

- Survey of Occupational Injuries and Illnesses
2. Occupational Safety and Health Administration (OSHA) data collection initiative
 3. Relative Risk Indicators
 4. Survey of Employer-Provided Training

The meeting is open to the public. Persons with disabilities wishing to attend should contact Constance B. DiCesare, Liaison, Business Research Advisory Council, at (202) 606-5887, for appropriate accommodations.

Signed at Washington, DC the 6th day of April 1995.

Katharine G. Abraham,
Commissioner.

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Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 95-31; Exemption Application No. D-09469, et al.]

Grant of Individual Exemptions; Financial Institutions Retirement Fund., 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, 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.

Financial Institutions Retirement Fund (the Fund) and Financial Institutions Thrift Plan (the Thrift Plan) Located in White Plains, New York

[Prohibited Transaction Exemption 95-31; Exemption Application No. D-09469]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a) and 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 provision of certain services, and the receipt of compensation for such services, by Pentegra Services, Inc. (Pentegra), a wholly-owned, for-profit subsidiary corporation of the Fund, to employee benefit plans (the Plans) and to their sponsoring employers (the Employers) that participate in the Fund and the Thrift Plan; provided that the following conditions are met:

(a) A qualified, independent fiduciary of the Fund determines that the services provided by Pentegra are in the best interests of the Fund and are protective of the rights of the participants and beneficiaries of the Fund;

(b) At the time the transactions are entered into, the terms of the transactions are not less favorable to Pentegra than the terms generally available in comparable arm's-length transactions between unrelated parties;

(c) Pentegra receives reasonable compensation for the provision of its services, as determined by the independent fiduciary;

(d) Prior to the offering of services, the independent fiduciary will initially review the services to be provided by Pentegra and will determine that such services are reasonable and appropriate for Pentegra, taking into account such factors as: whether Pentegra has the capability to perform such services, whether the fees to be charged reflect arm's length terms, whether Pentegra personnel have the qualifications to provide such services, and whether such arrangements are reasonable based upon a comparison with similarly qualified firms in the same or similar locales in which Pentegra proposes to operate;

(e) No services will be provided by Pentegra without the prior review and approval of the independent fiduciary;

(f) Not less frequently than quarterly, the independent fiduciary will perform periodic reviews to ensure that the services offered by Pentegra remain appropriate for Pentegra and that the fees charged by Pentegra represent reasonable compensation for such services;

(g) Not less frequently than annually, Pentegra will provide a written report to the board of directors of the Fund describing in detail the services it provided to employee benefit plans and/or their sponsoring employers that participated in the Fund and the Thrift Plan, a detailed accounting of the fees received for such services, and an estimate of the fees Pentegra anticipates it will receive during the following year from such plans and their sponsoring employers;

(h) Not less frequently than annually, the independent fiduciary will conduct a detailed review of approximately 10 percent of all completed transactions, which will include a reasonable cross-section of all services performed; such transactions will be reviewed for compliance with the terms and conditions of this exemption;

(i) Pentegra's financial statements will be audited each year by an independent certified public accountant, and such audited statements will be reviewed by the independent fiduciary;

(j) The independent fiduciary shall have the authority to prohibit Pentegra from performing services that such fiduciary deems inappropriate and not in the best interests of Pentegra and the Fund; and

(k) Each Pentegra contract with a Fund or Thrift Plan employer, or a plan of such employer, will be subject to termination without penalty by Pentegra for any reason upon not more than 90 days written notice to such employer or plan.

Section II. Recordkeeping

(1) The independent fiduciary and the Fund will maintain, or cause to be maintained, for a period of 6 years, the records necessary to enable the persons described in paragraph (2) of this Section II to determine whether the conditions of this exemption have been met, except that (a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the independent fiduciary and the Fund or their agents, the records are lost or destroyed before the end of the six year period, and (b) no party in interest other than the independent fiduciary and the Board of Directors of the Fund 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 (2) below.

(2)(a) Except as provided in section (b) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (1) of this Section II shall be unconditionally available at their customary location during normal business hours by:

(1) Any duly authorized employee or representative of the Department or the Internal Revenue Service;

(2) Any employer participating in the Fund or any duly authorized employee or representative of such employer; and

(3) Any participant or beneficiary of the Fund or any duly authorized representative of such participant or beneficiary.

(b) None of the persons described above in subparagraphs (a)(2) and (a)(3) of this paragraph (2) shall be authorized to examine trade secrets of the independent fiduciary, the Fund, or their affiliates, or commercial or financial information which is privileged or confidential.

(3) For purposes of this Section II, references to the Fund shall also include Pentegra.

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 January 30, 1995, at 60 FR 5700.

Written Comments: With respect to the Notice of Proposed Exemption, the Department did not receive any requests for a hearing but did receive 8 telephone inquiries and 10 written comments. With regard to the telephone inquiries, a representative of the Department

spoke to the callers and provided the information sought by the callers. Most of the commentators did not raise specific objections with regard to the proposed transactions, but sought further information from the Department. A representative of the Department contacted such commentators and responded to their requests for additional information.

Several of the commentators raised the following issues:

(a) That as the Fund broadens its reach to employers other than banks and thrifts, the safety and soundness of a financially secure retirement fund should not be impaired;

(b) An objection to the additional expenses to be incurred by the Fund in connection with Pentegra; and

(c) Using the Fund as a foundation for launching a for-profit venture that may or may not be successful.

The applicant responded by stating that in its effort to maintain favorable economies of scale in its performance, it seeks, by means of the exemption to increase the number of employers and employee benefit plans using the services of the Fund, and thereby, ensure the sound financial condition of the Fund and its ability to meet its benefit obligations to participants. In addition, the applicant states that the operation of Pentegra will be under the aegis of the qualified, independent fiduciary who is required to provide its prior review and approval of any new service offered by Pentegra to employee benefit plans sponsored by employers that participate in the Fund or the Thrift Plan, or to such employers themselves. In addition to its initial review of the services performed by Pentegra, the independent fiduciary will be required to perform periodic and annual reviews of such services to ensure that the services offered by Pentegra remain appropriate for Pentegra to provide. Also, the independent fiduciary will have the authority to prohibit Pentegra from undertaking and performing services that the independent fiduciary deems inappropriate and not in the best interests of Pentegra and the Fund.

The applicant has requested that the exemption be effective as of January 30, 1995, the date the Notice of Pendency was published in the Federal Register. The Department has agreed to the applicant's request.

Accordingly, after consideration the entire record, including the telephone inquiries and written comments submitted, and the applicant's response, the Department has determined to grant the exemption as it was proposed.

EFFECTIVE DATE: This exemption is effective on January 30, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. C. E. Beaver of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

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

[Prohibited Transaction Exemption 95-32; Exemption Application No. D-09906]

Exemption

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 by the Plan to Annis, Mitchell, Cockey, Edwards & Roehn, P.A. (the Employer), of the Plan's interest (the Interest) in a limited partnership (the Partnership), for \$40,000 in cash, provided the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) no commissions or other expenses are paid by the Plan in connection with the sale; and (c) the Plan receives not less than the fair market value of the Interest as of the date of the sale as determined by a qualified, independent expert.

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 February 10, 1995 at 60 FR 8092.

Written Comments: The Department received one written comment with respect to the proposed exemption, which was submitted by the applicant to correct an erroneous representation. The applicant had represented that no shareholder or employee of the Employer individually purchased an interest in the Partnership (see rep. 2 of the notice of proposed exemption). Subsequent to the publication of the proposed exemption, the applicant learned that one shareholder (the SH) of the Employer owns a one-quarter unit interest in the Partnership. The SH acquired his interest at the same time that the Plan acquired its interest, on June 30, 1988. At that time, the SH was not a shareholder of the Employer, but he became one in March of the following year. The applicant represents that the SH was not a trustee of the Plan, nor was he otherwise involved in making investment decisions on behalf of the Plan in 1988, when the Plan acquired its Interest. The applicant further represents that the SH has not participated in any deliberation or decision on behalf of the Plan as to

whether to retain or sell the Plan's Interest.

The Department has considered the entire record, including the written comment submitted by the applicant, and has determined to grant the exemption as it was proposed.

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, D.C., this 6th day of April, 1995.

Ivan Strasfeld,

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

[FR Doc. 95-8915 Filed 4-11-95; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to OMB for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

1. Type of submission, new, revised, or extension: Revision.
2. The title of the information collection: Proposed Rules, 10 CFR Part 52, Appendix A, "Design Certification Rule for the U.S. Advanced Boiling Water Reactor," and Appendix B, "Design Certification Rule for the System 80+ Design."

13. The form number if applicable: Not applicable.

4. How often is the collection required: Quarterly until the applicant or licensee receives either an operating license under 10 CFR 50, or the Commission makes its findings under 10 CFR 52.103.

5. Who will be required or asked to report: Applicant and holders of construction permits and combined licenses.

6. An estimate of the number of annual respondents: None anticipated in the next three years.

7. An estimate of the number of hours needed annually to complete the requirement or request: For both Appendix A and B, 0 burden hours are anticipated over the next three years. However, when utilized, 8 hours per respondent for reporting will be required.

8. An indication of whether Section 3504(h), Pub. L. 96-511 applies: Applicable.

9. Abstract: The standard design certification rule (10 CFR 52) was codified to establish procedures, standards and criteria governing standard design certification, including informal submittal and recordkeeping requirements. Appendices A-L to Part 52 are reserved to constitute the standard design certification for evolutionary and passive light water reactor design. These proposed rules will certify the Advanced Boiling Water Reactor (ABWR) and System 80+ Standard designs, will be mandatory for those applicants proposing to use

Appendix A or B, and will ensure the safety of the public.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Troy Hillier, Office of Information and Regulatory Affairs (3150-0151), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments may also be communicated by telephone at (202) 395-3084.

The NRC Clearance Office, is Brenda Jo Shelton, (301) 415-7233.

Dated at Rockville, Maryland, this 6th day of April, 1995.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 95-8971 Filed 4-11-95; 8:45 am]

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Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 17, 1995, through March 31, 1995. The last biweekly notice was published on March 29, 1995 (60 FR 16181).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve