

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 17 day of July, 1996.

Ivan Strasfeld,

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

[FR Doc. 96-18540 Filed 7-19-96; 8:45 am]

BILLING CODE 4510-29-P

**[Prohibited Transaction Exemption 96-54;  
Exemption Application No. D-09334, et al.]**

**Grant of Individual Exemptions; Wells Fargo Bank, N.A. (the Bank), 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.

Wells Fargo Bank, N.A. (the Bank) Located in San Francisco, CA [Prohibited Transaction Exemption 96-54; Exemption Application No. D-09334]

**Exemption**

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

The restrictions of sections 406(a) and 406(b) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) of the Code, shall not apply, effective July 2, 1993 until October 1, 1993, to the in-kind transfer of all or a *pro rata* portion of the assets of employee benefit plans (the Plans) that are held in certain collective investment funds (the CIF or CIFs), for which the Bank or any of its affiliates (collectively, Wells Fargo) serves as fiduciary, to the Stagecoach Funds, Inc. (the Fund or Funds), an open-end investment company registered under the Investment Company Act of 1940 (the '40 Act), as amended, for which Wells Fargo acts as investment adviser and may provide other services, in exchange for shares of the Funds (the CIF Exchanges), in connection with the partial termination of the CIFs.

This exemption is subject to the following conditions and the general conditions of Section II:

- (a) The CIF Exchange is a one-time transaction between the Plan and the respective Fund.
- (b) No sales commissions or other fees are paid by the Plans in connection with the CIF Exchanges and no redemption fees are paid by the Plan in connection with the sale by the Plan of shares acquired in a CIF Exchange.
- (c) A fiduciary of each Plan who is independent of and unrelated to Wells Fargo (the Second Fiduciary) receives advance written notice of the CIF

Exchange and full written disclosure of information concerning the Funds which includes, but is not limited to the following:

- (1) A current prospectus for each Fund in which the Plan is considering investing;
- (2) A statement describing the fees for investment advisory or similar services, any secondary services (the Secondary Services) as referred to in paragraph (h) of Section III, and all other fees to be charged to, or paid by, the Plan (and by such Fund) to Wells Fargo, including the nature and extent of any differential between the rates of the fees;
- (3) The reasons why Wells Fargo considers an investment in the Fund to be appropriate for the Plan; and
- (4) A statement describing whether there are any limitations applicable to Wells Fargo with respect to which assets of a Plan may be invested in a Fund, and, if so, the nature of such limitations.
- (d) On the basis of the foregoing information, the Second Fiduciary approves, in writing, the CIF Exchange.
- (e) Each Plan receives shares of the Funds which have a total net asset value equal to the value of all or the Plan's *pro rata* share of the Plan's assets invested in the CIF on the date of the transfer, based on the current market value of the CIF's assets, as objectively determined in a single valuation, performed in the same manner at the close of the same business day by a principal pricing service (the Principal Pricing Service), disclosed previously by Wells Fargo to the Second Fiduciary, and/or as applicable, by the amortized cost method.
- (f) The terms of the transaction are no less favorable to each Plan than those obtainable in an arm's length transaction with an unrelated party.
- (g) Wells Fargo sends by regular mail to each affected Plan a written confirmation, not more than 7 days after the completion of the transaction, containing the date of the transaction, the number of shares acquired by the Plan in each of the Funds, the price paid per share for the shares in each of the Funds and the total dollar amount involved in the transaction with each Fund.
- (h) As to each Plan, the combined total of all fees received by Wells Fargo for the provision of services to such Plan, and in connection with the provision of services to any of the Funds in which the Plan may invest, is not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.
- (i) Wells Fargo does not receive any fees payable pursuant to Rule 12b-1 of

the '40 Act in connection with the transactions involving the Funds.

(j) The Plans are not sponsored or maintained by Wells Fargo.

(k) Wells Fargo provides the Second Fiduciary of such Plan with—

(1) A copy of the proposed exemption and/or the final exemption, if granted;

(2) A copy of an updated prospectus of such Fund, at least annually;

(3) 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 Wells Fargo, upon the request of the Second Fiduciary; and

(4) A statement specifying—

(A) The total, expressed in dollars, of brokerage commissions that are paid to Wells Fargo by such Fund;

(B) The total, expressed in dollars, of brokerage commissions that are paid by such Fund to brokerage firms unrelated to Wells Fargo;

(C) The average brokerage commissions per share, expressed as cents per share, paid to Wells Fargo by such Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by such Fund to brokerage firms unrelated to Wells Fargo. (Such statement will be provided at least annually with respect to each of the Funds in which a Plan invests in the event a Fund places brokerage transactions with Wells Fargo.)

(l) All dealings between the Plans and the Funds are on a basis no less favorable to the Plans than dealings with other shareholders of the Funds.

### Section II. General Conditions

(a) Wells Fargo maintains for a period of six years the records necessary to enable the persons described below in paragraph (b) of Section II to determine whether the conditions of this 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 Wells Fargo, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest, other than Wells Fargo shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or 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 (b) below; and

(b)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504 (a)(2) and (b) of the Act, the records referred to in

paragraph (a) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of the Plans who has authority to acquire or dispose of shares of the Funds owned by the Plans, 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 paragraph (b)(1)(B) and (C) shall be authorized to examine trade secrets of Wells Fargo, or commercial or financial information which is privileged or confidential.

### Section III. Definitions

For purposes of this exemption,

(a) The term "Wells Fargo" means Wells Fargo Bank, N.A. and any affiliate of Wells Fargo Bank, N.A., as defined in paragraph (b) of this Section VI.

(b) An "affiliate" of Wells Fargo includes—

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

(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 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.

(e) The term "Second Fiduciary" means a fiduciary of a Plan who is independent of and unrelated to Wells Fargo. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to Wells Fargo if—

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

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

(3) Such Second Fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this proposed exemption.

If an officer, director, partner, or employee of Wells Fargo (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 Section I above, then paragraph (e)(2) of this Section III, shall not apply.

(f) The term "Fund or Funds" means a diversified open-end investment company or companies registered under the '40 Act for which Wells Fargo serves as investment adviser and may also provide Secondary Services as approved by such Fund. The Funds are limited to six investment Fund portfolios of the Stagecoach Funds, Inc. These Fund portfolios include include the Asset Allocation Fund, the Bond Index Fund, the Growth Stock Fund, the Short-Intermediate Term Fund, the S&P 500 Stock Fund and the U.S. Treasury Allocation Fund.

(g) The term "net asset value" means the amount for purposes of pricing all purchases and sales of shares in a Fund 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 such Fund, less the liabilities charged to the Fund, by the number of outstanding shares in such Fund.

(h) The term "Secondary Service" means a service other than an investment management, investment advisory or similar service which is provided by Wells Fargo to the Funds. However, for purposes of this exemption, Secondary Services will include only brokerage services provided to the Funds by Wells Fargo for the execution of securities transactions engaged in by the Funds.

(i) The term "Principal Pricing Service" means an independent, recognized pricing service that has determined the aggregate dollar value of marketable securities involved in a CIF Exchange. Prior to the CIF Exchange, the Principal Pricing Service was disclosed in writing by Wells Fargo to the Second Fiduciary.

**EFFECTIVE DATE:** This exemption is effective from July 2, 1993 until October

1, 1993 with respect to CIF Exchanges that occurred on July 2, August 19, and October 1, 1993.

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 April 4, 1996 at 61 FR 15123.

#### Written Comments

The Department received one written comment with respect to the notice of proposed exemption and no requests for a public hearing. The comment, which was submitted by Wells Fargo, concerned notification of interested persons. In this regard, Wells Fargo represented that notice of the proposed exemption was originally sent to its client Plans on April 24, 1996. However, because the notice was incomplete, Wells Fargo explained that it renotified these Plans of the proposed exemption on May 24, 1996 and extended the comment period until June 24, 1996.

In addition, Wells Fargo stated that client Plans of BZW Barclays Global Investors, N.A. were properly notified of the proposed exemption. Therefore, there were no further extensions of the comment period with respect to such Plans.

Thus, after giving full consideration to the entire record, the Department has decided to grant the subject exemption. Wells Fargo's comment letter has 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.)

Aircon Energy, Inc. 401(k) Profit Sharing Plan (the Plan) Located in Sacramento, California

[Prohibited Transaction Exemption 96-55; Exemption Application No. D-10073]

#### 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 of certain office equipment (the Workstations) to Aircon Energy, Inc. (Aircon), a party in interest with respect

to the Plan, provided that the following conditions are satisfied: (1) the sale is a one-time transaction for cash; (2) the Plan pays no commissions nor any other expenses relating to the sale; (3) the purchase price is the greater of: (a) the fair market value of the Workstations as determined by a qualified, independent appraiser, or (b) the Plan's initial acquisition cost plus opportunity costs attributable to the Workstations while in storage; (4) contemporaneously with the sale, Aircon reimburses the Plan for the fair market rental value with respect to the prohibited use of certain of the Workstations; (5) contemporaneously with the sale, Aircon reimburses the Plan for losses and opportunity costs associated with the prior sale of certain of the Workstations to an unrelated third party; and (6) within 90 days of the publication in the Federal Register of the grant of this exemption, Aircon files Form 5330 with the Internal Revenue Service (the Service) and pays all applicable additional excise taxes that are due by reason of the prohibited use transactions.

The Department has determined to clarify Conditions 4 and 5 and has modified the language in this exemption accordingly.

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 31, 1996 at 61 FR 3476.

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

Smith Barney, Located in New York, New York

[Prohibited Transaction Exemption 96-56; Exemption Application No. D-10126]

#### 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 lending of securities, under certain "exclusive borrowing" arrangements, to Smith Barney, and to any affiliate of Smith Barney who is a U.S. registered broker-dealer or a government securities broker or dealer (Affiliates; collectively Smith Barney), by employee benefit plans (Plans) with respect to which Smith Barney is a party in interest, provided that the following conditions are satisfied:

(a) For each Plan, neither Smith Barney nor its Affiliates has discretionary authority or control over the Plan's investment in the securities

available for loan, nor do they render investment advice (within the meaning of 29 CFR 2510.3-21(c)) with respect to those assets;

(b) Smith Barney directly negotiates an exclusive borrowing agreement (Borrowing Agreement) with a Plan fiduciary which is independent of Smith Barney;

(c) In exchange for granting Smith Barney the exclusive right to borrow certain securities, the Plan either (i) receives a reasonable fee, which is specified in the Borrowing Agreement for each category of securities available for loan and is a flat fee, a set percentage rate, or a percentage rate established by reference to an objective formula, or (ii) has the opportunity to derive compensation through the investment of cash collateral posted by Smith Barney;

(d) Any change in the rate that Smith Barney pays to the Plan with respect to any securities loan requires the prior written consent of the independent fiduciary, except that consent is presumed where the rate changes pursuant to an objective formula specified in the Borrowing Agreement and the independent fiduciary is notified at least 24 hours in advance of such change and does not object in writing thereto, prior to the effective time of such change;

(e) On or before the day the loaned securities are delivered, the Plan receives from Smith Barney (by physical delivery, book entry in a securities depository, wire transfer, or similar means) collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies, irrevocable bank letters of credit issued by persons other than Smith Barney or its Affiliates, or other collateral permitted under PTCE 81-6, as it may be amended or superseded;<sup>1</sup>

(f) The 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 at any time falls below 100 percent, Smith Barney delivers additional collateral on the following day to bring the level of the collateral back to 102 percent;

(g) Before entering into a Borrowing Agreement, Smith Barney furnishes to the Plan the most recent publicly available audited and unaudited statements of its financial condition, as

<sup>1</sup> PTCE 81-6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) provides an exemption under certain conditions from section 406(a)(1) (A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to certain broker-dealers or banks which are parties in interest.

well as any publicly available information which it believes is necessary for the independent fiduciary to determine whether the Plan should enter into or renew the Borrowing Agreement;

(h) The Borrowing Agreement contains a representation by Smith Barney 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 financial statements;

(i) The Plan receives the equivalent of all distributions made during the loan period, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits, and rights to purchase additional securities, that the Plan would have received (net of tax withholdings)<sup>2</sup> had it remained the record owner of the securities;

(j) The Borrowing Agreement and/or any securities loan outstanding may be terminated by either party at any time without penalty, whereupon Smith Barney returns any borrowed securities (or the equivalent thereof in the event of reorganization, recapitalization, or merger of the issuer of the borrowed securities) to the Plan within five business days of written notice of termination;

(k) In the event that Smith Barney fails to return the borrowed securities, Smith Barney indemnifies the Plan with respect to the difference, if any, between the replacement cost of the borrowed securities and the market value of the collateral on the date the loan is declared in default, together with expenses not covered by the collateral plus applicable interest at a reasonable rate;

(l) All procedures regarding the securities lending activities, at a minimum, conform to the applicable provisions of PTCE 81-6, as it may be amended or superseded;

(m) Only Plans, which together with related Plans,<sup>3</sup> having assets with an aggregate market value in excess of \$50 million may lend securities to Smith Barney under an exclusive borrowing arrangement; and

(n) Prior to any Plan's approval of the lending of its securities to Smith

Barney, a copy of this exemption, if granted (and the notice of pendency) are provided to the Plan, and Smith Barney informs the independent fiduciary that Smith Barney is not acting as a fiduciary of the Plan in connection with its borrowing securities from the Plan.<sup>4</sup>

**EFFECTIVE DATE:** The exemption is effective as of September 25, 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 published on May 23, 1996 at 61 FR 25905.

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

VVP America, Inc. Incentive Savings Plan (the Plan) Located in Memphis, Tennessee

[Prohibited Transaction Exemption 96-57; Exemption Application No. D-10141]

#### 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 sales by the Plan to VVP America, Inc., the sponsor of the Plan, of universal life insurance policies (the Policies) issued by the Confederation Life Insurance Company; provided that the following conditions are satisfied:

(A) All terms and conditions of the transactions are at least as favorable to the Plan as those which the Plan could obtain in arm's-length transactions with unrelated parties;

(B) The Plan receives cash purchase prices for the Policies of no less than the greater of (1) the fair market value of each Policy as of the sale date, or

(2) each Policy's cash surrender value (as described in the Notice of Proposed Exemption) as of the sale date; and

(C) The Plan does not incur any expenses or suffer any loss with respect to the transactions.

For a more complete statement of the facts and representations supporting this exemption, refer to the notice of proposed exemption published on May 23, 1996 at 61 FR 25907.

**FOR FURTHER INFORMATION CONTACT:** Ronald Willett of the Department,

<sup>4</sup> The Department notes the applicant's representation that, under the proposed exclusive borrowing arrangements, Smith Barney will not perform the functions of a securities lending agent, nor will Smith Barney perform any services ancillary to securities lending, such as monitoring the level of collateral and the value of the loaned securities.

telephone (202) 219-8881. (This is not a toll-free number.)

Fieldcrest Cannon, Inc. Retirement Savings Plan for Salaried Employees, and Fieldcrest Cannon, Inc. Retirement Savings Plan for Hourly Employees (the Plans) Located in Eden, North Carolina

[Prohibited Transaction Exemption 96-58; Exemption Application Nos. D-10180 & D-10181]

#### 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 (1) the guaranty (the Guaranty) by Fieldcrest Cannon, Inc. (the Employer), the sponsor of the Plans, of amounts due the Plans with respect to three guaranteed investment contracts (the GICs) issued by Confederation Life Insurance Company (Confederation); (2) the potential extensions of credit (the Advances) to the Plans by the Employer pursuant to the Guaranty; (3) the Plans' potential repayment of the Advances; and (4) the potential purchase of the GICs from the Plans by the Employer for cash; provided the following conditions are satisfied:

(A) All terms and conditions of such transactions are no less favorable to the Plans than those which the Plans could obtain in arm's-length transactions with unrelated parties;

(B) No interest and/or expenses are paid by the Plans in connection with the transactions;

(C) The proceeds of the Advances are used solely in lieu of payments due from Confederation with respect to the GICs;

(D) Repayment of the Advances will be restricted to the GIC Proceeds, defined as the cash proceeds obtained by the Plans from or on behalf of Confederation with respect to the GICs;

(E) Repayment of the Advances will be waived to the extent that the Advances exceed the GIC Proceeds; and

(F) In any sale of a GIC to the Employer, the Plans will receive a purchase price which is no less than the fair market value of the GIC as of the sale date, and no less than the GIC's "Book Value" as defined in the Notice of Proposed Exemption, plus post-maturity interest, if applicable, at the FIF Rate as defined in the Notice of Proposed Exemption, less any Advances made pursuant to this exemption and any GIC Proceeds received with respect to the GIC, as of the sale date.

For a more complete statement of the facts and representations supporting

<sup>2</sup> The Department notes the applicant's representation that dividends and other distributions on foreign securities payable to a lending Plan are subject to foreign tax withholdings and that Smith Barney will always put the Plan back in at least as good a position as it would have been in had it not loaned the securities.

<sup>3</sup> The Department notes the applicant's representation that the term "related Plans" refers to plans within the jurisdiction of Title I of the Act that are maintained by an entity or its affiliates, as "affiliate" is defined in section 407(d)(7) of the Act.

this exemption, refer to the notice of proposed exemption published on May 6, 1996 at 61 FR 20281.

**FOR FURTHER INFORMATION CONTACT:** Ronald Willett 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 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) 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 17th day of July, 1996.

Ivan Strasfeld,

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

[FR Doc. 96-18539 Filed 7-19-96; 8:45 am]

BILLING CODE 4510-29-P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96-078]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Prospective Patent License.

**SUMMARY:** NASA hereby gives notice that SafetySCAN, LLC of Orchard Park, New York, has applied for an exclusive license to practice the invention described and claimed in a pending U.S. Patent, entitled "Flame Imaging System" SSC-00040, which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license to SafetySCAN, LLC, should be sent to Beth Vrioni, John F. Kennedy Space Center, Mail Code: DE-TPO, Kennedy Space Center, FL 32899.

**DATES:** Responses to this Notice must be received on or before September 20, 1996. For further information contact: Beth Vrioni at (407) 867-2544.

Dated: July 10, 1996.

Edward A. Frankle,

*General Counsel.*

[FR Doc. 96-18517 Filed 7-19-96; 8:45 am]

BILLING CODE 7510-01-M

[Notice 96-079]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Prospective Patent License.

**SUMMARY:** NASA hereby gives notice that Vanguard Space Corporation, of Los Angeles, California 90064, has applied for a partially exclusive license to practice the invention disclosed in NASA Case No. MSC-22745-1, entitled "Method and Apparatus for Coupling Space Vehicles," for which a U.S. Patent Application was filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. Hardie Barr, Patent Attorney, Johnson Space Center.

**DATES:** Responses to this notice must be received by (insert 60 days from the date of publication in the Federal Register).

**FOR FURTHER INFORMATION CONTACT:** Mr. Hardie Barr, Patent Attorney, Johnson Space Center, Mail Code HA,

Houston, Texas; telephone (713) 483-1003; fax (713) 244-8452.

Dated: July 10, 1996.

Edward A. Frankle,

*General Counsel.*

[FR Doc. 96-18518 Filed 7-19-96; 8:45 am]

BILLING CODE 7510-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 27-47]

### Consideration of an Amendment Request to a License for Disposal of Low-Level Radioactive Waste Containing Special Nuclear Material by Chem-Nuclear Systems, Incorporated and an Opportunity for a Hearing

**AGENCY:** Nuclear Regulatory Commission.

**SUMMARY:** The Nuclear Regulatory Commission is considering an amendment request of License No. 12-13536-01. This license is issued to Chem-Nuclear Systems, Incorporated (CNSI) for the disposal of wastes containing special nuclear material (SNM) in the low-level radioactive waste disposal facility, located near Barnwell, South Carolina. NRC licenses this facility under 10 CFR Part 70. The South Carolina license was amended on August 11, 1995, to require disposal of Class A waste in concrete vaults, as well as improvements to the infiltration monitoring system and the enhanced engineering cap design. On October 10, 1995, CNSI submitted an amendment request to incorporate these changes of the South Carolina license into the NRC license.

**FOR FURTHER INFORMATION CONTACT:** Timothy E. Harris, Low-Level Waste and Decommissioning Projects Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: (301) 415-6613. Fax.: (301) 415-5398.

#### SUPPLEMENTARY INFORMATION:

##### Background

The LLW disposal facility located near Barnwell, South Carolina, is licensed by the State of South Carolina for disposal of source and byproduct material. The NRC license allows the disposal of SNM, and acknowledges the State-regulated activities constitute the major site activities. As a result, NRC relies extensively on the State's regulatory program to evaluate the facility and the licensee's capability to demonstrate reasonable assurance that the disposal of LLW can be