(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 10th day of May, 2005.

**Ivan Strasfeld,**

*Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.*

[FR Doc. 05–9577 Filed 5–12–05; 8:45 am]

**BILLING CODE 4510–29–P**

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

**[Prohibited Transaction Exemption 2005–05; Exemption Application No. D–11212, et al.]**

### Grant of Individual Exemptions; R. G. Daily Company, Inc. Defined Benefit Plan (the Plan)

**AGENCY:** Employee Benefits Security 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).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), 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 exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

**R.G. Dailey Company, Inc. Defined Benefit Plan (the Plan) Located in Ann Arbor, MI**

[Prohibited Transaction Exemption 2005–05; Exemption Application No. D–11212]

*Exemption*

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,[1] shall not apply to the in kind contributions made to the Plan on August 12, 1999, June, 12, 2000, May 17, 2001 and March 21, 2002 by the Employer, a disqualified person with respect to the Plan, of certain publicly-traded securities (the Securities), provided: (a) Each contribution was a one-time transaction; (b) the Securities were valued at their fair market value as of the date of the contribution, as listed on a national securities exchange; (c) no commissions were paid in connection with the transactions; (d) the terms of the transactions between the Plan and the Employer were no less favorable to the Plan than terms negotiated at arm's length under similar circumstances between unrelated parties; and (e) Mr. Dailey, who was the only person affected by the transactions, believes that the transactions were in the best interest of the Plan.

[1] Because Mr. Robert M. Dailey was the sole sponsor of the R.G. Dailey Company, Inc. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

**EFFECTIVE DATE:** This exemption is effective for in kind contributions of Securities to the Plan occurring on the following dates: August 12, 1999, June 12, 2000, May 17, 2001 and March 21, 2002.

For a 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 March 23, 2005 at 70 FR 14718.

*Written Comments*

During the comment period, the Department received one written comment and no requests for a public hearing. The comment was submitted by the applicant and is intended to clarify the proposal. Basically, the comment concerns the date the Plan was terminated. In the Summary of Facts and Representations of the proposal, Representation 2 states that the Plan was terminated on May 31, 2002. However, the applicant wishes to clarify that the Plan termination amendment was signed on March 22, 2002 and became effective on March 31, 2002.

In response to the applicant's comment, the Department notes the foregoing clarifications to the proposal.

Accordingly, after giving full consideration to the entire record, including the applicant's comment, the Department has determined to grant the requested exemption. For further information regarding the comment and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–11212) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1513, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Mr. Arjumand A. Ansari of the Department at (202) 693–8566. (This is not a toll-free number.)

**Riggs Bank N.A. (Riggs Bank), Washington, D.C.; and the PNC Financial Services Group, Inc. (PNC), Pittsburgh, Pennsylvania**

[Prohibited Transaction Exemption 2005–06; Exemption Application No. D–11310]

*Exemption*

Section I. Riggs Bank N.A.

Riggs Bank shall not be precluded from functioning as a ''qualified

professional asset manager'' (''QPAM'') pursuant to Prohibited Transaction Exemption 84–14 (49 FR 9494, March 13, 1984) (''PTE 84–14'') beginning on the date of the acquisition of Riggs National Corporation, the parent of Riggs Bank, by PNC, solely because of a failure to satisfy section I(g) of PTE 84–14 as a result of the conviction of Riggs Bank for the felony described in the January 27, 2005 felony information (the ''Information'') entered in the U.S. District Court for the District of Columbia, provided that:

(a) This exemption is not applicable if Riggs becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84–14, unless such person or entity already has been granted an exemption to continue functioning as a QPAM pursuant to PTE 84–14;

(b) This exemption is not applicable if Riggs is convicted of any of the crimes described in section I(g) of PTE 84–14, other than the specific felony charged in the Information;

(c) An independent auditor, who has appropriate technical training or experience and proficiency with Title I of ERISA's fiduciary responsibility provisions, shall conduct an audit of Riggs Bank's ERISA custody and fiduciary asset management functions. This audit will be commenced not later than June, 2005. It will be completed and a report setting forth the procedures conducted and the results obtained will be sent to the Department as soon as possible, but in no event later than September 30, 2005;

(d) The audit described above will cover the following matters for the period commencing in March, 1999 and ending with the date of the closing of the Riggs-PNC transaction (the Time Period): Reconciliations (to determine that reconciliations and settlements are performed accurate and timely, and outstanding items are monitored and cleared in a timely manner); unitizations (to determine that daily processes, including trade requests, valuation and reconciliation of unitized assets are authorized and properly performed, are consistent with liquidity requirements and to ensure that unitized assets evaluations are valid); conversions (to determine that adequate controls are in place and working effectively to ensure that conversions are completed accurately, in a timely manner, and in accordance with the client's contract); fees (to determine that controls over the fee assessment and collection process are adequately designed and operating accurately and effectively); annual and monthly statements (to determine that statements are prepared accurately and distributed to clients independently and within the required frequency and time frame); training (to determine that account administrators and administrative assistants are adequately trained, including with respect to the requirements of ERISA); system authorization (to determine whether there are controls in place to ensure access to systems is authorized, approved and limited based on employees' particular duties and responsibilities); new accounts (to determine controls in place to ensure new accounts receive appropriate approvals and are accurately set up for future required reviews and other account activities); the adequacy of the written policies and procedures adopted by Riggs to ensure compliance with the terms of the QPAM exemption (other than paragraph 1(g) of PTE 84–14), and the requirements of Title I of ERISA (including ERISA's prohibited transaction provisions and applicable statutory and administrative exemptions); and compliance (through a test of a representative sample of transactions of client plans during the Time Period) with: (1) The written policies and procedures that it has adopted and (ii) the objective requirements of Title I of ERISA and PET 84–14 (other than paragraph 1(g) of PTE 84–14);

(e) Any irregularities identified as a results of the audit will be promptly corrected; and

(f) On the closing of the acquisition transaction, PNC will apply the same internal control and audit policies and procedures applied and enforced with respect to its pre-existing ERISA fiduciary asset management functions to the ERISA custody and fiduciary asset management functions formerly associated with Riggs Bank.

Section II. PNC

PNC and its affiliates shall not be precluded from functioning as a QPAM pursuant to PTE 84–14 beginning on the date of the acquisition of Riggs National Corporation, the parent of Riggs Bank, by PNC, solely because of a failure to satisfy section I(g) of PTE 84–14 as a result of the conviction of Riggs Bank for the felony described in the Information entered in the U.S. District Court for the District of Columbia, provided that:

(a) This exemption is not applicable if PNC or any affiliate becomes affiliated with any person or entity convicted of any of the crimes described in section I(g) of PTE 84–14, unless such person or entity already has been granted an exemption under PTE 84–14; and

(b) This exemption is not applicable if PNC or any affiliate is convicted of any of the crimes described in section I(g) of PTE 84–14, other than the conviction of Riggs Bank for the specific felony charged in the Information.

Section III. Definitions

(a) For purposes of this exemption, the term ''Riggs'' means and includes Riggs Bank and any entity that was affiliated with Riggs Bank, including but not limited to its corporate parent Riggs National Corporation, prior to the date of acquisition of Riggs National Corporation by PNC.

(b) For purposes of this exemption, the term ''PNC'' includes PNC Financial Services Group, Inc. and any entity that was affiliated with PNC Financial Services Group, Inc. prior to the date of acquisition of Riggs National Corporation by PNC, and any future affiliates, other than Riggs Bank, as defined in such seciton (a).

(c) The term ''affiliate'' of a person means—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) Any director of, relative of, or partner in, any such person,

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and,

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the wages of such person) or;

(B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.

(d) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

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 March 23, 2005 at 70 FR 14729.

*Written Comments:* The Department received one written comment with respect to the proposed exemption. The comment was submitted on behalf of an employee benefit plan with assets invested in the Riggs Bank-trusteed Multi-Employer Property Trust. The commenter noted that the exemption as proposed provides relief only for the period after Riggs is purchased by PNC. The commenter requested modification

of the exemption to permit Riggs to function as a QPAM for the interim period between the March 29, 2005 sentencing of Riggs and the acquisition of Riggs by PNC, during which time Riggs will operate as a stand-alone entity, as well as for the period of time after it is acquired by PNC.

The Department notes that the acquisition of Riggs by a large financial institution was an important factor in the Department's determination to propose exemptive relief. The Department has concluded that it is unable to make the findings required by section 408(a) of the Act necessary to provide relief covering the interim period between the sentencing of Riggs and the acquisition of Riggs by PNC. In the absence of the availability of PTE 84–14 for this interim period, it is the responsibility of Riggs to ensure that it has not engaged in any prohibited transactions for which there is no other exemptive relief.

Accordingly, the Department has considered the entire record, including the one comment received, and has determined to grant the exemption as it was proposed.

**FOR FURTHER INFORMATION CONTACT:** Mr. Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

*General Information*

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 10th day of May, 2005.

**Ivan Strasfeld,**

*Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.*

[FR Doc. 05–9578 Filed 5–12–05; 8:45 am]

**BILLING CODE 4510–29–M**

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## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from the date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics. Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration to the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

### Modification to General Wage Determination Decisions

The number of decisions listed to 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 decision being modified.

*Volume I*

Massachusetts
MA20030001 (Jun. 13, 2003)
MA20030002 (Jun. 13, 2003)
MA20030003 (Jun. 13, 2003)
MA20030004 (Jun. 13, 2003)
MA20030018 (Jun. 13, 2003)