matter is 'confidential' for purposes of Exemption 4 if disclosure of the information is likely to have either of the following effects: (1) To impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive process.''

Because of the large amount of money LSC distributes and the substantial reliance of many programs on LSC funds for continuation, it is unlikely that the release of the narratives of applicants in response to FOIA requests will impair LSC's ability to receive applications in the future.[6] Therefore, the next step of the analysis is whether the release of this information would ''cause substantial harm to the competitive process.''

In the case of *National Parks and Conservation Ass'n* v. *Kleepe,* 547 F.2d 673 (1973), the U.S. Court of Appeals for the DC Circuit articulated general examples of situations that might constitute ''substantial competitive harm.'' One such example would be a situation in which information disclosed pursuant to FOIA would be useful to a competitor in devising means to improve its competitive position at the expense of the business whose information was being released.[7] The court noted that in this circumstance, such disclosure would reveal that business' secrets without providing it with similar access to the books and records of its competitor.[8] ''This competitive disadvantage is fundamentally unfair and would be likely to cause harm to the (business) basic position.'' [9] The court went on to state that:

''the likelihood of substantial harm to (the applicant's) competitive positions * * * (is) virtually axiomatic * * * (where) disclosure would provide competitors with valuable insights into the operational strengths and weaknesses of (an applicant), while the (competitors) could continue in the customary manner of 'playing their cards close to their chest.' ''[10]

Because LSC only intends to release information provided in the narrative of the applications after grants have been awarded for a given application period, LSC does not believe the release will cause ''substantial competitive harm'' to applicants as defined above in most cases.

Although federal courts have identified the disclosure of various types of documents to constitute ''substantial competitive harm,'' the LSC application narratives which LSC proposes to release do not reach the level of detail and specificity of the kinds of documents for which release has been held to constitute this harm. The documents which have been identified by courts as properly cognizable under the competitive harm prong of the National Parks test include: Detailed financial information such as an organization's assets, liabilities, and net worth; a company's actual costs, break-even calculations, profits and profit rates; data describing an organization's workforce which would reveal labor expenses, profit margins and competitive vulnerability; a company's selling prices, purchase activity and freight charges; a company's purchase records, including prices paid for advertising; technical and commercial data; information constituting the ''bread and butter'' of a manufacturing company; currently unannounced and future products, proprietary technical information, pricing strategy and subcontractor information; raw research data used to support a pharmaceutical drug's safety and effectiveness information regarding an unapproved application to market the drug in a different manner, and sales and distribution data of a drug manufacturer; and technical proposals which are submitted, or could be used, in conjunction with offers on government contracts.[11]

Based on the foregoing analysis, LSC no longer considers it appropriate under FOIA to routinely withhold the information contained in the Proposal Narrative or Application Narrative of LSC competitive grant applications once the grant decisions for a given application period have been made. While, as noted above, LSC will continue to review each request for such documents on a case by case basis and will continue to provide persons and organizations whose applications have been requested the opportunity to seek protection from disclosure some or all of the documents requested, LSC anticipates that it will release this information in most cases.

LSC reserves the right to further amend this policy in the future, as appropriate.

Victor M. Fortuno,

General Counsel and Vice President for Legal Affairs.

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BILLING CODE 7050–01–P

[6] Courts have generally given substantial deference to agency determinations about whether such disclosures would impair the relevant agency's ability to receive applications in the future, noting that (1) Agencies have an incentive not to release information which will impair their ability to receive future applications, and (2) government contracting involves millions of dollars and the release of application information is unlikely to dissuade all potential applicants. *See e.g. Martin Marietta Corp.* v. *Dalton,* 974 F. Supp. 37, 39–40 (D.D.C. 1997); *McDonnell Douglas Corp.* v. *NASA,* 981 F. Supp. 12, 15 (1997); *C.C. Distributors* v. *Kinzinger,* 1995 WL 405445, *4 (D.D.C. 1995); *McDonnell Douglas Corp.* v. *NASA,* 895 F. Supp. 319 (1995); and *Racal-Milgo Gov't Systems, Inc.* v. *Small Business Admin.,* 559 F. Supp. 4, 6 (D.D.C. 1981).

[7] *National Parks and Conservation Ass'n v. Kleepe,* 547 F.2d 673, 678, note 18 (1973).

[8] Id.

[9] Id.

[10] Id. at page 684.

[11] Freedom of Information Act Guide & Privacy Act Overview, U.S. Department of Justice Office of Information and Privacy, May 2000 Edition, pages 208–09.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–081]

National Environmental Policy Act; Mars Exploration Program

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to conduct scoping and to prepare a Tier 1 environmental impact statement for the Mars Exploration Program.

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's policy and procedures (14 CFR part 1216, subpart 1216.3), NASA intends to conduct scoping and to prepare a Tier 1 Environmental Impact Statement (EIS) for the Mars Exploration Program (MEP). NASA proposes a coordinated MEP that would use robotic orbital, surface, and atmospheric missions to gather scientific data on the Martian environment and that would continue planning for a potential return of Martian surface samples to Earth. Included in the program would be U.S. missions, which may or may not include foreign participation, and foreign missions with U.S. participation. The proposed MEP would include missions where the use of radioisotope heater units and radioisotope power systems are contemplated. One or more of the MEP missions may propose returning samples from the surface of Mars or its atmosphere.

The MEP would be a science-driven, technology-enabled effort to characterize and understand Mars, including its environment, climate and geological history, and biological potential. Utilizing an exploration strategy generally known as ''Follow the Water'', scientific and engineering

measurements of Mars would be carried out using robotic assets at Mars. Central among the questions to be addressed is: ''Did life ever arise on Mars?'' Life, as is currently understood, cannot exist without liquid water. Following the water means searching for scientific evidence that liquid water was present persistently in the past or is present today. Science experiments and technology demonstrations that provide critical information for the potential human exploration of Mars would also be incorporated through an integrated planning approach.

The overall strategy of the MEP is to generate a continuous flow of information and discoveries from scientific and exploration robotic spacecraft, including orbiters, landers, mobile laboratories (rovers), and atmospheric probes through a Mars-Earth communications network. It is intended that one or more major U.S. missions would be launched at every Mars launch opportunity (approximately every 26 months) through at least the first two decades of the 21st century. Foreign participants with NASA in the MEP may include, but not necessarily limited to, the Agenzia Spaziale Italiana (ASI, the Italian space agency), the Centre National d'Etudes Spatiales (CNES, the French space agency), the Canadian Space Agency (CSA), and the European Space Agency (ESA). Launches would most likely take place from Cape Canaveral Air Force Station in Florida and, although unlikely, from Vandenberg Air Force Base in California.

DATES: Interested parties are invited to submit comments or environmental concerns in writing on or before September 5, 2003, to assure full consideration during the scoping process.

ADDRESSES: Comments should be addressed to Mr. Mark R. Dahl, NASA Headquarters, Code SM, Washington, DC 20546–0001. While hardcopy comments are preferred, comments may be sent by electronic mail to: *mep.nepa@hq.nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Mark R. Dahl, 202–358–4800 or by electronic mail at *mep.nepa@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION: Consistent with the NASA strategic plan, the MEP has established objectives to address the scientific questions associated with the exploration of the planet. These objectives are: (1) Seek evidence of ancient or present life on Mars, (2) understand the current state and evolution of the atmosphere, surface, and interior of Mars, (3) provide scientific support for the planning of potential human exploration of Mars.

The program would implement a series of scientific investigations and experiments, developed and prioritized by the broad planetary science community, that support the objectives of the program. It would include comprehensive Mars data analysis with the full participation and involvement of the space science community. Due to the program's broad scope and public interest, the MEP would place significant importance on education and public outreach.

As a goal, the program would launch at least one spacecraft at each opportunity, providing robotic assets that would enable a near-continuous data return from Mars. Each orbiter mission would include a communications relay capability designed to operate as part of a Mars-Earth communications network. Each mission would be designed to support the ongoing program by validating technologies and providing data and lessons learned to future missions.

Technology developments and improvements over the course of the program would enable a progressive increase in the science data returned from instruments delivered to Mars orbit and to the surface by program spacecraft, enhance the capability to safely and precisely place payloads at any desired location on the surface, and enable full access to the subsurface, surface and atmospheric regions. Technology improvements would also enable extended (one Mars year (1.88 Earth years) or more duration, as a goal) surface science investigations, and support the development of robotic assets to provide a near-continuous data return from the Mars surface. Extended duration missions to the surface are likely to include radioisotope power systems as a baseline.

The MEP missions currently contemplated for launch by 2010 are described below. As new information and techniques become available during the course of the program, the timing, focus and objectives of subsequent MEP missions could be redirected.

- The Mars Exploration Rover (MER) project will launch two identical spacecraft to Mars in 2003. The purpose of this project is to place two rovers on the surface of Mars to remotely conduct geological investigations and characterize a diversity of rocks and soils which may hold clues to past water activity. Because planning for this project began prior to final definition of the MEP, potential environmental impacts of the MER–2003 project have already been discussed in separate NEPA documentation. NASA published a notice of intent to prepare an EIS and to conduct scoping for the MER–2003 project in the **Federal Register** (FR) (66 FR 11184, February 22, 2001). A Draft EIS for the MER–2003 project was made available for public review and comment (67 FR 48894, July 26, 2002), and NASA published its Final EIS (67 FR 75863, December 10, 2002).
- The Mars Reconnaissance Orbiter (MRO) mission will be launched in 2005 to investigate global atmospheric transport processes, conduct globally distributed observations of aqueous sediments and hydrological process indicators, and collect high-resolution imagery of the surface of Mars. ASI is contributing a ground penetrating radar science instrument to MRO. No radioisotope heater units or radioisotope power systems are proposed for this mission. NASA has designated MRO as a routine payload in accordance with the Environmental Assessment (EA) for Launch of NASA Routine Payloads and Finding of No Significant Impact (FONSI) published by NASA (67 FR 41525, June 18, 2002).
- In 2007, the program would launch a continuing series of competitively selected small missions, called Scouts, which could allow the science community to design investigations that augment the objectives of the MEP from new vantage points (*e.g.*, airborne platforms, rovers, networks of landers). The Scout missions currently remaining in competition for the 2007 opportunity have not proposed the use of radioisotope heater units or radioisotope power systems.
- In 2009, the program would launch the Mars Science Laboratory (MSL), which could conduct multi-disciplinary investigations related to biology, climatology, geology, and geochemistry. The MSL could utilize a radioisotope power system to provide continuous electrical power for mobility and extended duration. A separate Tier 2 environmental document for the MSL mission may be prepared. Also in 2009, the program would launch a telecommunications orbiter (Telesat) to provide science data relay capability for multiple Mars missions. No radioisotope heater units or radioisotope power systems are proposed for the Telesat mission.

Missions to Mars in the following decade would be dependant upon the knowledge gained and the discoveries of this decade. NASA, working with the science community, has developed potential paths of scientific inquiry (called pathways) into the next decade.

The pathways include both orbital and landed missions designed to examine the global diversity of the planet, or designed to focus on exploration of surface and shallow subsurface polar ices and sediments, including the return of samples from the surface of Mars. The decision to follow a particular science pathway would be driven by the importance of prior discoveries in the MEP.

NASA plans to address the environmental impacts of the MEP through a two-tiered NEPA process. The Tier 1 EIS will discuss the overall purpose and need for the MEP. Because this Tier 1 EIS is being prepared during the planning stages for the MEP, specific proposed projects and missions within the MEP would only be addressed in terms of a broad, conceptual framework. Those missions within the MEP that do not propose the use of radioisotope heater units or radioisotope power systems would be candidate missions for routine payload designation under the EA and FONSI published by NASA (67 FR 41525, June 18, 2002). Those missions proposed within the MEP that could utilize radioisotope heater units or radioisotope power systems and those missions involving return of Martian samples to Earth would be the subject of separate Tier 2 environmental documentation, using the best available information and analysis directly related to that mission. While detailed analyses and test data for each spacecraft-launch vehicle combination is not yet available, significant safety data and experience from previous programs are available to NASA to enable consideration of whether to continue planning for the use of radioisotope heater units and radioisotope power systems for these proposed missions.

Alternatives to be considered in the Tier 1 EIS will include, but will not necessarily be limited to:

- The proposed MEP, which would include orbital and landed missions, some of which may utilize radioisotopes for heat and power, and may return Martian samples to Earth; and
- The No Action Alternative, by which NASA would not implement a coordinated MEP, but would continue to explore Mars on a less comprehensive, mission-by-mission basis.

The Tier 1 EIS will address the purpose and need for the proposed MEP and the program-level environmental impacts associated with its implementation. The environmental impacts of this program are anticipated to be those associated with the normal launch of the missions, both individually and cumulatively.

Written public input and comments on alternatives, environmental impact issues, and environmental concerns associated with the Mars Exploration Program are hereby requested.

Jeffrey E. Sutton,

Assistant Administrator for Management Systems.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request approval of a one-time information collection, a survey of small business records centers. The survey information will be used by the NARA policy and technical staff who are conducting a review of our regulation on records center facility standards (36 CFR part 1228, subpart K). The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before September 22, 2003 to be assured of consideration.

ADDRESSES: Comments should be sent to: Regulation Comment Desk (NPOL), Room 4100, National Archives and Records Administration, 8601 Adelphi Rd. College Park, MD 20740–6001; or faxed to 301–837–0319; or electronically mailed to *comments@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Nancy Allard at telephone number 301–837–1477, or fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology. In commenting on the accuracy of NARA's estimate of the burden, we also request your comments on the average hourly salary cost for the individuals who would complete the survey. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

In this notice, NARA is soliciting comments concerning the following information collection:

Title: Records Storage Facility Survey.

OMB number: New.

Agency form number: None.

Type of review: Regular.

Affected public: Owners/operators of commercial records storage facilities that are small businesses.

Estimated number of respondents: 263.

Estimated time per response: 15 minutes.

Frequency of response: One-time.

Estimated total annual burden hours: 66 hours.

Abstract: The information collection is a survey of the characteristics of records storage facilities operated by small businesses. Respondents will be a random sample of owners/operators of such facilities. The survey information will be used by the NARA policy and technical staff to evaluate the construction materials, fire protection measures, and storage practices common in small business records centers against the existing standards in the NARA regulation on records center facility standards (36 CFR part 1228, subpart K). The information will be used in a regulatory flexibility analysis of possible alternatives to the existing standards and assessment of the ability of small business to comply with those alternatives.

Dated: July 16, 2003.

Nancy Y. Allard,

NARA Federal Register Liaison.

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