

In closing, asteroids deserve a lot more attention from the scientific community and from the American people. The first step is through tracking all sizable near-Earth objects, and H.R. 912 is a modest step toward this goal.

I urge my colleagues to vote for H.R. 912, which will encourage young people in particular to start looking into the stars and get involved personally in America's space program.

Mr. Speaker, I reserve the balance of my time.

□ 1030

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to express my support for the bill presented by the gentleman from California (Chairman ROHRABACHER), H.R. 912.

I know that my good friend the gentleman from California (Mr. ROHRABACHER) has had a long interest in Near Earth Objects and the potential threat they could pose to our civilization at some point in the future. Moreover, the Committee on Science has been active on a bipartisan basis since at least the early 1990s in trying to draw attention to this issue. At that time, former Chairman George Brown, Jr., held a series of hearings and drafted legislation to establish a NEO detection and cataloging within NASA.

H.R. 912 recognizes that amateur astronomers also can play a significant role in the detection of Earth orbit crossing asteroids and comets and provides a constructive way to reward their efforts.

A previous version of the bill passed the House last Congress, so I do not believe this legislation should be at all controversial. I urge the adoption by the House, and look forward to its speedy enactment.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in strong support of the Pete Conrad Astronomy Act, and commend the Chairman of the Space Subcommittee for his creativity and leadership in promoting space exploration.

This Act will reward individuals who through their hard work and dedication have made fundamental contributions to our knowledge of the universe. This Act will stimulate interest in space exploration—a field that helps keep this nation on the cutting edge of technology and captivates young minds. Discoveries made by amateur astronomers have helped with the enormous task of cataloging the many asteroids and small bodies that share the solar system with us. Those amateur astronomers deserve to be rewarded. It is a valuable service to this nation and to the world, and should be encouraged. This Act will do both.

I would like to thank Chairman ROHRABACHER for working with me to address one small concern that I had when this bill went through markup in the Science Committee. People come from around the world to study at our great colleges and universities. They are often some of the best and brightest from their home countries. They pay high tuitions as international students. They often bring money into our communities. But the most important reason they are invited is because

they bring diverse viewpoints and perspectives. They enrich the experience of our own students.

As the bill is written, only U.S. citizens and permanent residents are eligible for an award. This is fair, since we are trying to encourage Americans to get interested in space and science. However, these awards also offer an opportunity to foster collaborations and international partnerships that will be valuable for all parties in the future. We have therefore agreed on report language for this bill that will foster collaborative efforts.

If a group of amateur astronomers makes a great discovery, deemed worthy of a Pete Conrad Award, and if that group has international students in it—the Administrator of NASA will be able to give those foreign students a certificate or other token of appreciation. Although the monetary reward will be reserved for the Americans in the group, at least the foreign students will be recognized for their contributions. This seems only fair.

Again, I thank the Chairman for working with me on this issue. I support the bill and urge my colleagues to do the same.

Mr. GORDON. Mr. Speaker, I yield back the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the bill, H.R. 912, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. ROHRABACHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMITTING MALCOLM BALDRIGE NATIONAL QUALITY AWARDS TO NONPROFIT ORGANIZATIONS

Ms. HART. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3389) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit the Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

The Clerk read as follows:

H.R. 3389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

Section 17(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following:

“(F) Nonprofit organizations.”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from North Carolina (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Pennsylvania (Ms. HART).

GENERAL LEAVE

Ms. HART. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3389.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Pennsylvania?

There was no objection.

Ms. HART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Malcolm Baldrige National Quality Award was established by Congress and signed into law in August of 1987. The first awards were presented in 1988.

This award was established because many industry and government leaders saw that a renewed emphasis was a necessity for doing business in an expanding, competitive world market. But many American businesses either did not believe quality mattered for them or did not know where to begin. The Baldrige Award was envisioned as a standard of excellence that would help United States organizations achieve world class quality.

Mr. Speaker, the award is named after Malcolm Baldrige, who was Secretary of Commerce to President Ronald Reagan from 1981 until his tragic death in July of 1987. Malcolm Baldrige thought the keys to this country's prosperity and long-term strength was quality management. He was involved with the creation of the act and his name was added after his death.

The Baldrige Award is given by the President of the United States to businesses, manufacturing and service businesses, both small and large, and to education and health care organizations. Applicants prepare detailed assessments of their management systems. The criteria are built upon a set of 11 interrelated core values and concepts. The seven criteria categories provide a system essential to achieving performance excellence, leadership, strategic planning, customer and market focus, information and analysis, human resource focus, process management and business results.

Baldrige applicants receive detailed written feedback about their strengths and opportunities for improvement from a team of independent Baldrige examiners. A panel of judges determines which organizations will be finalists for the award and those organizations receive site visits to verify and clarify their applications.

Two such businesses in my district have been recipients of the Malcolm Baldrige Award. This year's awardee, the 2003 manufacturing recipient, was Medrad, Inc., of Indianola, Pennsylvania. They are a leading provider of medical devices that enhance medical imaging procedures of the human body and also of injector systems.

The first manufacturing recipient in 1988 was also in my district, Westinghouse Electric Corporation's Commercial Nuclear Fuel Division.

Our amendment today will make one simple change to the Malcolm Baldrige Awards. It will add the words "non-profit organization" to those who are eligible to receive the award. Currently only manufacturers, service businesses, small businesses, education organizations and health care organizations are eligible for the Baldrige Award. Baldrige-based State award programs, however, have added additional categories that include nonprofits and government agencies.

However, there are three types of nonprofit organizations that are not eligible to apply for the Baldrige Award. These organizations account for a significant portion of the U.S. economy, and cannot benefit from the assessment and feedback process of the Baldrige Award. They are public agencies of the Federal, State and local government; independent, private not-for-profit organizations; for example, human service organizations, religious organizations, cultural or professional organizations; and also quasi-public organizations created by legislative authority are also not eligible; for example, public utilities, mutual insurance companies or credit unions.

In 1999, it was recognized that the Baldrige Award's performance standards can help stimulate improvement efforts in other sectors vital to the U.S. economy and the areas of education and health care were added to that criteria. Since then, a total of 66 applications have been submitted in the education category and 61 in the health care category, obviously giving these organizations an opportunity to improve their systems.

As it has for current eligible U.S. businesses, the Baldrige Award program can help nonprofit organizations improve their performance and also to foster communications, sharing of "best practices" and partnerships among schools, health care organizations and businesses.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

(Mr. MILLER of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. MILLER of North Carolina. Mr. Speaker, I also rise in support of H.R. 3389. Since 1987, the Malcolm Baldrige National Quality Awards have recognized excellence for quality in management. The Baldrige Awards quickly became America's highest honor for excellence and performance, and the benefits of the award exceeded any expectation.

To recognize excellence, the Department of Commerce first had to decide what excellence in management was and then how to achieve it. That required that businesses see their performance through the eyes of their customers and their employees. The criteria for excellence that developed as a result have transformed American

business and the businesses that have competed for the awards, including the businesses that have not won the award, have achieved higher productivity, greater customer satisfaction, better employee relations, increased market share and improved profitability. The awards have made quality a national priority and have disseminated nationally the best practices for achieving it.

A recent study of the Baldrige Awards by Professor Albert Link of the University of North Carolina at Greensboro, one of my district's outstanding academic institutions, and by Professor John Scott of Dartmouth College, a college in New England, estimated the benefits of the award and the competition for the award at \$24.65 billion. That is an astounding sum.

The Baldrige Awards now have five categories: Manufacturing, service, small business, and, since 1999, health care and education. But many other organizations cannot participate: Not-for-profit, service organizations, government agencies at the Federal, State and local level, independent sector organizations, such as human services, religious, cultural or trade and professional organizations, and private quasi-public organizations created by legislative authority, such as public utilities, cooperatives, mutual insurance companies and credit unions.

These organizations represent a significant part of the American economy, but they are now unable to benefit from the assessment and the feedback that are a vital part of the Baldrige Awards and the award process.

Let me say a special word about government agencies. The gentlewoman from Pennsylvania and I may disagree about what government should do, but there should be no disagreement about how government should do it. There should be no disagreement how government should be managed. Government agencies should be managed as well as the best managed private businesses. Managers in government must respect the people they serve and they must respect the taxpayers who pay for what they do. Managers in government should be consumed with achieving excellence in performance and in achieving efficiency.

I fervently hope that government agencies will focus on what constitutes excellence and how to achieve it, and that we will save billions as a result, just as private businesses have saved billions, as a result of competing for the Baldrige Awards.

In my district in North Carolina, there are many important organizations that are left out of the Baldrige experience. Let me tell you about just a couple of them.

Our State Treasurer's Office and Department of Revenue have made great strides in applying sound management quality practices by increasing accuracy and by cutting telephone hold times, freeing my State's citizens from voice mail jail.

Likewise, our crime control and public safety agencies are demonstrating the value of a systematic quality and performance excellence approach grounded in Baldrige criteria.

The North Carolina State Highway Patrol, a recipient of our State Quality Award, has achieved important improvements in all of its key performance effectiveness measures. The Commander of the Highway Patrol, Chief R. W. Holden, said that our State Baldrige-based award process allowed us to direct our self-improvement efforts to the most effective areas of our organization.

The Carolina Blood Services Region of the American Red Cross is another State Quality Award winner that has achieved stellar results.

These public agencies are demonstrating excellence in management every day. The keys to their continued improvement are the ability to be recognized for their good work and the ability to measure their performance against proven standards in order to become even better.

These worthy organizations affect our daily lives and our communities' well-being, and, like so many other not-for-profit service organizations, they cannot benefit from the Baldrige Award process today.

It is time to remedy this, and this bill proposes that the Baldrige Awards be opened up to allow participation by not-for-profit organizations, including government agencies. Support for this proposed expansion is widespread. The Foundation for the Malcolm Baldrige Award, the Baldrige Board of Overseers, the Secretary of Commerce and the President have endorsed expansion to include not-for-profit service organizations.

The Baldrige National Quality Program is a public-private partnership. It is managed by the National Institute for Standards and Technologies, NIST, an agency of the Commerce Department, and is supported by the private sector Baldrige Foundation. These organizations raise funds to support Baldrige's many activities so that the Federal investment in this program is leveraged many times over, not only by this private sector funding, but also by the efforts of hundreds of largely private sector volunteers and voluntary sector organizations, such as the American Red Cross.

I would be very proud to tell the folks in North Carolina, in the North Carolina Treasurer's Office, in the State Patrol and in the Blood Bank, that they too will be eligible to receive the recognition that goes with the Baldrige Awards, and to share their best practices with other organizations across the country.

Mr. Speaker, I reserve the balance of my time.

Ms. HART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to commend the gentleman from North Carolina (Mr. MILLER) for his sponsorship of the legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. EHLERS).

□ 1045

Mr. EHLERS. Mr. Speaker, today I rise in support of H.R. 3389, which amends the Malcolm Baldrige National Quality Awards to include a category for nonprofit organizations. On the Committee on Science I serve as chairman of the Subcommittee on Environment, Technology and Standards, with jurisdiction over the National Institute of Standards Technology, which administers the Baldrige Awards program. In that role I am most pleased to support this bill.

When the Baldrige award was first announced many years ago, my first thought was, well, what is another award? But this has turned out to be a very outstanding action on the part of the Congress and by the Department of Commerce. It has become one of the most important awards in America. It is highly sought after, and it is a tremendous honor to receive the Baldrige Award.

However, the Baldrige Award program is much more than an honor. The criteria of the award are used by companies and organizations nationwide to evaluate their own performance. Also, many State quality awards programs use a national Baldrige criteria. For example, in my district last year, the Michigan Quality Council using Baldrige criteria for evaluation recognized the Grand Rapids Community College for its vision and service to the community.

I am pleased to support this change to the Malcolm Baldrige National Quality Award. Including nonprofit organizations will open the competition to groups that have expressed strong support for the opportunity to be recognized for their efforts at the national level. Many States already include nonprofits as a category, and including them in the national program will help strengthen the Baldrige quality criteria.

I thank the gentlewoman from Pennsylvania (Ms. HART) and the gentleman from North Carolina (Mr. MILLER) for their work in bringing this bill to the floor today, and I urge all of my colleagues to support it.

Mr. MILLER of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to acknowledge the gentlewoman from Pennsylvania's (Ms. HART) work and thank her for working so well on this and for her leadership on this issue. After hearing the strongly partisan 1-minutes this morning, I am very glad we found some common ground between the parties.

Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. GORDON).

Mr. GORDON. Mr. Speaker, I thank the gentleman for yielding me time.

Beginning in 1987, the Baldrige Award process has defined what it

means to be a world-class manufacturing or service company, has honored companies that attained that status, and has helped other companies understand the most important steps they must take if they are to improve their quality.

The financial results, customer and supplier relations, and the labor relations of winning companies have been quite impressive.

In the late 1990s, Congress extended the Baldrige Award categories to include education and health care fields. I am very proud that Caterpillar Financial Services Corporation located in Nashville, Tennessee, won in the service category. I also want to congratulate Stoner Inc., located in Quarryville, Pennsylvania, for winning the small business category. This is a small manufacturer of more than 300 specialized cleaners, lubricants, and coatings. It has 45 full-time and five part-time employees. Stoner proves that small manufacturers can successfully compete in the face of world competition.

This year's Baldrige Award also shows the importance of the Department of Commerce MEP program. Stoner used services of the Mid-Pennsylvania Manufacturing Extension Partnership in this modernization effort. I mention this because up until the FY 2005 request, the administration has always proposed eliminating the MEP program. This year the administration has requested funding but at only a one-third level, which essentially guts this very important program. This is short-sighted and a wrong budget decision.

Companies all across the organization like Stoner show that small manufacturers can compete in the global marketplace. They also use MEP services to meet the competitive challenges and to be successful.

I want to use this example to remind my colleagues of the importance of MEP to our small- and medium-sized manufacturing community. I want to urge all Members in joining me in restoring funding for the Manufacturing Extension Partnership.

I also want to congratulate the gentlewoman from Pennsylvania (Ms. HART) for the work she has done on this excellent legislation. And I want to congratulate the gentleman from North Carolina (Mr. MILLER) on his effort to extend the Baldrige Award to the nonprofit sector including government. This is the last sector of our economy that is not currently covered by the Baldrige Award. The gentleman from North Carolina (Mr. MILLER) has become a leader on the Committee on Science on a variety of economic issues, including technology transfer and quality.

I also want to thank, finally, the gentleman from New York (Mr. BOEHLERT) for seeing that this bill moved quickly to the floor.

Ms. HART. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to thank the gentleman from New York

(Mr. BOEHLERT) for his involvement and support for the Baldrige Awards, as I understand he was involved with the Baldrige Awards at their inception. I also would like to thank former ranking member of the Committee on Science, the gentleman from Texas (Mr. HALL), for his support for this legislation and for the Baldrige Awards, and also our current ranking member, the gentleman from Tennessee (Mr. GORDON), for his hard work and bipartisanship in working to grow the Baldrige Awards and give others the opportunity to participate in that wonderful process.

Mr. Speaker, I reserve the balance of my time.

Mr. MILLER of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also want to thank the gentleman from Tennessee (Mr. GORDON), who is now the ranking member of the Committee on Science for his work on this and for his support as well as his kind words just a few minutes ago.

Mr. BOEHLERT. Mr. Speaker, I rise today in support of H.R. 3389, and I want to thank Ms. HART and Mr. MILLER for bringing it before the Science Committee.

I'm especially pleased to be able to support this bill because I was co-author of the law that created the Baldrige National Quality Award, and that measure has succeeded beyond our wildest dreams.

The Baldrige National Quality Program is so much more than an award. It is an entire philosophy that has helped—and continues to help make our companies and our nation more productive and competitive.

The Baldrige Program has been described by CEOs as “the most important catalyst for transforming American business,” and the publication containing the Baldrige criteria has been hailed as “probably the single most influential document in the modern history of American business.”

Opening the Malcolm Baldrige Quality Award to non-profits will not only enable them to compete against the coveted Quality Award, but it will allow non-profits to participate in the Baldrige Quality process. This will help all of the non-profits that compete for the award assess themselves scientifically, become more innovative, make the best use of their employees, serve their customers better, and hold their enterprises to a higher standard.

Non-profits play a significant role in American society. When they improve, we are all better off. I'm pleased to note that my own state of New York has already instituted a non-profit category in its Governor's Award for Excellence. The Empire State Advantage, which runs the state-level quality program, strongly supports this bill.

It gives me great pleasure to join with my colleagues Ms. HART and Mr. MILLER in opening up the competitive process to non-profits. I urge passage of this bill.

Mr. MILLER of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. HART. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). The question is on the motion offered by the gentlewoman from Pennsylvania (Ms. HART) that the House suspend the rules and pass the bill, H.R. 3389.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. HART. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1417) to amend title 17, United States Code, to replace copyright arbitration royalty panels with a Copyright Royalty Judge, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty and Distribution Reform Act of 2004".

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

(a) IN GENERAL.—Chapter 8 is amended to read as follows:

"CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

"Sec.

"801. Copyright Royalty Judges; appointment and functions.

"802. Copyright Royalty Judgeships; staff.

"803. Proceedings of Copyright Royalty Judges.

"804. Institution of proceedings.

"805. General rule for voluntarily negotiated agreements.

"§ 801. Copyright Royalty Judges; appointment and functions

"(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint one of the three as the Chief Copyright Royalty Judge. In making such appointments, the Librarian shall consult with the Register of Copyrights.

"(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

"(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

"(A) To maximize the availability of creative works to the public.

"(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

"(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

"(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

"(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

"(i) national monetary inflation or deflation; or

"(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

except that—

"(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

"(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 8, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

"(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

"(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

"(C) In the event of any change in the rules and regulations of the Federal Communica-

tions Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

"(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

"(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

"(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

"(C) the Copyright Royalty Judges shall make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

"(i) agree to such partial distribution;

"(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B); and

"(iii) file the agreement with the Copyright Royalty Judges.

"(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

"(4) To accept or reject royalty claims filed under section 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

"(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b)(1) and (2).

"(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

"(7)(A) To adopt as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

"(i) the Copyright Royalty Judges shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be; and

"(ii) the Copyright Royalty Judges may decline to adopt the agreement as the basis for statutory terms and rates or as the basis