

**OPERATING ENGINEERS'
CONSTRUCTION INDUSTRY AND
MISCELLANEOUS PENSION FUND**

**NOTICE OF ELECTION UNDER SECTION 204 OF THE
WORKER, RETIREE AND EMPLOYER RECOVERY ACT OF 2008**

APRIL 10, 2009

Plan Name: Operating Engineers' Construction Industry and Miscellaneous Pension Fund

EIN: 25-6135579

Plan No: 001

An election has been made under section 204 of the Worker, Retiree And Employer Recovery Act of 2008 to treat the Pension Fund as being neither in endangered nor critical status for the 2009 plan year beginning January 1, 2009 and ending December 31, 2009. The actuary certified that the Pension Fund was in endangered status for the 2009 plan year (if no section 204 election were made).

The section 204 election applies only to the 2009 plan year. If the Pension Fund is certified to be in endangered or critical status for the 2010 plan year, notice will be provided of the Pension Fund's funding status for the 2010 plan year and steps will have to be taken to improve the Pension Fund's funded situation, which may include increases in contributions and reductions in future benefit accruals.

For more information about the section 204 election, you may contact Robert T. Jack, Fund Administrator, P.O. Box 38682, Pittsburgh, PA 15238, (412) 968-9750.