

Pension Benefit Guaranty Corporation

86-5

March 6, 1986

REFERENCE:

[*1] 4044 Allocation of Assets
29 CFR 2673 Notice of Termination for Multiemployer Plans

OPINION:

This is in response to your request for a ruling by the Pension Benefit Guaranty Corporation ("PBGC") that the provisions of Title IV of the Employee Retirement Income Security Act of 1974 ("ERISA") would not be violated by the transfer to a new trust, as described in your request, of surplus assets remaining after the satisfaction of all benefits under a multiemployer pension plan.

The plan in question has been terminated. (The PBGC will respond separately to the notice of termination, providing instructions regarding the method of closing out the plan.) The plan's assets which are held by an insurance company, exceed the value of all accrued benefits of all plan participants. After all plan liabilities for benefits have been discharged, the plan proposes to transfer the excess assets to a trust pending a decision on how to dispose of them.

Title IV of ERISA does not apply to assets remaining after the satisfaction, in accordance with Title IV and PBGC instructions, of all accrued benefits under a pension plan that has not provided for employee contributions. Hence a transfer of such assets to [*2] a separate trust to await further disposition would not violate the provisions of Title IV.

If you have any further questions about this matter, you may call Deborah Murphy of the PBGC's Corporate Policy and Regulations Department at 202-956-5050.

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General Counsel