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Copyright Royalty Board

37 CFR Part 370

[Docket No. RM 2008-7]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License;
Technical Amendment

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule; technical amendment.

SUMMARY: The Copyright Royalty Judges published in the **Federal Register** of May 19, 2016, a document amending regulations that govern reporting requirements for noncommercial educational webcasters that pay no more than the minimum fee for their use of sound recordings under the applicable statutory licenses. Inadvertently, the amendments did not remove a superseded definition and did not include a new defined term in the operative regulations. This document corrects those inadvertent omissions.

DATES: Effective Date: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]

Applicability Date: May 19, 2016.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle at (202) 707-7658 or at crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Introduction

The Copyright Royalty Judges (Judges) published a final rule in the **Federal Register** of May 19, 2014, (81 FR 31506) that added a new term, Eligible Minimum Fee Webcaster, to the definition section of 37 CFR 370.4. In doing so, the Judges intended to

expand relaxed reporting requirements to certain noncommercial educational webcasters that previously had been excluded from such relaxed requirements. The Judges added those webcasters to the group and renamed the group to more precisely describe the members. The new term for the group is “Eligible Minimum Fee Webcaster.” The new definition includes all entities that qualified under the previous “Minimum Fee Broadcaster” definition and certain noncommercial educational webcasters.

The amended regulation inadvertently did not reference the new term “Eligible Minimum Fee Webcaster” in the relevant sections of part 370, namely, 37 CFR 370.4(d)(2)(vi) and (vii) and 370.4(d)(3)(i) and (ii). The amended regulation also should have removed the “Minimum Fee Broadcaster” definition, which is no longer necessary.

The Judges now make the necessary changes to clarify that the reporting requirements in Part 370 that applied to “Minimum Fee Broadcasters” now apply to the more inclusive group, “Eligible Minimum Fee Webcasters.”

Final Regulations

In consideration of the foregoing, the Copyright Royalty Judges amend 37 CFR part 370 as follows:

PART 370—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

1. The authority citation for part 370 continues to read as follows:

Authority: 17 U.S.C. 112(e)(4), 114(f)(4)(A).

2. In § 370.4:

- a. In paragraph (b), remove the definition of “Minimum Fee Broadcaster”;
- b. Revise paragraphs (d)(2)(vi) and (vii) and (d)(3)(i) and (ii).

The revisions read as follows:

§ 370.4 Reports of use of sound recordings under statutory license for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services and business establishment services.

* * * * *

(d) * * *

(2) * * *

(vi) For a nonsubscription transmission service except those qualifying as eligible minimum fee webcasters: The actual total performances of the sound recording during the reporting period.

(vii) For a preexisting satellite digital audio radio service, a new subscription service, a business establishment service or a nonsubscription service qualifying as an eligible minimum fee webcaster: The actual total performances of the sound recording during the reporting period or, alternatively, the

(A) Aggregate Tuning Hours;

(B) Channel or program name; and

(C) Play frequency.

(3) * * *

(i) For each calendar month of the year by all services other than a nonsubscription service qualifying as an eligible minimum fee webcaster; or

(ii) For a two-week period (two periods of 7 consecutive days) for each calendar quarter of the year by a nonsubscription service qualifying as an eligible minimum fee webcaster and the two-week period need not consist of consecutive weeks, but both weeks must be completely within the calendar quarter.

* * * * *

Dated: June 13, 2016.

Suzanne M. Barnett

Chief Copyright Royalty Judge

Approved by:

David S. Mao
Acting Librarian of Congress

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