

(8) You must pay the service fee listed in § 256.63 of this subpart with your application for approval of any instrument of transfer you are required to file (Record Title/Operating Rights (Transfer) Fee). Where multiple transfers of interest are included in a single instrument, a separate fee applies to each individual transfer of interest. For any document you are not required to file by these regulations but which you submit for record purposes per lease affected, you must also pay the service fee listed in § 256.63 (Non-required Document Filing Fee). Such documents may be rejected at the discretion of the authorized officer.

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## LIBRARY OF CONGRESS

### COPYRIGHT OFFICE

#### 37 CFR Part 270

[Docket No. RM 2005-2]

#### Reports of Use of Sound Recordings Under Statutory License

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Office of the Library of Congress is proposing amendments to the rules governing reports of use of sound recordings under the statutory license for preexisting subscription services.

**DATES:** Comments are due no later than April 14, 2005.

**ADDRESSES:** If hand delivered by a private party, an original and ten copies of any comment should be brought to Room LM-401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. If hand delivered by a commercial courier, an original and ten copies of any comment must be delivered to the Congressional Courier Acceptance Site located at Second and D Streets, NE., Washington, DC, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail

(including overnight delivery using U.S. Postal Service Express Mail), an original and ten copies of any comment should be addressed to: Copyright Arbitration Royalty Panel (CARP) P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

**FOR FURTHER INFORMATION CONTACT:**

David O. Carson, General Counsel, or William J. Roberts, Jr. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:** Digital audio services provide copyrighted sound recordings of music for the listening enjoyment of the users of those services. In order to provide these sound recordings, however, a digital audio service must license the copyrights to each musical work, as well as the sound recording of the musical work. There are two statutory licenses in the Copyright Act that enable a digital audio service to transmit performances of copyrighted sound recordings: section 112 and section 114. 17 U.S.C. 112 & 114.

Congress initially established these licenses in the Digital Performance Right in Sound Recordings Act of 1995, Pub. L. 104-39, for subscription digital audio services then in existence, and later amended sections 112 and 114 in the Digital Millennium Copyright Act of 1998, Pub. L. 105-304, to include other types of digital audio services. It is the former category of services (hereinafter referred to as "preexisting subscription services") to which this Notice of Proposed Rulemaking ("NPRM") applies.

On June 24, 1998, the Copyright Office published interim regulations establishing the requirements by which copyright owners receive reasonable notice of the use of their works from preexisting subscription services, and how reports of use shall be kept and made available to copyright owners. Originally codified at §§ 201.35 through 201.37 of title 37 of the Code of Federal Regulations, these regulations have recently been moved to part 270 of the CFR, but have remained unchanged. On March 18, 2003, the preexisting subscription services—Music Choice, DMX Music Inc., and Muzak LLC—and representative organizations of copyright owners of sound recordings—SoundExchange, Inc., the American Federation of Television and Radio Artists, and the American Federation of Musicians—filed a petition with the Copyright Office seeking to amend the regulations regarding reports of use

(formerly § 201.36, now § 270.2) for preexisting subscription services. At that time, the Office was conducting a rulemaking proceeding to establish notice and recordkeeping requirements for digital audio services other than preexisting subscription services and declined to include the petition in that proceeding. See 69 FR 11515, 11517 n.9 (March 11, 2004). Instead, the Office determined to address the petition "in a separate **Federal Register** document."

*Id.* Today's NPRM fulfills that directive. Petitioners request what they describe as "minor adjustments [that] will make the rules more useful to copyright owners and performers and less burdensome on users of copyrighted works." Petition at 1. The proposed changes can be generally described as follows. First, to provide copyright owners with a more complete report of the use of their works, petitioners request that preexisting subscription services report the copyright notice (i.e., the "P line") accompanying record albums or sound recordings, where it is available. Second, petitioners propose to extend the time allowed for filing reports of use to comply with current payment periods for preexisting subscription services. See 68 FR 39837 (July 3, 2003). And third, petitioners propose some technical amendments that, in their view, clarify that the requirements of § 270.2 apply only to preexisting subscription services.

The Office welcomes public comment to the proposed changes.

#### List of Subjects in Part 270

Copyright, Sound Recordings.

#### Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to amend part 270 of 37 CFR to read as follows:

#### PART 270—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

1. The authority citation for part 270 continues to read as follows:

**Authority:** 17 U.S.C. 702

2. Section 270.2 is amended as follows:

- a. By revising paragraph (b)(2);
- b. By revising paragraph (b)(3);
- c. In paragraph (c), by adding "or pursuant to a settlement agreement reached or statutory license adopted pursuant to section 112(e)" after "17 U.S.C. 802(f)" and by removing "twentieth" and adding "forty-fifth" in its place;
- d. In paragraph (d) introductory text, by removing "20th" and adding "forty-fifth" in its place; and
- e. By revising paragraph (e).

The additions and revisions to § 270.2 read as follows:

**§ 270.2 Reports of use of sound recordings under statutory license for preexisting subscription services.**

\* \* \* \* \*

(b) \* \* \*

(2) *A Report of Use of Sound Recordings Under Statutory License* is the report of use required under this section to be provided by a Service transmitting sound recordings and making ephemeral phonorecords therewith under statutory licenses.

(3) A *Service* is a preexisting subscription service, as defined in 17 U.S.C. 114(j)(11).

\* \* \* \* \*

(e) Content. A "Report of Use of Sound Recordings under Statutory License" shall be identified as such by prominent caption or heading, and shall include a preexisting subscription service's "Intended Playlists" for each channel and each day of the reported month. The "Intended Playlists" shall include a consecutive listing of every recording scheduled to be transmitted, and shall contain the following information in the following order:

(1) The name of the preexisting subscription service or entity;

(2) The channel;

(3) The sound recording title;

(4) The featured recording artist, group, or orchestra;

(5) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the preexisting subscription service for purchase of the sound recording);

(6) The marketing label of the commercially available album or other product on which the sound recording is found;

(7) The catalog number;

(8) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(9) Where available, the copyright owner information provided in the copyright notice on the retail album or other product (e.g., following the symbol (P), that is the letter P in a circle) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual sound recording;

(10) The date of transmission; and

(11) The time of transmission.

\* \* \* \* \*

Dated: March 8, 2005

**Tanya M. Sandros,**

*Associate General Counsel.*

[FR Doc. 05-5064 Filed 3-14-05; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Docket # R10-OAR-2005-OR-0002; FRL-7881-5]

**Approval and Promulgation of Air Quality Implementation Plans; Oregon Visibility Protection Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Oregon Visibility Protection Plan submitted to EPA on January 22, 2003. The revisions are the result of a required periodic review of the Visibility Protection Plan conducted by the State, and reflect recommendations from the Oregon Visibility Advisory Committee. In general, the revisions reflect work the State intends to conduct over the next three years. EPA has determined that this submission is a general strengthening of the State Implementation Plan (SIP) as it expands strategies to protect visibility in Oregon.

**DATES:** Comments must be received on or before April 14, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. R10-OAR-2005-OR-0002, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- Mail: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT-107 EPA, Region 10, 1200 Sixth Ave., Seattle, Washington 98101.

- Hand Delivery: EPA, Region 10 Service Center, 14th Floor, 1200 Sixth Ave., Seattle, Washington 98101.

Attention: Gina Bonifacino, Office of Air, Waste and Toxics, OAWT-107.

Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Gina Bonifacino at telephone number: (206) 553-2970, e-mail address: [bonifacino.gina@epa.gov](mailto:bonifacino.gina@epa.gov), fax number:

(206) 553-0110, or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:** For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule.

If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: February 24, 2005.

**Kathryn M. Davidson,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 05-5046 Filed 3-14-05; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 228**

[FRL-7883-7]

**Ocean Dumping; De-designation of Ocean Dredged Material Disposal Sites and Designation of New Sites; Correction**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; correction.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to correct a final rule that appeared in the **Federal Register** of March 2, 2005 (70 FR 10041). The document de-designated certain ocean dredged material disposal sites and designated new sites located off the mouth of the Columbia River near the states of Oregon and Washington. The coordinates for one of those sites, the Shallow Water site, contained a typographical error in the Overall Site Coordinates as published