

Technical Update 08-2. Waiver for Small Employer Reporting of Missed Quarterly Contributions
Issued March __, 2008.

This Technical Update waives reporting of missed quarterly contributions for plan years beginning in 2008 for certain small employers. The reporting requirement is under § 4043.25 of PBGC's regulation on Reportable Events and Certain Other Notification Requirements (29 CFR part 4043). This waiver is pursuant to § 4043.4(d) of that regulation.

Background

[Technical Update 97-6](#) waived post-event reporting of missed quarterly contributions for small employers if:

- The employer had 100 or fewer participants in its defined benefit plans; or
- The employer had 500 or fewer participants in its defined benefit plans and a Participant Notice for the plan under section 4011 of ERISA (1) was not required for the plan year for which the quarterly contribution was owed, or (2) was not required for the prior plan year.

The Pension Protection Act of 2006 repealed section 4011 of ERISA for plan years beginning after December 31, 2006. [Technical Update 06-4](#) provided that for purposes of determining whether a waiver under Technical Update 97-6 would apply to missed quarterly contributions for the 2007 plan year, the PBGC would consider a plan to meet the requirement that "a Participant Notice for the plan under section 4011 of ERISA was not required for the plan year for which the quarterly contribution is owed" only if, for that 2007 plan year, a Participant Notice would not be required under part 4011 of the PBGC's regulations in effect as of December 31, 2006 (*i.e.*, without regard to the repeal of section 4011 of ERISA for plan years beginning after December 31, 2006). Technical Update 06-4 stated that PBGC would issue further guidance on how Technical Update 97-6 applies to plan years beginning after 2007.

Waiver

[Technical Update 97-6](#) is revoked with respect to quarterly contributions for plan years beginning after 2007. Post-event reporting for failure to make quarterly contributions for 2008 plan years is waived if:

- The employer had 100 or fewer participants in its defined benefit plans for the 2007 plan year; or
- The employer had 500 or fewer participants in its defined benefit plans for the 2007 plan year and a Participant Notice for the plan under ERISA section 4011

would not be required for the 2007 plan year under part 4011 of the PBGC's regulations in effect as of December 31, 2006.

For purposes of this waiver, the number of participants must be determined in a manner consistent with section 302(d)(6) of ERISA as in effect before amendment by the Pension Protection Act of 2006, and the employer must have met the applicable participant count requirement on each day of the 2007 plan year.

PBGC will provide further guidance on waiver of reporting for missed quarterly contributions for plan years beginning after 2008.

PBGC Contact Points

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