

of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, System Management Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedures.

The proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Davis/Woodland/Winters, CA. The development of GPS and VOR SIAP at Yolo County-Davis/Woodland/Winters Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS RWY 16/34 or VOR RWY 34 SIAP at Yolo County-Davis/Woodland/Winters Airport, Davis/Woodland/Winters, CA. Class E airspace area designations are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small

entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth

* * * * *

AWP CA E5 Davis/Woodland/Winters, CA [New]

Yolo County-Davis/Woodland/Winters Airport, CA
(Lat. 33°34'45" N, long. 121°51'24" W)

That airspace extending upward from 700 feet above the surface with a 6.5-mile radius of Yolo County-Davis/Woodland/Winters Airport, excluding the Sacramento, CA, Class C and Class E airspace areas, Davis, CA, Class E airspace area, and Woodland, CA, Class E airspace area.

* * * * *

Issued in Los Angeles, California, on April 15, 1997.

Michael Lammes,

*Assistant Manager, Air Traffic Division,
Western-Pacific Region.*

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4231

RIN 1212-AA69

Mergers and Transfers Between Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: The Pension Benefit Guaranty Corporation is proposing to amend its

regulation on Mergers and Transfers Between Multiemployer Plans to clarify how the rules are to be applied to plans terminated by mass withdrawal and to make other minor changes and clarifications in the regulation.

DATES: Comments on these proposals must be received by June 30, 1997.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; delivered to that address between 9 a.m. and 4 p.m. on business days; faxed to 202-326-4112; or e-mailed to reg.comments@pbgc.gov. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

FOR FURTHER INFORMATION CONTACT:

Deborah C. Murphy, Attorney, Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; 202-326-4024 (202-326-4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION:

Background

Under section 4231(a) and (b) of ERISA, a merger, or a transfer of assets and liabilities, between multiemployer plans must satisfy four requirements unless otherwise provided in regulations prescribed by the PBGC:

(1) The PBGC must receive 120 days' advance notice of the transaction;

(2) Accrued benefits must not be reduced;

(3) There must be no reasonable likelihood that benefits will be suspended as a result of plan insolvency; and

(4) An actuarial valuation of each affected plan must have been performed as prescribed in section 4231(b)(4).

The PBGC's regulation on Mergers and Transfers Between Multiemployer Plans (29 CFR part 4231 (formerly part 2672)) prescribes procedures for requesting a determination that a merger or transfer satisfies applicable requirements, allows the PBGC to waive the 120-day notice requirement, and sets higher-level and lower-level requirements for "safe harbor" plan solvency tests and for valuation standards. Whether the higher-level or lower-level requirements apply depends on whether a "significant transfer" is involved.

Terminated Plan Transactions

Transactions involving plans that have been terminated by mass withdrawal under ERISA section 4041A(a)(2) are rare. The current regulation does not make clear whether, and if so how, the merger and transfer rules apply to these cases. Since such plans have no contributing employers, and transactions involving them present more risk than most others, it is important to specify how the merger and transfer rules apply to them.

The amendment clarifies that transactions involving such plans are subject to the merger and transfer rules and (except for "de minimis" transactions) are governed by the higher-level valuation standard and "safe harbor" solvency test. (Terminated plans, like other plans, could satisfy the plan solvency requirement without recourse to the "safe harbor" test by demonstrating that benefits are not likely to be suspended.) The amendment also extends to "de minimis" terminated plan transactions the requirement that actuarial valuation reports be submitted to the PBGC.

Significant Transfers

Both plans involved in a significant transfer are currently subject to the higher-level valuation standard and "safe harbor" solvency test, even if only one of the plans is significantly affected. The standard for determining whether a plan is "significantly affected" is generally the same as the standard for determining whether a transfer is a "significant transfer" under the existing regulation. A transferor plan is significantly affected if the assets transferred equal or exceed 15 percent of its pre-transfer assets. A transferee plan is significantly affected if the unfunded accrued benefits transferred equal or exceed 15 percent of its pre-transfer assets.

The amended regulation no longer automatically applies the higher-level valuation standard and safe harbor solvency test to both plans involved in a significant transfer if only one of the plans is significantly affected. Instead, the higher-level standard and test are just applied to the significantly affected plan. (In addition, as discussed above, the higher-level standard and test are applied to any plan that is involved in a non-de minimis terminated plan transaction).

Other Changes

The regulation currently requires that a compliance determination request for a significant transfer include copies of all actuarial valuations performed

within the five years preceding the proposed effective date of the transfer. This cannot be done where the last plan year preceding the proposed effective date is in progress when the compliance determination request is filed. The amended regulation calls for the valuations performed within the five years preceding the compliance determination request.

The amendment also modifies the higher-level valuation standard slightly so that the actuarial assumptions and methods used in the pre-merger valuation would be those expected to be used for the surviving plan after the merger.

Under the current regulation, the requirement for 120 days' notice can be waived only if the PBGC is satisfied that failure to complete the transaction in a shorter time will harm participants or beneficiaries. The PBGC typically completes its reviews in 60 to 90 days, and there is usually no reason to wait the full 120 days. The proposed amendment would also permit a merger or transfer to be consummated if (1) the PBGC determines that the transaction complies with ERISA section 4231, or (2) the PBGC completes its review of the transaction.

The PBGC is also making other conforming and clarifying changes.

Paperwork Reduction Act

The collection of information requirements in existing Part 4231 have been approved by the Office of Management and Budget under control number 1212-0022. The PBGC has submitted these requirements, as amended by this proposed rule, to the Office of Management and Budget for review under section 3507(d) of the Paperwork Reduction Act of 1995.

The PBGC needs the information submitted under Part 4231 by plan sponsors of multiemployer plans that are involved in mergers and transfers in order to monitor compliance with the requirements for mergers and spinoffs of multiemployer plans.

Based on its experience, the PBGC estimates that about 20 submissions will be made each year under the amended regulation, no more than 2 of which will involve spin-offs or significantly affected plans. The PBGC also believes, based on its experience, that virtually all of these submissions will be prepared by outside actuaries, lawyers, and other consultants. The PBGC estimates that it will cost a plan an average of \$455 for preparation of a submission that does not involve a spin-off or a significantly affected plan and \$705 for preparation of a submission that involves a spin-off or a significantly

affected plan. Accordingly, the estimated annual cost burden of the collection of information is \$9,600.

Comments on the paperwork provisions of the proposed rule should be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, Washington, DC 20503. The PBGC is soliciting public comments to—

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In particular, the PBGC invites suggestions regarding procedures for submitting some or all of the required information electronically.

Compliance With Rulemaking Guidelines

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

The PBGC certifies that the amendment in this proposed rule would not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that the primary substantive effect of the proposed amendment would be to liberalize certain existing requirements and to clarify the application of existing requirements to a very rare category of transactions, viz., multiemployer mergers and transfers involving plans that have terminated by mass withdrawal. (The PBGC is aware of only two such transactions since § 4231 of ERISA was enacted.) Accordingly, as provided in section 605(b) of the Regulatory Flexibility Act, compliance with sections 603 and 604 of the Regulatory Flexibility Act is not required.

List of Subjects in 29 CFR Part 4231

Pensions, Reporting and recordkeeping requirements.

For the reasons given above, the PBGC proposes to amend 29 CFR part 4231 as follows.

PART 4231—MERGERS AND TRANSFERS BETWEEN MULTIPLE EMPLOYER PLANS

1. The authority citation for part 4231 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1411.

2. In § 4231.1, paragraph (a) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 4231.1 Purpose and scope.

(a) Purpose. * * * The collections of information in this part have been approved by the Office of Management and Budget under OMB control number 1212-0022.

3. In § 4231.2, the first sentence is amended by adding the word “EIN,” after the word “chapter:” and before the word “ERISA”, by removing the word “and”, and by adding a comma and the words “and PN” after the words “plan year” and before the period; the definition of significant transfer is removed; and new definitions of significantly affected plan and unfunded accrued benefits are added to read as follows:

§ 4231.2 Definitions.

* * * * *

Significantly affected plan means a plan that—

(1) Transfers assets that equal or exceed 15 percent of its assets before the transfer,

(2) Receives a transfer of unfunded accrued benefits that equal or exceed 15 percent of its assets before the transfer,

(3) Is created by a spinoff from another plan, or

(4) Engages in a merger or transfer (other than a de minimis merger or transfer) either—

(i) After such plan has terminated under section 4041A(a)(2) of ERISA, or

(ii) With another plan that has so terminated.

* * * * *

Unfunded accrued benefits means the excess of the present value of a plan's accrued benefits over the fair market value of its assets, determined on the basis of the actuarial valuation required under § 4231.5(b).

§ 4231.3 [Amended]

4. In § 4231.3, paragraph (a)(2) is amended by removing the words “involved in” and adding in their place

the words “that existed before”; and the introductory text of paragraph (a)(3) is amended by removing the words “involved in” and adding in their place the words “that exists after”. As so revised, paragraph (a)(2) and the introductory text of paragraph (a)(3) of § 4231.3 read as follows:

§ 4231.3 Requirements for mergers and transfers.

(a) *General requirements.* * * *

* * * * *

(2) Actuarial valuations of the plans that existed before the merger or transfer shall have been performed in accordance with § 4231.5.

(3) For each plan that exists after the transaction, an enrolled actuary shall—

* * * * *

§ 4231.3 [Amended]

5. At the end of § 4231.3, the words “(Approved by the Office of Management and Budget under control number 1212-0022)” are removed.

6. Section 4231.5 is revised to read as follows:

§ 4231.5 Valuation requirement.

(a) *In general.* For a plan that is not a significantly affected plan, the actuarial valuation requirement under section 4231(b)(4) of ERISA and § 4231.3(a)(2) is satisfied if an actuarial valuation has been performed for the plan based on the plan's assets and liabilities as of a date not more than three years before the date on which the notice of the merger or transfer is filed.

(b) *Significantly affected plans.* (1) The actuarial valuation requirement under section 4231(b)(4) of ERISA and § 4231.3(a)(2) is satisfied for a significantly affected plan only if an actuarial valuation has been performed for the plan based on the plan's assets and liabilities as of a date not earlier than the first day of the last plan year ending before the proposed effective date of the transaction.

(2) In the case of a transfer, the valuation shall separately identify assets, contributions, and liabilities being transferred and shall be based on the actuarial assumptions and methods that are expected to be used for the plan for the first plan year beginning after the transfer.

(3) In the case of a merger involving a plan that has terminated under section 4041A(a)(2) of ERISA, the valuation shall be based on the actuarial assumptions and methods that are expected to be used for the plan resulting from the merger for the first plan year beginning after the merger.

7. In § 4231.6, paragraphs (a) and (b) are redesignated as paragraphs (b) and

(a) respectively; the introductory texts of redesignated paragraphs (a) and (b) are revised; and redesignated paragraph (b)(4) and paragraph (c)(1) are revised, to read as follows:

§ 4231.6 Plan solvency tests.

(a) *In general.* For a plan that is not a significantly affected plan, the plan solvency requirement of section 4231(b)(3) of ERISA and § 4231.3(a)(3)(i) is satisfied if —

* * * * *

(b) *Significantly affected plans.* The plan solvency requirement of section 4231(b)(3) of ERISA and § 4231.3(a)(3)(i) is satisfied for a significantly affected plan if all of the following requirements are met:

* * * * *

(4) Contributions for the amortization period shall equal or exceed unfunded accrued benefits plus expected normal costs. The actuary may select as the amortization period either—

(i) The first 25 plan years beginning on or after the proposed effective date of the transaction, or

(ii) The amortization period for the resulting base when the combined charge base and the combined credit base are offset under section 412(b)(4) of the Code.

(c) *Rules for determinations.* * * *

(1) Expected contributions after a merger or transfer shall be determined by assuming that contributions for each plan year will equal contributions for the last full plan year ending before the date on which the notice of merger or transfer is filed with the PBGC. Contributions shall be adjusted, however, to reflect—

(i) The merger or transfer,

(ii) Any change in the rate of employer contributions that has been negotiated (whether or not in effect), and

(iii) Any trend of changing contribution base units over the preceding five plan years or other period of time that can be demonstrated to be more appropriate.

* * * * *

§ 4231.6 [Amended]

8. In § 4231.6, redesignated paragraph (a)(1) is amended by removing the word “in” and adding in its place the word “for”; redesignated paragraphs (b)(1) through (b)(3) are amended by removing the word “transfer” wherever it appears and adding in its place the word “transaction”; redesignated paragraph (b)(2) is amended by removing the word “during” and adding in its place the word “for”; paragraph (c)(2) is amended by adding the words “expected to be”

after the words "and assumptions" and before the words "used by the plan" and by removing the words "is using" and adding in their place the word "uses"; paragraph (c)(4) is amended by removing the words "to the plan sponsor"; and paragraph (c)(5) is amended by adding the words "to be" after the words "interest assumption" and before the words "used for". As so revised, redesignated paragraphs (a)(1) and (b)(1) through (b)(3) and paragraphs (c)(2), (c)(4), and (c)(5), of § 4231.6 read as follows:

§ 4231.6 Plan solvency tests.

(a) *In general.* * * *

(1) The fair market value of plan assets immediately after the merger or transfer equals or exceeds five times the benefit payments for the last plan year ending before the proposed effective date of the merger or transfer; or

* * * * *

(b) *Significantly affected plans.* * * *

(1) Expected contributions shall equal or exceed the estimated amount necessary to satisfy the minimum funding requirement of section 412(a) of the Code (including reorganization funding, if applicable) for the five plan years beginning on or after the proposed effective date of the transaction.

(2) The fair market value of plan assets immediately after the transaction shall equal or exceed the total amount of expected benefit payments for the first five plan years beginning on or after the proposed effective date of the transaction.

(3) Expected contributions for the first plan year beginning on or after the proposed effective date of the transaction shall equal or exceed expected benefit payments for that plan year.

* * * * *

(c) Rules for determinations * * *

* * * * *

(2) Expected normal costs shall be determined under the funding method and assumptions expected to be used by the plan actuary for purposes of determining the minimum funding requirement under section 412 of the Code (which requires that such assumptions be reasonable in the aggregate). If the plan uses an aggregate funding method, normal costs shall be determined under the entry age normal method.

* * * * *

(4) The fair market value of plan assets immediately after the merger or transfer shall be based on the most recent data available immediately before the date on which the notice is filed.

(5) Expected investment earnings shall be determined using the same

interest assumption to be used for determining the minimum funding requirement under section 412 of the Code.

* * * * *

9. In § 4231.7, paragraph (a) is revised, and paragraph (c)(3) is added, to read as follows:

§ 4231.7 De minimis mergers and transfers.

(a) *Special plan solvency rule.* The determination of whether a de minimis merger or transfer satisfies the plan solvency requirement in § 4231.6(a) may be made without regard to any other de minimis mergers or transfers that have occurred since the last actuarial valuation.

* * * * *

(c) *De minimis transfer defined.*

* * *

* * * * *

(3) The transferee plan is not a plan that has terminated under section 4041A(a)(2) of ERISA.

* * * * *

§ 4231.7 [Amended]

10. In § 4231.7, paragraph (c)(1) is amended by removing the word "and"; paragraph (c)(2) is amended by removing the period and adding in its place a semicolon and the word "and"; paragraph (d) is amended by removing the words "merger or transfer" and adding in their place the word "transaction", by adding the word "actuarial" after the words "the most recent" and before the word "valuation", and by removing the words "performed for purposes of section 412(b) of the Code"; the introductory text of paragraph (e)(2) is amended by adding the words "de minimis" after the words "all previous" and before the words "mergers and transfers"; paragraph (e)(2)(i) is amended by removing the words "from the plan" and adding in their place the words "from a plan"; and paragraph (e)(2)(ii) is amended by removing the words "to the plan" and adding in their place the words "to a plan". As so revised, paragraphs (c)(1), (c)(2), (d), and (e)(2) of § 4231.7 read as follows:

§ 4231.7 De minimis mergers and transfers.

* * * * *

(c) *De minimis transfer defined.*

* * *

(1) The fair market value of the assets transferred, if any, is less than 3 percent of the fair market value of all the assets of the transferor plan;

(2) The present value of the accrued benefits transferred (whether or not vested) is less than 3 percent of the fair

market value of all the assets of the transferee plan; and

* * * * *

(d) *Value of assets and benefits.* For purposes of paragraphs (b) and (c) of this section, the value of plan assets and accrued benefits may be determined as of any date prior to the proposed effective date of the transaction, but not earlier than the date of the most recent actuarial valuation.

* * * * *

(e) *Aggregation required.* * * *

* * * * *

(2) A transfer is not de minimis if, when aggregated with all previous de minimis mergers and transfers effective within the same plan year—

(i) The value of all assets transferred from a plan equals or exceeds 3 percent of the value of the plan's assets; or

(ii) The present value of all accrued benefits transferred to a plan equals or exceeds 3 percent of the plan's assets.

11. In § 4231.8, paragraphs (d), (e)(1)(iii), (e)(2), (e)(6), and (f) are revised to read as follows:

§ 4231.8 Notice of merger or transfer.

* * * * *

(d) *Filing date.* For purposes of paragraph (a) of this section, the notice is not considered filed until all of the information required by paragraph (e) of this section has been submitted. Information filed under this part is considered filed—

(1) On the date of the United States postmark stamped on the cover in which the information is mailed, if—

(i) The postmark was made by the United States Postal Service; and

(ii) The information was mailed postage prepaid, properly addressed to the PBGC; or

(2) On the date it is received by the PBGC, if the conditions stated in paragraph (d)(1) of this section are not met. Information received on a weekend or Federal holiday or after 5:00 p.m. on a weekday is considered filed on the next regular business day.

(e) * * *

(1) * * *

* * * * *

(iii) The plan sponsor's EIN and the plan's PN and, if different, the EIN or PN last filed with the PBGC. If no EIN or PN has been assigned, the notice shall so indicate.

(2) Whether the transaction being reported is a merger or transfer, whether it involves any plan that has terminated under section 4041A(a)(2) of ERISA, whether any significantly affected plan is involved in the transaction (and, if so, identifying each such plan), and whether it is a de minimis transaction

as defined in § 4231.7 (and, if so, including an enrolled actuary's certification to that effect).

* * * * *

(6) For each plan that exists before a transaction (unless the transaction is de minimis and does not involve any plan that has terminated under section 4041A(a)(2) of ERISA), a copy of the most recent actuarial valuation report that satisfies the requirements of § 4231.5.

* * * * *

(f) *Waiver of notice.* The PBGC may waive the notice requirements of this section and section 4231(b)(1) of ERISA if—

(1) A plan sponsor demonstrates to the satisfaction of the PBGC that failure to complete the merger or transfer in less than 120 days after filing the notice will cause harm to participants or beneficiaries of the plans involved in the transaction;

(2) The PBGC determines that the transaction complies with the requirements of section 4231 of ERISA; or

(3) The PBGC completes its review of the transaction.

§ 4231.8 [Amended]

12. In § 4231.8, paragraph (c) is amended by removing the words “by mail or submitted by hand”; paragraph (e)(3) is amended by removing the words “merger or transfer” and adding in their place the word “transaction”; paragraph (e)(4) is amended by removing the words “the plan provision” and adding in their place the words “each plan provision”; the introductory text of paragraph (e)(5) is amended by removing the word “One” and adding in its place the words “For each plan that exists after the transaction, one”; paragraph (e)(5)(i) is removed and paragraphs (e)(5)(ii) and (e)(5)(iii) are redesignated as paragraphs (e)(5)(i) and (e)(5)(ii) respectively; redesignated paragraph (e)(5)(i) is amended by removing the words “merger or transfer” and adding in their place the word “plan”; the introductory text of paragraph (e)(7) is amended by removing the words “a significant transfer” and adding in their place the words “each significantly affected plan that exists after the transaction” and by removing the reference “§ 4231.6(a)” and adding in its place the reference “§ 4231.6(b)”; and paragraphs (e)(7)(i) through (e)(7)(v) are amended by removing the word “each” wherever it occurs and adding in its place the word “the”, and by removing the word “transfer” wherever it occurs and adding in its place the word

“transaction”. As so revised, paragraphs (c), (e)(3), and (e)(4), the introductory text of paragraph (e)(5), redesignated paragraph (e)(5)(i), and paragraph (e)(7) of § 4231.8 read as follows:

§ 4231.8 Notice of merger or transfer.

* * * * *

(c) *Where to file.* The notice shall be delivered to Reports Processing, Insurance Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026.

* * * * *

(e) * * *

* * * * *

(3) The proposed effective date of the transaction.

(4) A copy of each plan provision stating that no participant's or beneficiary's accrued benefit will be lower immediately after the merger or transfer than the benefit immediately before the transaction.

(5) For each plan that exists after the transaction, one of the following statements, certified by an enrolled actuary:

(i) A statement that the plan satisfies the applicable plan solvency test set forth in § 4231.6, indicating which is the applicable test.

* * * * *

(7) For each significantly affected plan that exists after the transaction, the following information used in making the plan solvency determination under § 4231.6(b):

(i) The present value of the accrued benefits and fair market value of plan assets under the valuation required by § 4231.5(b), allocable to the plan after the transaction.

(ii) The fair market value of assets in the plan after the transaction (determined in accordance with § 4231.6(c)(4)).

(iii) The expected benefit payments for the plan in the first plan year beginning on or after the proposed effective date of the transaction (determined in accordance with § 4231.6(c)(3)).

(iv) The contribution rates in effect for the plan for the first plan year beginning on or after the proposed effective date of the transaction.

(v) The expected contributions for the plan in the first plan year beginning on or after the proposed effective date of the transaction (determined in accordance with § 4231.6(c)(1)).

* * * * *

§ 4231.8 [Amended]

13. At the end of § 4231.8, the words “(Approved by the Office of

Management and Budget under control number 1212–0022)” are removed.

14. In § 4231.9, the first sentence of the introductory text of paragraph (a) is removed and a new sentence is added in its place, to read as follows:

§ 4231.9 Request for compliance determination.

(a) *General.* The plan sponsor(s) of one or more plans involved in a merger or transfer, or the duly authorized representative(s) acting on behalf of the plan sponsor(s), may file a request for a determination that the transaction complies with the requirements of section 4231 of ERISA. * * *

* * * * *

§ 4231.9 [Amended]

15. In § 4231.9, the paragraph heading of paragraph (b) is revised to read “Contents of request.”; paragraph (b) (other than the paragraph heading), and paragraphs (b)(1), (b)(2), and (b)(3), are redesignated as paragraph (b)(1), and paragraphs (b)(1)(i), (b)(1)(ii), and (b)(1)(iii), respectively; redesignated paragraph (b)(1) is amended by adding the paragraph heading “General.”; the introductory text of redesignated paragraph (b)(1) is amended by removing the words “de minimis” and adding in their place the words “de minimis”; redesignated paragraph (b)(1)(ii) is amended by removing the words “the certification that” and adding in their place the words “each certification that a plan involved in”; redesignated paragraph (b)(1)(iii) is amended by removing the words “a significant transfer” and adding in their place the words “each significantly affected plan” and by removing the words “proposed effective date of the transfer” and adding in their place the words “date of filing the notice required under § 4231.8”; paragraph (c), and paragraphs (c)(1) and (c)(2), are redesignated as paragraph (b)(2), and paragraphs (b)(2)(i) and (b)(2)(ii), respectively; the introductory text of redesignated paragraph (b)(2) is amended by removing the paragraph heading and adding in its place the heading “De minimis merger or transfer.” and by adding the words “for each plan that exists after the transaction” after the words “following statements” and before the comma; and redesignated paragraph (b)(2)(i) is amended by removing the words “merger or transfer” and adding in their place the word “plan” and by removing the reference “§ 4231.6(b)” and adding in its place the reference “§ 4231.6(a)”. Therefore, paragraphs (c) introductory text, (c)(1) and (c)(2) are redesignated as paragraphs (b)(2) introductory text,

(b)(2)(i) and (b)(2)(ii), respectively, and the revised paragraph (b) reads as follows:

§ 4231.9 Request for compliance determination.

* * * * *

(b) *Contents of request—*

(1) *General.* A request for a compliance determination concerning a merger or transfer that is not de minimis shall contain —

(i) A copy of the merger or transfer agreement;

(ii) A summary of the required calculations, including a complete description of assumptions and methods, on which the enrolled actuary based each certification that a plan involved in the merger or transfer satisfied a plan solvency test described in § 4231.6; and

(iii) For each significantly affected plan, copies of all actuarial valuations performed within the 5 years preceding the date of filing the notice required under § 4231.8.

(2) *De minimis merger or transfer.* A request for a compliance determination concerning a de minimis merger or transfer shall contain one of the following statements for each plan that exists after the transaction, certified by an enrolled actuary:

(i) A statement that the plan satisfies one of the plan solvency tests set forth in § 4231.6(a), indicating which test is satisfied.

(ii) A statement of the basis on which the actuary has determined that benefits under the plan are not reasonably expected to be subject to suspension under section 4245 of ERISA, including supporting data or calculations, assumptions and methods.

§ 4231.9 [Amended]

16. At the end of § 4231.9, the words “(Approved by the Office of Management and Budget under control number 1212–0022)” are removed.

§ 4231.10 [Amended]

17. At the end of § 4231.10, the words “(Approved by the Office of Management and Budget under control number 1212–0022)” are removed.

Issued in Washington DC, this 25th day of April, 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–11352 Filed 4–30–97; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

RIN 1010–AC10

Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Reopening of comment period for proposed rule.

SUMMARY: This notice reopens to May 30, 1997, the deadline for the submission of comments on the proposed revision of requirements governing Geological and Geophysical Explorations of the Outer Continental Shelf, that were published February 11, 1997.

DATES: We will consider all comments received by May 30, 1997. We will begin reviewing comments at that time and may not fully consider comments received after May 30, 1997.

ADDRESSES: Mail or hand-carry written comments to the Department of the Interior; Minerals Management Service; 381 Elden Street; Mail Stop 4700; Herndon, Virginia 20170–4817; Attention: Rules Processing Team.

FOR FURTHER INFORMATION CONTACT:

Kumkum Ray, Engineering and Operations Division, at (703) 787–1600.

SUPPLEMENTARY INFORMATION: MMS has been asked to extend the deadline for respondents to submit comments on the proposed revisions of MMS's requirements governing geological and geophysical explorations of the Outer Continental Shelf that were published February 11, 1997 (62 FR 6149). The request explains that more time is needed to allow respondents time to prepare detailed and comprehensive comments.

Dated: April 22, 1997.

E.P. Danenberger,

Chief, Engineering and Operations Division.
[FR Doc. 97–11276 Filed 4–30–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 96

46 CFR Parts 2, 31, 71, 91, 107, 115, 126, 175, 176, and 189

[CGD 95–073]

RIN 2115–AF44

International Management Code for the Safe Operation of Ships and for Pollution Prevention (International Safety Management (ISM) Code)

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to develop regulations which parallel the international requirements for safety management systems required of companies and their U.S. vessels that are engaged on foreign voyages. This action is mandated by the Coast Guard Authorization Act of 1996. These proposed regulations will allow responsible persons and their U.S. vessel(s) to develop safety management systems to enhance vessel operating safety and reduce pollution incidents in compliance with internationally and nationally mandated deadlines. The proposed regulations will also permit recognized organizations to receive authorization from the U.S. to audit safety management systems and issue international convention certificates.

DATES: Comments must reach the Coast Guard on or before July 30, 1997. Comments sent to the Office of Management and Budget (OMB) on collection of information must reach OMB on or before June 30, 1997.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 95–073), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. You must also mail comments on collection of information to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between