

elsewhere in the DEA Salaries Budget (and thus not fee-funded). Specific examples listed in the notice include "support provided by the Attorneys in DEA's office of Chief Counsel Diversion Regulatory Section; certain laboratory service support; DEA Automated Data Processing Systems support (except the Automation of Reports and Consolidated Orders System (ARCOS) and the Controlled Substances Act (CSA) database); Office of Training staff; DEA Management and Administrative Support; Office of Congressional and Public Affairs; Intelligence Support and Diversion Investigators assigned overseas" (61 FR 68631).

In its August 2002 Final Rule published in the **Federal Register**, DEA reviewed the history and statutory authority of fee-fundable activities in detail and further described what activities would be fee-funded via the DDCFA. These activities include: Scheduling, registration, investigation, inspection, data collection and analysis, training, establishing production quotas, cooperative efforts with state, local and other federal agencies, cooperative efforts with the regulated industry, international activities relating to the registration and control of the manufacture, distribution and dispensing of controlled substances, and attendant management, personnel, administrative and clerical oversight for the DCP because they too relate to the fee-funding criteria of 21 U.S.C. 821 and 958(f). Fee-fundable activities also include travel, rent, utilities, supplies, equipment and services associated with the above-listed activities (67 FR 51988).

Certain international activities also are supported through fee funds because they relate to the registration and control of the lawful manufacture, distribution and dispensing of controlled substances. Controlled substances lawfully imported or exported relate to Section 821 requirements because imported substances are subsequently distributed to other DEA registrants, and exported substances are initially manufactured and/or distributed domestically prior to export. As explained in the December 30, 1996 **Federal Register** notice, the Controlled Substances Act's closed system of controls over manufacturing, distribution and dispensing was not established and is not administered within the isolation of our domestic borders. Rather, the controls are part of a global system of national and international laws designed to establish an interrelated, worldwide structure of control over the manufacture, distribution, dispensing, import and export of controlled substances, so that

controls or lack of controls in one country do not undermine controls in another. Congress found and declared that illegal importation, along with illegal manufacture, distribution, possession and improper use of controlled substances, has a detrimental effect on the health and welfare of the American people, recognizing that "(a) major portion of the traffic in controlled substances flows through interstate and foreign commerce." 21 U.S.C. 801(2) and (3).

The international drug control treaties to which the United States is a signatory require that each party establish a program of controls relating to the registration and control of the manufacture, distribution, dispensing, import and export of controlled substances. The specific language of the Controlled Substances Act and its implementing regulations recognize the obligations of the United States under the international conventions. See 21 U.S.C. 801, 801a, 811(d)(1), 823(a) and 958(a), and 21 CFR 1307.02.

The Controlled Substances Act expressly recognized that the United States is a party to the Single Convention on Narcotic Drugs of 1961 and other conventions "designed to establish effective control over international and domestic traffic in controlled substances." 21 U.S.C. 801(7). Likewise, Congress recognized that the abuse of psychotropic substances has become "a phenomenon common to many countries" that "is not confined to national borders," making it "essential that the United States cooperate with other nations in establishing effective controls over international traffic in such substances." (21 U.S.C. 801a(1)). Congress further recognized that the United States joined with other countries in executing the Convention on Psychotropic Substances, "which is designed to establish suitable controls over the manufacture, distribution, transfer, and use of certain psychotropic substances." (21 U.S.C. 801a(2)). Congress acknowledged that before the Senate could ratify the convention, the Controlled Substances Act required amending to bring it into compliance with the requirements of the convention. Congress thus recognized that the conventions are an integral part of the United States' programs regarding the registration and control of the manufacture, distribution, and dispensing of controlled substances. By implementing and ratifying the international treaties, Congress recognized that a strong domestic program relating to the registration and control of the manufacture, distribution,

dispensing, import or export of controlled substances depends on establishing and maintaining strong controls within other individual nations.

Thus, DEA is obligated to conduct, as part of its Diversion Control Program, certain international activities relating to the lawful manufacture, distribution, dispensing, import and export of controlled substances. DEA fee-funds most international diversion control activities that it had historically conducted since 1971, considering each related to 21 U.S.C. 821 and 958(f) criteria. Among those international activities that are excluded from DDCFA funding are international chemical control activities.

Additional detail on specific international activities supported through fee-funds as part of the DCP is contained in the August 9, 2002 **Federal Register** notice (67 FR 51988).

While diversion control and registration activities are conducted by DEA's Office of Diversion Control, other DEA elements undertake activities in support of the DCP in addition to supporting nonfee-fundable activities. As such, these other elements expend fee-funds to support those fee-fundable DCP activities. For example, the Office of Administration provides office space, makes appropriate office renovations and supplies the security guard force to the diversion groups. The Office of Administration pays rent and other expenses with fee funds. The Office of Resource Management expends fee funds for payroll and employment benefits for the DCP workforce. The Office of Training trains the DCP workforce and spends fee funds on training in support of fee-fundable activities, for example seminars for industry on controlled substances (but not on staff; see below).

Not included among fee-fundable diversion control activities are several elements of DEA operations that, though not part of the DCP, incidentally support the activities of the DCP. To date these activities have been funded through Congressional appropriations rather than through fee funds. Examples of such elements include two sections within the Office of Chief Counsel that (a) litigate administrative actions related to DEA registrants and (b) provide legal support on regulatory policy matters; staff salaries and related staff expenses within a section of the Office of Training that is specifically dedicated to the DCP (note, certain eligible training activities are fee-funded as noted above); a portion of the Office of Forensic Sciences Special Testing Laboratory that supports authentic