Signed at Washington, DC this 22nd day of November, 1999.

Katharine G. Abraham,

Commissioner.

[FR Doc. 99–30931 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Number D–10830]

Proposed Amendment to Prohibited Transaction Exemption 80–26 (PTE 80–26) for Certain Interest Free Loans to Employee Benefit Plans

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of Proposed Amendment to PTE 80–26.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to PTE 80–26. PTE 80–26 is a class exemption that permits parties in interest with respect to employee benefit plans to make interest free loans to such plans, provided the conditions of the exemption are met. The proposed amendment, if adopted, would affect all employee benefit plans, their participants and beneficiaries, and parties in interest with respect to those plans engaging in the described transactions.

DATES: If adopted, the proposed amendment would be effective from November 1, 1999 through December 31, 2000. Written comments and requests for a public hearing should be received by the Department on or before January 13, 2000.

ADDRESSES: All written comments and requests for a public hearing (preferably three copies) should be addressed to the U.S. Department of Labor, Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, 200 Constitution Avenue, NW, Washington, DC 20210, (attention: Y2K Interest Free Loans).

FOR FURTHER INFORMATION CONTACT: Mr. J. Martin Jara, Office of Exemptions Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, (202) 219–8881. (This is not a toll-free number); or Wendy McColough, Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor (202) 219–4600. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed amendment to PTE 80–26 (45 FR 28545, Apr. 29, 1980) [1]. PTE 80–26 provides an exemption from the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from the taxes imposed by section 4975(a) and (b) of the Internal Revenue Code of 1986 (the Code), by reason of section 4975(c)(1)(B) and (D) of the Code.

The Department is proposing the amendment on its own motion pursuant to section 408(a) of ERISA 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, 32847, August 10, 1990).[2]

A. General Background

The prohibited transaction provisions of the Act generally prohibit transactions between a plan and a party in interest (including a fiduciary) with respect to such plan. Specifically, section 406(a)(1)(B) and (D) of the Act states that a fiduciary with respect to a plan shall not cause the plan to engage in a transaction, if he knows or should know that such transaction constitutes a direct or indirect—

(B) Lending of money or other extension of credit between a plan and a party in interest; or

(D) Transfer to, or use by or for the benefit of, a party in interest of any assets of a plan. Accordingly, loans, including interest free loans, to a plan from a party in interest and the repayment of such loans may be prohibited by those provisions of the Act.

In addition, section 406(b)(2) of the Act provides that a fiduciary with respect to a plan shall not, in his individual or any other capacity, act in a transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

B. Description of Existing Relief

PTE 80–26 permits the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, and the repayment of such loan or other extension of credit in accordance with its terms or other written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only:

(1) For the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract; or

(2) For a period of no more than three days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

C. Discussion of the Proposed Exemption

The Department, on its own motion, proposes an amendment to PTE 80–26 in order to expand its interest free loan exemption to address potential Y2K problems. The Y2K problem is a computer problem where date-dependent computations or operations produce erroneous results because systems recognize years only by the last two digits, causing a ''00'' entry to be read as the year ''1900'' rather than the year ''2000''. Congress has passed several Acts [3] to address the Y2K problem and has found that it could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, government, and safety and defense systems, in the United States and throughout the world.

Employee benefit plans rely on computers to perform critical operations such as benefit calculations and

[1] A minor correction was made to the title of the final exemption in a notice published in the **Federal Register** on May 23, 1980. (45 FR 35040).

[2] Section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue administrative exemptions under section 4975 of the Code to the Secretary of Labor.

In discussion of the exemption, references to section 406 of ERISA should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[3] Year 2000 Information and Readiness Disclosure Act, Pub. L. 105–271, 112 Stat. 2386 (1998) (encourages the disclosure and exchange of information about computer processing problems, solutions, test practices and test results, and related matters in connection with Y2K); Y2K Act, Pub. L. 106–37, 106 Stat. 185 (1999) (established uniform legal standards to provide businesses and technology product users reasonable incentives to solve Y2K problems before they develop, encourages continued remediation and testing efforts, encourages parties to resolve Y2K disputes by alternative dispute mechanisms, and discourages insubstantial lawsuits).

payments, eligibility, vesting, start dates for required distributions, normal retirement age, QDROs, ESOP diversification rights, funding calculations, health claims processing, plan investments, and so on. Calculations performed by service providers, such as TPAs, insurance companies, banks, investment managers, and others, having systems that are not Y2K compliant, may result in a temporary interruption of plan operations.

To date, PWBA has implemented a comprehensive national outreach program designed to assist fiduciaries in preparing to address Y2K. Nevertheless, it remains possible that Y2K related problems could result in a temporary disruption of computer operations. As a result, plan fiduciaries must establish a contingency plan that will be implemented in the event that the plans' essential operations are affected.

Current information indicates that in some cases small and medium size businesses are taking a ''wait-and-see'' approach to Y2K and that, although the financial services sector appears highly prepared, the industry remains susceptible to secondary risks, such as borrowers failing to meet their obligations as a result of Y2K.[4]

Furthermore, there is some uncertainty about the cost and availability of funds to individual depository institutions. Potential liquidity exigencies created by Y2K might arise from the conversion of deposits to currency, heightened credit demands, greater lender and depositor caution, and potential market disruptions. In this regard, the Board of Governors of the Federal Reserve System established a special lending program under which Federal Reserve Banks may extend credit to depository institutions[5] and, in addition, Congress has passed the ''Small Business Year 2000 Readiness Act''[6] to provide a loan guarantee program to small businesses.

The potential liquidity problem created by Y2K could be detrimental to employee benefit plans in trying to meet the many demands of plan participants and beneficiaries. Plan officials need to assure themselves that sufficient liquidity is available to pay benefits and administer the plan, including transfers among investment options, distributions, hardship withdrawals, health claim payments, and loans to participants and beneficiaries. In addition, employee benefit plans may incur costs associated with addressing and fixing Y2K problems that may arise. As a result, the Department has determined to amend PTE 80–26 to expand its provisions for interest free loans to employee benefit plans to meet Y2K contingencies.

In the event of a possible Y2K disruption to ordinary plan operations related to the payment of benefits or insurance premiums, relief for an interest free loan or extension of credit on an unlimited basis from a party in interest to deal with these problems would already be available under the first prong, paragraph (b)(1) of PTE 80–26.

However, plans may need interest free loans to address potential Y2K problems that are only incidental to the ordinary operation of the plan. Specifically, the Department notes that the three day limit on loans for purposes incidental to the ordinary operation of the plan, under the second prong, paragraph (b)(2), of PTE 80–26, may not be a sufficient period of time to address such Y2K contingencies. Accordingly, beginning November 1, 1999 and ending December 31, 2000, the proposed amendment to PTE 80–26 would permit certain interest free loans for an extended period of no more than fourteen months. All loans made pursuant to this amendment must be repaid by December 31, 2000.

Examples of transactions that may require loans or other extensions of credit for a period longer than three days due to temporary cash flow problems or computer malfunctions created by Y2K would include: (1) The transfer of all or part of a participant's account balance from one investment option to another; (2) participant loans; (3) temporary overdraft protection; (4) failure of a plan's internal computer systems; and (5) the crediting of dividends or interest by a bank trustee prior to receipt of such dividends or interest.

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 ERISA and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan from certain other provisions of ERISA and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of ERISA which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interests of the participants and beneficiaries of the plan; 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) This exemption does not extend to transactions prohibited under section 406(b)(1) and (3) of the Act or section 4975(c)(1)(E) and (F) of the Code.

(3) Before an exemption may be granted under section 408(a) of ERISA and 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;

(4) If granted, the proposed amendment is applicable to a particular transaction only if the transaction satisfies the conditions specified in the exemption; and

(5) The proposed amendment, if granted, will be supplemental to, and not in derogation of, any other provisions of ERISA and 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.

Written Comments and Hearing Request

The Department invites all interested persons to submit written comments or requests for a public hearing on the proposed amendment to the address and within the time period set forth above. All comments received will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection at the above address.

Proposed Amendment

Under 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, 32847, August 10, 1990), the Department proposes to amend PTE 80–26 as set forth below:

Section I: General Exemption

Effective January 1, 1975, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section

[4] ''Investigating the Year 2000 Problem: The 100 Day Report,'' issued by the United States Senate Special Committee on the Year 2000 Technology Problem on September 22, 1999.

[5] 64 FR 41765 (1999).

[6] Pub. L. 106–8, 113 Stat. 13 (1999).

4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only:

(1) For the payment of ordinary operating expenses of the plan, including the payment of benefits in accordance with the terms of the plan and periodic premiums under an insurance or annuity contract; or

(2) For a period of no more than three days, for a purpose incidental to the ordinary operation of the plan;

(c) The loan or extension of credit is unsecured; and

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan.

Section II: Temporary Exemption

Effective November 1, 1999 through December 31, 2000, the restrictions of section 406(a)(1)(B) and (D) and section 406(b)(2) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(B) and (D) of the Code, shall not apply to the lending of money or other extension of credit from a party in interest or disqualified person to an employee benefit plan, nor to the repayment of such loan or other extension of credit in accordance with its terms or written modifications thereof, if:

(a) No interest or other fee is charged to the plan, and no discount for payment in cash is relinquished by the plan, in connection with the loan or extension of credit;

(b) The proceeds of the loan or extension of credit are used only for a purpose incidental to the ordinary operation of the plan which arises in connection with the plan's inability to liquidate, or otherwise access its assets or data as a result of the Y2K problem.

(c) The loan or extension of credit is unsecured;

(d) The loan or extension of credit is not directly or indirectly made by an employee benefit plan;

(e) The loan or extension of credit begins on or after November 1, 1999 and is repaid or terminated no later than December 31, 2000.

Section III: Definition

For the purposes of section II, a Y2K problem is a disruption of computer operations resulting from a computer system's inability to process data because such system recognizes years only by the last two digits, causing a ''00'' entry to be read as the year ''1900'' rather than the year ''2000.''

Signed at Washington, DC, this 23rd day of November, 1999.

Ivan L. Strasfeld,

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

[FR Doc. 99–30932 Filed 11–26–99; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on November 29, 1999 via conference call. The meeting will begin at 11:00 a.m and continue until conclusion of the Board's agenda.

LOCATION: 750 First Street, NE, 11th Floor, Washington, DC 20002, in Room 11026.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the agenda.

2. Consider and act on the Board of Directors' Semiannual Report to Congress for the period of April 1, 1999 to September 30, 1999.

3. Consider and act on a staff proposal to move funds from Grant Recoveries to Grants line in order to fund an emergency grant to Legal Services of North Carolina.

4. Consider and act on staff request to revise the Corporation's FY 2000 Consolidated Operating Budget to add to U.S. Court of Veterans Appeals line an additional $15,000 received from the U.S. Court of Veterans Appeals.

5. Consider and act on other business.

CONTACT PERSON FOR INFORMATION: Victor M. Fortuno, Vice President for Legal Affairs, General Counsel & Corporate Secretary, at (202) 336–8810.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Shannon Nicko Adaway, at (202) 336–8810.

Dated: November 24, 1999.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 99–31066 Filed 11–24–99; 1:44 pm]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE 99–147]

National Environmental Policy Act; Mars Surveyor 2001 Mission

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of draft environmental impact statement (DEIS) for implementation of the Mars Surveyor 2001 (MS 01) mission.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216 Subpart 1216.3), NASA has prepared and issued a DEIS for the MS 01 mission. The DEIS addresses the potential environmental impacts associated with continuing the preparations for and implementing the MS 01 mission. The purpose of this proposal is to continue global reconnaissance of Mars and perform surface exploration.

The mission is planned to consist of two components. NASA proposes to launch an orbiter spacecraft from Vandenberg Air Force Base (VAFB), California in March-April 2001, and a lander/rover spacecraft from Cape Canaveral Air Station (CCAS), Florida in April 2001. The orbiter would be launched aboard a Delta II 7925, while the lander/rover would be launched aboard a Delta II 7425. The lander/rover would include four small radioactive sources for instrument calibration and would use three radioisotope heater units (RHU's) for thermal control. The orbiter would carry no radioactive material.

DATES: Interested parties are invited to submit comments or environmental concerns on or before January 13, 2000, or 45 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the MS 01 mission DEIS, whichever is later.

ADDRESSES: Comments should be addressed to Mr. Mark R. Dahl, NASA Headquarters, Code SD, Washington, DC