

## General Information

The attention of interested persons is directed to the following:

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

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

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 24th day of May, 1999.

**Ivan Strasfeld,**

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

[FR Doc. 99-13497 Filed 5-26-99; 8:45 am]

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## DEPARTMENT OF LABOR

### Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99-20; Exemption Application No. D-10622, et al.]

### Grant of Individual Exemptions; VECO Corporation (VECO), et al.

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of Individual Exemptions.

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

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

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

## Statutory Findings

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

(a) The exemptions are administratively feasible;

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

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

### VECO Corporation (VECO)

Located in Anchorage, Alaska  
[Prohibited Transaction Exemption 99-20  
Exemption Application Number D-10622]

### Exemption

The restrictions of sections 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) of a certain parcel of unimproved real property (the Property) from the VECO Corporation Profit Sharing Plan and Trust (the Plan) to Norcon, Inc. (Norcon), a party in interest with respect to the Plan, provided that the following conditions are met:

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

(b) Norcon will pay the greater of \$2,940,000 or the fair market value of the Property on the date of the Sale as established by a qualified, independent appraiser;

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

(d) The Plan will pay no fees or commissions with respect to the Sale; and

(e) An independent fiduciary acting on behalf of the Plan has reviewed the terms of the Sale and has represented that the transaction is in the best interest of the Plan and protective of the Plan's participants and beneficiaries.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on March 8, 1999 at 64 FR 11052.

*Written Comments:* The Department received three letters signed by 49 current or former participants in the Plan endorsing the transaction as proposed in the Notice.

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

**Citibank, N.A. (Citibank) and Salomon Smith Barney Inc. (SSB)**

Located in New York, NY  
[Prohibited Transaction Exemption 99-21;  
Exemption Application No. D-10674]

**Exemption**

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (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, effective October 8, 1998, to (1) the past and continued lending of securities to SSB and affiliated U.S. registered broker-dealers of SSB or Citibank (together, SSB/U.S.) and certain foreign affiliates (the Foreign Affiliates) of SSB and Citibank which are broker-dealers or banks based in the United Kingdom (SB/U.K.), Japan (SSB/Asia), Germany (SSB/Germany), Canada (SSB/Canada) and Australia (SSB/Australia), including their affiliates or successors,<sup>1</sup> by employee benefit plans (the Client Plans) or commingled investment funds holding Client Plan assets, for which Citibank or any U.S. affiliate of Citibank, acts as securities lending agent (or sub-agent), including those Client Plans for which Citibank also acts as directed trustee or custodian of the securities being lent; and (2) to the receipt of compensation by Citibank or any U.S. affiliate of Citibank in connection with these transactions, provided that the following conditions are met:

(a) For each Client Plan, neither Citibank, SSB nor any of their affiliates either has or exercises discretionary authority or control with respect to the investment of the Client Plan assets involved in the transaction, or renders investment advice (within the meaning of 29 CFR 2510.3-21(c)) with respect to those assets.

(b) Any arrangement for Citibank to lend Client Plan securities to SSB in either an agency or sub-agency capacity is approved in advance by a Client Plan fiduciary who is independent of SSB and Citibank.<sup>2</sup> In this regard, the independent Client Plan fiduciary also

<sup>1</sup> Unless otherwise noted, SSB/U.S. and the Foreign Affiliates are collectively referred to as SSB.

<sup>2</sup> The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than Citibank and its affiliates, beyond that provided pursuant to Prohibited Transaction Exemption (PTE) 81-6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82-63 (47 FR 14804, April 6, 1982).

approves the general terms of the securities loan agreement (the Loan Agreement) between the Client Plan and SSB, although the specific terms of the Loan Agreement are negotiated and entered into by Citibank and Citibank acts as a liaison between the lender and the borrower to facilitate the lending transaction.

(c) The terms of each loan of securities by a Client Plan to SSB is at least as favorable to such Client Plans as those of a comparable arm's length transaction between unrelated parties.

(d) A Client Plan may terminate the agency or sub-agency arrangement at any time without penalty to such Client Plan on five business days notice.

(e) The Client Plan receives from SSB (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to SSB, collateral consisting of cash, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable United States bank letters of credit issued by a person other than Citibank, SSB or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81-6, as it may be amended or superseded.

(f) As of the close of business on the preceding business day, the fair market value of the collateral initially equals at least 102 percent of the market value of the loaned securities and, if the market value of the collateral falls below 100 percent, SSB delivers additional collateral on the following day such that the market value of the collateral again equals at least 102 percent.

(g) Prior to entering into the Loan Agreement, SSB furnishes Citibank its most recently available audited and unaudited financial statements, which are, in turn, provided to a Client Plan, as well as a representation by SSB, that as of each time it borrows securities, there has been no material adverse change in its financial condition since the date of the most recently-furnished statement that has not been disclosed to such Client Plan; provided, however, that in the event of a material adverse change, Citibank does not make any further loans to SSB unless an independent fiduciary of the Client Plan is provided notice of any material adverse change and approves the loan in view of the changed financial condition.

(h) In return for lending securities, the Client Plan either—

(1) Receives a reasonable fee, which is related to the value of the borrowed

securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash collateral. (Under such circumstances, the Client Plan may pay a loan rebate or similar fee to SSB, if such fee is not greater than the fee the Client Plan would pay in a comparable arm's length transaction with an unrelated party.)

(i) All procedures regarding the securities lending activities conform to the applicable provisions of Prohibited Transaction Exemptions PTE 81-6 and PTE 82-63 as such class exemptions may be amended or superseded as well as to applicable securities laws of the United States, the United Kingdom, Japan, Germany, Canada or Australia.

(j) Each SSB borrower indemnifies and holds harmless each lending Client Plan in the United States against any and all losses, damages, liabilities, costs and expenses (including attorney's fees) which the Client Plan may incur or suffer directly arising out of the use of securities of such Client Plan by such SSB borrower or the failure of such borrower to return such securities to the Client Plan. In the event that the Foreign Affiliate defaults on a loan, Citibank, as agent for the lending Client Plan, will liquidate the loan collateral to purchase identical securities for the Client Plan. With respect to a default by a Foreign Affiliate, if the collateral is insufficient to accomplish such purchase, Citibank will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred. Alternatively, with respect to a default by the Foreign Affiliate, if such identical securities are not available on the market, Citibank will pay the Client Plan cash equal to (1) the market value of the borrowed securities as of the date they should have been returned to the Client Plan, plus (2) all the accrued financial benefits derived from the beneficial ownership of such loaned securities as of such date, plus (3) interest from such date to the date of payment. (The amounts paid shall include the cash collateral or other collateral that is liquidated and held by Citibank on behalf of the Client Plan.)

(k) The Client Plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions.

(l) Prior to the approval of the lending of its securities to SSB by a new Client

Plan, copies of the notice of proposed exemption (the Notice) and, once published in the **Federal Register**, the final exemption, are provided to such Client Plan.

(m) Each Client Plan receives monthly reports with respect to its securities lending transactions, including, but not limited to the information described in Representation 28 of the Notice so that an independent fiduciary of the Client Plan may monitor such transactions with SSB.

(n) Only Client Plans with total assets having an aggregate market value of at least \$50 million are permitted to lend securities to SSB; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are "plan assets" under 29 CFR 2510.3-101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with SSB, the foregoing \$50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of \$50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the \$50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of \$100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are "plan assets" under the Plan Asset Regulation, which entity is engaged in securities lending arrangements with SSB, the foregoing \$50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of \$50 million (excluding the assets of any Client Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Client Plan or an employee organization whose members are covered by such Client

Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the \$50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of \$100 million. (In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

(o) With respect to each successive two-week period, on average, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans will be to unrelated borrowers.

(p) In addition to the above, all loans involving the Foreign Affiliates have the following supplemental requirements:

(1) Such Foreign Affiliate is registered as a broker-dealer or bank with—

(i) The Securities and Futures Authority of the United Kingdom in the case of SB/U.K.;

(ii) The Ministry of Finance and the Tokyo Stock Exchange in the case of SSB/Asia;

(iii) The Deutsche Bundesbank and the Federal Banking Supervisory Authority in the case of SSB/Germany;

(iv) The Ontario Securities Commission and the Investment Dealers Association in the case of SSB/Canada; and

(v) The Australian Securities & Investments Commission and the Australian Stock Exchange Limited in the case of SSB/Australia.

(2) Such broker-dealer or bank is in compliance with all applicable rules and regulations thereof as well as with all requirements of Rule 15a-6 (Rule 15a-6) (17 CFR 240.15a-6) under the Securities Exchange Act of 1934 (the 1934 Act) which provides foreign broker-dealers and banks a limited exemption from United States registration requirements and interpretations and amendments thereof to Rule 15a-6 by the Securities and Exchange Commission (the SEC), to the extent applicable;

(3) All collateral is maintained in United States dollars or dollar-denominated securities or letters of credit;

(4) All collateral is held in the United States and Citibank maintains the situs of the securities Loan Agreements in the United States under an arrangement that complies with the indicia of ownership requirements under section 404(b) of the

Act and the regulations promulgated under 29 CFR 2550.404(b)-1; and

(5) The Foreign Affiliate provides SSB (i.e., Salomon Smith Barney Inc.) a written consent to service of process in the United States for any civil action or proceeding brought in respect of the securities lending transaction, which consent provides that process may be served on such borrower by service on SSB (i.e., Salomon Smith Barney Inc.).

(q) Citibank and its affiliates maintain, or cause to be maintained within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (r)(1) to determine whether the conditions of the 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 Citibank and/or its affiliates, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than Citibank 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 below by paragraph (r)(1).

(r)(1) Except as provided in subparagraph (r)(2) 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 (q) are unconditionally available at their customary location during normal business hours for examination by:

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the SEC;

(ii) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(iii) Any contributing employer to any participating Client Plan or any duly authorized employee representative of such employer; and (iv) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(r)(2) None of the persons described above in paragraphs (r)(1)(ii)-(r)(1)(iv) of this paragraph (r)(1) are authorized to examine the trade secrets of SSB or commercial or financial information which is privileged or confidential.

**EFFECTIVE DATE:** This exemption is effective as of October 8, 1998.

For a more complete statement of the facts and representations supporting Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on March 4, 1999 at 64 FR 10493.

#### Written Comments

The Department received one written comment with respect to the Notice. The comment was submitted by Citibank and SSB (hereinafter, the Applicants) and it requests modifications to the conditional language and the Summary of Facts and Representations (the Summary) of the Notice for purposes of clarification or to revise several typographical errors. Following is a discussion of the Applicants' comments, the Department's responses to these comments and a comment made by the Department on its own initiative.

1. *Paragraph (g) of the Notice.* On page 10494 of the Notice, paragraph (g) provides, in part, that prior to entering the Loan Agreement, SSB will furnish Citibank its most recently available "audited and unaudited statements" which will be provided to the Client Plan. To clarify that the statements will be of a financial nature, the Applicants suggest that the word "financial" be inserted in the condition after the phrase "audited and unaudited." The Applicants also suggest that the verb "is", which follows the word "which" be replaced with the verb "are."

In response to this comment, the Department has revised the beginning of paragraph (g) to read as follows:

(g) Prior to entering into the Loan Agreement, SSB furnishes Citibank its most recently available audited and unaudited financial statements, which are in turn,  
\* \* \*

2. *Paragraph (l) of the Notice.* On page 10494 of the Notice, paragraph (l) states that prior to the approval of the lending of its securities to SSB by a new Client Plan, copies of the proposed exemption and the final exemption will be provided to such Client Plan. The Applicants recommend that the Department revise this condition to clarify that copies of the final exemption will be made available to Client Plans once they are published in the **Federal Register**.

In response to this comment, the Department has revised paragraph (l) of the Notice to read as follows:

(l) Prior to the approval of the lending of its securities to SSB by a new Client Plan, copies of the notice of proposed exemption (the Notice) and, once published in the **Federal Register**, the final exemption, are provided to such Client Plan.

3. *Paragraph (r)(1) of the Notice.* On page 10495 of the Notice, paragraph (r)(1) provides that the records Citibank is required to maintain for purposes of the requested exemption are to be made available at their customary location during normal business hours for certain designated persons (i.e., the Service, the Department, a Client Plan fiduciary, etc.) and their authorized representatives. For purposes of clarification, the Applicants suggest that the phrase "for examination" be inserted in the condition immediately following the phrase "normal business hours."

The Department concurs with this clarification and has modified paragraph (r)(1) of the Notice, accordingly.

4. *Preamble and General Summary Changes.* On page 10495 of the Notice, the Preamble describes the 1998 merger (the Merger) between Citicorp Inc. (Citicorp) and a subsidiary of the Travelers Group (Travelers), the restructuring of Travelers as a bank holding company and its redesignation as "Citigroup, Inc." (Citigroup). The Preamble also discusses the Applicants' request that the exemption apply retroactively to pre-existing securities lending arrangements between Citibank and broker-dealers associated with Citigroup which became affiliated with Citibank following the Merger.

To clarify more accurately the status of Citibank with respect to securities lending arrangements before the Merger, the Applicants have requested that the Department modify the third sentence of the second paragraph of the Preamble to read as follows:

Although prior to the Merger Citibank did not lend Client Plan securities to any of its then-current affiliates, upon consummation of the Merger, loans to SSB entity borrowers  
\* \* \*

In addition, the Applicants request that the Department change references to the word "Travelers" appearing in the Preamble and elsewhere in the Summary to "Citigroup" to reflect the new name for the entity.

The Department concurs with the requested changes and has modified the Preamble and made corresponding changes to Representation 1(a), (b) and (d) of the Summary.

5. *Representation 1 of the Summary.* On page 10495 of the Notice, Representation 1 of the Summary provides descriptions of the Applicants and their Foreign Affiliates. To clarify that SSB is a New York corporation and not a Delaware corporation, the Applicants request that the Department modify the first sentence of the first

paragraph of Representation 1(a), accordingly.

In addition, the Applicants wish to revise the sixth sentence of the first paragraph of Representation 1(a) as follows to reflect the updated financial information obtained for Citicorp:

\* \* \* As of December 31, 1998, Citigroup had approximately \$668 billion in assets and approximately \$42.7 billion in shareholders' equity.

In response to these comments, the Department has made the changes suggested by the Applicants.

6. *Representation 2 of the Summary.* On page 10496 of the Notice, Representation 2 of the Summary describes the governmental entities regulating the Foreign Affiliates. The Applicants, however, wish to point out that due to a typographical error, the verb "is" was omitted from the third sentence of the first paragraph of Representation 2 following the reference to "SSB/Asia."

In response to this comment, the Department has revised Representation 2 by inserting the missing word.

7. *Representations 4 and 5 and Footnote 8 of the Summary.* On page 10497 of the Notice, Representations 4 and 5 and Footnote 8 of the Summary describe Rule 15a-6 of the 1934 Act and its applicability to and compliance by the Foreign Affiliates. In order to be consistent with the requirements of Rule 15a-6, the Department has, on its own initiative, revised references to the terms "U.S. major institutional investor" and "major institutional investor," which appear in Representations 4 and 5 and in Footnote 8 of the Summary, to the term "major U.S. institutional investor." Moreover, for purposes of clarification, the Department has inserted the following language at the beginning of Footnote 8:

**Note** that the categories of entities that qualify as "major U.S. institutional investors" has been expanded by a SEC No-Action letter.

The Applicants have concurred with the foregoing changes made by the Department.

8. *Representation 12 of the Summary.* On pages 10498 and 10499 of the Notice, Representation 12 of the Summary describes the various forms of securities lending agreements that may be entered into by Client Plans with Citibank and the relevant terms of such agreements. However, to correct a typographical error, the Applicants suggest that the Department change the reference to "Representation 10," in the second sentence of the third paragraph of Representation 12, to "Representation 11."

In response to this comment, the Department has made the requested modification.

9. *Footnote 17 of the Summary.* On page 10499 of the Summary, Footnote 17 discusses the capital adequacy requirements for the Applicants' U.S.-domiciled and Foreign Affiliates. To correct a typographical error appearing in the footnote, the Applicants request that the Department change the reference to "SSB," appearing in the first sentence of Footnote 17, to "SSB/U.S." In addition, the Applicants request that the Department delete one of the duplicate references to SSB/Canada, appearing in the first sentence of the second paragraph of the footnote, and substitute the Foreign Affiliate, "SSB/Australia," in its stead.

In response to these comments, the Department has made the suggested changes.

10. *Representation 16 of the Summary.* On page 10499 of the Notice, Representation 16 of the Summary provides further details regarding the terms of the Agency Agreement and the Primary Lending Agreement, including the compensation paid to Citibank for its services as lending agent, custodian and manager of the cash collateral received. To emphasize that Citibank may also serve as a "directed trustee" to a Client Plan, the Applicants recommend that the term "directed trustee" be inserted immediately preceding the word "custodian" in the second sentence of the first paragraph of Representation 16.

In response, the Department has made the suggested change.

11. *Representations 29 and 30 of the Summary.* On page 10501 of the Notice, Representation 29 of the Summary describes the functions of the monthly report that will be provided to each Client Plan participating in the Applicants' securities lending program. The Applicants, however, request that the second sentence of Representation 29 be modified by inserting the phrase "upon the request of the Client Plan" immediately following the phrase "In addition" in order to be consistent with previously-agreed to language.

In addition, on page 10502 of the Notice, Representation 30 of the Summary discusses the requirements for securities lending by two or more Unrelated Client Plans whose assets are commingled in a group trust or a "plan assets" investment entity and describes an "outside business test" that will be imposed on the fiduciary exercising investment discretion over the commingled entity.

To correct a typographical error appearing in the Notice, the Applicants

request that the Department insert the phrase "member of the controlled group of corporations" immediately following the phrase "or other entity or any" in the second paragraph of Representation 30.

In response to the comments discussed above, the Department has made the requested changes.

For further information regarding the Applicants' comment letter or other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D-10674) 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 Documents Room of the Pension and Welfare Benefits Administration, Room N-5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including the written comment provided by the Applicants, the Department has made the aforementioned changes to the Notice and has decided to grant the exemption subject to the modifications described above.

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

**Operating Engineers Local 324 Journeyman and Apprentice Training Fund (the Plan)**

Located in Howell, Michigan  
(Prohibited Transaction Exemption 99-22  
Exemption Application No. L-10645)

**Exemption**

The restrictions of sections 406(a), 406(b)(1) and (2) of the Act shall not apply to: (1) the proposed loan of \$1,500,000 (the Loan) to the Plan by the International Union of Operating Engineers Local 324, AFL-CIO (the Union), a party in interest with respect to the Plan, for the repayment of certain outstanding loans (the Original Loans) made to the Plan by the Michigan National Bank (the Bank), an unrelated party; and (2) as of March 12, 1998, the pledging of certificates of deposit by the Union as security for the Original Loans; provided that the following conditions are met:

(a) The terms and conditions of the Loan are at least as favorable to the Plan as those which the Plan could have obtained in an arm's-length transaction with an unrelated party;

(b) The Plan's trustees determine that the Loan is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries;

(c) An independent fiduciary acting on behalf of the Plan (the Independent Fiduciary) reviews the terms of the Loan and determines that the Loan is protective of and in the best interests of the Plan;

(d) The Independent Fiduciary monitors the Loan, as well as the conditions of this exemption, and takes whatever actions are necessary to safeguard the interests of the Plan under the Loan;

(e) The Loan is repaid by the Plan solely with funds the Plan retains after paying all of its operational expenses; and

(f) The terms and conditions relating to the pledging of the certificates of deposit by the Union as security for the Original Loans were in the best interest of the Plan and its participants and beneficiaries.

**EFFECTIVE DATE:** This exemption is effective as of March 12, 1998.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on January 21, 1999 at 64 FR 3356.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Motta of the Department, telephone (202) 219-8883 (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 are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, D.C., this 24th day of May, 1999.

**Ivan Strasfeld,**

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

[FR Doc. 99-13496 Filed 5-26-99; 8:45 am]

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## NUCLEAR REGULATORY COMMISSION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** U.S. Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of the OMB review of information collection and solicitation of public comment.

**SUMMARY:** The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR part 33 -Specific Domestic Licenses of Broad Scope for Byproduct Material.

3. The form number if applicable: N/A.

4. How often the collection is required: There is a one-time submittal of information to receive a license. Once a specific license has been issued, there

is a 10-year resubmittal of the information for renewal of the license.

5. Who will be required or asked to report: All applicants requesting a license of broad scope for byproduct material and all current licensees requesting renewal of a broad scope license.

6. An estimate of the number of responses: There are 177 NRC broad scope licensee responses and 354 Agreement State licensee responses annually for a total of 531.

7. The estimated number of annual respondents: 177 NRC broad scope licensees and 354 Agreement State licensees for a total of 531.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 4,425 hours for NRC licensees and 8,850 hours for Agreement State licensees.

9. An indication of whether section 3507(d), Pub. L. 104-13 applies:

10. Abstract: 10 CFR part 33 contains mandatory requirements for the issuance of a broad scope license authorizing the use of byproduct material. The subparts cover specific requirements for obtaining a license of broad scope. These requirements include equipment, facilities, personnel, and procedures adequate to protect health and minimize danger to life or property.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (<http://www.nrc.gov/NRC/PUBLIC/OMB/index.html>). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by June 25, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150-0015), NEOB-10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395-3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 21st day of May 1999.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of the Chief Information Officer.*

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## UNITED STATES NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 50-270, and 50-287]

### Duke Energy Corporation, Oconee Nuclear Station, Units 1, 2, and 3; Notice of Availability of the Draft Supplement to the Generic Environmental Impact Statement and Public Meeting for the License Renewal of Oconee Nuclear Station, Units 1, 2, and 3

Notice is hereby given that the U. S. Nuclear Regulatory Commission (the Commission) has published a draft plant-specific supplement to the Generic Environmental Impact Statement (GEIS), NUREG-1437, regarding the renewal of operating licenses DPR-38, DPR-47, and DPR-55 for an additional 20 years of operation at the Oconee Nuclear Station (ONS), Units 1, 2, and 3, respectively. ONS is located in Oconee County, South Carolina.

The draft supplement to the GEIS is available for public inspection and duplication at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW, Washington, D.C., and the Local Public Document Room located in the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina, 29691.

Any interested party may submit written comments on the proposed action and on the draft supplement to the GEIS for consideration by the NRC staff. To be certain of consideration, comments must be received by August 16, 1999. Comments received after the due date will be considered if it is practical to do so, but the NRC staff is able to assure consideration only for comments received on or before this date. Written comments on the draft supplement to the GEIS should be sent to: Chief, Rules and Directives Branch, Division of Administrative Services, Mailstop T-6D 59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Submittal of electronic comments may be sent by the Internet to the NRC at [oconeeis@nrc.gov](mailto:oconeeis@nrc.gov). All comments received by the Commission, including