

Pension Benefit Guaranty Corporation

75-74

October 24, 1975

REFERENCE:

[*1] 4062(e). Liability of Employer in Single Employer Plans. Closing of Facility Affecting More Than 20% of Plan Participants

OPINION:

This is in response to your letter dated September 23, 1975, requesting that the Pension Benefit Guaranty Corporation (the "PBG C") not close the pre-enactment termination case concerning the * * * Salaried Employees Pension Plan.

Regarding your contention that the provisions of § 4062(e) of the Employee Retirement Income Security Act of 1974 (the "Act") should be interpreted to apply to a notification to participants of their pending separation from employment as distinguished from their actual separation, we do not agree. Section 4062(e) of the Act is clear that it refers to participants who "are separated from employment." Therefore, we intend to close this case.

If, however, the outcome of the current litigation between * * * and the State of Minnesota produces a result which would warrant the PBGC reopening this matter, we will entertain a request to do so within a reasonable period of time following the conclusion of that litigation.

Henry Rose
General Counsel