

Pension Benefit Guaranty Corporation

82-22

August 3, 1982

REFERENCE:

[*1] 4205(b) Partial Withdrawals. Cessation of Contributions
4212(c) Obligation to Contribute - Liability
4219 Notice & Collection of Withdrawal Liability
4221 Resolution of Disputes

OPINION:

This responds to your request for our opinion concerning the application of the partial withdrawal rule contained in Section 4205(b)(2)(A)(ii) of ERISA. Specifically you request clarification of the meaning of the term "facility"; i.e., "whether the term refers to a discrete geographic location or whether it has a broader application." We conclude that the term ordinarily refers to a discrete geographic location for purposes of this rule. Section 4205(b) provides in relevant part:

(b) For purposes of subsection (a) --

* * *

(2)(A) There is a partial cessation of the employer's contribution obligation for the plan year if, during such year --

* * *

(ii) an employer permanently ceases to have an obligation to contribute under the plan with respect to work performed at one or more but fewer than all of its facilities, but continues to perform work at the facility of the type for which the obligation to contribute ceased. (Emphasis added.)

Thus, the statute is clear that work of the same type [*2] must continue at the same facility for which contributions were previously required. It is our view that this ordinarily refers to a facility which continues operations at a discrete location. However, there may be circumstances under which the plan sponsor will determine that a shift of operations from one location to another constitutes a continuation of operations at the facility. See also Section 4212(c) of ERISA. If the plan sponsor makes such a determination, and if the employer objects, the matter must then be resolved through the dispute resolution procedures described in Sections 4219 and 4221 of ERISA.

I hope this is of assistance to you.

Henry Rose
General Counsel