

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 73 as follows:

**PART 73—SPECIAL USE AIRSPACE**

1. The authority citation for part 73 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 73.22 [Amended]**

2. § 73.22 is amended as follows:

\* \* \* \* \*

**R-2204, Oliktok Point, AK [New]**

Boundaries. Within a 2 nautical mile radius centered at (lat. 70°30'35" N., long. 149°51'33" W.).

Designated altitudes. Surface to, but not including, 7,000 feet MSL.

Time of designation. By NOTAM, 24 hours in advance, not to exceed 30 days annually.

Controlling agency. FAA, Anchorage ARTCC.

Using agency. Department of Energy, Sandia National Labs/National Nuclear Security Administration, Albuquerque, NM.

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Issued in Washington, DC, on September 17, 2003.

**Reginald C. Matthews,**

*Manager, Airspace and Rules Division.*

[FR Doc. 03–25422 Filed 10–7–03; 8:45 am]

**BILLING CODE 4910–13–P**

**NATIONAL INDIAN GAMING COMMISSION****25 CFR Part 514**

**RIN 3141-AA16**

**Fees**

**AGENCY:** National Indian Gaming Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The National Indian Gaming Commission (NIGC or Commission) is proposing to amend its fee regulations. The regulations are being amended to reflect changes in the statutory limit set by Congress.

**DATES:** Comments must be submitted on or before November 30, 2003.

**ADDRESSES:** Comments may be mailed to: Fee Change Comments, 1441 L Street, NW., Suite 9100, Washington, DC, 20005, delivered to that address between 8:30 a.m. and 5:30 p.m., Monday through Friday, or faxed to 202/632–7066 (this is not a toll-free number). Comments received may be inspected between 9 a.m. and noon, and between 2 p.m. and 5 p.m.

**FOR FURTHER INFORMATION CONTACT:** John R. Hay at 202/632–7003; fax 202/632–7066 (these are not toll-free numbers).

**SUPPLEMENTARY INFORMATION:** The Indian Gaming Regulatory Act (IGRA), enacted on October 17, 1988, established the National Indian Gaming Commission (Commission). The Commission is funded entirely from fees collected from Indian gaming operations. The Commission is proposing changing its current regulations to reflect changes in the statutory limit imposed by Congress. This regulation is being amended so that the amount of fees imposed by the Commission is directly related to congressional action. Under the current regulation the Commission may only impose fees not exceeding \$8,000,000, during any fiscal year. For fiscal year 2004, Congress has increased that amount to a maximum of \$12,000,000. The proposed change will allow the Commission to collect up to the statutory maximum and will eliminate the need to regularly amend this regulation as Congress raises or lowers the fee level.

**Regulatory Flexibility Act**

The Commission certifies that the proposed rule will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The factual basis for this certification is as follows:

Of the 330 Indian gaming operations across the country, approximately 150 have revenues under 10 million. Of these, approximately 90 operations have gross revenues of under 3 million. Those operations that gross less than 1.5 million are exempt from fees. Since fee assessments are based on a percentage of gross revenues until the maximum allowed by Congress is reached, and new gaming operations continue to open, the amount individual tribal gaming operations will pay in fees will likely only increase slightly or may in fact decrease. For these reasons, the Commission has concluded that the proposed rule will not have a significant economic impact on those small entities subject to the rule.

**Small Business Regulatory Enforcement Fairness Act**

The proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The proposed rule will not result in an annual effect on the economy of more than \$100 million per year; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government

agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises.

**Unfunded Mandates Reform Act**

The Commission is an independent regulatory agency, and, as such, is not subject to the Unfunded Mandates Reform Act. Even so, the Commission has determined that this final rule does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector, of more than \$100 million per year. Thus, it is not a “significant regulatory action” under the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*

**Takings**

In accordance with Executive Order 12630, the Commission has determined that this rule does not have significant takings implications. A takings implication assessment is not required.

**Civil Justice Reform**

In accordance with Executive Order 12988, the Office of General Counsel has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

**Paperwork Reduction Act**

The proposed rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501–3520) would be required.

**National Environmental Policy Act**

The Commission has determined that this proposed rule does not constitute a major Federal Action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

Dated: October 2, 2003.

**Philip N. Hogen,**

*Chairman, National Indian Gaming Commission.*

**List of Subjects in 25 CFR Part 514**

Gambling, Indians-lands, Reporting and recordkeeping requirements.

Accordingly, 25 CFR part 514 is proposed to be amended as follows:

The authority citation for part 514 continues to read as follows:

**Authority:** 25 U.S.C. 2702 *et seq.*

Section 514.1(d) is revised to read as follows:

**§ 514.1 Annual fees.**

\* \* \* \* \*

(d) The total amount of all fees imposed during any fiscal year shall not exceed the statutory maximum imposed by Congress. The Commission shall credit pro-rata any fees collected in excess of this amount against amounts otherwise due at the end of the quarter following the quarter during which the Commission makes such determination.

(1) The Commission will notify each gaming operation as to the amount of overpayment, if any, and therefore the amount of credit to be taken against the next quarterly payment otherwise due.

(2) The notification required in paragraph (d)(1) of this section shall be made in writing addressed to the gaming operation.

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[FR Doc. 03-25472 Filed 10-7-03; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. RM 2002-1D]

#### Notice and Recordkeeping for Use of Sound Recordings Under Statutory License

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of inquiry.

**SUMMARY:** The Copyright Office of the Library of Congress is requesting public comment on the adoption of regulations for records of use of sound recordings performed pursuant to the statutory license for public performances of sound recordings by means of digital audio transmissions between October 28, 1998, and the effective date of soon-to-be-announced interim regulations.

**DATES:** Comments are due no later than November 24, 2003. Reply comments are due no later than December 22, 2003.

**ADDRESSES:** An original and five copies of any comment or reply comment shall be delivered by hand to: Office of the General Counsel, James Madison Memorial Building, Room LM-403, First and Independence Avenue, SE., Washington, DC 20559-6000; or mailed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024-0977.

**FOR FURTHER INFORMATION CONTACT:** David O. Carson, General Counsel, or William J. Roberts, Jr., Senior Attorney, PO Box 70977, Southwest Station, Washington, DC 20024. Telephone:

(202) 707-8380; Telefax: (202) 252-3423.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Copyright Act grants copyright owners of sound recordings the exclusive right to perform their works publicly by means of digital audio transmissions subject to certain limitations and exceptions. Among the limitations placed on the performance of sound recordings is a statutory license that permits certain eligible subscription, nonsubscription, satellite digital audio radio, business establishment and new subscription services to perform those sound recordings publicly by means of digital audio transmissions. 17 U.S.C. 114.

Similarly, copyright owners of sound recordings are granted the exclusive right to make copies of their works subject to certain limitations and exceptions. Among the limitations placed on the reproduction of sound recordings is a statutory license that permits certain eligible subscription, nonsubscription, satellite digital audio, business establishment and new subscription services to make ephemeral copies of those sound recordings to facilitate their digital transmission. 17 U.S.C. 112(e).

Both the section 114 and 112 licenses require services to, among other things, report to copyright owners of sound recordings on the use of their works. Both licenses direct the Librarian of Congress to establish regulations to give copyright owners reasonable notice of the use of their works and create and maintain records of use for delivery to copyright owners. 17 U.S.C. 114(f)(4)(A) and 17 U.S.C. 112(e)(4). The purpose of the exchange of data is to ensure that the royalties collected under the statutory licenses are distributed to the correct recipients.

The Copyright Office will soon be publishing interim regulations setting forth the categories of information that services making use of sound recordings under the statutory licenses must report. Those interim regulations will require services to identify performances of sound recordings that they transmit pursuant to the statutory license, providing information such as the titles of sound recordings that are transmitted, the names of the recording artists, etc. However, the interim regulations will be prospective in nature, meaning that they will not apply to the period from October 28, 1998, to the effective date of the interim rules. Consequently, there are currently no regulations establishing the requirements for creating and

reporting records of use for this earlier time period.<sup>1</sup> While it is certain that many services have maintained few or, in many instances, no records of prior uses, a mechanism must be adopted to account for the performances that occurred during this period in order to distribute the royalty fees collected during this period. Thus, we seek public comment as to the form and content such regulations should take.

#### Request for Comment

Incomplete and absent records create serious difficulties for the Copyright Office in fashioning regulations that apply to prior uses of sound recordings. If only partial prior records of use are reported, and if only some services are able to submit such reports, the data gathered from those records is likely to skew the royalty distribution process. How should the Office address this problem? Should the Office require licensees to report actual performance data for the historical period, if available; and if so, what elements should be reported, bearing in mind that the information provided must be sufficient to identify the copyright owners and performers who are the beneficiaries of these licenses? What, if any, proxies may be used in lieu of incomplete or missing prior records? Are there costs associated with using proxies, and if so, who should bear the cost of obtaining use of these proxies?

The Copyright Office seeks answers to these questions and encourages interested parties to consider the costs and benefits to both the licensees and the copyright owners when formulating a mechanism for accounting for past performances. In particular, we seek concrete proposals and proposed regulatory language to implement rules for the reporting of prior records of use. Services and copyright owners are encouraged to explore the possibility of joint submissions of comments that represent consensus among interested parties.

Dated: October 3, 2003.

**Marybeth Peters,**

*Register of Copyrights.*

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<sup>1</sup> There is one exception. Regulations, codified at 37 CFR 201.36, are already in place for preexisting subscription services, *i.e.*, subscription services in existence before July 31, 1998. See 17 U.S.C. 114(j)(11); see also 67 FR 5791 (February 7, 2002). This notice of inquiry seeks comments on requirements for records of use for all types of services operating under the section 114 statutory license except preexisting subscription services.