

grantees are to distribute copies of the Activity and Expenditure Report as follows:

- The original SF 269A, signed invoice or list of expenditures and the Stand Down After Action Report is mailed to: U.S. Department of Labor, Procurement Services Center, Room S-4307, Attn: Cassandra Mitchell, 200 Constitution Avenue, NW., Washington, DC 20210.

- Original sales receipts of items purchased with USDOL-VETS funding, a copy of the SF 269A, signed invoice or list of expenditures, comparison of actual versus planned activities and expenditures, Stand Down After Action Report, and copies of all PSC 272s sent to HHS/PMS is to be submitted to the appropriate DVET/GOTR.

If the DVET/GOTR does not recommend approval of a particular expenditure, he/she will notify the grantee in writing with an explanation for the disapproval and instruct grantee to electronically return the funds within 15 calendar days to the HHS/PMS account if already drawn down. All FY 2007 Stand Down awarded funds must be electronically drawn down by no later than November 30, 2007. If Stand Down funds are not electronically drawn down by the grantee within 90 days following the above stated due date, the USDOL may reallocate these funds for other purposes accordingly.

Any grantee who fails to comply with guidance set forth in the Stand Down Special Grant Provisions and reporting requirements will not be considered favorably from any future funding from U.S. Department of Labor Veterans' Employment and Training Service.

## VII. Agency Contacts

Questions regarding this announcement should be directed to the Director for Veterans' Employment and Training/GOTR in your State. Contact information for each DVET/GOTR is located in the VETS Staff Directory at the following webpage: <http://www.dol.gov/vets/aboutvets/contacts/main.htm> or access the directory from the agency Web site at <http://www.dol.gov/vets>.

## VIII. Other Information

Current competitive HVRP grantees are not eligible for a separate non-competitive Stand Down grant award as described in this announcement. Current competitive HVRP grantees are authorized to utilize existing funds for Stand Down purposes.

*Appendices:* (Located on U.S. Department of Labor, Veterans' Employment and Training Service Webpage <http://www.dol.gov/vets>

follow link for 2007 Stand Down Grants and Required Forms listed under announcements.)

Appendix A: Application for Federal Assistance SF-424

Appendix B: Budget Information Sheet SF-424A

Appendix C: Certifications and

Assurances Signature Page

Appendix D: Survey on Ensuring Equal Opportunity for Applicants

Appendix E: Stand Down After Action Report

Signed at Washington, DC, this 23 day of May, 2007.

**Cassandra R. Mitchell**  
Grant Officer.

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BILLING CODE 4510-79-P

## LIBRARY OF CONGRESS

### Copyright Office

#### Notice of Roundtable Regarding the Section 115 Compulsory License for Making and Distributing Phonorecords, Including Digital Phonorecord Deliveries

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

**ACTION:** Notice announcing public roundtable.

**SUMMARY:** The Copyright Office announces a public roundtable discussion concerning the use of the statutory license to make and distribute digital phonorecords, including for a limited period, and to make phonorecords that facilitate streaming. This discussion is an adjunct to the comments filed in the current rulemaking exploring these issues. The roundtable will also address the statutory requirement to provide notice of intention to obtain the compulsory license.

**DATES:** The public roundtable will be held in Washington, DC on June 15, 2007, in the Copyright Office Hearing Room at the Library of Congress, Room LM-408, 4th Floor, James Madison Building, 101 Independence Avenue, SE, Washington, DC from 9:30 a.m. to 4:30 p.m. Requests to participate or observe the roundtable shall be submitted in writing no later than close of business on June 6, 2007.

**ADDRESSES:** Requests to observe or participate in the roundtable should be addressed to Joe Keeley, Attorney Advisor, and may be sent by mail or preferably by e-mail to [musiclicense@loc.gov](mailto:musiclicense@loc.gov). See

**SUPPLEMENTARY INFORMATION** for

alternative means of submission and filing requirements.

**FOR FURTHER INFORMATION CONTACT:** Joe Keeley, Attorney Advisor, or Stephen Ruwe, Attorney Advisor, Office of the General Counsel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Telephone: (202) 707-8350. Telefax: (202) 707-8366.

### SUPPLEMENTARY INFORMATION:

#### Background

Section 115 of the Copyright Act, title 17 of the United States Code provides a statutory license for the making and distribution of phonorecords of nondramatic musical works. Historically, the statutory rates have established the ceiling for the mechanical licenses issued in the marketplace. In 1995, Congress passed the Digital Performance Right in Sound Recordings Act, Pub. L. No. 104-39, 109 Stat. 336, which amended section 115 to include the right to distribute a phonorecord by means of a "digital phonorecord delivery" ("DPD"). The statute includes a definition of a DPD and explains the process for establishing rates for these phonorecords. In addition, it acknowledges the existence of additional DPDs "where the reproduction or distribution of the phonorecord is incidental to the transmission which constitutes the [DPD]" 17 U.S.C. 115(c)(3)(D), and requires that a separate rate be set for these phonorecords. However, the law does not identify which DPDs can be classified as incidental or provide any guidelines for making this decision.

For this reason, the Copyright Office published a Notice of Inquiry in the **Federal Register**, 66 FR 14099 (March 9, 2001), requesting comment on the interpretation and application of the mechanical and digital phonorecord compulsory license, 17 U.S.C. 115, to certain digital music services. The Recording Industry Association of America ("RIAA") had suggested in its petition for this rulemaking that section 115 be interpreted in such a way as to cover all reproductions made to operate services offering On-Demand Streams and Limited Downloads, as defined in the March 9, 2001, notice. At about the same time, RIAA entered into separate negotiations with the National Music Publishers Association and the Harry Fox Agency, Inc. and reached an agreement concerning several of the issues involved in the original Notice of Inquiry. Because this side agreement addressed the key issues raised in the earlier Notice of Inquiry, the Copyright Office sought additional comments on

the original questions. 66 FR 64783 (December 14, 2001).

The incidental DPD debate has been hotly contested and, along with the reform of section 115, the subject of numerous hearings before the Subcommittee on Courts, the Internet and Intellectual Property of the House Committee on the Judiciary (March 23, 2007; May 16, 2006; June 21, 2005; and March 11, 2004) and the Senate Judiciary Committee, Subcommittee on Intellectual Property (July 12, 2005). Yet, in spite of all the attention, the legal issues remain unresolved. Consequently, the Office is again focusing on the rulemaking process and is hosting the roundtable discussion as a way to refresh the existing record in order to ascertain the scope of the 115 license in relation to certain digital music services.

In addition to the issues raised in the March 9, 2001, Notice of Inquiry, on August 28, 2001, the Copyright Office issued a Notice of Proposed Rulemaking to amend the rules associated with service of a Notice of Intention to Obtain Compulsory License ("Notice") under section 115. 66 FR 45241 (August 28, 2001). The purpose of the amendments was to streamline the notification process and make it easier for the licensee to serve the copyright owner with Notice for multiple musical works. After considering the comments received in that rulemaking proceeding, the Office adopted regulations that allow, among other things: service on an agent; the listing of multiple works on a single Notice; the filing of a single Notice to cover all possible configurations, including those not listed specifically on the Notice; and use of an address other than the one listed in Copyright Office records. 69 FR 34578 (June 22, 2004).

In issuing its Final Rule, the Office recognized that the purpose of the Notice requirements in section 115 of the Copyright Act, is "merely to give notice to the copyright owner of a licensee's intention to use the copyright owner's musical work to make and distribute phonorecords subject to the terms of the section 115 compulsory license." 69 FR 34581 (June 22, 2004). The Office now seeks to address whether there are compelling reasons to further streamline the Notice process.

#### Roundtable Topics

The Office is identifying a number of key issues for discussion and encourages the participation of persons who can address these issues from the perspectives of law, policy and the practical needs of the affected industries. The Office also encourages

input from persons who can speak to the technological aspects involved in the making of a digital transmission, especially with respect to the making of specific reproductions during the course of a transmission. In addition, the Office invites participants to identify any other actions they believe the Office should undertake, pursuant to its regulatory authority, to make the section 115 license more workable and/or efficient.

#### Topic 1: How do "Limited Downloads" Fit Within the Scope of the Section 115 License?

The March 9, 2001, Notice of Inquiry addressed a petition for clarification of the status of Limited Downloads within the section 115 license. The petitioning party, the RIAA, characterized a Limited Download as an on-demand transmission of a time-limited or other use-limited download to a storage device (such as a computer's hard drive), using technology that causes the downloaded file to be available for listening only either during a limited time or for a certain number of times. The Notice of Inquiry, as well as the resulting comments, focused largely on whether Limited Downloads fit within the scope of section 115 as either incidental digital phonorecord deliveries ("incidental DPDs"), as provided for in 17 U.S.C. 115(c)(3)(D), or distributions of phonorecords by rental lease or lending, as provided for in 115 U.S.C. 115(c)(4). Since a DPD is defined as an "individual delivery of a phonorecord which results in a specifically identifiable reproduction," and since a Limited Download would appear to be the specifically identifiable reproduction that is the end result of the DPD, could that same Limited Download also be considered "incidental to the transmission which constitutes the digital phonorecord delivery?" Can a DPD in fact result in a reproduction which is incidental to itself or should a Limited Download be characterized as a general DPD,<sup>1</sup> albeit potentially valued at a different rate.

<sup>1</sup>Section 115(d) defines a "digital phonorecord delivery" as "each individual delivery of a phonorecord by digital transmission of a sound recording which results in a specifically identifiable reproduction by or for any transmission recipient of a phonorecord of that sound recording, regardless of whether the digital transmission is also a public performance of the sound recording or any nondramatic musical work embodied therein. A digital phonorecord delivery does not result from a real-time, non-interactive subscription transmission of a sound recording where no reproduction of the sound recording or the musical work embodied therein is made from the inception of the transmission through to its receipt by the transmission recipient in order to make the sound recording audible."

The Office welcomes further discussion on each of these approaches.

In considering whether a Limited Download can be viewed as an incidental DPD, the Office takes note of the fact that the language of 17 U.S.C. 115(c)(3)(D) identifies an incidental DPD as a reproduction or distribution of a phonorecord that is incidental to the transmission which constitutes the digital phonorecord delivery. This would seem to indicate that an incidental DPD cannot exist without an underlying DPD. Given this condition, could a Limited Download ever be considered an incidental DPD? If the Limited Download is considered a general DPD, are there also incidental DPDs made in the course of delivering the Limited Download?

Alternatively, reliance on the section 115 provision for rental, lease or lending of a phonorecord as a way to clear the rights to the use of the musical work in Limited Downloads is not self-evident. A plain reading of the statutory language<sup>2</sup> seems to envision that any coverage provided by the section 115 license for phonorecord rental, lease or lending is predicated on a further distribution of a phonorecord already in existence. Furthermore, use of the provision appears to require a licensee to make two payments, once under 17 U.S.C. 115(c)(2) for the making and distribution of the phonorecord and again for subsequent acts of rental, lease or lending of that phonorecord. It is also worth noting that royalty determinations for every such act of rental, lease or lending are dependent upon the revenue received by the licensee for the underlying reproduction and distribution.<sup>3</sup> As a matter of practicality, it seems the rental, lease or lending provision is uniquely suited to traditional, non-digital, uses of the

<sup>2</sup>"A compulsory license under this section includes the right of the maker of a phonorecord of a nondramatic musical work under subsection (a)(1) to distribute or authorize distribution of such phonorecord by rental, lease, or lending (or by acts or practices in the nature of rental, lease, or lending). In addition to any royalty payable under clause (2) and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under clause (2) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause." 115 U.S.C. 115(c)(4)

<sup>3</sup>*Id.*

section 115 license, in which a phonorecord is not parted with permanently, but instead returned to the licensee who may rent it multiple times. The Office welcomes alternative views on application of the section 115 provision for rental, lease or lending of a phonorecord to Limited Downloads.

**Topic 2: Does “Streaming” Fit Within the Scope of the Section 115 License?**

The March 9, 2001, Notice of Inquiry sought clarification of the status of streaming,<sup>4</sup> specifically with respect to “on-demand streams” within the section 115 license. In the previous Notice of Inquiry, the Office recognized that streaming necessarily involves a making of a number of copies of the musical work—or portions of the work—along the transmission path to accomplish the delivery of the work. Copies are made by the computer servers that deliver the musical work (variously referred to as “server,” “root,” “encoded,” or “cache” copies), and additional copies are made by the receiving computer to better facilitate the actual performance of the work (often referred to as “buffer” copies). Some of these copies are temporary; some may not necessarily be so. 66 FR 14101 (March 9, 2001).

Similar to its consideration with regard to Limited Downloads, the Office welcomes further information regarding whether the reproductions made in the course of streaming enjoy coverage under the section 115 provisions as incidental DPDs. Again, the Office takes note of the fact that the language of 17 U.S.C. 115(c)(3)(D) identifies an incidental DPD as a reproduction or distribution of a phonorecord that is incidental to the transmission which constitutes the digital phonorecord delivery.

The Office, therefore, seeks further information as to whether the reproductions made to facilitate a stream result in a DPD as defined in section 115(d),<sup>5</sup> focusing on the requirement that the DPD must result in “a specifically identifiable reproduction by or for any transmission recipient.” Does streaming result in such specifically identifiable reproductions? And if a DPD is made in the course of streaming, does the streaming process also produce incidental DPDs for purposes of section 115? The Office

welcomes the participation of individuals who can provide technical expertise in considering these questions.

**Topic 3: Do Server Copies Necessary to Transmit Limited Downloads or Streams Fit Within the Scope of the Section 115 License?**

The Office welcomes further information as to whether server copies, or other copies not actually delivered to the public for private use, fit within the scope of the section 115 license, perhaps as incidental DPDs. The language of 17 U.S.C. 115(c)(3)(D), which identifies an incidental DPD *as a reproduction or distribution* of a phonorecord that is incidental to the transmission which constitutes the digital phonorecord delivery could indicate that server copies may be considered incidental DPDs. On the other hand, the section 115(a)(1) requirement that “a person may obtain a compulsory license only if his or her primary purpose in making phonorecords is to distribute them to the public for private use” may cut against consideration of a server copy as an incidental DPD, at least in cases where the server copy is used for purposes of streaming. Does the fact that the law indicates that an incidental DPD can be either a reproduction or a distribution minimize the importance of the 115(a)(1) requirement or nullify it in the case of an incidental DPD?

**Topic 4: Notice Requirements**

The Office amended its regulations governing Notice several years ago to allow service on agents of copyright owners as a way to make the license more functional. 69 FR 34578 (June 22, 2004). However, the section 115 license remains largely unused by most parties to previous rulemaking proceedings who expressed an interest in employing it. The Office, therefore, seeks information as to whether there are compelling reasons to further streamline the Notice process.

Specifically, the Office seeks further information on the benefits and burdens of the existing Notice requirements; the potential to eliminate information (data fields) currently required in a Notice; and services and technology that may be employed by either the Office or third parties to assist in the Notice process. The Office also seeks further information on the following previously suggested, yet heretofore unimplemented, methods for streamlining the Notice process:

*a. Filing of “Universal” or “Database” Notices.*

Current regulations allow that a Notice may address the works of multiple copyright owners only so long

as such Notice is served on an agent of a copyright owner, and all of the works addressed by such Notice are owned or co-owned by copyright owners who have authorized their agent to accept Notice on their behalf. The Office seeks further information concerning additional changes to allow the filing of a single, universal “Database” Notice upon agents of copyright owners. Such a “Database” Notice would be effective only to the extent it addresses works owned or co-owned by the copyright owners represented by the agent on whom the Notice is served. Similar proposals regarding “Database” Notices have been suggested in previous proceedings. One such proposal put forward by DiMA, would have allowed the licensee, in the case of electronic submissions, to serve directly on copyright owners a single “Database” Notice listing multiple works by multiple owners. 69 FR 11571 (March 11, 2004).

The Office undertakes further inquiry regarding service of a single “Database” Notice to consider another proposal similar to DiMA’s that would allow service of “Database” Notices on agents of copyright owners, as opposed to service of “Database” Notices directly on copyright owners. In its earlier consideration for allowing “Database” Notices, the Office found that section 115 “does not anticipate that the copyright owner should have to search a licensee’s universal database Notice to determine which of the copyright owner’s works a licensee intends to use.” 69 FR 11571 (March 11, 2004). In seeking further information regarding service of a “Database” Notice on agents of copyright owners, the Office recognizes the continually advancing search and sort capabilities of word processing, spreadsheet, and other electronic data management applications that are in increasingly wide use. Given such capabilities, would it be reasonable to require agents of copyright owners served with Notice to provide not only the name and address of the person to whom Statements of Account and monthly royalties are to be made, but also information regarding the works owned by the copyright owners the agent represents? And, assuming for purposes of this discussion copyright owners can provide this information, can and should the Office issue regulations under section 115 to allow service of a blanket “Database” Notice on a copyright owner (or an agent of one or more copyright owners) that does not specify any particular musical work, but simply states that the user intends to

<sup>4</sup>While the March 9, 2001, Notice of Inquiry set out to address “On-Demand Streams” only, the Office will consider all types of streaming, regardless of their interactive nature, in determining their place within the scope of the section 115 license, which unlike the section 114 license makes no distinction between interactive and noninteractive uses of copyrighted works.

<sup>5</sup> See *supra* n.1.

use the section 115 license to make and distribute DPDs for all musical works owned by that particular copyright owner (or all copyright owners represented by that particular agent)?

The Office takes note of the actions among interested parties to develop data exchange standards for information relating to media content, exemplified by the establishment of "Digital Data Exchange." (See [www.ddex.net](http://www.ddex.net). Are there additional emerging business solutions that may efficiently aid the administration of "Database" Notices? Would the adoption of a uniform standard for the exchange of digital data allow for the use of a universal "Database" Notice? Are there legal impediments to allowing service of a universal "Database" Notice on agents of copyright owners?

#### *b. Authority of Agents*

Current regulations allow a potential licensee to choose to serve Notice on either the copyright owner or an agent of the copyright owner with authority to receive the Notice. Previous rulemaking proceedings have considered that the regulations may set a higher standard for establishing an agency relationship than that applied as a matter of agency law. 69 FR 11568 (March 11, 2004). Currently, the regulations provide for service of the Notice on either the copyright owner or an agent of the copyright owner with authority to receive the Notice. The Office seeks further input as to whether an agent with authority to accept Notices includes general registered agents of copyright owners of the sort that may be required as a condition of enjoying corporate or other similar legal status by copyright owners in their respective jurisdictions. And if not, whether the regulations should be so amended.

#### **Participation and Filing Requirements**

Parties wishing to observe or participate in the roundtable discussion must submit a written request no later than close of business on June 6, 2007. Requests to observe the roundtable or to participate as a member of the roundtable must indicate the following information:

1. The name of the person, including whether it is his or her intention to observe the roundtable or to participate as a member of the roundtable;
2. The organization or organizations represented by that person, if any;
3. Contact information (address, telephone, and e-mail); and
4. Information on the specific focus or interest of the observers or participants (or his or her organization) and any

questions or issues they would like to raise.

The capacity of the room in which the roundtable will be held is limited. If the Office receives so many requests that the room's capacity is reached, attendance will be granted in the order the requests are received.

The preferred method for submission of the requests to observe or participate is via email. If sent by e-mail, please send to [musiclicense@loc.gov](mailto:musiclicense@loc.gov). Alternatively, requests may be delivered by hand or submitted by mail.

If hand delivered by a private party, an original and five copies of the request to observe or participate should be brought to Room 401 of the James Madison Building between 8:30 a.m. and 5 p.m. The envelope should be addressed as follows: Office of the General Counsel, Library of Congress, James Madison Building, LM-401, Washington, DC, 20559-6000.

If delivered by a commercial courier, an original and five copies of a request to observe or participate in the roundtable must be delivered to the Congressional Courier Acceptance Site ("CCAS") located at 2nd and D Streets, NE, Washington, DC between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, LM 401, James Madison Building, 101 Independence Avenue, SE, Washington, DC. Please note that CCAS will not accept delivery by means of overnight delivery services such as Federal Express, United Parcel Service or DHL.

If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a request to observe or participate should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Please be aware that delivery of mail via the U.S. Postal Service or private courier is subject to delay. Therefore, it is strongly suggested that any request to observe or participate be made via email.

Dated: May 24, 2007

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. E7-10363 Filed 5-29-07; 8:45 am]

**BILLING CODE 1410-30-S**

## **NUCLEAR REGULATORY COMMISSION**

### **Sunshine Federal Register Notice**

**DATE:** Weeks of May 28, June 4, 11, 18, 25, July 2, 2007.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

#### **Week of May 28, 2007**

Tuesday, May 29, 2007

1:30 p.m. NRC All Hands Meeting (Public Meeting) (*Contact:* Rickie Seltzer, 301-415-1728), Marriott Bethesda North Hotel, Salons A-E, 5701 Marinelli Road, Rockville, MD 20852.

Wednesday, May 30, 2007

9:25 a.m. Affirmation Session (Public Meeting) (Tentative): a. USEC Inc. (American Centrifuge Plant), LBP-07-06 (Initial Decision Authorizing License), Geoffrey Sea Letter "in preparation of late-filed contentions" (Tentative).

b. Shieldalloy Metallurgical Corp. (Licensing Amendment Request for Decommissioning of the Newfield, New Jersey Facility), Docket No. 40-7102-MLA, Appeal of Loretta Williams from LBP-07-05 (Tentative).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

9:30 a.m. Briefing on Results of the Agency Action Review Meeting (AARM)—Materials (Public Meeting) (*Contact:* Duane White, 301-415-6272).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

10:15 a.m. Discussion of Security Issues (Closed-Ex.1).

Thursday, May 31, 2007

9 a.m. Briefing on Results of the Agency Action Review Meeting (AARM)—Reactors (Public Meeting) (*Contact:* Mark Tonacci, 301-415-4045).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

#### **Week of June 4, 2007—Tentative**

Thursday, June 7, 2007

1:30 p.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (*Contact:* Frank Gillespie, 301-415-7360).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

#### **Week of June 11, 2007—Tentative**

There are no meetings scheduled for the Week of June 11, 2007.

#### **Week of June 18, 2007—Tentative**

There are no meetings scheduled for the Week of June 18, 2007.

#### **Week of June 25, 2007—Tentative**

There are no meetings scheduled for the Week of June 25, 2007.