

DC 20555, *Attention:* Rulemaking and Adjudications

The information concerning this export license application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, date of application, date received, application No., Docket No.	Description of material		End use	Recipient country
	Material type	Total quantity		
Eastern Technologies, Inc. (ETI); August 3, 2009; August 5, 2009; XW016; 11005825.	Class A radioactive waste as slightly contaminated secondary waste resulting from the dissolving and decontamination of polyvinyl alcohol (PVA) dissolvable protective clothing and related items (e.g., zippers, hook & loop material, elastic, etc.) along with the process filters used to decontaminate the dissolved clothing retrieved from the combustible Class A radioactive waste imported in accordance with NRC license IW016.	The total quantity authorized for export will not exceed quantities imported in accordance with NRC license IW016.	The secondary waste resulting from the Laguna Verde material will be shipped to Impact Services, Oak Ridge, TN for further volume reduction and then returned to ETI for export back to Laguna Verde in Mexico.	Mexico.

For the Nuclear Regulatory Commission.

Dated this 8th day of September 2009 at Rockville, Maryland.

Scott W. Moore,

Deputy Director, Office of International Programs.

[FR Doc. E9-22560 Filed 9-17-09; 8:45 am]

BILLING CODE 7590-01-P

PENSION BENEFIT GUARANTY CORPORATION

Approval of Amendment to Special Withdrawal Liability Rules for Service Employees International Union Local 1 Pension Trust Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of approval.

SUMMARY: The Service Employees International Union Local 1 Pension Trust Fund requested the Pension Benefit Guaranty Corporation ("PBGC") to approve a plan amendment providing for special withdrawal liability rules for employers that maintain the Plan. PBGC published a Notice of Pendency of the Request for Approval of the amendment on March 2, 2009 (74 FR 9114) ("Notice of Pendency"). In accordance with the provisions of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), PBGC is now advising the public that the agency has approved the requested amendment.

FOR FURTHER INFORMATION CONTACT: Eric Field, Attorney, Office of the Chief Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026; telephone 202-326-4020. (TTY and TDD users

may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4020).

SUPPLEMENTARY INFORMATION:

Background

Under section 4201 of ERISA, an employer who completely or partially withdraws from a defined benefit multiemployer pension plan becomes liable for a proportional share of the plan's unfunded vested benefits. The statute specifies that a "complete withdrawal" occurs whenever an employer either permanently (1) ceases to have an obligation to contribute to the plan, or (2) ceases all operations covered under the plan. See ERISA section 4203(a). Under the first test, an employer who remains in business but no longer has an obligation to contribute to the plan will incur withdrawal liability. Under the second test, an employer who closes or sells its operations will also incur withdrawal liability. The "partial withdrawal" provisions of sections 4205 and 4206 impose a lesser measure of liability upon employers who reduce, but do not eliminate, the obligations or operations that generate contributions to the plan. The withdrawal liability provisions of ERISA are a critical factor in maintaining the solvency of these pension plans and reducing claims made on the multiemployer plan insurance fund maintained by PBGC. Without withdrawal liability rules, an employer who participates in an underfunded multiemployer plan would have a powerful economic incentive to reduce expenses by withdrawing from the plan.

Congress nevertheless allowed for the possibility that, in certain industries, the fact that particular employers go out of business (or cease operations in a specific geographic region) might not result in permanent damage to the pension plan's contribution base. In the construction industry, for example, the funding base of a pension plan is the construction projects in the area covered by the collective bargaining agreements under which a pension plan is maintained. Even if the amount of work performed by a particular employer fluctuates markedly in any given year, individual employees will typically continue to work for other contributing employers in the same geographic area. Consequently, the withdrawal of an employer does not remove jobs from or damage the pension plan's contribution base unless the employer continues to work in the geographic area covered by collective bargaining agreement without contributing to the plan.

This reasoning led Congress to adopt a special definition of the term "withdrawal" for construction industry plans. Section 4203(b)(2) of ERISA provides that a complete withdrawal occurs only if an employer ceases to have an obligation to contribute under a plan, but nevertheless continues to perform previously covered work in the jurisdiction of the collective bargaining agreement or resumes such work within five years after the date on which the obligations to contribute ceased.¹ There

¹ Section 4203(c)(1) of ERISA applies a similar definition of complete withdrawal to the entertainment industry, except that the pertinent jurisdiction is the jurisdiction of the plan rather than the jurisdiction of the collective bargaining

Continued

is a parallel rule for partial withdrawals from construction plans. Under section 4208(d)(1) of ERISA, an employer to whom section 4203(b) (relating to the building and construction industry) applies is liable for a partial withdrawal “only if the employer’s obligation to contribute under the plan is continued for no more than an insubstantial portion of its work in the craft and area jurisdiction of the collective bargaining agreement of the type for which contributions are required.

Section 4203(f) of ERISA provides that PBGC may prescribe regulations under which plans that are not in the construction industry may be amended to use special withdrawal liability rules similar to those that apply to construction plans. Under the statute, the regulations shall permit the use of special withdrawal liability rules only in industries that PBGC determines have characteristics that would make use of the special withdrawal liability rules appropriate. ERISA § 4203(f)(2)(A). In addition, each plan application must show that the special rule will not pose a significant risk to the PBGC. ERISA § 4203(f)(2)(B). Section 4208(e)(3) of ERISA provides that a plan may adopt rules for the reduction or elimination of partial withdrawal liability—under regulations prescribed by PBGC—subject to PBGC’s determination that such rules are consistent with the purpose of ERISA.

The regulation on Extension of Special Withdrawal Liability Rules (29 CFR Part 4203) prescribes the procedures a multiemployer plan must follow to request PBGC approval of a plan amendment that establishes special complete or partial withdrawal liability rules. Under 29 CFR 4203.3(a), a complete withdrawal rule must be similar to the statutory provision that applies to construction industry plans

under section 4203(b) of ERISA. Any special rule for partial withdrawals must be consistent with the construction industry partial withdrawal provisions. Each request for approval of a plan amendment establishing special withdrawal liability rules must provide PBGC with detailed financial and actuarial data about the plan. In addition, the applicant must provide PBGC with information about the effects of withdrawals on the plan’s contribution base. As a practical matter, the plan must show that the characteristics of employment and labor relations in its industry are sufficiently similar to those in the construction industry that use of the construction rule would be appropriate. Relevant factors include the mobility of the employees, the intermittent nature of the employment, the project-by-project nature of the work, extreme fluctuations in the level of an employer’s covered work under the plan, the existence of a consistent pattern of entry and withdrawal by employers, and the local nature of the work performed. PBGC will approve a special withdrawal liability rule only if a review of the record shows that:

(1) The industry has characteristics that would make use of the special construction withdrawal rules appropriate; and

(2) The adoption of the special rule will not pose a significant risk to the PBGC.

After review of the application and all public comments, PBGC may approve the amendment in the form proposed by the plan, approve the application subject to conditions or revisions, or deny the application.

Request

On March 3, 2009, PBGC published a notice soliciting public comment on a

request on behalf of the Service Employees International Union Local 1 Pension Trust Fund (“Local 1 Plan”) for approval of an amendment prescribing special withdrawal liability rules that, if approved by PBGC, would be effective as of July 1, 2005. PBGC received no comments on the notice.

The Local 1 Plan is a multiemployer plan covering the residential building cleaning industry in Chicago, Illinois. It is maintained pursuant to collective bargaining agreements with the Apartment Building Owners and Managers Association of Chicago (“ABOMA”) and independent cleaning contractors. As of July 1, 2006, it had approximately 3,800 active participants and was paying approximately \$5.8 million in benefits to 1,400 pensioners and survivors.

The Local 1 Plan submitted collective bargaining agreements expiring in 2008, indicating that ABOMA had over 200 contributing employer members. Total contributions for the 2006 plan year were \$7.08 million. The contributing employers are owners of residential apartments in the Chicago area and the number of apartments is unlikely to decrease. Between 2002 and 2006, the number of active participants remained stable.

Contributions have increased at a faster rate than benefit payments for the last three years in the submission, and as of 2006 were running nearly 20 percent higher than payouts. For full-time employees, the weekly contribution rate to the Local 1 Plan was \$136.67 for the twelve months starting December 1, 2005, \$156.00 for the following twelve months, and \$182 for the twelve months starting December 1, 2007.²

SUMMARY OF ACTUARIAL VALUATION RESULTS, 2003–2006

Item	Valuation date (July 1)			
	2006	2005	2004	2003
Active participants	4,063	4,157	4,233	4,259
Retirees	1,761	1,749	1,705	1,694
Monthly benefit accrual rate (\$)	22	22	22	22
Max. monthly benefit (\$)	645	645	645	645
Contributions (\$000)	7,081	6,525	5,864	4,689
Benefits (\$000)	5,812	5,606	5,501	5,391
Accrued liability (\$000)	97,335	93,606	92,923	90,274
Market value of assets (\$000)	83,630	77,743	72,138	64,582
Net min. funding charge w/o credit bal. (\$000)	6,269	5,982	6,026	6,284
Normal cost (\$000)	2,138	2,251	2,279	2,302
Unfunded accrued liability* (\$000)	13,705	15,863	20,785	25,692
Present value of vested benefits (\$000)	103,744	98,711	100,736	92,276

agreement. No plan has ever requested PBGC to determine that it shares the characteristics of an entertainment plan.

² According to the 2007 Form 5500, obtained after the notice of pendency, the monthly benefit accrual

rate has held steady for several years at \$21.50, although it was increased January 1, 2008 to \$23.33.

SUMMARY OF ACTUARIAL VALUATION RESULTS, 2003–2006—Continued

Item	Valuation date (July 1)			
	2006	2005	2004	2003
Unfunded liability, vested benefits* (\$000)	20,114	20,968	28,598	27,694
Valuation interest rate (%)	7.5	7.5	7.5	7.5

* Using market value of assets.

Decision on the Proposed Amendment

The statute and the implementing regulation state that PBGC must make two factual determinations before it approves a request for an amendment that adopts a special withdrawal liability rule. ERISA § 4203(f); 29 CFR § 4203.5(a). First, on the basis of a showing by the plan, PBGC must determine that the amendment will apply to an industry that has characteristics that would make use of the special rules appropriate. Second, PBGC must determine that the plan amendment will not pose a significant risk to the insurance system. PBGC's discussion on each of those issues follows. After review of the record submitted by the Local 1 Plan, and having received no public comments, PBGC has entered the following determinations.

1. What Is the Nature of the Industry?

In determining whether an industry has the characteristics that would make an amendment to special rules appropriate, an important line of inquiry is the extent to which the Local 1 Plan's contribution base resembles that found in the construction industry. This threshold question requires consideration of the effect of employer withdrawals on the Local 1 Plan's contribution base.

As the Local 1 Plan has asserted, covered work must be performed at a residential building located in Chicago. The work is local in nature and generally continues to be covered by the Local 1 Plan regardless of the employer retained to do those services. An employer ceases to have an obligation to contribute when it loses a cleaning or security contract because the building owner outsources the work or retains a different service provider, or when the employer closes its business due to bankruptcy, retirement, or business relocation. Over the past 10 years, cessation of contributions by any individual employer has not had an adverse impact on the Local 1 Plan's contribution base. Most of the employers that have ceased to contribute have been replaced by another employer who begins

contributions for the same employees at the same location for the same work.

2. What Is the Exposure and Risk of Loss to PBGC and Participants?

Exposure. The bargaining parties had maintained the same benefit accrual rate for several years. The benefit liabilities have grown by 11 percent from 2002 to 2006. However, over the same time period, contributions nearly tripled and assets grew by 28 percent. Thus, the parties have worked to preserve an adequate cushion against market downturns.

Risk of loss. The record shows that the Local 1 Plan presents a low risk of loss to PBGC insurance funds. The Local 1 Plan's active participant population has been stable, hovering around 4,000 actives for several years. Additionally, the Local 1 Plan and the covered industry have unique characteristics that suggest that the Local 1 Plan's contribution base is likely to remain stable. Contributions to the Local 1 Plan are made with respect to Chicago residential buildings. This contribution base is secure and the departure of one employer from the Local 1 Plan is not likely to have an adverse effect on the contribution base so long as the number of buildings covered does not decline.

Conclusion

Based on the Plan's submissions and the representations and statements made in connection with the request for approval, PBGC has determined that the plan amendment adopting the special withdrawal liability rules (1) will apply only to an industry that has characteristics that would make the use of special withdrawal liability rules appropriate, and (2) will not pose a significant risk to the insurance system. Therefore, PBGC hereby grants the Local 1 Plan's request for approval of a plan amendment modifying special withdrawal liability rules, as set forth herein. Should the Local 1 Plan wish to amend these rules at any time, PBGC approval of the amendment will be required.

Issued at Washington, DC, on this 11th day of September 2009.

Vincent K. Snowbarger,
Acting Director, Pension Benefit Guaranty Corporation.

[FR Doc. E9–22537 Filed 9–17–09; 8:45 am]

BILLING CODE 7708–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: OPM Form 1203–FX, Occupational Questionnaire, 3206–0040

AGENCY: Office of Personnel Management.

ACTION: 60-day Notice and request for comments.

SUMMARY: The Automated Systems Management Group, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0040, Occupational Questionnaire, OPM Form 1203–FX. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. 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;
2. 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;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. 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,