

This exemption is subject to the following conditions:

(a) DTTA pays the fair market value as determined by a qualified, independent appraiser on the date of the transaction.

(b) The sale transaction has been reviewed and approved by an Independent Fiduciary, who was appointed by the United States District Court for the Eastern District of Michigan, Southern Division for purposes of enforcing a settlement agreement dated January 21, 1998.

(c) The sale is a one-time transaction for cash.

(d) The Plan pays no fees or commissions in connection with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on November 18, 2002 at 67 FR 69566.

Extension of Comment Period

The notice of proposed exemption invited interested persons to submit comments to the Department on or before December 28, 2002. The applicant agreed to provide notice to interested persons by personal delivery or first class mail within ten days of the date that the proposal appeared in the **Federal Register**. A total of 23,511 notices was sent to Plan participants and other interested persons by first class mail. Of that total, 14,234 notices were sent on November 27, 2002 and 8,951 notices were sent on November 29, 2002 (November 28, 2002 being a federal holiday). On December 3, 2002, the applicant learned that 266 notices had not been included in the original mailings and that 66 envelopes from these mailings had been damaged. These remaining 332 notices were sent by first class mail on December 4, 2002.

To ensure that Plan participants would have a sufficient amount of time in which to provide their comments to the Department, the applicant decided to extend the comment period for another 46 days, or until February 14, 2003. In this regard, the applicant represents that on December 27, 2002, postcards were sent to the Plan's 5,662 retired participants by first class mail informing them that the period for submitting comments had been extended until February 14, 2003. In addition, on January 7, 2003, the applicant states that letters were sent by first class mail to the principal officers of the 19 Local Unions comprising the Michigan Conference of Teamsters instructing them to post an enclosure stating that the period for submitting

comments had been extended until February 14, 2003. On January 8, 2003, a notice was posted on the Plan's website stating that the period for submitting comments had been extended until February 14, 2003.

Written Comments

During the comment period, the Department received two written comments with respect to the proposed exemption. The first comment expressed approval of the exemption transaction. The second comment, which was submitted by a Plan participant who chose to remain anonymous, stated matters that were not germane to the exemption request.

For further information regarding the comments received and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. L-11058) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N-1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, after giving full consideration to the entire record, including the written comments, the Department has decided to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Anna M.N. Mpras of the Department, telephone (202) 693-8565. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of February, 2003.

Ivan Strasfeld,

*Director of Exemption Determinations,
Employee Benefits Security Administration,
Department of Labor.*

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of existing safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Jim Walter Resources, Inc.

[Docket No. M-2003-010-C]

Jim Walter Resources, Inc., P.O. Box 133, Brookwood, Alabama 35444 has filed a petition to modify the application of 30 CFR 75.1002 (Installation of electric equipment and conductors; permissibility) to its No. 7 Mine (MSHA I.D. No. 01-01401) located in Tuscaloosa County, Alabama. The petitioner proposes to use a 2,400-volt power center with a high-voltage trailing cable to power a continuous miner in by the last open crosscut and within 150 feet of pillar workings. The petitioner has listed in this petition for modification specific terms and conditions that would be followed when its proposed alternative method is implemented. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Request for Comments

Persons interested in these petitions are encouraged to submit comments via e-mail to comments@msha.gov, or on a computer disk along with an original hard copy to the Office of Standards,