WY94–16 (Feb. 11, 1994) (WY95–16)
WY94–17 (Feb. 11, 1994) (WY95–17)
WY94–18 (Feb. 11, 1994) (WY95–18)
WY94–19 (Feb. 11, 1994) (WY95–19)
WY94–20 (Feb. 11, 1994) (WY95–20)
WY94–21 (Feb. 11, 1994) (WY95–21)
WY94–22 (Feb. 11, 1994) (WY95–22)
WY94–23 (Feb. 11, 1994) (WY95–23)
WY94–24 (Feb. 11, 1994) (WY95–24)

New General Wage Determination Decisions

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determination Issued Under the Davis-Bacon and related Acts'' are listed by Volume and State:

Volume I

New York
NY950072 (Feb. 10, 1995)
NY950073 (Feb. 10, 1995)

Volume III

Alabama
AL950037 (Feb. 10, 1995)
Mississippi
MS950055 (Feb. 10, 1995)
MS950056 (Feb. 10, 1995)

Volume IV

Indiana
IN950040 (Feb. 10, 1995)
IN950041 (Feb. 10, 1995)

Volume VI

Utah
UT950034 (Feb. 10, 1995)

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York
NY950005 (Feb. 10, 1995)
Rhode Island
RI950001 (Feb. 10, 1995)

Volume II

Pennsylvania
PA950001 (Feb. 10, 1995)
Virginia
VA950016 (Feb. 10, 1995)

Volume III

North Carolina
NC950010 (Feb. 10, 1995)
NC950011 (Feb. 10, 1995)
NC950016 (Feb. 10, 1995)
NC950025 (Feb. 10, 1995)
NC950026 (Feb. 10, 1995)
NC950031 (Feb. 10, 1995)

Volume IV

None

Volume V

Iowa
IA950007 (Feb. 10, 1995)

IA950029 (Feb. 10, 1995)

IA950037 (Feb. 10, 1995)
Kansas
KS950014 (Feb. 10, 1995)

Volume VI

North Dakota
ND950002 (Feb. 10, 1995)

ND950004 (Feb. 10, 1995)

ND950047 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 6th day of February 1995.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 95–3328 Filed 2–9–95; 8:45 am]

BILLING CODE 4510–27–M

Pension and Welfare Benefits Administration

[Application No. D–09855, et al.]

Proposed Exemptions; PACCAR Inc. Savings Investment Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR

32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

PACCAR Inc Savings Investment Plan (the Plan) Located in Bellevue, Washington

[Application No. D–09855]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 C.F.R. Part 2570, Subpart B (55 F.R. 32836, 32847, August 10, 1990). If the exemption is granted 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 proposed guarantee (the Guarantee) by PACCAR Inc (the Employer), the sponsor of the Plan, of the Plan's investment in a guaranteed investment contract (the GIC) issued by Confederation Life Insurance Company (Confederation Life), including the potential extensions of credit to the Plan by the Employer (the Advances) pursuant to the Guarantee; and (2) the potential repayment of the Advances (the Repayments); provided that the following conditions are satisfied:

(A) All terms and conditions of the transactions are no less favorable to the Plan than those which the Plan could obtain in an arm's length transaction with an unrelated party;

(B) The Repayments are made only from GIC Proceeds, defined as the amounts actually received by the Plan (1) from Confederation Life or any other entity making payment with respect to Confederation Life's obligations under the terms of the GIC, or (2) from the sale or transfer of the GIC to unrelated third parties;

(C) The Repayments will be made only after the Plan has recovered, through the Advances plus GIC Proceeds, the amount guaranteed by the Employer with respect to the GIC; and

(D) To the extent the Advances exceed GIC Proceeds, Repayment of the difference will be waived.

Summary of Facts and Representations

Introduction

Confederation Life was recently placed in a receivership. As a result, the Confederation Life GIC owned by the Plan is frozen, and the future of Confederation Life is uncertain. The Employer, PACCAR Inc, proposes to protect the Plan from loss on its investment in the GIC, by guaranteeing the value of the GIC as of the commencement of the receivership, as described below.

1. The Employer is a publicly-owned Delaware corporation engaged in the production of class 8 trucks, winches, oil drilling equipment and retail auto parts. Its principal place of business is Bellevue, Washington. The Employer sponsors the Plan, which is a defined contribution 401(k) plan, providing for individually-directed participant accounts (the Accounts). As of September 21, 1994, the Plan had 4,816 participants and, as of July 31, 1994, total assets of approximately $211,979,510. The trustee of the Plan is Fidelity Management Trust Company of Boston, Massachusetts (the Trustee). Plan participants may invest their accounts in and among six investment funds, including an income fund (the I Fund) which consists of guaranteed investment contracts issued by insurance companies, a cash short-term investment fund, and units in a group trust maintained by the Trustee and designated as the Fidelity Managed Income Portfolio II of the Fidelity Group Trust for Employee Benefit Plans (the MI Portfolio).

2. Among the assets of the I Fund is the GIC, which is identified as Confederation Life Guaranteed Investment Contract No. 62185, issued to the Plan by Confederation Life on July 10, 1990 for a principal deposit of $6 million. The GIC is a single-deposit, non-benefit-responsive contract, with interest on principal at the annual rate of 9.67 percent, requiring payment to the Plan of $9.49 million on the maturity date of June 30, 1995 (the Maturity Date). On August 12, 1994 (the Receivership Date), Confederation life was placed in receivership (the Receivership) pursuant to rehabilitation proceedings by the State of Michigan.[1] Consequently, Confederation Life's assets and operations were frozen, and payments on all its guaranteed investment contracts, including the GIC held by the Plan, were suspended effective as of the Receivership Date. As of the Receivership Date, the total GIC principal and accumulated interest was $8.752 million (the Receivership Value), representing 17.92 percent of the assets of the I Fund.

3. In order to avoid liquidity problems in the I Fund, after the Receivership was announced, the Employer and the Trustee froze the I Fund assets invested in the GIC. The Employer represents that it appears unlikely that Confederation Life will make timely payment to the Plan upon the Maturity Date of the GIC. The Employer has notified Plan participants that it will undertake measures to protect the Accounts from adverse effects of any nonpayment of the GIC or from the effects of a lengthy rehabilitation of Confederation Life. Accordingly, the Employer proposes to guarantee the Plan's investment in the GIC plus interest, by means of potential extensions of credit to the Plan, and is requesting an exemption for these transactions under the terms and conditions described herein.

4. The terms of the Employer's guarantee (the Guarantee) of the Plan's investment in the GIC and the Employer's potential cash advances (the Advances) pursuant to the Guarantee will be evidenced in a written agreement between the Plan and the Employer.[2]

The Guarantee

In making the Guarantee, the Employer is undertaking to ensure that in the eventual resolution of the Receivership the Plan receives a total amount with respect to the GIC which is no less than its investment in the GIC as of the Receivership Date plus interest thereafter at a market rate. In accordance with this undertaking, the amount which the Employer proposes to guarantee (the Guarantee Amount) is the Receivership Value of the GIC, which is $8.752 million, less GIC Proceeds (defined as the amounts actually received by the Plan from Confederation Life or any other entity making payment with respect to Confederation Life's obligations under the terms of the GIC,

[1] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC.

[2] The Department notes that this exemption, if granted, will not affect the rights of any participant or beneficiary with respect to claims under section 404 of the Act in connection with any aspect of the GIC transactions.

or from the sale or transfer of the GIC to unrelated third parties) and advances made by the Employer (Advances, as described below), plus interest on the net of the foregoing amount after the Receivership Date at the rate earned by the MI Portfolio (the Guarantee Rate), accrued on a daily basis. The Trustee's MI Portfolio is a diversified portfolio of short-term and long-term conventional and synthetic guaranteed investment contracts issued by insurance companies and other institutions. The average yield on the MI Portfolio Assets for the month of November, 1994, was 5.81 percent.

The Advances

Although the GIC is non-benefit-responsive, the Employer is concerned that the Receivership may result in an increase in transfers of Accounts out of the I Fund to other investment funds maintained by the Plan, posing potential liquidity problems for the I Fund. Accordingly, if as a result of Account transfers or withdrawals from the I Fund the Guarantee Amount commences to represent more than 30 percent of the I Fund, the Employer will make Advances to the I Fund in an amount sufficient to reduce the ratio to 30 percent.

Final Resolution

If the Receivership and any rehabilitation of Confederation Life are resolved and completed prior to the end of the year 2000, within 60 days of the Plan's receipt of final payment from or on behalf of Confederation Life with respect to the GIC, the Employer will honor the Guarantee by making a final Advance to the I Fund in an amount sufficient to cause the Guarantee Amount to equal zero. If the Receivership and any rehabilitation extend beyond the year 2000, the Employer will make a final Advance to the I Fund on the first business day in the year 2001 in the amount of the Guarantee Amount.

Repayments

Repayment of the final Advance and all previous Advances will be restricted to the GIC Proceeds. The Repayments will only be made after such time as the Plan has recovered, through the Advances plus the GIC Proceeds, the amount guaranteed by the Employer with respect to the GIC, as described above. To the extent the total Advances exceed GIC Proceeds, repayment will be waived.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The Guarantee will enable the Employer to complete its commitment to Plan participants to protect the Plan from any loss of its investment in the GIC as of the Receivership Date; (2) The Advances will protect the I Fund from threats to its liquidity resulting from possible transfers and withdrawals of Accounts; (3) The Repayments will be made only from GIC Proceeds, and only after the Plan has recovered the amount guaranteed by the Employer; (4) After resolution of the Receivership, the Plan will be made whole with respect to the Guarantee by means of a final cash Advance; and (5) To the extent the Advances exceed the GIC Proceeds, Repayment of the difference will be waived.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202)219–8881. (This is not a toll-free number.)

Shippers Paper Products Company 401(k) Plan (the Plan) Located in Glenview, IL

[Application No. D–09866]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, 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 the proposed sale by the Plan of Group Annuity Contract, No. GA–4725 (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) to Illinois Tool Works Inc., a party in interest with respect to the Plan; provided the following conditions are satisfied: (1) The sale is a one-time transaction for cash; (2) the Plan receives no less than the fair market value of the GAC at the time of the sale; (3) the Plan's trustee, acting as independent fiduciary for the Plan, has determined that the proposed sale price is not less than the current fair market value of the GAC; and (4) the Plan's trustee has determined that the proposed transaction is appropriate for and in the best interests of the Plan and its participants and beneficiaries.

Summary of Facts and Representations

1. The Plan is sponsored by the Shippers Paper Products Company, which is an wholly-owned subsidiary of Illinois Tool Works Inc. (the Applicant). The Plan is a defined contribution plan with a salary reduction feature. There were 91 participants as of October 20, 1994. As of September 30, 1994, the Plan's total assets were $635,695.00. The Plan is administered by the Employee Benefits Committee of the Board of Directors of the Applicant (the Committee). The Plan's trustee, Northern Trust Company (the Trustee), manages the investment of Plan funds at the direction of the Committee. The GAC, which is the sole asset of the Plan, was effective as of July 1, 1985.[3] The Applicant represents that the GAC was scheduled to terminate only after disbursement of the final annuity payment thereunder and, therefore, had no stated maturity date. The terms of the GAC provided for a minimum annual interest rate of 4.0%.

2. On July 16, 1991, Mutual Benefit was placed into rehabilitation proceedings by the New Jersey Commissioner of Insurance. As a result of these proceedings, the Plan's assets have been frozen.[4] The Applicant represents that it wishes to enter into the proposed transaction in order to protect the accounts of Plan participants and beneficiaries from the risk of investment loss associated with the GAC. The Applicant further represents that the Plan needs to sell its interest in

[3] The Department notes that the decisions to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, the Department is not herein proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC issued by Mutual Benefit.

[4] Following the cessation of payments by Mutual Benefit with respect to the GAC, Shippers Paper Products Company made the decision to make periodic advances to the Plan to enable the payment of distributions to terminating and retiring participants and the payment of certain in-service withdrawals to current participants. The Applicant represents that, as of November 30, 1994, the periodic advances to the Plan totaled approximately $178,595. The Applicant also represents that the terms of those periodic advances satisfy the conditions of PTE 80–26 (45 FR 28545, April 29, 1980). This conditional class exemption permits a party in interest to make an interest-free loan to an employee benefit plan, and the repayment of such loan. Specifically, the exemption states, in relevant part, that effective January 1, 1975, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money from a party in interest to an employee benefit plan, nor to the repayment of such loan in accordance with its terms, if no interest or other fee is charged to the plan, the loan is unsecured, and the loan proceeds are used only for the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan. In this proposed exemption the Department expresses no opinion as to whether the periodic advances satisfy the provisions of PTE 80–26.

the GAC in order to give the Plan more investment flexibility to direct the investment of participant account balances to safer and more prudent investments. The Applicant also represents that the Plan will not incur any expenses with respect to the sale of the GAC.

3. The Applicant proposes to protect the interests of the affected participants by purchasing the GAC from the Plan. The purchase price for the GAC will be the contract balance of the GAC as of September 30, 1994, as determined by Mutual Benefit using the following interest rates: (1) Interest is credited at the rate of 10.35% for the period from July 1, 1986 through June 30, 1990; (2) interest is credited at the rate of 8.7% for the period from July 1, 1990 through June 30, 1991; (3) interest is credited at the rate of 8.35% for the period from July 1, 1991 through December 31, 1991. These are the rates of interest actually earned under the GAC until December 31, 1991. After December 31, 1991, pursuant to the terms of the proposed plan of rehabilitation set forth by the Superior Court of New Jersey, interest is credited at a rate equal to 5.75% for 1992, 5.25% for 1993, and at a rate equal to 5.10% for 1994. The purchase price will be adjusted to reflect any contract distributions and additional interest earned from September 30, 1994 to the date the actual purchase takes place.[5] From January 1, 1995 through December 31, 1999, the GAC will earn interest based on Mutual Benefit's actual investment performance, with a minimum annual rate of 3.5%.

4. The Trustee has reviewed the proposed transaction on behalf of the Plan. The Trustee represents that it has determined that the proposed purchase price for the GAC is at least equal to the fair market value of the GAC. In addition, the Trustee represents that it has determined that the proposed transaction is appropriate for the Plan and in the best interests of its participants and beneficiaries.

5. In summary, the Applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The Plan will receive cash for the GAC in the amount of the contract balance of the GAC, as determined by Mutual Benefit as of the date of the sale; (2) the transaction will enable the Plan and its participants and beneficiaries to avoid any risk associated with the continued holding of the GAC, and to exercise all of their rights under the Plan to request distributions and withdrawals from the Plan; and (3) the Plan's trustee, acting as the Plan's independent fiduciary, has determined that the sale at the proposed price is in the best interests of the participants and beneficiaries of the Plan, and that the proposed price is not less than the fair market value of the GAC.

FOR FURTHER INFORMATION CONTACT: Virginia J. Miller of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Manke Lumber Company, Inc. Profit Sharing Plan (the Plan) Located in Tacoma, Washington

[Exemption Application No. D–09897]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, 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 the proposed cash sale (the Sale) by the Plan of certain real property (the Property) to Manke Family Resources, Limited Partnership (MFR).

This proposed exemption is conditioned upon the following requirements: (1) All terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party; (2) the Sale is a one-time cash transaction; and (3) the Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; and (4) the Plan receives a sales price equal to the greater of: (a) The fair market value of the Property on the date of the Sale; or (b) the Plan's aggregate costs of acquiring and holding the Property.

Summary of Facts and Representations

1. Manke Lumber Company, Inc. (Manke) sponsors the Plan, a profit sharing plan which was established on May 1, 1971. The Plan was amended, effective May 1, 1988, to include 401(k) features which allow participants to direct the investments of their accounts. As of April 30, 1993, approximately eighty-eight percent of Plan assets were held as general assets while the remaining twelve percent were subject to participant direction. As of the same date, the Plan had assets totalling $9,360,468 and approximately 520 participants.

West One Trust Company (the Trustee) serves as the trustee of the Plan and has the sole investment discretion with respect to the Property and certain other non-liquid assets. Piper Capital Management, a registered investment adviser, has investment management discretion over the marketable securities and other liquid assets of the Plan. Under the terms of the Plan, Manke appoints an Advisory Committee (the Advisory Committee) which is responsible for setting the funding policy for the Plan. The Advisory Committee does not have any investment discretion. As of January 9, 1995, the Advisory Committee consisted of two Manke employees—J. Randal Jordan and Milton Farvour.

2. Manke is a Washington corporation engaged in the manufacturing and sale of lumber and other wood products. In addition, Manke also owns and manages timberland. The principal shareholders of Manke include Charles Manke, Virgil Manke and James Manke, who also comprise the Board of Directors (the Directors) and are the officers of Manke.

MFR is a Washington limited partnership engaged in the business of owning, utilizing and developing timberland and personal property related to the timber business. Tacoma Timber Co. (Tacoma Timber), a Washington corporation, serves as the general partner of MFR. Both MFR and Tacoma Timber are wholly owned by sons and daughters of the Directors, who are parties in interest with respect to the Plan. In addition, the owners of MFR and Tacoma Timber also own small amounts of Manke stock.

3. Among the general assets of the Plan is the Property, which consists of approximately 275 acres of land and timber located in Clallam County, Washington. The Property lies contiguous to a forty acre parcel of property owned by Manke. The Plan acquired the Property on September 25, 1975 for $200,709 from Raymond B. Fife, an unrelated party. Since its acquisition, the Plan has held the Property as timberland, and it has not been utilized by, or leased to, any related or unrelated party. As of December 9, 1994, the Plan had expended a total of $14,384 in connection with the Property for taxes and other expenses such as surveying and insurance.

4. Steven D. Lodge of Shorett & Riely, a real estate appraising and consulting firm located in Seattle, Washington, appraised the Property. Mr. Lodge is a Washington State-certified General Real Estate Appraiser and has fifteen years of

[5] The Applicant represents that, following the sale of the GAC to the Applicant, the Plan will repay any amounts due Shippers Paper Products Company in connection with the periodic advances discussed above.

experience in appraising real estate. Mr. Lodge represents that both he and Shorett & Riely are independent of, and unrelated to, Manke, MFR, Tacoma Timber and the Directors.

Because the timber located on the Property has a substantial value apart from the underlying land, Mr. Lodge valued the two components of the Property, the timber and the land, separately and then as one. Based upon a report prepared by Washington Timberland Management, Inc., which estimates harvestable area, timber volume and timber value, Mr. Lodge placed the fair market value of the timber at $1,519,283 as of April 30, 1994. In addition, based upon comparable sales of properties located in the Tacoma area, Mr. Lodge placed the fair market value of the land within a range of $220,456 and $385,798 as of April 30, 1994. Finally, as of result of these two valuations, Mr. Lodge placed the fair market value of the Property at $1,700,000 as of April 30, 1994.

5. The Trustee attempted to sell the Property on October 7, 1994 in a written/oral bid auction sale. Beginning on September 2, 1994, the Trustee circulated a written bid proposal, to approximately 100 prospective bidders. The written bid proposal set the minimum bid at $2,000,000 in cash. None of the prospective bidders submitted an oral or written bid in response to the written bid proposal, and, as a result, the Property was not sold. Despite this, the Trustee believes that a new proposal will result in a sale of the Property and, therefore, proposes to attempt to sell the Property again through a written/oral bid auction sale.

Because of its need for timberland, MFR desires to purchase the Property from the Plan provided that it is the highest bidder. MFR represents that the Sale price will be at least the greater of: (a) The fair market value of the Property on the date of the Sale; or (b) the Plan's aggregate costs of acquiring and holding the Property. Accordingly, the Advisory Committee of the Plan requests an administrative exemption from the Department to permit the Sale of the Property under the terms and conditions described herein. The Sale will be a one-time cash transaction, and the Plan will not be required to pay any fees, commissions or expenses in connection with the Sale.

6. The Trustee has indicated that the bid auction sale for the Property will be conducted sometime in 1995. In preparation of such auction, the Advisory Committee represents that the Trustee will circulate a written bid proposal to approximately 100 prospective bidders which will allow them to bid either in writing prior to the auction or orally at the action. The minimum bid set forth in the bid proposal will be at least the Property's fair market value as of the date of such proposal. The Property will be sold to the highest bidder, which may or may not be MFR, only if the highest bid exceeds the minimum bid set by the Trustee. Acceptance of the highest bidder's offer is subject to final acceptance and approval by the Trustee's Trust Committee. For purposes of condition #4 of this proposed exemption, the fair market value of the Property on the date of the Sale will be determined in the following manner. If the Trustee receives two or more bids from unrelated individuals or entities, the highest bid will be deemed to be the Property's fair market value on the date of the Sale. If the Trustee receives less than two bids from unrelated individuals or entities, the fair market value on the date of the Sale will be determined by an independent, qualified appraiser. In this event, MFR's bid cannot be less than the fair market value of the Property as determined by the independent, qualified appraiser on the date of the Sale.

7. In summary, it is represented that the transaction will satisfy the statutory criteria of section 408(a) of the Act because: (a) All terms and conditions of the Sale will be at least as favorable to the Plan as those obtainable in an arm's length transaction; (b) the Sale will be a one-time cash transaction; (c) the Plan will not be required to pay any commissions, costs or other expenses in connection with the Sale; and (d) the Plan will receive a sales price equal to the greater of: (1) The fair market value of the Property on the date of the Sale; or (2) the Plan's aggregate costs of acquiring and holding the Property.

FOR FURTHER INFORMATION CONTACT: Kathryn Parr of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

Virginia Fibre Corporation Employees Retirement Savings Plan (the Plan) Located in Amherst, Virginia

[Application No. D–09901]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted 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, effective February 1, 1995, to (1) The proposed purchase from the Plan (the Purchase) by the Virginia Fibre Corporation (the Employer), the sponsor of the Plan, of a guaranteed investment contract (the GIC) issued by the Confederation Life Insurance Company (Confederation Life); or, in the alternative, (2) the proposed interest-free loan to the Plan by the Employer (the Loan) with respect to the GIC, including repayment of the Loan; provided that the following conditions are satisfied:

(A) All terms and conditions of the transactions are at least as favorable to the Plan as those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) In the event of the Purchase, the Plan receives a cash purchase price which is no less than the greater of (1) The fair market value of the GIC as of the sale date, or (2) the GIC's Maturity Payment, as described below;

(C) In the event of the Loan: (1) The Loan is in the amount of the GIC's Maturity Payment, as described below; (2) the Loan is repaid only from GIC Proceeds, defined as the amounts paid by or on behalf of Confederation Life or any other entity making payment with respect to Confederation Life's obligations under the GIC; (3) the Plan incurs no expenses or interest with respect to the Loan; and (4) repayment of the Loan is waived to the extent the Loan exceeds the GIC Proceeds.

EFFECTIVE DATE: This exemption, if granted, will be effective as of Febraury 1, 1995.

Summary of Facts and Representations

1. The Employer is a Virginia corporation engaged in the manufacture of corrugating medium and liner board, with its principal place of business in Amherst, Virginia, and is wholly owned by the Grief Bros. Corporation, located in Delaware, Ohio. The Plan is a defined contribution 401(k) plan with 240 participants and total assets of approximately $5,510,972 as of September 30, 1994. The Plan's assets are held, managed and invested by its trustee, Society National Bank in Cleveland, Ohio.

2. The Plan provides for individual participant accounts (the Accounts) and participant-directed investment of the Accounts. The Plan participants may direct the investment of their Accounts among various investment options offered by the Trustee, including the Virginia Fibre MAGIC Fund (the M Fund), which invests in, among other things, guaranteed investment contracts issued by insurance companies. Of the Plan's 280 participants, 168 Accounts are invested in the M Fund. Among the

assets in the M Fund is the GIC, a single-deposit, non-benefit-responsive guaranteed investment contract issued to the Plan on February 2, 1990 by Confederation Life, a Canadian life insurance company doing business in the United States through subsidiaries in Michigan and Georgia. The GIC was purchased by the Plan for an initial principal deposit of $250,000 (the GIC Principal), which earns interest at the rate of 9.18 percent per annum (the Contract Rate). The GIC terms provide for annual interest payments (the Annual Payments) on February 1 each year, commencing 1991 through 1995. All Annual Payments through 1994 have been made by Confederation Life and received by the Plan. The GIC provides for no pre-maturity withdrawals of principal, and has a maturity date of February 1, 1995 (the Maturity Date). Upon the Maturity Date, the Plan is due a final Annual Payment plus the total GIC Principal, for a total of $272,950 (the Maturity Payment).

3. On August 12, 1994, Confederation life was placed in receivership (the Receivership) pursuant to rehabilitation proceedings by the State of Michigan.[6] Consequently, Confederation Life's assets and operations were frozen, and payments on all its guaranteed investment contracts were suspended effective as of the Receivership commencement. The Employer represents that under the prevailing circumstances, it is unlikely that the Maturity Payment will be made to the Plan when due on February 1, 1995. The Employer is also concerned that the Plan may never recover the full Maturity Payment in its entirety. The Employer desires to protect Plan participants and beneficiaries from any loss resulting from the Receivership, by purchasing the GIC from the Plan, if allowable, or by lending the Plan the amount of the Maturity Payment, if the purchase is not allowable. The Employer is requesting an exemption for such transactions under the terms and conditions described herein.

4. The Employer prefers to purchase the GIC from the Plan on February 1, 1995 for the amount of the Maturity Payment due the Plan on that date. However, the terms of the GIC include a prohibition against assignment of the GIC. The Employer and the Trustee represent that they have initiated the process of obtaining a release from this contractual prohibition. If a release is obtained to enable the GIC's transfer to the Employer, the Employer will purchase the GIC on February 1, 1995 for cash in the amount of the Maturity Payment due on that date. The Plan will incur no expenses with respect to this proposed sale transaction.

In the event the parties are unable to obtain a release from the prohibition on assignability of the GIC, on February 1, 1995 the Employer will make a cash loan to the Plan (the Loan) in the amount of the Maturity Payment due on that date. The Loan will be interest-free, and the Plan will incur no expenses related to the Loan. Repayment of the Loan will be restricted to the amounts which the Plan receives from Confederation Life or any other entity making payment with respect to Confederation Life's obligations under the GIC (the GIC Proceeds). To the extent the Loan exceeds the GIC Proceeds, repayment of the Loan will be waived.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The transactions will protect the Plan from any loss on the GIC's full Maturity Payment which might result from the Receivership; (2) The Employer's proposed purchase of the GIC will be a one-time transaction for cash in which the Plan receives no less than the greater of the fair market value of the GIC or the Maturity Payment; (3) If a release is not obtained to enable the purchase of the GIC, the Plan will still receive the Maturity Payment when due, in the form of the Loan; (4) If the Loan is made, its repayment will be restricted to GIC Proceeds; (5) To the extent the Loan exceeds GIC Proceeds, the repayment of the Loan will be waived; and (6) The Plan will pay no interest or incur any expenses with respect to the proposed transactions.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Profit Sharing Plan for Employees of Annis, Mitchell, Cockey, Edwards & Roehn, P.A. (the Plan) Located in Tampa, Florida

[Application No. D–09906]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, 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 the proposed sale by the Plan to Annis, Mitchell, Cockey, Edwards & Roehn, P.A. (the Employer), of the Plan's interest (the Interest) in a limited partnership, for $40,000 in cash, provided the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; and (c) the Plan receives not less than the fair market value of the Interest as of the date of the sale as determined by a qualified, independent expert.

Summary of Facts and Representations

1. The Plan is a defined contribution, profit sharing plan which currently has approximately 105 participants. As of September 30, 1994, the aggregate fair market value of the Plan's assets was $3,378,407. The Employer is a professional association engaged in the practice of law in Tampa, Florida.

2. On June 30, 1988 the Plan acquired the Interest, which is a one-half unit of limited partnership interest in Hunter's Ridge Associates, Ltd. (the Partnership). The business of the Partnership is to acquire, own, operate, improve and otherwise deal with an apartment complex located in Winter Park, Florida. The Partnership units were not registered with the Securities and Exchange Commission or the Florida Division of Securities, but rather were privately placed. The total number of units offered and sold was 35. No shareholder or employee of the Employer individually purchased an interest in the Partnership.

3. The Plan has now been modified to permit individual investment selections by the Plan participants. The Plan's investment in the Interest is illiquid, difficult to accurately value and hard to allocate among participants. In order to improve the Plan's liquidity and to reduce accounting costs for the Plan attributable to this investment, the Plan would like to sell the Interest to the Employer.

4. If the exemption proposed herein is granted, the Plan will assign the Interest to the Employer as a substitute investor in the Partnership, in exchange for a lump sum cash payment equivalent to the current fair market value of the Interest from the Employer. Participants' accounts will receive an allocation in cash exactly equal to the most recent valuation of the Interest. No broker fees

[6] The Department notes that the decisions to acquire and hold the GIC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GIC.

or administrative fees will be incurred by the Plan since the Employer will absorb the cost of the transfer.

5. Mr. Richard D. Schofield, a registered real estate broker who has been in the real estate business for 17 years, is the general partner of the Partnership. Mr. Schofield represents that as of January 5, 1995, the Interest would be appraised as having a fair market value at its original cost, or $40,000. This is the purchase price that the Employer proposes to pay to the Plan for the Interest.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria contained in section 408(a) of the Act because: (a) The sale is a one-time transaction for cash; (b) the Plan will pay no commissions or fees in connection with the transaction; (c) the Plan will receive not less than the current fair market value of the Interest at the time of the sale; and (d) the fair market value for the Interest has been determined by Mr. Schofield, a qualified, independent expert who is the general partner of the Partnership.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz 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 of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional 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

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of February, 1995.

Ivan Strasfeld,

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

[FR Doc. 95–3407 Filed 2–9–95; 8:45 am]

BILLING CODE 4510–29–P

[Prohibited Transaction Exemption 95–09; Exemption Application No. D–09462, et al.]

Grant of Individual Exemptions; Peoples Security Life Insurance Company, 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, DC. 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.

Peoples Security Life Insurance Company (Peoples) Located in Durham, North Carolina

[Exemption Application No.: D–09462]

Commonwealth Life Insurance Company (Commonwealth) Located in Louisville, Kentucky

[Prohibited Transaction Exemption 95–09; Exemption Application No.: D–09463]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective March 1, 1992, to: (1) The extension of credit by Peoples or Commonwealth (the Applicants), the sponsors of an investment product (the Group Annuity Contract or GAC) in connection with a plan's investment in the GAC; and (2) the reimbursement of Peoples or Commonwealth for benefit payments made to investing plans from the cashflow generated by the investments in the plans' Custodian Accounts which are set up by a plan pursuant to the GAC, or (3) the reimbursement of Peoples or Commonwealth for benefit payments made to investing plans from the proceeds generated by liquidation of investments in the Custodial Accounts upon termination of the Group Annuity Contract provided:

1. The decision to enter into the Group Annuity Contract will be made