

Signed at Washington, D.C. this 1st day of June, 1995

**Robert B. Reich,**

*Secretary of Labor.*

[FR Doc. 95-14681 Filed 6-14-95; 8:45 am]

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## Mine Safety and Health Administration

### Petitions for Modification

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

#### 1. R. & D. Coal Company

[Docket No. M-95-78-C]

R. & D. Coal Company, 214 Vaux Avenue, Tremont, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.332(b)(1) & (b)(2) (working sections and working places) to its Buck Mountain Slope (I.D. No. 36-02053) located in Schuylkill County, Pennsylvania. The petitioner proposes to use air passing through inaccessible abandoned workings and additional areas by mixing with the air in the intake haulage slope to ventilate the only active workings section, to ensure air quality by sampling intake air during preshift and on-shift examinations, and to suspend mine production when air quality fails to meet specified criteria. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

#### 2. Jericol Mining, Inc.

[Docket No. M-95-79-C]

Jericol Mining, Inc., General Delivery, Holmes Mill, Kentucky 40843 has filed a petition to modify the application of 30 CFR 75.1710 (canopies or cabs; electric face equipment) to its No. 2 Darby Mine (I.D. No. 15-16627) located in Harlan County, Kentucky. Due to the fluctuating height of the seam, the petitioner proposes to operate the Simmons Rand Model 828 battery powered coal haulers and the Simmons Rand 488 scoop without canopies. The petitioner asserts that compliance with the mandatory standard would diminish the safety of miners.

#### 3. Andalex Resources, Inc.

[Docket No. M-95-80-C]

Andalex Resources, Inc., P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.325(b) (air quantity) to its Island Mine No. 1 (I.D. No. 15-17515) located in Hopkins

County, Kentucky. The petitioner requests a modification of the standard to determine the volume of air at alternate locations on a working section and in areas where mechanized mining equipment is being installed or removed. The petitioner proposes to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

#### 4. Andalex Resources, Inc.

[Docket No. M-95-81-C]

Andalex Resources, Inc., P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.360(c)(1) (pre-shift examination) to its Island Mine No. 1 (I.D. No. 15-17515) located in Hopkins County, Kentucky. The petitioner requests a modification of the standard to determine the volume of air at alternate locations on a working section and in areas where mechanized mining equipment is being installed or removed. The petitioner proposes to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

#### 5. Andalex Resources, Inc.

[Docket No. M-95-82-C]

Andalex Resources, Inc., P.O. Box 711, Madisonville, Kentucky 42431 has filed a petition to modify the application of 30 CFR 75.362 (on-shift examination) to its Island Mine No. 1 (I.D. No. 15-17515) located in Hopkins County, Kentucky. The petitioner requests a modification of the standard to determine the volume of air at alternate locations on a working section and in areas where mechanized mining equipment is being installed or removed. The petitioner proposes to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition. The

petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

### Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 17, 1995. Copies of these petitions are available for inspection at that address.

Dated: June 7, 1995.

**Patricia W. Silvey,**

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

[FR Doc. 95-14672 Filed 6-14-95; 8:45 am]

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### Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 94-45; Exemption Application No. D-09841, et al.]

#### Grant of Individual Exemptions; Bank of Ashland, Inc., et al.

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for

a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

### Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

### Bank of Ashland, Inc. (the Bank) Located in Ashland, Kentucky

[Prohibited Transaction Exemption 95-45; Application Nos. D-09841 thru D-09843]

### Exemption

The restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply as of December 23, 1994, to the cash sale of certain collateralized mortgage obligations (CMOs) by six employee benefit plans for which the Bank acts as trustee (the Plans) to Ashland Bankshares, Inc. (the Holding Company), a party in interest with respect to the Plans, provided that the following conditions were met:

(a) Each sale was a one-time transaction for cash;

(b) Each Plan received an amount which was equal to the greater of (i) the outstanding principal balance for the CMOs owned by the Plan, plus accrued but unpaid interest, at the time of sale, (ii) the amortized cost for the CMOs owned by the Plan, plus accrued but unpaid interest, as determined by the Bank based on the outstanding principal balance for each CMO on the date of sale, or (iii) the fair market value of the CMOs owned by the Plan as determined by an independent, qualified appraiser at the time of the sale;

(c) The Plans did not pay any commissions or other expenses with respect to the sale;

(d) The Bank, as trustee of the Plans, determined that the sale of the CMOs is in the best interests of each Plan and their participants and beneficiaries at the time of the transaction;

(e) The Bank took all appropriate actions necessary to safeguard the interests of the Plans and their participants and beneficiaries in connection with the transactions; and

(f) Each Plan received a reasonable rate of interest on the CMOs during the period of time it held the CMOs.

**EFFECTIVE DATE:** This exemption is effective as of December 23, 1994. 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 April 14, 1995, at 60 FR 19090.

**FOR FURTHER INFORMATION CONTACT:** Mr. E.F. Williams of the Department, telephone (202) 219-8194. (This is not a toll-free number.)

### Simplex Time Recorder Co., Employee Savings Plan (the Plan), Located in Gardner, Massachusetts

[Prohibited Transaction Exemption 95-46; Exemption Application No. D-09935]

### Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the extension of credit (the Loan) to the Plan by Simplex Time Recorder Co., a party in interest with respect to the Plan, with regard to a group annuity contract (the GAC) issued by Executive Life Insurance Company of California (ELIC), and (2) the Plan's potential repayment of the Loan (the Repayment); provided the following conditions are satisfied:

(A) No interest or expenses are paid by the Plan in connection with the transaction;

(B) The Loan will be repaid only out of amounts paid to the Plan by ELIC, its successors, or any other responsible third party making payment with respect to ELIC's obligations under the GAC (the GAC Proceeds); and

(C) Repayment of the Loan is waived with respect to the amount by which the Loan exceeds GAC proceeds.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on April 27, 1995 at 60 FR 20769.

**FOR FURTHER INFORMATION CONTACT:** Ronald Willett of the Department, telephone (202) 219-8881. (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 exemptions 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) These exemptions are 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 these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 9th day of June, 1995.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

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