Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Boston Cement Masons Union Local No. 534 Deferred Income Plan (the Deferred Income Plan), Boston Cement Masons Union Local No. 534 Pension Plan (the Pension Plan), Boston Cement Masons Union Local No. 534 Health and Welfare Plan (the Welfare Plan) and Boston Cement Masons Union Local No. 534 Apprenticeship Plan (the Apprenticeship Plan; Collectively, the Plans) Located in Boston, Massachusetts

[Application Nos. D–9787, D–9788, L–9789 and L–9790, respectively]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code in accordance and with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, 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 to the proposed leasing of office space in a building (the Building) owned by the Deferred Income Plan to the Boston Cement Masons Union Local No. 534 (the Union), a party in interest with respect to the Deferred Income Plan.

In addition, the restrictions of section 406(b)(2) of the Act shall not apply to the proposed leasing of office space in the Building by the Deferred Income Plan to the Pension Plan, the Welfare Plan and the Apprenticeship Plan.

This proposed exemption is conditioned upon the following requirements: (1) The terms of all such leasing arrangements are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party; (2) an independent, qualified fiduciary, who has approved of the leasing arrangements, agrees to monitor all leases on behalf of the Deferred Income Plan as well as the terms and conditions of the exemption at all times; (3) the rental charged by the Deferred Income Plan under each lease is based upon the fair market rental value of the premises as determined by an independent, qualified appraiser; (4) the Building is revalued annually by the independent, qualified appraiser; (5) if appropriate, the independent, qualified fiduciary adjusts the rentals charged for the office space based upon the annual appraisals of the Building; and (6) the trustees determine that the leasing arrangements are in the best interests of the Pension Plan, the Welfare Plan and the Apprenticeship Plan.

Summary of Facts and Representations

1. The Plans are multiemployer plans that have been established and maintained in accordance with section 302(c)(5) of the Labor Management Relations Act of 1947, as amended, and in accordance with the terms of a collective bargaining agreement by and between the Union and various contributing employers (the Employers). The Plans are jointly trusteed by four trustees, (the Trustees), two of whom have been selected by the Employers and two of whom have been designated by the Union. Eight individuals comprise the Trustees for the Plans. With respect to composition of the Trustees for the Deferred Income Plan, Thomas Gunning, who was selected by the Employers, serves as Trustee for each of the Plans; Harry Brousaides, who was selected by the Union, and an individual yet to be named by the Employers, will serve as Trustees for three out of the four Plans; and Jeremiah McGillicuddy, who was selected by the Union, serves as Trustee for two out of

the four Plans. Add-Men Services, which is located in Boston,
Massachusetts, administers the Plans.
Investment decisions for the Deferred
Income Plan, the Pension Plan and the
Welfare Plan are made by Delta
Financial Management Corporation of
Hingham, Massachusetts and Anchor
Capital Advisors of Boston,
Massachusetts, entities which serve as
investment managers to these Plans. The
Trustees of the Apprenticeship Plan
have the sole investment discretion with
regard to the Apprenticeship Plan's
assets.

2. The Plans cover cement masons and other employees in the geographical area of Boston and numerous cities and towns in northeastern Massachusetts. The participant breakdown and asset balances for the Plans as of March 31, 1994 are as follows:

Plan	No. of participants	Total assets
Deferred Income Plan Pension Plan Welfare Plan Apprenticeship	271 455 395	\$3,940,457 4,583,480 1,540,055
Plan		178,966

Although the Plans have many common participants as well as common trustees, they are not parties in interest with respect to each other within the meaning of section 3(14) of the Act.

3. In 1994, the Deferred Income Plan purchased two parcels of improved real property from John Rogan, Paul Rogan and Jane Rogan, unrelated parties, primarily for investment purposes but also for office space for its own use. The first parcel (Property #1), located at 288 Minot Street in Dorchester, Massachusetts, consists of the Building and a two-family, wood frame, residential building and the underlying land of each building. The Building is the only part of Property #1 which will be subject to the leasing arrangements described herein. The Building is a 7,587 square foot, commercial garage and warehouse with finished office space and two separate garages. The second parcel (Property #2), located at 296 Minot Street, consists of a singlefamily, wood frame, residential building and the underlying land. Property #2 lies contiguous to Property #1. Property #2 will not be subject to any of the leasing arrangements described herein.

For purposes of purchasing these two parcels, the Deferred Income Plan obtained an appraisal from Eileen Partridge, an appraiser affiliated with Real Estate Appraisal and Consulting Servicing, which is located in Quincy,