

Pension Benefit Guaranty Corporation

76-55

April 20, 1976

REFERENCE:

[*1] 4041(a) Termination by Plan Administrator. Filing of Notice of Intent to Terminate

OPINION:

This is in response to your letter dated March 18, 1976, in which you requested that a waiver of the termination procedure set forth in Section 4041 of the Employee Retirement Income Security Act of 1974 (the "Act"), be granted to * * * excusing that corporation from the requirement of filing a notice of intent to terminate with the Pension Benefit Guaranty Corporation (the "PBGC").

Section 4041 of the Act and PBGC Reg. Section 2604.1 et seq., 40 Fed. Reg. 42534 (1975), require that prior to the termination of a covered employee benefit plan, the plan administrator must file a notice with the PBGC that the plan is to be terminated. No provision is made in Section 4041 of the Act or in the corresponding regulations for a waiver of the obligation to file such notice. Inasmuch as the filing of notice with the PBGC is mandatory, a waiver of the filing will not be granted.

Section 2604.4(d) of the regulations, however, provides a procedure by which a plan administrator or his representative may request the PBGC to grant a waiver of the obligation to include certain information required to be filed [*2] pursuant to Reg. Section 2604.4. Should you request that certain required items not be included in the notice of intent to terminate, the request must be in writing, and state the reasons for the relief sought.

Henry Rose
General Counsel