

SUBCHAPTER D—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

PART 370—NOTICE AND RECORD- KEEPING REQUIREMENTS FOR STATUTORY LICENSES

Sec.

370.1 General definitions.

370.2 Notice of use of sound recordings under statutory license.

370.3 Reports of use of sound recordings under statutory license for preexisting subscription services.

370.4 Reports of use of sound recordings under statutory license for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services and business establishment services.

370.5 Designated collection and distribution organizations for reports of use of sound recordings under statutory license.

AUTHORITY: 17 U.S.C. 112(e)(4), 114(f)(3)(A).

SOURCE: 74 FR 52423, Oct. 13, 2009, unless otherwise noted.

§ 370.1 General definitions.

For purposes of this part, the following definitions apply:

Business Establishment Service is a service that makes ephemeral phonorecords of sound recordings pursuant to section 112(e) of title 17 of the United States Code and is exempt under section 114(d)(1)(C)(iv) of title 17 of the United States Code.

Collective is a collection and distribution organization that is designated under one or both of the statutory licenses by determination of the Copyright Royalty Judges.

Copyright Owners means sound recording copyright owners under 17 U.S.C. 101, and rights owners under 17 U.S.C. 1401(l)(2), who are entitled to royalty payments made pursuant to the statutory licenses under 17 U.S.C. 112(e) and 114.

New Subscription Service is defined in 17 U.S.C. 114(j)(8).

Nonsubscription Transmission Service is a service that makes noninteractive nonsubscription digital audio transmissions that are not exempt under section 114(d)(1) of title 17 of the United States Code and are made as part of a service that provides audio program-

ming consisting, in whole or in part, of performances of sound recordings, including transmissions of broadcast transmissions, if the primary purpose of the service is to provide to the public such audio or other entertainment programming, and the primary purpose of the service is not to sell, advertise, or promote particular products or services other than sound recordings, live concerts, or other music-related events.

Notice of Use of Sound Recordings Under Statutory License is a written notice to sound recording copyright owners of the use of their works under section 112(e) or 114(d)(2) of title 17, United States Code, or both, and is required under this part to be filed by a Service in the Copyright Office.

Preexisting Satellite Digital Audio Radio Service is defined in 17 U.S.C. 114(j)(10).

Preexisting Subscription Service is defined in 17 U.S.C. 114(j)(11).

Report of Use is a report required to be provided by a Service that is transmitting sound recordings pursuant to the statutory license set forth in section 114(d)(2) of title 17 of the United States Code or making ephemeral phonorecords of sound recordings pursuant to the statutory license set forth in section 112(e) of title 17 of the United States Code, or both.

Service is an entity engaged in either the digital transmission of sound recordings pursuant to section 114(d)(2) of title 17 of the United States Code or making ephemeral phonorecords of sound recordings pursuant to section 112(e) of title 17 of the United States Code or both. The definition of a Service includes an entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, provided that such transmission meets the applicable requirements of the statutory license

set forth in 17 U.S.C. 114(d)(2). A Service may be further characterized as either a preexisting subscription service, preexisting satellite digital audio radio service, nonsubscription transmission service, new subscription service, business establishment service or a combination of those.

[74 FR 52423, Oct. 13, 2009, as amended at 84 FR 32312, July 8, 2019]

§ 370.2 Notice of use of sound recordings under statutory license.

(a) *General.* This section prescribes rules under which copyright owners shall receive notice of use of their sound recordings when used under either section 112(e) or 114(d)(2) of title 17, United States Code, or both.

(b) *Forms and content.* A Notice of Use of Sound Recordings Under Statutory License shall be prepared on a form that may be obtained from the Copyright Office Web site or from the Licensing Section, and shall include the following information:

(1) The full legal name of the Service that is either commencing digital transmissions of sound recordings or making ephemeral phonorecords of sound recordings under statutory license or doing both.

(2) The full address, including a specific number and street name or rural route, of the place of business of the Service. A post office box or similar designation will not be sufficient except where it is the only address that can be used in that geographic location.

(3) The telephone number and facsimile number of the Service.

(4) Information on how to gain access to the online Web site or homepage of the Service, or where information may be posted under this section concerning the use of sound recordings under statutory license.

(5) Identification of each license under which the Service intends to operate, including identification of each of the following categories under which the Service will be making digital transmissions of sound recordings: Preexisting subscription service, preexisting satellite digital audio radio service, nonsubscription transmission service, new subscription service or business establishment service.

(6) The date or expected date of the initial digital transmission of a sound recording to be made under the section 114 statutory license and/or the date or the expected date of the initial use of the section 112(e) license for the purpose of making ephemeral phonorecords of the sound recordings.

(7) Identification of any amendments required by paragraph (e) of this section.

(c) *Signature.* The Notice shall include the signature of the appropriate officer or representative of the Service that is either transmitting the sound recordings or making ephemeral phonorecords of sound recordings under statutory license or doing both. The signature shall be accompanied by the printed or typewritten name and the title of the person signing the Notice and by the date of the signature.

(d) *Filing notices; fees.* The original and three copies shall be filed with the Licensing Section of the Copyright Office and shall be accompanied by the filing fee set forth in § 201.3(e) of this title. Notices shall be placed in the public records of the Licensing Section. The Notice and filing fee shall be sent to the Licensing Section at either the address listed on the form obtained from the Copyright Office or to: Library of Congress, Copyright Office, Licensing Section, 101 Independence Avenue, SE., Washington, DC 20557-6400. A Service that, on or after July 1, 2004, shall make digital transmissions and/or ephemeral phonorecords of sound recordings under statutory license shall file a Notice of Use of Sound Recordings under Statutory License with the Licensing Section of the Copyright Office prior to the making of the first ephemeral phonorecord of the sound recording and prior to the first digital transmission of the sound recording.

(e) *Amendment.* A Service shall file a new Notice of Use of Sound Recordings under Statutory License within 45 days after any of the information contained in the Notice on file has changed, and shall indicate in the space provided by the Copyright Office that the Notice is an amended filing. The Licensing Section shall retain copies of all prior Notices filed by the Service.

[74 FR 52423, Oct. 13, 2009, as amended at 86 FR 32643, June 22, 2021]

§ 370.3 Reports of use of sound recordings under statutory license for pre-existing subscription services.

(a) *General.* This section prescribes the rules for the maintenance and delivery of reports of use for sound recordings under section 112(e) or section 114(d)(2) of title 17 of the United States Code, or both, by preexisting subscription services.

(b) *Delivery.* Reports of Use shall be delivered to Collectives that are identified in the records of the Licensing Section of the Copyright Office as having been designated by determination of the Copyright Royalty Judges. Reports of Use shall be delivered on or before the forty-fifth day after the close of each month.

(c) *Posting.* In the event that no Collective is designated under the statutory license, or if all designated Collectives have terminated collection and distribution operations, a preexisting subscription service transmitting sound recordings under statutory license shall post and make available online its Reports of Use. Preexisting subscription services shall post their Reports of Use online on or before the forty-fifth day after the close of each month, and continue to make them available thereafter to all sound recording copyright owners for a period of 90 days. Preexisting subscription services may require use of passwords for access to posted Reports of Use, but must make passwords available in a timely manner and free of charge or other restrictions. Preexisting subscription services may predicate provision of a password upon:

(1) Information relating to identity, location and status as a sound recording copyright owner; and

(2) A “click-wrap” agreement not to use information in the Report of Use for purposes other than royalty collection, royalty distribution, and determining compliance with statutory license requirements, without the express consent of the preexisting subscription service providing the Report of Use.

(d) *Content.* A “Report of Use of Sound Recordings under Statutory License” shall be identified as such by prominent caption or heading, and shall include a preexisting subscription

service’s “Intended Playlists” for each channel and each day of the reported month. The “Intended Playlists” shall include a consecutive listing of every recording scheduled to be transmitted, and shall contain the following information in the following order:

(1) The name of the preexisting subscription service or entity;

(2) The channel;

(3) The sound recording title;

(4) The featured recording artist, group, or orchestra;

(5) The retail album title (or, in the case of compilation albums created for commercial purposes, the name of the retail album identified by the preexisting subscription service for purchase of the sound recording);

(6) The marketing label of the commercially available album or other product on which the sound recording is found;

(7) The catalog number;

(8) The International Standard Recording Code (ISRC) embedded in the sound recording, where available and feasible;

(9) Where available, the copyright owner information provided in the copyright notice on the retail album or other product (e.g., following the symbol (P), that is the letter P in a circle) or, in the case of compilation albums created for commercial purposes, in the copyright notice for the individual sound recording;

(10) The date of transmission; and

(11) The time of transmission.

(e) *Signature.* Reports of Use shall include a signed statement by the appropriate officer or representative of the preexisting subscription service attesting, under penalty of perjury, that the information contained in the Report is believed to be accurate and is maintained by the preexisting subscription service in its ordinary course of business. The signature shall be accompanied by the printed or typewritten name and title of the person signing the Report, and by the date of signature.

(f) *Format.* Reports of Use should be provided on a standard machine-readable medium, such as diskette, optical disc, or magneto-optical disc, and should conform as closely as possible to the following specifications:

(1) ASCII delimited format, using pipe characters as delimiter, with no headers or footers;

(2) Carats should surround strings;

(3) No carats should surround dates and numbers;

(4) Dates should be indicated by: YYYY/MM/DD;

(5) Times should be based on a 24-hour clock: HH:MM:SS;

(6) A carriage return should be at the end of each line; and

(7) All data for one record should be on a single line.

(g) *Confidentiality*. Copyright owners, their agents and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the preexisting subscription service providing the Report of Use.

(h) *Documentation*. All compulsory licensees shall, for a period of at least three years from the date of service or posting of the Report of Use, keep and retain a copy of the Report of Use.

(i) In any case in which a preexisting subscription service has not provided a report of use required under this section for use of sound recordings under section 112(e) or section 114 of title 17 of the United States Code, or both, prior to January 1, 2019, reports of use for the corresponding calendar year filed by other preexisting subscription services may serve as the reports of use for the non-reporting service, solely for purposes of distribution of any corresponding royalties by the Collective.

[74 FR 52423, Oct. 13, 2009, as amended at 76 FR 45696, Aug. 1, 2011; 86 FR 32643, June 22, 2021; 87 FR 39001, June 30, 2022]

§ 370.4 Reports of use of sound recordings under statutory license for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services and business establishment services.

(a) *General*. This section prescribes rules for the maintenance and delivery of Reports of Use of sound recordings under section 112(e) or section 114 of title 17 of the United States Code, or both, by nonsubscription transmission

services, preexisting satellite digital audio radio services, new subscription services, and business establishment services.

(b) *Definitions*. For purposes of this section, the following definitions apply:

Aggregate Tuning Hours means the total hours of programming that a non-subscription transmission service, preexisting satellite digital audio radio service, new subscription service or business establishment service has transmitted during the reporting period identified in paragraph (d)(3) of this section to all listeners within the United States over the relevant channels or stations, and from any archived programs, that provide audio programming consisting, in whole or in part, of eligible nonsubscription service, preexisting satellite digital audio radio service, new subscription service or business establishment service transmissions, less the actual running time of any sound recordings for which the service has obtained direct licenses apart from 17 U.S.C. 114(d)(2) or which do not require a license under title 17, United States Code. For example, if a nonsubscription transmission service transmitted one hour of programming to 10 simultaneous listeners, the non-subscription transmission service's Aggregate Tuning Hours would equal 10. If 3 minutes of that hour consisted of transmission of a directly licensed recording, the nonsubscription transmission service's Aggregate Tuning Hours would equal 9 hours and 30 minutes. If one listener listened to the transmission of a nonsubscription transmission service for 10 hours (and none of the recordings transmitted during that time was directly licensed), the nonsubscription transmission service's Aggregate Tuning Hours would equal 10.

AM/FM Webcast means a transmission made by an entity that transmits an AM/FM broadcast signal over a digital communications network such as the Internet, regardless of whether the transmission is made by the broadcaster that originates the AM/FM signal or by a third party, provided that such transmission meets the applicable requirements of the statutory license set forth in 17 U.S.C. 114(d)(2).

Broadcaster means an entity that:

- (i) Has a substantial business owning and operating one or more terrestrial AM or FM radio stations that are licensed as such by the Federal Communications Commission;
- (ii) Has obtained a compulsory license under 17 U.S.C. 112(e) and 114 and the implementing regulations therefor to make Eligible Transmissions and related ephemeral recordings;
- (iii) Complies with all applicable provisions of Sections 112(e) and 114 and applicable regulations; and
- (iv) Is not a noncommercial webcaster as defined in 17 U.S.C. 114(f)(5)(E)(i).

Eligible Minimum Fee Webcaster means a nonsubscription transmission service whose payments for eligible transmissions do not exceed the annual minimum fee established for licensees relying upon the statutory licenses set forth in 17 U.S.C. 112(e) and 114; and:

- (i) Is a licensee that owns and operates a terrestrial AM or FM radio station that is licensed by the Federal Communications Commission; or
- (ii) Is directly operated by, or affiliated with and officially sanctioned by, a domestically accredited primary or secondary school, college, university, or other post-secondary degree-granting institution; and
- (A) The digital audio transmission operations of which are, during the course of the year, staffed substantially by students enrolled in such institution;

(B) Is exempt from taxation under section 501 of the Internal Revenue Code, has applied for such exemption, or is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes; and

(C) Is not a “public broadcasting entity” (as defined in 17 U.S.C. 118(f)) qualified to receive funding from the Corporation for Public Broadcasting pursuant to the criteria set forth in 47 U.S.C. 396.

Performance means each instance in which any portion of a sound recording is publicly performed to a Listener by means of a digital audio transmission or retransmission (e.g., the delivery of any portion of a single track from a

compact disc to one Listener) but excluding the following:

(i) A performance of a sound recording that does not require a license (e.g., the sound recording is not subject to protection under title 17, United States Code);

(ii) A performance of a sound recording for which the service has previously obtained a license from the Copyright Owner of such sound recording; and

(iii) An incidental performance that both:

(A) Makes no more than incidental use of sound recordings including, but not limited to, brief musical transitions in and out of commercials or program segments, brief performances during news, talk and sports programming, brief background performances during disk jockey announcements, brief performances during commercials of sixty seconds or less in duration, or brief performances during sporting or other public events; and

(B) Other than ambient music that is background at a public event, does not contain an entire sound recording and does not feature a particular sound recording of more than thirty seconds (as in the case of a sound recording used as a theme song).

Play frequency means the number of times a sound recording is publicly performed by a Service during the relevant period, without respect to the number of listeners receiving the sound recording. If a particular sound recording is transmitted to listeners on a particular channel or program only once during the reporting period, then the play frequency is one. If the sound recording is transmitted 10 times during the reporting period, then the play frequency is 10.

(c) *Delivery*. Reports of Use shall be delivered to Collectives that are identified in the records of the Licensing Section of the Copyright Office as having been designated by determination of the Copyright Royalty Judges. Reports of Use shall be delivered on or before the forty-fifth day after the close of each reporting period identified in paragraph (d)(3) of this section.

(d) *Report of Use*. (1) *Separate reports not required*. A nonsubscription transmission service, preexisting satellite

digital audio radio service or a new subscription service that transmits sound recordings pursuant to the statutory license set forth in section 114(d)(2) of title 17 of the United States Code and makes ephemeral phonorecords of sound recordings pursuant to the statutory license set forth in section 112(e) of title 17 of the United States Code need not maintain a separate Report of Use for each statutory license during the relevant reporting periods.

(2) *Content.* For a nonsubscription transmission service, preexisting satellite digital audio radio service, new subscription service or business establishment service that transmits sound recordings pursuant to the statutory license set forth in section 114(d)(2) of title 17 of the United States Code, or the statutory license set forth in section 112(e) of title 17 of the United States Code, or both, each Report of Use shall contain the following information, in the following order, for each sound recording transmitted during the reporting periods identified in paragraph (d)(3) of this section:

(i) The name of the nonsubscription transmission service, preexisting satellite digital audio radio service, new subscription service or business establishment service making the transmissions, including the name of the entity filing the Report of Use, if different;

(ii) The category transmission code for the category of transmission operated by the nonsubscription transmission service, preexisting satellite digital audio radio service, new subscription service or business establishment service:

(A) For eligible nonsubscription transmissions other than broadcast simulcasts and transmissions of non-music programming;

(B) For eligible nonsubscription transmissions of broadcast simulcast programming not reasonably classified as news, talk, sports or business programming;

(C) For eligible nonsubscription transmissions of non-music programming reasonably classified as news, talk, sports or business programming;

(D)–(G) [Reserved]

(H) For transmissions other than broadcast simulcasts and transmissions of non-music programming made by an eligible new subscription service;

(I) For transmissions of broadcast simulcast programming not reasonably classified as news, talk, sports or business programming made by an eligible new subscription service;

(J) For transmissions of non-music programming reasonably classified as news, talk, sports or business programming made by an eligible new subscription service; and

(K) For eligible transmissions by a business establishment service making ephemeral recordings;

(iii) The featured artist;

(iv) The sound recording title;

(v) The International Standard Recording Code (ISRC) or, alternatively to the ISRC, the:

(A) Album title; and

(B) Marketing label;

(vi) For a nonsubscription transmission service except those qualifying as eligible minimum fee webcasters: The actual total performances of the sound recording during the reporting period.

(vii) For a preexisting satellite digital audio radio service, a new subscription service, a business establishment service or a nonsubscription service qualifying as an eligible minimum fee webcaster: The actual total performances of the sound recording during the reporting period or, alternatively, the

(A) Aggregate Tuning Hours;

(B) Channel or program name; and

(C) Play frequency.

(3) *Reporting period.* A Report of Use shall be prepared:

(i) For each calendar month of the year by all services other than a nonsubscription service qualifying as an eligible minimum fee webcaster; or

(ii) For a two-week period (two periods of 7 consecutive days) for each calendar quarter of the year by a nonsubscription service qualifying as an eligible minimum fee webcaster and the two-week period need not consist of consecutive weeks, but both weeks must be completely within the calendar quarter.

(4) *Signature.* Reports of Use shall include a signed statement by the appropriate officer or representative of the service attesting, under penalty of perjury, that the information contained in the Report is believed to be accurate and is maintained by the service in its ordinary course of business. The signature shall be accompanied by the printed or typewritten name and the title of the person signing the Report, and by the date of the signature.

(5) *Confidentiality.* Copyright owners, their agents and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, without consent of the service providing the Report of Use.

(6) *Documentation.* A Service shall, for a period of at least three years from the date of service or posting of a Report of Use, keep and retain a copy of the Report of Use.

(e) *Format and delivery.* (1) *Electronic format only.* Reports of use must be maintained and delivered in electronic format only, as prescribed in paragraphs (e)(2) through (8) of this section. A hard copy report of use is not permissible.

(2) *ASCII text file delivery; facilitation by provision of spreadsheet templates.* All report of use data files must be delivered in ASCII format. However, to facilitate such delivery, SoundExchange shall post and maintain on its Internet Web site a template for creating a report of use using Microsoft's Excel spreadsheet and Corel's Quattro Pro spreadsheet and instruction on how to convert such spreadsheets to ASCII text files that conform to the format specifications set forth below. Further, technical support and cost associated with the use of spreadsheets is the responsibility of the service submitting the report of use.

(3) *Delivery mechanism.* The data contained in a report of use may be delivered by File Transfer Protocol (FTP), e-mail, or CD-ROM according to the following specifications:

(i) A service delivering a report of use via FTP must obtain a username, password and delivery instructions from SoundExchange. SoundExchange shall maintain on a publicly available

portion of its Web site instructions for applying for a username, password and delivery instructions. SoundExchange shall have 15 days from date of request to respond with a username, password and delivery instructions.

(ii) A service delivering a report of use via e-mail shall append the report as an attachment to the e-mail. The main body of the e-mail shall identify:

(A) The full name and address of the service;

(B) The contact person's name, telephone number and e-mail address;

(C) The start and end date of the reporting period;

(D) The number of rows in the data file. If the report of use is a file using headers, counting of the rows should begin with row 15. If the report of use is a file without headers, counting of the rows should begin with row 1; and

(E) The name of the file attached.

(iii) A service delivering a report of use via CD-ROM must compress the reporting data to fit onto a single CD-ROM per reporting period. Each CD-ROM shall be submitted with a cover letter identifying:

(A) The full name and address of the service;

(B) The contact person's name, telephone number and e-mail address;

(C) The start and end date of the reporting period;

(D) The number of rows in the data file. If the report of use is a file using headers, counting of the rows should begin with row 15. If the report of use is a file without headers, counting of the rows should begin with row 1; and

(E) The name of the file attached.

(4) *Delivery address.* Reports of use shall be delivered to SoundExchange at the following address: SoundExchange, Inc., 1121 14th Street, NW., Suite 700, Washington, DC 20005; (Phone) (202) 640-5858; (Facsimile) (202) 640-5859; (E-mail) reports@soundexchange.com.

SoundExchange shall forward electronic copies of these reports of use to all other collectives defined in this section.

(5) *File naming.* Each data file contained in a report of use must be given a name by the service followed by the start and end date of the reporting period. The start and end date must be separated by a dash and in the format

of year, month, and day (YYYYMMDD). Each file name must end with the file type extension of “.txt”. (Example: AcmeMusicCo20050101-20050331.txt).

(6) *File type and compression.* (i) All data files must be in ASCII format.

(ii) A report of use must be compressed in one of the following zipped formats:

(A) .zip—generated using utilities such as WinZip and/or UNIX zip command;

(B) .Z—generated using UNIX compress command; or

(C) .gz—generated using UNIX gzip command.

(iii) Zipped files shall be named in the same fashion as described in paragraph (e)(5) of this section, except that such zipped files shall use the applicable file extension compression name described in this paragraph (e)(6).

(7) *Files with headers.* (i) If a service elects to submit files with headers, the following elements, in order, must occupy the first 14 rows of a report of use:

(A) Name of service;

(B) Name of contact person;

(C) Street address of the service;

(D) City, state and zip code of the service;

(E) Telephone number of the contact person;

(F) E-mail address of the contact person;

(G) Start of the reporting period (YYYYMMDD);

(H) End of the reporting period (YYYYMMDD);

(I) Report generation date (YYYYMMDD);

(J) Number of rows in data file, beginning with 15th row;

(K) Text indicator character;

(L) Field delimiter character;

(M) Blank line; and

(N) Report headers (Featured Artist, Sound Recording Title, etc.).

(ii) Each of the rows described in paragraphs (e)(7)(i)(A) through (F) of this section must not exceed 255 alphanumeric characters. Each of the rows described in paragraphs (e)(7)(i)(G) through (I) of this section should not exceed eight alphanumeric characters.

(iii) Data text fields, as required by paragraph (d) of this section, begin on row 15 of a report of use with headers.

A carriage return must be at the end of each row thereafter. Abbreviations within data fields are not permitted.

(iv) The text indicator character must be unique and must never be found in the report's data content.

(v) The field delimiter character must be unique and must never be found in the report's data content. Delimiters must be used even when certain elements are not being reported; in such case, the service must denote the blank data field with a delimiter in the order in which it would have appeared.

(8) *Files without headers.* If a service elects to submit files without headers, the following format requirements must be met:

(i) ASCII delimited format, using pipe (|) characters as delimiters, with no headers or footers;

(ii) Carats (^) should surround strings;

(iii) No carats (^) should surround dates and numbers;

(iv) A carriage return must be at the end of each line;

(v) All data for one record must be on a single line; and

(vi) Abbreviations within data fields are not permitted.

(f) In any case in which a non-subscription transmission service, pre-existing satellite digital audio radio service, new subscription service, or business establishment service has not provided a report of use required under this section for use of sound recordings under section 112(e) or section 114 of title 17 of the United States Code, or both, prior to January 1, 2019, reports of use for the corresponding calendar year filed by other services of the same type may serve as the reports of use for the non-reporting service, solely for purposes of distribution of any corresponding royalties by the Collective.

[74 FR 52423, Oct. 13, 2009, as amended at 76 FR 45696, Aug. 1, 2011; 81 FR 31510, May 19, 2016; 81 FR 40190, June 21, 2016; 81 FR 89868, Dec. 13, 2016; 84 FR 32312, July 8, 2019; 86 FR 32643, June 22, 2021; 87 FR 39001, June 30, 2022]

§ 370.5 Designated collection and distribution organizations for reports of use of sound recordings under statutory license.

(a) *General.* This section prescribes rules under which reports of use shall

§ 370.5

37 CFR Ch. III (7–1–25 Edition)

be collected and distributed under section 114(f) of title 17 of the United States Code, and under which reports of such use shall be kept and made available.

(b) *Notice of Designation as Collective under Statutory License.* A Collective shall file with the Licensing Section of the Copyright Office and post and make available online a “Notice of Designation as Collective under Statutory License,” which shall be identified as such by prominent caption or heading, and shall contain the following information:

(1) The Collective name, address, telephone number and facsimile number;

(2) A statement that the Collective has been designated for collection and distribution of performance royalties under statutory license for digital transmission of sound recordings; and

(3) Information on how to gain access to the online Web site or home page of the Collective, where information may be posted under this part concerning the use of sound recordings under statutory license. The address of the Licensing Section is: Library of Congress, Copyright Office, Licensing Section, 101 Independence Avenue, SE., Washington, DC 20557–6400.

(c) *Annual Report.* The Collective will post and make available online, for the duration of one year, an Annual Report on how the Collective operates, how royalties are collected and distributed, and what the Collective spent that fiscal year on administrative expenses.

(d) *Inspection of Reports of Use by copyright owners.* The Collective shall make copies of the Reports of Use for the preceding three years available for inspection by any sound recording copyright owner, without charge, dur-

ing normal office hours upon reasonable notice. The Collective shall predicate inspection of Reports of Use upon information relating to identity, location and status as a sound recording copyright owner, and the copyright owner’s written agreement not to utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the Service providing the Report of Use. The Collective shall render its best efforts to locate copyright owners in order to make available reports of use, and such efforts shall include searches in Copyright Office public records and published directories of sound recording copyright owners.

(e) *Confidentiality.* Copyright owners, their agents, and Collectives shall not disseminate information in the Reports of Use to any persons not entitled to it, nor utilize the information for purposes other than royalty collection and distribution, and determining compliance with statutory license requirements, without express consent of the Service providing the Report of Use.

(f) *Termination and dissolution.* If a Collective terminates its collection and distribution operations prior to the close of its term of designation, the Collective shall notify the Licensing Section of the Copyright Office, the Copyright Royalty Board and all Services transmitting sound recordings under statutory license, by certified or registered mail. The dissolving Collective shall provide each such Service with information identifying the copyright owners it has served.

[74 FR 52423, Oct. 13, 2009, as amended at 86 FR 32643, June 22, 2021]