

at the office of the Regional Air Traffic Division, Federal Aviation Administration, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337.

**FOR FURTHER INFORMATION CONTACT:**

Mark D. Ward, Manager, Airspace and Operations Branch, Eastern En Route and Oceanic Service Area, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2005-20235/Airspace Docket No. 05-ASO-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRMs**

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Documents' Web page at <http://www.access.gpo.gov/nara>. Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling

(202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E5 airspace at Parsons, TN. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the 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. It, therefore, (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 rule, when promulgated, will 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—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for 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.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, Airspace Designations and Reporting Points, dated August 30, 2004, and effective September 16, 2004, is amended as follows: Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

\* \* \* \* \*

**ASO TN E5 Parsons, TN [REVISED]**

Parsons, Scott Field Airport, TN  
(Lat. 36°39'16" N, long. 88°07'41" W)  
Beech River Regional Airport, TN  
(Lat 35°39'20" N, long. 88°11'45" W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Scott Field Airport, and that airspace within a 6.5-mile radius of Beech River Regional Airport; excluding that airspace within the Lexington, TN, Class E airspace area.

\* \* \* \* \*

Issued in College Park, Georgia, on February 1, 2005.

**Mark D. Ward,**

*Acting Area Director, Eastern EnRoute & Oceanic Operations, ATO-E.*

[FR Doc. 05-3615 Filed 2-24-05; 8:45 am]

**BILLING CODE 4910-13-M**

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Parts 4062 and 4063**

**RIN 1212-AB03**

**Liability Pursuant to Section 4062(e) of ERISA**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** The PBGC proposes to amend its regulations to provide a rule for computing liability under section 4063(b) of the Employee Retirement Income Security Act of 1974 ("ERISA") when there is a substantial cessation of operations by an employer as described by section 4062(e) of ERISA.

**DATES:** Comments must be received on or before April 26, 2005.

**ADDRESSES:** Comments may be mailed or delivered to the Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026. Comments also may be submitted electronically through the PBGC's Web

site at <http://www.pbgc.gov/regs>, or by fax to (202) 326-4112. The PBGC will make all comments available on its Web site, <http://www.pbgc.gov>. Copies of the comments may also be obtained by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling (202) 326-4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

**FOR FURTHER INFORMATION CONTACT:**

James J. Armbruster, Acting Director, or James L. Beller, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, (202) 326-4024. (TTY and TTD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to (202) 326-4024.)

**SUPPLEMENTARY INFORMATION:** This proposed rule is part of the Pension Benefit Guaranty Corporation's (PBGC's) ongoing effort to streamline regulation and improve administration of the pension insurance program.

Section 4062(e) of ERISA provides special rules that apply when "an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20 percent of the total number of his employees who are participants under a plan established and maintained by him are separated from employment" (a "section 4062(e) event"). In the case of a section 4062(e) event, the employer "shall be treated with respect to that plan as if he were a substantial employer under a plan under which more than one employer makes contributions and the provisions of §§ 4063, 4064, and 4065 shall apply."

Section 4063(b) imposes liability upon a substantial employer that withdraws from a multiple employer plan. This section 4063(b) liability represents the withdrawing employer's share of the total liability to the PBGC that would arise if the plan were to terminate without enough assets to pay all benefit liabilities. (In general, the total liability to the PBGC upon termination of a plan is the amount of the plan's unfunded benefit liabilities, together with interest). The section 4063(b) liability payment made by the employer is held in escrow by the PBGC. If the plan terminates within five years, the section 4063(b) liability payment is treated as part of the plan's assets. If the plan does not terminate within five years, the liability payment is returned to the employer. The statute also provides that, in lieu of the liability

payment, the contributing sponsor may be required to furnish a bond to the PBGC in an amount not exceeding 150% of the section 4063(b) liability.

The statute also specifies a method of computing the amount of the section 4063(b) liability. Section 4063(b) provides that "[t]he amount of liability shall be computed on the basis of an amount determined by the [PBGC] to be the amount described in section 4062 for the entire plan, as if the plan had been terminated by the [PBGC] on the date of the withdrawal, multiplied by a fraction (1) the numerator of which is the total amount required to be contributed to the plan by such contributing sponsor for the last 5 years ending prior to the withdrawal, and (2) the denominator of which is the total amount required to be contributed to the plan by all contributing sponsors for such last 5 years."

In sum, section 4063(b) imposes liability and provides a method for determining the amount of that liability—*i.e.*, for determining the withdrawing employer's portion of the total liability to the PBGC that would arise if the plan terminated.

Section 4062(e) provides that, when a section 4062(e) event occurs, the employer is treated as a substantial employer under a multiple employer plan. Thus, section 4062(e) creates liability that is analogous to the section 4063(b) liability arising when a substantial employer withdraws from a multiple employer plan. Section 4062(e) does not, however, provide any details as to how this analogy is to be implemented—*i.e.*, how the total liability is to be apportioned with respect to the cessation of operations.

As explained above, when a substantial employer withdraws from a multiple employer plan, section 4063(b) allocates liability to that withdrawing employer based upon the ratio of the employer's required contributions to all required contributions for the five years preceding the withdrawal. The PBGC has found that application of this statutory allocation formula is relatively straightforward when determining withdrawal liability under a multiple employer plan because it is easy to verify what contributions were required to be made by the withdrawing employer and what contributions were required to be made by all of the contributing employers.

In contrast, when there is a section 4062(e) event, there is by definition only one employer that contributes to the plan. When there is only one employer, the numerator and denominator used to determine the liability under section 4063(b) would always be equal. Thus, it

is impracticable to use the allocation method described in section 4063(b) to determine the liability arising upon a section 4062(e) event. Instead, the PBGC has been using the method proposed in this rule to determine that liability on a case-by-case basis.

Section 4063(b) of ERISA provides that "in addition to and in lieu of" the manner of computing the liability prescribed in that provision, the PBGC "may also determine the liability on any other equitable basis prescribed by the [PBGC] in regulations." Pursuant to that authority, the PBGC is proposing in this rule a simple, practicable, and equitable method for determining the liability for a section 4062(e) event. Specifically, the PBGC proposes to compute that liability by multiplying the total liability under section 4062 by a fraction (1) the numerator of which is the number of the employer's employees who are participants under the plan and are separated from employment as a result of the cessation of operations, and (2) the denominator of which is the total number of the employer's employees who were participants under the plan before taking into account the cessation of operations. The PBGC would determine the total liability under section 4062 as if the plan had been terminated by the PBGC immediately after the cessation of operations rather than "on the date of the withdrawal" (as specified in section 4063(b)), which does not literally apply in the case of a section 4062(e) event.

By providing a simple and transparent method for determining the amount of this liability, this rule will allow plan sponsors who experience a section 4062(e) event (or believe they may experience a section 4062(e) event) to readily determine their liability (or expected liability). Although the proposed rule would specify a method for determining the amount of the liability imposed by statute, it would not affect the imposition of liability. Moreover, because the PBGC has generally followed this method on a case-by-case basis, the proposed rule would have little or no effect on the amount of liability.

Nothing in this proposed rule would affect the computation of liability incurred when there is a withdrawal of a substantial employer from a multiple employer plan under ERISA section 4063.

**Compliance With Rulemaking Guidelines**

The PBGC has determined, in consultation with the Office of Management and Budget, that this proposed rule is a "significant

regulatory action” under Executive Order 12866. The Office of Management and Budget, therefore, has reviewed this notice under Executive Order 12866.

The PBGC certifies under section 605(b) of the Regulatory Flexibility Act that this proposed rule would not have a significant economic impact on a substantial number of small entities. A section 4062(e) event is generally not relevant for small employers. Most small employers sponsoring defined benefit plans tend not to have multiple operations. For these small employers, the shutdown of operations would be accompanied by plan termination. Section 4062(e) protection is only relevant when the plan is ongoing after the cessation of operations. Thus, the change would not have a significant economic impact on a substantial number of small entities. Accordingly, sections 603 and 604 of the Regulatory Flexibility Act do not apply.

**List of Subjects**

29 CFR Part 4062

Employee Benefit Plans, Pension insurance, Reporting and recordkeeping requirements.

29 CFR Part 4063

Employee Benefit Plans, Pension insurance, Reporting and recordkeeping requirements.

For the reasons set forth above, the PBGC proposes to amend parts 4062 and 4063 of 29 CFR chapter LX as follows:

**PART 4062—LIABILITY FOR TERMINATION OF SINGLE-EMPLOYER PLANS**

1. The authority citation for part 4062 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1362–1364, 1367, 1368.

2. Amend § 4062.1 by adding the following sentence after the first sentence to read as follows:

**§ 4062.1 Purpose and scope.**

\* \* \* \* \*

This part also sets forth rules for determining the amount of liability incurred under section 4063 of ERISA pursuant to the occurrence of a cessation of operations as described by section 4062(e) of ERISA.

\* \* \* \* \*

**§§ 4062.8, 4062.9, and 4062.10 [Redesignated]**

3. Redesignate §§ 4062.8, 4062.9, and 4062.10 as §§ 4062.9, 4062.10, and 4062.11, respectively.

4. Add new § 4062.8 to read as follows:

**§ 4062.8 Liability pursuant to section 4062(e).**

If, pursuant to section 4062(e) of ERISA, an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20% of the total number of the employer’s employees who are participants under a plan established and maintained by the employer are separated from employment, the PBGC will determine the amount of liability under section 4063(b) of ERISA to be the amount described in section 4062 of ERISA for the entire plan, as if the plan had been terminated by the PBGC immediately after the date of the cessation of operations, multiplied by a fraction—

(a) The numerator of which is the number of the employer’s employees who are participants under the plan and are separated from employment as a result of the cessation of operations; and

(b) The denominator of which is the total number of the employer’s employees who were participants under the plan before taking the cessation of operations into account.

**§ 4062.3 [Amended]**

5. In paragraph (b) of § 4062.3, remove the references to “§ 4062.8(c)” and “4062.8(b)” and add the references to “§ 4062.9(c)” and “§ 4062.9(b)” in their places, respectively.

**§ 4062.7 [Amended]**

6. In paragraph (a) of § 4062.7, remove the reference to “§ 4062.8” and add in its place the reference “§ 4062.9”.

**PART 4063—LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL FROM SINGLE-EMPLOYER PLANS UNDER MULTIPLE CONTROLLED GROUPS AND OF EMPLOYER EXPERIENCING A CESSATION OF OPERATION**

7. The authority citation for part 4063 continues to read as follows:

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

8. Revise paragraph (a) of § 4063.1 to read as follows:

**§ 4063.1 Cross-references.**

(a) Part 4062 of this chapter sets forth rules for determination and payment of the liability incurred, under section 4062(b) of ERISA, upon termination of any single-employer plan and, to the extent appropriate, determination of the liability incurred with respect to multiple employer plans under sections 4063 and 4064 of ERISA. Part 4062 also sets forth rules for determining the amount of liability incurred under section 4063 of ERISA pursuant to the

occurrence of a cessation of operations as described by section 4062(e) of ERISA.

\* \* \* \* \*

Issued in Washington, DC, this 22nd day of February, 2005.

**Bradley D. Belt,**

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 05–3702 Filed 2–24–05; 8:45 am]

**BILLING CODE 7708–01–P**

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 311**

[Administrative Instruction 81]

**Privacy Act; Implementation**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Proposed rule.

**SUMMARY:** The Office of the Secretary of Defense is proposing to exempt those records contained in DCIFA 01, entitled “CIFA Operational and Analytical Records” when an exemption has been previously claimed for the records in another Privacy Act system of records. The exemption is intended to preserve the exempt status of the record when the purposes underlying the exemption for the original records are still valid and necessary to protect the contents of the records.

**DATES:** Comments must be received on or before April 26, 2005, to be considered by this agency.

**ADDRESSES:** Send comments to OSD Privacy Act Coordinator, Records Management Section, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

**FOR FURTHER INFORMATION CONTACT:** Ms. Juanita Irvin at (703) 601–4722, extension 110.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866, “Regulatory Planning and Review”**

It has been determined that Privacy Act rules for the Department of Defense are not significant rules. This rules do not (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a sector of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency; (3) Materially alter the