Dated: February 13, 1995.

Dennis Grams,

Regional Administrator.

[FR Doc. 95–5517 Filed 3–6–95; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 261, 271 and 302

[SWH–FRL–5167–3]

RIN 2050–AD80

Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed listing determination on a number of wastes generated during the production of dyes and pigments, which appeared in the Federal Register on December 22, 1994 (see 59 FR 66072–114). The public comment period for this proposed rule was to end on March 22, 1995. The purpose of this notice is to extend the comment period an additional 120 days beyond that, to end on July 19, 1995. This extension of the comment period is provided to allow commenters an opportunity to comment further on the proposal.

DATES: EPA will accept public comments on this proposed listing determination until July 19, 1995. Comments postmarked listing determination until July 19, 1995. Comments postmarked after the close of the comment period will be stamped ''late.''

ADDRESSES: The public must send an original and two copies of their comments to EPA RCRA Docket Number F–94–DPLP–FFFFF, Room 2616, U.S. EPA, 401 M Street SW., Washington, DC. The docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, please contact Wanda Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7458.

SUPPLEMENTARY INFORMATION: This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the production of dyes and pigments because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 59 FR 66072–114 (December 22, 1994) for a more detailed explanation of the proposed rule.

These proposed hazardous waste listings were based in part upon data claimed as confidential by certain dye and pigment manufacturers. Although EPA intends to publish these data or information derived from these data claimed as confidential (to the extent relevant to the proposed listing), the Agency is unable to do so at the present time. EPA is pursuing avenues to allow publication of the information, and intends to supplement the public record prior to issuance of a final listing. EPA is extending the comment period to provide sufficient time for the public to comment if and when additional data are published.

Dated: February 27, 1995.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 95–5525 Filed 3–6–95; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 261, 271, and 302

[SWH–FRL–5167–2]

RIN 2050–AD80

Postponement of Public Hearing on the Proposed Identification and Listing of Hazardous Waste/Dye and Pigment Industries

AGENCY: Environmental Protection Agency.

ACTION: Notice of postponement of public hearing.

SUMMARY: On December 22, 1994 (see 59 *FR* 66072–114), the U.S. Environmental Protection Agency (EPA or Agency) proposed to list as hazardous five wastes generated during the production of dyes and pigments, proposed not to list six other wastes from these industries, and proposed to defer action on three wastes due to insufficient information. At the request of the parties originally seeking a public hearing concerning this proposal, the Agency is announcing the postponement of the public hearing, previously scheduled to be held on March 15, 1995, in Washington, DC.

DATES: The public hearing has not been rescheduled.

ADDRESSES: The RCRA regulatory docket that contains the record for this proposed listing determination on wastes from the production of dyes and pigments is located at Room 2616, U.S. EPA, 401 M Street SW., Washington, DC. the docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (202) 260–9327.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this notice, please contact Wanda Levine, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260–7458.

SUPPLEMENTARY INFORMATION: Since publication of this proposed rule, the Agency had received requests for a public hearing from the trade association representing the pigments industry, the Color Pigments Manufacturers Association (CPMA); and the trade association representing the dyes industry, the Ecological and Toxicological Association of Dyes and Organic Pigments Manufacturers (ETAD). After the announcement of the public hearing in the Wednesday, February 8, 1995 Federal Register (see 60 *FR* 7513–4), both associations requested that it be postponed pending resolution of several outstanding issues. In response to these requests, EPA has decided to postpone the public hearing. EPA may reschedule the public hearing in the future, and will provide further notice at that time.

Dated: March 1, 1995.

Michael H. Shapiro, Director,

Office of Solid Waste.

[FR Doc. 95–5515 Filed 3–6–95; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 65a

RIN 0905–AD46

National Institute of Environmental Health Sciences Hazardous Substances Basic Research and Training Grants

AGENCY: National Institutes of Health, Public Health Service, Department of Health and Human Services.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Institutes of Health (NIH) proposes to issue new regulations to govern grants for research

and training awarded by the National Institute of Environmental Health Sciences (NIEHS) for the purpose of understanding, assessing, and attenuating the adverse effect on human health of exposure to hazardous substances. The grants are authorized by section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as added by section 209 of the Superfund Amendments and Reauthorization Act of 1986.

DATES: Comments must be received on or before May 8, 1995. The final rule would become effective on April 6, 1995.

ADDRESSES: Comments should be sent to Mr. Jerry Moore, NIH Regulatory Affairs Officer, National Institutes of Health, Building 31, Room 3B11, 9000 Rockville Pike, Bethesda, Maryland 20892.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Moore at the address above, or telephone (301) 496–4606 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Section 311(a) of CERCLA, enacted on October 17, 1986, authorizes the Secretary of the Department of Health and Human Services, acting through the Director of the National Institute of Environmental Health Sciences (NIEHS) and, in consultation with the Administrator of the Environmental Protection Agency, to administer a program of grants for basic research and training directed towards understanding, assessing, and attenuating the adverse effects on human health resulting from exposure to hazardous substances. Grants made under this program are for coordinated, multi-component, interdisciplinary projects linking biomedical research with related engineering, hydrologic, and ecologic research, and concomitant training. NIH published a full description of the program in the Federal Register on November 21, 1986 (51 FR 43089), and invited the public to attend an open meeting on the program which was held on December 19, 1986. Subsequently, NIH announced its intention to issue regulations to implement this program in the Unified Agenda of Federal Regulations published in the Federal Register on October 21, 1991 (56 FR 53327).

Further, PHS strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

The purpose of this notice is to invite public comment on the proposed regulations.

The following statements are provided as information for the public.

Regulatory Impact Statement

Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, requires the Department to prepare an analysis for any rule that meets one of the E. O. 12866 criteria for a significant regulatory action; that is, that may—

Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal, governments or communities;

Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

In addition, the Department prepares a regulatory flexibility analysis, in accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. chapter 6), if the rule is expected to have a significant impact on a substantial number of small entities.

For the reasons outlined below, we do not believe this proposed rule is economically significant nor do we believe that it will have a significant impact on a substantial number of small entities. In addition, this proposed rule is not inconsistent with the actions of any other agency.

This proposed rule merely codifies internal policies and procedures of the Federal government currently used by NIH to administer the NIEHS Hazardous Substances Basic Research and Training Grants Program. The grants do not have a significant economic or policy impact on a broad cross-section of the public. Furthermore, this proposed rule would only affect those qualified public and private non-profit institutions of higher education; generators of hazardous waste; persons involved in the detection, assessment, evaluation, and treatment of hazardous substances; owners and operators of facilities at which hazardous substances are located; and State and local governments interested in participating in the program. No individual or institution is obligated to participate in the grant program.

For these same reasons, the Secretary certifies this proposed rule will not have a significant economic impact on a substantial number of small entities, and that a Regulatory Flexibility Analysis, as defined under the Regulatory Flexibility Act of 1980, is not required.

Paperwork Reduction Act

The proposed rule does not contain information collection requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) numbered program affected by this proposed rule is: 93.143.

List of Subjects in 42 CFR Part 65a

Grant programs—health, Health, Medical research, Hazardous substances.

Dated: October 28, 1994.

Philip R. Lee,

Assistant Secretary for Health.

Approved: February 28, 1995.

Donna E. Shalala,

Secretary.

For reasons set forth in the preamble, we propose amending title 42 of the Code of Federal Regulations by adding a new part 65a as follows.

PART 65a—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES HAZARDOUS SUBSTANCES BASIC RESEARCH AND TRAINING GRANTS

Sec.
65a.1 To what programs do these regulations apply?
65a.2 Definitions.
65a.3 Who is eligible to apply for a grant?
65a.4 What are the program requirements?
65a.5 How to apply.
65a.6 How will applications be evaluated?
65a.7 Awards.
65a.8 How long does grant support last?
65a.9 What are the terms and conditions of awards?
65a.10 For what purposes may grant funds be spent?
65a.11 Other HHS policies and regulations that apply.

Authority: 42 U.S.C. 216, 9660(a).

§ 65a.1 To what programs do these regulations apply?

(a) The regulations of this part apply to the award of grants to support programs for basic research and training directed towards understanding, assessing, and attenuating the adverse effects on human health resulting from exposure to hazardous substances, as authorized under section 311(a) of the

Act (42 U.S.C. 9660(a)). The purpose of these programs is to carry out coordinated, multicomponent, interdisciplinary research consisting of at least three or more biomedical research projects relating to hazardous substances and at least one non-biomedical research project in the fields of ecology, hydrogeology, and/or engineering, and including the training of investigators as part of the grantee's overall program.

(b) These regulations also apply to cooperative agreements awarded to support the programs specified in paragraph (a) of this section. References to ''grant(s)'' shall include ''cooperative agreement(s).''

(c) The regulations of this part do not apply to:

(1) Research training support under the National Research Services Awards Program (see part 66 of this chapter),

(2) Research training support under the NIH Center Grant programs (see part 52a of this chapter),

(3) Research training support under traineeship programs (see parts 63 and 64a of this chapter), or

(4) Research training support under the NIH AIDS Research Loan Repayment Program authorized under section 487A of the Public Health Service Act, as amended (42 U.S.C. 288–1).

§ 65a.2 Definitions.

As used in this part:

Act means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9601 et seq.).

Award or *grant* means a grant awarded under section 311(a) of the Act (42 U.S.C. 9660(a)).

Director means the Director of the National Institute of Environmental Health Sciences, or the Director's delegate.

HHS means the Department of Health and Human Services.

Institution of higher education means an educational institution in any State which:

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate,

(2) Is legally authorized within such State to provide a program of education beyond secondary education,

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree,

(4) Is a public or other nonprofit institution, and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited,

(i) Is an institution with respect to which the Secretary of Education has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or

(ii) Is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

(6) The term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (1), (2), (4), and (5) of this definition.

(7) The term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in paragraph (1) of this definition, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who meet the requirements of section 1091(d) of Title 20 U.S. Code.

(8) For purposes of this definition, the Secretary of Education shall publish a list of nationally recognized accrediting agencies or associations which that official determines to be reliable authority as to the quality of training offered.

NIEHS means the National Institute of Environmental Health Sciences, an organizational component of the National Institutes of Health, as authorized under sections 401(b) and 463 of the Public Health Service Act, as amended (42 U.S.C. 281(b)(1)(L) and 285*l*).

NIH means the National Institutes of Health.

Nonprofit, as applied to any agency, organization, institution, or other entity, means a corporation or association no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual.

PHS means the Public Health Service.

Program means the activity to carry out research and training supported by a grant under this part.

Program director means the single individual designated by the grantee in the grant application and approved by the Director, who is responsible for the scientific and technical direction of the research component and the conduct of the training component under a program.

Project period means the period of time, from one to five years, specified in the notice of grant award that NIEHS intends to support a proposed program without requiring the program awardee to recompete for funds.

§ 65a.3 Who is eligible to apply for a grant?

(a) Public and private nonprofit institutions of higher education may apply for awards under this part.

(b) Awardee institutions may carry out portions of the research or training components of an award through contracts with appropriate organizations, including:

(1) Generators of hazardous wastes;

(2) Persons involved in the detection, assessment, evaluation, and treatment of hazardous substances;

(3) Owners and operators of facilities at which hazardous substances are located; and

(4) State and local governments.

§ 65a.4 What are the program requirements?

The applicant shall include the following in its proposed program for which support is requested under this part.

(a) *Basic research component.* The program shall include three or more meritorious biomedical research projects, including epidemiologic studies relating to the study of the adverse effects of hazardous substances on human health, and at least one meritorious project involving hydrogeologic or ecologic research which shall cumulatively address:

(1) Methods and technologies to detect hazardous substances in the environment,

(2) Advanced techniques for the detection, assessment, and evaluation of the effects of these substances on human health,

(3) Methods to assess the risks to human health presented by these substances, and

(4) Basic biological, chemical, and/or physical methods to reduce the amount and toxicity of these substances.

(b) *Training component.* The program shall include training, as part of or in conjunction with the basic research component:

(1) Graduate training in environmental and occupational health and safety and in public health and engineering aspects of hazardous waste control, and/or

(2) Graduate training in the geosciences, including hydrogeology, geological engineering, geophysics, geochemistry, and related fields, necessary to meet professional personnel needs in the public and private sectors and to carry out the purposes of the Act, and

(3) Worker training relating to handling hazardous substances, which includes short courses and continuing education for State and local health and environment agency personnel and other personnel engaged in the handling of hazardous substances, in the management of facilities at which hazardous substances are located, and in the evaluation of the hazards to human health presented by these facilities.

§ 65a.5 How to apply.

Each institution desiring a grant under this part shall submit an application at such time and in such form and manner as the Secretary may prescribe.

§ 65a.6 How will applications be evaluated?

The Director shall evaluate applications through the officers and employees, and experts and consultants engaged by the Director for that purpose, including review by the National Advisory Environmental Health Sciences Council in accordance with peer review requirements set forth in part 52h of this chapter. The Director's first level of evaluation will be for technical merit and shall take into account, among other pertinent factors, the significance of the program, the qualifications and competency of the program director and proposed staff, the adequacy of the applicant's resources available for the program, and the amount of grant funds necessary for completion of its objectives. A second level of review will be conducted by the National Advisory Environmental Health Sciences Council.

§ 65a.7 Awards.

Criteria. Within the limits of available funds, the Director may award grants to carry out those programs which:

(a) Are determined by the Director to be meritorious; and

(b) In the judgment of the Director, best promote the purposes of the grant program, as authorized under section 311(a) of the Act and the regulations of this part, and best address program priorities.

§ 65a.8 How long does grant support last?

(a) The notice of grant award specifies how long NIEHS intends to support the project without requiring the project to recompete for funds. This period, called the project period, may be for 1–5 years.

(b) Generally, the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application at such time and in such form and manner as the Secretary may prescribe to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require determination by the Director that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant commits or obligates the Federal Government in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application.

(d) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward to the next budget period, for use as prescribed by the Director, provided a continuation award is made. If at any time during a budget period it becomes apparent to the Director that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for that period, the Director may adjust the amounts awarded by withdrawing the excess.

§ 65a.9 What are the terms and conditions of awards?

In addition to being subject to other applicable regulations (see § 65a.11 of this part), grants awarded under this part are subject to the following terms and conditions:

(a) *Material changes.* The grantee may not materially change the quality, nature, scope, or duration of the program unless the approval of the Director is obtained prior to the change.

(b) *Additional conditions.* The Director may impose additional conditions prior to the award of any grant under this part if it is determined by the Director that the conditions are necessary to carry out the purpose of the grant or assure or protect advancement of the approved program, the interests of the public health, or the conservation of grant funds.

§ 65a.10 For what purposes may grant funds be spent?

A grantee shall expend funds it receives under this part solely in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, and the applicable cost principles in 45 CFR 74.27.

§ 65a.11 Other HHS policies and regulations that apply.

Several other HHS policies and regulations apply to awards under this part. These include but are not necessarily limited to:

42 CFR part 50, subpart A—Responsibility of PHS awardee and applicant institutions for dealing with and reporting possible misconduct in science

42 CFR part 50, subpart D—Public Health Service grant appeals procedure

42 CFR part 52h—Scientific Peer Review of Research Grant Applications and Research and Development Contract Projects

45 CFR part 16—Procedures of the Departmental Grant Appeals Board

45 CFR part 46—Protection of human subjects

45 CFR part 74—Administration of grants

45 CFR part 75—Informal grant appeals procedures

45 CFR part 76—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants)

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 81—Practice and procedure for hearings under part 80 of this title

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

45 CFR part 92—Uniform administrative requirements for grants and cooperative agreements to State and local governments

45 CFR part 93—New restrictions on lobbying 51 FR 16958 (May 7, 1986)—NIH Guidelines for Research Involving Recombinant DNA Molecules

''Public Health Service Policy on Humane Care and Use of Laboratory Animals,'' Office for Protection from Research Risks, NIH (Revised September 1986) 59 FR 14508 (as republished March 28, 1994)—NIH Guidelines on the Inclusion of Women and Minorities as Subjects in Clinical Research

[FR Doc. 95–5433 Filed 3–6–95; 8:45 am]

BILLING CODE 4140–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 95–20; FCC 95–48]

Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: On October 18, 1994, the United States Court of Appeals for the Ninth Circuit remanded in part the Commission's *BOC Safeguards Order* in the *Computer III* proceedings, which had established procedures for the Bell Operating Companies (BOCs) to offer enhanced services on a structurally integrated basis. This Notice of Proposed Rulemaking responds to the court decision. The Notice reviews the nonstructural safeguards that have been implemented under the *Computer III* framework, and asks parties to comment on the specific issue remanded by the court, as well as on the broader question of whether structural separation should be reimposed for some or all BOC enhanced services.

DATES: Comments must be filed on or before April 7, 1995, and reply comments must be filed on or before April 28, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rose Crellin at (202) 418–1571 or Kevin Werbach at (202) 418–1597, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, FCC 95–48, adopted February 7, 1995 and released February 21, 1995. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

1. In the *Computer III* proceeding, beginning with the *Phase I Order* (51 FR 24350 (July 3, 1986)), the Commission concluded that the Bell Operating Companies (BOCs) should be permitted to offer enhanced services without establishing structurally separate subsidiaries. Enhanced services use the existing telephone network to deliver services—such as voice mail, E-Mail, and gateways to on-line databases—beyond a basic transmission offering. Under structural separation requirements, the BOCs had to form subsidiary companies, with separate personnel, facilities, and equipment, to offer these services. The need for safeguards on BOC provision of enhanced services arises from the fact that competing enhanced service providers generally must depend on the BOC networks to transport their services to customers. The Commission has identified two primary forms of anticompetitive conduct that may arise from BOC involvement in the enhanced services marketplace: (1) Improper cross-subsidization, in which the BOCs undercut competing enhanced service providers (ESPs) by shifting costs from their enhanced services to their regulated basic services; and (2) access discrimination, in which BOCs provide competing ESPs with inferior interconnection and access to network services that these companies need for their enhanced services.

2. In *Computer III*, the Commission determined that the benefits of lifting structural separation requirements—in terms of increased availability of enhanced services—outweighed the risks of anticompetitive conduct by the BOCs, and that a regime of nonstructural safeguards could provide adequate protection against cross-subsidization and access discrimination. The Commission established a two-step process in *Computer III* for lifting structural separation restrictions. Initially, BOCs were permitted to offer individual enhanced services on a structurally integrated basis once they had received FCC approval of service-specific Comparably Efficient Interconnection (CEI) plans. Those plans were required to detail how the BOCs would make the underlying network services used by their own enhanced service offerings available to competing ESPs on an equal access basis. In the second stage of *Computer III*, BOCs were required to develop Open Network Architecture (ONA) plans detailing how they would unbundle and make available basic network services, and describing how they would comply with other nonstructural safeguards. Upon FCC approval of the initial BOC ONA plans, the remaining structural separation requirements were to be lifted. Following a remand from the Court of Appeals for the Ninth Circuit, the Commission strengthened and reaffirmed its regime of nonstructural safeguards in the 1991 *BOC Safeguards Order* (57 FR 4373 (February 5, 1992)). Between 1992 and 1993, the Common Carrier Bureau granted full structural relief to the BOCs upon a showing that they had complied with the requirements of the *BOC Safeguards Order*, and those decisions were subsequently ratified by the Commission.

3. In October, 1994, the United States Court of Appeals for the Ninth Circuit partially remanded the *BOC Safeguards Order*. The court concluded that the Commission had scaled back its conception of ONA from the original vision in *Computer III*, and had not explained how the more limited version of ONA represented in the approved BOC ONA plans provided sufficient protection against BOC access discrimination. On this basis, the court held that the FCC's cost benefit analysis for fully lifting structural separation restrictions was flawed. On January 11, 1995, the Common Carrier Bureau clarified the requirements for BOC provision of enhanced services after the Ninth Circuit decision, and granted the BOCs interim waivers to offer new services, subject to certain restrictions and filing requirements, during the pendancy of remand proceedings.

4. In this Notice of Proposed Rulemaking, the Commission has initiated a proceeding to reexamine its *Computer III* rules in light of the most recent Ninth Circuit remand. The Commission noted that the partial vacation of the *BOC Safeguards Order* generally reinstates the *Computer III* service-by-service CEI plan regime, subject to the modification spelled out in the Common Carrier Bureau's waiver order. The Commission concluded that the Ninth Circuit had remanded the specific issue of whether the existing nonstructural safeguards including the level of network unbundling under ONA, are sufficient to justify fully lifting structural separation requirements.

5. The Notice of Proposed Rulemaking reviewed the various nonstructural