

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.*

[FR Doc. 03-4922 Filed 2-28-03; 8:45 am]

**BILLING CODE 4510-29-P**

## 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,

Regulations, and Variances, Mine Safety and Health Administration, 1100 Wilson Boulevard, Room 2352, Arlington, Virginia 22209. All comments must be postmarked or received in that office on or before April 2, 2003. Copies of these petitions are available for inspection at that address.

Dated at Arlington, Virginia, this 25th day of February, 2003.

**Marvin W. Nichols, Jr.,**

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 03-4860 Filed 2-28-03; 8:45 am]

**BILLING CODE 4510-43-P**

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meeting Notice

**AGENCY HOLDING MEETING:** National Science Foundation, National Science Board, Task Force on National Workforce Policies for Science & Engineering.

**DATE AND TIME:** March 3, 2003, 12 p.m.–1 p.m.; Open session.

**PLACE:** The National Science Foundation, Stafford One Building, 4201 Wilson Boulevard, Room 120, Arlington, VA 22230.

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:** Monday, March 3, 2003; open session.

*Open Session (12 p.m. to 1 p.m.)*

—Discussion of comments on the draft report of the NSB/EHR Task Force on National Workforce Policies for S&E.

**FOR FURTHER INFORMATION CONTACT:** Gerard Glaser, Executive Officer, NSB, (703) 292-7000, <http://www.nsf.gov/nsb>.

**Gerard Glaser,**  
*Executive Officer.*

[FR Doc. 03-5007 Filed 2-27-03; 12:17 pm]

**BILLING CODE 7555-01-M**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-35594, License No. 37-30603-01, EA No. 02-072]

### In the Matter of Advance Medical Imaging and Nuclear Services, Easton, PA; Order Imposing a Civil Monetary Penalty

#### I

Advanced Medical Imaging and Nuclear Services (Licensee) is the holder of Byproduct Materials License No. 37-30603-01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10

CFR parts 30 and 35. The License authorizes the Licensee to possess and use certain byproduct materials (identified in 10 CFR 35.100 and 35.200) at its Easton, Pennsylvania facility for any uptake, excretion, imaging, and localization procedures approved in those parts. The license was issued on February 16, 2001, and is due to expire on February 28, 2011.

#### II

An inspection of the Licensee's activities was conducted on November 30, 2001, at the Licensee's facility located in Easton, Pennsylvania. Further, an investigation was also conducted by the NRC Office of Investigations. The results of this inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written notice of violation and proposed imposition of civil penalty (notice) was served upon the Licensee by letter dated October 22, 2002. The notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the notice, in a letter, dated November 21, 2002. In its response, the Licensee: (1) Admits the first of three violations that were classified as a Severity Level II problem; (2) denies the other two violations that were part of the Severity Level II problem; (3) contests the Severity Level II classification for the three violations; (4) contests the amount of the civil penalty for the Severity Level II problem; and (5) admits two other violations that were classified at Severity Level IV.

#### III

After consideration of the Licensee's response and the statements of fact, explanation, and argument contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that an adequate basis was not provided for withdrawal of any violations, for reduction of the Severity Level II classification, or for reduction or withdrawal of the penalty. Therefore, the NRC staff has determined that a penalty of \$43,200 should be imposed.

#### IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of \$43,200 within 30 days of the date of this Order, in accordance

with NUREG/BR-0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

#### V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov) and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov).

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in Violations B and C of the notice referenced in section II above, and

(b) Whether, on the basis of such violations, and the additional violations