



SUBSTANTIAL CESSATION OF OPERATIONS

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Proposed

INTRODUCTION

Purpose of Form 4062(e)-01, Form 4062(e)-02, Form 4062(e)-03, and Form 4062(e)-04

Form 4062(e)-01 is used to report to the Pension Benefit Guaranty Corporation (PBGC) the occurrence of an event described in section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) (“4062(e) event”) and to request that PBGC determine the liability of an employer following the event. Form 4062(e)-02, Form 4062(e)-03, and Form 4062(e)-04 are used to provide required notifications to PBGC when an employer elects a certain payment option to satisfy its resulting liability.

Section 4062(e) of ERISA applies to an employer only if it has one or more single-employer plans covered by title IV of ERISA. In these instructions, “plan” always means such a plan, unless otherwise stated. The section was substantially amended in December 2014. See www.pbgc.gov for further information.

Occurrence of a 4062(e) Event

In general, a 4062(e) event occurs for an employer with one or more plans, when:

- There is a permanent cessation of the employer’s operations at a facility;
- That permanent cessation results in separation from employment of the employer’s eligible employees at the facility, and
- Those separated eligible employees are more than 15 percent of the employer’s number of eligible employees; where
- Eligible employees are employees eligible to participate in any of the employer’s employee pension benefit plans, including defined benefit plans and defined contribution plans.

The date of the 4062(e) event is the later of the date of the permanent cessation of the employer’s operations at the facility or the first date by which more than 15 percent of eligible employees have been separated.

See sections 4062(e)(2)(C) and (D) and (6)(B) of ERISA for special rules about counting eligible employees where employees are replaced or relocated by the employer or another employer or where there is a related separation of employment of eligible employees within one year before the permanent cessation.

Exemptions

Section 4062(e)(3) of ERISA provides that a plan is exempt from section 4062(e), if for the plan year preceding the plan year in which the cessation occurred:

- Either 100 participants had vested benefits under the plan as of the plan valuation date (note: not the participant count date for premium purposes), or
- The variable-rate premium (VRP) funded status was 90 percent or greater.

A cessation is not considered a 4062(e) event with respect to a plan that fits one of these exemptions.

Notice of 4062(e) Event and Request for Determination of Employer Liability

In general, if there is a 4062(e) event for an employer at a facility in any location, then under section 4062(e)(1) of ERISA the employer is treated, with respect to its plans covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple-employer plan. Under section 4063(a), PBGC must receive notice of the event and determine the employer’s liability arising from it. See 29 CFR part 4062 (PBGC’s regulation on Liability for Termination of Single-Employer Plans). Submission of Form 4062(e)-01 satisfies this notice requirement.

Election to Make Additional Contributions to Satisfy Liability

Section 4062(e)(4) of ERISA provides that an employer may elect to satisfy its liability by making certain annual additional contributions to the plan for seven years following the event. See Form 4062(e)-02 for how this additional contribution is calculated. If a funding waiver is received for a plan year within this period, no additional contribution is due for that plan year. The additional contributions end once the plan has a VRP funded status of 90 percent or more for a plan year within this period or until all seven annual contributions are made.

Information on additional options for satisfying liability can be found on PBGC's website (www.pbgc.gov).

Policy of Non-Enforcement of Employer Liability

PBGC will not initiate enforcement of liability against a liable employer if:

- (1) the employer meets the October 2012 guidelines, in effect on June 1, 2014, for staying-companies, or
- (2) each of the employer's affected plans has a participant count for purposes of the fixed-rate premium of less than 100 as of the most recent participant count date before the 4062(e) event.

See October 2012 Guidelines for Enforcement of ERISA section 4062(e) ([www.pbgc.gov/sites/default/files/legacy/docs/4062\(e\)-enforcement-of-guidelines.pdf](http://www.pbgc.gov/sites/default/files/legacy/docs/4062(e)-enforcement-of-guidelines.pdf)).

Note: Meeting one or both of these criteria does not affect the obligation to report a 4062(e) event to PBGC. If an employer believes it meets one of these criteria, it may include with the event notice supporting information for why it believes it qualifies for non-enforcement.

GENERAL INSTRUCTIONS

Who Must File Forms 4062(e)-01, 02, 03, and 04

Form 4062(e)-01

Form 4062(e)-01 is used to notify PBGC of the 4062(e) event and request a determination of the employer's liability. Both the employer causing the 4062(e) event and the plan administrator of a plan covering participants at the facility that is the location of the 4062(e) event are responsible for filing Form 4062(e)-01. However, if either the employer or the plan administrator files the form, then the obligation to file is satisfied for both parties.

Form 4062(e)-02

Form 4062(e)-02 is used to notify PBGC that an employer is electing to make a series of seven annual additional contributions to a plan pursuant to section 4062(e)(4) of ERISA to fulfill its liability arising from the 4062(e) event. The employer is responsible for filing Form 4062(e)-02.

Form 4062(e)-03

Form 4062(e)-03 is used to notify PBGC that an employer that previously elected to make annual additional contributions under section 4062(e)(4) of ERISA: (1) has made an annual additional contribution; (2) has received a funding waiver from the IRS and is not required to make an additional contribution for a specific plan year; or (3) is no longer required to make annual additional contributions because the plan has a VRP funded status of 90 percent or more. The employer is responsible for filing Form 4062(e)-03.

Form 4062(e)-04

Form 4062(e)-04 is used to notify PBGC that an employer that previously elected to make annual additional contributions under section 4062(e)(4) of ERISA has failed to make one of its required annual additional contributions. The employer is responsible for filing Form 4062(e)-04.

When to File Forms 4062(e)-01, 02, 03, and 04

The following chart shows due dates for the Form 4062(e) series

To notify PBGC that:	Form	Due Date
A 4062(e) event occurred	4062(e)-01	60 days after the event occurred
The employer elected to make additional contributions under 4062(e)(4)	4062(e)-02	30 days after the earlier of the date the Form 4062(e)-01 was filed or the date PBGC makes a determination that a 4062(e) event occurred
The employer paid a 4062(e)(4) annual additional contribution for one of the years	4062(e)-03	10 days after the contribution was made
The IRS granted a funding waiver for one of the plan years (and thus, no 4062(e)(4) annual additional contribution is due for that plan year)	4062(e)-03	30 days after IRS grants funding waiver
The plan's VRP funded status is at least 90 percent (and thus, no 4062(e)(4) annual additional contribution is required for that plan year or any future year)	4062(e)-03*	10 days after the contribution would have otherwise been due
A 4062(e)(4) additional contribution was not paid	4062(e)-04	10 days after the contribution was due

* If a VRP funded status of at least 90 percent for the year of contribution is known by the time Form 4062(e)-02 is filed, this notification may be made as part of that filing. In such situations, the requirement to file Form 4062(e)-03 is waived.

How to File

Submit the 4062(e) forms by email, U.S. mail, or a commercial delivery service.

To file by email, scan a signed copy of the applicable form and send to 4062e@pbgc.gov address along with any required attachments. In the subject line, please enter "4062(e) Notice." If you are filing materials electronically that are larger than 10 megabytes, use LeapFILE. Enter "post-leapfile" in your Internet browser, click on "secure upload," enter "post-event.report@pbgc.gov" in the "Recipient Email" field, and attach the files.

To file by U.S. mail or using a commercial delivery service, send the complete filing to:
 Pension Benefits Guaranty Corporation
 Corporate Finance & Restructuring Department
 1200 K Street, NW
 Washington, DC 20004-4026

The date when a 4062(e) series form is considered filed is the date on which the form is transmitted to PBGC. See 29 CFR §4000.43 for information about computing time periods and §§4000.23 - .30 for information about when a document is considered filed.

Multiple Plans

A separate set of forms is required for each plan covering participants at the facility where the 4062(e) event took place, unless the plan is exempt (see above).

Information Previously Provided to PBGC

If items required to be attached to a 4062(e) series form have been previously, or simultaneously, provided to PBGC in connection with another filing, the filer may refer to the other submission instead of resubmitting the information. Under the Missing Information section of the 4062(e) series form, identify the item, filing with which it was submitted, and date submitted.

Certification of Forms

The individual signing the 4062(e) series form certifies that, on their knowledge and belief, the information submitted in the filing is true, correct, and complete. The individual does not need to provide PBGC with documentation that they are authorized to sign the form.

Filing Assistance

For answers to questions or other assistance, email 4062e@pbgc.gov or call (202) 326-4070. TTY/TTD users may call the Federal Relay Service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4070.

DEFINITIONS

As used in PBGC Form 4062(e) series and these instructions:

Code means the Internal Revenue Code of 1986, as amended.

Contributing sponsor means a person that is a contributing sponsor as defined in section 4001(a)(13) of ERISA.

Comprehensive premium filing means the filing required by sections 4006 and 4007 of ERISA and PBGC's premium regulations (29 CFR Parts 4006 and 4007).

Controlled group means, in connection with an individual, a group consisting of that person and all other persons under common control with that person (generally 80 percent owners—see 29 CFR §4001.3(b)(1)). Any reference to a plan's controlled group means all contributing sponsors of the plan and all members of each contributing sponsor's controlled group.

EIN Plan number, or EIN/PN, means the nine-digit employer identification number assigned by the Internal Revenue Service to a person and the three-digit plan number assigned to a plan. The EIN Plan number reported should be the EIN Plan number most recently reported for a PBGC premium filing (if applicable). If the plan has never made a PBGC premium filing, enter the EIN assigned to the contributing sponsor by the IRS for income tax purposes and the plan number assigned by the contributing sponsor.

Eligible employee means an employee who is eligible to participate in any employee pension benefit plan (as defined in section 3(2) of ERISA) of the employer.

Employee pension benefit plan means an employee pension benefit plan as defined at section 3(2) of ERISA.

Employer means a single employer under section 4001(b)(1) of ERISA.

ERISA means the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1001 et seq.).

Foreign entity means a member of a controlled group that is not a contributing sponsor of a plan, is not based on the United States, and does not earned income in the United States. For a detailed definition, see 29 CFR §4043.2.

Foreign parent means a foreign entity that is a direct or indirect parent of a person that is a contributing sponsor of a plan. See 29 CFR §4043.2.

Notice due date is the date listed for the respective form or notice as listed above under the When to File Forms 4062(e)-01, 02, 03, and 04.

Notice filing date is the date on which the form is transmitted to PBGC. See 29 CFR §4000.43 for information about computing time periods and §§4000.23 - .30 for information about when a document is considered filed.

Participant has the meaning set forth in section 4006.6 of PBGC's regulation on Premium Rates (29 CFR Part 4006).

Person means an individual, partnership, joint venture, corporation, limited liability company, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or employee organization.

Plan administrator means:

- the person specifically so designated by the terms of the instrument under which the plan is operated; or
- if an administrator is not so designated, the plan sponsor.

Plan sponsor is determined as follows for a single-employer plan:

- one contributing sponsor, the plan sponsor is the contributing sponsor;
- two or more contributing sponsors that are all in a single controlled group, the plan sponsor is the parent of the controlled group or, if there is no parent, the largest member of the controlled group (whether or not the parent or largest member is a contributing sponsor).

PBGC means the Pension Benefit Guaranty Corporation.

Premium funding target means, with respect to any plan year, the funding target as determined under section 4006(a)(3)(E)(iii)(I) for purposes of determining the variable-rate premium.

Single-employer plan means any defined benefit plan (as defined in section 3(35) of ERISA) that is not a multiemployer plan (as defined in section 4001(a)(3)).

Unfunded vested benefits, or **UVBs**, means the underfunding measure used to determine the variable-rate premium, as reported on the Comprehensive Premium Filing. See Comprehensive Premium Filing Instructions or PBGC's premium regulation (29 CFR 4006) for more information.

Valuation date means the valuation date under section 303(a)(2) of ERISA.

Variable-rate premium, or **VRP**, means a portion of the PBGC premium for a single-employer plan based on the plan's unfunded vested benefits.

VRP funded status means the ratio of the premium funding target to the market value of assets used to determine UVBs. Although this ratio is not reported on the Comprehensive Premium Filing, both the premium funding target and the market value of assets used to determine the ratio are. See Comprehensive Premium Filing Instructions or PBGC's premium regulation (29 CFR part 4006) for more information.

WARN Act means the Worker Adjustment and Retraining Notification Act, 29 U.S.C. 2101 et seq.

SPECIFIC INSTRUCTIONS

The following provide additional detail regarding certain Required Attachments for the Form 4062(e) series forms. After receiving a form, PBGC may require that a filer submit additional information. In addition to the information listed on the form, PBGC may request the following items: additional supporting or clarifying information or documentation regarding the workforce reduction percentage and/or the participant reduction fraction.

Form 4062(e)-01:

Controlled Group Description

For a description of the plan's controlled group structure, the filer may submit a copy of an organization chart or other diagram. The description or chart may exclude foreign entities other than foreign parents.

Controlled Group Financial Information

Include the following financial information for each controlled group member:

- Audited financial statements for the most recent fiscal year (including balance sheet, income statement, cash flow statement, and notes to the financial statements)
- If audited financial statements are not available, unaudited financial statements for the most recent fiscal year.
- If neither audited nor unaudited financial statements are available, copies of federal tax returns for the most recent tax year.

Note: If the above financial information is publicly available, indicate where the financial statements can be obtained (SEC, company website, etc.).

Forms 4062(e)-01, -02, -03:

Actuarial Information

Include the following actuarial information for the affected plan:

- Copy of the most recent Actuarial Valuation Report that includes or is supplemented with all of the items described below:
 - The funding target calculated pursuant to section 303 of ERISA without regard to subsection 303(i)(1), setting forth separately the value of the liabilities attributable to retirees and beneficiaries receiving payment, terminated vested participants, and active participants (showing vested and nonvested benefits separately);
 - A summary of the actuarial assumptions and methods used for purposes of section 303 of ERISA and any changes in those assumptions and methods since the previous valuation and justifications for any change; in the case of a plan that provides lump sums, other than minimum lump sums, the summary must include the assumptions of which participants are assumed to elect a lump sum and how lump sums are valued;
 - The effective interest rate (as defined in section 303(h)(2)(A) of ERISA and Code section 430(h)(2)(A));
 - The target normal cost calculated pursuant to section 303 of ERISA without regard to subsection 303(i)(2) (and Code section 430 without regard to subsection 430(i)(2));
 - For the plan year and the four preceding plan years, a statement as to whether the plan was in at-risk status for that plan year;
 - In the case of a plan that is in at-risk status, the target normal cost calculated pursuant to section 303 of ERISA as if the plan has been in at-risk status for 5 consecutive years;
 - The value of the plan's assets (reflecting any averaging method) as of the valuation date and the fair market value of the plan assets as of the valuation date;
 - The funding standard carryover balance and the prefunding balance (maintained pursuant to section 303(f)(1) of ERISA and Code section 430(f)(1)) as of the beginning of the plan year and a summary of any changes in such balances in the past year (e.g., amounts used to offset minimum funding requirement, amounts reduced in

accordance with any elections under ERISA section 303(f) (5) or Code section 430(f)(5), interest credited to such balances, and excess contributions used to increase such balances);

- A list of amortization bases (shortfall and waiver) under section 303 of ERISA and Code section 430, including the year the base was established, the original amount, the installment amount, and the remaining balance at the beginning of the plan year;
 - An age/service scatter for active participants including average compensation information for pay-related plans and average account balance information for hybrid plans presented in a format similar to that described in the instructions to Schedule SB of the Form 5500;
 - Expected disbursements (benefit payments and expenses) during the plan year; and
 - A summary of the principal eligibility and benefit provisions on which the valuation of the plan was based (and any changes to those provisions since the previous valuation), along with descriptions of any benefits not included in the valuation, any significant events that occurred during the plan year, and the plan's early retirement factors; in the case of a plan that provides lump sums, other than minimal lump sums, the summary must include information on how annuity benefits are converted to lump sums (for example, whether early retirement subsidies are reflected)
- Statement of any material change in liabilities of the plan occurring after the date of the most recent Actuarial Valuation Report
 - Calculation of unfunded vested benefits determined under section 4044(a)(5)(F)(iii)(I) of ERISA for purposes of determining the premium paid to PBGC under section 4007 of ERISA for the plan year preceding the plan year in which the event occurred, with the asset statement used to make that calculation
 - Most recent AFTAP certification
 - Contact name, telephone number, and employer of the plan actuary, if different from that listed on the most recently filed Schedule SB to Form 5500

Form 4062(e)-04:

Actuarial information and updated financial information for an affected plan is not required to be included with Form 4062(e)-04. However, PBGC may request this information in order to analyze the reason the contribution was not made.

PAPERWORK REDUCTION ACT NOTICE

PBGC needs this information to determine liability with respect to an event described in section 4062(e) of the Employee Retirement Income Security Act (ERISA). A plan administrator or an employer is required to provide this information if a cessation of operations has occurred under section 4062(e). Information provided to PBGC is confidential to the extent provided in the Freedom of Information Act (FOIA) and the Privacy Act. PBGC estimates that it will take an average of 4.5 hours and \$1325 to comply with these requirements. If you have any comments concerning the accuracy of this estimate or suggestions for improving this form, please send your comments to the Pension Benefit Guaranty Corporation, Regulatory Affairs Division, Office of the General Counsel, 1200 K Street, NW, Washington, DC 20005-4026. This collection of information has been approved by the Office of Management and Budget (OMB) under control number ____-____ and expires on _____. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.