

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 360

[Docket No. 20–CRB–0006 RM]

Procedural Regulations of the Copyright Royalty Board Requiring Electronic Filing of Claims

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Judges (Judges) adopt amendments to regulations governing the filing of claims to royalty fees collected under compulsory license to require that all claims be filed electronically through the Copyright Royalty Board's (CRB) electronic filing system (eCRB).

DATES: Effective June 24, 2020.

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

SUPPLEMENTARY INFORMATION: On May 6, 2020, the Copyright Royalty Judges (Judges) published a proposed rule amending 37 CFR part 360 to require that all claims to royalty fees collected under compulsory license be filed online through eCRB. 85 FR 26906 (May 6, 2020). The Judges received no comments on the proposal and therefore adopt it as proposed for the reasons set forth below.

Background

In 2017, the CRB deployed its electronic filing and case management system, eCRB, and began accepting claims to compulsory license royalties electronically. The CRB continued, however, to permit the filing of claims on paper forms.

The CRB has since received a diminishing number of paper claims. In the most recent claims filing period for cable and satellite royalties (July 2019), out of 545 and 280 claims, respectively, the CRB received two claims for cable royalties and one claim for satellite royalties that were filed exclusively in paper form.¹ In the most recent claims filing period for DART royalties (January–February 2020), out of 61 claims filed, the CRB received no claims that were filed exclusively in paper form.²

¹ For both cable and satellite claims, the CRB received approximately 20 backup paper claims—*i.e.*, claims filed in paper form that are duplicates of claims filed in electronic form. The practice of filing backup paper claims is neither necessary nor encouraged by the CRB.

² The CRB received four backup paper claims.

The handling of paper claims is more resource-intensive for the CRB than the handling of electronic claims. Each paper claim must be opened, date-stamped, numbered, scanned, and uploaded to eCRB, and details from the paper claim must be entered manually into eCRB to generate an electronic claim.

More critically, acceptance of paper claims creates a dependency on the receipt and processing of mail and courier deliveries. The current disruption at the Library of Congress to both mail processing and acceptance of courier deliveries because of the COVID–19 pandemic demonstrates the risk to claims processing of that dependency.

In order to eliminate the need for resource-intensive manual processing of paper claims and to mitigate the risk to CRB operations of a disruption to normal mail and courier delivery, and having received no comments from the public in response to the May 6, 2020 proposed rule, the Judges hereby amend 37 CFR part 360 to require that all claims be filed online through eCRB.

List of Subjects in 37 CFR Part 360

Administrative practice and procedure, Cable royalties, Claims, Copyright, Electronic filing, Satellite royalties.

For the reasons set forth in the preamble, and under the authority of chapter 8, title 17, United States Code, the Copyright Royalty Judges hereby amend part 360 of title 37 of the Code of Federal Regulations as follows:

Subchapter C—Submission of Royalty Claims

PART 360—FILING OF CLAIMS TO ROYALTY FEES COLLECTED UNDER COMPULSORY LICENSE

■ 1. The authority citation for part 360 continues to read as follows:

Authority: 17 U.S.C. 801, 803, 805.

Subpart A also issued under 17 U.S.C. 111(d)(4) and 119(b)(4).

Subpart B also issued under 17 U.S.C. 1007(a)(1).

Subpart C also issued under 17 U.S.C. 111(d)(4), 119(b)(4) and 1007(a)(1).

Subpart A—Cable and Satellite Claims

§ 360.3 [Amended]

■ 2. Amend § 360.3 by:

- a. In paragraph (b), removing the words “or by mail or hand delivery in accordance with § 301.2”;
- b. Removing paragraph (d); and
- c. Redesignating paragraph (e) as paragraph (d).

■ 3. Amend § 360.4 by:

- a. Revising paragraph (a);
- b. Removing paragraph (b)(1)(v);
- c. Redesignating paragraph (b)(1)(vi) as paragraph (b)(1)(v);
- d. Revising paragraph (b)(2)(i);
- e. In paragraph (b)(2)(iii), removing the words “for claims submitted through eCRB”;
- f. Removing paragraph (b)(2)(v); and
- g. Redesignating paragraph (b)(2)(vi) as paragraph (b)(2)(v).

The revisions read as follows:

§ 360.4 Form and content of claims.

(a) *Electronic filing.* (1) Each filer must file claims online using the claims filing feature of eCRB to claim cable compulsory license royalty fees or satellite compulsory license royalty fees and must provide all information required by the online form and its accompanying instructions.

(2) Filers may access eCRB at <https://app.crb.gov>. The claims filing feature for claims to cable compulsory license royalty fees and satellite compulsory license royalty fees will be available only during the month of July.

(b) * * *

(2) * * *

(i) With the exception of joint claims filed by a performing rights society on behalf of its members, a list including the full legal name, address, and email address of each copyright owner whose claim(s) are included in the joint claim. Claims must include an Excel spreadsheet containing the information if the number of joint claimants is in excess of ten.

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§ 360.5 [Removed]

■ 4. Remove § 360.5.

Subpart B—Digital Audio Recording Devices and Media (DART) Royalty Claims

■ 5. Amend § 360.22 by:

- a. Revising paragraph (a);
- b. In paragraph (b)(2), removing the words “for claims submitted through eCRB”;
- c. Removing paragraph (c);
- d. Redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e) respectively; and
- e. Revising newly redesignated paragraph (d).

The revisions read as follows:

§ 360.22 Form and content of claims.

(a) *Electronic filing.* (1) Each claim to DART royalty payments must be filed online using the claims filing feature of eCRB and must contain the information required by the online form and its accompanying instructions.

(2) Filers may access eCRB at <https://app.crb.gov>. The claims filing feature for claims to DART royalty payments will be available only during the months of January and February.

* * * * *

(d) *List of claimants*. If the claim is a joint claim, it must include the name of each claimant participating in the joint claim. Filers submitting joint claims on behalf of ten or fewer claimants, must list the name of each claimant included in the joint claim directly on the filed joint claim. Filers submitting joint claims on behalf of more than ten claimants must include an Excel spreadsheet listing the name of each claimant included in the joint claim.

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§ 360.23 [Removed]

■ 6. Remove § 360.23.

§ 360.24 [Redesignated as § 360.23 and Amended]

■ 7. Redesignate § 360.24 as § 360.23 and, in newly redesignated § 360.23(b), add the words “online through eCRB” after the word “notice”.

Subpart C—Rules of General Application

■ 8. Amend § 360.30 by adding a sentence at the end of the paragraph to read as follows:

§ 360.30 Amendment of claims.

* * * All Notices of Amendment must be filed online through eCRB.

■ 9. Amend § 360.31 by adding a sentence at the end of the paragraph to read as follows:

§ 360.31 Withdrawal of claims.

* * * All Notices of Withdrawal of Claim(s) must be filed online through eCRB.

Dated: June 16, 2020.

Jesse M. Feder,

Chief United States Copyright Royalty Judge.

Approved by:

Carla Hayden,

Librarian of Congress.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AP72

Veterans Employment Pay for Success Grant Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) established a grant program (Veterans Employment Pay for Success (VEPFS)) to award grants to eligible entities to fund projects that are successful in accomplishing employment rehabilitation for Veterans with service-connected disabilities. VA will award grants on the basis of an eligible entity’s proposed use of a Pay for Success (PFS) strategy to achieve goals. This final rule adopts with changes an interim final rule that established regulations for awarding a VEPFS grant, including the general process for awarding the grant, criteria and parameters for evaluating grant applications, priorities related to the award of a grant, and general requirements and guidance for administering a VEPFS grant program.

DATES: This rule is effective on June 24, 2020.

FOR FURTHER INFORMATION CONTACT:

Mike Frueh, Deputy Assistant Secretary, Planning and Performance Management, (008A), Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC, (202) 632–8784. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 3119 of title 38, United States Code, authorizes the Secretary of Veterans Affairs (Secretary) to make grants to or contract with public or nonprofit agencies, including institutions of higher learning, to advance “the knowledge, methods, techniques, and resources available for use in rehabilitation programs for veterans.” Section 3119 specifically authorizes the Secretary to make grants to such agencies to conduct or provide support for projects which are “designed to increase the resources and potential for accomplishing the rehabilitation of disabled veterans.” (See also implementing regulation at 38 CFR 21.390.)

On August 10, 2016, VA published an interim final rule in the **Federal Register**, 81 FR 52770, under the authority of sec. 3119 establishing regulations for administering a VEPFS grant program to award grants to eligible entities to fund projects that are successful in accomplishing employment rehabilitation for Veterans with service-connected disabilities. In general, a PFS model is a strategy for successfully attaining positive social or environmental outcomes by paying for an intervention to achieve such outcomes only after the intervention produces these outcomes. The interim final rule included the general process

for awarding the grant, criteria and parameters for evaluating grant applications, priorities related to the award of a grant, and general requirements and guidance for administering a VEPFS grant program. VA provided a 60-day public comment period that ended on October 11, 2016, and received nine comments from a single entity.

The first comment recommended amending the definition of “Employment outcome” to include outcomes that occur “during” as well as following the service period so that the PFS agreement reflects the benefits of the selected intervention while services are provided. In addition, this comment and the third comment recommended amending the definitions of “Employment outcome” and “Outcomes payments” to allow a PFS project evaluation to be based on a “comparison” group in addition to a “control” group so there is greater flexibility when structuring valid evaluation methodologies. VA agrees that if employment outcomes can be measured during the service period, an evaluator may be able to obtain useful information that could assist with determining whether employment outcomes have improved across the lifecycle of the project. It is feasible to assume that some outcomes may be achievable and measurable at any point during the lifecycle of the service period. VA believes measuring outcomes during the service period may allow for greater flexibility in transaction structuring for outcomes payments. In addition, VA agrees that basing a project evaluation on a comparison group or a control group will allow for greater flexibility in structuring evaluation methodologies. Having greater flexibility in this regard may allow for greater statistical power when measuring outcomes and benefit the VA program office when evaluating the impact of the outcomes on future rehabilitation policy and programming. Therefore, we are amending the definition of “Employment outcome” to reflect that it means the employment or earnings of a participant in an intervention group or a control or comparison group either during or after a service period. We are further amending this definition and the definition of “Outcomes payments” to indicate that comparison groups, in addition to control groups, may be used when structuring evaluation methodologies.

The second comment proposed adding a definition of “Outcome metrics” and additional comments, including the sixth comment,