plan actuary's certification of the plan status for such plan year (hereinafter in this subsection referred to as "original certification") did not take into account any election so made, then the plan sponsor may direct the plan actuary to make a new certification with respect to the plan for the plan year which takes into account such election (hereinafter in this subsection referred to as "new certification") if the plan's status under section 305 of such Act and section 432 of such Code would change as a result of such election. Any such new certification shall be treated as the most recent certification referred to in section 304(b)(3)(B)(iii) of such Act and section 431(b)(8)(B)(iii) of such Code.

**(2) DUE DATE FOR NEW CERTIFICATION.**

Any such new certification shall be made pursuant to section 305(b)(3) of such Act and section 432(b)(3) of such Code; except that any such new certification shall be made not later than 75 days after the date of the enactment of this Act.

**(3) NOTICE.—**

**(A) IN GENERAL.**

Except as provided in subparagraph (B), any such new certification shall be treated as the original certification for

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purposes of section 305(b)(3)(D) of such Act and section 432(b)(3)(D) of such Code.

**(B) NOTICE ALREADY PROVIDED.**

In any case in which notice has been provided under such sections with respect to the original certification, not later than 30 days after the new certification is made, the plan sponsor shall provide notice of any change in status under rules similar to the rules such sections.

**(4) EFFECT OF CHANGE IN STATUS.**

If a plan ceases to be in critical status pursuant to the new certification, then the plan shall, not later than 30 days after the due date described in paragraph (2), cease any restriction of benefit payments, and imposition of contribution surcharges, under section 305 of such Act and section 432 of such Code by reason of the original certification.