

**FEDERAL COMMUNICATIONS
COMMISSION**

[General Docket No. 87-25; FCC 88-340]

**Compulsory Copyright License for
Cable Retransmission****AGENCY:** Federal Communications
Commission.**ACTION:** Notice; report.

SUMMARY: This report analyzes the compulsory license for cable retransmission of television broadcast signals in light of the substantial changes in the cable programming and delivery industries that have occurred since the compulsory license was established in 1976. Drawing on its communications policy expertise, and guided by its longstanding policy goal of encouraging the provision of a rich and diverse menu of video programming to the American public, the Commission concludes that the public interest would be served by the elimination of the compulsory license. The report therefore recommends that Congress abolish the compulsory license for retransmission of distant and local television broadcast signals.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Levy, Office of Plans and Policy; (202) 653-5940.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report in General Docket 87-25, FCC 88-340*, Adopted October 27, 1988 and Released August 3, 1989.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington DC 20037.

Summary of Report

This report evaluates the compulsory license for cable retransmission of television broadcast signals and concludes that the public interest would be served by its repeal. The cable compulsory license was granted by Congress in the Copyright Act of 1976, effective in 1978. The Commission's report recommends that Congress eliminate the compulsory licenses for both distant and local television signals and replace it with full copyright liability.

The recommendation to repeal the

compulsory license is based on two conclusions. First, under full copyright liability, consumers will benefit from a menu of programming, including new programming, that more closely matches their preferences and that is delivered by a more efficiently utilized group of delivery systems. Second, under full liability, mechanisms will be available, with moderate transactions costs, to license programming to cable operators.

The legislative history of the Copyright Act of 1976 suggests that the primary reason for the choice of the compulsory license was Congress' judgment that the transactions costs (costs of negotiating licenses for cable retransmission) would be unacceptably high under full copyright liability. Some observers suggest that Congress was also concerned that broadcasters might withhold their programming from cable, thus depriving cable subscribers of access to broadcast signals that they were unable to receive over the air.

Under the licensing mechanism set up by the 1976 Act, the Commission defines which signals may be obtained under the compulsory license and the Copyright Royalty Tribunal (a federal agency set up by the Act) administers the statutory royalty rates, adjusting them in response to inflation and in the event of changes in certain FCC rules. While the Tribunal tries to stimulate market results in its distributions, this is an impossible goal for an administrative agency. Moreover, the Tribunal is constrained by the statute in the adjustments that it can make.

Ten years of experience with signal distribution pursuant to this program suggests that the resulting divergence between compulsory license rates and market rates diminishes consumer welfare. Market rates, which are free to vary over time and across programs based on varying consumer preferences, provide an important flow of information regarding those preferences and furnish incentives to program producers to match their output closely to consumer demands. The compulsory license impedes this flow, to the detriment of the public interest in diverse and popular programming. Moreover, by providing a program acquisition advantage to one medium—cable—the compulsory license reduces the efficiency of the program distribution mechanism. This too reduces the welfare of consumers, whom the distribution system is designed to serve.

Under full copyright liability, a variety of mechanisms may develop by which cable operators could obtain the rights

to retransmit broadcast signals. In the most likely scenario, individual broadcast stations would act as "retransmission rights packagers," analogous in some respects to cable or broadcast networks. Some stations would acquire national cable retransmission rights; these would most likely be independent television stations. At the local (or regional) level, both independent stations and affiliates could act as retransmission rights packagers, acquiring cable retransmission rights for their local or regional service areas. In either case, the broadcast station would then market the retransmission rights that it had acquired to a group of cable systems, which would be analogous to "affiliates."

The proliferation of full copyright, satellite-delivered cable networks since 1976, and the steps currently being taken by a few superstations to acquire national rights to their programming strongly suggest that this mechanism is workable. Furthermore, the multitude of cable networks and, at the local level, the strongly expressed desire of broadcasters for cable carriage, indicate that today cable systems are unlikely to be foreclosed from access to broadcast programming.

With respect to transactions costs, structural changes in the cable industry over the past 12 years have reduced their burden on a per subscriber basis. Moreover, experience has shown that the transactions costs of the compulsory license system are significant.

In evaluating the compulsory license, the report compares the efficiency of program production and distribution with and without that license in force. This is an inherently difficult task, since it involves analysis of a hypothetical situation, but it is the relevant comparison for public policy purposes. In and of themselves, the health and profitability of the broadcast, cable, or program production industries are not of decisional significance. While the recommendation to eliminate the compulsory license for distant signals in unconditional, the local signal recommendation would have to be reconsidered in the event that new must carry rules are imposed.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 89-18706 Filed 8-9-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Food and Drug Administration

[Docket No. 89C-0304]

Davis and Geck; Filing of Color
Additive PetitionAGENCY: Food and Drug Administration,
HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Davis & Geck has filed a petition proposing that the color additive regulations be amended to provide for the safe use of [phthalocyaninato (2-)]copper to color a nonabsorbable monofilament suture composed of polybutylene terephthalate for general and ophthalmic surgery.

FOR FURTHER INFORMATION CONTACT: Sandra L. Varner, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 706(d)(1), 74 Stat. 402-403 (21 U.S.C. 376(d)(1))), notice is given that a petition (CAP 8C0213) has been filed by Davis & Geck, 1 Casper St., Danbury, CT 06810, proposing that § 74.3045 [Phthalocyaninato(2-)]copper (21 CFR 74.3045) of the color additive regulations be amended to provide for the safe use of [phthalocyaninato(2-)]copper to color a nonabsorbable monofilament suture composed of polybutylene terephthalate for general and ophthalmic surgery.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulations in the *Federal Register* in accordance with 21 CFR 25.40(c).

Dated: August 2, 1989.

Fred R. Shank,
Acting Director, Center for Food Safety and
Applied Nutrition.

[FR Doc. 89-18645 Filed 8-9-89; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Division of Research Resources;
Meetings of the Subcommittees of the
Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the Subcommittees of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health.

These meetings will be open to the public as listed below for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 522b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meetings will be closed to the public as listed below for the review, discussions and evaluation of individual grant applications submitted to the Animal Resource Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Subcommittee: Subcommittee on Primate Research Centers

Date of Meeting: September 15, 1989

Place of Meeting: Hotel El Rancho, 4120 Chiles Road, Davis, California 95616

Open: 10:00 a.m.—Adjournment

Closed: 8:00 a.m.—10:00 a.m.

Name of Subcommittee: Subcommittee on Animal Resources

Dates of Meeting: October 23-24, 1989

Place of Meeting: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 9, Bethesda, MD 20892

Open: October 23—1:00 p.m.—3:00 p.m.

Closed: October 23—8:00 a.m.—12 noon,

October 24—8:00 a.m.—Adjournment
Mr. Michael Fluharty, Public Affairs Specialist, Division of Research Resources, Westwood Building, Room 857, 5333 Westbard Avenue, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Arthur D. Schaerdel, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Westwood Building, Room 10A/18, Bethesda, Maryland 20892, (301) 496-4390, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: August 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-18680 Filed 8-9-89; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research;
Meeting of National Advisory Dental
Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, to be held September 25-26, 1989, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to recess on September 25 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on September 26 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Preston A. Littleton, Executive Secretary, National Advisory Dental Research Council, and Deputy Director, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2039, Bethesda, Maryland 20892, (telephone 301-496-9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior; Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health.)

Dated: August 2, 1989

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-18681 Filed 8-9-89; 8:45 am]

BILLING CODE 4140-01-M

**Division of Research Resources;
Meeting of the National Advisory
Research Resources Council**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), Division of Research Resources (DRR), on September 21-22, 1989, at the National Institutes of Health, Conference Room 10, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on September 21, from 9 a.m. until recess and from 8:30 a.m. until approximately 11 a.m. on September 22, during which time there will be discussions on administrative matters such as previous meeting minutes; the Report of the Acting Director, DRR; and review of budget and legislative updates. Attendance by the public will be space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and sec. 10(d) of Pub. L. 92-463, the meeting will be closed to the public on September 22 from approximately 11 a.m. until adjournment for the review, discussion and evaluation of individual grant applications.

The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Michael Fluharty, Public Affairs Specialist, DRR, Westwood Building, Room 857, National Institutes of Health, Bethesda, Maryland 20892, 301/496-5545, will provide a summary of the meeting and a roster of the Council members upon request. Dr. James F. O'Donnell, Deputy Director, DRR, Westwood Building, Room 8A16, National Institutes of Health, Bethesda, Maryland 20892, 301/496-6023, will furnish substantive program information upon request, and will receive any comments pertaining to this announcement.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, Laboratory Animal Sciences and Primate Research; 13.333, Clinical Research; 13.337, Biomedical Research Support; 13.371, Biomedical Research Technology; 13.375, Minority Biomedical Research Support; 13.389 Research Centers in Minority Institutions, National Institutes of Health.)

Dated: August 2, 1989.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 89-18682 Filed 8-9-89; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plans for Three Texas Plants for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of the draft recovery plans for *Hymenoxys texana* (Texas bitterweed), *Coryphantha ramillosa* (bunched cory cactus), and *Neolloydia mariposensis* (Lloyd's mariposa cactus). The two cactus species occur in west Texas and probably in suitable habitat in northern Mexico, and *Hymenoxys texana* occurs in southeastern Texas. The Service solicits review and comment from the public on these draft plans.

DATE: Comments on the draft recovery plans must be received on or before September 11, 1989 to receive consideration by the Service.

ADDRESSES: Written comments and materials regarding these plans should be addressed to the Field Supervisor, U.S. Fish and Wildlife Service, Ecological Services, c/o CCSU, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412 (512/888-3346 or FTS 529-3346). The plan is available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Philip Clayton, Botanist, or Roy Perez, Field Supervisor, Corpus Christi Ecological Services Field Office (see ADDRESSES).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions

considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan.

The species being considered in these recovery plans are *Hymenoxys texana*, *Coryphantha ramillosa*, and *Neolloydia mariposensis*. The area of emphasis for recovery actions of the cactus species is west Texas (Brewster and Terrell Counties) and for *Hymenoxys texana* is southeast Texas (Fort Bend and Harris Counties). Habitat protection, land acquisition, and development of propagation techniques are major objectives of these recovery plans.

Public Comments Solicited

The Service solicits written comments on the recovery plans described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: August 3, 1989.

Conrad A. Fjotland,

Acting Regional Director.

[FR Doc. 89-18689 Filed 8-9-89; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Collaboration Between Geological Survey and Newmont Exploration, Limited

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that a collaborative effort between the U.S. Geological Survey and Newmont Exploration Limited has been granted to provide personnel and chemical analyses of core from two holes drilled