

may determine whether a substantial new question of patentability is raised by patents and publication discovered by him. * * *"); see also MPEP § 2244 ("If the examiner believes that additional prior art patents and publications can be readily obtained by searching to supply any deficiencies in the prior art cited in the request, the examiner can perform such an additional search.").

9. See *Portola Packaging, Inc.*, 110 F.3d at 790, 42 USPQ2d at 1299 (examiner presumed to have done his job). There may be unusual fact patterns and evidence which suggests that the PTO did not consider the prior art that was discussed in the prior PTO proceeding. These cases should be brought to the attention of the Group Director. For a discussion of the treatment of such cases, see section E above.

10. If not specified, a reexamination generally includes all claims. However, reexamination may be limited to specific claims. See 35 U.S.C. 304 (authorizing the power to grant reexamination for determination of a "substantial new question of patentability affecting any claim of a patent.") (emphasis added). Thus, the Commissioner may order reexamination confined to specific claims. However, reexamination is not necessarily limited to those questions set forth in the reexamination order. See 37 CFR 1.104(a) ("The examination shall be complete with respect both to compliance of the application or patent under reexamination with the applicable statutes and rules and to the patentability of the invention as claimed. * * *").

11. The Commissioner may conduct a search for new art prior to determining whether a substantial new question of patentability exists prior to terminating any ongoing reexamination proceeding. See 35 U.S.C. 303. See also 35 U.S.C. 305 (indicating that "reexamination will be conducted according to the procedures established for initial examination," thereby suggesting that the Commissioner may conduct a search during an ongoing reexamination proceeding).

12. See 62 FR 53,151, 53,191 (October 10, 1997) (to be codified at 37 CFR § 1.104(c)(2)).

13. The file history of the prior PTO proceeding should indicate which portion of the textbook was previously considered. See 37 CFR 1.98(a)(2)(ii) (an information disclosure statement must include a copy of each "publication or that portion which caused it to be listed") (emphasis added).

14. However, a reexamination request that merely provides a new interpretation of a reference already previously expressly relied upon or actually discussed by the PTO does not create a substantial new question of patentability.

15. For example, the examiner may have not believed that the reference qualified as prior art because: (i) the reference was undated; (ii) the applicant submitted a declaration believed to be sufficient to antedate the reference under 37 CFR 1.131; or (iii) the examiner attributed an incorrect filing date to the claimed invention.

16. For example, the request could: (i) verify the date of the reference; (ii) undermine the sufficiency of the section 131

declaration; or (iii) explain the correct filing date accorded a claim.

17. For purposes of reexamination, a cumulative reference that is repetitive is one that substantially reiterates verbatim the teachings of a reference that was either previously expressly relied upon or discussed in a prior PTO proceeding even though the title or the citation of the reference may be different.

Dated: June 9, 1998.

Bruce A. Lehman,

*Assistant Secretary of Commerce and
Commissioner of Patents and Trademarks.*

[FR Doc. 98-15778 Filed 6-12-98; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review;
comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 15, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

FOR FURTHER INFORMATION CONTACT:

Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public

participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: June 10, 1998.

Hazel Fiers,

*Acting Deputy Chief Information Officer,
Office of the Chief Information Officer.*

Office of the Under Secretary

Type of Review: New.

Title: Follow-up Study of State Implementation of Federal Elementary and Secondary Education Programs.

Frequency: One time.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 459.

Burden Hours: 459.

Abstract: The Department of Education is charged with evaluating Title I of the Elementary and Secondary Education Act (ESEA) and other elementary and secondary education legislation enacted by the 103rd Congress. These surveys will collect information on the operations and effects at the state level of legislative provisions and federal assistance, in the context of state education reform efforts. Findings will be used in reporting to Congress and improving information dissemination. Respondents are managers in nine programs in all 50 state education agencies.

Office of the Under Secretary

Type of Review: New.

Title: 1998 Study of America Reads Challenge: READ*WRITE*NOW! (ARC:RWN) Summer Sites.

Frequency: On Occasion.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 65.

Burden Hours: 65.

Abstract: The Department of Education will use this data collection to generate information that describes ARC:RWN pilot sites providing summer and year-round community literacy programs. The information, collected from up to 65 project coordinators, will be used by Department Officials to inform ARC reauthorization and proposed RWN legislation, and by ARC:RWN project coordinators and other community reading initiatives to design new projects.

[FR Doc. 98-15848 Filed 6-12-98; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Office of Energy Research

Energy Research Financial Assistance Program Notice 98-19: Human Genome Program—Ethical, Legal, and Social Implications

AGENCY: Department of Energy.

ACTION: Notice inviting grant applications.

SUMMARY: The Office of Biological and Environmental Research (OBER) of the Office of Energy Research (ER), U.S. Department of Energy (DOE), hereby announces its interest in receiving applications in support of the Ethical, Legal, and Social Implications (ELSI) subprogram of the Human Genome Program (HGP). The HGP is a coordinated, multidisciplinary, directed research effort aimed at obtaining a detailed understanding of the human genome at the molecular level. This particular research notice invites research grants that address ethical, legal, and social implications from the use of information and knowledge resulting from the HGP.

DATES: Potential applicants are strongly encouraged to submit a brief preapplication. All preapplications, referencing Program Notice 98-19, should be received by 4:30 p.m., E.D.T., July 30, 1998. Early submissions are encouraged. A response discussing the potential program relevance and encouraging or discouraging a formal application generally will be communicated within 20 days of receipt.

Formal applications submitted in response to this notice must be received by 4:30 p.m., E.D.T., September 17, 1998, to be accepted for merit review in November and to permit timely consideration for award in Fiscal Year 1999.

ADDRESSES: Preapplications, referencing Program Notice 98-19, should be sent to: Dr. Daniel W. Drell, Office of Biological and Environmental Research, ER-72, 19901 Germantown Road, Germantown, MD 20874-1290.

Formal applications, referencing Program Notice 98-19, should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER-64, 19901 Germantown Road, Germantown, MD 20874-1290, ATTN: Program Notice 98-19. This address also must be used when submitting applications by U.S. Postal Service Express Mail, or any commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel W. Drell, Office of Biological and Environmental Research, ER-72, Office of Energy Research, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874-1290, telephone: (301) 903-6488 or E-mail: daniel.drell@oer.doe.gov. The full text of Program Notice 98-19 is available via the Internet using the following web site address: <http://www.er.doe.gov/production/grants/grants.html>.

SUPPLEMENTARY INFORMATION: The DOE encourages the submission of applications that will address, analyze, or anticipate ELSI issues associated with human genome research. The DOE particularly encourages research in four broad areas:

I. The uses, impacts, implications of, and privacy of genetic information in the workplace, particularly screening and monitoring programs that involve the collection and evaluation of genetic information, and the use of the workplace as a research venue. Research is encouraged that would explore historical experiences, current practices, and lessons learned as they pertain to the collection and use of worker genetic information. This research can include issues arising from the creation, use, maintenance, privacy and disclosure of genetic information obtained in workplace settings that can include, but is not limited to, workplaces at which DOE activities are taking place or have in the past.

II. Access to, and protection of, genetic information particularly information stored in computerized databases, or obtained from stored human tissue or sample archives. Research is encouraged to explore confidentiality of genetic data in databanks and databases, the anonymization of genetic records and samples, and the intellectual property

protection of genetic information and genome research tools, technologies, and resources.

III. The preparation and dissemination of relevant educational materials in any appropriate medium that will enhance understanding of the ethical, legal, and social aspects of the HGP among the public or specified groups. An interest of this notice is the education of Institutional Review Boards (IRB) that review protocols involving the gathering of genetic information and genome investigators who work with human subjects or materials from which genetic information can be obtained. Additional groups of interest could include judges, the media, policy makers, and DOE employees and contractors.

IV. The ethical, legal, and societal implications of advances in the scientific understanding of complex or multi-genic characteristics and conditions, gene-environment interactions that result in diseases or disease susceptibilities, and human polymorphisms. In particular, the DOE is interested in studies identifying the responses of institutions (e.g., courts, employers, companies, schools, etc.) that must deal with "genetic uncertainty," e.g., lack of certainty of the results of screening for susceptibility genes, uncertain consequences of yet-undefined environmental influences, and highly polymorphic genes whose numerous alleles are not fully characterized.

All applications should demonstrate knowledge of the relevant literature, any related completed activities, and should include detailed plans for the gathering and analysis of factual information and the associated ethical, legal, and social implications. All applications should include, where appropriate, detailed discussion of human subjects protection issues, e.g., storage of, manipulation of, and access to data. Provisions to ensure the inclusion of women, minorities, and potentially disabled individuals must be described, unless specific exclusions are scientifically necessary and justified in detail. All proposed research applications should address the issue of efficient dissemination of results to the widest appropriate audience as well as a time line for their production and dissemination. In the absence of tangible products, rigorous assessments must be included to facilitate evaluation of progress. All applications should include letters of agreement to collaborate from potential collaborators; these letters should specify the contributions the collaborators intend to make if the application is accepted and funded. If an educational effort for a