

December 23, 2003

Mr. Lawrence W. Smith  
FASB Director of Technical Application  
And Implementation Activities  
401 Merritt 7  
Norwalk, CT 068576

**Re: Response to Proposed FASB Staff Position No. FAS106-a  
Accounting Implications of Medicare Prescription Drug Act**

Peabody Energy is the largest producer of coal in the United States, and members of our hourly, salaried, union and non-union workforce participate in various company sponsored and multi-employer health and welfare plans. Like most employers, we have been working with our actuaries and other professionals over the last several months modeling the financial impacts of the alternatives of the various proposed Medicare bills, particularly the version that was signed into law on December 8, 2003.

SFAS 106 paragraph 40 specifically provides that... "Presently enacted changes in the law or amendments of the plans of other health care providers that take effect in future periods and that will affect the future level of their benefit coverage shall be considered in current-period measurements for benefits expected to be provided in those future periods." Most employer plans have traditionally made assumptions relative to the amount of costs that Medicare, under prior law, would cover for their retiree health care plans. In our case, we have already adopted formal decisions on how we will implement the provisions of the new program into our retiree health care plans, and it will not be necessary for us to amend most of our retiree health care plans to require the beneficiaries to enroll in the new Medicare drug plan since our current plans already require coordination of benefits with Medicare.

While the bill is complex, the issues, in our opinion, are not so complex as to preclude the recognition of a reasonable financial impact of the Act based on our decisions. The Act will decrease our cash spending and likewise, SFAS 106 expense and the estimated liability will decrease due to the favorable impact the reduced spending has on expected trend and inflation assumptions.

In our view, the primary question is how the Act should be accounted for – as a plan amendment or a change in actuarial assumption reflecting actuarial gain/loss consideration? In this regard, we have considered not only the actuarial gain/loss position of our plans, but looked to public disclosures of other companies and their relative actuarial gain/loss positions related to SFAS 106 liabilities. We note that with declining discount rates and increasing health care costs, many plans are in a cumulative actuarial loss position, which is subject to the corridor threshold and amortization method they have adopted.

We believe the following hierarchy of recognition would be appropriate and within existing recognition guidelines given that unrecognized actuarial deferrals and losses are reflective of prior period experience being different than assumed (i.e. assumptions related to drug cost spending for post-65 retirees have differed from actual and have contributed to cumulative losses experienced by many plans, and such losses would be appropriately reduced by the Act):

1. Employers should first offset any unamortized prior service cost expense or transition obligation;
2. Employers should then offset any unrecognized cumulative actuarial loss;
3. Any remaining balance should be amortized over the average remaining service period of active employees (or life expectancy if the majority are inactive).

We believe that treatment of the impact of the Act as a negative plan amendment, which would establish the impact at the point of adoption and set a fixed amortization period without regard to unamortized charges or cumulative loss is clearly inappropriate. That approach would not match subsequent changes resulting from assumed to actual experience (i.e. actuarial gains and losses which could be as high as 10% of the actuarial obligation before being required to be amortized) with the accounting for the initial estimated impact of the Act. Further, amortizing the estimated impact of the Act using an average remaining service period to full eligibility would potentially lead to an amortization period that is not reflective of the long-term nature of the liability (i.e. plans may vest individuals after a number of years of service and a mature workforce could trigger a very short amortization period). This also would also create a mismatch in recognizing the impact of the Act and the liability experience.

Should you wish to discuss this matter with Peabody Energy, please contact Dennis Vincent (314-342-7758) or Brent Stottlemire (314-342-7557).

Very truly yours,

L. Brent Stottlemire  
Vice President Finance & Controller

Dennis Vincent  
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