office of the Mayor in consultation with Officials of the Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of the Warm Springs Reservation. The Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation declined to participate in the consultation.

The object, know as the Wallula Stone, is an approximately ten ton basalt boulder measuring 48'' by 73'' by 83''. The boulder is covered with ancient petroglyphs. A bronze plaque on the upper face of the boulder reads: ''Transported and Presented by the O.W.R. & N. Co. to the Portland City Free Museum in 1910—C.F. Wiegand, Curator. Rock was found in 1910—20 feet south of U.P.R.R. Track Mile Post 205.16 in Washington.''

In the spring of 1897, an engineering party discovered the boulder while working on the Oregon Railway and Navigation Railroad. The boulder was moved to the Portland city hall in 1910. A map from the files of the former Portland commissioner of public works identifies the original location of the boulder as about a mile north of the Oregon/Washington border, just southeast of the Columbia River. The geographic area in which the boulder was found was ceded to the United States by the Umatilla Indian tribe in 1855. The area has also been identified as part of the aboriginal territory of the Confederated Tribes of the Umatilla Indian Reservation in *Confederated Tribes of Warm Springs v. United States* (1966). In his book *Indian Relics of the Pacific Northwest* (2nd Edition, 1967), N.G. Seaman indicates that the boulder marked a spot far from the village where young men were sent to test their strength and courage. Traditional religious leaders from the Umatilla and Warm Springs indicate that the boulder originally identified a gathering place and sacred site and needs to be returned to the area where it can again be used for those purposes. These traditional religious leaders also indicate that the boulder was used by many members of their tribes and could not have been sold or given away by any single individual. As a product of the consultation the representatives of the Confederated Tribes of the Warm Springs Reservation concurred in repatriating the Wallula Stone to the Confederated Tribes of the Umatilla Indian Reservation.

Based on the above-mentioned information, officials of the City of Portland have determined that, pursuant to 25 U.S.C. 3001 (3)(C), this cultural item is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. City officials have also determined that, pursuant to 25 U.S.C. 3001 (3)(D), this cultural item has ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Finally, city officials have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between the boulder and the Confederated Tribes of the Umatilla Indian Reservation and Confederated Tribes of the Warm Springs Reservation.

This notice has been sent to officials of the Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Reservation, and the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with this object should contact Michael Mills, Ombudsman, Mayor Katz's Office, Interim City Hall, 1400 SW Fifth Avenue, Room 501, Portland, Oregon, (503) 823–4120 before November 1, 1996 Repatriation of this object to the Confederated Tribes of the Umatilla Indian Reservation may be finalized after that date if no additional claimants come forward.

Dated: September 27, 1996,

C. Timothy McKeown,

Acting, Departmental Consulting Archeologist,

Acting Manager, Archeology and Ethnography Program.

[FR Doc. 96–25238 Filed 10-1-96; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: October 10, 1996, 10:00 am–12:00 noon, U.S. Department of Labor, Room C–5516 1–A/B, 200 Constitution Ave., NW, Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs; Phone: (202) 219–7597.

Signed at Washington, D.C. this 26th day of September 1996.

Andrew J. Samet,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 96–25146 Filed 10–1–96; 8:45 am]

BILLING CODE 4510–28–M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 96–73; Exemption Application No. D–10198, et al.]

Grant of Individual Exemptions; Masters, Mates and Pilots

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

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

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

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department

because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

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

(a) The exemptions are administratively feasible;

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

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

The Masters, Mates and Pilots Pension Plan (the Pension Plan) and Individual Retirement Account Plan (the IRAP; together, the Plans) Located in Linthicum Heights, Maryland

[Prohibited Transaction Exemption 96–73; Exemption Application Nos. D–10198 and D–10199]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) and 407(a) 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 continued holding by the Plans of their shares of stock (the Stock) in American Heavy Lift Shipping Company (AHL), provided that (a) the Plans' independent fiduciary has determined that the Plans' holding of the Stock is appropriate for the Plans and in the best interests of the Plans' participants and beneficiaries; and (b) the Plans' independent fiduciary continues to monitor the Plans' holding of the Stock and determines at all times that such transaction remains in the best interests of the Plans.

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 May 6, 1996 at 61 FR 20284.

Temporary Nature of Exemption: This exemption is effective until the later of: (1) December 31, 1997, or (2) December 31, 1998 provided another application for exemption is filed with the Department prior to December 31, 1997.

Notice to Interested Persons: The applicant represents that it was unable to comply with the notice to interested persons requirement within the time frame stated in its application. However, the applicant has represented that it notified all interested persons, in the manner agreed upon between the applicant and the Department, by June 27, 1996. Interested persons were informed that they had until July 31, 1996 to comment or request a public hearing with respect to the proposed exemption. No requests for a public hearing were received by the Department, but two comments were submitted.

One commentator stated that no exemption should be necessary in the case of the IRAP, which is an eligible individual account plan as defined in section 407(d)(3)(B) of the Act. Such eligible individual account plans are permitted to hold employer stock, provided the holding of such stock is explicitly provided for by the plan documents. The commentator pointed out that the IRAP documents do expressly permit the holding of AHL Stock. The applicant responded by stating that while the commentator might be technically correct, the commentator had ignored the background under which the exemption was originally requested. The investment in AHL Stock was the subject of protracted litigation between the Department, the Plans and certain of their trustees, a former investment adviser to the Plans, and certain Plan participants. [See *In re Masters, Mates & Pilots Pension Plan and IRAP Litigation, Lead File No. 85 Civ. 9545 (VLB) (S.D.N.Y.)*]. This litigation was ultimately settled with the Department pursuant to a Court Order (the Court Order) entered by the United States District Court for the Southern District of New York on November 4, 1992. The Court Order required both Plans to seek an exemption with respect to the holding of the AHL Stock. In compliance with the Court Order, the Named Fiduciary for the Plans' Special Assets Portfolio, Bear Stearns Fiduciary Services, Inc. (BSFS), has consistently sought, and been granted, exemptions with respect to both the Pension Plan and the IRAP [see Prohibited Transaction Exemption 94–85 (PTE 94–85), 59 FR 65403, December 19, 1994].

The second commentator stated that he was opposed to the granting of the exemption for the following reasons: (a) The financial recovery of AHL is attributable to the management and employees of AHL rather than BSFS and the investment manager chosen to oversee the day-to-day operations of AHL, Potomac Asset management (Potomac); (b) BSFS has failed to respond favorably to a proposed acquisition of AHL Stock by an employee stock ownership plan (the ESOP); and (c) the extension of PTE 94–85 will ''unfairly'' extend the opportunity for BSFS or Potomac to find a buyer that is willing to pay a higher price for AHL than the ESOP.

The applicant responded by stating that the assertions have no bearing on whether it is appropriate to extend PTE 94–85. While AHL's employees and management have made important contributions to AHL's recovery, it does not follow that the Plans should dispose of some or all of their AHL investment. In furtherance of their fiduciary duty to the Plans' participants and beneficiaries, Potomac (with the oversight of BSFS) is obliged to protect the value of the Plans' investment in the Stock. Potomac believes that the value of AHL is most likely to be enhanced by focusing in the short term on AHL's economic recovery with a view to the ultimate disposition of the Stock. BSFS and Potomac have no fixed plan regarding the nature or terms of such a disposition and will continue to consider carefully all reasonable offers and proposals to purchase AHL, including the ESOP proposal, if and when such a proposal were accepted, fully negotiated and approved by the AHL Board. However, the applicant represents that it would be a violation of fiduciary duty to favor the ESOP proposal merely to compensate the employees for their ''sacrifice''. Far from being ''unfair'', the obligation to sell AHL at the best possible price is imposed upon the Plans' fiduciaries by the Act.

The Department has considered the entire record, including the comments submitted and the applicant's responses thereto, and has determined to grant the exemption as proposed.

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

Chicago Trust Company (Chicago Trust) Located in Chicago, IL

[Prohibited Transaction Exemption 96–74; Exemption Application No. D–10222]

Exemption

Section I. Exemption for the In-Kind Transfer of Assets

The restrictions of section 406(a) and section 406(b) 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 (F) shall not apply, effective September 21, 1995, to the in-kind transfer to any diversified open-end investment company (the Fund or Funds) registered under the Investment Company Act of 1940 (the

'40 Act) to which Chicago Trust or any of its affiliates (collectively, Chicago Trust) serves as investment adviser and/or may provide other services, of the assets of various employee benefit plans (the Client Plans), including plans established or maintained by Chicago Trust (the In-House Plans; collectively, the Plans) that are either held in certain collective investment funds (the CIF or CIFs) maintained by Chicago Trust as trustee or investment manager, in exchange for shares of such Funds, provided that the following conditions are met:

(a) A fiduciary (the Second Fiduciary) who is acting on behalf of each affected In-House Plan or Client Plan and who is independent of and unrelated to Chicago Trust, as defined in paragraph (h) of Section III below, receives advance written notice of the in-kind transfer of assets of the CIFs in exchange for shares of the Funds and the disclosures described in paragraph (f) of Section II below.

(b) On the basis of the information described in paragraph (f) of Section II below, the Second Fiduciary authorizes in writing the in-kind transfer of assets of an In- House Plan or a Client Plan in exchange for shares of the Funds, the investment of such assets in corresponding portfolios of the Funds, and, in the case of a Client Plan, the fees received by Chicago Trust pursuant to its investment advisory agreement with the Funds. Such authorization by the Second Fiduciary is to be consistent with the responsibilities, obligations and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(c) No sales commissions or redemption fees are paid by an In-House Plan or a Client Plan in connection with the in-kind transfers of assets of the CIFs in exchange for shares of the Funds.

(d) All or a *pro rata* portion of the assets of an In-House Plan or a Client Plan held in the CIFs are transferred in-kind to the Funds in exchange for shares of such Funds. A Plan not electing to participate in the Funds receives a cash payment representing a pro rata portion of the assets of the terminating CIF before the final liquidation takes place.

(e) The CIFs receive shares of the Funds that have a total net asset value equal in value to the assets of the CIFs exchanged for such shares on the date of transfer.

(f) The current value of the assets of the CIFs to be transferred in-kind in exchange for shares is determined in a single valuation performed in the same manner and at the close of business on the same day, using independent sources in accordance with the procedures set forth in Rule 17a–7(b) (Rule 17a–7) under the '40 Act, as amended from time to time or any successor rule, regulation, or similar pronouncement and the procedures established pursuant to Rule 17a–7 for the valuation of such assets. Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Chicago Trust.

(g) Not later than 30 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, Chicago Trust sends by regular mail to the Second Fiduciary, who is acting on behalf of each affected Plan and who is independent of and unrelated to Chicago Trust, as defined in paragraph (h) of Section III below, a written confirmation that contains the following information:

(1) The identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) under the '40 Act;

(2) The price of each such assets for purposes of the transaction; and

(3) The identity of each pricing service or market maker consulted in determining the value of such assets.

(The confirmation described in this paragraph I(g) is not required if no assets were valued in accordance with the last sentence of paragraph (f) of Section I.)

(h) Not later than 90 days after completion of each in-kind transfer of assets of the CIFs in exchange for shares of the Funds, Chicago Trust sends by regular mail to the Second Fiduciary, who is acting on behalf of each affected In-House Plan or Client Plan and who is independent of and unrelated to Chicago Trust, as defined in paragraph (h) of Section III below, a written confirmation that contains the following information:

(1) The number of CIF units held by each affected Plan immediately before the in-kind transfer (and the related per unit value and the aggregate dollar value of the units transferred); and

(2) The number of shares in the Funds that are held by each affected Plan following the conversion (and the related per share net asset value and the aggregate dollar value of the shares received).

(i) The conditions set forth in paragraphs (c), (d), (e), (p) and (q) of Section II below as they would relate to all Plans are satisfied.

Section II. Exemption for the Receipt of Fees From Funds

The restrictions of section 406(a) and section 406(b) 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 (F) of the Code shall not apply, effective September 21, 1995, to (1) the receipt of fees by Chicago Trust from the Funds for investment advisory services to the Funds; and (2) the receipt or retention of fees by Chicago Trust from the Funds for acting as custodian or shareholder servicing agent to the Funds, as well as any other services provided to the Funds which are not investment advisory services (i.e., the Secondary Services), in connection with the investment of shares in the Funds by the Client Plans for which Chicago Trust acts as a fiduciary, provided that—

(a) No sales commissions are paid by the Client Plans in connection with purchases or sales of shares of the Funds and no redemption fees are paid in connection with the redemption of such shares by the Client Plans to the Funds.

(b) The price paid or received by the Client Plans for shares in the Funds is the net asset value per share, as defined in paragraph (e) of Section III, at the time of the transaction and is the same price which would have been paid or received for the shares by any other investor at that time.

(c) Chicago Trust, any of its affiliates or their officers or directors do not purchase from or sell to any of the Client Plans shares of any of the Funds.

(d) For each Client Plan, the combined total of all fees received by Chicago Trust for the provision of services to such Plan, and in connection with the provision of services to any of the Funds in which the Client Plans may invest, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

(e) Chicago Trust does not receive any fees payable, pursuant to Rule 12b–1 (the 12b–1 Fees) under the '40 Act in connection with the transactions involving the Funds.

(f) A Second Fiduciary who is acting on behalf of a Client Plan and who is independent of and unrelated to Chicago Trust, as defined in paragraph (h) of Section III below, receives in advance of the investment by a Client Plan in any of the Funds a full and detailed written disclosure of

information concerning such Fund including, but not limited to—

(1) A current prospectus for each portfolio of each of the Funds in which such Client Plan is considering investing;

(2) A statement describing the fees for investment advisory or other similar services, any fees for Secondary Services, as defined in paragraph (i) of Section III below, and all other fees to be charged to or paid by the Client Plan and by such Funds to Chicago Trust, including the nature and extent of any differential between the rates of such fees;

(3) The reasons why Chicago Trust may consider such investment to be appropriate for the Client Plan;

(4) A statement describing whether there are any limitations applicable to Chicago Trust with respect to which assets of a Client Plan may be invested in the Funds, and, if so, the nature of such limitations;

(5) A copy of the proposed exemption and/or a copy of the final exemption upon the request of the Second Fiduciary; and

(6) The last date as of which consent to an in-kind transfer may be given by the Second Fiduciary, along with the disclosure that if consent is not given by that date, the Second Fiduciary will be deemed to have withheld consent to an in-kind transfer.

(g) On the basis of the information described in paragraph (f) of this Section II, the Second Fiduciary authorizes in writing—

(1) The investment of assets of the Client Plan in shares of the Fund, in connection with the transaction set forth in Section II;

(2) The Funds in which the assets of the Client Plan may be invested; and

(3) The fees received by Chicago Trust in connection with investment advisory services and Secondary Services provided to the Funds; such authorization by the Second Fiduciary to be consistent with the responsibilities obligations, and duties imposed on fiduciaries by Part 4 of Title I of the Act.

(h) The authorization, described in paragraph (g) of this Section II, is terminable at will by the Second Fiduciary of a Client Plan, without penalty to such Client Plan. Such termination will be effected by Chicago Trust selling the shares of the Funds held by the affected Client Plan within one business day following receipt by Chicago Trust, either by mail, hand delivery, facsimile, or other available means at the option of the Second Fiduciary, of written notice of termination (the Termination Form), as defined in paragraph (i) of Section III below; provided that if, due to circumstances beyond the control of Chicago Trust, the sale cannot be executed within one business day, Chicago Trust shall have one additional business day to complete such sale.

(i) The Client Plans do not pay any Plan-level investment advisory fees to Chicago Trust with respect to any of the assets of such Client Plans which are invested in shares of the Funds. This condition does not preclude the payment of investment advisory fees by the Funds to Chicago Trust under the terms of an investment advisory agreement adopted in accordance with section 15 of the '40 Act or other agreement between Chicago Trust and the Funds or the retention by Chicago Trust of fees for Secondary Services paid to Chicago Trust by the Funds.

(j) In the event of an increase in the rate of any fees paid by the Funds to Chicago Trust regarding investment advisory services that Chicago Trust provides to the Funds over an existing rate for such services that had been authorized by a Second Fiduciary of a Client Plan, in accordance with paragraph (g) of this Section II, Chicago Trust will, at least 30 days in advance of the implementation of such increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Fund and which explains the nature and amount of the increase in fees) to the Second Fiduciary of each Client Plan invested in a Fund which is increasing such fees. Such notice shall be accompanied by the Termination Form, as defined in paragraph (j) of Section III below;

(k) In the event of an (1) addition of a Secondary Service, as defined in paragraph (h) of Section III below, provided by Chicago Trust to the Funds for which a fee is charged or (2) an increase in the rate of any fee paid by the Funds to Chicago Trust for any Secondary Service that results either from an increase in the rate of such fee or from the decrease in the number or kind of services performed by Chicago Trust for such fee over an existing rate for such Secondary Service which had been authorized by the Secondary Fiduciary in accordance with paragraph (g) of this Section II, Chicago Trust will, at least 30 days in advance of the implementation of such Secondary Service or fee increase, provide a written notice (which may take the form of a proxy statement, letter, or similar communication that is separate from the prospectus of the Funds and which explains the nature and amount of the additional Secondary Service for which a fee is charged or the nature and amount of the increase in fees) to the Second Fiduciary of each of the Client Plans invested in a Fund which is adding a service or increasing fees. Such notice shall be accompanied by the Termination Form, as defined in paragraph (j) of Section III below.

(l) The Second Fiduciary is supplied with a Termination Form at the times specified in paragraphs (j) and (k) of this Section II, which expressly provides an election to terminate the authorization, described above in paragraph (g) of this Section II, with instructions regarding the use of such Termination Form including statements that—

(1) The authorization is terminable at will by any of the Client Plans, without penalty to such Plans. The termination will be effected by Chicago Trust selling the shares of the Funds held by the Client Plans requesting termination within the period of time specified by the Client Plan, but not later than one business day following receipt by Chicago Trust from the Second Fiduciary of the Termination Form or any written notice of termination; provided that if, due to circumstances beyond the control of Chicago Trust, the sale of shares of such Client Plan cannot be executed within one business day, Chicago Trust shall have one additional business day to complete such sale; and

(2) Failure by the Second Fiduciary to return the Termination Form on behalf of the Client Plan will be deemed to be an approval of the additional Secondary Service for which a fee is charged or increase in the rate of any fees and will result in the continuation of the authorization, as described in paragraph (g) of this Section II, of Chicago Trust to engage in the transactions on behalf of the Client Plan;

(m) The Second Fiduciary is supplied with a Termination Form at least once in each calendar year, beginning with the calendar year that begins after the grant of this proposed exemption is published in the Federal Register and continuing for each calendar year thereafter; provided that the Termination Form need not be supplied to the Second Fiduciary, pursuant to this paragraph, sooner than six months after such Termination Form is supplied pursuant to paragraphs (j) and (k) of this Section II, except to the extent required by said paragraphs (j) and (k) of this Section II to disclose an additional Secondary Service for which a fee is charged or an increase in fees;

(n)(1) With respect to each of the Funds in which a Client Plan invests, Chicago Trust will provide the Second Fiduciary of such Plan—

(A) At least annually with a copy of an updated prospectus of such Fund;

(B) A report or statement (which may take the form of the most recent financial report, the current statement of additional information, or some other written statement) which contains a description of all fees paid by the Fund to Chicago Trust within 15 days of such document's availability; and

(2) With respect to each of the Funds in which a Client Plan invests, in the event such Fund places brokerage transactions with Chicago Trust or any adviser or sub-adviser to a Fund or any of their affiliates (collectively, Related Party Brokerage), Chicago Trust will provide the Second Fiduciary of such Client Plan at least annually with a statement specifying—

(A) The total, expressed in dollars, attributable to each Fund's investment portfolio which represent Related Party Brokerage;

(B) The total, expressed in dollars, of brokerage commissions attributable to each Fund's investment portfolio other than Related Party Brokerage;

(C) The average brokerage commissions per share, expressed as cents per share, paid for Related Party Brokerage by each Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each Fund for brokerage other than Related Party Brokerage.

(o) All dealings between the Client Plans and any of the Funds are on a basis no less favorable to such Client Plans than dealings between the Funds and other shareholders holding the same class of shares as the Client Plans.

(p) Chicago Trust maintains for a period of 6 years the records necessary to enable the persons, as described in paragraph (q) of Section II below, to determine whether the conditions of this proposed exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Chicago Trust, the records are lost or destroyed prior to the end of the 6 year period; and

(2) No party in interest, other than Chicago Trust, shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (q) of Section II below.

(q)(1) Except as provided in paragraph (q)(2) of this Section II and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (p) of Section II above are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service (the Service) or the Securities and Exchange Commission (the SEC);

(B) Any fiduciary of each of the Client Plans who has authority to acquire or dispose of shares of any of the Funds owned by such Client Plan, or any duly authorized employee or representative of such fiduciary; and

(C) Any participant or beneficiary of the Plans or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraphs (q)(1)(B) and (q)(1)(C) of Section II shall be authorized to examine trade secrets of Chicago Trust, or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption,

(a) The term ''Chicago Trust'' means Chicago Trust Company and any affiliate of Chicago Trust, as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of a person includes:

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

(2) Any officer, director, employee, relative, or partner in any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

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

(d) The terms ''Fund or Funds'' mean any diversified open-end investment company or companies registered under the '40 Act for which Chicago Trust serves as investment adviser and may also provide custodial or other services such as Secondary Services as approved by such Funds.

(e) The term ''net asset value'' means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in a Fund's prospectus and statement of additional information, and other assets belonging to each of the portfolios in such Fund, less the liabilities charged to each portfolio, by the number of outstanding shares.

(f) The term ''Plan'' means any ''employee benefit pension plan'' within the meaning of section 3(2) of the Act or any ''plan'' within the meaning of section 4975(e)(1) of the Code. The term ''Plan'' includes any plan maintained by an entity other than Chicago Trust (referred to collectively herein as the ''Client Plans'') and any of the following Plans sponsored or maintained by Chicago Trust (referred to collectively as the ''In-House Plans''): The Chicago Title & Trust Pension Plan, the Chicago Title & Trust Savings and Profit Sharing Plan, the Celite Employees' Thrift Plan, the Celite Hourly Retirement Savings 401(k) Plan, the Celite Employees' Retirement Plan, the Celite Hourly Retirement Plan and the Heads & Threads Savings and Profit Sharing Plan.

(g) The term ''relative'' means a ''relative'' as that term is defined in section 3(15) of the Act (or a ''member of the family'' as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(h) The term ''Second Fiduciary'' means a fiduciary of a plan who is independent of and unrelated to Chicago Trust. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Chicago Trust if—

(1) Such Second Fiduciary directly or indirectly controls, is controlled by or is under common control with Chicago Trust;

(2) Such Second Fiduciary, or any officer, director, partner, employee or relative of such Second Fiduciary is an officer, director, partner or employee of Chicago Trust (or is a relative of such persons); and

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption; provided, however, that nothing shall prevent a Second Fiduciary's receipt of its customary fees from a Plan or the Plan's sponsoring employer for serving as a fiduciary to such Plan.

If an officer, director, partner, or employee of Chicago Trust (or a relative of such persons), is a director of such Second Fiduciary, and if he or she abstains from participation in the choice of the Plan's investment manager/adviser, the approval of any purchase or sale by the Plan of shares of the Funds, and the approval of any change of fees charged to or paid by the Plan, in connection with any of the transactions described in Sections I and II above, then paragraph (h)(2) of Section III above, shall not apply.

(i) The term ''Secondary Service'' means a service, other than an investment advisory or similar service, which is provided by Chicago Trust to the Funds, including but not limited to custodial, accounting, brokerage, administrative, or any other service.

(j) The term ''Termination Form'' means the form supplied to the Second Fiduciary of a Client Plan, at the times specified in paragraphs (j), (k), and (m) of Section II above, which expressly provides an election to the Second Fiduciary to terminate on behalf of the Plans the authorization, described in paragraph (g) of Section II. Such Termination Form is to be used at will by the Second Fiduciary to terminate such authorization without penalty to the Client Plan and to notify Chicago Trust in writing to effect such termination not later than one business day following receipt by Chicago Trust of written notice of such request for termination; provided that if, due to circumstances beyond the control of Chicago Trust, the sale cannot be executed within one business day, Chicago Trust shall have one additional business day to complete such sale.

EFFECTIVE DATE: This exemption is effective as of September 21, 1995.

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 (the Notice) published on April 25, 1996 at 61 FR 18435.

Written Comments

The Department received four written comments with respect to the Notice and no requests for a public hearing. One comment was submitted by an active participant in the Chicago Title & Trust Pension Plan. The other three comments were submitted by Chicago Trust. Following is a discussion of these comments.

Participant's Comment

In his comment letter, the CT&T Pension Plan participant complained that he had experienced considerable difficulty in obtaining a copy of the Notice from Chicago Trust. In this regard, the participant indicated that Chicago Trust had not posted the Notice but only the supplemental statement which directed interested persons to a toll-free telephone number where they might request a copy of the Notice and have it mailed to them. The participant indicated that he never received a copy of the Notice despite repeated requests. Because the participant believed that he had been denied information required to make an informed comment, he requested a copy of the Notice and that the Department extend the comment period beyond its deadline of June 10, 1996.

In response to this comment, the Department had Chicago Trust revise the supplemental statement and re-post it along with a copy of the Notice. These documents were placed at all job sites where active participants in the CT&T Pension Plan and the CT&T Profit Sharing Plan are employed. The re-posting occurred on July 15, 1996 and interested persons were given until August 15, 1996 to send written comments to the Department. As a result of the re-posting, the Department received no additional comments or hearing requests.

Chicago Trust's Comments

Chicago Trust's comments are intended to clarify the Notice in the following areas:

(1) *Written Confirmation of Securities for which Market Prices Are not Readily Available.* Section I(g) of the Notice states that not later than 30 days after the completion of each in-kind transfer transaction, Chicago Trust will send the Second Fiduciary of each affected Plan written confirmation containing (a) the identity of each of the assets that was valued for purposes of the transaction in accordance with Rule 17a–7(b)(4) [1]; (b) the price of each such assets for purposes of the transaction; and (c) the identity of each pricing service or market maker consulted in determining the value of such assets. Chicago Trust requests that the Department modify Section I(g) by clarifying that if no CIF assets have been valued for purposes of Rule 17a–7(b)(4), there is no need to provide this form of confirmation.

In response, the Department has revised paragraph (g) of Section I by adding the following language:

(The confirmation described in this paragraph I(g) is not required if no assets were valued in accordance with the last sentence of paragraph (f) of Section I.)

(2) *In-House Plan References.* Chicago Trust has requested that the Department revise Section III(f) of the Notice by revising references of the Chicago Trust Pension Plan and the Chicago Trust Savings and Profit Sharing Plan to the CT&T Pension Plan and the CT&T Savings and Profit Sharing Plan. In addition, in the list of In-House Plans Chicago Trust requests that the Department include a reference to the Celite Hourly Retirement Plan.

The Department has complied with these requests by amending Section III(f) of the Notice.

(3) *Description of Chicago Trust and Its Affiliates.* Chicago Trust wishes to modify Representation 1(a) of the Notice by amending previously-furnished information regarding the description of Chicago Trust and its affiliates as follows:

Chicago Trust is a wholly owned subsidiary of the Alleghany Asset Management, Inc. (AAM), which is a wholly owned subsidiary of Chicago Title & Trust Company (CT&T), which is a wholly owned subsidiary of the Alleghany Corporation (Alleghany) whose principal place of business is at 375 Park Avenue, New York, New York. As of December 31, 1995, CT&T had approximately $1.5 billion in consolidated assets and it engages in two principal lines of business, directly or through subsidiaries. In this regard, CT&T is the largest real estate title insurer in the world. In addition, Chicago Trust, a second-tier subsidiary of CT&T provides trustee, investment management and related services, primarily to high net worth individuals, families, tax- qualified pension and profit sharing plans (including plans subject to provisions of the Act), individual retirement accounts and insurance companies. As of December 31, 1995, Chicago Trust managed approximately $6 billion in client assets.

(4) *Description of Client Plans.* Chicago Trust points out that the first two sentences of Representation I(b) of the Notice should be revised, as follows, in order to clarify previously- furnished information:

The Client Plans consist of 239 separate employee benefit plan clients of Chicago Trust which are either employee pension benefit plans as defined in section 3(2) of the Act or plans covering only partners or proprietors and their spouses, as described in 29 CFR 2510.3 (b) and (c).

In addition, Chicago Trust notes that although represented in its original exemption application, it has no Client Plans that are IRAs. Therefore, Chicago Trust recommends that the Department delete the third sentence of Representation I(b).

The Department has made the aforementioned changes to the Notice.

(5) *Fees for Investment Advisory Services.* The last sentence of Representation I(d) of the Notice states that Chicago Trust has charged no fee for its investment advisory services to certain CIFs but it has received reimbursement for its expenses. For further clarification, Chicago Trust

[1] Such procedures must require that all securities for which a current market price cannot be obtained by reference to the last sale price for transactions reported on a recognized securities exchange or NASDAQ be valued based on an average of the highest current independent bid and lowest current independent offer, as of the close of business on the Friday preceding the weekend of the CIF transfers determined on the basis of reasonable inquiry from at least three sources that are broker-dealers or pricing services independent of Chicago Trust.

requests that the Department revise this statement to read as follows:

Chicago Trust has charged no fee for its investment advisory services to these CIFs, and it has received reimbursement only for expenses of the annual audits of the CIFs.

(6) *Description of the CIFs.* Chicago Trust requests that the Department modify portions of Representation I(d) of the Notice as follows to update information: (a) The reference to the Chicago Trust Company Investment Trust for Employee Benefit Plans, appearing in the seventh and eighth lines of paragraph one, should be to the Chicago Title and Trust Company Investment Trust for Employee Benefit Plans; (b) the reference to the Index Fund in the next to the last line of this paragraph, as contained in the original exemption application, should be stricken to reflect the Index Fund was liquidated prior to the conversion transactions; (c) the reference to the Chicago Trust Stated Principal Value Investment Trust for Employee Benefit Plans, appearing in the ninth through thirteenth lines of paragraph two, should be to the Chicago Title and Trust Company Stated Principal Value Trust for Employee Benefit Plans and should also reflect the fact that the declaration of trust was restated on November 30, 1995; and (d) the reference to the Chicago Trust Company Short Term investment Trust for Employee Benefit Plans, appearing in the ninth through eleventh lines of paragraph three, should be to the Chicago Title and Trust Company Short Term Investment Trust for Employee Benefit Plans. The Department has made the requested revisions.

(7) *Description of the Funds.* Chicago Trust requests that Representation I(e) of the Notice be modified, in part, as follows to update information previously furnished the Department in its original exemption application: (a) The Funds presently offer eight separate, diversified series of shares of mutual fund portfolios and not seven; (b) the new Fund is the Chicago Trust Asset Allocation Fund, whose investment adviser is Chicago Trust and for which the investment advisory fee of 0.70 percent; (c) the Chicago Trust Intermediate Fixed Income Fund has been renamed the Chicago Trust Bond Fund; (d) the Chicago Trust Intermediate Municipal Bond Fund has been renamed the Chicago Trust Municipal Bond Fund; and (e) Montag & Caldwell is a wholly owned subsidiary of AAM and not of Chicago Trust. The Department has made the requested revisions.

(8) *Initial In-Kind Transfer Transaction.* Chicago Trust wishes to clarify the last sentence of the second paragraph of Representation 4 of the Notice to reflect the fact that while Chicago Trust stood ready to make cash payments to Plans which elected not to participate in the initial in-kind transfer transaction, no Plans made such an election. Therefore, no such cash payments were made. In addition, Chicago Trust states that since there were no non-conforming assets at the time of the September 21, 1995 in-kind transfer transaction, references to the initial conversion of such assets which appeared in the last sentence of paragraph 9 of Representation 4, the second sentence of paragraph 10 of Representation 4 and in Representation 9(c), should be deleted.

In response, the Department has made the requested revisions.

After giving full consideration to the entire record, the Department has decided to grant the exemption subject to the modifications or clarifications described above. The comment letters have been included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department, is made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

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

Pacific Mutual Life Insurance Company (PM) Located in Newport Beach, California

[Prohibited Transaction Exemption 96–75; Exemption Application No. D–10258]

Exemption

The restrictions of section 406(a) 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 (D) of the Code, shall not apply to the sale to employee benefit plans (the Plans) of a synthetic guaranteed investment contract (the Buy/Hold Synthetic GIC) offered by PM, which is a party in interest with respect to the Plans, provided the following conditions are satisfied: (a) Prior to the execution of such Buy/Hold Synthetic GIC, an independent fiduciary of such Plan receives a full and detailed written disclosure of all material features of the Buy/Hold Synthetic GIC, including all applicable fees and charges; (b) following receipt of such disclosure, the Plan's independent fiduciary approves in writing the execution of the Buy/Hold Synthetic GIC on behalf of the Plan; (c) all fees and charges imposed under such Buy/Hold Synthetic GIC are reasonable; (d) each Buy/Hold Synthetic GIC will specifically provide for an objective means for determining the fair market value of the securities owned by the Plan pursuant to the Buy/Hold Synthetic GIC; (e) each Buy/Hold Synthetic GIC will specifically provide for an objective means for determining the interest rates to be credited periodically under the contract; (f) PM will maintain books and records of all transactions which will be subject to annual audit by independent certified public accountants selected by and responsible solely to the Plan; and (g) the Buy/Hold Synthetic GICs will only be marketed to Plans or collective investment funds which have at least $50 million in assets.

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 July 22, 1996 at 61 FR 37928.

EFFECTIVE DATE: This exemption is effective September 2, 1993.

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 or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the

fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

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

Signed at Washington, DC, this 26th day of September 1996.

Ivan Strasfeld,

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

[FR Doc. 96–25145 Filed 10–1–96; 8:45 am]

BILLING CODE 4510–29–P

[Application No. D–9627]

Hassan Zekavat, M.D., P.A. Money Purchase Pension Plan (the Plan) Located in Moorestown, NJ

AGENCY: Pension and Welfare Benefits Administration.

ACTION: Withdrawal of proposed exemption.

In the Federal Register dated January 31, 1996 (60 FR 3483), the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The notice of pendency concerned an application filed on behalf the Plan.

By a letter dated September 10, 1996, the applicant's representatives informed the Department that they wanted to withdraw the application from consideration.

Notice is hereby given that the Department has made a final decision to withdraw the notice of pendency for the proposed exemption from the Federal Register.

Accordingly, the notice of pendency is hereby withdrawn.

Signed at Washington DC, this 26th day of September 1996.

Ivan Strasfeld,

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

[FR Doc. 96–25144 Filed 10–1–96; 8:45 am]

BILLING CODE 4510–29–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–296]

Tennessee Valley Authority; Notice of Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Tennessee Valley Authority, (the licensee) for an amendment to Facility Operating License No. DPR–68 issued to the licensee for operation of the Browns Ferry Nuclear Plant (BFN) Unit 3, located in Limestone County, Alabama.

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to permit continued operation of BFN Unit 3 for up to 7 days with one reactor coolant recirculation loop out of service. This amendment was submitted on September 15, 1996 as an emergency request under the provisions of 10 CFR 50.91.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was verbally notified that the request would not be granted on September 15, 1996. Written notification of the Commission's denial of the proposed change was issued by a letter dated September 26, 1996.

By November 1, 1996, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 15, 1996, and (2) the Commission's letter to the licensee dated September 26, 1996.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland, this 26th day of September, 1996.

For The Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 96–25176 Filed 10–1–96; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 40–6940]

Finding of No Significant Impact and Notice of Opportunity for a Hearing, Renewal of Source Material License SMB–920, Cabot Performance Materials Boyertown, PA

The U.S. Nuclear Regulatory Commission is considering the renewal of source Material License SMB–920 for the continued operation of Cabot Performance Materials (CPM) facility located in Boyertown, Pennsylvania. CPM processes tin slags, tantalite, and columbite ores to extract tantalum and niobium. The ores and slags contain uranium and thorium, and sludges resulting from the slag and ore processing contain in excess of 0.05 percent uranium and thorium. Therefore, the sludges are source material as defined and regulated by 10 CFR Part 40, and their possession by CPM is licensed by the Nuclear Regulatory Commission.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is the renewal of CPM's source material license for five years. With this renewal, CPM will continue to operate the Boyertown facility to process tin slags, tantalite, and columbite ores, and will revise their process to use the stored sludges as supplemental feedstock in addition to new ores and ore concentrates. CPM is licensed to possess and use up to 400 tons of elemental uranium and thorium in slag, ores, and sludges.

Need for the Proposed Action

CPM performs a necessary service for the commercial electronics industry by extracting tantalum and niobium from slag and ores. Denial of the license renewal application is an alternative available to the NRC, but would require expansion of tantalum and niobium production capacity at an existing facility or transfer of extraction activities to a new facility. Denial of the