

the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. 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

(5) This proposed exemption, if granted, is subject to the express condition that the facts and representations set forth in the Prior Exemptions and this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption by regular mail, electronic mail or facsimile to the addresses or facsimile number noted above, within the time frame set forth above, after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, August 10, 1990).

If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code

shall not apply, (1) effective October 1, 1999, until September 30, 2002, to the leasing by the Plan of a parcel of real property and the improvements thereon (the New Facilities Property), as described in Prohibited Transaction Exemption (PTE) 81-56 (46 FR 36273, July 17, 1981), to the Truman Arnold Companies, Inc. (the Employer), a party in interest with respect to the Plan; and (2) effective October 1, 2002, with respect to the leasing by the Plan to the Employer, under the provisions of a master lease (the Master Lease) of the New Facilities Property, another parcel of real property and the improvements comprising the Employer's headquarters (the Home Site Property), as described in PTE 85-19 (50 FR 3045, January 23, 1985), and two buildings (the Buildings) constructed on the Home Site Property, as described in PTE 89-5 (54 FR 4348, January 30, 1989). (The New Facilities Property, the Home Site Property and the Buildings are collectively referred to herein as the "Properties.")

This proposed exemption is subject to the following conditions:

(a) The terms of the Master Lease remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(b) The Employer is obligated under the terms of the Master Lease for expenses incurred by the Properties, including taxes and assessments, maintenance, insurance and utilities.

(c) The interests of the Plan with regard to the Master Lease are, at all times, represented by an independent fiduciary. Such independent fiduciary—

(i) Represents the interests of the Plan for the remaining duration of the Master Lease;

(ii) Monitors the terms and conditions of the Master Lease on behalf of the Plan;

(iii) Enforces compliance with all conditions of the Master Lease;

(iv) Ensures that the Master Lease remains in the best interest of the Plan and protective of the Plan's participants and beneficiaries;

(v) Following review and evaluation of the Master Lease, determines that the retention of the Properties by the Plan and the continued leasing of such Properties to the Employer are in the best interest of the Plan and its participants and beneficiaries;

(vi) Adjusts the rental rate under the Master Lease every third year such lease is in effect based upon independent appraisals of the Properties and ensures that the rentals equal the greater of 14 percent of the fair market value of the Properties or the prior rental amounts paid; and

(vii) Takes all actions that are necessary and proper to enforce and protect the rights of the Plan and its participants and beneficiaries.

(d) The rental rate under the Master Lease, during its initial term and each renewal term remains at 14 percent of the fair market value of the Properties, which amount is not less than the current fair market value of such Properties;

(e) The aggregate fair market value of the Properties that are subject to the Master Lease, at no time, exceeds 25 percent of the Plan's assets.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant the Prior Exemptions, refer to the proposed exemptions and the grant notices which are cited above.

Signed in Washington, DC, this 3rd day of February, 2003.

Ivan L. Strasfeld,

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

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DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA-W) issued during the period of January, 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility