

of Labor on matters pertaining to the implementation and further elaboration of the NAALC, the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC.

The Committee consists of 12 independent representatives drawn from among labor organizations, business and industry, educational institutions, and the general public.

**DATES:** The Committee will meet on December 7, 1999 from 9 a.m. to 4:30 p.m.

**ADDRESS:** U.S. Department of Labor, 200 Constitution Avenue NW, Conference Room C-5515-C, Washington, D.C. 20210. The meeting is open to the public on a first-come, first served basis.

**FOR FURTHER INFORMATION CONTACT:** Irasema Garza, designated Federal Officer, U.S. NAO, U.S. Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room C-4327, Washington, D.C. 20210. Telephone 202-501-6653 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:** Please refer to the notice published in the **Federal Register** on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington, DC on November 1, 1999.

**Irasema T. Garza,**

*Secretary, U.S. National Administrative Office.*

[FR Doc. 99-29263 Filed 11-8-99; 8:45 am]

BILLING CODE 4510-28-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-36, 202 and TA-W-36,202A]

### Thunderbird Mining, Eveleth, and Forbes, MN; Notice of Negative Determination on Reconsideration

On August 11, 1999, the Department issued an Affirmative Determination Regarding Application for Reconsideration for the workers and former workers of the subject firm. The United Steelworkers of America (USWA), Local Union 6860, provided new information regarding possible customer import purchases of articles like or directly competitive with the taconite pellets produced by workers of the subject firm. The notice was published in the **Federal Register** on August 31, 1999 (64 FR 47525).

The Department initially denied TAA to workers of Thunderbird Mining

producing taconite pellets because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met. The petitioners alleged that imports of steel led to worker separations from the subject firm. Imports of taconite pellets must be used as the basis for possible certification. The investigation revealed that the major domestic customers of the subject firm reported either that they did not import or that their imports declined in 1999. U.S. imports of agglomerated iron ores and concentrates (other than roasted iron pyrites) declined in the first quarter of 1999 compared with the same period of 1998.

To address the USWA Local Union 6860 assertion that Thunderbird Mining customers are importing products like or directly competitive with the taconite pellets produced in Eveleth and Forbes, Minnesota, the Department conducted another survey of the subject firms' major declining customers. The respondents reported that no products were purchased from domestic or foreign sources to replace taconite pellets in the relevant time period (1997, 1998, and January through April 1998 and 1999).

### Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for worker adjustment assistance for workers and former workers of Thunderbird Mining, Eveleth and Forbes, Minnesota.

Signed at Washington, D.C., this 11 day of September 1999.

**Grant D. Beale,**

*Program Manager, Office of Trade Adjustment Assistance.*

[FR Doc. 99-29262 Filed 11-8-99; 8:45 am]

BILLING CODE 4510-30-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 99F-4694]

### Rohm and Haas Co.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that Rohm and Haas Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-methyl-4-isothiazolin-3-one as an antimicrobial additive for

adhesives, paper additives, and paper coatings that are intended to contact food.

### FOR FURTHER INFORMATION CONTACT:

Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3098.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 0B4699) has been filed by Rohm and Haas Co., 100 Independence Mall West, Philadelphia, PA 19106. The petition proposes to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) and § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of 2-methyl-4-isothiazolin-3-one as an antimicrobial additive for adhesives, paper additives, and paper coatings that are intended to contact food.

The agency has determined under 21 CFR 25.32(q) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: October 26, 1999.

**Alan M. Rulis,**

*Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 99-29222 Filed 11-8-99; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Application No. D-10676, et al.]

**Proposed Exemptions; Anvil Construction Company, Inc. Employee's Money Purchase Pension Plan (the Money Purchase Plan), Anvil Construction Co., Employee Profit Sharing Plan (the Profit Sharing Plan), William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell**

**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 restrictions 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

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests 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.

**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, NW, Washington, DC 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, NW, Washington, DC 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.

#### **Anvil Construction Company, Inc. Employee's Money Purchase Pension Plan (the Money Purchase Plan), Anvil Construction Co., Employee Profit Sharing Plan (the Profit Sharing Plan), William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell Located in Philadelphia, Pennsylvania; Proposed Exemption**

[Exemption Application No. D-10676 and D-10677]

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 32826, 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 (the Sale) of a certain parcel of unimproved real property (the Property) from certain accounts (the Accounts) in the Money Purchase Plan and the Profit Sharing Plan (collectively, the Plans) to the Anvil Construction Company, Inc. (Anvil), a party in interest and disqualified person with respect to the Accounts, provided that the following conditions are met:

(a) The terms and conditions of the Sale will be at least as favorable to the Accounts as those obtainable in an arm's length transaction with an unrelated party;

(b) Anvil will purchase the Property from the Accounts for \$433,531, an amount comprised of the Property's current \$397,000 fair market value (the Fair Market Value) as determined by a qualified, independent appraiser plus \$36,531 which represents the excess of the Property's holding costs over appreciation from time of acquisition;

(c) The Sale will be a one-time transaction for cash; and

(d) The Accounts will pay no fees or commissions in connection with the Sale.

#### Summary of Facts and Representations

1. Anvil is a company engaged in commercial and industrial construction and is located in Philadelphia, Pennsylvania. Anvil is the sponsor of the Plans. The Plans are comprised of the Money Purchase Plan and the Profit Sharing Plan, both of which are individually-directed, defined contribution plans. The Money Purchase Plan has 5 participants and approximately \$455,846 in total assets as of March 8, 1999. The Profit Sharing Plan has 5 participants and approximately \$470,374 in total assets as of March 8, 1999.

2. In 1988, the Plans' participants were given the option of investing their respective Money Purchase Plan Account assets and Profit Sharing Account assets in the purchase of the Property from USR Realty Development. USR Realty Development is a division of the U.S. Diversified Group of the US Steel Corporation, an unrelated party. The Property is a rectangularly-shaped lot of unimproved real property comprising approximately 7.4 acres located in Bucks County, Pennsylvania. The Property is situated in the USX Industrial Park and is zoned for heavy industrial use.

Four of the Plans' participants; William Andreassi, Mark Andreassi, Michael Andreassi, and Wayne Campbell (collectively, the Participants); elected to have their respective Money Purchase Plan Account and Profit Sharing Account (collectively, the Accounts) participate in the purchase of the Property.

3. On July 8, 1988, the Participants directed their respective Money Purchase Plan Account and Profit Sharing Plan Account to purchase the Property (the Purchase). The sale of the Property to the Accounts was for \$331,515. The Participants represent that the Purchase was for investment purposes.

The applicants represent that each Participant's respective Money Purchase Plan Account contributed an equal share (the Money Purchase Plan Share) to the Property's purchase price in relation to the other Participants' Money Purchase Plan Accounts. The Applicants additionally represent that each Participant's respective Profit Sharing Plan Account contributed an equal share (the Profit Sharing Plan Share) to the Property's purchase price in relation to the other Participants' Profit Sharing Plan Accounts. As a result, the applicants represent that,

after the Purchase, each Participant's respective Share equaled 25%, or approximately \$82,880, of the Property's \$331,515 purchase price.

The applicants represent that with respect to the purchase each Participant allocated a portion of the Participant's respective Share between the Participant's respective Money Purchase Plan Account and the Participant's respective Profit Sharing Plan Account. In this regard, the applicants represent that each Participant's Profit Sharing Account allocated approximately \$11,035 of the Share's \$82,880 value and each Participant's Money Purchase Plan Account allocated approximately \$71,845 of the Share's \$82,880 value.

4. The Accounts incurred certain holding costs (the Holding Costs) with the Accounts' ownership of the Property. These Holding Costs include: \$93,313 in real estate taxes; \$1,600 in general liability insurance; \$5,987 in acquisition fees; and \$1,116 in real estate marketing charges. The applicants represent that the Property's total Holding Costs of \$102,016 were paid for with the assets of each Participant's Accounts. In this regard, the applicants represent that each Participant paid an equal amount of the Holding Costs. As a result, the Accounts of each Participant have incurred an expense totaling approximately \$25,504 as a result of their ownership interest in the Property.

5. The Property was appraised on December 9, 1998 by William Bott and Anna Hageman (collectively, the Appraisers) for the Equity Appraisal Company, Inc., an appraisal company independent of Anvil. The Appraisers, both Pennsylvania certified real estate appraisers, used the sales comparison approach in their valuation of the Property and compared the Property to 5 parcels of land located near the Property and the subject of recent sales. Based on these comparisons, the Appraisers determined the Fair Market Value of the Property, as of December 9, 1998, to be \$397,000.

6. The applicants represent that the Property's Holding Costs exceed the Property's net appreciation (the Net Appreciation). In this regard, the applicants represent that the Property's acquisition price of \$331,515 and the Property's Fair Market Value of \$397,000 results in a Net Appreciation totaling \$65,485. The applicants represent that this Net Appreciation of \$65,485 is less than the Property's Holding Costs of \$102,016. As a result, the applicants represent that any sale of the Property for a price equal to the Appraised Value will result in a net loss to the Accounts totaling \$36,531 (the

Excess Costs), or a net loss of \$9,132.75 to each Account.<sup>1</sup>

7. The applicants propose the Sale of the Property from the Accounts to Anvil for a price equal to the sum of the Property's Fair Market Value of \$397,000, as determined by a qualified, independent appraiser, and the Property's Excess Costs of \$36,531. As a result, Anvil proposes to purchase the Property from the Accounts for \$433,531. The Applicants represent that if the proposed transaction is granted, the Accounts of each Participant will receive 25% or \$108,382.75 of the Property's \$433,531 total sale price which will include \$9,123.75 for the Property's Excess Costs. The Applicants represent that the \$108,382.75 will be allocated to each Participant's respective Money Purchase Plan Account and Profit Sharing Plan Account according to the same percentage of total assets which the Property currently comprises in each Account. As a result, the applicants represent that if the proposed transaction is granted, each Participant's respective Money Purchase Plan Account will receive approximately \$93,953.09 and each Participant's respective Profit Sharing Account will receive approximately \$14,429.66.

The applicants represent that the Sale is administratively feasible in that it will be a one-time transaction for cash and that the Accounts will pay no fees or commissions. The applicants additionally represent that the proposed Sale is in the best interests of the Accounts' Participants and beneficiaries since the Property has not appreciated at a rate which is satisfactory to the Participants. In this regard, the applicants represent that the Sale, if granted, would provide the Accounts with cash which the Accounts could invest in assets providing a greater rate of return than that of the Property. The applicants represent further that the abundance of available undeveloped real property similar to the Property has reduced the ability of the Accounts' to sell the Property to unrelated third parties.

The applicants additionally represent that the proposed transaction is protective of the Accounts' participants and beneficiaries since the Sale, if granted, will provide the Accounts with a cash amount equal to the sum of the Property's acquisition price and the

<sup>1</sup> The Department notes that the decision to invest in the Property is governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this regard, 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 Property.

Property's holding costs. As a result, the applicants represent that the proposed Sale will enable the Accounts to recover all of the Holding Costs associated with the Accounts' ownership of the Property. The applicants also represent that the Sale, if granted, will provide cash to the Accounts which the Accounts could invest in assets providing a greater rate of return than that of the Property.

8. In summary, the applicant represent that the proposed transaction satisfies the criteria of section 408(a) of the Act because:

(a) The terms and conditions of the Sale will be at least as favorable to the Accounts as those obtainable in an arm's length transaction with an unrelated party;

(b) Anvil will purchase the Property from the Accounts for \$433,531, an amount comprised of the Property's current \$397,000 fair market value (the Fair Market Value) as determined by a qualified, independent appraiser and the Property's excess holding costs of \$36,531;

(c) The Sale will be a one-time transaction for cash; and

(d) The Accounts will pay no fees or commissions in connection with the Sale.

#### Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and the Department within 10 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Motta of the Department, telephone (202) 219-8883 (this is not a toll free number).

#### Cassano's Inc. 401(k) Plan and Trust (the Plan) Located in Dayton, Ohio, Proposed Exemption

[Exemption Application Number D-10734]

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 proposed 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 sale (the Sale) of an improved parcel of real property (the

Property) by the Plan to Cassano's, Inc. (Cassano's), a party in interest and disqualified person with respect to the Plan, provided that the following conditions are met:

(a) The Sale is a one-time transaction for cash;

(b) The 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;

(c) The Plan receives the greater of \$155,500 or the fair market value of the Property as of the date of the Sale;

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; and

(e) Cassano's files Form 5330 with the Internal Revenue Service (the Service) and pays certain excise taxes with respect to the past prohibited leasing of the Property within 90 days of the date that a notice granting this proposed exemption is published in the **Federal Register**.

#### Summary of Facts and Representations

1. The Plan is a profit sharing plan located in Dayton, Ohio. The Plan had approximately 75 participants and \$450,621.83 in assets as of September 30, 1998. The Plan is sponsored by Cassano's, a pizza company having its principal place of business located in Dayton, Ohio.

2. The assets of the Plan include the Property which was acquired by the Plan for \$155,500 in 1973. The Property is located at 2418 East Third Street, Dayton, Ohio and is comprised of four contiguous lots totaling 22,438 square feet and improved by two buildings. One of these buildings is a one-story restaurant having 2,640 square feet in rentable space and occupying two of the lots. The other building is a storage facility occupying the rear portion of the remaining two lots. The balance of the Property is comprised of a paved parking lot and a small grass-covered plot fronting the restaurant. The Property currently comprises approximately 29.3% of the assets of the Plan.

3. The applicant represents that, on June 15, 1973, Cassano's leased the Property from the Plan (the First Lease). The applicant represents that the First Lease was entered into pursuant to section 414(c)(2) of the Act.<sup>2</sup> On August 10, 1984, Cassano's received an individual exemption, PTE 84-114, 49 FR 32132 (Aug. 10, 1984) (PTE 84-114) to enter into a new leasing arrangement

with the Plan. PTE 84-114 authorized: (1) A new leasing agreement between Cassano's and the Plan (the Second Lease) provided that certain conditions were met; and (2) an option held by Cassano's for the sale of the Property to Cassano's provided that certain conditions were met.

The applicant represents that, between December, 1994 and March, 1995, Cassano's missed four rent payments due under the Second Lease.<sup>3</sup> As a result, the exemptive relief provided to Cassano's through PTE 84-114 was no longer available. Despite this, Cassano's continued to lease the Property from the Plan and thus engaged in a transaction which violated section 406 of the Act. The applicant estimates that the continuation of the Second Lease without the exemptive relief provided for by PTE 84-114 has resulted in approximately \$1,662 in excise taxes (the Excise Taxes) due under section 4975 of the Code. In this regard, the applicant represents that Cassano's will correct its violation of PTE 84-114 by paying the Excise Taxes, after filing Form 5330 with the Service, within 90 days of the date that a notice granting this proposed exemption is published in the **Federal Register**.

4. The applicant now proposes to purchase the Property from the Plan. The Property was appraised by Chester A. Brewer (Mr. Brewer) and Timothy N. Dunham (Mr. Dunham; collectively, the Appraisers) of the Dunham Company, a real estate appraisal company located in Dayton, Ohio. The Appraisers represent that they are certified in the State of Ohio and are independent of the Plan and Cassano's. The Appraisers used the sales comparison approach and compared the Property to three properties similar to the Property and the subject of recent sales. The Appraisers represent that, based on these comparisons, the fair market value of the Property was \$132,000 as of July 29, 1999.

5. The applicant represents that the Plan has incurred certain costs and has received certain income due to the Plan's ownership of the Property. In this regard, the applicant represents that, since its acquisition by the Plan, the Property has been assessed a total of approximately \$100,000 in real estate taxes. Additionally, the applicants represent that, since its acquisition by the Plan, the Property has generated a

total of approximately \$559,250 in rental income for the Plan.

6. The applicant proposes the sale of the Property to Cassano's (*i.e.*, the Sale) for the greater of \$155,500 or the fair market value of the Property as of the date of the Sale.<sup>4</sup> The Sale would allow the Plan to recover the original acquisition cost to the Plan of the Property. The applicant represents that the proposed transaction is feasible since it involves a one-time transaction for cash. Furthermore, the applicant represents that the proposed transaction is protective of the rights of participants and beneficiaries since the Sale would enable the trustees of the Plan to diversify the Plan's assets. Finally, the applicant represents that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries since the Sale will ensure that the Plan receives for the Property a price not less than the price the Plan paid to acquire the Property. As a result, the applicant represents that the terms of the proposed sale guarantee that the Plan will recover the Property's full acquisition price.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria for an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The Sale is a one-time transaction for cash;

(b) The 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;

(c) The Plan receives the greater of \$155,500 or the fair market value of the Property as of the date of the Sale;

(d) The Plan is not required to pay any commissions, costs or other expenses in connection with the Sale; and

(e) Cassano's files Form 5330 with the Service and pays certain excise taxes with respect to the past prohibited leasing of the Property within 90 days of the date that a notice granting this proposed exemption is published in the **Federal Register**.

#### Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons in the manner agreed upon by the applicant and the Department within 10 days of the date of publication in the **Federal Register**. Comments and requests for a hearing are due thirty (30)

<sup>2</sup> The Department is expressing no opinion herein as to the application of section 414(c)(2) of the Act to this transaction.

<sup>3</sup> The applicant represents that Cassano's filed for Chapter 11 bankruptcy protection in 1995. The applicant represents that the rent delinquency (ultimately totaling \$7,669.36), has been repaid by Cassano's to the Plan pursuant to Cassano's U.S. Bankruptcy Court-approved plan of reorganization.

<sup>4</sup> The applicant represents that any payment by Cassano's to the Plan which is in excess of the Property's fair market value will not exceed the limitations set forth in section 415 of the Internal Revenue Code.

days after publication of the Notice in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Motta, 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 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, DC, this 4th day of November, 1999.

**Ivan Strasfeld,**

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

[FR Doc. 99-29267 Filed 11-8-99; 8:45 am]

BILLING CODE 4510-29-P

## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

**[Prohibited Transaction Exemption 99-44; Exemption Application No. D-10257, et al.]**

**Grant of Individual Exemptions; Pacific Life Corporation (Pacific Life), 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.

**Pacific Life Corporation (Pacific Life) Located in Newport Beach, California; Exemption**

[Prohibited Transaction Exemption 99-44; Exemption Application No. D-10257]

### Section I—Transactions

(a) The restrictions of sections 406(a), 406(b)(1) and (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)(A) through (E) of the Code, shall not apply:

(1) For the period from January 22, 1993 until October 31, 1998, to the sale by Pacific Life of an "actively-managed synthetic" guaranteed investment contract (Actively-Managed Synthetic GIC) to an employee benefit plan for which Pacific Life was a party in interest with respect to such plan (Plan) in instances where Pacific Life or an Affiliate manages the Plan's assets relating to the Synthetic GIC (an Affiliated-Manager GIC); and

(2) As of January 22, 1993, to the purchase or retention of the Affiliated-Manager GICs, described in section (a)(1) above, by the Plans and the payments made by Pacific Life to the Plans pursuant to the terms and conditions of the Affiliated-Manager GICs, provided that the general conditions set forth in section II, the specific conditions set forth in section III, the retroactive conditions set forth in section IV, and the record-keeping requirements set forth in section V below are met.

(b) The restrictions of sections 406(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply:

(1) As of January 22, 1993, to the sale by Pacific Life of an Actively-Managed Synthetic GIC to a Plan in instances where the Plan's assets relating to the Actively-Managed Synthetic GIC are managed by an investment manager who is unaffiliated with Pacific Life and