



1410-72-P

## LIBRARY OF CONGRESS

### Copyright Royalty Board

[Docket No. 17-CRB-0001-BER (2019-2023)]

#### **Determination of Royalty Rates and Terms for Making Ephemeral Copies of Sound Recordings for Transmission to Business Establishments (Business Establishments III)**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Notice announcing commencement of proceeding with request for Petitions to Participate.

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**SUMMARY:** The Copyright Royalty Judges (Judges) announce commencement of a proceeding<sup>1</sup> to determine reasonable royalty rates and terms for the recording of ephemeral copies of sound recordings pursuant to 17 U.S.C. 112(e)(1) to facilitate digital audio transmissions of those sound recordings to business establishments pursuant to the limitation on exclusive rights specified by 17 U.S.C. 114(d)(1)(C)(iv). The royalty rates and terms the Judges determine in this proceeding will apply during the period beginning January 1, 2019, and ending December 31, 2023. The Judges also announce the date by which a party wishing to participate in the rate determination proceeding must file its Petition to Participate and pay the accompanying \$150 filing fee.

**DATES:** Petitions to Participate and the filing fee are due no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** This notice and request is also posted on the agency's website ([www.loc.gov/crb](http://www.loc.gov/crb)). Parties who plan to participate should see How to Submit Petitions to Participate in the Supplementary Information section below for addresses and further instructions.

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<sup>1</sup> CRB docket number 17-CRB-0001-BER (2019-2023).

**FOR FURTHER INFORMATION CONTACT:** Anita Blaine, CRB Program Specialist, by telephone at (202) 707-7658 or e-mail at crb@loc.gov.

**SUPPLEMENTARY INFORMATION:** The Copyright Act provides that the Copyright Royalty Judges (Judges) commence a proceeding every fifth year<sup>2</sup> to determine royalty rates and terms for the recording of ephemeral copies of sound recordings pursuant to the statutory license in 17 U.S.C. 112(e)(1) to facilitate digital audio transmissions of those sound recordings to business establishments pursuant to the limitation on exclusive rights specified by 17 U.S.C. 114(d)(1)(C)(iv). *See* sec. 804(b)(2). This notice commences the rate determination proceeding for the license period 2019-2023, inclusive. Section 803(b)(1)(A)(i)(II) directs the Judges to publish in the **Federal Register** a notice commencing this proceeding by no later than January 5, 2017.

### **Petitions to Participate**

Parties with a significant interest in the outcome of the “business establishments” royalty rate proceeding must file Petitions to Participate in accordance with § 351.1(b) of the Judges’ regulations. *See* 37 CFR 351.1(b). Parties must send the \$150 filing fee with each Petition to Participate. Parties must pay the filing fee with a check or money order made payable to the “Copyright Royalty Board.” The Copyright Royalty Board will not accept payment by cash. If a check received in payment of the filing fee is returned for lack of sufficient funds, the Judges will dismiss the corresponding Petition to Participate.

Only attorneys admitted to the bar in one or more states or the District of Columbia and who are in good standing with the bar will be allowed to represent parties before the Judges. Only an individual may represent herself or himself and appear without legal counsel. 37 CFR 350.2.

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<sup>2</sup> The Judges commenced a proceeding to determine the 2014-2018 rates and terms in 2012. *See* 77 FR 133 (Jan. 3, 2012).

## **How to Submit Petitions to Participate**

Any party wishing to participate in the proceeding to determine the “business establishments” royalty rates for 2019 through 2023 must submit to the Copyright Royalty Board the filing fee (US \$150), an original (paper) Petition to Participate, five paper copies, and an electronic copy on a CD or other portable memory device in Portable Document Format (PDF) that contains searchable, accessible text (not a scanned image of text). Participants should conform all electronic documents to the Judges’ Guidelines for Electronic Documents posted on the Copyright Royalty Board website at [http://www.loc.gov/crb/docs/Guidelines\\_for\\_Electronic\\_Documents.pdf](http://www.loc.gov/crb/docs/Guidelines_for_Electronic_Documents.pdf).

Participants shall deliver Petitions to Participate to only **one** of the following addresses.

**U.S. mail:** Copyright Royalty Board, PO Box 70977, Washington, DC 20024-0977; or

**Overnight service (only USPS Express Mail is acceptable):** Copyright Royalty Board, PO Box 70977, Washington, DC 20024-0977; or

**Commercial courier:** Address package to: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, LM-403, 101 Independence Avenue SE, Washington, DC 20559-6000. Deliver between 8:30 a.m. and 4:00 p.m. to: Congressional Courier Acceptance Site, 2<sup>nd</sup> Street NE and D Street NE, Washington, DC; or

**Hand delivery:** Deliver between 8:30 a.m. and 5:00 p.m. to: The Library of Congress, James Madison Memorial Building, LM-401, 101 Independence Avenue SE, Washington, DC 20559-6000.

Dated: December 23, 2016.

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Suzanne M. Barnett,  
Chief Copyright Royalty Judge.

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