

Pension Benefit Guaranty Corporation

82-12

April 7, 1982

REFERENCE:

[*1] 4231(b) Mergers & Transfers Between Multiemployer Plans - Effects of Requirements

4231(c) Mergers & Transfers Between Multiemployer Plans - Requirements of Section

OPINION:

Thank you for your letter reporting the merger of the above-mentioned funds. This letter corrects the earlier letter to you from * * * Case Officer and confirms PBGC's later telephone advice.

Title IV, Subtitle E, Part 3 of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by Multiemployer Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208 (Sept. 26, 1980), 29 U.S.C. § 1411 et seq. (1981 Supp.), sets forth provisions relating to the merger or transfer of multiemployer plan assets or liabilities. These provisions do not require that PBGC approve a proposed merger of multiemployer plans prior to its effectuation. The provision for PBGC review in Section 4231(c) of ERISA, as amended, 29 U.S.C.A. § 1411(c) (1981 Supp.) is voluntary and provides a plan administrator with assurance that a proposed merger will not violate ERISA Sections 406(a) or 406(b)(2), 29 U.S.C.A. § 1106(a), 1106(b)(2), if PBGC determines that statutory requirements are satisfied.

PBGC must, of course, [*2] be given notice of the merger at least 120 days before the effective date of the merger and the transaction must comply with the provisions of Section 4231(b). The report that you have submitted is an appropriate notice for this case.

I trust this will help you.

Henry Rose
General Counsel