

Pension Benefit Guaranty Corporation

77-167

October 13, 1977

REFERENCE:

[*1] 4043. Reportable Events
4043(b)(3) Reportable Events. Decrease in Participants
4062 Liability of Employer in Single Employer Plans

OPINION:

This is in response to your letter requesting a ruling from the Pension Benefit Guaranty Corporation (the "PBGC") with respect to the application of the reportable events and employer liability provisions of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA"), to the assumption of the * * * Pension Plan (the "Plan") by * * *, Your letter and the letter agreement between * * * and indicate that- * * * has agreed to purchase certain assets of the * * * plant and to continue maintaining the Plan, assuming the obligations of * * * thereunder.

The sale of the * * * facility and the consequent assumption of assets and liabilities of the Plan does not, of itself, constitute a reportable event under Section 4043 of ERISA, as yet. However, since a complete takeover by * * * was not indicated, you should be aware that Section 4043(b)(3) of ERISA requires reporting to the PBGC whenever the number of active participants in a covered plan is less than 80 percent of the number of such participants at the beginning of the plan year, or is less [*2] than 75 percent of the number of such participants at the beginning of the previous plan year.

The PBGC will issue a letter indicating that * * * would have no continuing liability in regard to the Plan under Section 4062 of ERISA after the adoption of the Plan by if:

(1) As of the closing date of the sale, the Plan has sufficient assets to satisfy all benefits which are guaranteed by the PBGC under Title IV, or * * *

(2) If the assets of the Plan are not sufficient to satisfy guaranteed benefits on such date, 30 percent of the statutory net worth of * * * immediately after the closing is greater than the amount by which the assets of the Plan are insufficient.

I hope this answers your inquiry. If we can be of further assistance, please let us know.

Henry Rose
General Counsel