the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 85–131, refer to the proposed exemption and the grant notice which are cited above.

Signed at Washington, DC, this 13th day of June, 2002.

Ivan L. Strasfeld,

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

[FR Doc. 02–15318 Filed 6–17–02; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–11038]

Notice of Proposed Individual Exemption To Amend and Replace Prohibited Transaction Exemption (PTE) 90–15, Involving the Watkins Master Trust (the Trust), Located in Atlanta, GA

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

ACTION: Notice of proposed individual exemption to modify and replace PTE 90–15.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption which, if granted, would amend and replace PTE 90–15 (55 FR 12967, April 6, 1990). PTE 90–15 is an individual exemption providing relief, since September 20, 1989, for (1) the leasing of office space in a commercial office building (the Building) by the Trust to Wilwat Properties, Inc. (Wilwat), a party in interest with respect to the plans (the Plans) participating in the Trust under the provisions of a written lease (the New Lease); and (2) the possible cash purchase of the Trust's interest in the property by Wilwat.

If granted, the proposed exemption would modify an option to purchase provision in the New Lease by allowing Wilwat to acquire the Trust's leasehold interests in the Building, including the improvements constructed thereon (the Improvements), and the Trust's interest in a ground lease (the Ground Lease) on May 8, 2002, instead of at any time during the final six months of the New Lease renewal term ending on December 31, 2008. In addition, the proposed exemption would replace PTE 90–15, which expired by operation of law upon the consummation of the sale. If granted, the proposed exemption would affect participants and beneficiaries of, and fiduciaries with respect to the Trust.

DATES: Written comments and requests for a public hearing should be received by the Department on or before August 2, 2002.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of May 8, 2002.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington DC 20210, (Attention: Notice of Proposed Individual Exemption to Amend and Replace Prohibited Transaction Exemption 90–15, Involving the Watkins Master Trust; Application No. D–11038).

Interested persons are also invited to submit comments and/or hearing request to the Department by facsimile to (202) 219–0204 or by electronic mail to *moffittb@pwba.dol.gov* by the end of the scheduled comment period. The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 693–8556. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption that will amend and replace PTE 90–15. PTE 90–15 provides an exemption from certain prohibited transaction restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1986 (the Code), as amended, by reason of section 4975(c)(1) of the Code.

The proposed exemption has been requested in an application filed on behalf of the Trust and Wilwat,[1] pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). 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. Accordingly, this proposed exemption is being issued solely by the Department.

I. Background

As stated above, PTE 90–15 provides exemptive relief from 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, with respect to (1) the leasing, by the Trust to Wilwat, of office space in a building located in Atlanta, Georgia and (2) the potential cash purchase of the Trust's interest in the property by Wilwat. PTE 90–15 is effective from September 20, 1989 until May 8, 2002, the date of the sale transaction described herein.

According to the Summary of Facts and Representations (55 FR 2900, January 29, 1990) underlying PTE 90–15, the Trust is a master trust which was originally established in 1984 to hold, manage and administer the assets of five defined contribution pension plans sponsored by Watkins, its affiliates and subsidiaries. Watkins, a Florida corporation engaged in diverse service and manufacturing enterprises, maintains its principal place of business in Atlanta, Georgia. At present, only three Plans participate in the Trust. They are the Watkins Associated Industries, Inc. Profit Sharing Plan, the LandSpan, Inc. Profit Sharing Plan, and the Southern Concrete Construction Company Profit Sharing Plan. Each of the participating Plans owns an undivided, *pro rata* interest in the assets of the Trust. As of December 31, 2000, the Trust held total assets of $39,752,458. The current trustee (the Trustee) of the Trust is SunTrust Bank, N.A. (SunTrust) of Atlanta, Georgia.

Formerly included among the assets of the Trust was a leasehold interest in a commercial office building containing

[1] The Department is also considering an exemption request (D–11036) that has been filed on behalf of Watkins Associated Industries, Inc. (Watkins), the sponsor of the Trust. In their request, Watkins and the Trust are seeking exemptive relief which is similar to that contemplated herein.

approximately 9,700 net square feet of space, together with parking facilities. The Building is located at 1940 Monroe Drive, Atlanta, Georgia, and is situated on a parcel of commercially-zoned real land (the Land). The Building is not located in close proximity to other real property that is owned by Watkins, Wilwat or their principals.

The Land is owned by William L. Monroe, Sr., an unrelated party, and was being leased to the Trust under the provisions of the Ground Lease. As lessee under the Ground Lease, the Trust had an estate for years under Georgia law. The unrelated lessor had a reversion in the demised premises upon the termination of such lease.

As initially executed in 1958, the Ground Lease was due to expire in 2019 but that term was extended until 2058. The Ground Lease was a net lease requiring the lessee to incur such expenses as utilities, real estate taxes, assessments and maintenance. Before the sale transaction that is described in this proposal was consummated, the annual rental paid by the Trust under the Ground Lease to the lessor was $1,425.

The Building was constructed on the Land after the execution of the Ground Lease by a predecessor lessee to Wilwat. The Ground Lease provided that the Building and all subsequent Improvements placed on the Land would revert to the unrelated lessor upon the termination of such lease.

Commencing in 1981, three subsidiaries of Watkins (i.e., Wilwat, Provident Security Life Insurance Company, and Waco Fire and Casualty Insurance Company) (collectively, the Subsidiaries) commenced leasing and occupying space in the Building. These leases were the subject of PTE 83–27 (48 FR 8613, March 1, 1983). Although the leases expired during June 1989, in response to proposals made by Wilwat, Trust Company Bank of Atlanta, Georgia (TCB), the former trustee of the Trust, approved the holding over of the Subsidiaries in the Building beyond the expiration of the initial leases in expectation of new leasing arrangements. Therefore, Wilwat and TCB executed a new lease, effective June 14, 1989, which provided for the continued leasing of the Building by the Subsidiaries to the Trust. For purposes of administrative convenience, the lessee interests of the Subsidiaries in the Building were consolidated and were represented by Wilwat as the sole named lessee under the New Lease.

PTE 90–15 also provided that the Trust's interests would be represented for all purposes by the Trustee. At the time the exemption was issued, TCB served in this capacity.

The New Lease was a triple net lease under which Wilwat was obligated to pay for all expenses of utilities, maintenance and repair, and for taxes relating to the Building. The New Lease commenced with an initial term of four years and six months, effective June 15, 1989, and it was renewable for up to three additional terms, each of five years' duration, upon the approval of the Trustee. The New Lease was renewed for all three of the possible additional terms and was due to expire on December 31, 2008.

The New Lease required monthly rental payments of no less than the Building's fair market rental value.[2] The rent was adjusted on July 1 every three years for the duration of the New Lease to reflect the current fair market rental value of the Building as determined by a qualified, independent appraiser approved by the Trustee. In no event, however, could the rent as so adjusted, be less than the initial rental under the New Lease. Prior to the sale transaction, the contractual rental amount paid by Wilwat to the Trust under the New Lease was $6,050 per month or $72,600 per year.

The New Lease required Wilwat to indemnify and hold harmless the Trust against any and all claims arising from the use of the Building and to obtain and maintain in force a policy of full public liability coverage for personal injury and property damage. Wilwat was also required to obtain and maintain a policy of all risk casualty replacement loss insurance in an amount of no less than the Building's full insurable value.

Wilwat was required under the New Lease to obtain the Trustee's approval for any Improvements to or alterations of the Building. The New Lease further provided that any Improvements constructed thereon were to remain the property of Wilwat at the conclusion of such lease.[3]

The New Lease also contained a provision (the Option) granting Wilwat a limited right to purchase the Building and the Improvements from the Trust. The Option provided that Wilwat could propose a purchase of the Building and the Improvements from the Trust at any time during the final six months of the initial term of the New Lease or of any renewal term. Any purchase of the Building and the Improvements by Wilwat under the Option required the approval of the Trustee and the payment of a cash purchase price equal to the greater of the fair market value of such property as of the date of the sale or the Trust's total investment return with respect to such property. In the event of sale under the Option provision, Wilwat would be required to pay all costs and expenses associated with the transaction.

The transactions described in PTE 90–15 were monitored by the Trustee, as independent fiduciary for the Trust. Formerly, TCB served in this capacity until it was merged with SunBank to form SunTrust. During the entire period of Trustee/independent fiduciary succession, the Trust was, at all times, represented by an independent fiduciary.

As Trustee and independent fiduciary, TCB determined that the New Lease was in the best interests of the participants and beneficiaries of the Plans participating in the Trust because it believed such investment would provide the Trust with a high annual yield that would be competitive with any other investments made on behalf of the Trust. TCB agreed to continue monitoring lease arrangements made on behalf of the Trust, to inspect the Building annually, ensure that the Building was adequately insured, and to determine that taxes and rents would be collected in a timely manner. Further, TCB represented that it would pursue appropriate enforcement measures on behalf of the Trust with respect to the Trust's rights under the New Lease.

[2] The initial rent through June 30, 1991 was set at $51,000 per year. The rental amount was payable in monthly installments of $4,250, which represented the fair market rental value of the Building as determined by John Booth, MAI, a qualified, independent appraiser from Atlanta, Georgia. Mr. Booth's calculation of the Building's fair market rental value included a vacancy and collection allowance of five percent, constituting a deduction of $5,789 from the Building's potential gross income on which the appraiser based his fair market value analysis. Wilwat represented that this allowance deduction would be disregarded for purposes of rental determinations under the New Lease and that the initial rental amount would be recalculated.

As a result, the initial rental under the New Lease was readjusted to $56,835 per year or $4,736 per month. On September 20, 1989, the effective date of PTE 90–15, Wilwat agreed to pay the Trust the difference between the rental actually paid since June 15, 1989, pursuant to Mr. Booth's appraisal, and the recalculated initial rent, including the payment of reasonable interest at a rate determined by the Trustee. In addition, Wilwat represented that within sixty days of the issuance of PTE 90–15, it would pay appropriate excise taxes to the Internal Revenue Service resulting from the rental payment deficiencies.

[3] It should be noted that despite the New Lease provision granting title to the Improvements constructed in the Building to Wilwat, the Trust and Wilwat agreed to include the value of the Improvements in the determination of the sales price for the Trust's leasehold interests in the Building and the Ground Lease.

II. Amendment and Replacement of PTE 90–15

Over the period of time that the Trust was a party to the Ground Lease and the New Lease, there were no defaults or delinquencies in rental payments made thereunder. The Trust did, however, expend $39,911 in rental payments under the Ground Lease since the inception of such lease, whereas the cost of the Improvements, ranging from the installation of a new air conditioning system in the Building to the renovation of offices, was borne by Wilwat. The Trust also received rental income under the New Lease totaling $661,337. Since the Trust's cost basis in the Building was estimated at $422,735, its total investment return with respect to such property (net of acquisition and holding costs) was approximately $198,691 [$661,337 − ($422,735 + $39,911)].

On behalf of the Trust, the Trustee and Wilwat seek to amend the New Lease, thereby permitting the retroactive sale, by the Trust, of its leasehold interests in the Building, the Improvements and the Ground Lease to Wilwat.[4] Because the sale transaction effectively terminated the New Lease by operation of law, the parties wish to replace PTE 90–15 with a new exemption. Accordingly, administrative exemptive relief is requested from the Department. If granted, the exemption would be effective as of May 8, 2002.

As consideration for the sale transaction, the Trust would receive (a) the greater of the fair market value of such property as of the date of the sale or (b) its total investment in such property. The consideration would be paid in cash and the Trust would not be required to pay any real estate fees or commissions in connection therewith.

The Trust, the Trustee and Wilwat proposed to effect the sale transaction because it would allow the Trust to achieve greater diversification, liquidity, and the potential to obtain a higher rate of return on its investments. Since the Plans participating in the Trust would be merged into separate 401(k) plans providing for participant-directed investments, the parties did not deem the subject property to be a suitable investment option under the merger arrangement due to its illiquidity. Moreover, the parties noted that the Building had appreciated substantially in value at rates that were above historical averages which might not continue in the future. Finally, the parties believed that the Building was of limited use and, should Watkins decide to move its headquarters or otherwise decline to renew the New Lease, the Trust might have difficulty marketing its interest in the Building and realizing its full value.

III. The Appraisal

The Building was appraised by Messrs. Quentin Ball, MAI, and Philip R. Thomas, Senior Appraiser, who are qualified, independent appraisers affiliated with the commercial real estate appraisal firm of Kirkland & Company, located in Atlanta, Georgia. In a appraisal report dated November 27, 2001, the appraisers, using the Income Approach to valuation, placed the fair market value of a fee simple interest in the Building and the Improvements (as if not encumbered by the Ground Lease) at $1,050,000 as of November 26, 2001.[5]

The appraisers updated their appraisal report prior to the closing of the sale transaction. By letter dated May 8, 2002, the appraisers, while noting new construction within the vicinity of the property which they believed to be indicative of a strong and improving economy, concluded that there had been no change in the value of the property as set forth in their original appraisal report.

IV. Views of the Trustee/Independent Fiduciary

As stated above, the Trustee had been acting on behalf of the Trust as the independent fiduciary for the New Lease. Serving in this capacity was SunTrust, a banking subsidiary of SunTrust Banks, Inc., the tenth largest financial services holding company in the United States. In its independent fiduciary statement, the Trustee represented that it had been acting as a corporate fiduciary for more than 100 years, had approximately $130 million in fiduciary assets in its custody, and served as a fiduciary or custodian to more than 1,700 qualified retirement plans. The Trustee also asserted that although it conducted an ongoing deposit and lending business with Watkins and its affiliates, such deposits and loans represented less than one percent of its total deposits and loans. Further, the Trustee stated that it understood and acknowledged its duties, responsibilities and liabilities under the Act in serving as an independent fiduciary for the Trust.

The Trustee represented that the sale transaction compared favorably with the terms of similar transactions between unrelated parties because the Trust's leasehold interests in the Building, the Improvements and the Ground Lease would be sold at the appraised value of a fee simple interest and without the payment of any real estate fees or commissions by the Trust. Moreover, the Trustee explained that it relied upon the independent appraisers to identify and reconcile sales of comparable properties in their preparation of their initial appraisal report. On the basis of such information, the Trustee concluded that the appraisal had been conducted by the appraisers in a reasonable manner.

The Trustee also believed the sale transaction would be in the best interests of the Trust and its participants and beneficiaries for the following reasons:

- The proposed modification of the Trust into participant-directed accounts would make accounting and participant direction virtually impossible due to the indivisible nature of the subject property.
- The transaction would compare favorably with other sales of property which might be achieved in the market place.
- The sale transaction would permit the conversion of an illiquid investment with material maintenance costs (i.e., the underlying New Lease payments and associated Trustee monitoring) into cash which could be invested in lower-maintenance assets.
- The sale transaction would eliminate the conflict of interest and associated administrative burdens of ongoing special supervision implicit in the Trust's holding of employer real property.
- The sale transaction would enable the Trust to realize appreciation in the property, the continuation of which could not be assured in the current economic climate.
- The sale transaction would eliminate a 6 percent concentration of the Trust's assets in two adjacent parcels of real estate.

Before forming its opinion, the Trustee stated that it had examined the Trust's overall investment portfolio, considered the liquidity requirements of the Plans participating therein, examined the diversification of each Plan's assets in light of the proposed transaction, and considered whether the

[4] It is represented that the Trust would seek a release from the owner of the Ground Lease from its obligations thereunder upon the completion of the proposed sale. However, regardless of whether the Trust could obtain such a release from the owner, it is represented that Wilwat would assume all of the Trust's liabilities under this lease and indemnify the Trust against any liability to the owner of the Ground Lease.

[5] It is represented that the fee simple valuation of the Building and the Improvements was more beneficial to the Trust than a leased fee interest valuation because the latter valuation did not take into consideration the Trust's leasehold interest in the Ground Lease.

transaction would comply with the Trust's investment objectives and policies. The Trustee explained that it would monitor the transaction and take all appropriate actions, if required, to safeguard the interests of the Trust.

V. The Sale

On May 8, 2002, the Trust sold its leasehold interests in the Building, the Improvements and the Ground Lease to Wilwat for $1,050,000, which reflected the independently appraised value of such property, as determined by the independent appraisers in their initial and updated appraisal reports. The sales price was greater than the Trust's total investment return with respect to the property of $198,691. Wilwat paid the consideration in cash and the Trust did not pay any real estate fees or commissions in connection with the sale transaction. In addition, the Trustee monitored the transaction on behalf of the Trust.

VI. General Conditions

If granted, this proposed exemption will be subject to the following general conditions:

(a) All terms and conditions of the sale were at least as favorable to the Trust as those obtainable in an arm's length transaction with an unrelated party;

(b) The sale was a one-time transaction for cash;

(c) The fair market value of the Trust's leasehold interests in the Building, the Improvements and the Ground Lease was determined by qualified, independent appraisers in initial and updated appraisal reports;

(d) The Trust did not pay any real estate fees, commissions, costs or other expenses in connection with the sale;

(e) The Trust received, as consideration for the sale, an amount that was no less than the greater of (1) the fair market value of the Trust's leasehold interests in the Building, the Improvements and the Ground Lease; or (2) the Trust's total investment in such property, as of the date of the sale;

(f) In the event the Trust could not obtain a release from the owner of the Ground Lease from its obligations thereunder upon the completion of the proposed sale, Wilwat agreed to assume all liabilities under such lease and would indemnify the Trust against any liability to the owner of the Ground Lease; and

(g) The Trustee, as the independent fiduciary for the Trust with respect to the sale, determined that such transaction was in the best interest of the Trust and was protective of the participants and beneficiaries of the Trust, and monitored such transaction on behalf of the Trust.

Notice to Interested Persons

Notice of the proposed exemption will be sent by first-class mail to each participant of the Plans participating in the Trust within 15 days of the publication of the proposed exemption in the **Federal Register**. The notification will contain a copy of the proposed exemption as published in the **Federal Register**, and a copy of the supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement, will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Comments and hearing requests are due within 45 days of the publication of the notice in the **Federal Register**.

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 section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and 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 require, among other things, a fiduciary to discharge his or her 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 requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

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

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

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

(5) This proposed exemption, if granted, is subject to the express condition that the facts and representations set forth in the notice of proposed exemption relating to PTE 90–15 and this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

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

Proposed Exemption

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

If the proposed 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, effective May 8, 2002, to the sale by the Watkins Master Trust (the Trust) of its leasehold interests in certain improved real property, consisting of a building (the Building), the improvements constructed thereon (the Improvements), and ground lease (the Ground Lease), to Wilwat Properties, Inc. (Wilwat), a party in interest with respect to the Trust, in connection with an amendment to an option to purchase provision contained in a written lease between the Trust and Wilwat, as described in Prohibited Transaction Exemption 90–15 (55 FR 12967, April 6, 1990).

This proposed exemption is subject to the following conditions:

(a) All terms and conditions of the sale were at least as favorable to the Trust as those obtainable in an arm's length transaction with an unrelated party;

(b) The sale was a one-time transaction for cash;

(c) The fair market value of the Trust's leasehold interests in the Building, the Improvements and the Ground Lease was determined by qualified, independent appraisers in initial and updated appraisal reports;

(d) The Trust did not pay any real estate fees, commissions, costs or other expenses in connection with the sale;

(e) The Trust received, as consideration for the sale, an amount that was no less than the greater of (1) the fair market value of the Trust's leasehold interests in the Building, the Improvements and the Ground Lease; or (2) the Trust's total investment in such property, as of the date of the sale;

(f) In the event the Trust could not obtain a release from the owner of the Ground Lease from its obligations thereunder upon the completion of the sale, Wilwat agreed to assume all liabilities under such lease and would indemnify the Trust against any liability to the owner of the Ground Lease; and

(g) The Trustee, as the independent fiduciary for the Trust with respect to the sale, determined that such transaction was in the best interest of the Trust and was protective of the participants and beneficiaries of the Trust, and monitored such transaction on behalf of the Trust.

EFFECTIVE DATE: If granted, this proposed exemption will be effective as of May 8, 2002.

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

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 90–15, refer to the proposed exemption and the grant notice which are cited above.

Signed at Washington, DC, this 13th day of June 2002.

Ivan L. Strasfeld,

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

[FR Doc. 02–15319 Filed 6–17–02; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–075)]

National Environmental Policy Act; Final Environmental Assessment for Launch of NASA Routine Payloads on Expendable Launch Vehicles from Cape Canaveral Air Force Station Florida and Vandenberg Air Force Base California

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Finding of No Significant Impact.

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 (CEQ) 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 made a Finding of No Significant Impact (FONSI) with respect to the proposed Launch of NASA Routine Payloads on Expendable Launch Vehicles from Cape Canaveral Air Force Station (CCAFS), Florida, and Vandenberg Air Force Base (VAFB), California, during the period 2002 through 2012. Spacecraft that are designated NASA routine payloads would meet the criteria described by a Routine Payload Checklist (RPC) to ensure that the spacecraft, their launch and operations, and their decommissioning would not present any new or substantial environmental and safety concerns. If a candidate mission were to exceed the specific RPC criteria, further environmental review would be required. This FONSI also includes three individual science missions that meet the RPC criteria and are described in the associated Final Environmental Assessment (Final EA): the Comet Nucleus Tour (CONTOUR) mission, which would launch on a Delta II 2425 from CCAFS, Florida, in July 2002, the Mercury Surface Space Environment, Geochemistry, and Ranging (MESSENGER) mission, which would launch on a Delta II 2925H–9.5 from CCAFS in March 2004, and the Deep Impact mission, which would launch on a Delta II 2925 from CCAFS in January 2004.

DATES: This action is effective as of June 18, 2002.

ADDRESSES: The Final EA may be reviewed at the locations listed under the supplementary information in this notice.

FOR FURTHER INFORMATION CONTACT: Mark R. Dahl, Program Executive, NASA Headquarters, Code SM, Washington, DC 20546 or at (202)–358–4800. The Final EA is also available in Acrobat® format at *http://spacescience.nasa.gov/admin/pubs/routine—EA/index.htm.*

SUPPLEMENTARY INFORMATION: NASA initiated a 30-day public review and comment period for the Draft Environmental Assessment for Launch of NASA Routine Payloads on Expendable Launch Vehicles from Cape Canaveral Air Force Station Florida and Vandenberg Air Force Base California (67 FR 11518–11519, March 14, 2002). Comments and responses are compiled in a new Appendix D of, and text changes were incorporated in the Final EA where appropriate. NASA has reviewed the Final EA and has determined that it represents an accurate and adequate analysis of the scope and level of associated environmental impacts. The Final EA is incorporated by reference in this FONSI.

NASA proposes to launch a variety of scientific missions that are designated NASA routine payloads on expendable launch vehicles (ELVs). The spacecraft and their associated launches (i.e., missions) would be considered to be routine if they would present no new or substantial environmental impacts, and their design and characteristics would not exceed the specific criteria described by the RPC. Such missions are referred to as NASA routine payload spacecraft. Once a sufficiently detailed design concept is proposed for a NASA science mission, NASA would evaluate the proposed design against the RPC to determine if the proposed design is within the definition of a routine payload as described in the Final EA. The RPC includes an envelope spacecraft description, which includes flight components, materials and associated quantities, and flight systems representing a comprehensive bounding reference design for routine payload spacecraft. A proposed spacecraft that presents equal or lesser values of potentially hazardous materials or sources in comparison to the envelope spacecraft description may be considered NASA routine payload spacecraft. If the mission were to be defined as a routine payload following an evaluation against the envelope spacecraft description, this finding would be documented by processing a Record of Environmental Consideration (REC) in accordance with NASA's procedures and guidelines, citing this Final EA. If the proposed mission were to be found to be inconsistent with the NASA routine payload categorization, plans would begin for consideration of