

meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 24, 2015 (80 FR 51309). The hearing was held in Washington, DC, on October 22, 2015, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made this determination pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)). It completed and filed its determination in this investigation on December 3, 2015. The views of the Commission are contained in USITC Publication 4583 (December 2015), entitled *Supercalendered Paper from Canada: Investigation No. 701-TA-530 (Final)*.

By order of the Commission.

Issued: December 3, 2015.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2015-30953 Filed 12-8-15; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 3, 2015, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Idaho in the lawsuit entitled *United States of America, et al. v. J.R. Simplot Company*, Civil Action No. 1:15-cv-00562-CWD. The consent decree would resolve the claims of the United States, the State of Idaho, and the San Joaquin Valley Air Pollution Control District (SJVAPCD) against J.R. Simplot Company (Simplot) for injunctive relief and civil penalties for alleged violations of the New Source Review Prevention of Significant Deterioration (NSR/PSD) and Title V provisions of the Clean Air Act, at Simplot's five sulfuric acid manufacturing plants located in or near Lathrop, California, Pocatello, Idaho, and Rock Springs, Wyoming. The consent decree would require Simplot to comply with specified numerical emission limitations, including requirements applicable at all times at all five plants to comply with year-round emission limitations for sulfur

dioxide (SO<sub>2</sub>) and with good air pollution control practices. The consent decree also includes numerical emission limitations that apply to emissions of sulfuric acid mist and fine particulate matter (PM<sub>2.5</sub>) at one of the Pocatello, Idaho plants at which the complaint alleged violations with respect to these pollutants. The consent decree would require Simplot to pay a civil penalty of \$899,000, and to contribute \$200,000 to a program operated by the SJVAPCD that incentivizes the replacement of old wood or pellet-burning devices with new, cleaner hearth options to reduce emissions of PM<sub>2.5</sub>, volatile organic compounds, carbon monoxide, and hazardous air pollutants. The consent decree would resolve Simplot's liability for past violations of NSR/PSD alleged in the complaint, as well any related liability under Title V and New Source Performance Standards requirements, at Simplot's five sulfuric acid plants.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America, et al. v. J.R. Simplot Company*, D.J. Ref. No. 90-7-1-08388/14. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail .....	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$19.75 (25 cents per page

reproduction cost) payable to the United States Treasury.

**Maureen Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

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**BILLING CODE 4410-15-P**

## DEPARTMENT OF JUSTICE

### Office of Justice Programs

[OJP (NIJ) Docket No. 1703]

### CBRN Protective Ensemble Standard Workshop

**AGENCY:** National Institute of Justice (NIJ), Justice.

**ACTION:** Notice of the CBRN Protective Ensemble Standard Workshop.

**SUMMARY:** The NIJ and the Technical Support Working Group are hosting a workshop in conjunction with the 2105 Personal Protective Equipment Workshop in Fort Lauderdale, FL. The focus of the workshop is the research conducted in support of the revision of NIJ Standard 0116.00 CBRN Protective Ensemble Standard for Law Enforcement, found at <https://www.ncjrs.gov/pdffiles1/nij/221916.pdf>. The session is intended to inform manufacturers, test laboratories, certification bodies, and other interested parties of these standards development efforts. The workshop is being held specifically to discuss recent progress made toward the revision and to receive input, comments, and recommendations.

Space is limited at the workshop, and as a result, only 50 participants will be allowed to register for each session. It is requested that each organization limit their representatives to no more than two per organization. Exceptions to this limit may occur, should space allow. Participants planning to attend are responsible for their own travel arrangements.

**DATES:** The workshop will be held on Friday, December 18, 2015 from 9 a.m. to 12 p.m.

**Location:** Fort Lauderdale Marriott Harbor Beach Resort & Spa, 3030 Holiday Drive, Fort Lauderdale, FL 33316.

**FOR FURTHER INFORMATION CONTACT:** For information about the NIJ CBRN Ensemble standard, please contact Brian Montgomery, by telephone at (202) 353-9786 [Note: this is not a toll-free telephone number], or by email at [brian.montgomery@usdoj.gov](mailto:brian.montgomery@usdoj.gov). For general information about NIJ standards,

please visit <http://www.nij.gov/standards>.

Nancy Rodriguez,

Director, National Institute of Justice.

[FR Doc. 2015-30974 Filed 12-8-15; 8:45 am]

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## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. 2015-5]

#### Copyright Royalty Judges' Ability To Set Rates and Terms That Distinguish Among Different Types or Categories of Licensors

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

**ACTION:** Final order.

**SUMMARY:** The Copyright Royalty Judges (“CRJs”) referred a question of substantive law to the Register of Copyrights for resolution. The question asked whether section 114 of the Copyright Act or any other applicable provision of the Act prohibits the CRJs from setting rates and terms that distinguish among different types or categories of licensors. In a written opinion that was transmitted to the CRJs, the Register determined that the question was not properly presented in the proceeding and therefore the Register did not opine on its merits. That opinion is reproduced below.

**DATES:** *Effective Date:* November 24, 2015.

**FOR FURTHER INFORMATION CONTACT:** Stephen Ruwe, Assistant General Counsel, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024. Telephone: (202) 707-8350.

**SUPPLEMENTARY INFORMATION:** The Copyright Royalty Judges are tasked with determining and adjusting rates and terms of royalty payments for statutory licenses under the Copyright Act. *See* 17 U.S.C. 801. If, in the course of proceedings before the CRJs, novel material questions of substantive law concerning the interpretation of provisions of title 17 arise, the CRJs are required by statute to refer those questions to the Register of Copyrights for resolution. 17 U.S.C. 802(f)(1)(B).

On October 14, 2015, the CRJs, invoking 17 U.S.C. 802(f)(1)(B), referred to the Register the question of whether section 114 of the Copyright Act or any other applicable provision of the Act prohibits the CRJs from setting rates and terms that distinguish among different types or categories of licensors. The same day, the Register issued an order

inviting the participants in the proceeding and other interested parties to file supplemental briefs on certain specified issues. On November 24, 2015, the Register issued a memorandum opinion in which she determined that the question was not presented within the meaning of 17 U.S.C. 802(f)(1)(B), and therefore the Register did not opine on the question’s merits. To provide the public with notice of the Register’s response, the Memorandum Opinion is reproduced in its entirety below.

Dated: December 2, 2015.

Maria A. Pallante,

Register of Copyrights.

Before the U.S. Copyright Office

Library of Congress

Washington, DC 20559

In the Matter of DETERMINATION OF ROYALTY RATES AND TERMS FOR EPHEMERAL RECORDING AND WEBCASTING DIGITAL PERFORMANCE OF SOUND RECORDINGS (Web IV), Docket No. 14-CRB-0001-WR (2016-2020) (Web IV)

#### MEMORANDUM OPINION ON NOVEL MATERIAL QUESTION OF LAW

In the above-captioned proceeding (“Web IV”), currently pending before the Copyright Royalty Judges (“CRJs” or “Judges”), the Judges will establish royalty rates and terms for webcasters’ digital performance of sound recordings and making of ephemeral recordings under the statutory licenses embodied in sections 112(e) and 114(f)(2) of the Copyright Act (“Act”), such rates and terms to apply for the five-year period beginning January 1, 2016. The Act requires the CRJs to establish rates and terms that “distinguish among the different types of eligible nonsubscription transmission services and new subscription services”—that is, among different types of webcasting services—but does not include the same instruction vis-a-vis the licensors of sound recordings under the relevant licenses.<sup>1</sup>

On September 11, 2015, relying upon section 802(f)(1)(B), the CRJs referred to the Register of Copyrights the following question:

Does Section 114 of the Act (or any other applicable provision of the Act) prohibit the Judges from setting rates and terms that distinguish among different types or categories of licensors, assuming a factual basis in the evidentiary record before the Judges demonstrates such a distinction in the marketplace?<sup>2</sup>

<sup>1</sup> 17 U.S.C. 114(f)(2).

<sup>2</sup> Order Referring Novel Material Question of Law and Setting Briefing Schedule, Docket No. 14-CRB-

Section 802(f)(1)(B) requires the CRJs to request a decision of the Register “[i]n any case in which a novel material question of substantive law concerning an interpretation of those provisions of [title 17] that are the subject of the proceeding is presented.”<sup>3</sup> The Register’s decision is to be issued within thirty days after the Register receives all of the briefs or comments of the participants and her determination becomes part of the record of the proceeding.<sup>4</sup>

For the reasons explained below, the Register of Copyrights concludes that the question posed by the CRJs is not in fact “presented” in this proceeding, and was therefore not properly referred to the Register for decision.

#### I. Background

Rates and terms under the statutory licenses set forth in sections 112(e) and 114(f)(2) are to be set under the “willing buyer/willing seller standard,” meaning that the rates and terms should be those “that most clearly represent the rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.”<sup>5</sup> In establishing those rates and terms, the CRJs “may consider the rates and terms for comparable types of digital audio transmission services and comparable circumstances under voluntary license agreements.”<sup>6</sup> The Act also specifies that “[s]uch rates and terms shall distinguish among the different types of [services] then in operation . . . such differences to be based on criteria including, but not limited to, the quantity and nature of the use of sound recordings and the degree to which use of the service may substitute for or may promote the purchase of phonorecords by consumers.”<sup>7</sup>

Neither section 114 nor any other provision of the Act includes any express language addressing whether or not webcasting rates and terms can distinguish among licensors of sound recordings. Since the inception of the statutory license for the digital performance of sound recordings in 1995, the CRJs—as well as their predecessor, the Copyright Arbitration Royalty Panels—have established uniform rates and terms for all licensors

0001-WR (2016-2020) (Sept. 11, 2015) (“Referral Order”).

<sup>3</sup> 17 U.S.C. 802(f)(1)(B)(i).

<sup>4</sup> *Id.*

<sup>5</sup> 17 U.S.C. 114(f)(2)(B); *see also id.* § 112(e)(4).

<sup>6</sup> 17 U.S.C. 114(f)(2)(B); *see also id.* § 112(e)(4).

<sup>7</sup> 17 U.S.C. 114(f)(2)(B).