

(b) If an agency had notice that a FedSelect check was not received by the payee within a reasonable time after a payment is due, or that a FedSelect check is lost, stolen or destroyed, and the agency failed to request to the FMS that a stop payment order be placed on that item pursuant to § 247.9(a), the agency will be accountable for any loss occurring as a result of the failure to request stop payment in a timely fashion.

(c) Losses caused by the fault or negligence of the FMS will be the accountability of the FMS. Such losses include failure to adhere to a request by an agency to place a stop payment order on an item in accordance with § 247.9(a).

(d) The FMS will be accountable for losses caused by third-parties, including losses caused by alteration, counterfeit and forgery of the payee indorsement, unless such losses occur as described in paragraphs (a) and (b) of this section.

#### § 247.11 Debt collection.

(a) Agencies are responsible for collection procedures on all improperly paid items arising under the circumstances described in paragraphs (a) and (b) of § 247.10. However, excepting cases of fraud, an agency should write off a debt and refer it to the FMS for collection if it is not resolved within 90 days after the item was paid. When the FMS collects on the debt, the funds will be returned to the agency minus an administrative fee for the collection, in accordance with rules set forth in I TFM 4-3500. Accountability for a debt remains with the agency in accordance with § 247.10.

(b) The FMS is responsible for collection procedures on all improperly paid items arising under the circumstances described in paragraphs (c) and (d) of § 247.10. With all such items, the FMS will make an initial demand for refund of the amount of a check payment to the presenting bank or any other debtor. This demand shall advise the presenting bank or debtor of the amount demanded and the reason for the demand. All delinquent debts will be subject to interest, penalties and administrative fees in accordance with the Federal Claims Collections Standards. Any discrepancies should be brought to the attention of the FMS.

#### § 247.12 Funds for losses.

(a) If collection efforts by the FMS for debts arising under paragraphs (c) and (d) of § 247.10 are unsuccessful, sources of funds for the payment of such losses include FMS appropriations, to the extent available, funds collected from reimbursement fees for services

provided by the FMS pursuant to § 247.5(b), and other available sources.

(b) Reimbursement fees paid by agencies to the FMS for FedSelect check services will be retained for payment of uncollectible losses, consistent with all applicable laws.

#### § 247.13 Additional requirements.

In any case or any class of cases arising under these regulations, the FMS or the agency that issued the FedSelect check may require such additional evidence of loss, improper indorsement or entitlement to a replacement as may be necessary for the protection of the interests of the United States.

#### § 247.14 Waiver of regulations.

The FMS reserves the right to waive any provision(s) of these regulations in any case or class of cases for the convenience of the United States or in order to relieve any person(s) of unnecessary hardship, if such action is not inconsistent with law, does not impair any existing rights, and the FMS is satisfied that such action will not subject the United States to any substantial expense or liability.

#### § 247.15 Supplements, amendments or revisions.

The FMS may, at any time, prescribe supplemental, amendatory, or revised regulations, or revoke the regulations in this part.

Dated: March 16, 1995.

**Russell D. Morris,**

*Commissioner.*

[FR Doc. 95-11984 Filed 5-15-95; 8:45 am]

BILLING CODE 4810-35-P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 201

[Docket No. 93-2A]

#### Digital Audio Recording Devices and Media: Access to and Confidentiality of Statements of Account and Verification Audit Filings

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

**ACTION:** Interim regulation with request for comments.

**SUMMARY:** The Copyright Office is issuing an interim regulation to implement portions of the Audio Home Recording Act of 1992. This Act deals with rights with respect to digital audio recording technology (DART) and requires the Register of Copyrights to issue regulations that provide for the

verification, audit, confidential treatment, and appropriate disclosure of DART Statements of Account and any other confidential DART information that is filed with the Copyright Office during a verification procedure.

**DATES:** This interim regulation is effective June 15, 1995. Public comments on the interim regulation should be received on or before July 17, 1995.

**ADDRESSES:** Parties must submit fifteen copies of their written comments. If sent by mail, comments must be addressed to: Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. If delivered by hand, copies should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM-407, First and Independence Avenue, SE, Washington DC 20540.

**FOR FURTHER INFORMATION CONTACT:** Marilyn J. Kretsinger, Acting General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707-8380. Telefax (202) 707-8366.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Audio Home Recording Act (AHRA) requires parties who manufacture and distribute or import and distribute any digital audio recording devices or media in the United States to file DART Statements of Account and make royalty payments. In separate proceedings, we have already addressed other issues related to the filing of DART Statements of Account. On November 25, 1992, we issued an interim regulation governing the filing of notices of initial distribution under the new DART provisions of the Copyright Code (17 U.S.C. ch. 10). 57 FR 55464 (November 25, 1992). On February 22, 1993, we published an interim regulation on the filing of both quarterly and annual Statements of Account, including payment of royalties. 58 FR 9544 (February 22, 1993). On February 1, 1994, we published a superseding interim regulation establishing requirements governing the filing dates, frequency of filing, and content of the Statements of Account, including the Primary Auditor's Report that must be filed by persons subject to the statutory obligation. 59 FR 4586 (February 1, 1994).

The Act also requires the Register of Copyrights to issue regulations that establish verification and audit procedures, protect the confidentiality of the information contained in DART Statements of Account, and provide for

disclosure of these Statements to limited persons for limited purposes. 17 U.S.C. 1003(c)(2).

Congress intended section 1003(c)(2) to balance manufacturers' and importers' legitimate concerns about outside parties having access to confidential DART material against interested copyright parties' need to review this material. The AHRA legislative history emphasizes that confidential trade secret information must be protected;<sup>1</sup> in fact, the earlier Senate bill stated that disclosure of this information could be made only to representatives of interested copyright parties who were approved by the Register and who signed a suitable certification limiting the use of the information.<sup>2</sup>

On May 7, 1993, the Copyright Office published a Notice of Proposed Rulemaking (NPRM). 58 FR 27251 (May 7, 1993). The 1993 Notice proposed regulation concerning access to, and confidentiality of, DART Statements of Account and also raised questions about the appropriate form and content of regulations to govern DART audit and verification procedures.

## II. Proposed Regulation

In the 1993 NPRM, the Copyright Office limited the proposed rule on access and confidentiality to the quarterly and annual Statements of Account. 58 FR 27251. The proposed rule granted access to these Statements only to interested copyright parties or their duly authorized representatives, certain employees of the Copyright Office, certain employees of the Copyright Royalty Tribunal (which was still in existence), and to the manufacturing or importing parties or their duly authorized representatives who filed the Statements of Account requested. 58 FR 27251.

Our proposed regulation stated that the Copyright Office would provide a DART Statement of Account Access Form. (See Appendix). Anyone seeking access to DART statements or reports presumed to include confidential material would be required to complete this form before he or she could have such access. The Office intended these completed forms to certify both the identity of the requestor and the requestor's prospective use of the information.

<sup>1</sup> S. Rep. No. 294, 102d Cong., 2d Sess. 56 (1992); H.R. Rep. No. 873, Pt. 1, 102d Cong., 2d Sess. 20 (1992).

<sup>2</sup> S. 1623, 102d Cong., 1st Sess. (1991); see also H.R. 4567, 102d Cong., 2d Sess. (1992).

## III. Comment Letters

The parties responding to the proposed regulation asked for one extension of time to file reply comments and another to file surreply comments. We granted these requests. In all, four different parties submitted comments: The American Institute of Certified Public Accountants (AICPA); The Alliance of Artists and Recording Companies (AARC); the Electronic Industries Association (EIA); and a group calling themselves "Copyright Owners." These Copyright Owners filed a joint comment for: The American Society of Composers, Authors, and Publishers (ASCAP); Broadcast Music, Inc. (BMI); Copyright Management, Inc. (CMI); the National Music Publishers' Association, Inc. (NMPA) and its subsidiary, the Harry Fox Agency, Inc.; SESAC, Inc.; and The Songwriters Guild of America (SGA).<sup>3</sup>

Only two of the responding parties, EIA and the Copyright Owners, specifically commented on the proposed rule for access and confidentiality. The AARC commented more broadly that it was satisfied that the proposed regulation sufficiently addressed access and confidentiality. AARC, reply comment at 5. The AICPA limited its comments to the form and content of the regulation's audit and verification procedures. After studying the initial comments, we decided to separate access and confidentiality from audit and verification and to address each in a separate proceeding. Consequently, we discuss only those comments related to access and confidentiality.

### A. Material Subject to Confidential Treatment

Section 1003(c)(2) requires the Register to provide for the confidentiality of information in Statements of Account. This requirement of confidentiality exempts Statements of Account from disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(3)(4).

Both EIA and the Copyright Owners maintain that we need to protect more than merely the Statements of Account. They claim that the information disclosed in audit and verification procedures is as sensitive as the information contained in the Statements of Account. EIA, comments at 36; Copyright Owners, comments at 30, 31. We agree and have drafted the interim regulation to place the same access and

<sup>3</sup> For purposes of this document, we will accept their designation as Copyright Owners although the parties commenting do not include all copyright owners and some of them are not considered owners under 17 U.S.C. 101, *et seq.*

confidentiality limits on any DART confidential material filed at the Office, whether it is part of DART Statements of Account, including the Primary Auditor's Report, or part of a verification procedure.

### B. Access to Appropriate Parties

#### 1. Interested Copyright Party

The Act requires that access be given to an interested copyright party. It also defines interested copyright parties as follows:

(7) An "interested copyright party" is—

(A) The owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

(B) The legal or beneficial owner of, or the person that controls, the right to reproduce in a digital musical recording or analog musical recording a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

(C) A featured recording artist who performs on a sound recording that has been distributed; or

(D) Any association or other organization—

(i) Representing persons specified in subparagraph (A), (B), or (C) or

(ii) Engaged in licensing rights in musical works to music users on behalf of writers and publishers. 17 U.S.C. 1001(7).

Since all interested copyright parties or their representatives are to have access to DART Statements of Account, the parties responding to our 1993 NPRM were concerned over the exact parameters of who an "interested party" is for purposes of access to the DART material filed with the Office.

#### 2. Limitation on Access to Confidential DART Material

a. *EIA Position.* The EIA expressed concern that information filed in the Copyright Office may contain trade secrets and that access to information on file in the Office as well as its subsequent use should be restricted by regulation. EIA proposed that (1) information should be disclosed only to "representatives" of interested copyright parties, *e.g.*, lawyers or accountants retained by interested copyright parties, not to personnel (employees or officers) of interested copyright parties; (2) representatives should be required to offer a statement of need for the information; (3) the rule

should provide express limitations on the use and disclosure of the confidential information, and (4) access should be permitted to interested copyright parties only for actual or potential procedures. EIA, comments at 36.

In arguing that DART confidential material should be disclosed only to "representatives" of interested copyright parties, such as outside lawyers or accountants, and not to personnel, such as employees or officers, of interested copyright parties, EIA cited the Senate Report which states that when permitting access to Statements of Account or verification audit filings the Copyright Office "should take account of such factors as the sensitivity of the information, competition between interested manufacturing parties, and possible relationships between interested copyright parties and interested manufacturing parties."<sup>4</sup> EIA, comments at 36.

b. *The Copyright Owners' Position.* The Copyright Owners, on the other hand, argued that the Senate version of the AHRA did not intend to limit access only to "outside representatives," (lawyers or accountants) retained by interested copyright parties. They recommended that the access regulation:

Preclude an interested copyright party owned or controlled by a manufacturer or importer subject to royalty payment obligations under the AHRA, or any interested copyright party that owns or controls such a manufacturer or importer, from gaining access to statements of account filed by any other manufacturer or importer. Such a proscription would alleviate concerns about confidential information reaching competitors through affiliated record companies or music publishers.)

Copyright Owners, comments at 32, 34. They also asserted that their proposal addressed EIA's concerns. *Id.* The Copyright Owners also recommended that an industry organization or association to which an interested copyright party belongs, should be able to access confidential information on behalf of its members. *Id.* at 33.

c. *Copyright Office Conclusions.* The Copyright Office agrees that access to Statements of Account and other confidential materials should be available to all interested copyright parties, as defined under AHRA, sec. 1001(7), but with certain limitations designed to protect any trade secrets contained in these materials.

Parties entitled to share in the royalties deposited in the Sound

Recording Fund and the Musical Works Funds may have access to the materials for any year in which they have either filed a claim or are entitled to file a claim. These claimants are the actual and intended beneficiaries of the funds; they consist of individual record companies, writers, music publishers, and featured performers. See 17 U.S.C. 1001(7)(A)(B)(C).

Additionally, any organization or association which represents an interested copyright party, who is entitled to file a claim, or engages in licensing rights in musical works to music users on behalf of writers and publishers may have access to the Statements of Account for any period in which they have a demonstrable interest. See 17 U.S.C. 1001(7)(D). These organizations and associations may act on their own behalf, or as a representative of another interested copyright party who cannot access the Statements of Account directly.

We agree that the Copyright Owners' recommendation should alleviate EIA's concerns about competitors having access to confidential material. We are, therefore, adopting this recommendation with some modifications. As recommended by EIA, the interim rule will permit access to "outside representatives" of an interested copyright party, in cases where access would be denied to employees or officers of that interested copyright party, because it is owned or controlled by, or owns or controls a DART manufacturer or importer. We believe this provision will offer the safeguards requested by EIA without imposing a financial burden on small copyright owners who may not be able to afford legal or accounting representatives.

To address EIA's other concerns, the Office included on the DART Access Form a statement of need for the information requested, a statement verifying that the use is permitted by law, plus an affirmation that the use of the information will not exceed the authorization.

#### C. DART Access Form

1. *The Form.* The interim regulation permits access only to specifically identified Statements of Account and accompanying audit material. The request for access will apply only to the particular year indicated on the DART Access Form.

2. *Purpose of Request.* EIA proposed that the DART Access Form required for access to confidential information should also contain a statement concerning the specific purpose for the request. EIA, comments in App. 2 at 24.

We have added a place for such a statement on the form. Both EIA and the Copyright Owners asserted that access should be permitted only as part of an actual or potential verification procedure and that use and disclosure of confidential information should be limited to that purpose. EIA, comments at 36. Copyright Owners, comments at 34, 35. We agree that the regulation should contain that limitation. The Access Form contains an affirmation that the confidential information will be used only for the purpose indicated.

EIA also proposed that once a particular party has been granted access, there should be a presumption against further access from the same party. EIA, comments at 36. The Office cannot presume that further access by the same party may not be required. We believe that the access limitations contained in paragraphs (d) and (f) of § 201.29 combined with the affirmation statement contained on the DART Access Form offer assurance that the requested access is necessary and proper. These requirements should address EIA's stated concerns since they will permit such access only when a need is demonstrated.

To alleviate the commentators' concerns about confidentiality, we will mark the DART Statements of Account Forms "confidential," and keep a record of who was granted access.<sup>5</sup>

3. *Office Safeguards.* To further assure that access to confidential information and its use is strictly controlled, the Office will not permit photocopies to be made of any material gained through the DART Access Form. The material may be examined and notes taken under the supervision of an Office employee. A signed copy of any notes taken must be given to the Office before the notes can be removed from the examination area. The Office will verify the identity of the requestor by requiring a signed photo I.D. such as a driver's license or photo credit card. The Office will make a copy of this I.D. and will keep the DART Access Form, the copy of the I.D., and a photocopy of the notes.

4. *Availability of DART Access Forms.* DART Access Forms will be provided by the Office. Photocopied forms are acceptable as long as they contain an original signature.

#### D. Independent Cause of Action

The EIA also stated that the Access Form should serve as a binding obligation on the party seeking access to DART information, so that if a

<sup>5</sup> Additionally, we note that this material contains trade secrets and financial information and is excluded from FOIA.

<sup>4</sup> S.Rep. No. 294, 102d Cong., 2d Sess. at 56 (1992).

requesting party uses or discloses confidential information wrongfully (i.e., in violation of express limitations on use and disclosure), the manufacturing or importing party would have a cause of action against this party. EIA, comments at 37, 38. The Copyright Owners questioned whether it is necessary or appropriate for the Copyright Office "to attempt to recognize an independent cause of action against a party alleged to have disclosed confidential information." Copyright Owners, surreply comments at 18.

We agree that the Copyright Office has no authority in the Act or its legislative history to create any remedy for inappropriate disclosure. We have, however, added a sworn statement requirement to the Access Form similar to the one now required by the Office on the Litigation Statement to obtain a reproduction of deposit materials. 56 FR 12957 (March 28, 1991). This addition will put the requesting party on notice that he or she is certifying that the information will be used only in the way prescribed in the new regulation.

#### List of Subjects in 37 CFR Part 201

Copyright, Digital audio recording products.

#### Interim Regulations

In consideration of the foregoing, the Copyright Office is amending 37 CFR part 201 in the manner set forth below.

#### PART 201—[AMENDED]

1. The authority citation for part 201 is revised to read as follows:

**Authority:** 17 U.S.C. 702, 17 U.S.C. 1003.

2. Section 201.29 is added to read as follows:

#### § 201.29 Access to, and Confidentiality of, Statements of Account, Verification Auditor's Reports, and Other Verification Information Filed in the Copyright Office for Digital Audio Recording Devices or Media

(a) *General.* This section prescribes rules covering access to DART Statements of Account, including the Primary Auditor's Reports, filed under 17 U.S.C. 1003(c) and access to a Verifying Auditor's Report or other information that may be filed in the Office in a DART verification procedure as set out in § 201.30. It also prescribes rules to ensure confidential disclosure of these materials to appropriate parties.

##### (b) *Definitions.*

(1) *Access* includes inspection of and supervised making of notes on information contained in Statements of Account including Primary Auditor's Reports, Verification Auditor's Reports, and any other verification information.

(2) *Audit and Verification Information* means the reports of the Primary Auditor and Verifying Auditor filed with the Copyright Office under §§ 201.28 and 201.30, and all information relating to a manufacturing or importing party.

(3) *DART Access Form* means the form provided by the Copyright Office that must be completed and signed by any appropriate party seeking access to DART confidential material.

(4) *DART confidential material* means the Quarterly and Annual Statements of Account, including the Primary Auditor's Report that is part of the Annual Statements of Account, and the Verifying Auditor's Report and any other verification information filed with the Copyright Office. It also includes photocopies of notes made by requestors who have had access to these materials that are retained by the Copyright Office.

(5) *Interested copyright party* means a party as defined in 17 U.S.C. 1001(7).

(6) *A Representative* is someone, such as a lawyer or accountant, who is not an employee or officer of an interested copyright party or a manufacturing or importing party but is authorized to act on that party's behalf.

(7) *Statements of Account* means Quarterly and Annual Statements of Account as required under 17 U.S.C. 1003(c) and defined in § 201.28.

(c) *Confidentiality.* The Copyright Office will keep all DART confidential materials in locked files and disclose them only in accordance with this section. Any person or entity provided with access to DART confidential material by the Copyright Office shall receive such information in confidence and shall use and disclose it only as authorized in 17 U.S.C. 1001 *et seq.*

(d) *Persons allowed Access to DART confidential material.* Access to DART Statements of Account filed under 17 U.S.C. 1003(c) and to Verification Auditor's Reports or other verification information is limited to:

(1) An interested copyright party as defined in § 201.29(b)(5) or an authorized representative of an interested copyright party, who has been qualified for access pursuant to paragraph (f)(2) of this section;

(2) The Verifying Auditor authorized to conduct verification procedures under § 201.30;

(3) The manufacturing or importing party who filed that Statement of Account or that party's authorized representative(s); and

(4) Staff of the Copyright Office or the Library of Congress who require access in the performance of their duties under title 17 U.S.C. 1001 *et seq.*;

(e) *Requests for Access.* An interested copyright party, manufacturing party, importing party, representative, or Verifying Auditor seeking access to any DART confidential material must complete and sign a "DART Access Form." The requestor must submit a copy of the completed DART Access Form to the Licensing Specialist, Licensing Division. The form must be received in the Licensing Division at least 5 working days before the date an appointment is requested. The form may be FAXED to the Licensing Division to expedite scheduling, but a copy of the form with the original signature must be filed with the Office.

(1) A representative of an interested copyright party, a manufacturing party or an importing party shall submit an affidavit of his or her authority (e.g., in the form of a letter of authorization from the interested copyright party or the manufacturing or importing party).

(2) An auditor selected to conduct a verification procedure under § 201.30 shall submit an affidavit of his or her selection to conduct the verification procedure.

(3) DART Access Forms may be requested from, and upon completion returned to: Licensing Division, Copyright Office, Library of Congress, Washington, DC 20557-6400 They may also be requested or submitted in person at the Licensing Division, Room LM-458, James Madison Memorial Building, First and Independence Avenue, SE., Washington, DC, between 8:30 a.m. and 5 p.m.

(f) *Criteria for Access to DART confidential material.* (1) A Verifying Auditor will be allowed access to any particular Statement of Account and Primary Auditor's Report required to perform his or her verification function;

(2) Interested copyright parties as defined in paragraph (b)(5) of this section will be allowed access to any DART confidential material as defined in paragraph (b)(4) of this section for verification purposes, except that no interested copyright party owned or controlled by a manufacturing or importing party subject to royalty payment obligations under the Audio Home Recording Act, or who owns or controls such a manufacturing or importing party, may have access to DART confidential material relating to any other manufacturing or importing party. In such cases, a representative of the interested copyright party as defined in paragraph (b)(6) of this section may have access for that party, provided that these representatives do not disclose the confidential information contained in the Statement of Account or Primary Auditor's Report to his or her client.

(3) Access to a Verifying Auditor's Report and any other verification material filed in the Office shall be limited to the interested copyright party(s) requesting the verification procedure and to the manufacturing or importing party whose Statement of Account was the subject of the verification procedure.

(g) *Denial of Access.* Any party who does not meet the criteria described in § 201.29(f) shall be denied access.

(h) *Content of DART Access Form.* The DART Access Form shall include the following information:

(1) Identification of the Statement of Account and Primary Auditor's Report, the Verification Auditor's Report and other verification materials, or notes prepared by requestors who earlier accessed the same items, to be accessed, by both the name (of the manufacturing party or importing party) and the quarter(s) and year(s) to be accessed.

(2) The name of the interested copyright party, manufacturing party, importing party, or verification auditor on whose behalf the request is made, plus this party's complete address, including a street address (not a post office box number), a telephone number, and a telefax number, if any.

(3) If the request for access is by or for an interested copyright party, a statement indicating whether the copyright party is owned or controlled by a manufacturing or importing party subject to a royalty payment obligation, or whether the interested copyright party owns or controls a manufacturing or importing party subject to royalty payments.

(4) The name, address, and telephone number of the person making the request for access and his/her relationship to the party on whose behalf the request is made.

(5) The specific purpose for the request for access, for example, access is requested in order to verify a Statement of Account; in order to review the results of a verification audit; for the resolution of a dispute arising from such an audit; or in order for a manufacturing or importing party to review its own Statement of Account, Primary Auditor's Report, Verification Auditor's Report, or related information.

(6) A statement that the information obtained from access to Statements of Account, Primary Auditor's Report, Verification Auditor's Report, and any other verification audit filings will be used only for a purpose permitted under the Audio Home Recording Act (AHRA) and the DART regulations.

(7) The actual signature of the party or the representative of the party requesting access certifying that the

information will be held in confidence and used only for the purpose specified by the Audio Home Recording Act and these regulations.

**Appendix—DART Statement of Account Access Form**

**Note:**—The following form will not appear in the Code of Federal Regulations:

**DART Access Form**

**Copyright Office Licensing Division**

*Instructions for When Access Form Is Used*

This form constitutes a request for access to DART Statements of Account including the Primary Auditor's Report, Verification Auditor's Report, or other verification information deposited in the Copyright Office. Access is restricted by Copyright Office Interim Regulation § 201.29 as required by 17 U.S.C. 1003(c) and 1004. No photocopies of Statements of Account, any part of them, or any other confidential material will be permitted.

The requestor must submit a copy of the completed DART Access Form to the Licensing Specialist, Licensing Division. The form must be received in the Licensing Division at least 5 working days before the date on which an appointment is requested. The form may be FAXED to (202) 707-0905 to expedite scheduling, but a copy of the form with an original signature must be filed with the Office.

*Directions for Completing Form*

Representatives of parties seeking access to Statements of Accounts must fill in items 1 through 3. Parties seeking direct access without a representative need not complete item 2c. The form must contain an original signature and all of the information requested.

**1. Information on Material Requested**

Name of manufacturing or importing party listed in Statement of Account file:

(Name of manufacturing or importing party)

This request is for access to:

- Statement of Account for:
  - 1st Quarter of \_\_\_\_\_ (year);
  - 2nd Quarter of \_\_\_\_\_ (year);
  - 3rd Quarter of \_\_\_\_\_ (year);
  - Annual Statement of Account (including Report for the 4th Quarter and the Primary Auditor's Report) \_\_\_\_\_ (year);
  - Verification Auditor's Report and any other verification audit material for: \_\_\_\_\_ (year);

**2. Information on Requestor of Information**

a. Access to the Statement(s) of Account file is requested by or behalf of:

- interested copyright party (37 CFR 201.29(b)(5));
- manufacturing party;
- importing party
- verification auditor.

b. Name and address of interested copyright party, importing, or manufacturing party or verification auditor making request: Verification auditor must attach an affidavit

of his/her authority to conduct a verification function and show a photo I.D. at time of access.

(1)

(Name)

(Street address, not P.O. Box)

City State

(Telephone number) / Facsimile (fax) number

(2) If the request for access is by or for an interested copyright party, is the copyright party owned or controlled by a manufacturing or important party subject to a royalty payment obligation or does the copyright party own or control a manufacturing or important party subject to royalty payments?

yes<sup>1</sup>  no

c. If submitted by a representative, name and address and affiliation of representative making request for access and relationship to the party on whose behalf the request is made: A representative of an interested copyright party, a manufacturing party, or an importing party must attach an affidavit of his/her authority (e.g., in the form of a letter of authorization from the interested copyright party or the manufacturing or importing party) and provide a photo I.D. at time of access. The Office will make a photocopy of the I.D. material and retain it.

(Name)

(Firm or other affiliation)

(Street address, not P.O. Box)

City State

(Telephone number) / facsimile (fax) number

Relationship: [to party given in 1] \_\_\_\_\_

**3. Purpose of the request for access to Statement(s) of Account file:**

- verification procedure:
  - actual
  - potential;
  - inspection by manufacturing or importing party of Statement(s) of Account it deposited or verification audit material pertaining to it;
  - other (specify): \_\_\_\_\_.

**Any False Statement of Material Fact Made on this Form May Be a Criminal Offense. See 18 U.S.C. 1001 et. seq.<sup>2</sup>**

I hereby affirm to the Copyright Office that I am authorized to have access to this

<sup>1</sup> If the answer is Yes, the requestor will be denied direct access to DART confidential material pursuant to 37 CFR 201.29(f). Access, however, may be obtained through a representative. 37 CFR 201.29(d)(1).

<sup>2</sup> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any

material under the Regulations of the Copyright Office. 37 CFR 201.29. I also affirm there is a need for this information for the purpose indicated and that it will be used only for that purpose.

Signature of requestor \_\_\_\_\_

Representative;  Party

Typed or Printed Name \_\_\_\_\_

Name of Firm \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Date \_\_\_\_\_

*For Office Use Only*

Access to requested statement(s) of account file(s) was granted to:

on \_\_\_\_\_

photo I.D. inspected and photocopied

affidavit submitted, if necessary.

Access was granted by \_\_\_\_\_

Dated: May 9, 1995.

**Marybeth Peters,**  
*Register of Copyrights.*

Approved by:

**James H. Billington,**  
*The Librarian of Congress.*

[FR Doc. 95-12012 Filed 5-15-95; 8:45 am]

BILLING CODE 1410-31-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**45 CFR Part 1397**

**Removal of Standard Setting Requirements for Medical and Nonmedical Facilities Where SSI Recipients Reside**

**AGENCY:** Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Final rule.

**SUMMARY:** This notice removes from the Code of Federal Regulations the provisions on standard setting requirements for medical and non-medical facilities where Supplemental Security Income recipients reside. These standard setting requirements implement the requirements of the Keys Amendment, Section 1616(e) of the Social Security Act, as amended. This action is necessary because, as of March 31, 1995, Federal responsibility for the

false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. 18 U.S.C. 1001.

Keys Amendment will be assumed by the independent Social Security Administration as required by statute.

**DATES:** Effective date is May 16, 1995.

**FOR FURTHER INFORMATION CONTACT:**

Madeline Mocko (202) 401-9223.

**SUPPLEMENTARY INFORMATION:** The Keys Amendment, Section 1616(e) of the Social Security Act, requires States to establish and enforce standards for residential facilities where significant numbers of Supplemental Security Income (SSI) recipients reside; make a summary of these standards available for public review; make copies of the standards (and State enforcement procedures) available on request; and certify annually to the Secretary that these requirements have been met.

Under the Social Security Independence and Program Improvement Act of 1994, Public Law 103-296, effective March 31, 1995, the responsibility for administering the Keys Amendment requirements was changed. Pursuant to section 107(a) of that Act, effective March 31, 1995, the certifications required by section 1616(e) of the Social Security Act come under the jurisdiction of the Commissioner of the independent Social Security Administration (SSA). Therefore, the regulations at 45 CFR Part 1397 which implement the Keys Amendment and which are currently the responsibility of the Administration for Children and Families, must be removed in order that the independent SSA agency may promulgate guidance as it deems appropriate.

**Impact Analysis**

*Regulatory Procedures—Executive Order 12866*

This final Rule has been reviewed pursuant to Executive Order 12866. Executive Order 12866 requires that regulations be reviewed for consistency with the priorities and principles set forth in the Executive Order. ACF has determined that this rule is consistent with these priorities and principles.

*Regulatory Flexibility Act*

Consistent with the Regulatory Flexibility Act (Pub. L. 96-454), which requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities, the Department certifies that this rule has no significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

*Paperwork Reduction Act*

This requirement contains no information collection requirements which are subject to review and approval by OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3500 et seq.).

**List of Subjects in 45 CFR Part 1397**

Grants programs—social programs, Health facilities, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated April 5, 1995.

**Mary Jo Bane,**

*Assistant Secretary for Children and Families.*

**Part 1397 Subchapter K—[Removed and Reserved]**

For the reasons set forth in the preamble, and under the authority of section 107(a) of Pub. L. 103-296 and section 1102(a) of the Social Security Act, 45 CFR Subchapter K is removed and reserved and 45 CFR Part 1397 is hereby removed.

[FR Doc. 95-11913 Filed 5-15-95; 8:45 am]

BILLING CODE 4184-01-M

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 97**

[PR Docket No. 94-59; FCC 95-163]

**HF Digital Communications in the Amateur Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This action amends the rules for the amateur service to authorize automatic control of stations transmitting digital emission types on the High Frequency (HF) amateur service bands. This amendment was necessary because, except for temporary authority the Commission issued to permit a feasibility study, automatic control has not been authorized on the HF bands. The intended effect of the final rule is to authorize automatic control of amateur stations transmitting digital emissions subject to two conditions: The automatically controlled station either must be connected to another station that is under manual control, or the automatically controlled station must transmit only within a subband designated for communications between automatically controlled stations.

**EFFECTIVE DATE:** July 1, 1995.

**FOR FURTHER INFORMATION CONTACT:**